

**NATIONAL GREEN TRIBUNAL,  
NEW DELHI**

...

**M.A. NO. 36 OF 2011**

**ARISING OUT OF APPEAL NO. 3 OF 2011**

**Adivasi Majdoor Kisan Ekta Sangthan & Anr. .. Appellant**

**Versus**

**Ministry of Environment and Forests & Ors. .. Respondent**

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**Date: 30<sup>th</sup> November, 2011**

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**ORDER**

1. The Appellants inter-alia assailing the environmental clearance order dated 18<sup>th</sup> May, 2009 granted by Ministry of Environment and Forests (MoEF) filed an appeal before the erstwhile National Environment Appellate Authority (NEAA), the said appeal was registered as NEAA Appeal No. 26 of 2009. The NEAA while admitting the appeal passed an interim order to the effect that Respondent No.3 shall maintain *status quo* in the field activities.

2. M/s Jindal Steel Power Ltd. resisted hearing of the appeal by NEAA on several grounds one of them being that there was no Judicial Member and filed an application to stay the proceedings till a Judicial

Member joins. The said application having been rejected by NEAA M/s. Jindal Steel Power Ltd., approached the High Court of Chhattisgarh in WP(C) No.2412 of 2010. The Hon'ble High Court by order dated 20<sup>th</sup> July, 2010 admitted the Writ Application stayed further proceedings of the appeal pending before the NEAA. The High Court in the said order, also directed as follows:

*“ In view of the above, we keep it open to the petitions to do the acquisition activities for acquiring land by way of acquisition of negotiation and also it will be open to them to do activities in favour of the environment like tree plantation etc. but no mining operation or construction shall be made without leave of this Court, in the meantime.”*

3. While matter stood thus, the National Environment Appellant Authority Act, 1997 was repealed by The National Green Tribunal Act, 2010. After constitution of the NGT, Appeal No. 26 of 2009 stood transferred from NEAA to this Tribunal and was registered as Appeal No. 3 of 2011(T). This Tribunal issued notice to the parties and commenced hearing. In view of the aforesaid changed circumstances the High Court of Chhattisgarh was moved by the parties and by order dated 1<sup>st</sup> November, 2011, WP(C) No.2412 of 2010 was disposed of, granting liberties to the parties to prosecute the lis before this Tribunal. Hon'ble Chhattisgarh High Court, further kept the Interim Order dated 20<sup>th</sup> July, 2010 alive for a period of 45 days and observed that during the said period parties may file appropriate application and seek appropriate order from the Tribunal.

4. In consonance with the said direction, the present M.A. is filed by M/s Jindal Steel Power Ltd., with a prayer to continue the Interim order dated 20<sup>th</sup> July, 2010 passed by Hon'ble Chhattisgarh High Court in WP No. 2412 of 2010 and allow Respondent No.3 Ms Jindal Steel Power Ltd., to carry on acquisition activities for acquiring land by way of acquisition or negotiation and also to do activities in favour of the environment like plantation of trees etc., till the disposal of the appeal.

5. Mr. Krishnan Venugopal, Learned Sr. Advocate, submitted that no prejudice whatsoever would be caused to any of the parties if Respondent No.3 is permitted to acquire land by negotiation, on the other hand, if land situated in the vicinity of the proposed project are not acquired by the Respondent No.3 it would cause prejudice and loss to the said Respondent at a later stage.

Mr. Ritwick Dutta, Learned Counsel for Appellant however, resisted the submissions made by Mr. Venugopal and submitted that as the appellants have a prima facie case, the Tribunal should not grant any interim order in favour of Respondent No.3. According to Mr.Dutta in the garb of interim order Respondent No.3 would cause damage to the environment at the site.

6. Heard Learned Counsel for the parties at length, perused all the materials available in the record. After considering all the *pros and cons* and submissions made, we feel that no prejudice would be caused to the appellants if Respondent No. 3 is permitted to acquire / purchase private lands by negotiations from the land owners at his own risk. Accordingly, we grant liberty to Respondent No.3 to acquire /

purchase lands from private persons at its own risk. Such activities, however, shall not confer any equity on the said Respondent. It may also carry on plantation and other environment friendly activities but then shall not make any construction or development or extract coal without obtaining prior permission of this Tribunal. With the aforesaid observations, this M.A. is disposed of.

**(DR. G.K. PANDEY)**  
**Expert Member**

**(JUSTICE A.S. NAIDU)**  
**Judicial Member**

**Durga Malhotra**  
**3<sup>rd</sup> December, 2011**

