

**BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**M.A. No. 1168 of 2015** (I.A. No. 3897 of 2015)

**In**

**W.P. (C) No. 202 of 1995**

**IN THE MATTER OF:**

**T.N. Godavarman Thirumalpad Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON  
HON'BLE MR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE SONAM PHINTSO WANGDI, JUDICIAL MEMBER  
HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER  
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**Present: Applicant :** Mr. Ritwick Dutta and Mr. Rahul Choudhary, Advs.  
**Respondents:** Mr. Balendu Shekhar and Mr. Akshay Abrol, Advs. For MoEF and Mr. Eishan  
Mr. Devraj Ashok, Adv. for State of Karnataka  
  
Mr. Om Prakash, Adv. for Northern Railway  
  
Mr. A.D.N. Rao and Mr. Sudipto Sircar, Advs. For Amicus Curiea and Mr. Annam Venkatesh

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 09 February 10, 2016</b>	<p>This Application was registered in furtherance to the order passed by the Hon'ble Supreme Court of India while transferring I.A. No. 1168 of 2015 to the Tribunal for proper and expeditious adjudication. The controversy in the present case relates to conversion of Forest land to a non-forest activity that is construction of new Hubli-Ankoka Broad Gauge Railway Line for which total land of 965 hectares falling in Dharwd Forest Division and Yellapur and Karwa Forest Divisions in the State of Karnataka is required.</p> <p>The CEC while submitting its report to the Hon'ble Supreme Court of India had submitted a proposal that MoEF should not consider/approve the proposal for diversion submitted by the Project Proponent. The CEC has given various reasons for making such suggestions before the Hon'ble Supreme Court of India.</p>

We have heard the Learned counsel appearing for the parties. To apply for conversion of forest land to a non-forest activity is a right available to the Project Proponent and/or State Government as the case may be. This has to be dealt with in accordance with law. Under the provision of Section 2 of the Forest (Conservation) Act, 1980 the State Government has to issue an order permitting such conversion with prior approval of the Central Government that is MoEF. We do not think that CEC even intended to allow or deny such right to the Project Proponent but has expressed its view for non grant of such permission in term of Section 2 of the Forest (Conservation) Act, 1980. The principal apprehension was the environmental and ecological damage to the western ghats. In the circumstances afore-recorded we dispose of this Application with liberty to the Project Proponent to move the State Government by submitting an appropriate proposal for diversion of land for this project. If such Application is moved the State Government shall deal with it expeditiously. They would seek prior approval of MoEF in accordance with law and then depending on the approval granted by MoEF the State Government in its own right would issue an appropriate order under Section 2 of the Forest (Conservation) Act, 1980. The order so passed by the State Government shall operate for period of four weeks and shall immediately be put on the website of in accordance with Rules.

We make it clear that if there is a challenge to the order granting permission for diversion of forest for non-forest activity in favour of the Project Proponent, the record of this file shall be tagged to that Application.

The Affidavit filed on behalf of the State of Government has been taken on record.

We have intentionally not dealt with any merits of the case.

Accordingly, M.A. No. 1168 of 2015 (I.A. No. 3897 of 2015 stands disposed of without any order as to costs.

.....,CP  
(Swatanter Kumar)

.....,JM  
(Jawad Rahim)

.....,JM  
(Sonam Phintso Wangdi)

.....,EM  
(Dr. D. K. Agrawal)

.....,EM  
(B.S. Sajwan)

