

ITEM NO.55

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s).202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

[ 1 ] INTERLOCUTORY APPLICATION NO. 990  
[REPORT ON AFFIDAVIT DATED 8-8-2003 FILED BY THE CHIEF SECRETARY,  
GOVERNMENT OF KARNATAKA IN I.A.NOS. 860 AND 863]

IN RE : REMOVAL OF ENCROACHMENTS FROM THATKOLA RESERVE FOREST,  
SARGODU RESERVE FOREST AND MASKALI RESERVE FOREST IN THE STATE OF  
KARNATAKA

Date : 16-07-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Adv. [A.C.](NP)

Mr. A.D.N. Rao, Advocate [A.C.]

Mr. Sudipto Sircar, Adv.

Mr. Siddhartha Chowdhury, Advocate [A.C.]

Ms. Aparajita Singh, Advocate [A.C.]

For Petitioner(s)

For Respondent(s)

Mr. A.N.S. Nadkarni, ASG

Ms. Pinky Anand, ASG

Mr. S. Wasim A. Qadri, Adv.

Mr. D.L. Chidanand, Adv.

Mr. Ritesh Kumar, Adv.

Mr. Zaid Ali, Adv.

Mr. Saeed Qadri, Adv.

Mr. G.S. Makker, Advocate

Mr. Ravindra Bana, Adv.

Mrs. Anil Katiyar, Adv.

Ms. Anitha Shenoy, AOR

Ms. Srishti Agnihotri, Adv.  
Ms. Remya Raj, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Maskali Reserve Forest

As per the affidavit dated 1<sup>st</sup> January, 2018 filed by the Chief Secretary of the State of Karnataka, the rehabilitation package after sanction has been offered to 211 families.

Learned counsel for the State of Karnataka says that the package is in the process of implementation since some constructions may have to be made for residential accommodation of these families.

Insofar as dispossession of 276 families is concerned, it is stated that the possession of 452 acres 8 guntas, which is the subject matter of encroachments by 276 families, has been taken back into the possession of Forest Department.

The only issue that survives with regard to Maskali Reserve Forest is now with regard to the implementation of the rehabilitation package.

Sargodu Reserve Forest

1. With regard to 115 encroachments, it is stated on affidavit that these encroachments have been removed. The issue in this regard is, therefore, closed.

2. With regard to 33 pre-1978 encroachers, it is stated that the land occupied by 15 encroachers is on the fringe

of forests and with regard to 15 of the encroachments, the land has been denotified. With regard to 13 encroachers, a rehabilitation package on the lines of the rehabilitation package given to the families in Maskali Reserve forest has been offered and they have accepted the rehabilitation package.

With regard to the remaining 5 encroachers, discussions are going on. We give one last opportunity to the State of Karnataka to conclude the discussions one way or the other.

3. With regard to 7 Scheduled Tribe encroachers, it is stated that one of them has died without leaving behind any legal heir.

With regard to the remaining 6 Scheduled Tribe encroachers, it is stated that they have not accepted the rehabilitation package and are claiming their rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The State of Karnataka is directed to look into the provisions of the statute and take remedial steps at the earliest and in any case within a period of two months from today.

4. This concerns the land which was wrongly in the possession of B.S. Narayana. It is stated that the possession of the land has since been taken. This issue, therefore, stands closed.

Therefore, the only issue that survives is with regard to the rehabilitation discussions with 5 of pre-1978 encroachers and rights of 6 Scheduled Tribe encroachers.

List the matter for this purpose on 19<sup>th</sup> September, 2018.

(SANJAY KUMAR-I)  
AR-CUM-PS

(KAILASH CHANDER)  
COURT MASTER

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Writ Petition(s)(Civil) No(s).202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

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[ 2 ] [ i ] INTERLOCUTORY APPLICATION NO. 138805/2017  
[ REPORT OF CENTRAL EMPOWERED COMMITTEE IN APPLICATION NO. 1414 OF  
2017 FILED BEFORE IT BY THE SOUTH DELHI MUNICIPAL CORPORATION  
(SDMC)]

IN RE : SOUTH DELHI MUNICIPAL CORPORATION (SDMC)

Date : 16-07-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Adv. [A.C.](NP)

Mr. A.D.N. Rao, Advocate [A.C.]  
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For Petitioner(s)

For Respondent(s)

Mr. A.N.S. Nadkarni, ASG  
Ms. Pinky Anand, ASG  
Mr. S. Wasim A. Qadri, Adv.  
Mr. D.L. Chidanand, Adv.  
Mr. Ritesh Kumar, Adv.  
Mr. Zaid Ali, Adv.  
Mr. Saeed Qadri, Adv.  
Mr. G.S. Makker, Advocate  
Mr. Ravindra Bana, Adv.  
Mrs. Anil Katiyar, Adv.

Mr. Sanjiv Sen, Adv.  
Mr. Praveen Swarup, AOR  
Mr. Balendu Shekhar, Adv.  
Mr. Ajay Bansal, Adv.

Mr. Gaurav Yadava, Adv.  
 Ms. Veena Bansal, Adv.  
 Mr. Sayan Ray, Adv.

DDA Mr. Vishnu B. Saharya, Adv.  
 Mr. Kush Sharma, Adv.  
 For M/s. Saharya and Co.

NHAI Ms. Pinky Anand, ASG  
 Mr. Mukesh Kumar, Adv.  
 Ms. Saudamini Sharma, Adv.  
 For M/s. M.V. Kini and Associates

Mr. Biju Mattam, Adv.  
 Mr. Shourya Malhotra, Adv.

UPON hearing the counsel the Court made the following  
 O R D E R

INTERLOCUTORY APPLICATION NO. 138805/2017  
 [REPORT OF CENTRAL EMPOWERED COMMITTEE DATED 13<sup>th</sup>  
 DECEMBER, 217 IN APPLICATION NO. 1414 OF 2017 FILED  
 BEFORE IT BY THE SOUTH DELHI MUNICIPAL CORPORATION]

The observations and the recommendations given by CEC  
 are as follows:

"24. Keeping in view the above and considering the urgent necessity to set up the Solid Waste Management/Processing facility in the shape of Waste to Energy Plant and the Engineered Landfill at Tehkhand, Okhla, New Delhi so that there is no repeat of mishap that occurred in Gazipur Landfill site, that the projects are in public interest, that the project Waste to Energy is the most eco friendly method of disposal of MSW, that 47.346

acres of land have already been handed over out of the 50.431 acres allotted for the above projects, that it is not feasible to readily locate an alternative site, that the present height of landfill at Tehkhand, Okhla is 160 feet against the allowable height of 90 feet, that this landfill has exhausted its capacity and is now overburdened, that scientific capping/closure of existing landfill site at Okhla is required to be undertaken urgently, the CEC recommends to the Hon'ble Court that the following projects may be permitted to be set up on 47.346 acres of land in Morphological Ridge area:

i) Solid Waste Management/Processing facility in the shape of Waste to Energy Plant, and

ii) Engineered landfill at Tehkhand, Okhla and subject to the following conditions:

i) the SDMC, New Delhi shall deposit 5% of project cost with the Ridge Management Board Fund and which under the close supervision of the Ridge Management Board should be used by the Delhi Forest Department for conservation and protection of Delhi Ridge.

ii) the SDMC will deposit the cost of undertaking compensatory planting of ten times the number of trees to be cut and its

maintenance for a period of five years with the Delhi Forest Department which shall take up planting of indigenous species and its maintenance and will also make available sufficient land for raising compensatory plantation.

iii) the User Agency shall maintain a green belt of 30 m all along the periphery of the proposed site which shall act as a buffer between the Solid Waste Management facility as well as Engineered Landfill and the outer boundary.

iv) It is imperative that for future landfill sites the concerned agencies shall not be allowed to be located in Delhi Ridge area/Ridge Forest/Morphological Ridge area. It must necessary be located outside Delhi in National Capital Region. The Central Govt. must set up a high level committee of experts to locate sites within a reasonable distance of Delhi and also away from the densely populated area.

v) Scientific capping/closure of existing SLF at Okhla shall be undertaken in a time bound manner and the site be developed into a green zone.



25. SDMC shall endeavour to enhance the intake in the Waste to Energy facility at Okhla from 1500 TPD to at least 2000 TPD and work towards utilizing the entire quantity of Solid Waste in its jurisdiction to generate energy or any other form of wealth in a time bound manner.”

The Report of the CEC is accepted.

No further orders are required to be passed in this application. It is disposed of accordingly.

Issue of Garbage Disposal

The issue of garbage disposal is being dealt with in Re: Outrage as parents end life after Child's dengue death [SMW(C) No.1 of 2015].

Under the circumstances, no further orders are required to be passed in this regard.

One composite affidavit may be filed by the South, East and North Delhi Municipal Corporations in Re: Outrage as parents end life after Child's dengue death [SMW(C) No.1 of 2015] within three days.

The Registry will place a photocopy each of the affidavits filed by NHAI and DDA on the record of Re: Outrage as parents end life after Child's dengue death [SMW(C) No.1 of 2015] within three days.

The interim order passed on 4<sup>th</sup> May, 2018 in I.A. No. 138805/2017 will continue, as if it is an order passed by this Court in Re: Outrage as parents end life after

Child's dengue death [SMW(C) No.1 of 2015].

In Re: Outrage as parents end life after Child's dengue death [SMW(C) No.1 of 2015], we are dealing with the issue of Solid Waste Management and including the landfill sites at Bhalswa, Ghazipur, Okhla and alternative sites for these landfill sites.

We would request the National Green Tribunal not to proceed further in this regard since these issues are already being considered by this Court.

(SANJAY KUMAR-I)  
AR-CUM-PS

(KAILASH CHANDER)  
COURT MASTER

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Writ Petition(s)(Civil) No(s).202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

[ ii ] INTERLOCUTORY APPLICATION NO. 64584/2018

[ APPLICATION FOR DIRECTIONS ]

IN RE : SOUTH DELHI MUNICIPAL CORPORATION (SDMC)

Date : 16-07-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Harish N. Salve, Sr. Adv. [A.C.](NP)

Mr. A.D.N. Rao, Advocate [A.C.]

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Mr. G.S. Makker, Advocate

Mr. Ravindra Bana, Adv.

Mrs. Anil Katiyar, Adv.

Mr. Praveen Swarup, AOR(NP)

**UPON hearing the counsel the Court made the following  
O R D E R**

**No one is present on behalf of the applicant.**

**The application is dismissed for non-prosecution.**

**(SANJAY KUMAR-I)  
AR-CUM-PS**

**(KAILASH CHANDER)  
COURT MASTER**