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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. No. OF 2019

I.N.

WRIT PETITION (CIVIL) NO. 109 OF 2008

IN THE MATTER OF:

Wildlife First & Ors.

..... Petitioners

Versus

Union of India & Ors.

..... Respondents

I.A. No. /2019: Application for Directions

PAPER-BOOK

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ADVOCATE FOR THE PETITIONERS P. K. MANOHAR

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WRIT PETITION (CIVIL) NO. 109 OF 2008

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APPLICATION FOR DIRECTIONS

To

The Hon'ble the Chief Justice of India

And His Companion Justices of the

Hon'ble Supreme Court of India

The Humble Application of

The Petitioners abovenamed

MOST RESPECTFULLY SHOWETH

1. The above petition was filed under Article 32 of the Constitution of India challenging the constitutional validity of

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 hereinafter referred to as the Forest Rights Act.

2. By order dated 13.2.2019, the Hon'ble Court had directed the Forest Survey of India (hereinafter FSI):

".... to make satellite survey and place on record the encroachment position and also state the position after the eviction as far as possible."

By a subsequent order dated 28.2.2019, this Hon'ble Court reiterated that:

"..... In the meantime, Forest Survey of India has to make a satellite survey and place on record the encroachment positions as far as possible in this Court before the next date of hearing as directed in order dated 13.2.2019."

It is respectfully submitted that in the present context, the encroachment position, as per the Hon'ble Court's directions, can be ascertained by examining and comparing the satellite imageries of forest land as on 13.12.2015 i.e. the cut-off date for establishing claims under the Forest Rights Act, and the imageries of the subsequent years. That as per Sec. 4 (3) of

the Forest Rights Act, "the recognition and vesting of forest rights to forest dwelling scheduled tribes and other traditional forest dwellers in respect of forest lands was subject to their being in occupation of forest land before the 13th day of December, 2005." It therefore follows that forest land cleared / occupied after the cut-off date of 13th December, 2005 would be treated as encroachments.

3. That by letter dated 14.5.2019 the petitioners through their counsel had written to the FSI explaining the above position that in order to ascertain the position of encroachments, as directed by this Hon'ble Court, the FSI is required to examine the satellite imageries of forest land as on 13.12.2005 and those of the subsequent years which show forest lands cleared and occupied by encroachers. A true copy of the letter dated 14.5.2019 along with annexures written by the petitioners to the FSI is annexed hereto as **ANNEXURE - A1.**

4. However, in compliance with the directions contained in the order 28.2.2019, the FSI has submitted a report in this Hon'ble Court. In the said report the FSI has stated that only 4 states have responded to their notices asking them to supply

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geo referenced digital vector boundaries of rejected polygons of the land parcels on which claims have been rejected in 'Shapefile' format. Therefore the FSI could only analyse about

3,587 rejected claims out of 11,91,327 rejected claims. It may be pointed out that as per the FSI the rejected claims number is 11,91,327 whereas the number published by the Ministry of Tribal Affairs as on 31.3.2019 is shown to be 17,08,459. It is not known how the FSI has arrived at the number of rejected claims at 11,91,327 ?

5. The FSI in its response have stated that it does not have the resources, trained manpower and infrastructure (computer systems, etc.) to carry out the work assigned to it. It has stated that with the presently available manpower, it would take about 4,000 days i.e. 16 years to process the 11,91,327 rejected claims. It has also stated that the whole process would cost about Rs. 48 crores.

6. It is submitted that this Hon'ble Court in the Lafarge Judgment [(2011) 7 SCC 338] in W.P. (C) No.202/1995 T.N. Godavarman Thirumulpad Vs. Union of India & Ors.] has laid down clear guidelines way back in 2011 that the entire forest

boundaries must be in digitized format in a GIS database. It may also be pointed out that in the Indian State of Forest Report 2017, published by the Forest Survey of India, MoEF, at page 33 para 2.13 has mentioned that digitized boundaries of Recorded Forest Area for 16 States are available with FSI. That being the case, the FSI need not await the information from any state regarding details of polygons of rejected claims and should proceed and complete task on the basis of the information and technology already available with them to ascertain the position of encroachments.

7. It is further submitted that the National Remote Sensing Agency (NRSA) also has the satellite imageries and the necessary infrastructure. As per their website, they have an

Automated Detection of Forest Cover Loss which they claim will lead to accurate delineation of forest loss by using IRS LISS III / LISS IV data. It has also stated that exercise of monitoring the

loss of forest cover has already been carried out by them for eight states covering 40.54% of India's forest cover which translates to 2,82,925 sq. km. The FSI may consider consulting the National Remote Sensing Agency (NRSA) and take advantage of the similar work already done of establishing the

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loss of forest cover as a result of occupation of the rejected claimants.

8. Keeping in view the above, suitable directions may be issued to the Union of India to provide the FSI with the required infrastructure, trained manpower and computers etc. to enable

it to carry out the task assigned by this Hon'ble Court. The Union of India has sufficient funds under The Compensatory Afforestation Fund Act, 2016, which are to be utilised for the

purpose of protecting the forests and wildlife. The required funds out of this account may be made available to the FSI for the purpose of ascertaining the position of encroachments through satellite imageries as directed by this Hon'ble Court.

9. The petitioners have not filed any other petition seeking directions as prayed for herein below.

PRAYER

It is respectfully prayed that this Hon'ble court may be graciously pleased to:

- i) direct the Union of India to provide necessary infrastructure, manpower, computer terminals required, etc. to enable the Forest Survey of India to

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expeditiously process the area occupied by the rejected claimants under the Forest Rights Act to comply with the directions issued by this Hon'ble Court in its order dated 28.2.2019;

- ii) direct the Union of India to provide necessary funds to the Forest Survey of India from the Compensatory Afforestation Fund to carry out the directions of this Hon'ble Court; and
- iii) pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Dated: 21st August, 2019

Drawn and Filed By

P.K. MANOHAR

Advocate for the petitioners

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IN THE SUPREME COURT OF INDIA

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I.A. NO. OF 2019

IN

WRIT PETITION (CIVIL) NO. 109 OF 2008

IN THE MATTER OF:

Wildlife First & Ors.

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VERSUS

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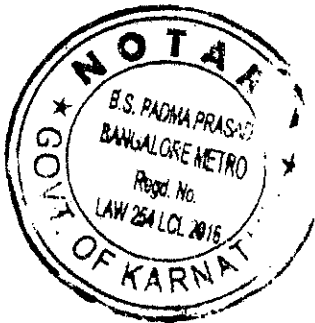
... RESPONDENTS

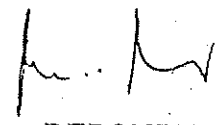
AFFIDAVIT

I, Praveen Bhargav son of Late V.S. Bhargav, aged about 55 years, residing at Bengaluru Karnataka do hereby solemnly affirm and state as follows;

1. I am a trustee of the 1st petitioner trust and as such I am fully conversant with the facts and circumstances of the case. I am competent to swear this affidavit.
2. I have read and understood the contents of the accompanying application for directions and I say that the contents thereof are true and correct to my knowledge and belief.
3. I say that the documents annexed and marked as Annexures to this application are true and correct copies of their respective original documents.

Dated this the ^{1st} day of August, 2019

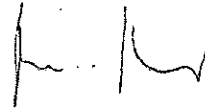



DEPONENT

VERIFICATION

I the Deponent above named do hereby solemnly verify and state that the contents of the above affidavit having paras 1 to 3 are true and correct to my knowledge and nothing material has been concealed or suppressed therefrom.

Dated this the ^{4th} day of August, 2019.



DEPONENT
SWORN TO BEFORE M.

Handwritten signature and date
4. 8. 2019

B. S. PADMA PRASAD, B.Sc. o
ADVOCATE / NOTARY
No. 43, City Civil Court Complex
BANGALORE-560009

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SL. NO. 75 PAGE 14
DATE 4. 8. 2019



P.K.MANO HAR
Advocate-On-Record
Supreme Court of India

Off: 409, M.C. Setalwad Chambers,
Supreme Court of India
New Delhi- 110001
E-mail: pkmanohar@yahoo.com
Tel: 011 23381629

Date: 14.05.2019

To,
The Director General,
Forest Survey of India
(Ministry of Environment and Forest & Climate Change)
Kaulagarh Road, P.O. IPE,
Dehradun -248 195
UTTARAKHAND

Sub: Wildlife First Vs Union of India & Others (Writ Petition (Civil) No. 109 of 2008) – Order dated 28.2.2019 for preparation of Satellite surveys using imageries regarding the encroachment positions in the forests.

Sir

I represent the petitioners, Wildlife First and others before the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 109 of 2008 wherein the constitutional validity of the Scheduled Tribes and Other Forest Dwellers (Recognition of the Rights) Act, 2006 (FRA in short) has been challenged. The Hon'ble Supreme Court has, by its order dated 28.02.2019 in supersession of its earlier order dated 13.2.2019, directed the Forest Survey of India to carry out a satellite survey and place before the Hon'ble Supreme Court the encroachment position in forest land. A copy of the order dated 28.02.2019 is enclosed as **Annexure-A**.

2. In the case of Forest Dwelling Scheduled Tribes (FDST's), they are required to show occupation of the forest land as on 13.12.2005 and in the case of Other Traditional Forest Dwellers (OTFD's) they are required to show continuous occupation for three generations prior to 13.12.2005 i.e. from the year 1930. Therefore to identify the area under

encroachment, high resolution satellite imageries are required to ascertain the occupancy of forest land on a particular date as any occupancy after the cut-off date would make the claims illegal under the said Act and will have to be treated as encroachment. Such satellite imageries are widely accepted to ascertain the occupancy of forest land on a particular date. The required methodology would be a time-series analysis of high resolution, multi spectral true colour composite images of December 2005 and current date. As you may be aware, such high resolution archival imagery of 2005 is available in 0.82 m resolution from **Ikonos** launched in 1999, 0.60 m resolution from **QuickBird** launched in 2001 and 2.5 m resolution from **Spot 5** launched in 2002 as well as other satellites.

3. The petitioners have obtained open source satellite imageries from Google Earth Pro and have done a time series analysis of a few National Parks and Sanctuaries (Protected Areas) across different States. This analysis clearly shows that the areas which were undisturbed and intact as on the cut-off date or even sometime after have been subsequently cleared and encroached upon. Furthermore, the analysis also establishes that settlements existing as on 2005 have subsequently expanded by clearing and encroaching over adjacent virgin forest areas.

4. The following is the list of sample case studies based on time series analysis of imageries prepared by the petitioners, showing encroachments in forest areas / Protected Areas:

- i. Eturngaram Sanctuary, Telangana between 1.12.2011 and 26.3.2017;
- ii. Kawal Sanctuary, Telangana between 14.3.2001 and 5.3.2017;
- iii. Kotgarh Elephant Reserve, Odisha between 28.4.2005 and 15.11.2018
- iv. Nagarhole National Park, Karnataka between 22.1.2012 and 11.4.2018;
- v. Singhori Sanctuary, Madhya Pradesh between 28.4.2005 and 15.11.2018;
- vi. Yawal Sanctuary, Maharashtra between 23.2.2001 and 22.5.2010;
- vii. Balaghat Forest Range, Madhya Pradesh between 31.1.2014 and 1.11.2016;
- viii. Pench National Park, Madhya Pradesh between 23.11.2016 and 8.11.2018

Existing cultivation and/or settlement as on 2005 or closest available dates are depicted in yellow polygons and fresh clearing and expansion of settlements have been depicted in red polygons. The areas of the red polygons which show loss of forests are also shown. Copies of the satellite imagery as set out at items i to viii above, obtained by the petitioners are enclosed collectively as **Annexure-B**.

5. Detailed exercise for ascertaining each and every claim under the Forest Rights Act has been done by State of Maharashtra through Tribal Research & Training Institute, Pune using satellite imageries. Similar exercise has been done by BISAG in Gujarat and by other states which may also be taken into consideration. A similar exercise is required to be done by the FSI in compliance with the orders of the Hon'ble Supreme Court which has all the resources and expertise and is a premier institute of India.

6. Apart from satellite imageries, corroborative evidence of large scale encroachments and consequent filing of bogus claims under the FRA in Eturnagaram Sanctuary and other forests have been reported by the Principal Chief Conservator of Forests & HoFF, Telangana, in his letter dated 20.07.2018 written to the Special Chief Secretary. Even earlier, the PCCF of Andhra Pradesh had recorded vide letter dated 16.07.2008 of an alarming situation in Kawal Sanctuary of illegal destruction of forests for cultivation rights under Forest Rights Act. A copy of the letter dated 20.7.2018 of the PCCF, obtained through RTI which is self - explanatory and corroborated by satellite imagery, is annexed hereto as **Annexure-C** (collectively).

7. A detailed Forest Cover Loss assessment was carried out from 2005 onwards by the ISRO / NRSC covering eight States and around 41% of forests using remote sensing data. This may also be valuable in establishing the extent of encroachment. A copy of the extract of the report from their website is enclosed as **Annexure-D**.

8. Further, subsequent to a high level review of the FRA by the Hon'ble Prime Minister, a circular of the Tribal Affairs Ministry dated 27.07.2015 has instructed that geo referenced satellite imagery of 1 M or higher resolution of **any satellite** may be used for the period around December 2005. You would be aware that sufficient funding for this hugely important forest conservation activity would be available from

CAMPA and other sources. A copy of the said circular which is available in the public domain is enclosed as Annexure - E.

9. The Hon'ble Supreme Court, accepting the petitioners concern that the forest land being a valuable national natural resource is vested under the FRA only on the bonafide forest dwellers / claimants and not on encroachers, has passed the orders dated 29.01.2016, 07.03.2018 and 13.02.2019 copies of which are annexed collectively as Annexure- F (collectively). It is under these circumstances that the Hon'ble Court has directed the FSI to undertake this exercise which will help in identifying the extent of encroachments. It has been mentioned in the ISFR report 2017 at page 33 para 2.13 that digitized boundaries of Recorded Forest Area for 16 States is available with FSI.

10. It may be stated here that encroachments have not only taken place on forest lands but also in Protected Areas which enjoy a high degree of protection under the Wildlife (Protection) Act, 1972 (WLP Act in short) and encroachment / offences committed in National Parks and Sanctuaries are not compoundable and attract imprisonment up to three years besides fine. These PA's are also home to a wide variety of endangered species such as tiger, leopard, elephant, sloth bear, gaur, black buck, etc. which are listed in Schedule I and therefore enjoy the highest degree of protection. Any encroachment of these PA's is a matter of serious concern and deserves special attention.

I am therefore bringing the above facts and information to your attention in the larger interests of preserving and protecting India's valuable natural resources.

Thanking you

Yours faithfully

P. K. Manohar
Advocate-on-Record

Copy to: Mr. Tushar Mehta, Solicitor General,
Supreme Court of India
New Delhi -110001

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 Mr. Milind Kumar, AOR

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 Mr. Ashish Tiwari, Adv.
 Mr. Surya Kamal Mishra, Adv.
 Mr. Tushar Kumar, Adv.

Mr. Anmol Chandan, Adv.
 For Mr. Gurmeet Singh Makker, AOR

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Mr. Nikhil Nayyar, AOR

Mr. Ravi Prakash Mehrotra, AOR

Mr. Kuldip Singh, AOR

Mrs. Rachna Gupta, AOR

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

We have heard Mr. Tushar Mehta, learned Solicitor General, Mr. A.N.S. Nadkarni, learned Additional Solicitor General, Mr. Kapil Sibal, learned Senior Counsel, Mr. Vivek Tankha, learned Senior Counsel and Mr. R.K. Raizada, learned Senior counsel appearing for the parties at some length.

It was pointed out that the State Governments have filed their data including how many claims have been rejected and the eviction orders that have been passed but they have not stated the procedure

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adopted for rejection orders/claims of the Tribals. It has not been placed on record as to who has rejected the claims and under which provision of law the eviction has to be made and who is the competent authority to pass such orders.

It was also submitted that in most of the matters Tribals have not been served with the orders of rejection orders of their claims and it is also not clear whether the three tier Monitoring Committee constituted under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 have supervised all these aspects.

Let the State Government also clarify what is the process to be followed for eviction after rejection orders have been passed.

In the facts and circumstances of the case, we direct the Chief Secretaries of various State Governments to file detailed affidavits covering all the aforesaid aspects and also place on record the rejection orders and the details of the procedure followed for settlement of claims and what are the main ground on which the claims have been rejected. It may also be stated that whether the Tribals were given opportunity to adduce evidence and, if yes, to what extent and whether reasoned orders have been passed regarding rejection of the claims.

It was submitted that at the present juncture there is likelihood of traditional Tribals being affected whose claims have been rejected. At the same time the question which is also of significance and which cannot be ignored and overlooked is that in

the guise of and Other Traditional Forest Dwellers (OTFDs), the land is not occupied by mighty people, industrialists and other persons who are not belonging to the aforesaid category. Let the State Governments also point out the category wise details of such incumbents who have been occupying these areas belonging to Scheduled Tribe category and OTFD category and such persons who cannot be treated as Tribals. Let details be furnished in their affidavits to be filed by the Chief Secretaries. However, till we examine all aforesaid aspects, we keep our order dated 13.02.2019 on hold so far as eviction is concerned.

Let what kind of orders have been passed be placed on record. It was pointed out by Mr. Shyam Divan, learned Senior Counsel that the State Governments, subject to the decision of this Court on various aspects, should also place on record the course of action with respect to the claims which have not been found to be genuine, what they are going to ultimately undertake and the time frame.

In the meantime, the Forest Survey of India has to make a satellite survey and place on record the encroachment positions as far as possible in this Court before the next date of hearing as directed in order dated 13.02.2019. Mr. Tushar Mehta, learned Solicitor General has undertaken to inform the Forest Survey of India to complete the Satellite survey.

List on 24.07.2019.

(ASHA SUNDRIYAL)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER



Scene A:

State: Telangana

District: Warangal

PA/R/F: Eturnagaram

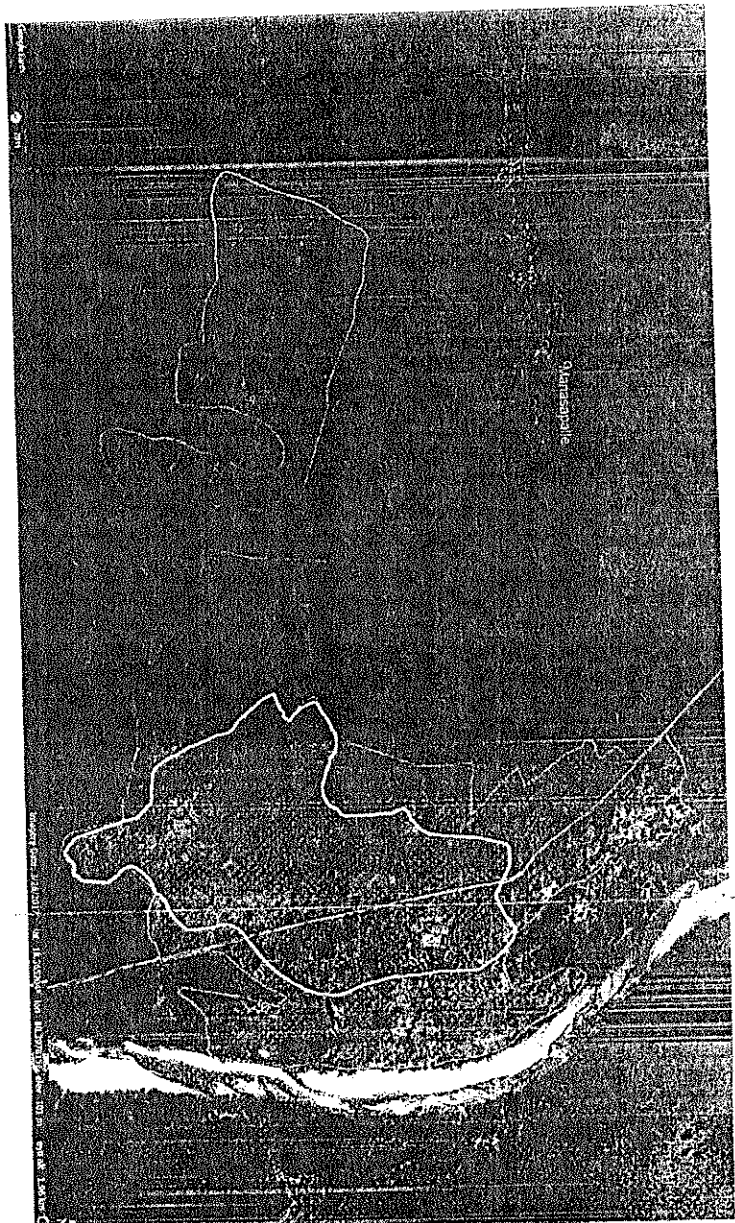
Imagery date:

December 01, 2011

Yellow polygon:

Depicts existing cultivation/ settlement

Scene B:



Imagery date:

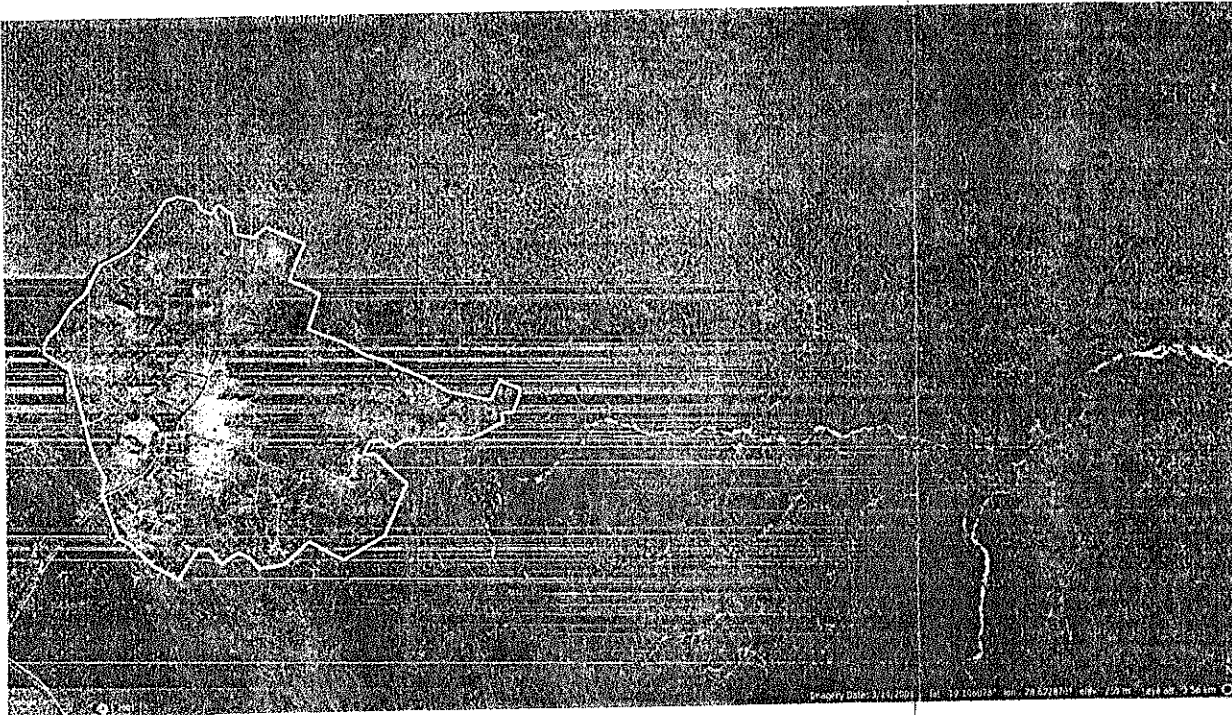
March 26, 2017

Red polygon:

Depicts deforestation/ expansion of settlement (~42.83 ha.)

Fig 1 - Satellite imagery depicting change in forest cover

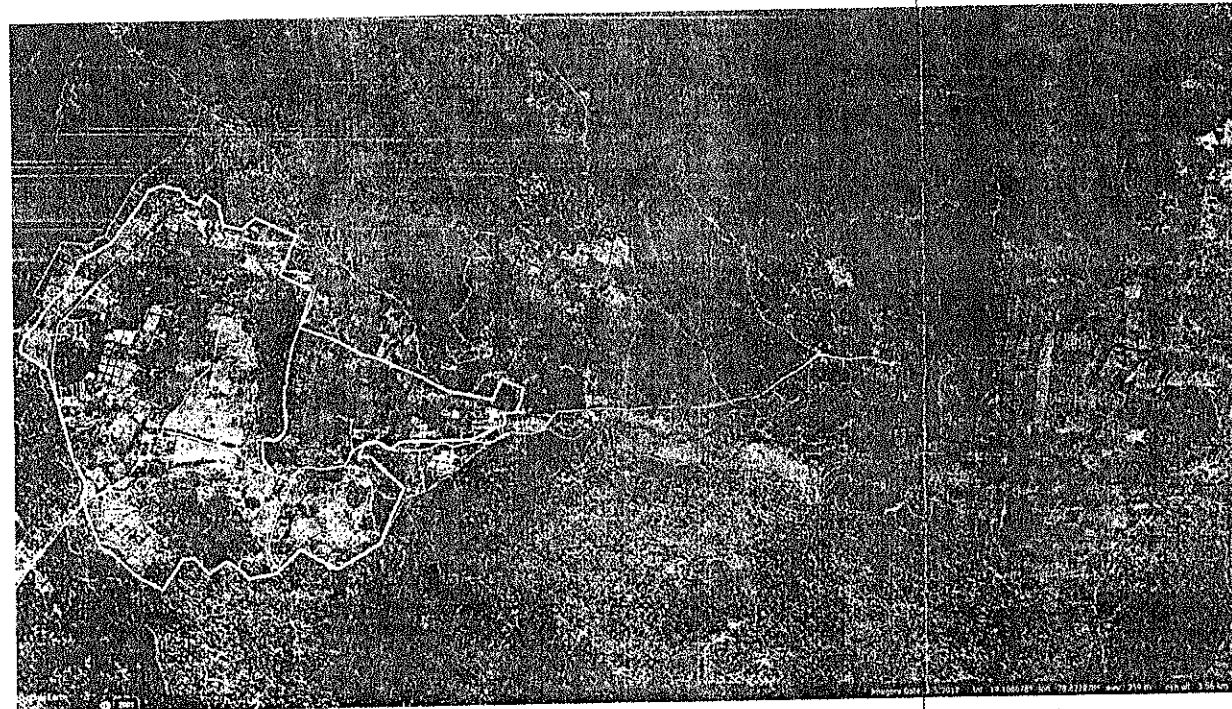
Scene A;
State: Telangana
District: Adilabad
PA/RF: Kawal



Imagery date:
March 14, 2001

Yellow polygon:
Depicts existing
cultivation/
settlement

Scene B;

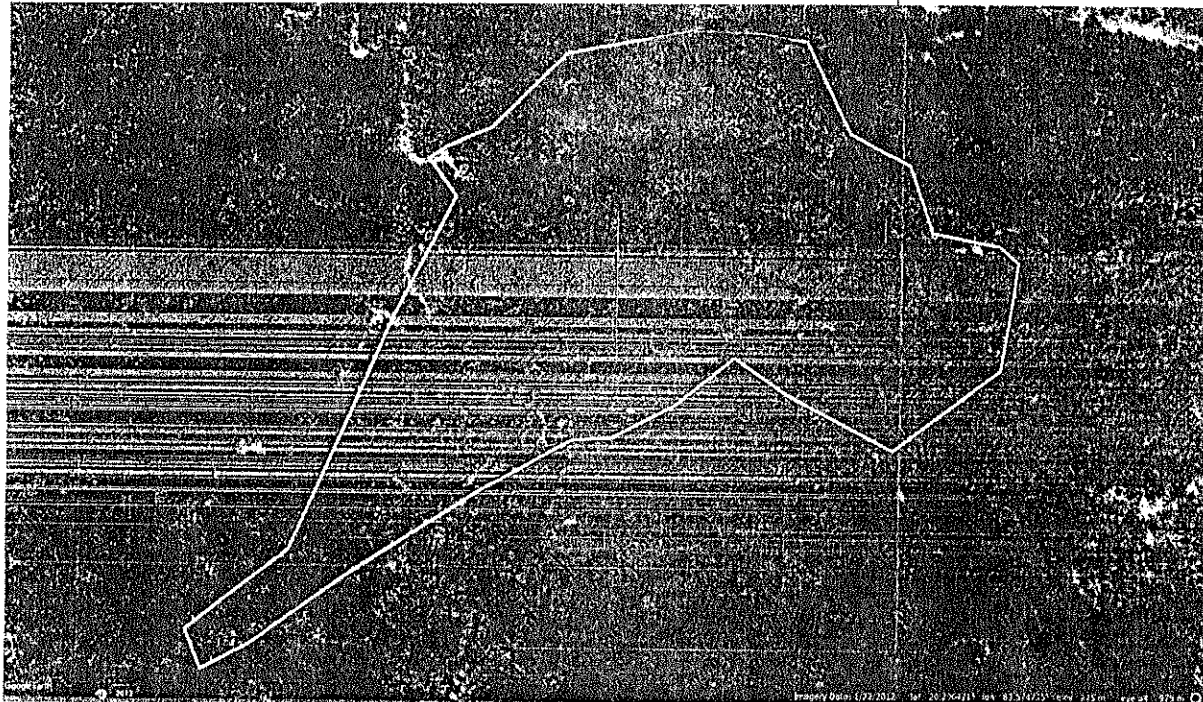


Imagery date:
March 05, 2017

Red polygon:
Depicts deforestation
expansion of
settlement (~139.7%

13

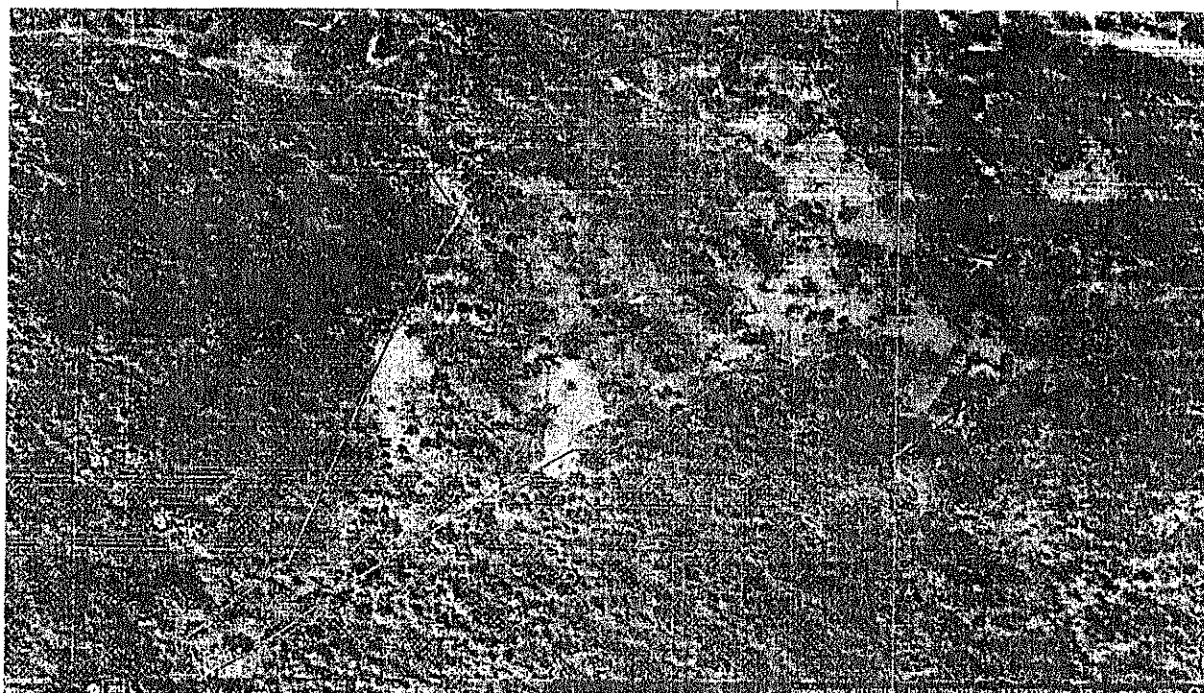
Fig 1 - Satellite Imagery depicting change in forest cover



Scene A;
State: Odisha
District: Kandhamal
PA/RF: Kotgarh

Imagery date:
January 22, 2012

Yellow polygon:
Depicts existing
cultivation/
settlement

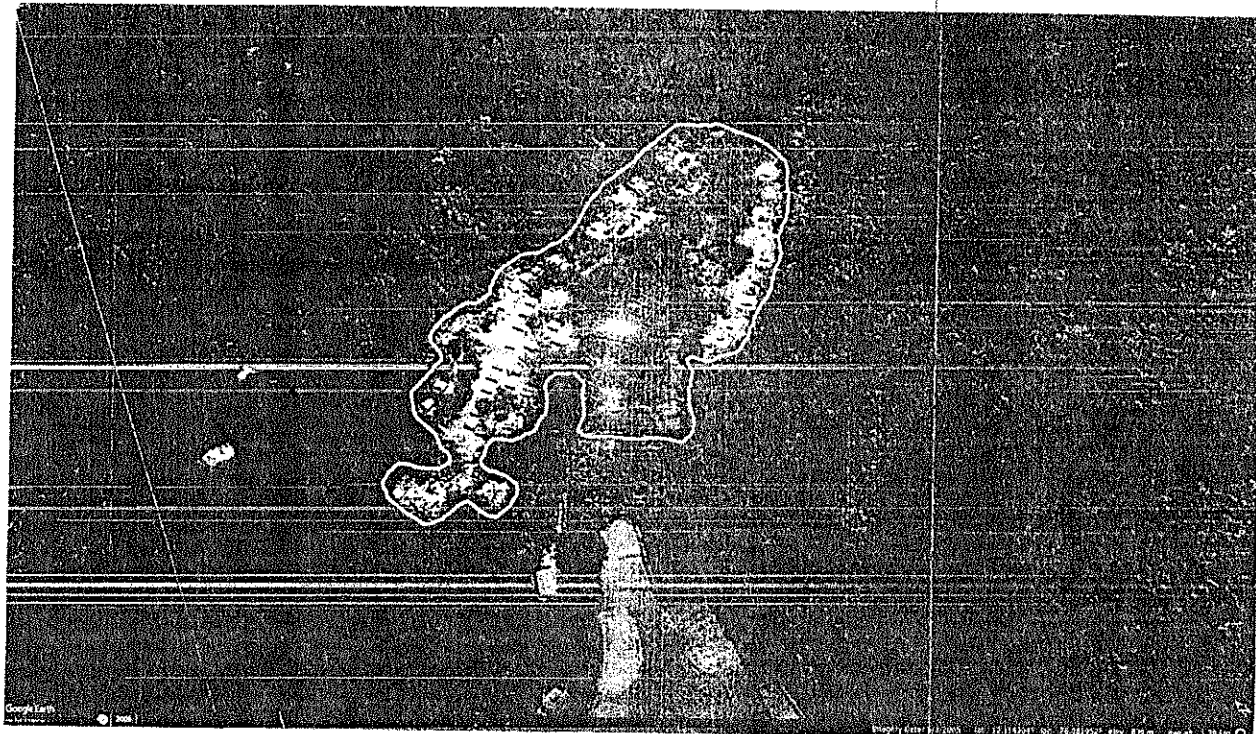


Scene B;

Imagery date:
April 11, 2018

Red polygon:
Depicts deforestation/
expansion of
settlement (~8.99 ha)

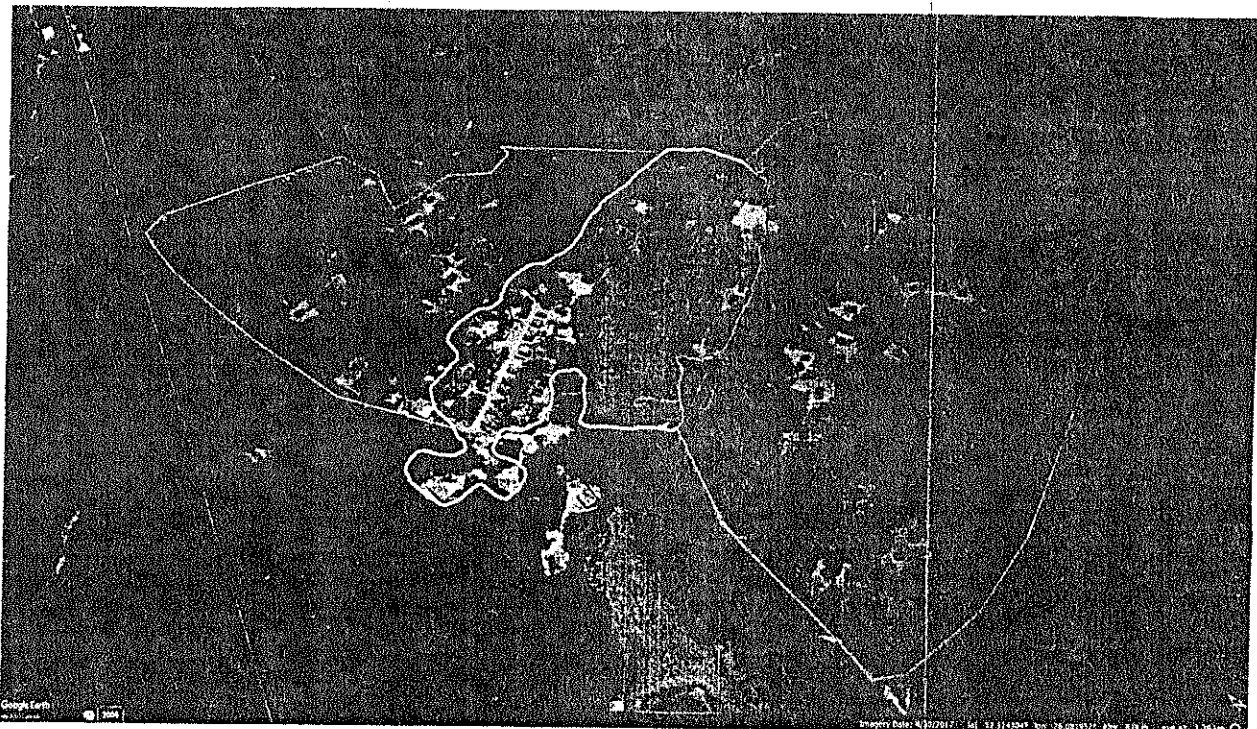
Fig 1 - Satellite Imagery depicting change in forest cover



Scene A;
State: Karnatak
District: Kodagu
PA/RF: Nagarath

Imagery date:
June 03, 2005

Yellow polygon:
Depicts existing
cultivation/
settlement



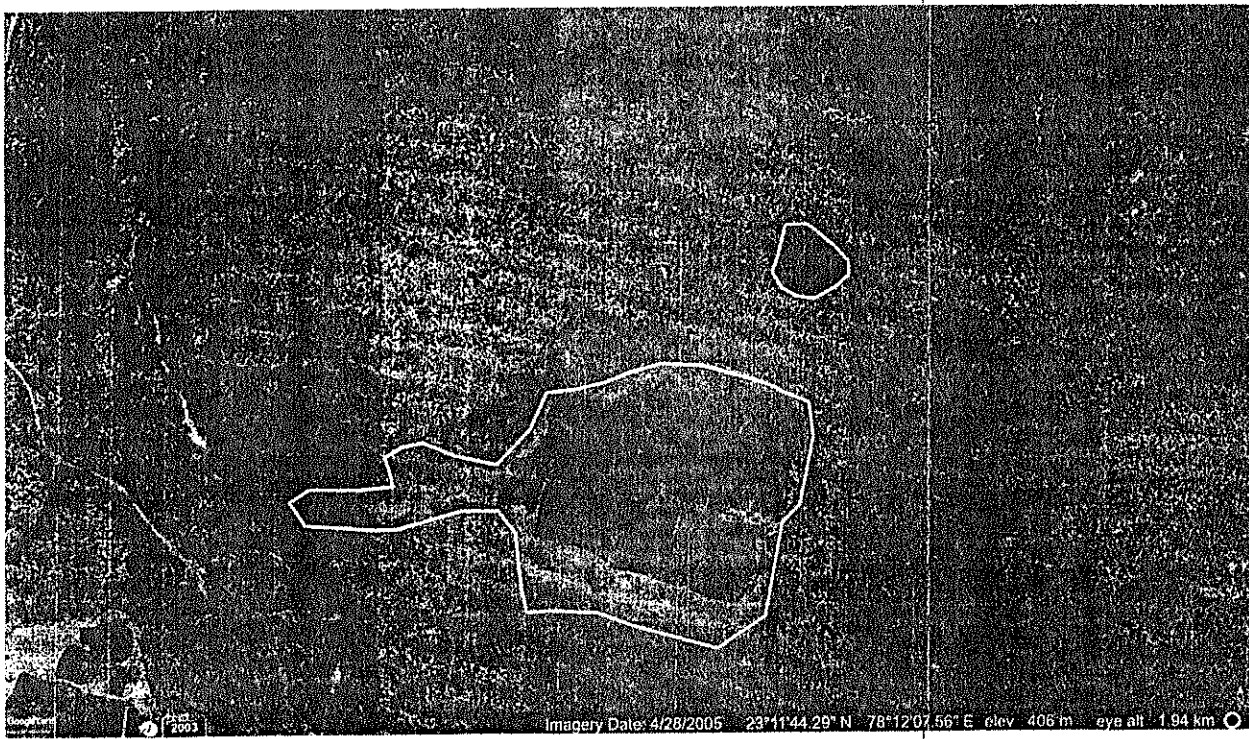
Scene B;

Imagery date:
April 30, 2017

Red polygon:
Depicts deforestation
expansion of
settlement (~11.25 ha)

15

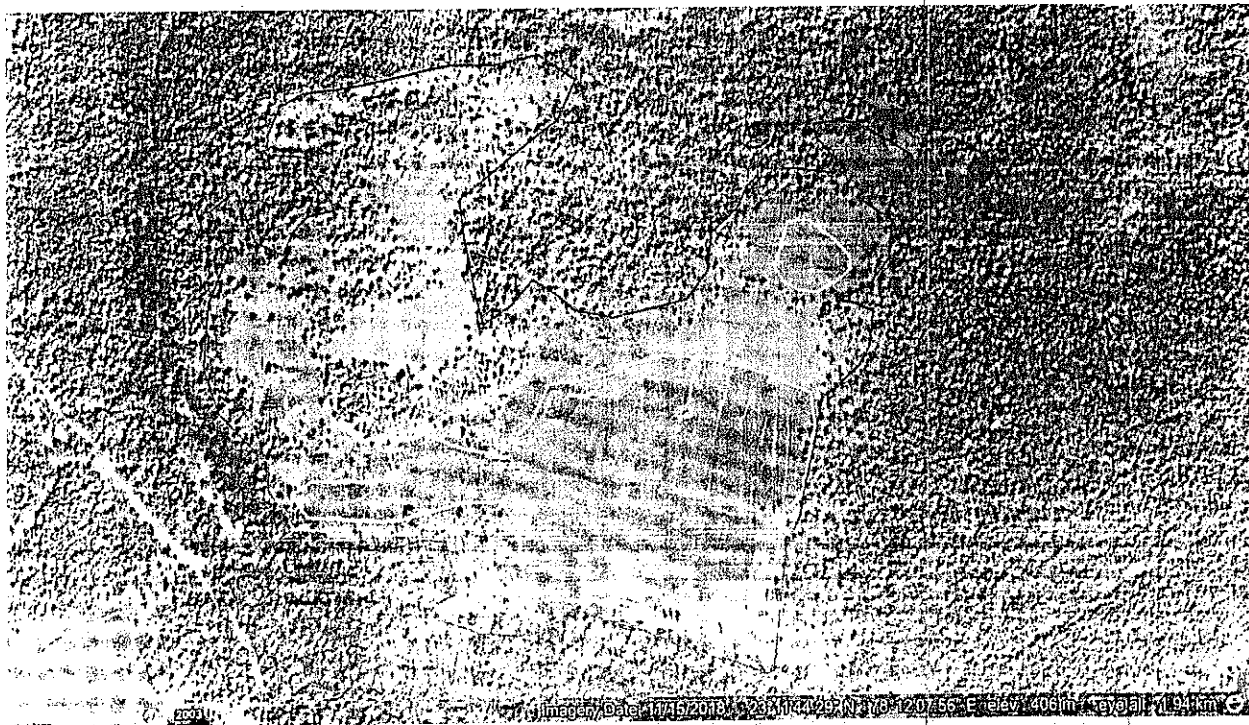
Fig 1 - Satellite Imagery depicting change in forest cover



Scene A;
State: Madhya Pradesh
District: Raisen
PA/RF: Singhori

Imagery date:
April 28, 2005

Yellow polygon:
Depicts existing
cultivation/
settlement

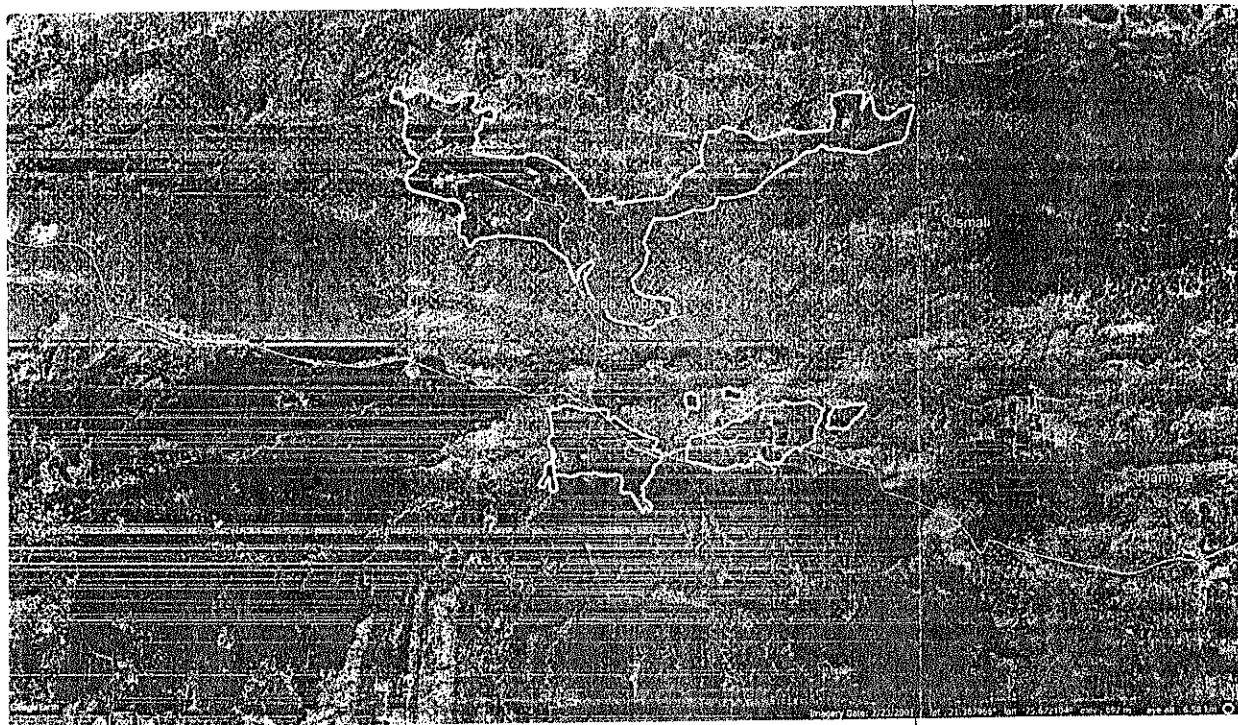


Scene B;

Imagery date:
November 15, 2018

Red polygon:
Depicts deforestation
expansion of
settlement (~28.53 %)

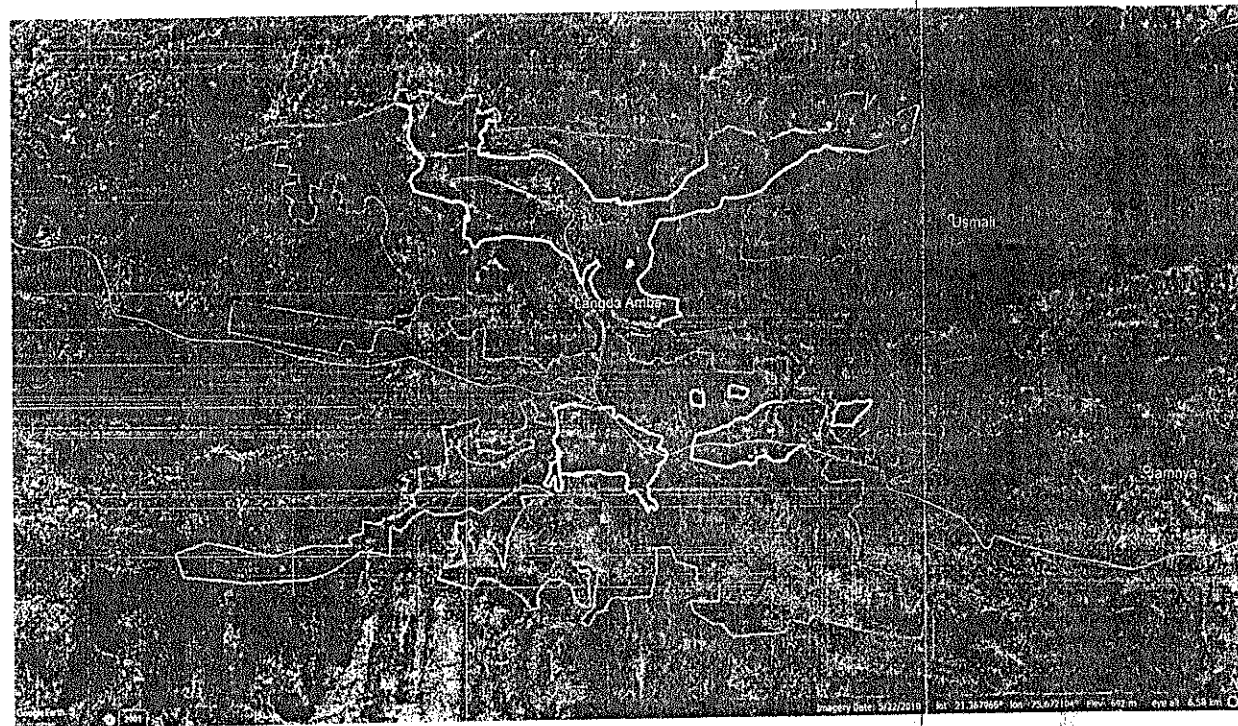
Fig 1 - Satellite Imagery depicting change in forest cover



Scene A;
State: Maharashtra
District: Jalgaon
PA/RF: Yawal

Imagery date:
February 23, 2001

Yellow polygon:
Depicts existing
cultivation/
settlement

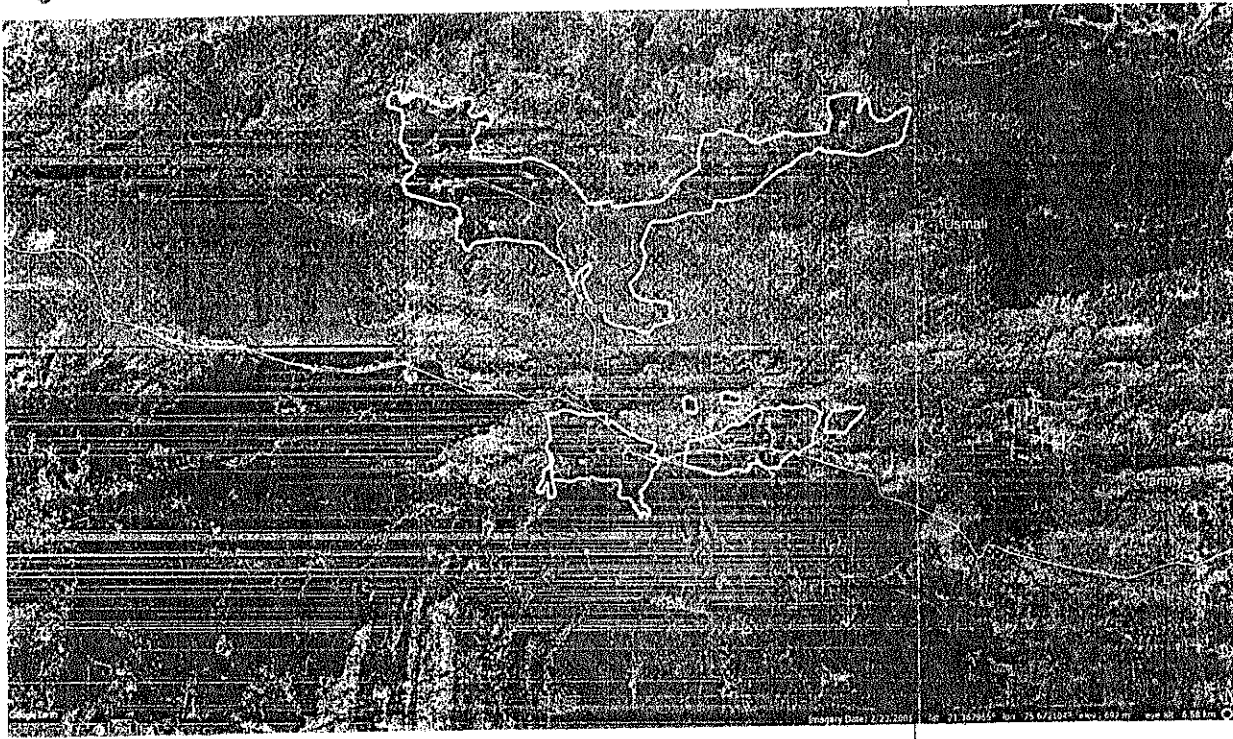


Scene B;

Imagery date:
May 22, 2010

Red polygon:
Depicts deforestation/
expansion of
settlement (~519.25 h

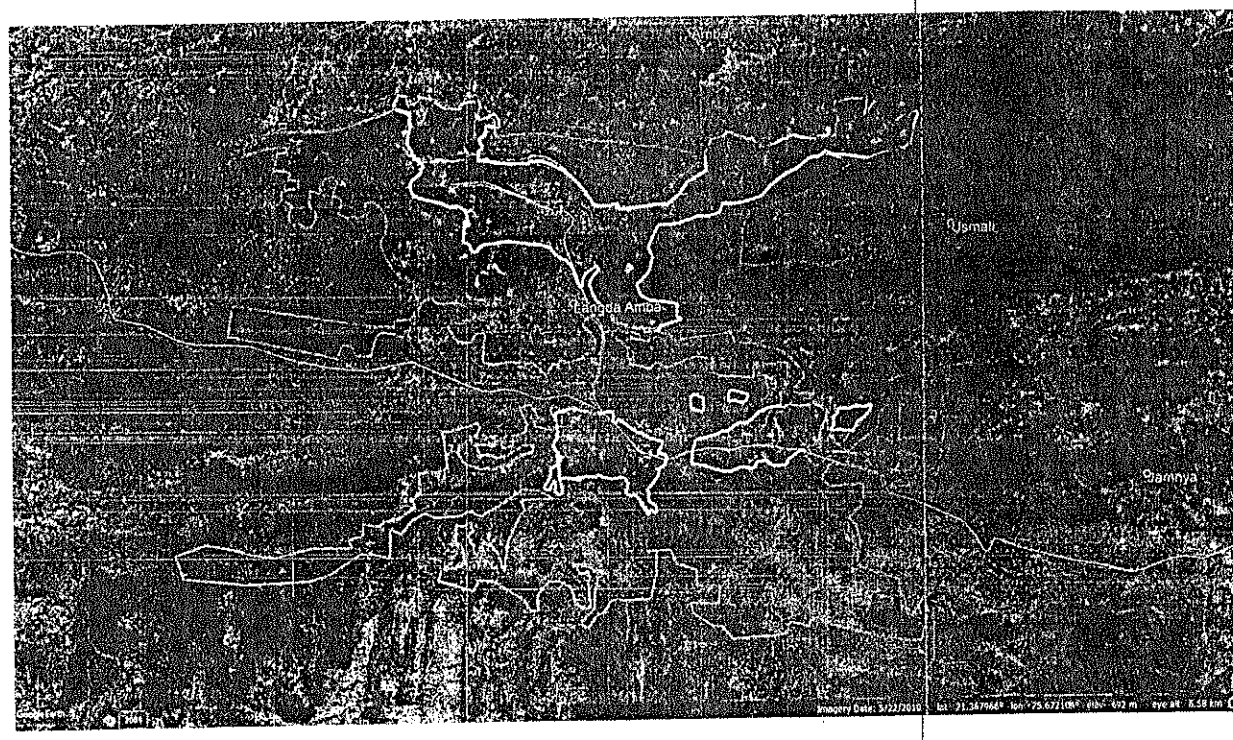
Fig 1 - Satellite Imagery depicting change in forest cover



Scene A;
State: Maharashtra
District: Jalgaon
PA/RF: Yawal

Imagery date:
February 23, 2001

Yellow polygon:
Depicts existing
cultivation/
settlement

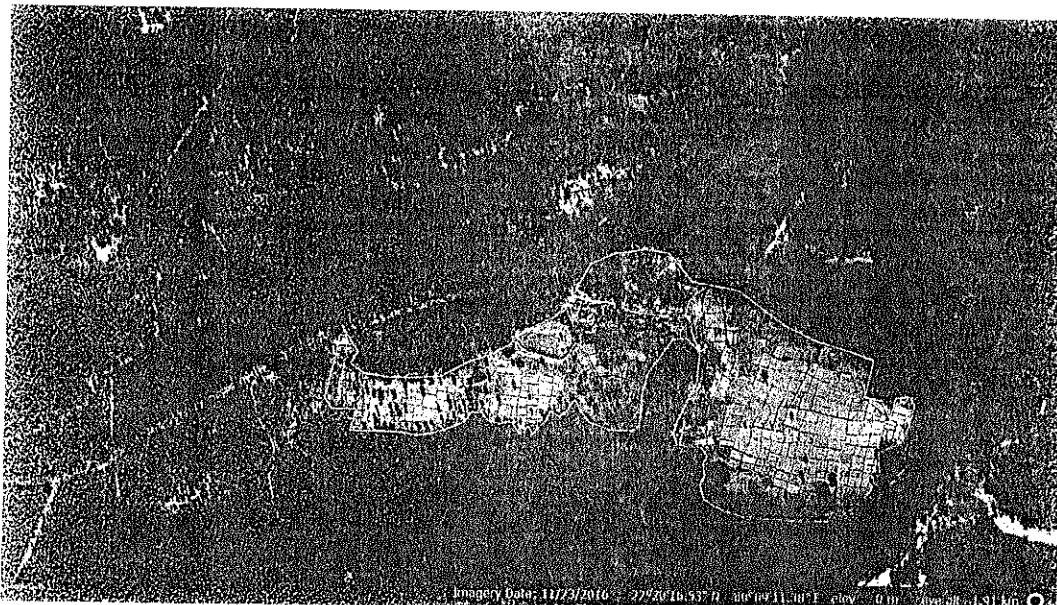


Scene B;

Imagery date:
May 22, 2010

Red polygon:
Depicts deforestation/
expansion of
settlement (~519.25 h

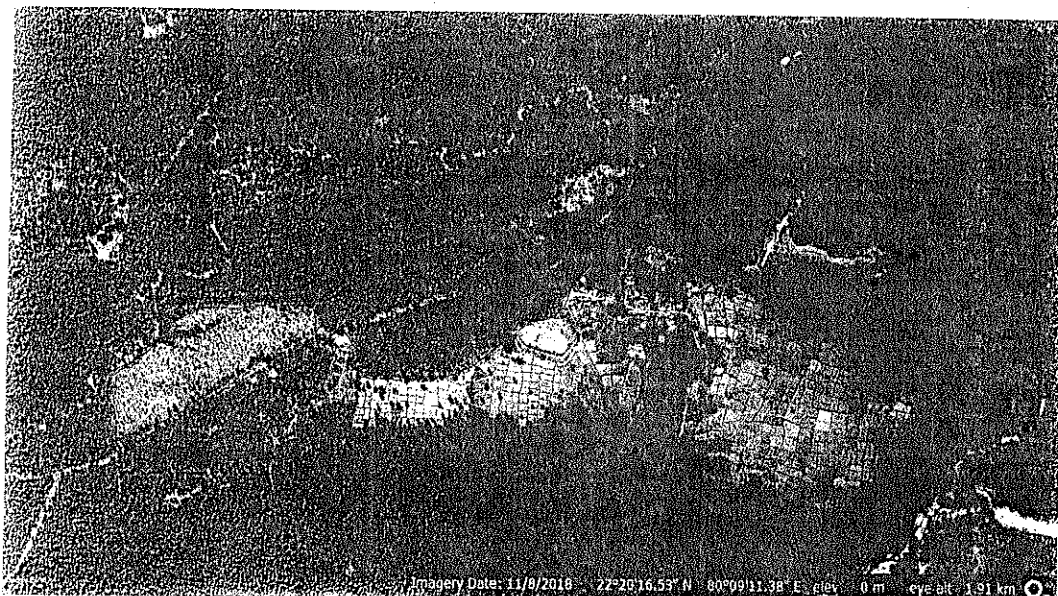
Fig 1 - Satellite imagery depicting change in forest cover



Scene A:
State: Madhya Pradesh
District: Seoni
PA/RF: Pench National Park

Imagery date:
November 23, 2016

Yellow Polygon:
Depicts existing cultivation/
settlements

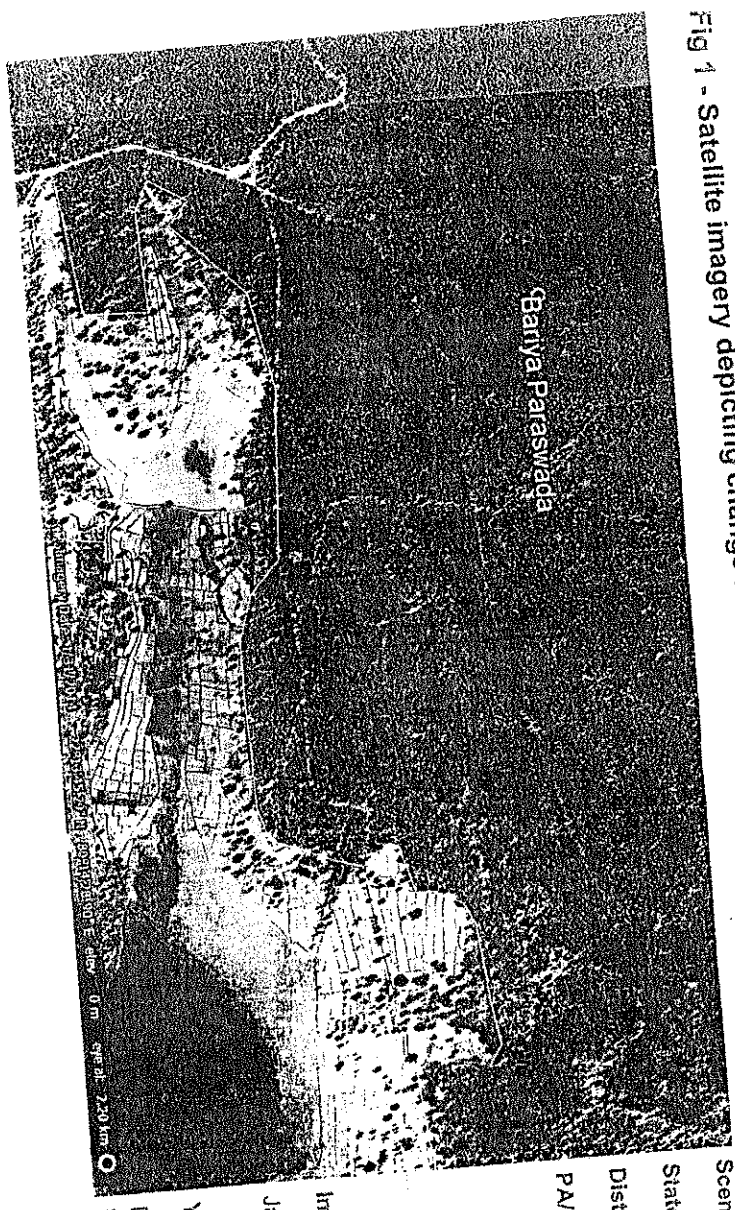


Scene B:
State: Madhya Pradesh
District: Seoni
PA/RF: Pench National Park

Imagery date:
November 08, 2016

Red Polygon:
Depicts deforestation/
expansion of settlement

Fig 1 - Satellite imagery depicting change in forest cover



Scene A:

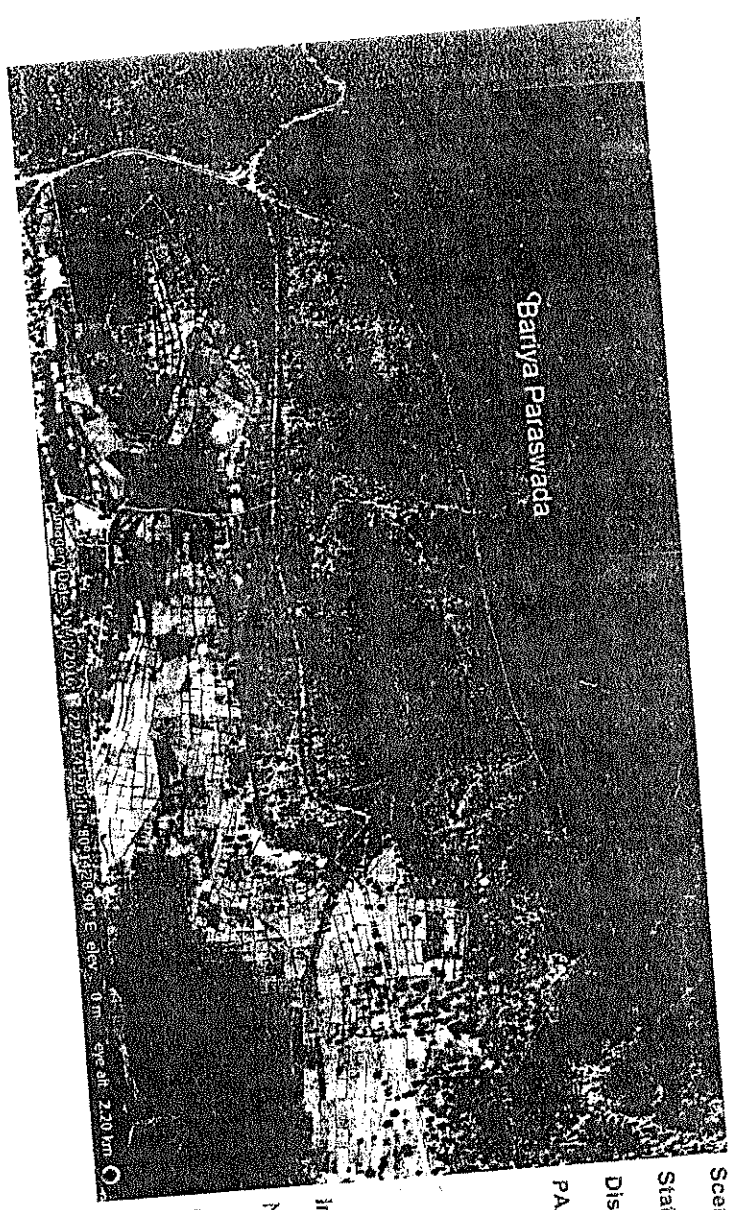
State: Madhya Pradesh

District: Balaghat

PA/R/F: Balaghat Forest Range

Imagery date:
January 31, 2014

Yellow Polygon:
Depicts existing cultivation/
settlement



Scene B:

State: Madhya Pradesh

District: Balaghat

PA/R/F: Balaghat Forest Range

Imagery date:
November 01, 2016

Red Polygon:
Depicts deforestation/
expansion of settlement

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Annexure e

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19

GOVERNMENT OF TELANGANA
FOREST DEPARTMENT

From
P.K. Jha, IFS,
Pri. Chief Conservator of Forests
(Head of Forest Force),
Aranya Bhavan, Saifabad,
Hyderabad - TS.

To,
The Spl. Chief Secretary to Government
Environment, Forests, Science and
Technology Department,
Secretariat,
Hyderabad - TS.

Rc.No. 9685/2017/Vig-2, dt: 20.07.2018

Sir,

Sub:- Forest Protection -- Encroachment of Reserve Forest Lands -- Retrieval of encroached lands for raising of plantations -- Fresh encroachments -- Report submission - Regarding.

- Ref:-
1. Pri. CCF Ref. No. 11552/2015/Vig-4, dated 21.07.2015.
 2. Pri. CCF Ref. No. 11552/2015/Vig-4, dated 26.10.2015.
 3. Pri. CCF Ref. No. 11552/2015/Vig-4, dated 28.01.2016.
 4. Pri. CCF Ref. No. 9685/2017/Vig-4(18ii) dated 12.06.2017.

It is submitted that in the references cited above Government was informed that due to statements given by the Hon'ble Members of Legislative Assembly, Hon'ble Members of Parliament and Hon'ble Ministers including the Hon'ble Minister for Environment, Forests, Science and Technology both in print and electronic media from time to time to the effect that encroachers encroaching forest lands before formation of Telangana State will not be evicted, several attempts have been made to encroach the forest land and obstruct the forest officials in retrieving encroached forest lands and taking up plantations under Telangana ku Haritha Haram.

In this connection, it is submitted that during the video conference with the forest officials starting from Pri. Chief Conservator of Forests (HoFF), TS, Hyderabad to Forest Section Officers cadre held on 22.06.2018, the Hon'ble Minister for Environment, Forests, Science and Technology instructed the field staff not to harass the villagers who have encroached forest land prior to June 2014.

In this regard, it is submitted that it is legal obligation of the forest officials not only to stop encroachment of forest lands but also to evict encroachers of forest land duly following the procedure prescribed under Section 20 (4) of Forest Act and Section 34 (A) of Wildlife (Protection) Act and prosecute the offenders in the Court of Law.

It is submitted that this office is not aware, if any decision has been taken at the Government level not to evict forest encroachers up to June 2014. Further, it is submitted that under the provisions of RoFR Act 2006, only the tribals occupying forest land as on 13-12-2005 were entitled to cultivate the forest land and accordingly detailed exercise was taken up by conducting Gram Sabhas, SDLC and DLC level meetings during the year 2008-2009. Out of total 1,86,534 claims received, 93,494 beneficiaries have already been given certificate under RoFR Act covering an extent of 3,00,092 acres. As per the information available as on date, there is no proposal at the State Government level or Government of India level to regularize any encroachment which is not covered under RoFR Act 2006 i.e., after 13-12-2005.

It is also submitted that on account of public statements given by Hon'ble Minister for Environment, Forests, Science and Technology to the effect that forest department will not evict any encroachment taken place up to June 2014, an impression has been created by the local public representatives to the effect that Government of

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Telangana will regularize the forest encroachments up to June 2014. In this connection it is submitted that similar situation happened in the year 2008-2009. After enactment of RofR Act in the year 2006, the then Government of Andhra Pradesh have taken up regularization of encroachments under RofR Act in a campaign mode by conducting Gram Sabhas in villages followed by SDLC and DLC meetings. On account of exercise taken up by the then Government in the year 2008 just before commencement of general election to the Parliament and Assembly, a public campaign was taken up by the vested interests that whoever encroaches forest land, it will also be regularized in future as being done during 2008. Due to creation of such public impression, large scale destruction of forest and encroachments took place to an extent of 23,494 Ha (58,032 Acres) as per the available records from 2007 onwards to 2014.

It is further submitted that similar impression is being created by the local cadre belonging to different political affiliations that the Government of Telangana is going to regularize all the encroachments up to June 2014 and this is encouraging fresh encroachments in different parts of the State so that at a later date they can lay a claim over such forest lands stating that they have occupied the same prior to June 2014, as it had happened previously during the year 2008 as explained above.

On account of such public statements given by the public representatives, following consequences are arising in field,

- i) In some cases, it is resulting in fresh encroachment of forest lands including felling of trees.
- ii) In some other cases even the forest lands that have been retrieved earlier is again being encroached.
- iii) Even plantations raised in forest land earlier in the past 3 years are being uprooted and attempts made to occupy the same.

In this regard, it is submitted that retrieval of encroached forest land is a continuous process in the forest department in view of legal duty entrusted to us. On account of such relentless efforts, large extent of encroached forest land could be retrieved. In some cases, whenever there is an attempt to clear the forest land for encroachment, forest department is arresting the offenders and evicting them. In all such cases the land is under the control of forest department without any cultivation being done by encroachers. The Department is trying to re-cloth such old abandoned encroached land by taking up plantations under CAMPA and other schemes including Haritha Haram, so as to fully restock the forest areas to the extent of 24% forest land as envisaged under TKH through rejuvenation of degraded forests. The Department is preparing degraded forest land for planting by doing deep ploughing. In certain cases, no objection is raised from any corner till the ploughing is completed. Once the ploughing is done and pitting and planting is to be taken up, the villagers in some places are sowing seeds of different crops in such ploughed areas taken up by the Department during the night hours and after few days they claim as if crop is being raised by them there for several years. In some other cases, local public representatives are physically preventing and threatening forest officials, abusing them and instigating the villagers to physically assault the forest officials who are doing their duty with the sole aim of stopping the plantation works in such old retrieved land. In few cases, the villagers are destroying the plantations by cutting / uprooting the seedlings and causing loss to the Government running into lakhs of rupees, which was spent for preparing the planting site and raising the plantation.

It is further submitted that above observations are supported by some recent incidents as discussed below:

1. On 18th July 2018, Sri Koran Kanakayya, MLA, Yellandu came to the planting site in compartment No. CHA 26 of Chatakonda RF Block, Jangalapally beat of Kothagudem

Division, along with his gun men and warned the labourers who were doing planting work to immediately leave the place. This is a 40 ha area, where advance operations were already completed and planting taken up under Telangana Ku Haritha Haram. The MLA has forcibly stopped the plantation work. The District Collector, Kothagudem has telephonically confirmed that the land in question is forest land not revenue land.

2. On 7th July 2018, villagers of Rajaram and Vemalapally entered enmasse the Gireilly RF extension block of Kushnapally Range in Bellampally Division and felled a large number of trees in Compartment No. 466 of Cuddugudem (East) beat. This is the third attempt in one week time and the local forest officials have done their best to prevent. In spite of 4 police personnel being present on the spot in this third attempt, the villagers did not listen and went on felling big trees mercilessly.
3. On 5th July 2018, Sri D. Nagaraju, Dy. Range Officer was assaulted by villagers of Ashoknagar village lead by sarpanch Sri Saitu, when he tried to prevent ploughing in forest using tractors in compartment nos. 676 and 669 of Pakhal Wildlife Sanctuary.
4. On 5th July 2018, 10 ha of plantation raised in Compartment No. 275 of Hazipur RF in Nizamabad district was uprooted by encroachers of Belyanalk Tanda
5. On 5th July 2018, the Chief Conservator of Forests, Warangal and 2 other IFS Officers and staff were physically detained for over two hours when they tried to stop 5 tractors ploughing compartment no. 440/1 of Lingala beat in Etunagaram Wildlife Sanctuary. Nearly 13,000 acres of Sanctuary area is encroached by villagers of Lingala, Rochapur, Bandal, Kodishala and Natsapur.
6. Forest Divisional Officer, Mahadevpur has reported on 5th July 2018 that encroachers have attacked the forest staff who were trying to take up 30 ha plantation in compartment no. 128 of Pegadapally Range and stopped the planting work under TRFH. Here it is pertinent to point out that the forest department has carried out advance operations in this area already without any resistance from locals.
7. On 2nd July 2018, Forest Range Officer, Gangaram and 3 other forest officials were assaulted by Borlingala villagers of Tadyani Mandal in compartment No. 920 of Mamidiguda beat, where 10 ha plantation is being taken up under Telangana Ku Haritha Haram.
8. The villagers of Dubbaguda, Kamaram, Penugonda and Ramaram in Gangaram Range of Mahabubabad district have threatened and warned the base camp watchers, apart from blocking the vehicles of forest officials for more than 2 hours on 6th July 2018 demanding that they should be allowed to cultivate forest lands.
9. On 13th June 2018, Forest Range Officer, Etunagaram and staff were assaulted by about 40 villagers of Chinnaboinapally, when they tried to stop the villagers from illegal cultivation in the Etunagaram Wildlife Sanctuary.
10. The following are the instances of some of the Plantations raised under Telangana Ku Haritha Haram which have been uprooted by the encroachers. More than one lakh plants have been lost forever due to the mindless acts of some greedy land grabbers

Division	Range	Compartment Numbers	Number of Plants Uprooted by villagers
Achampet (ATR)	Kollapur	426, 427	27175
Achampet (ATR)	Kollapur	429, 442, 443	27523
Kothagudem	Ramavaram	30	33320

22

Paloncha	Aswarapeta	288, 289, 290	7000
Nizamabad	Varni	275	10000
Grand Total Plants uprooted			105618

It is submitted that on account of public statements given by the public representatives including the Hon'ble MLAs, MPs and Ministers, there is a spurt in the encroachment of forest land including tree felling with the hope of getting it regularized as it happened earlier.

Under the above circumstances, the Government are therefore requested to kindly clarify that whether there is any proposal to regularize forest encroachments taken place up to June 2014 and decision taken in this regard, if any. Further, it is also requested that if there is no such proposal to regularize encroachment after 13-12-2005 as per RoFR Act, a clear policy statement may kindly be issued at the Government level that there is no proposal to regularize forest encroachments up to June 2014 as claimed by the public representatives and any attempt of encroachment of forest lands will be dealt with iron hand and no body should obstruct planting activities taken up in the forest lands. It is further submitted that unless a firm stand is taken and clear statement is issued by the govt. it is feared that large scale encroachment of forests would take place as happened during 2008-09 and Forest officials would be put to face the violent public reaction/assault if any attempt is made to arrest the encroachment.

Requesting for early necessary action.

Encl: As Above.

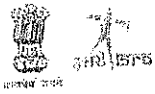
Yours faithfully,
 Sd/- P.K. Jha,
 Prl. Chief Conservator of Forests,
 (Head of Forest Force)

- Copy submitted to the Chief Secretary to Government, Government of Telangana, Secretariat, Hyderabad.
- Copy to the Prl. Secretary to Chief Minister, Government of Telangana, Secretariat, Hyderabad.
- Copy to the Spl. Secretary to Chief Minister, Government of Telangana, Secretariat, Hyderabad.
- Copy to the Officer on Special Duty to the Chief Minister, Government of Telangana, Secretariat, Hyderabad.
- Copy to the Secretary, Tribal Welfare Department, Government of Telangana, Secretariat, Hyderabad.
- Copy to the Commissioner, Tribal welfare Department, Government of Telangana, Secretariat, Hyderabad.
- Copy to the PS to the Hon'ble Minister for EFS & T, Government of Telangana, Secretariat, Hyderabad.

//True Copy//

[Signature]
 20/11/2013
 for Prl. Chief Conservator of Forests.

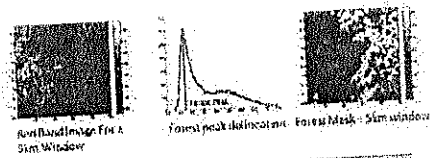
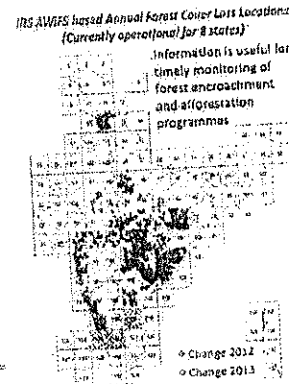
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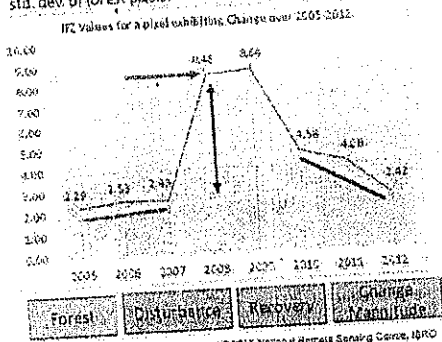
ANNEXURE D
23

Automated Detection of Forest Cover Loss using IRS AWiFS

With 21 % of the country's area under forests, and regular biennial satellite remote monitoring, there is an urgent need for rapid automated detection of forest loss locations. This is essential if effective response to forest loss is to be put in place. This is accomplished by utilizing the spectral and spatial pattern of forest cover in long term IRS AWiFS data sets, prepared with the best possible geometric and spectral characteristics. Geometric accuracy is achieved using ortho correction. Pixel level change is detected at native AWiFS resolution using relative surface reflectance products ensure that atmospheric and BRDF effects are corrected. Cloud, Cloud shadow, terrain shadow and water are automatically delineated. The principle that forests are darkest vegetated pixels in the peak green season is used for forest identification. The forest peak detection in Red Band Histogram on a 5km local moving window basis.



μ , is pixel value, μ_0 and σ , are the mean and std. dev. of forest pixels.



A multi-spectral index – Integrated Forest Z score – is used as an Inverse measure of the likelihood of the pixel being a forest pixel

Forest loss detection is through simultaneous analysis of all images in the temporal stack using the temporal behaviour of the Forest Z score

The fully automated process is designed to work on 2 Deg (200 x 200 km) IRS AWiFS tiles

Results for 8 states (35 tiles of 2° x 2° each, covering states of Andhra Pradesh, Chhattisgarh, Goa, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra and Telangana) (forested area 2,82,925 km², 40.54 % of India's forest cover, geographical areas 39% of TGA) have been completed and national coverage is in progress

Results are published on Bhuvan for field verification by SFD officials using the NRSC developed, android based, mobile phone field data collection software for QA and accuracy assessment. This will lead to accurate delineation of forest loss areas using IRS LISS-III/ LISS-IV data.

Automated Detection of Forest Cover Loss using IRS AWiFS

- [Overview](#)
- [Agriculture](#)
- [Atmospheric and Climate Studies](#)
- [Forestry and Environment](#)
- [Geoinformatics](#)
- [Geoscience](#)
- [LULU Monitoring](#)
- [Ocean Science](#)
- [Soil](#)
- [Urban and Infrastructure](#)

ANNEXURE - E

24

No/23011/18/2015- FRA
Government of India
Ministry of Tribal Affairs

August Kranti Bhawan
New Delhi
Dated: 27.07.2015

To,
The Chief Secretaries of all State Governments

Sub: Guidelines with regard to use of Geo referencing for assessment of potential areas and re-examination of rejected claims under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA).

1. As you may be aware, Ministry of Tribal Affairs has taken up implementation of FRA on a campaign mode. As part of PRAGATI, Hon'ble Prime Minister had reviewed the implementation of FRA. Hon'ble Prime Minister has desired that Ministry of Tribal Affairs must take a lead in technological support to the States. It was also stated that States need to proactively pursue progress in vesting of rights in time bound manner. Geo referenced database of vesting of rights may be created. Further to this, Ministry of Tribal Affairs had issued a letter on 28th April 2015 (D.O No. 23011/18/2015-FRA) to all the States requesting them create geo-referenced data base.
2. Meanwhile, Ministry of Tribal Affairs have consulted technical resource agencies such as National Remote Sensing Centre, Bhaskaracharya Institute For Space Applications and Geo-Informatics (BISAG), Dept. of Science and Technology, Govt. of Gujarat, State Governments and Tribal Research Institutes, for inputs on geo referencing on FRA.
3. This Ministry has received reports which suggest that large number of claims have been rejected due to lack of evidence or incomplete evidence. It may be noted that as per Rule 6 (b) of Forest Right Rules, district administration in general and the SDLC in particular are expected to assist the Gram Sabhas and the FRCs by providing forest and revenue maps. In this context geo-referenced maps may be generated and be provided to Gram Sabhas and

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FRCs. Accordingly claims rejected on the grounds of insufficient evidences or which prima-facie requires additional examination may be re-examined.

4. It is being reiterated that use of any technology, such as, satellite imagery, should be used to supplement evidences tendered by a claimant for consideration of the claim and not to replace other evidences submitted by him in support of his claim as the only form of evidence. If rights have already been recognised in favour of a claimant, the same may not be reopened.
5. Through **Geographical Information System (GIS)**, maps can be prepared for implementing agencies, regarding the eligible areas for the implementation of FRA where maps can be drawn at different administrative levels like nation, state, district, block and village. With the use of GIS, final maps can also be prepared for the village as mentioned under Rule 12 A (9) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (as amended up to date) ('FR Rules') with spatial information of physiographic features of that village, area of the forest land in numerical value recognized under the FRA.
6. Based on the inputs, the broad parameters for use of geo-referencing data for identification of potential areas for both individual and Community Forest Resource Rights (CFR) are listed. The following guidelines may be applied for use of technology and geo-referencing to expedite the process of FRA implementation:
 - a. Geo-referenced Satellite image of highest resolution (preferably with 1M or higher resolution) of any satellite may be used for period around December, 2005. Google earth images, especially, the historical images of around the year 2005, or any other reliable open-source images can also be used for this purpose. Images can also be procured from National Remote Sensing Agency, Hyderabad if required.
 - b. The geo-referenced imageries on the Latitude/Longitude grid of the GIS program and digitized and geo-referenced village and forest boundaries can be overlaid on the same if available.
 - c. Identification of cultivated areas through the Satellite imagery needs to be verified through ground-truthing using GPS/ Android Phone etc.
 - d. GPS surveys of all plots of lands of the wrongly rejected (including partially rejected) / pending claims, may be done with active participation of the village FRCs and Gram Sabhas.
 - e. Since the GPS survey is a simple tool and can be handled after simple training and demonstration, the States should involve FRCs (or teams of local youth) in the survey work after providing necessary training and also providing GPS/android devices.
 - f. After processing of the GPS data overlay plots of claimed lands (with unique plot numbers) on the imageries and prepare maps (with

- imagery) and lists with area of each plot and provide them to the FRCs and Gram Sabhas.
- g. The FRCs and Gram Sabhas can then consider the evidence from these maps and lists, together with other evidences, while deciding these claims, including determining the area to be approved.
 - h. For identification of CFR areas, State Government of Odisha has piloted a process in the Mayurbhanj District by using GIS based technology with the help of the following information:
 - Villages having Forest Land within its revenue boundary
 - Villages having no Forest Land within its revenue boundary
 - Villages located in fringe of Reserved Forests land coming under control of State Forest Department
 - Un-surveyed habitations may also be included
 - i. Similar method may be adopted by other states based on various Government Records such as Census, 2011 Data, the State level Economic and Statistical surveys, Forest Survey of India, etc
 - j. The State Governments can seek support from BISAG, Dept. of Science and Technology, Government of Gujarat and National Resource Centre, Tribal Research Institute, Bhubaneswar for training of officials, FRCs and community volunteers with respect to use of technology. States can also seek support from the State Remote Sensing Centres for this process.
 - k. Since maps or geo referenced images can be procured easily and freely/ or at nominal cost, the State Governments need to proactively take up this activity and complete the process of assessment and review of rejected claims in light of the use of technology within a period of two months.
7. These issues with the approval of competent authority.

Yours faithfully



(Roopak Chaudhuri)

Deputy Secretary to the Government of India

Tel.No: 01126182428

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ITEM NO.301-PH

COURT NO.5

SECTION PIL(W)/XII/XVIA

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). 50/2008

WILDLIFE TRUST OF INDIA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(with appln. (s) for direction/stay and exemption from filing O.T. and office report)

WITH

W.P.(C) No. 514/2006
(With Office Report)

W.P.(C) No. 109/2008
(With appln.(s) for directions and appln.(s) for exemption from filing O.T. and ex-parte stay and permission to file addl. documents and Office Report)

S.L.P.(C)...CC No. 11408-11409/2009
(With appln.(s) for c/delay in filing SLP and Office Report)

T.C.(C) No. 85/2011
(With Office Report)

T.C.(C) No. 87/2011
(With Office Report)

T.C.(C) No. 39/2015
(With appln.(s) for impleadment as party respondent and appln.(s) for may refer to remarks and Office Report)

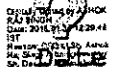
T.C.(C) No. 41/2015

T.C.(C) No. 59/2015

T.C.(C) No. 103/2015

T.C.(C) No. 132/2015

Signature No. 3/2016



: 29/01/2016 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
 HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE
 HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
 Mr. P. K. Manohar, Adv.
 Mr. Raj Panjwani, Sr. Adv.
 Ms. Purnima Bhat, Adv.
 Mr. Pati Raj Yadav, Adv.
 Mr. Avtar Singh Chauhan, Adv.

Wildlife Trust Mr. Naveen Sharma, Adv.
 Mr. Saurabh Mishra, Adv.
 Mr. Shreekant N. Terdal, Adv.
 Mr. Ashok Kumar Singh, Adv. (NP)
 Mr. D. Mahesh Babu, Adv.
 Mrs. Revathy Raghavan, Adv.
 Mr. Balaji Srinivasan, Adv.
 Mr. Shibashish Misra, Adv.

For Respondent(s)
 UOI Mr. P.S. Narsimha, ASG
 Mr. K. Radhakrishnan, Sr. Adv.
 Ms. Kiran Suri, Sr. Adv.
 Ms. Aishwarya Bhati, Adv.
 Mr. Adarsh Kumar Tiwari, Adv.
 Mr. K. Parmeshwar, Adv.
 Mr. T. Gopal, Adv.
 Ms. Gunwant Dara, Adv.
 Mr. Harish Krishnan, Adv.
 Mr. S.N. Terdal, Adv.
 Mr. Wasim A. Qadri, Adv.
 Mr. K.L. Janjani, Adv.
 Mr. Zaid Ali, Adv.
 Mr. Ashok Panigrahi, Adv.
 Mr. Surajit Bhaduri, Adv.
 Mr. Santosh Kumar, Adv.
 Mr. D.S. Mahra, Adv.
 Ms. Shomona Khanna, Adv.
 Mr. Neeraj K. Sharma, Adv.

State of Punjab Mr. Saurabh Ajay Gupta, Adv.
Mr. Nishant Bishnoi, Adv.

Ms. A. Subhashini, Adv.

State of Chattisgarh Mr. C.D. Singh, Adv.
Mr. Sandeepan Pathak, Adv.

State of Manipur Mr. Sapam Biswajit Meitei, Adv.
Ms. Linthoingambi Thongam, Adv.
Mr. B. Kaushbansi, Adv.
Mr. Ashok Kr. Singh, Adv.
Mr. Z.H. Issac Haiding, Adv.

State of Odisha Mr. Pawan Upadhyay, Adv.
Mr. Sarvjit Pratap Singh, Adv.

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

In these batch of matters, the constitutional validity of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and also the questions pertaining to the preservation of forests in the context of the above-mentioned Act, fall for the consideration of this Court.

Mr. Shyam Divan, learned senior counsel for the petitioner placed before us certain statistical data which indicates that as on 30th September, 2015, approximately 44 lakh claims for recognition of the Rights under the above-mentioned Act and grant of Pattas came to be filed before the authorities competent to deal with those claims in various States out of which some of the claims were accepted and some were rejected. From the information placed before this Court by the petitioners, it appears, approximately 20.5 lakh claims were rejected in the above-mentioned 44 lakh claims.

Obviously, a claim in the context of the above-mentioned Act is based on an assertion that a claimant has been in possession of a certain parcel of land located in the forest areas. If the claim is found to be not tenable by the competent authority, the result would be that the claimant is not entitled for the grant of any

Patta or any other right under the Act but such a claimant is also either required to be evicted from that parcel of land or some other action is to be taken in accordance with law.

Therefore, we deem it appropriate to find out as to what action was taken against the claimants whose claims have already been rejected. At this stage, we are informed by the Mr. P.S. Narsimha, learned Additional Solicitor General that the action insofar as persons who are unauthorisedly in possession of forest land, is required to be taken by the concerned State Governments and its authorities under the relevant laws in force in each one of the States.

In the circumstances, we are of the opinion that each one of the respondent-States should file an affidavit giving the data regarding the number of claims rejected within the territory of that State and the extent of land over which such claims were made and rejected and the consequent action taken up by the State after the rejection of the claim, with all appropriate data in support of the above-mentioned information within a period of two weeks from today.

List all the matters on Monday, the 15th February, 2016 at 2.00 p.m.

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However, insofar as State of Tamil Nadu is concerned, it is brought to our notice that by virtue of an interim order dated 30th April, 2008, the authorities in the State of Tamil Nadu acting under the impugned Act are restrained from issuing any Patta without obtaining orders of the High Court though the examination of the entitlement of the claimants was not barred by the said interim order. In view of the said interim order, the State Government is not in a position to give the information regarding the tenable claims. It goes without saying that no further action could be taken regarding the eviction of the encroachers in view of the said restraint of the authority to adjudicate the claims.

It appears that by an Order dated 6th January, 2015 this Court withdrew the Writ Petition No. 4533 of 2008 pending in the High Court in which the above-mentioned interim order came to be passed and transferred it to this Court, re-numbered as Transferred Case No. 39 of 2015. In view of the above-mentioned facts, State of Tamil Nadu need not file an affidavit referred to earlier, as directed above, for the time being.

Learned Additional Solicitor General as well as learned counsel for the State of Tamil Nadu also prayed that the above-mentioned interim order be vacated.

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However, learned counsel for the writ petitioner in the transferred case no. 39 of 2015 is not present. We, therefore, deem it appropriate to direct the Registry to list Transferred Case No. 39 of 2015 on Monday, the 1st February, 2016 at 2.00 p.m. for consideration of the above-mentioned prayer of the State of Tamil Nadu.

(DEEPAK MANSUKHANI)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER

CORRECTED

ITEM NO.103

COURT NO.4

SECTION X

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). 50/2008

WILDLIFE TRUST OF INDIA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

T.C. (C) No. 3/2016 (XVI-A)

T.C. (C) No. 39/2015 (XVI-A)

W.P. (C) No. 109/2008 (X)

T.C. (C) No. 41/2015 (XVI-A)

T.C. (C) No. 59/2015 (XVI-A)

T.C. (C) No. 103/2015 (XVI-A)

W.P. (C) No. 514/2006 (X)

T.C. (C) No. 132/2015 (XVI-A)

T.C. (C) No. 85/2011 (XVI-A)

T.C. (C) No. 87/2011 (XVI-A)

Date : 07-03-2018 These matters were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE DEEPAK GUPTA

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UPON hearing the counsel the Court made the following

O R D E R

W.P. (C) No. 109/2008

This writ petition will be taken as a lead case for final hearing.

Our attention has been drawn to the order dated 29.01.2016 wherein certain information was required to be furnished by the State Governments.

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We have been informed that most State Governments have filed affidavits in compliance with the order of 29.01.2016 but some of them have not filed any affidavit of compliance. Be that as it may, whatever information has been supplied pursuant to our order dated 29.01.2016 is about two years old. This outdated information may not assist us in disposal of the present batch of writ petitions and transferred cases.

Under the circumstances, we issue a fresh direction to all the State Governments to file a tabular statement in the form of an affidavit indicating the following:-

- (i) The number of claims for the grant of land under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;
- (ii) The claims should be divided into claims made by the Scheduled Tribes and separately by other traditional forest dwellers;
- (iii) The number of claims rejected by the State Government in respect of each category;
- (iv) The extent of land over which such claims were made and rejected in respect of each of the two categories;
- (v) Action taken against those claimants whose claims have been rejected;
- (vi) The status of eviction of those claimants whose claims have been rejected and the total extent of area from which they have been evicted;
- (vii) The extent of the area in respect of which eviction has not yet taken place in respect of rejected claims.

The cut-off date for providing this information is 31.12.2017.

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The information, as required above, shall be furnished within a period of four weeks. To follow up on the progress of the case, list the matter for further directions on 18th April, 2018.

We may indicate that learned counsel for the petitioner has challenged the constitutional validity of the Act as well as legislative competence of Parliament to enact the Act. He submits that discriminatory grant of pattas is objectionable and steps must be taken to evict those persons whose claims have been rejected those persons being encroachers.

It is submitted by learned counsel for the petitioners that at a later stage, he might request for a performance audit being conducted by the Comptroller and Auditor General of India or by any other appropriate authority. His concern, as expressed, is to preserve the forest and wild life of the country which according to him is in a critical state.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER

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ITEM NO.101

COURT NO.4

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). 109/2008

WILDLIFE FIRST & ORS.

Petitioner(s)

VERSUS

MINISTRY OF FOREST AND ENVIRONMENT & ORS.

Respondent(s)

(IA 5/2014, 1/2008, 6/2014, 2/2008, 7/2015, 69409/2018, 75108/2018,
75127/2018, 88926/2018)

WITH

T.C.(C) No. 3/2016 (XVI-A)

W.P.(C) No. 50/2008 (PIL-W)
(IA 1/2008 FOR EXEMPTION FROM FILING O.T. ON IA 53871/2018
FOR [I/A FOR WAIVER OF COSTS FILED BY THE STATE OF KERALA] ON IA
61560/2018
FOR EXEMPTION FROM FILING O.T. ON IA 68563/2018)

T.C.(C) No. 39/2015 (XVI-A)

T.C.(C) No. 41/2015 (XVI-A)

T.C.(C) No. 59/2015 (XVI-A)

S.L.P.(C)...CC No. 11408-11409/2009 (XII)

T.C.(C) No. 103/2015 (XVI-A)

W.P.(C) No. 514/2006 (PIL-W)

T.C.(C) No. 132/2015 (XVI-A)

T.C.(C) No. 85/2011 (XVI-A)

T.C.(C) No. 87/2011 (XVI-A)

T.C.(C) No. 12/2018 (XVI-A)

Signature : 13-02-2019 These matters were called on for hearing today.

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Mr. Balaji Srinivasan, AOR

Mr. Radha Shyam Jena, AOR
Mr. Nikhil Nayyar, AOR
Mr. Anil Shrivastav, AOR
Mr. Gopal Singh, AOR
Mr. Dharmendra Kumar Sinha, AOR
Ms. Hemantika Wahi, AOR
Mr. Sanjay Kumar Visen, AOR
Mr. M. Shoeb Alam, AOR
Mr. Gopal Prasad, AOR
Ms. Anitha Shenoy, AOR
Mr. Nishe Rajen Shonker, AOR
Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Rana Ranjit Singh, AOR
Mr. Ranjan Mukherjee, AOR

- Mr. P. V. Yogeswaran, AOR
- Mr. Shibashish Misra, AOR
- Mr. Milind Kumar, AOR
- M/S. Arputham Aruna And Co, AOR
- Mr. M. Yogesh Kanna, AOR
- Mr. Rajiv Yadav, AOR
- Mr. Chanchal Kumar Ganguli, AOR
- Mr. V. G. Pragasam, AOR
- Mr. Anil K. Chopra, AOR
- Ms. G. Indira, AOR
- Mr. Karan Bharihoke, AOR
- Mr. Tara Chandra Sharma, AOR
- Mr. Vinod Sharma, AOR
- Mr. Rajat Joseph, AOR
- Mrs. Rachna Gupta, AOR
- M/S. Plr Chambers And Co., AOR
- Mrs. Anil Katiyar, AOR
- Mr. Abhinav Mukerji, AOR
- Mr. Naresh Kumar, AOR
- Mr. S. Ravi Shankar, AOR
- Mr. Jayant Mohan, AOR
- Mr. Neeraj Kumar Sharma, AOR
- Ms. Sharmila Upadhyay, AOR
- Mr. Debojit Borkakati, AOR
- Mr. Gurmeet Singh Makker, AOR
- Mr. Ravi Prakash Mehrotra, AOR
- Mr. Kuldip Singh, AOR
- Mr. Guntur Prabhakar, AOR
- Mr. Saurabh Mishra, AOR

- Mr. G. Prakash, AOR
- Mr. Parijat Sinha, AOR
- Mr. Shuvodeep Roy, AOR
- Mr. Anil Kumar Jha, AOR
- Mr. Aruneshwar Gupta, AOR
- Mr. Annam D. N. Rao, AOR
- Mr. B. S. Banthia, AOR

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

RE : AFFIDAVIT OF STATE OF ANDHRA PRADESH

Perused the affidavit.

The affidavit indicates that the extent of land covered by rejections in respect of STs is 1,14,400 acres and 66351 claims have been rejected. But the action taken indicates that not even a single order has been complied with.

Once the orders of eviction have been passed, the eviction ought to have taken place. Let the Chief Secretary to the State of Andhra Pradesh file an affidavit as to why the orders of eviction have not been carried out so far in respect of the incumbents whose claims have been rejected as per the affidavit filed on 24.04.2018 filed by Mr. Gandham Chandrudu, Director of Tribal Welfare Department. Let action be taken on or before next date.

Let the requisite affidavit be filed with necessary details and other matters mentioned in the order on or before 12.07.2019.

RE : AFFIDAVIT OF ASSAM

The following information has been given in the affidavit filed by the State of Assam :-

4. It is stated that the total number of claims belonging to
 - a) Scheduled Tribe - 74,364
 - b) Other Traditional Forest Dwellers - 19966
5. The following are the total number of claims rejected in the State of Assam :-
 - a) Scheduled Tribe - 22398.
 - b) Other Traditional Forest Dwellers - 5136
6. It is stated that total extent of land as claimed
 - a) Schedule Tribe - 10128 hectares
 - b) Other Traditional Forest Dwellers - 561.4 Hectares
7. It is further stated that the Divisional Forest Officer within their jurisdiction have submitted proposal to the Principal Chief Conservator of Forest & Head of the Forest Force to carry out eviction in respect of claims

rejected by the District Level Committee.
 8. It is stated that steps are already taken for eviction of all the encroachers/claimants whose claims have been rejected. The total extent of area to be evicted is assessed and will be submitted within a short time of period."

The Chief Secretary to the State of Assam is directed to file an affidavit stating whether the incumbents in respect of whom the rejection orders have been passed, have been evicted or not and if not, the reasons for the same. In case the eviction orders have attained finality, we direct the concerned authority including the Chief Secretary to ensure that the eviction is made on or before the next date of hearing.

I.A.No. 69409 of 2018 - application for waiving of the costs imposed vide order dated 18.04.2018 is rejected.

RE : AFFIDAVIT FILED BY THE STATE OF BIHAR

In the affidavit filed by the State of Bihar, the following facts have been mentioned in Paragraph 7 :-

"7. That as per report submitted by the concerned District Magistrates, total claims comes to 4696. Out of that total 2976 applications are related to STs and 1720 to OTFDs (Other Traditional Forest Dwellers). The total number of claims rejected comes to 4354 out of which rejected claims of STs are 2666 and OTFDs are 1688."

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A detailed statement has been filed indicating that in some of the Districts, action is being taken for eviction and in some of the Districts, it is not treated as the persons who were found not occupying the area over which they had raised the claim.

Let detailed affidavit be filed by the Chief Secretary to the State of Bihar in respect of the number of claims settled and in the cases where claims have been rejected and have attained finality, whether eviction has been ordered and possession has been taken or not. Let full status be disclosed in the affidavit. It is further directed that the cases in which the orders have attained finality, let eviction be made forthwith. In case of non-compliance of this order, the same shall be viewed seriously.

RE - AFFIDAVIT FILED BY THE STATE OF CHHATTISGARH

The affidavit filed by the State of Chhattisgarh indicates that against 20095 claimants, whose claims have been rejected, have to be evicted, whereas action has been taken only against 4830 claimants of STs and OTFDs.

Let the Chief Secretary to the State of Chhattisgarh ensure, by way of an affidavit, that where the eviction orders have attained finality, whether orders are carried out. It shall also be indicated in the affidavit as to how many claims are still pending for verification. A compliance report be filed on or before the next date of hearing.

RE : AFFIDAVIT FILED BY THE STATE OF GOA

We have perused the affidavit filed by the State of Goa. It appears that 6094 claims have been filed by STs and 4036 claims have been filed by OTFDs.

Let the Chief Secretary to the State of Goa indicate, by way of an affidavit, as to how many claims have been adjudicated. In case eviction orders have attained finality, whether those incumbents have been evicted or not. The Chief Secretary shall ensure that eviction is carried out and compliance report be submitted to this Court on or before the next date of hearing.

RE : AFFIDAVIT FILED BY THE STATE OF GUJARAT

The affidavit filed by the State of Gujarat indicates that 1,68,899 claims have been filed by STs and 13,970 claims have been filed by OTFDs. Let Chief Secretary to the State of Gujarat indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF HIMACHAL PRADESH

The affidavit filed by the State of Himachal Pradesh indicates that 2131 claims have been filed by STs and 92 claims have been filed by OTFDs. Let the Chief Secretary to the State of Himachal indicate, by way of an affidavit, as to why after the rejection of

the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF JHARKHAND

The affidavit filed by the State of Jharkhand indicates that 1,07,187 claims have been filed by STs and 3569 claims have been filed by OTFDs. Out of the above, 27,809 claims of STs and 298 claims of OTFDs have been rejected.

Let the Chief Secretary to the State of Jharkhand indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF KARNATAKA

The affidavit filed by the State of Karnataka indicates that 48,432 claims have been filed by STs and 2,27,014 claims have been filed by OTFDs. Out of the above, 35,521 claims of STs and 1,41,019 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Karnataka indicate, by way of an affidavit, as to why after the rejection of the claims, which have

attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF KERALA

Let verification/re-verification process be concluded within four months from today.

The affidavit filed by the State of Kerala indicates that 39,999 claims have been filed by STs, out of which 894 have been rejected. Let the Chief Secretary to the State of Kerala indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF MADHYA PRADESH

The affidavit filed by the State of Madhya Pradesh indicates that 426105 claims have been filed by STs and 153306 claims have been filed by OTFDs. Out of the above, 204123 claims of STs and 150664 claims of OTFDs have been rejected. Let Chief Secretary to the State of Madhya Pradesh state, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

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The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF MAHARASHTRA

The affidavit filed by the State of Maharashtra indicates that 2,54,042 claims have been filed by STs and 105681 claims have been filed by OTFDs. Out of the above, 13712 claims of STs and 8797 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Maharashtra indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF ODISHA

The affidavit filed by the State of Odisha indicates that 5,73,867 claims have been filed by STs and 31,687 claims have been filed by OTFDs. Out of the above, 122,250 claims of STs and 26,620 claims of OTFDs have been rejected. It is stated that the rejected claims are being reviewed. Let the review process be completed within four months. Let the Chief Secretary to the State of Odisha indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been

made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF RAJASTHAN

The affidavit filed by the State of Rajasthan indicates that 73,578 claims have been filed by STs and 597 claims have been filed by OTFDs. Out of the above, 36,492 claims of STs and 577 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Rajasthan indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF TAMIL NADU

The affidavit filed by the State of Tamil Nadu indicates that 31,821 claims have been filed by STs and 2,481 claims have been filed by OTFDs. Out of the above, 7,148 claims of STs and 1881 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Tamil Nadu indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF TELANGANA

The affidavit filed by the State of Telangana indicates that 1,83,252 claims have been filed by STs. Out of the above, 82,075 claims of STs have been rejected. Let Chief Secretary to the State of Telangana indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made in spite of the order passed by this Court.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF TRIPURA

The affidavit filed by the State of Tripura indicates that 166584 claims have been filed by STs and 33774 claims have been filed by OTFDs. Out of the above, 34483 claims of STs and 33774 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Tripura indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before

the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF UTTARAKHAND

The affidavit filed by the State of Uttarakhand indicates that 90 claims have been filed by STs and 119 claims have been filed by OTFDs. Out of the above, 35 claims of STs and 16 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Uttarakhand indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF UTTAR PRADESH

The affidavit filed by the State of Uttar Pradesh indicates that 31,846 claims have been filed by STs and 50,442 claims have been filed by OTFDs. Out of the above, 20494 claims of STs and 38167 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Uttar Pradesh indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out,

as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF WEST BENGAL

The affidavit filed by the State of West Bengal indicates that 95958 claims have been filed by STs and 36004 claims have been filed by OTFDs. Out of the above, 50288 claims of STs and 35856 claims of OTFDs have been rejected. Let the Chief Secretary to the State of West Bengal indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF MANIPUR

The learned counsel appearing for the State of Manipur has stated that they are going to file compliance affidavit within four weeks from today. Let it be filed within four weeks.

It is directed that where the verification/reverification/review process is pending, the concerned State shall do the needful within four months from today and report be submitted to this Court.

Let Forest Survey of India (FSI) make a satellite survey and place on record the encroachment positions and also state the positions after the eviction as far as possible.

Let the requisite affidavits be filed on or before 12.07.2019.

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List the matters on 24.07.2019.

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER