

**IN THE HIGH COURT OF ODISHA, CUTTACK.**

**W.P.(C)(PIL) No. 30072 of 2020**

Smt. Jayanti Das ..... PETITIONER

-Versus-

State of Odisha & others ..... OPP. Parties

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE OPP.  
PARTY NOS.1 & 2.**

I, Shri Manas Ranjan Samal, aged about 45 years, S/o Late Mahani Charan Samal at present working as Joint Director of Estates-cum-Joint Secretary to Government, Government of Odisha, GA and P.G Department, Lokseva Bhawan do hereby solemnly affirm and state as follows:-

1. That I have been duly authorized by the Opp. Party No.1, Special Secretary to Govt. of Odisha, General Administration & Public Grievance Department and Opp. Party No.2, Chief Secretary to Govt. of Odisha to swear this affidavit on their behalf.

2. That, I have gone through the writ application and annexures appended thereto and understood the contents thereof. I am well acquainted with the facts of the case and the

ManasRanjanSamal

relevant official records and competent to swear this affidavit in my official capacity.

3. That the writ petition in the nature of a Public Interest Litigation has been filed praying for issue of a direction to the opposite parties on the following:

(i) "Directing the Opp. Parties to change their decision to take over 20 acers of Ekamra Kanan land and not to carry out any commercial project or high rise buildings by destroying the green cover there.

(ii) Directing the immediate ban on cutting of trees and for a direction to the Government to provide the Satellite picture of the Ekarama Kanan, Bhubaneswar along with details of the Botanical Garden, like number of trees varieties of plants, its annual revenue generation and produce all the relevant documents. ... "

4. That, it is humbly submitted that the Writ Petition as laid is devoid of any merit either in facts or in law and is liable to be dismissed by the Hon'ble Court.

5. That the petition is not otherwise maintainable as the petitioner has suppressed material facts and hence he is not entitled to get any relief seeking equitable relief prayed for and the writ petition is liable to be dismissed in limine.

6. That in reply to the averment made in Paragraph-1 of the writ petition, it is humbly submitted that "Ekamra Kanan, at Bharatpur and Jayadev Vihar, Bhubaneswar covers an area measuring Ac. 475.970 dec. under the possession of Regional Plant Research Centre (RPRC) under the Forest & Environment Department. The Forest & Environment Department is the lawful owner of the above land and in possession over the area. This area is otherwise known as "Ekamra Kanan Park".

7. That the averment made in Paragraph-2 to 4 of the writ petition need no reply from the answering Opp. Parties, as those are matter of record however the petitioner is put to strict proof of the same.

8. That the averments made in paragraph 5(1) of the writ petition are not correct and are hereby denied. It is humbly submitted that the contention of the petitioner in Paragraph-5 (1) of the writ petition, that the Opp. Parties are taking steps for "cutting of age old trees and turning Ekamra Kanan to be a commercial concrete jungle for revenue generation on the risk of increase of air pollution in Bhubaneswar City" are imaginary and without any basis. Since, Forest & Environment Department is the lawful owner of the land, the question of raising a concrete jungle over the same by GA and PG Deptt. does not arise at all.

9. That in Paragraph-5(2) of the writ petition, the Petitioner has alleged that GA Deptt. has taken a decision to take over 20

acres of Ekamra Kanan land for construction of high rise building by destroying the green cover. It is humbly submitted that such averment of the petitioner is imaginary and without any basis.

10. That in reply to the averments made in paragraph-5(3) of the writ petition, it is humbly submitted that one Horticultural farm under the Agriculture and Farmer's Empowerment Deptt. (A & FE) Department is functioning in village-Jayadev Vihar and Paikanagar managed by the Director of Horticulture. After careful consideration, the Agriculture and Farmer's Empowerment Deptt. has taken a decision to surrender the surplus and unutilized land measuring Ac. 20.225 dec. in favour of the GA and PG Deptt. That GA and PG Deptt is the custodian of Government land within the Bhubaneswar Municipal Corporation area as per Rule-4 of the Odisha Government Rules of Business. The area is now under the possession of Director of Horticulture. Physical possession of land in question has not been handed over to the GA and PG Deptt. The allegation of any civil construction and high rise building is quite imaginary and far from truth. The petitioner has totally misconceived the Horticultural farm as "Ekamra Kanan". The Horticultural firm under the Director of Horticulture relating to the following Land schedule:

ManasRajJaiswal

**LAND SCHEDULE**

<b>Mz-Jayadev Vihar Unit-16</b>		<b>PS -New Capital, No.33</b>	
<b>Khata No.</b>	<b>Plot No.</b>	<b>Area</b>	<b>Kissam</b>
1427	882(pt.)	Ac.2.148 dec.	Gharabari-II
	883(pt.)	Ac. 1.705 dec.	Gharabari
	884(pt.)	Ac. 1.922 dec.	Gharabari
1427	885(pt.)	Ac.0.003 dec.	Sadak
1427	1254(pt.)	Ac.0.030 dec.	Gharabari
	<b>Total</b>	Ac.5.808 dec.	
<b>Mz-Paikanagar, Unit-18</b>		<b>PS-New Capital , No.34</b>	
<b>Khata No.</b>	<b>Plot No.</b>	<b>Area</b>	<b>Kissam</b>
186 (GA Deptt.)	59(pt.)	Ac. 0.610 dec.	Patita
	4(pt.)	Ac. 0.081 dec.	Jungle-II
	7/432(pt.)	Ac. 3.228 dec.	Patita
	3/433(pt.)	Ac. 0.841 dec.	Patita
	4/434(pt.)	Ac. 4.411 dec.	Patita
	7(pt.)	Ac. 9.000 dec.	Patita
	5(pt.)	Ac. 2.021 dec.	Jungle-II
	<b>Total</b>	Ac. 20.192 dec.	
	<b>Grand Total</b>	<b>Ac. 26.000</b>	

ManasRanjansand

11. That on the other hand "Ekamra Kanan" is located in village-Bharatpur and Jaydev Vihar out of the total area Ac. 475.970 dec., area Ac 470.390 dec relates to Mouza-Bharatpur. Area measuring Ac. 5.580 dec. relates to Mouza-Nayapalli (Hal revenue Village-Jayadev Vihar). The detail land schedule relating to Mouza-Nayapalli ( Hal revenue village Jayadev Vihar) relating to Ekamra Kanan is indicated below:

Mz-Jaydev Vihar		PS-New Capital	
Khata No.	Plot No.	Area	Kissam
1427(G.A.Deptt.)	619/2338	Ac.0.078 dec.	
	619/2339	Ac.0.072 dec.	
	619/2366	Ac. 0.054 dec.	
	619	Ac. 0.090 dec.	
	619/2340	Ac. 0.126 dec	
	619/2341	Ac. 0.205 dec.	
	620/8158	Ac. 0.130 dec.	
	626	Ac. 0.063 dec.	
	613/2379/8159	Ac. 0.024 dec.	
	613/2380	Ac. 0.108 dec.	
	613/8162	Ac. 0.090 dec	
	613/2381	Ac. 0.060 dec	
	613/2383	Ac. 0.072 dec	
	613/2389	Ac. 0.062 dec	
	613/2382	Ac. 0.112 dec	
	613/2398	Ac. 0.090 dec	
	613/2443/8160	Ac. 0.097 dec	
	613/2378/8161	Ac. 0.044 dec	

ManasRanjan Samal

613/2377	Ac. 0.192 dec	
613/2442	Ac. 0.130 dec	
612	Ac. 0.435 dec	
636/8149	Ac. 0.475 dec	
635/8150	Ac. 0.318 dec	
634/8151	Ac. 0.073 dec	
633/8152	Ac. 0.845 dec	
632/8153	Ac. 0.110 dec	
631/2499	Ac. 0.262 dec	
631/2495	Ac. 0.251 dec	
631/2496/8154	Ac. 0.235 dec	
631/2497/8155	Ac. 0.207 dec	
631/2498/8156	Ac. 0.172 dec	
631	Ac. 0.251 dec	
631/2502/8157	Ac. 0.047 dec	
<b>Total</b>	<b>Ac. 5.580 dec.</b>	

Mans Ranjan Samel

12. That in reply to the averment made in Paragraphs-5.6 to 5.8 of the writ petition, it is humbly submitted that the apprehension of the petitioner that the human rights of the citizens of Bhubaneswar is violated and they are going to be deprived of a peaceful dignified life which they are presently enjoying in the form of clean air, morning walk, laughter club, seeking greenery, feeling the warmth of leaving creatures sheltered in the trees, vision of fruit bearing trees and blooming flowering plants and above all a hub of medicinal plants and herbs are without any basis since the State have no such

proposal to raise any commercial concrete structure over the land in question as alleged. As such the warmth of life and the lifestyle of the citizens in Bhubaneswar is not going to be affected in any manner as apprehended by the petitioner.

13. That it is humbly submitted the facts stated and averments made in the writ petition which have not been specifically replied and are not matters of record shall be deemed to have been denied by the answering opposite Parties.

14. That the answering opposite Parties crave for leave of the Hon'ble Court to make further submissions and file further affidavits in support of their contentions, in the interest of justice and for effective adjudication by the Hon'ble Court.

15. That in view of the facts stated and submission made in the foregoing paragraphs, it is humbly submitted that the writ application is liable to be dismissed by the Hon'ble Court being devoid of any merit, the petitioner not being entitled to any of the reliefs sought for.

16. That the facts stated above are true to the best of my knowledge, based on available official records and the rest are humble submissions before the Hon'ble Court.

*Manas Rajansamal*  
Deponent.



**AFFIDAVIT**

The above deponent being personally known to me appears before me on 07/1/21 at 11:00 AM AM/PM and states on oath that the contents of the show cause reply are true to the best of his knowledge based on official records.

Identified by

Executive Magistrate  
Bhubaneswar

Advocate's Clerk, A.G. Office

**CERTIFICATE**

Certificate that due to non-available of cartridge papers white papers have been used.

Cuttack

Dated:

Addl. Government Advocate.