

---

---

**BEFORE THE HON'BLE  
SUPREME COURT OF RAMBO**

---

---

**ORIGINAL WRIT JURISDICTION  
PUBLIC INTEREST LITIGATION**

---

---

W.P. (CIVIL) No. \_\_\_\_ OF 2013

UNDER ARTICLE 32 OF THE CONSTITUTION OF RAMBO

**In the matter of Article 19 and Article 21  
of Constitution of Rambo**

---

---

PRO BONO ENVIRO SOCIETY.....PETITIONER

v.

UNION OF RAMBO AND ANR. .... RESPONDENTS

---

---

---

---

UPON SUBMISSION TO THE HON'BLE CHIEF JUSTICE AND HIS COMPANION  
JUSTICES OF THE SUPREME COURT OF RAMBO

---

---

**MEMORANDUM ON BEHALF OF THE PETITIONER**

---

**MEMORIAL ON BEHALF OF THE PETITIONER**

**TABLE OF CONTENTS**

Table of Contents ..... i

List Of Abbreviations ..... iii

Index Of Authorities ..... v

Statement of Jurisdiction..... x

Statement of facts..... xi

Statement of Issues ..... xiii

Summary of Arguments .....xiv

Arguments Advanced..... 1

    I. Whether the Public Interest Litigation filed against Union of Rambo and Maraco International Ltd. is Maintainable..... 1

        I.1. Public Interest litigation can be filed against the Union and MIL..... 1

        I.2. Fundamental Rights have been violated ..... 2

            I.2.1. Violation of the rights of the Indigenous People..... 2

            I.2.2. Violation of the rights of the people of Roah..... 2

    II. Whether There Has Been Violation Of Fundamental Rights Of Indigenous People. ... 2

        II.1. Violation of Article 21 ..... 2

            II.1.1. They are indigenous people..... 3

            II.1.2. Deforestation of forest..... 4

            II.1.3. Violation of test of equality and reasonableness ..... 5

        II.2. Violation of Article 19 ..... 5

        II.3. Indigenous people should be rehabilitated and relocated ..... 6

    III. Whether Union Of Rambo And Maraco International Ltd. Are Liable For Environment Degradation..... 6

        III.1. Location of Construction Unit at an improper place ..... 7

            III.1.1. Violation of Coastal Regulation Zone Notification, 2011 ..... 7

i

**7<sup>th</sup> Pro Bono National Environment Law Moot - 2013**

III.1.2. Environment Impact Assessment was either not done or was done improperly..... 7

III.2. Pollution caused by MIL violated Fundamental Rights of people ..... 8

    III.2.1. Air Pollution caused by MIL ..... 8

    III.2.2. Noise Pollution caused by MIL ..... 8

III.3. Liability of the State for Climate Change in the Pongean Sea ..... 9

    III.3.1. Air pollution by Union of Rambo..... 9

    III.3.2. Water pollution by Union of Rambo ..... 9

    III.3.3. Death of sea turtles in their natural habitat:..... 10

III.4. Damages to be awarded ..... 10

    III.4.1. Non-Compliance of Precautionary Principle:..... 10

Prayer ..... 11

**LIST OF ABBREVIATIONS**

¶	Para
¶¶	Paras
AIR	All India Reporter
All	Allahabad
Art.	Article
Cal	Calcutta
CITES	Convention of international trade in endangered species of wild fauna and flora 1975
CMS	Convention on Migratory Species 1983
Del	Delhi
Ed.	Edition
ICCPR	International Convention on Civil and Political Rights, 1966
ICESCR	International Covenant on Economic, Social and Cultural Rights, 1966
ILO	International Labour Organisation
IUCN	International Union for Conservation of Nature
Mad	Madras
MIL	Maraco International Ltd.
Ori	Orissa
p.	Page No.

**7<sup>th</sup> Pro Bono National Environment Law Moot - 2013**

PAT	Patna
PIL	Public Interest Litigation
Raj	Rajasthan
SC	Supreme Court
SCC	Supreme Court Reports
SCJ	Supreme Court Journal
Sec.	Section
u/a	Under Article
UDHR	United Nations Declaration on human rights.
UNFCCC	United Nations Framework Convention on Climate Change, 1992

**INDEX OF AUTHORITIES**

**CASES**

1.A.P. State Fishermen Development and Welfare Association v. District Collector and Ors, 2010 (2) ALD 300 .....	5
2.Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan, (1997) 11 SCC 121 2	
3.Ajay Hasia v. Khalid Mujib , AIR 1981 SC 487.....	1
4.Alaknanda Hydro Power Company Ltd. v. Anuj Joshi and Ors.2013 (10) SCALE 261 9	
5.Andhra Pradesh Pollution Control Board –II v. Prof. MV Mayudu, (2001) 2 SCC 62 ..2	
6.Ashok Kumar Tripathi v. Union of India and others, W.P. No. 2262/99 .....	5
7.Bachan Singh v. State of Punjab, AIR 1982 SC 1325 .....	3
8.Bandhua Mukti Morcha v. Union Of India & Others 1984 AIR 802 .....	9
9.Binny Ltd. And Anr. v. Sadasivan and Ors. AIR 2005 SC 320.....	1
10.CERC v. Union of India AIR 1995 SC 1795.....	12
11.Charan Lal Sahu v. Union of India, AIR 1990 SC 1480 .....	1, 3, 12
12.Church of God (Full Gospel) in India v. KKRMC Welfare Association AIR 2000 SC 2773.....	11
13.Dalmia Cement Bharat Ltd. v. UOI (1996) 10 SCC 104.....	6
14.Dolly Chandra v. Chairman Jee, (2005) 9 SCC 779.....	3
15.Farhad K. Wadia v.Union of India and Ors. (2009) 2 SCC 442.....	10
16.Francis Coralie v. Union Territory of Delhi, AIR 1994 SC 1844.....	3
17.Free Legal Aid Cell Shri Sujan Chand Agarwal v. Government of National Territory of Delhi, AIR 2001 Del 455.....	10
18.Free Legal Aid Cell Shri Sujan Chand Aggarwal v. Govt. of NCT of Delhi and Ors., AIR 2001 Del 45.....	10
19.Goa Foundation and Others v. State of Goa and Others, 2001 (3) BomCR 813 .....	6
20.Haryana Development Authority v. Dropadi Devi, (2005) 9 SCC 514.....	3

**7<sup>th</sup> Pro Bono National Environment Law Moot - 2013**

21. In Re: Noise Pollution- Prevention of Environment and Sound Pollution v. UOI and Anr, AIR 2005 SC 3136.....	10
22. Indian Council For Enviro Legal Action v. Union of India, (2011) 8 SCC 161 .....	2, 12
23. K. Guruprasad Rao v. State of Karnataka and others, 2013 Indlaw SC 628 .....	4
24. Kailas v. State of Maharashtra, Criminal Appeal No. 11 of 2011, arising out of Special Leave Petition No. 10367 of 2010 .....	4
25. Krishnadevi Malchand Kamathia v. Bombay Environmental Action Group, [2011] 3 S.C.R. 29.1 .....	7
26. Krishnadevi Malchand Kamathia v. Bombay Environmental Action Group, [2011] 3 S.C.R. 291 .....	6
27. M C Mehta v. UOI, (1987) 1 SCC 395.....	12
28. M.C. Mehta v. Kamal Nath , AIR 2000 SC 1997 .....	9
29. M.C. Mehta v. Union of India and Ors. AIR 2004 SC 4016 .....	9
30. Madhu Kishore v. State of Bihar 1996 5 SCC 125 .....	9
31. Maneka Gandhi v. Union of India. AIR 1978 SC 597.....	3
32. Narmada Bachao Andolan v. Union of India , (2000) 10 SCC 664 .....	12
33. NTPC Ltd. and Anr. v. State of Uttar Pradesh and Ors 2011(11) ADJ 390.....	11
34. Olga Tellis v. Bombay Municipal Corp, AIR 1986 SC 180.....	2
35. Om Kumar v. Union of India, AIR 2000 SC 3689 .....	4
36. Orissa Mining Corporation Ltd. v. Ministry of Environment & Forest & Others, Writ Petition No. 180 of 2011 .....	4, 5
37. People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473 .....	5
38. PG Gupta v. State of Gujarat, (1995) 2 SCC 182 .....	2
39. Rudul Shah v. State of Bihar AIR 1983 SC 1086.....	12
40. Rural Litigation and Entitlement Kendra v. State of U.P, 1989 Supp (1) SCC 504.....	5
41. S. Jagannath v. Union of India and Others, W.P. (C) No. 561 of 1994.....	6
42. Samatha v. State of Andhra Pradesh & Ors., AIR 1997 SC 3297 .....	4, 6, 7

## 7<sup>th</sup> Pro Bono National Environment Law Moot - 2013

43.Shantisar Builders v. Narayanan Khimalal Totamen, AIR 1990 SC 630.....	3
44.Shantistar Builders v. Narayan Khimala Totame, (1990) 1 SCC 520 .....	2
45.State of Himachal Pradesh v. Umed Ram Sharma and Ors. AIR 1986 SC 847 .....	9
46.State Of Kerala And Another v. Peoples Union For Civil Liberties, Kerala State Unit And Others (Civil Appeal Nos. 104-105 Of 2001).....	4
47.State Of Kerala And Another v. Peoples Union For Civil Liberties, Kerala State Unit And Others, Civil Appeal Nos. 104-105 Of 2001 .....	5
48.State of Uttaranchal v. B.S. Chaufal & Ors, AIR 2010 SC 2550 .....	9
49.Subhash Kumar v. State of Bihar,(1991) 1 SCC 598 .....	5
50.Sukhdev and Ors v. Bhagat Ram and Ors. AIR 1975 SC 1331 .....	1
51.Suresh Chandra Sharma v. Chairman, AIR 2005 SC 2021 .....	3
52.T.N Godavarman Thirumulkpad v.UOI, (1997) 2 SCC 267 .....	7
53.T.N. Godavarman Thirumulpad v. Union of India (UOI) and Ors. AIR 2005 SC 425 11	
54.Vishaka v. State of Rajasthan, (1997) 6 SCC 241 .....	5
55.Waman Rao v. Union of India [1981] 2 SCR1 .....	6

### **BOOKS**

1. Banerjee, Digest of Land Acquisition & Compensation cases, 2<sup>nd</sup> Edition 1997, Ashoka Law House.
2. Basu D.D , Constitution of India ,14<sup>th</sup> edition 2009, LexisNexis, Butterworths Wadhwa Publication Nagpur.
3. Behura N.K. Panigrahi Nilakantha, Tribals and the Indian Constitution, Edition 2006, Rawat Publications.
4. Desai . A. Ashok, Environmental Jurisprudence , 2<sup>nd</sup> Edition 2002, Modern Law House.
5. Dhirajlal & Ratanlal, The Law of Torts.26<sup>th</sup> edition 2012, LexisNexis Butterworths Wadhwa.
6. Divan Shyam , Rosencranz Armin ,Environmental Law and policy in India, Second Edition 2004, Oxford India paperbacks.



## **7<sup>th</sup> Pro Bono National Environment Law Moot - 2013**

7. Doabia T.S, Environmental & Pollution laws in India, 1<sup>st</sup> Edition 2005, Wadhwa Nagpur.
8. Jain M.P., Indian Constitutional Law, 6<sup>th</sup> Edition 2011, LexisNexis Butterworth Wadhwa Nagpur.
9. Jaswal P.S., Environmental Law, 2<sup>nd</sup> Edition 2006, Allahabad Law agency.
10. Karkara G.S., Environmental Law, 1<sup>st</sup> Edition, 1999, Central Law Publications.
11. Leelakrishnan P., Environmental Case Law Book, 2nd Edition 2006, LexisNexis Butterworths.
12. Maheshwara N. Swamy, Law relating to Environmental Pollution and Protection, 2<sup>nd</sup> Edition 2003, Asia Law House.
13. Rajendra Prasad, Law of Social Status, Edition 1998, Hindu Law House.
14. Seervai H.M. , Constitutional law of India, 4<sup>th</sup> Edition 2002, Volume 2, Universal Book Traders.
15. Shukla V.N , Constitution of India, 11<sup>th</sup> edition 2008, Eastern Book Company.
16. Singh Bhavjit, Digest of Land Acquisition & Compensation cases, Edition (2000-2010) Law Times Publication.
17. Sumeet Malik, Environmental Law, 1<sup>st</sup> Edition 2008, Eastern Book Company.

### **LEGAL DATABASES**

1. Manupatra
2. SCC Online
3. West Law
4. Hein Online

### **LEXICONS**

1. Aiyar Ramanathan P , Advanced Law Lexicon, 3<sup>rd</sup> Edition, 2005, Wadhwa Nagpur.
2. Garner Bryana, Black's Law Dictionary, 7<sup>th</sup> Edition, 1999

### **LEGISLATIONS**

1. The Constitution of India, 1950

## **7<sup>th</sup> Pro Bono National Environment Law Moot - 2013**

2. Environment Protection Act, 1986
3. Air (Prevention and Control of Pollution) Act, 1981
4. Forest (Conservation) Act, 1980
5. Indian Forest Act, 1927
6. Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forests Right) Act, 2006.
7. Coastal Regulation Zone Notification, 2011
8. Coastal Regulation Zone Notification, 1991
9. Wildlife Protection Act, 1972
10. Panchayats (Extension to the Scheduled Areas) Act, 1996

### **CONVENTIONS**

1. United Nations Framework Convention on Climate Change, 1992
2. Convention Of International Trade In Endangered Species Of Wild Fauna And Flora, 1975
3. Convention on Migratory Species, 1983
4. The Indigenous and Tribal Populations Convention, 1957 (ILO Convention 107)
5. The Rio Submit, 1992
6. United Nation Declaration of Human Rights, 1948
7. International Convention on Civil and Political Rights, 1966
8. International Covenant on Economic, Social and Cultural Rights, 1966
9. United Nation Declaration on Indigenous People, 2007

**STATEMENT OF JURISDICTION**

The Hon'ble Supreme Court of Rambo has the jurisdiction in this matter under

Article 32 of the Constitution of Rambo which reads as follows:

*“32. Remedies for enforcement of rights conferred by this Part-*

*(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed*

*(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.”*

**STATEMENT OF FACTS**

1. The “Republic of “Rambo” is an island in the Pongean Sea. It has a lush topography. It is the tenth largest country in the world with a land area measuring 21, 30,500 square kilometres, one of the fastest developing countries and the most populated country as well. There are two national political parties, Democratic People Front (DPF) and Liberal People Front (LPF) and several regional parties. The country has ratified various international treaties such as UDHR, ICESCR, and UNFCCC. The Republic of Rambo on account of its coastline faces natural disasters frequently.
2. In February 2005, the government headed by DPF had proposed various developmental projects including environmental projects in the country. It had constituted a Committee to control Environmental hazards. In November 2005, the Committee had submitted its report suggesting various recommendations including reduction of carbon emissions, construction of sea walls and disaster management.
3. In February 2010, LPF came to power. In March 2011, an expert committee headed by the former Chief Justice of Rambo, Hon’ble J. Tikishaki was constituted for analysing the feasibility of implementation of the project among other things.
4. The committee recommended a revisit to the Disaster Management Program of the country stressing on the need to remove industries from the coastline which were adding to the pollutants and, to protect the fragile environment zones in the Country.
5. The Union Territory of Roah is an island that is not connected to the mainland of Rambo. It lies 200 kilometres off the eastern coast of the country. The extent of land in Roah is 5, 13,500 square kilometres. Its topography includes lush mangrove forests. These forests consist of the indigenous population “Karyos” who are untouched by civilization. The people worshiped nature and followed traditional methods. The eastern coastline of Roah consists of rich forest reserves called Nacro forest.
6. In April 1989, 2, 10,000 square kilometres of Roah were declared as reserved forests. The Kayos were not relocated since, they were key to the protection of the environment and the forests
7. Due to population growth, land space became scarce in Rambo and thus, the unexplored civilization of the island of Roah was brought to light. The people in the mainland started moving to Roah. The price of land in Roah increased manifold

## 7<sup>th</sup> Pro Bono National Environment Law Moot - 2013

8. With the advent of civilization to Roah, the Indigenous people were either pushed into isolation or exposed to forced assimilation. Moreover, the forests in the region were gradually cut.
9. The economy of Rambo suffered a huge setback in December 2010. In March 2012, a powerful cyclone named “Voldemort” ravaged the coastline of Rambo particularly the island of Roah. The island of Roah was affected by severe floods newly constructed Buildings were washed away and people moved into the Nacro forests. The markings of the forests were obliterated by the cyclone.
10. A PIL was filed by Ms. Kriantha before the Hon’ble High Court of Roah. The Court held that the authorities have to take steps immediately to strike a balance between providing a place for people to live and protecting the mangrove forests which were of prime importance to the Karyos and to the island of Roah.
11. Following the cyclone, the Rambo Coordinated Research Committee (RCRC), a Central Government accredited research institution reported an increase in sea water intrusion and identified Roah as a sinking island giving it a time of only 10 years. They advised the government to relocate the population prevent deforestation. The government decided to build sea walls that could protect the island for at least a decade.
12. The government invited tenders to construct sea walls and “Maraco International Ltd.” A company registered in the U.S. was selected. A construction site was set up in Roah at the beach to immediately begin construction activities. Within a month of the site being set up, there were constant complaints of respiratory problems on account of the dust and fumes emitted by the site by the people living in and around residential areas. There were complaints of noise as well especially during night time.
13. In August 2012, the “*Pro Bono Enviro Society*” an NGO, published a report in its annual magazine. In January 2013, due to wide protests in Roah, the Central Pollution Control Board (CPCB) directed the closure of the MIL under section 31A of the Air (Prevention and Control of Pollution) Act, 1981. The Court on appeal by MIL struck down the closure order, ordered the company to install necessary pollution control equipment to protect people and the environment from the hazards of air pollution.
14. In October 2013, the “*Pro Bono Enviro Society*” filed a PIL before the Supreme Court of Rambo against the Union of Rambo and MIL with regard to with regard to various issues which have been listed for hearing on 26<sup>th</sup> and 27<sup>th</sup> of October 2013.

**STATEMENT OF ISSUES**

**ISSUE I:**

**Whether the Public Interest Litigation is Maintainable.**

**ISSUE II:**

**Whether Fundamental Rights of Indigenous People have been violated.**

**ISSUE III:**

**Whether Union of Rambo and Maraco International Ltd. are liable for Environment Degradation.**

**SUMMARY OF ARGUMENTS**

**Issue I**

**Whether the public interest litigation filed against union of Rambo and Maraco International Ltd. is maintainable.**

It is humbly submitted before the Hon'ble Court that present PIL is maintainable against Union of Rambo and also against Maraco International since, it is a state u/a 12 of the Constitution. It is further submitted that since there has been gross violation of Article 14, 19 and 21 of the Constitution, the PIL is maintainable, and on account of the same relief is sought.

**Issue II**

**Whether there has been violation of the rights of the Indigenous People.**

It is humbly submitted before the Hon'ble Court that, Article 19 and Article 21 of the Constitution have been violated on account of arbitrary action of state, thus, resulting in the violation of Article 14 as well. Right to Reside, Right to Livelihood and Right to Shelter have been violated on account of deforestation and right to Culture has also been violated since, the Indigenous people were subject to forced assimilation and Isolation.

**Issue III**

**Whether Union of Rambo and Maraco International Ltd. are liable for Environment Degradation.**

It is humbly submitted before the Hon'ble Court that, Union of Rambo and Maraco International Ltd. are liable for degrading the environment by committing acts such as that of setting up the construction unit in an improper location, thereby violating the coastal regulation norms and polluting the environment, which further violated fundamental rights of the people. Union of Rambo is also responsible for the climate change and therefore, is liable to pay damages.

**ARGUMENTS ADVANCED**

---

**I. WHETHER THE PUBLIC INTEREST LITIGATION FILED AGAINST UNION OF RAMBO AND MARACO INTERNATIONAL LTD. IS MAINTAINABLE.**

---

The present petition is maintainable under Article 32 of the Constitution<sup>1</sup>, since, (I.1) Maraco International Ltd. (hereinafter referred to as MIL) falls within the ambit of “other authorities” as enshrined u/a 12 of the Constitution (II.2) There has been violation of Fundamental Rights.

**I.1. Public Interest litigation can be filed against the Union and MIL**

A PIL can be filed against the State for the violation of Fundamental rights<sup>2</sup> under Article 32 of the Constitution; therefore, the PIL is maintainable against Union of Rambo.

Further, to constitute a private party as being state, the same must fall within the ambit of other authorities u/a 12 and thus must satisfy the court that it is either an instrumentality or an agency of the State<sup>3</sup>. In order to adjudge the same, the functions of the corporation<sup>4</sup> must be of public importance, and closely related to governmental functions.<sup>5</sup>

Public Function is one which “seeks to achieve some collective benefit for the public or a section of the public”<sup>6</sup>. Institutions engaged in performing public functions are, by virtue of the functions performed, government agencies.<sup>7</sup> Further under the well-established doctrine of *Parens Patriae*, it is the obligation of the State to protect and take into custody the rights and the privileges of its citizens for discharging its obligations.<sup>8</sup>

The act of construction of a sea wall is ideally perpetuated to seek the collective benefit of the people<sup>9</sup> by protecting the interests and lives of the individuals of the concerned area where the construction takes place.

Hence, in the present case, the act of MIL engaged in construction of sea wall is a public function as well as a Governmental function.

---

<sup>1</sup> Constitution of Rambo, *Pari Materia* to Constitution of India (Herein after referred as Constitution).

<sup>2</sup> *Sukhdev and Ors v. Bhagat Ram and Ors*. AIR 1975 SC 1331, ¶ 95.

<sup>3</sup> *Ajay Hasia v. Khalid Mujib*, AIR 1981 SC 487, ¶9.

<sup>4</sup> For the purposes of this test a company can be considered corporation, *Ibid* at ¶ 11.

<sup>5</sup> *Ibid* at ¶ 9(5).

<sup>6</sup> *Binny Ltd. And Anr. v. Sadasivan and Ors*. AIR 2005 SC 320 ¶ 11.

<sup>7</sup> *Sukhdev and Ors v. Bhagatram and Ors* AIR 1975 SC 1331

<sup>8</sup> *Charan Lal Sahu v. Union of India*, AIR 1990 SC 1480, ¶ 35.

<sup>9</sup> Technical Memorandum on Guidelines for design and construction of sea wall Ministry of water resources Govt. of India. Available at <http://cwc.gov.in/CPDAC/Guideline/CWPRS%20-Technical%20Memoranda.pdf>, Last Accessed 18<sup>th</sup> October, 2013.



## 7<sup>th</sup> Pro Bono National Environment Law Moot - 2013

Therefore, it is humbly submitted that, MIL being an instrumentality of the state for the purposes of construction of sea wall falls within the ambit of “Other Authority” as enshrined u/a 12 of the Constitution. Therefore, a PIL is maintainable against MIL

*Arguendo*, if, MIL is a private party, a PIL can be instituted against private party u/a 32 of the Constitution<sup>10</sup>, if the State is made a co-party in the petition.

### **I.2. Fundamental Rights have been violated**

#### **I.2.1. Violation of the rights of the Indigenous People.**

The fundamental right to shelter<sup>11</sup> and livelihood<sup>12</sup> of the Indigenous people have been as guaranteed under u/a 21 of the Constitution been violated on account of the arbitrary action of the state.

#### **I.2.2. Violation of the rights of the people of Roah.**

Also, there has been violation of right to Healthy Environment<sup>13</sup> as guaranteed under Article 21 of the Constitution since the state and MIL are responsible for pollution among other things.

Thus, it is humbly submitted that the present PIL is maintainable against Union of Rambo and Maraco International Ltd.

---

## **II. WHETHER THERE HAS BEEN VIOLATION OF FUNDAMENTAL RIGHTS OF INDIGENOUS PEOPLE.**

---

The indigenous people were subjected to forced assimilation and isolation and hence, the fundamental rights as guaranteed under; [II.1] Article 21 of the Constitution [II.2] and Article 19 have been violated; [II.3] Therefore, they should be rehabilitated and relocated.

### **II.1. Violation of Article 21**

Article 21 of the Constitution envisages a right to life and personal liberty of a person. The word “Life” under Article 21 means a quality of life<sup>14</sup>, which includes right of food, and

---

<sup>10</sup> *Indian Council For Enviro Legal Action v. Union of India*, (2011) 8 SCC 161 ¶ 20.

<sup>11</sup> *Shantistar Builders v. Narayan Khimala Totame*, (1990) 1 SCC 520, *PG Gupta v. State of Gujarat*, (1995) 2 SCC 182, *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*, (1997) 11 SCC 121.

<sup>12</sup> *Olga Tellis v. Bombay Municipal Corp.*, AIR 1986 SC 180.

<sup>13</sup> *Andhra Pradesh Pollution Control Board –II v. Prof. MV Mayudu*, (2001) 2 SCC 62.

<sup>14</sup> *Francis Coralie v. Union Territory of Delhi*, AIR 1994 SC 1844.

reasonable accommodation to live in<sup>15</sup> and the right to a wholesome environment.<sup>16</sup> Also ICCPR<sup>17</sup>, UDHR<sup>18</sup> and ICESCR<sup>19</sup> recognizes right to life and adequate standard of living.

Further in order to establish violation of Article 21, the act should be subjected to the equality test of Article 14 and test of reasonableness under Article 19.<sup>20</sup> Article 14 strikes at arbitrariness because it negates equality<sup>21</sup> and permeates the entire fabric of Rule of Law<sup>22</sup>. Therefore, every action of the State must be guided by reason for public good and not by whim, caprice, and abuse of power.<sup>23</sup> Article 19 provides that a restriction can be characterized to be reasonable if it strikes a balance between the fundamental right and restriction imposed thereon.<sup>24</sup>

In this case, there is violation of Article 21 as [II.1.1] they are indigenous people and [II.1.2] there is deforestation of forests [II.1.3] arbitrary action of government is violating test of equality and reasonableness.

### II.1.1. They are indigenous people

The indigenous people are considered on same pedestal as Scheduled Tribes<sup>25</sup> or Scheduled Caste in India<sup>26</sup> because of their backwardness<sup>27</sup>, dependence on basic natural resources<sup>28</sup> for life and livelihood and lack of exposure to civilization<sup>29</sup>. Thus, their rights have also been construed to be safeguarded under Article 244(1) and the provisions of the Fifth Schedule of the Constitution. Therefore, in the present case, the indigenous people “Karyos” can be considered to be on the same footing as Scheduled Tribes.

---

<sup>15</sup> *Shantisar Builders v. Narayanan Khimalal Totamen*, AIR 1990 SC 630.

<sup>16</sup> *Charan Lal Sahu v. Union of India*, AIR 1990 SC 1480.

<sup>17</sup> Article 6, ICCPR.

<sup>18</sup> Article 3, UDHR.

<sup>19</sup> Article 11, ICESCR.

<sup>20</sup> *Maneka Gandhi v. Union of India*. AIR 1978 SC 597.

<sup>21</sup> *Suresh Chandra Sharma v. Chairman*, AIR 2005 SC 2021.

<sup>22</sup> *Bachan Singh v. State of Punjab*, AIR 1982 SC 1325.

<sup>23</sup> *Haryana Development Authority v. Dropadi Devi*, (2005) 9 SCC 514; *Dolly Chandra v. Chairman Jee*, (2005) 9 SCC 779.

<sup>24</sup> *Om Kumar v. Union of India*, AIR 2000 SC 3689.

<sup>25</sup> Section 342 lays down the procedure for scheduling and de-scheduling of tribe.

<sup>26</sup> *Orissa Mining Corporation Ltd. v. Ministry of Environment & Forest & Others*, Writ Petition No. 180 of 2011; *Kailas v. State of Maharashtra*, Criminal Appeal No. 11 of 2011, arising out of Special Leave Petition No. 10367 of 2010; ILO Convention on Indigenous People, Available at [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/normes/documents/publication/wcms\\_106474.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/normes/documents/publication/wcms_106474.pdf), Last Accessed on 18<sup>th</sup> October, 2013.

<sup>27</sup> *State Of Kerala And Another v. Peoples Union For Civil Liberties, Kerala State Unit And Others* (Civil Appeal Nos. 104-105 Of 2001).

<sup>28</sup> *Samatha v. State of Andhra Pradesh & ors*, AIR 1997 SC 3297.

<sup>29</sup> *Samatha v. State of Andhra Pradesh & ors*, AIR 1997 SC 3297, *State Of Kerala And Another v. Peoples Union For Civil Liberties, Kerala State Unit And Others* (Civil Appeal Nos. 104-105 Of 2001).

## 7<sup>th</sup> Pro Bono National Environment Law Moot - 2013

The source of livelihood for forest dwelling people<sup>30</sup> for generations have been forests and forest lands<sup>31</sup> and so are considered inseparable.<sup>32</sup> However, with the advent of civilization they were exploited by outsiders<sup>33</sup>, thus, there was a necessity to protect the inherent rights of indigenous people to empower them to utilise and to exercise control over forest for sustainable development.<sup>34</sup> Therefore, to protect forest land from deforestation and to encourage forestation<sup>35</sup>, State is casted upon a duty to save the fast diminishing forest cover of the country<sup>36</sup> under the principle of Public Trust Doctrine<sup>37</sup>, Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA)<sup>38</sup> and Articles 48A of the Constitution to preserve the Forests which are considered to be a national wealth under Environment Protection Act, 1986.<sup>39</sup>

The Rio Summit, 1992, The Indigenous and Tribal Populations Convention, 1957<sup>40</sup> and United Nation Declaration on Indigenous people also recognize the rights of indigenous people over the land.<sup>41</sup> The international conventions are considered important to be read with fundamental rights as they further, enlarge the scope of the same.<sup>42</sup> This depicts the special relationship between the indigenous people and the forests and their sustenance which solely arises from these forests.

### II.1.2. Deforestation of forest

As stated above forest dwellers derive their sustenance, shelter, source of livelihood, social and economic status from forests<sup>43</sup>, therefore, for them forests act as potent weapon of, economic empowerment in social democracy.<sup>44</sup>

---

<sup>30</sup> Section 2 (o), The Scheduled Tribes and other Traditional Forest Dweller Act, 2006.

<sup>31</sup> Section 2(c), The Scheduled Tribes and other Traditional Forest Dweller Act, 2006.

<sup>32</sup> *K. Guruprasad Rao v. State of Karnataka and others*, 2013 Indlaw SC 628.

<sup>33</sup> M P Jain, The Constitution of India, First Report of the Commissioner For Scheduled Castes and Scheduled Tribes, 3, 11(1952); *Samatha v. State of Andhra Pradesh & Ors.*, AIR 1997 SC 3297.

<sup>34</sup> *Ashok Kumar Tripathi v. Union of India and others*, W.P. No. 2262/99.

<sup>35</sup> *Rural Litigation and Entitlement Kendra v. State of U.P.*, 1989 Supp (1) SCC 504.

<sup>36</sup> *A.P. State Fishermen Development and Welfare Association v. District Collector and Ors*, 2010 (2) ALD 300.

<sup>37</sup> *Ibid.*

<sup>38</sup> Section 4(d)& (m) of PESA.

<sup>39</sup> *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

<sup>40</sup> Article 11, ILO Convention, 1957.

<sup>41</sup> *State Of Kerala And Another v. Peoples Union For Civil Liberties, Kerala State Unit And Others*, Civil Appeal Nos. 104-105 Of 2001.

<sup>42</sup> *Orissa Mining Corporation Ltd. v. Ministry of Environment and Forest Writ Petition (Civil) No. 180 OF 2011*, *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 at 249, *People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473 at p 1487.

<sup>43</sup> *Samatha v. State of Andhra Pradesh & ors*, AIR 1997 SC 3297.

<sup>44</sup> *Waman Rao v. Union of India* [1981] 2 SCR1, *Dalmia Cement Bharat Ltd. v. UOI* (1996) 10 SCC 104.

## 7<sup>th</sup> Pro Bono National Environment Law Moot - 2013

In the present case, the island of Roah includes lush topography of Mangrove Forests<sup>45</sup>. Mangrove trees have been classified as endangered species by IUCN. Further, the Coastal Regulation Zone (CRZ) Notification, 1991 [hereinafter referred to 1991 Notification] passed under Environmental Protection Act, 1986<sup>46</sup>, classifies the mangroves area under eco-sensitive area where the construction of residential building is not permitted.<sup>47</sup> However, in 2010 Mangroves were cut and buildings were constructed to accommodate the people of Rambo<sup>48</sup>, which not only resulted in violation of 1991 Notification but also that of Article 21. Since, Mangrove forests removes the pollutants and also acts as a barrier of floods, provides nesting places for fishes<sup>49</sup>; it is the ultimate source of life and livelihood and so by conducting deforestation on these forests there is a violation of Article 21.

### II.1.3. Violation of test of equality and reasonableness

Section 2(ii) (iv) of The FCA, 1980 provides that Central Government can only grants the permission of deforestation for the “non-forest purposes”<sup>50</sup> and such clearances are granted if Central Government considers it reasonable to cut the forest, which is decided on the basis of the report of the committee<sup>51</sup>. However, in the present case there has been non-application of mind for granting the approval, since, firstly, residential buildings cannot be constructed by causing deforestation of Mangrove trees<sup>52</sup>, secondly, considerable reduction of forest in the island of Roah made it more susceptible to natural disasters. It thus fails to meet the test of reasonableness under Article 19. Further, the Government of Rambo has acted arbitrarily by neglecting the rights of tribals and safeguarding the rights of non-tribals, despite the fact that the movement of non tribals is restricted to tribal area, so as to avoid their exploitation<sup>53</sup>, and thus, there has been violation of Article 14, on account of abuse of power and arbitrariness in the actions of the Government.

### II.2. Violation of Article 19

---

<sup>45</sup> ¶4 Moot Proposition.

<sup>46</sup> Section 3(1) And Section 3(2) (v) Of EPA, 1986 And Rule 5(3)(D) Of The Environment Protection Rules.

<sup>47</sup> *Krishnadevi Malchand Kamathia v. Bombay Environmental Action Group*, [2011] 3 S.C.R. 291.

<sup>48</sup> ¶10 Moot Proposition.

<sup>49</sup> *S. Jagannath v. Union of India and Others*, W.P. (C) No. 561 of 1994.

<sup>50</sup> Section 2, FCA, 1980.

<sup>51</sup> Constituted under Rule 2-A of the Forest Conservation Rules, 1981, *Rule 5 and 6 of Forest Conservation Rules, 1981, Goa Foundation and Others v. State of Goa and Others*, 2001 (3) BomCR 813.

<sup>52</sup> *Krishnadevi Malchand Kamathia v. Bombay Environmental Action Group*, [2011] 3 S.C.R. 29.1.

<sup>53</sup> *Samatha v. State of AP & Ors.* AIR 1997 SC 3297, *T.N Godavarman Thirumulkpad v. UOI*, (1997) 2 SCC 267.

## 7<sup>th</sup> Pro Bono National Environment Law Moot - 2013

The right of the indigenous people to settle and reside<sup>54</sup> and to own the property<sup>55</sup> anywhere in the territory of Rambo, especially in the forest of the Roah, guaranteed under Article 19(1) (e) has been violated, since; there was a lot of encroachment in the forest on account of deforestation.<sup>56</sup> Further when the Government personnel's were involved in disaster management program, due to their negligence there were lot of encroachments in the forest, which violated their right to reside under Article 19 of the Constitution.

Hence, in the present case the cutting of forest has violated the rights of indigenous people to hold and live in the forest<sup>57</sup>, right to protect or conserve resource, and the right to access biodiversity and cultural diversity<sup>58</sup> guaranteed to indigenous people/tribals since their right to life and livelihood has been violated as envisaged under Article 21.

### **II.3. Indigenous people should be rehabilitated and relocated**

Article 29 of the Constitution and Article 27 of ICCPR states that minority group should not be denied the right to enjoy their own culture. However, the fact that people of Rambo were allowed to settle and reside in the forest area of Roah, forcibly subjected the indigenous people to the new culture, making them more prone to exploitation, as they were not prepared physically, socially and culturally for such an interface.

Therefore, it is humbly submitted that the indigenous people should be rehabilitated pending their relocation<sup>59</sup> in an environment which is conducive to their right to life with dignity as ensured u/a 21. Under Article 47, the government is obliged to take steps 'for the improvement of public health' and the non-availability of financial resources is not an excuse in this regard.<sup>60</sup>

---

### **III. WHETHER UNION OF RAMBO AND MARACO INTERNATIONAL LTD. ARE LIABLE FOR ENVIRONMENT DEGRADATION**

---

The Union of Rambo and MIL has caused environmental degradation by their respective acts, that being, [III.1] Location of Construction unit at an Improper Place [III.2] Pollution caused

---

<sup>54</sup> Article 19, Constitution.

<sup>55</sup> UDHR Articles 17 as well as in Article 6 of the ICESCR.

<sup>56</sup> ¶10 Moot Proposition.

<sup>57</sup> Section 3, The Scheduled Tribes and other Traditional Forest Dweller Act, 2006.

<sup>58</sup> Ibid.

<sup>59</sup> In accordance with Article 12 of the ILO Convention, 107.

<sup>60</sup> *Dr. B.L. Wadehra v. Union of India and others* (1996) 2 SCC 594

by MIL, violated fundamental rights [III.3] Climate changes caused by Union of Rambo [III.4] and therefore, liable to pay damages for the violation of fundamental rights.

### **III.1. Location of Construction Unit at an improper place**

#### **III.1.1. Violation of Coastal Regulation Zone Notification, 2011**

The Coastal Regulation Zone Notification<sup>61</sup>, 2011 issued under the Environment Protection Act, 1986<sup>62</sup> regulates construction and other similar activities on the coast.<sup>63</sup> An area to be classified as CRZ-I<sup>64</sup>, must have ecologically sensitive areas including mangroves, protected reserved forest areas and turtle nesting grounds<sup>65</sup>, where no new construction is permitted, except as provided under the regulation.<sup>66</sup>

In the present case, the proximate area in which the construction unit is located has lush Mangrove topography, reserved forests, nesting grounds for turtles and susceptible ecological features, therefore, the designated coastal area for the construction of sea walls can be construed to be CRZ I, and, since no sea wall construction is permitted in this area, it is clearly violative of the express regulations laid down in the CRZ Notification.

Also, the ecologically sensitive areas like that of Roah are classified as Critical Vulnerable Coastal Area (CVCA)<sup>67</sup>, therefore, the presence of such a polluting construction site will further add to environmental degradation and natural disasters.

#### **III.1.2. Environment Impact Assessment was either not done or was done improperly**

An Environment Impact Assessment (hereinafter referred to as EIA) is conducted in order to anticipate the likely consequences of the project.<sup>68</sup>

In the instant case, within one month of the construction site being set up, the effluents which were emitted from the construction site coupled with the high level of noise caused by the construction work polluted the environment, caused respiratory problems and became a nuisance for the inhabitants in and around the residential area, thus, violating Article 21

---

<sup>61</sup> Hereinafter referred to as CRZ Notification 2011.

<sup>62</sup> Section 3 (2) (1) (v) Environment (Protection) Act, 1986.

<sup>63</sup> Regulation 8 (i) (I) (i) and (ii) CRZ Notification 2011, Pg. 9.

<sup>64</sup> Coastal Zone Regulation Notification, 1991.

<sup>65</sup> Regulation 7 (i) (A) and (B) CRZ Notification 2011, Pg. 8.

<sup>66</sup> Regulation 8 (i) (I) (i) and (ii) CRZ Notification 2011, Pg. 9.

<sup>67</sup> Regulation 8 (iii) (c) (4) CRZ Notification 2011, Pg. 16.

<sup>68</sup> *M.C. Mehta v. Union of India and Ors.* AIR 2004 SC 4016, *Alaknanda Hydro Power Company Ltd. v. Anuj Joshi and Ors.* 2013 (10) SCALE 261

which includes their right to have a good quality of life<sup>69</sup> and any disturbance in the environmental elements is detrimental to this right.<sup>70</sup>

Therefore, it can be reasonably assumed, as the facts are silent about the same, that the norms for the setting up of the construction site in residential area have not been complied with.

This further corroborates the fact that either the EIA was not conducted, or the same was conducted improperly, since, had it been conducted systematically, the people would not have faced problems in such a short span of time.<sup>71</sup> Hence, an expert committee must be appointed to further look into the matter.<sup>72</sup>

### **III.2. Pollution caused by MIL violated Fundamental Rights of people**

Pollution constitutes wrongful contamination in the environment in such concentrations as may be or tends to be injurious to human beings or other living creatures or plants or property or environment<sup>73</sup>, thereby violating Article 21 of the Constitution.<sup>74</sup>

#### **III.2.1. Air Pollution caused by MIL**

Article 21 of the Constitution ensures the fundamental right to live decently and to enjoy clean air.<sup>75</sup> The setting-up of the construction site in the proximity of the residential area without any appropriate pollution-control equipment is indicative of MIL's disregard for the precautionary norms to be followed for public safety. Due to this, the inhabitants suffered from severe respiratory problems within a month of the site being set up, thus causing air pollution, and violating the right to clean air guaranteed under Article 21 of the Constitution.

#### **III.2.2. Noise Pollution caused by MIL**

Noise pollution is described as an unwanted sound if it exceeds a reasonable limit and contaminates the environment<sup>76</sup>, causes nuisance and affects the health of a person<sup>77</sup>, thereby violating Article 21 of the Constitution.<sup>78</sup>

---

<sup>69</sup> *Madhu Kishore v. State of Bihar* 1996 5 SCC 125; *Ms. Shehla Zia v. WAPDA* PLD 1994 Supreme Court 693 in *State of Uttaranchal v. B.S. Chaufal & Ors*, AIR 2010 SC 2550, *State of Himachal Pradesh v. Umed Ram Sharma and Ors*. AIR 1986 SC 847

<sup>70</sup> *M.C. Mehta v. Kamal Nath*, AIR 2000 SC 1997.

<sup>71</sup> ¶ 12 of the Moot Proposition.

<sup>72</sup> *Bandhua Mukti Morcha v. Union Of India & Others* 1984 AIR 802, 1984 SCR (2) 67.

<sup>73</sup> Section 2 (a) The Air (Prevention and Control of Pollution) Act 1981.

<sup>74</sup> *Free Legal Aid Cell Shri Sugan Chand Aggarwal v. Govt. of NCT of Delhi and Ors.*, AIR 2001 Del 45.

<sup>75</sup> *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420.

<sup>76</sup> *In Re: Noise Pollution- Prevention of Environment and Sound Pollution v. UOI and Anr*, AIR 2005 SC 3136

<sup>77</sup> *Free Legal Aid Cell Shri Sugan Chand Aggarwal v. Government of National Territory of Delhi*, AIR 2001 Del 455.

In the instant case, construction noise caused by MIL, especially during night time became a nuisance to the people residing in the vicinity of construction site as it resulted in violation of their right to silence, sleep, and rest<sup>79</sup>, guaranteed under Article 21 of the Constitution<sup>80</sup>.

### **III.3. Liability of the State for Climate Change in the Pongean Sea**

‘Climate Change’ means a change in climate, attributed directly or indirectly to human activity that alters the composition of the global atmosphere over comparable periods of time.<sup>81</sup> The Union of Rambo is liable for the climate change induced due to the activities orchestrated by the State.

#### **III.3.1. Air pollution by Union of Rambo**

The UNFCCC aims for the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate<sup>82</sup>. Union of Rambo despite of ratifying it, failed to bring under control the anthropogenic greenhouse gases and carbon emissions<sup>83</sup> thereby causing pollution<sup>84</sup>, haze, sea water intrusion and the erratic climatic conditions<sup>85</sup>. Further, the Government orchestrated deforestation of the mangroves and reserved forest areas, thereby causing air pollution.<sup>86</sup>

#### **III.3.2. Water pollution by Union of Rambo**

The sea water in Roah was crystal clear before migration of people<sup>87</sup>, however, to accommodate the new population in Rambo, the Government allowed new buildings to be constructed in reserved forests<sup>88</sup>, this not only reduced the forest cover but also polluted the sea water when the newly constructed buildings were washed away in the heavy floods caused by the occurrence of ‘Voldemort’<sup>89</sup>, which when mixed with the flood water, releases pollutants such as silica and alumina.<sup>90</sup>

---

<sup>78</sup> Ibid ¶16.

<sup>79</sup> *Farhad K. Wadia v. Union of India and Ors.* (2009) 2 SCC 442.

<sup>80</sup> *In Re: Noise Pollution- Prevention of Environment and Sound Pollution v. Union of India and Anr.* AIR 2005 SC 3136, p 3141, *Church of God (Full Gospel) in India v. KKRMC Welfare Association* AIR 2000 SC 2773.

<sup>81</sup> Article 1, United Nations Framework Convention on Climate Change, 1992.

<sup>82</sup> Article 2, United Nations Framework Convention on Climate Change, 1992.

<sup>83</sup> ¶ 3 (b) and (c), Tikishaki report, Moot Proposition.

<sup>84</sup> Section 2 (a) The Air Pollution (Prevention) Act 1981.

<sup>85</sup> ¶ 13 (a) and (b), Moot Proposition.

<sup>86</sup> *NTPC Ltd. and Anr. v. State of Uttar Pradesh and Ors* 2011(11) ADJ 390; *T.N. Godavarman Thirumulpad v. Union of India (UOI) and Ors.* AIR 2005 SC 4256.

<sup>87</sup> ¶ 4 Moot Proposition.

<sup>88</sup> ¶ 8 and 10 of the Moot Proposition

<sup>89</sup> ¶ 10 of the Moot Proposition

<sup>90</sup> Schedule IV The Water (Prevention and Control of Pollution) Rules, 1975



**III.3.3. Death of sea turtles in their natural habitat:**

The Sea Turtles being an endangered species have been declared as ‘Vulnerable’<sup>91</sup>. Therefore, their protection is considered to be of absolute<sup>92</sup> and paramount importance<sup>93</sup> under conventions such as CITES<sup>94</sup>, CMS<sup>95</sup> and the Wildlife Protection Act, 1972.

In the present case, there has been a substantial risk to the survival and thriving of the endangered turtles due to the close proximity of the seawall construction site to the surrounding turtle nesting and breeding habitats. Further, the sea turtles were being killed in their natural habitat due to the post-migration use of motor boats by the people.<sup>96</sup> Therefore, the Government of Rambo has failed to perform its duty imposed under Article 48 A and 51A (g) of the Constitution, to safeguard the environment and especially the existence of sea turtles.

**III.4. Damages to be awarded**

**III.4.1. Non-Compliance of Precautionary Principle:**

The polluter pays principle<sup>97</sup> imposes absolute liability for harm caused to the environment, to compensate the victims of pollution and to pay the cost of restoring the environment.<sup>98</sup> The burden of maintaining the said balance lies on the unit which has caused the pollution<sup>99</sup>. Therefore, in the instant case, MIL is liable for non-compliance with the aforementioned principle; since no preventive measures were taken by MIL for curbing the pollution released from construction unit, and therefore must pay damages for the harm caused to the environment as well as to people since it is their fundamental right to be compensated<sup>100</sup>. Also, the Government of Rambo must be directed to take corrective measures in order to restore the environment.

---

<sup>91</sup> International Union for Conservation of Nature Red Data Book at <http://www.iucnredlist.org/>

<sup>92</sup> Schedule I, Indian Wildlife (Protection) Act, 1972

<sup>93</sup> *Tata Sons Limited v. Greenpeace International and Anr*, 2011 (45) PTC 275 (Del)

<sup>94</sup> Article III, Appendix I of The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Schedule I of the Indian Wildlife Protection Act, 1972

<sup>95</sup> Memorandum of Understanding II signed by India under The Convention on Migratory Species (CMS).

<sup>96</sup> ¶ 13 (c) of the Moot Proposition

<sup>97</sup> *Charan Lal Sahu v. Union of India* (1990) 1 SCC 613

<sup>98</sup> *Indian Council for Enviro Legal Action v. UOI*, (1996) 3 SCC 212; *M C Mehta v. UOI*, (1987) 1 SCC 395.

<sup>99</sup> *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664

<sup>100</sup> *Rudul Shah v. State of Bihar* AIR 1983 SC 1086; (1983) 4 SCC 141, *CERC v. Union of India* AIR 1995 SC 1795

**PRAYER**

In the light of the issues raised, arguments advanced and authorities cited, may this Hon'ble Court be pleased to:

1. Hold the Union of Rambo liable for violation of fundamental rights of the Indigenous people, and order for their relocation and rehabilitation.
2. Hold the Union of Rambo and Maraco International Ltd. liable for environmental degradation and loss of biodiversity.
3. Order and direct the government to take corrective measures to restore the degraded environment.
4. Order for the relocation of the construction unit; and, grant a temporary injunction against the same until an expert committee is appointed to assess the impact of the construction unit on its surroundings and suggest a new site.
5. Award compensatory damages to be paid by Maraco International for environmental clean-up.

AND/OR

Pass any other order that it deems fit in the interest of Justice, Equity and Good Conscience.

And for this, the Petitioner as in duty bound, shall humbly pray.

**COUNSELS FOR THE PETITIONER**