

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

WRIT PETITION NO. 31017-018/2013

I.A. No. _____

BETWEEN

M/S. BRIGADE ENTERPRISES LIMITED & Anr.,PETITIONERS

AND

STATE OF KARNATAKARESPONDENTS

AND

D.V. GIRISH,IMPLEADING APPLICANT

S.o D.P. Vasant Kumar

Aged 47 years\residing at Kalleshwara Estate

Kaimara Post, Chikmagalur - 577 134.

APPLICATION UNDER ORDER 1, RULE 10 (2) & SECTION 151 OF THE
CODE OF CIVIL PROCEDURE 1908, READ WITH ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA FOR IMPLEADMENT OF THE
APPLICANT AS RESPONDENT

The Counsel for the Impleading Applicant submits as follows:

1. That the above mentioned writ petition has been filed by the petitioners who are challenging the order bearing No. M4/LNDCR/160:2002-03 passed by the Deputy Commissioner dated 8.11.2011, Chikmagalur District (Respondent No. 2). Via this order, the Commissioner terminated the lease deed executed by the Governor of Karnataka in favor of the 1st petitioner dated 5.05.2004. The deed was executed to transfer 34 Acres of land located in survey No. 28 of Arsinaguppa Village for a period of 30 years for the construction of resorts and villas attracting high end luxury

Banyan Tree Hotels and Resorts, Angsana Resorts and Spa's Singapore. The lease was terminated on account of the land being a Forest Land as a consequence of which the granting of the lease was in violation of the Forest Act as well as the Forest Conservation Act.

2. The Applicant herein seeks leave of this Hon'ble Court to implead as a Respondent for the reasons set out below.

3. The Applicant is a wildlife conservationist and a member of the registered trust by the name of Wildlife Conservation Action Team, established in 1998. The trust has been working on conservation issues in the Chikmagalur area, in which the leased territory is located, to ensure that the wildlife in the area and their natural habitat are effectively protected. The Trust (a) foresees and identifies conservation issues on a real time basis and acts upon it to minimize human interference with wildlife and their habitat, (b) takes up outreach and educational activities focused on protecting the forests and wildlife in the area, by targeting various stakeholders including children, teachers, politicians, lawyers, religious leaders, bureaucrats, the forest department, etc., (c) provides support to the forest department in delivering effective field protection and better forest management, and (d) plays the role of a diligent watch dog to ensure that the conservation of forests, natural resources and wildlife is not compromised.

4. The Applicant's organization also conducts various educational and outreach programs through different means to the local community to educate them on the importance of conservation. Annually, the Applicant's organization makes at least 150 to 200 field visits and organizes nature camps for school and college children, teachers, for people living around forests, members of 'eco-development committees', forest department personnel and also for the members of its own Trust.

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At least 10 nature camps are conducted in a year in order to spread awareness on forest conservation.

5. The Applicant's organization is actively involved in the prevention of poaching, through field patrolling, a strong information and intelligence gathering network, and working in coordination with the forest department and forest cell, to expose illegal activities that are detrimental to the interests of wildlife and forest conservation.
6. Both the Applicant and the organization he is a member of, has been actively involved in litigation and advocacy to stop and regulate activities that are detrimental to wildlife conservation in the area. The Applicant's organization was successful in stopping the setting up of windmills which were proposed to be set up on the eco-sensitive hills of Western Ghats adjoining Bhadra Tiger Reserve, in stopping mining activities by VISL in Kemmangundi which is a part of the Bhadra Tiger Reserve and in stopping the construction of a large scale commercial resort in public land over the eco-sensitive mountain region adjoining the Bhadra Tiger Reserve. The Applicant's organization has also been successful in having the Basur Kaval dry land habitat, which harbors black buck and Indian Wolf, declared as a Community Conservation Reserve. The applicant's organization has also played a leading role in pressurizing the government to cancel the construction of the Upper Bhadra dam project in the Western Ghats close to Kudremukh National Park.
7. The Applicant along with two other individuals (Shrivevi Hulikere and S. Dinakar Rao) filed a complaint against the present petitioners to the Deputy Conservator of Forests challenging the illegal constructions undertaken by the Petitioner on 20.02.2008. Pursuant to the complaint, the Deputy Conservator of Forests issued a notice to the present

PIL), to quash the order of the Deputy Commissioner dated 1.01.2004 which sanctioned the construction of the of the hotels by the present petitioner. This writ was dismissed by the High Court. However, following the dismissal, the applicant and two others (G. Veeresh and MN Sadakshari) addressed a letter to the Deputy Commissioner dated 12.07.2011 wherein they brought to his notice that the petitioner had violated various environmental norms while carrying out its construction project. On the basis of this complaint, the lease granted to the present petitioner was canceled. This order cancelling the lease has been challenged in the present petition. Considering the applicant's consistent involvement in the present matter, the applicant is a necessary and proper party to this petition.

8. The 1th Petitioner has built resorts in an ecologically fragile, highly sensitive area which acts as a watershed and a catchment area for many small streams, which many villages downstream are dependent upon. The area is rich in endemic flora and fauna and houses endangered birds such as falcons, kestrel, black eagle, pipets as well as tigers, leopards, gaur sambhar and muntjac. This area is comes within an 8 km radius of the Bhadra Tiger Reserve, 3.6 km from the Charchegudda State Forest and 4.7 km from the Kanchenahalli Reserve Forrest. The 1st petitioner has used this land, which has been declared by the Hon'ble Supreme Court as Forest Land via an order dated 12.12.1996 in W.P. (Civil) No. 202/1995, for commercial purposes which is a blatant violation of the Wildlife Protection Act, 1972, the Forest Conservation Act, 1980 and the Environment Protection Act, 1963. In this process, the petitioner No. 1 is damaging the fragile ecosystem by way of excavating earth, causing large scale soil erosion, clearing forests and undergrowth for roads and concrete structures thereby, upsetting the hydrology of the

clearance, not made an environment impact assessment study and has not conducted a public hearing.

9. It is important in the present writ petition, to bring out these and other relevant facts on record that this Hon'ble Court would need to consider before passing any orders. The Applicant is aware of the illegalities committed by the 1st petitioner. As an environmentalist committed to conservation, the applicant can bring these facts on record and assist this Hon'ble Court in passing suitable orders / directions in this petition. The Applicant had also made the initial representations based on which the impugned order was passed and is therefore a necessary and proper party.

10. It is therefore, respectfully submitted that the Applicant be impleaded in the present writ petition. It is submitted that no harm, loss or injury would be caused to the Parties to the instant petition if the Applicant is permitted to come on record and place all relevant facts and materials which are necessary for the proper adjudication of the issues raised in the present Writ Petition.

PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Allow the application for impleadment and allow the Applicant to be arrayed as a Party Respondent to W.P. No 31017-018/2013, and
- (b) Pass such other order or orders as may be deemed fit and proper in the facts and circumstances of the instant case.