

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

R.A. NO. 46/2016/EZ
IN
Appeal No. No. 4/2014/PB/8/EZ
&
M.A. No. 822/2016/EZ

THEMRIE TUITHUNG & ORS

VS

UNION OF INDIA & ORS

CORAM: Hon'ble Mr. Justice S.P.Wangdi, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: **Applicants** : Mr. Ritwick Dutta, Advocate
Mr. Rahul Ganguly, Advocate
Respondent No. 1 : Mr. Gora Chand Roy Chowdhury, Advocate
Mr. K. Mukherjee, Advocate
Respondents No. 2 & 3 : Mr. Karma Thinlay, Sr. Advocate
Mr. Sapan Biswajit, advocate
Mr. Subhayu Roy, Advocate
Mrs. Poushali Banerjee, Advocate
Mr. Zangpo Sherpa, Advocate
Respondent No. 4 : Mr. Kushagra Shah, Advocate

Date & Remarks	Orders of the Tribunal
<p>Item No. 5 21st November, 2016.</p>	<p>Mr. Kushagra Shah, Ld. Advocate appearing for the Respondent No. 4, Ministry of Tribal Affairs, Govt. of India, prays for further time to file affidavit-in opposition on behalf of the Ministry.</p> <p>Having regard to the fact that in a Review Application, affidavit-in-opposition is not considered mandatory, we have proceeded to hear the case.</p> <p style="text-align: center;">Heard in part.</p>

The principal question raised in the RA is that while passing the impugned judgement the matter pertaining to non-compliance of Forest Rights Act which had been raised by the appellants during the course of hearing of the Appeal, had been overlooked by us.

Mr. Ritwick Dutta, Ld. Advocate for the review applicants has placed before us a letter dated 3rd August 2015 of the MOEF addressed to the Principal Secretary of Forests, Govt. of Manipur, which appears to be relevant in the matter in issue.

Let the letter be placed on record appropriately on or before the next date.

In the meanwhile, since a copy has been served on the Ld. Sr. Counsel for the State Respondents 2 and 3, liberty is granted to them to file response thereto.

We direct Mr. Karma Thinlay, Ld. Sr. Counsel for the State to examine the issues raised by the applicant particularly, to the one pertaining to the non-compliance of the Forest Rights Act as elaborated in paragraph 5.2.7 of the supplementary affidavit filed on behalf of the applicants at pages 105-106 of the paper book. Since compliance of the Forest Rights Act is mandatory, we expect the State of Manipur to come out with a fair understanding of the matter and place before us appropriate proposal in the event the requirements of the Act have not been complied with.

In the meanwhile, the Ministry of Tribal Affairs, the Respondent No. 4 shall file its response. We make it clear that an adverse inference shall be drawn against them if the Ministry fails to do so.

Mr. Thinlay, Ld. Sr. Counsel for the State prays that the matter be listed on 30.1.2017 as he is scheduled to be out of the country before that. However, since the time prayed for is inordinately long, we direct the State to file its stand on the question on or before 22.12.2016. We also direct the Ministry of Tribal Affairs, the Respondent No. 4 to file its affidavit-in-opposition or before the said date. Upon receipt of the above, the matter shall be listed for hearing on an appropriate date.

List on 22.12.2016.

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Justice S.P.Wangdi, JM
21.11.2016

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Prof. (Dr.) P. C. Mishra, EM
21.11.2016

