

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

CIVIL APPEAL Diary No. 2467/2023

(Arising out of impugned final judgment and order dated 08-07-2022 in OA No. 253/2021 and EA No. 39/2021 passed by the National Green Tribunal)

M/S R.D.K. BRICK FIELD & ORS.

Appellants

VERSUS

UNION OF INDIA & ORS. ETC.

Respondents

(IA No.28065/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.28069/2023-EX-PARTE STAY and IA No.28066/2023-EXEMPTION FROM FILING O.T. and IA No.28063/2023-PERMISSION TO FILE APPEAL and IA No.28067/2023-CONDONATION OF DELAY IN FILING APPEAL and IA No.28071/2023-DELETING THE NAME OF PETITIONER/RESPONDENT and IA No.28072/2023-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 17-02-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE SANJAY KAROL

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.  
Mr. D.k. Garg, Adv.  
Mr. Abhishek Garg, Adv.  
Mr. Dhananjay Garg, AOR  
Mr. Ishaan Tiwari, Adv.

For Respondent(s) Mr. Rohan Thawani, Adv.  
Ms. Pooja Dhar, AOR  
Mr. Pratul Pratap Singh, Adv.

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

Permission to file appeal is allowed.

Delay condoned.

Application for deletion of proforma respondents from the array of parties is allowed at the risk of the appellants.

Heard Mr. Shyam Divan, learned senior counsel appearing for

the appellants. The appellants are four brick kilns located within the Aligarh District of Uttar Pradesh and according to the senior counsel, each of those units have the requisite consent to operate from the competent authority.

However, under the impugned order dated 08.07.2022 of the National Green Tribunal (NGT), the brick kilns located in the district of Aligarh being in the vicinity of the National Capital Region also ordered to stop operation.

Assailing the legality of the intervention of the NGT, Mr. Divan refers to the notification dated 22.02.2022 of the Ministry of Environment, Forest and Climate Change (Annexure A-11) to point out that the appellants, who are existing brick kilns, are entitled for a two years hiatus to convert to the zig-zag technology. The learned senior counsel next refers to the appended list pertaining to the State of Uttar Pradesh to point out that Aligarh district is not amongst non-attainment cities and, therefore, outside the purview of the aforesaid notification of the Ministry. As such, they are not required to comply with the zig-zag technology within the shorter duration of one year from the date of notification.

Mr. Rohan Thawani, learned counsel accepts notice on behalf of respondent No. 6 - Original Applicant before the NGT.

Issue notice to the other respondents, returnable in three weeks.

Additionally, Dasti notice be issued to Ms. Swarupama Chaturvedi, counsel for CPCB and standing counsels, if any.

In the interim, if the appellants (M/s. R.D.K. Brick Field, M/s. Shiv Shakti Udyog, M/s. Manoj Kumar Vivek Kumar Ent Udhyog and

M/s. Deepak Ent Udhyog) are having the requisite consent to operate, the impugned order dated 08.07.2022 in OA No. 253 of 2021 of the NGT will not come in the way of appellants-industries, subject to appellants furnishing individual undertakings within two weeks from today, to comply with the requirement of installation of zig-zag technology in their respective units, within two years i.e., by 21.02.2024, as mentioned in the Ministry's notification dated 22.02.2022.

(NITIN TALREJA)  
COURT MASTER (SH)

(KAMLESH RAWAT)  
COURT MASTER (NSH)