

ITEM NO.15

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
RECORD OF PROCEEDINGS

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

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. & ORS.

Respondent(s)

(INTERLOCUTORY APPLICATION FOR 15.05.2024 "ONLY" [1] CONTEMPT PETITION (CIVIL) NO. 938/2021 IN CIVIL APPEAL NOS. 12234-12235 OF 2018 AND [2] INTERLOCUTORY APPLICATION NO. 58031/2024 [APPLICATION FOR INTERVENTION IN W.P.(C)No. 202/1995 FILED BY MS. PARUL GUPTA, ADVOCATE] AND INTERLOCUTORY APPLICATION NO. 58032/2024 [APPLICATION FOR DIRECTIONS IN W.P.(C)No. 202/1995 FILED BY MS. PARUL GUPTA, ADVOCATE] IN RE : PAVAN SINGH AND [3] I.A. NO. 41723 OF 2022 [APPLICATION FOR DIRECTIONS] IN RE : AMAN SINGH, RAJASTHAN IN WRIT PETITION (CIVIL) NO. 202/1995 "ONLY" ARE LISTED IN W.P.(C) No. 202/1995 "ONLY" ON 15.05.2024 THROUGH SUPPLEMENTARY LIST AND THE NAMES OF "ONLY" THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN AGAINST THESE I.As. MR. HARISH N. SALVE, SR. ADV. [A.C.], MR. A.D.N. RAO, SR. ADVOCATE [A.C.], MS. APARAJITA SINGH, SR. ADVOCATE [A.C.], MR. SIDDHARTHA CHOWDHURY, ADVOCATE [A.C.] MR. K. PARAMESHWAR, ADVOCATE [A.C.] MR. G.S. MAKKER FOR S. NO. [1] Mr. K. Parameshwar (A.C.) FOR S. NO. [2] Mr. K. Parameshwar (A.C.) Ms. Parul Shukla Mr. Milind Kumar FOR S. NO. [3] Mr. K. Parameshwar (A.C.) Mr. Siddharatha Jha, Mr. Sandeep Kumar Jha (for State of Rajasthan))

WITH

CONMT.PET.(C) No. 938/2021 in C.A. No. 12234-12235/2018 (XVII)
(FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 115589/2024

IA No. 115589/2024 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 15-05-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE S.V.N. BHATTI
HON'BLE MR. JUSTICE SANDEEP MEHTA

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

CONTEMPT PETITION (C) NO. 938/2021 IN CIVIL APPEAL NOS. 12234-12235 OF 2018

As prayed, list this matter on 17.05.2024 (at the end of the Board).

I.A. Nos. 58031 and 58032/2024

1. The present applications have been filed by the applicant(s) to pass necessary directions to the State of Rajasthan to stop all mining activities which are in violation of the orders dated 03.06.2022 and 26.04.2023 passed by this Court.

2. It is the contention of the applicant(s) that the mining activities are being continued to be undertaken within the radius of one kilometer of the Critical Tiger Habitat (CTH) of Sariska Tiger Reserve, which is a protected area.

3. Mr. K. Parameshwar, learned Amicus Curiae, has also given us a list of 110 mines which are continued in pursuance to the permission granted by the (District Environment Impact

Assessment Authority (DEIAA).

4. Ms. Aishwarya Bhati, learned Additional Solicitor General appearing on behalf of the State of Rajasthan states that out of those 110 mines, only 68 mines are working within the radius of one kilometer and the rest have stopped working.

5. Learned Additional Solicitor General, relying on the affidavit filed on behalf of the State submits that the prohibition imposed by this Court for mining activities is with regard to an area falling within one kilometer of the boundaries of the Wildlife Sanctuaries/National Parks.

6. It is submitted that the perusal of the various orders passed by this Court would reveal that there are no direction with regard to the prohibition of mining activities within a radius of one kilometer from the Critical Tiger Habitat (CTH).

7. It is submitted that in the present application(s), the Critical Tiger Habitat (CTH) of Sariska Tiger Reserve is a buffer zone created in order to protect the Sariska Wildlife Sanctuary.

8. We find that the stand taken by the State is not only contrary to the statutory provisions as interpreted by this Court but also is against the common sense.

9. Section 38XA of the Wildlife (Protection) Act, 1972 as has been interpreted by this Court in its judgment and order dated 06.03.2024 in I.A. No. 20650 of 2023 in Writ Petition (C)

No.202 of 1995 would show that the tiger reserves stand on a higher pedestal than Wildlife Sanctuaries/National Parks. It has been held that the provisions contained in Chapter IVB of the Wildlife (Protection) Act, 1972 are in addition to the provisions which are applicable to the Wildlife Sanctuaries/National Parks.

10. As such, if the prohibition is applicable to Wildlife Sanctuaries/National Parks, it will automatically be applicable even to the Critical Tiger Habitat (CTH).

11. In our view, the interpretation as placed by the State is without substance.

12. In our judgment dated 26th April, 2023 further affirmed vide order dated 28th April, 2023, we have prohibited mining activities within a radius of one kilometer from all protected areas. At the cost of repetition, the protected areas would not only mean the Wildlife Sanctuaries/National Parks but also the Critical Tiger Habitat (CTH).

13. In that view of the matter, we find that the continuation of any mining activities within a radius of one kilometer from the boundaries of the Critical Tiger Habitat (CTH) of Sariska Tiger Reserve would be in contempt of our orders dated 03.06.2022 and 26.04.2023.

14. With these observations, we do not find that a specific direction is required to the State of Rajasthan to forthwith

prohibit the mining activities within the radius of one kilometer from the boundaries of the Critical Tiger Habitat (CTH) of Sariska Tiger Reserve.

15. List these applications on 24.07.2024 for reporting compliance.

16. Insofar as the issue with regard to the demarcation of Eco-Sensitive Zone is concerned, issue notice, returnable on 24.07.2024.

17. List Diary No. 12516 of 2019 alongwith this matter(s)/application(s) on 24.07.2024.

I.A. NO. 41723 OF 2022

1. Heard Shri K. Parameshwar, learned Amicus Curiae and Smt. Aishwarya Bhati, learned Additional Solicitor General appearing for the State.

2. Arguments concluded.

3. Judgment is reserved.

IA Nos. 100352 and 100351 of 2024

1. None appears for the applicant.

2. List this application on 24.07.2024 for dismissal.

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)