

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2024
(Arising out of Diary No.9637 of 2023)

NABENDU KUMAR BANDYOPADHYAY ...Appellant(s)

Vs.

THE ADDITIONAL CHIEF SECRETARY & ORS. ...Respondent(s)

O R D E R

Delay condoned.

Original Application was made by the appellant before the National Green Tribunal (for short "the NGT") with a complaint that a water body is sought to be filled in. In support of the said contention, certain photographs were placed on record. By the impugned order, the NGT dismissed the application without holding any inquiry. The NGT has based its findings only on certain photographs. If a water body is already filled in, obviously from the photographs, water cannot be seen.

When a citizen approaches the NGT with a grievance that a water body is being filled in, a different approach by the NGT is contemplated. It is not supposed to apply the strict yardsticks which are applied by the Code of Civil Procedure, 1908 Court to the pleadings of the parties. In

any case, without holding any inquiry, only by recording a *prima facie* finding that no case for interference has been made out, the NGT has summarily dismissed the Original Application filed by the appellant. In terms of the earlier order of this Court, some exercise has been carried out by the State Government as can be seen from the affidavit filed by the State. The direction issued by this Court on 5th June, 2023 was to produce the record of rights pertaining to the land in question. *Prima facie*, we find that the exercise undertaken by the State may not be sufficient to deal with the controversy.

As we find that the NGT has not done its duty which it was supposed to do in terms of law, we have no option but to remit the case to the NGT for holding a fresh inquiry in accordance with law on the Original Application filed by the appellant.

We make it clear that the observations which we have made in this order are only *prima facie* observations in support of the order of remand which we are passing and therefore, nothing stated in this order shall be understood to be any findings recorded by this Court.

Accordingly, we set aside the impugned order dated 27th May, 2022 and restore the Original Application No.64 of 2022 to the file of the Easter Zone Bench of the National Green Tribunal, Kolkata.

We direct the Tribunal to hold an inquiry in accordance with law and to decide the Original Application filed by the appellant afresh.

The appeal is allowed on the above terms.

All contentions of the parties are left open.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
January 04, 2024.

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

CIVIL APPEAL Diary No(s). 9637/2023

(Arising out of impugned final judgment and order dated 27-05-2022 in OA No. 64/2022 passed by the National Green Tribunal, Eastern Zone Bench, Kolkata)

NABENDU KUMAR BANDYOPADHYAY

Appellant(s)

VERSUS

THE ADDITIONAL CHIEF SECRETARY & ORS.

Respondent(s)

(IA No. 93678/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 93681/2023 - CONDONATION OF DELAY IN FILING APPEAL
IA No. 93682/2023 - CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS
IA No. 93679/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 93677/2023 - STAY APPLICATION)

Date : 04-01-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s)

Mr. Shubhayu Roy, Adv.
Mr. Soumya Dutta, AOR

For Respondent(s)

Mr. Mukul Rohtagi, Sr. Adv.
Mr. Pinaki Mishra, Sr. Adv.
Mr. Ashok Panigrahi, AOR
Mr. Nabab Singh, Adv.
Ms. Geetanjali Das Krishnan, Adv.
Mr. Dharmendar Singh, Adv.

Mrs. Maninder Acharya, Sr. Adv.
Ms. Madhumita Bhattacharjee, AOR
Ms. Srija Choudhary, Adv.
Ms. Niharika Singh, Adv.
Mr. Akash Mohan Srivastav, Adv.
Ms. Piyali Paul, Adv.
Mr. Sandeep, Adv.

Mr. Vidhan Vyas, Adv.
Mr. Syed Haidar Shah, Adv.
Mr. Milind Kumar, AOR

Mr. Amales Ray, Adv.
Mr. Anindo Mukherjee, Adv.
Mr. Rameshwar Prasad Goyal, AOR

Mr. Abhijeet Sinha, AOR
Mr. Sarthak Gaurav, Adv.
Ms. Rimmi Bharadwaj, Adv.

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

Delay condoned.

The appeal is allowed in terms of the signed order.

Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)