

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MM-1 - I.A. Nos. 147, 148 & 149 of 2011 in W.P (C) No. 337 of 1995

MM-2 - I.A. No. 316 in W.P. (C) No. 13029/1985

301. I.A. Nos. 128-129 & 144 in W.P. (C) No. 337/1995
(FOR MODIFICATION OF COURT'S ORDER DATED 28.4.2003 AND EXEMPTION
FROM FILING O.T. AND PERMISSION TO FILE REJOINDER AFFIDAVIT)

CENTRE FOR ENVIR. LAW, WWF-I Petitioner(s)

VERSUS

U O I & ORS Respondent(s)

302. I.A. NO. 3037 IN W.P. (C) NO. 202/1995
(FOR EXTENSION OF TIME)
WITH
CONMT. PET. (C)No. 235/2011 in W.P. (C) No. 202/1995

T.N. GODAVARMAN THIRUMULPAD

VS.

UNION OF INDIA & ORS.

303. I.A. NOS. 2423-2425 in W.P(C) NO. 202/1995
(FOR DIRECTIONS)

304. I.A. NOS. 3051-3053 IN W.P.(C) 202/1995
(FOR INTERVENTION, DIRECTIONS AND EXEMPTION FROM FILING O.T.)

305. I.A. NOS. 83-84 IN W.P. (C) NO. 337/1995
(FOR IMPLEADMENT AND MODIFICATION OF COURT'S ORDER DATED 13.11.2000)

306. I.A. NOS. 2155-2156 & 2680 IN I.A. NO. 2156 IN W.P.(C) 202/1995
(FOR IMPLEADMENT, PERMISSION AND DIRECTION TO REJECTION OF CEC
REPORT)

307. I.A. NO. 2898 IN W.P.(C) 202/1995
(FOR PERMISSION FOR CONSTRUCTION OF MISSING LINK OF NATIONAL HIGHWAY
NO. 11A)

308. I.A. NO. 2920 IN W.P.(C) 202/1995
(FOR ADDITIONAL PERMISSION FOR DIVERSION OF 0.200 HECTARES FOREST
LAND)

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309. I.A. NO. 2857 IN W.P.(C) 202/1995
(FOR DIRECTIONS)

310. I.A. NOS. 2872-2873 AND 3086 IN W.P.(C) 202/1995
(FOR INTERVENTION AND DIRECTIONS AND PLACING ON RECORD ADDITIONAL
DOCUMENTS)

311. I.A. NO. 1174 IN W.P.(C) 202/1995
(FOR RECOMMENDATION OF CEC IN IA NO. 804)

312. I.A. NOS. 2777-2778 IN W.P.(C) 202/1995
(FOR IMPLEADMENT AND DIRECTIONS)

313. I.A. NO. 2865 IN W.P.(C) 202/1995
(FOR RECOMMENDATION OF CEC APPLICATION NO. 1246)

314. I.A. NO. 2976 IN W.P.(C) 202/1995
(FOR PERMISSION)

315. I.A. NO. 2637 IN W.P.(C) 202/1995
(FOR MODIFICATION OF ORDER DATED 14.2.2000)

316. I.A. NO. 2646 IN W.P.(C) 202/1995
(FOR DIRECTIONS)

317. I.A. NOS. 3058-3060 IN W.P.(C) 202/1995
(FOR IMPLEADMENT, PERMISSION AND EXEMPTION FROM FILING O.T.)

318. SLP (C)...5462/2011
(WITH APPLN. FOR PERMISSION TO FILE SLP AND WITH PRAYER FOR INTERIM RELIEF AND OFFICE REPORT)

With
SLP (C).... CC 5491/2011

(Application for permission to file SLP and with prayer for interim relief and office report)

with
Contempt. Pet. (Civil) No. 252/2011 in SLP (C) CC 5462/2011

319. I.A. NO. 925 WITH CONMT. PET (C) NO. 193/2001, I.A. NO. 1127 IN 925 AND I.A. NO.4 IN CONMT. PET.(C) NO. 193/2001 IN W.P.(C) NO. 202/1995
(WITH APPLICATION FOR DIRECTIONS)

320. I.A. NOS. 3054-3057 IN W.P.(C) 202/1995
(FOR PERMISSION TO APPEAR AND ARGUE IN PERSON, IMPLEADMENT, DIRECTIONS AND EXEMPTION FROM FILING O.T.)

321.I.A. NOS. 142-143 IN W.P.(C) NO. 337/1995
(FOR IMPLEADMENT/DIRECTIONS AND EXEMPTION FROM FILING O.T.)

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322. I.A. NOS. 2792-2793 IN W.P.(C) 202/1995
(FOR PERMISSION AND EXEMPTION FROM FILING O.T.)

323 I.A. NO. 2783 IN W.P.(C) 202/1995
(REPORT OF CEC IN APPLN. NO. 1023)

324. I.A. NOS. 2974-2975, 2980 IN W.P.(C) 202/1995
(FOR PERMISSION)

325. I.A. NOS. 2881 & 3026-3027 IN W.P.(C) 202/1995
(FOR RECOMMENDATION OF THE CEC IN APPLN. NO. 1228 & 1229 AND INTERVENTION AND EXEMPTION FROM FILING O.T.)

326. I.A. NO. 3064 IN W.P.(C) 202/1995
(RECOMMENDATION OF CEC IN APPLN. NO. 1311)

327.SLP (C)...CC 7816/2011
(WITH APPLN. FOR PERMISSION TO FILE SLP AND PERMISSION TO PLACE ADDL. DOCUMENTS ON RECORD AND WITH PRAYER FOR INTERIM RELIEF AND OFFICE REPORT)

With
SLP (C) No. 16668/2011
(With prayer for interim relief and office report)

SLP (C).....CC 11055/2011
(With Appln. For permission to file SLP and with prayer for interim relief and office report)

SLP (C)CC 11350-11351/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

SLP (C).....CC 11480/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

SLP (C) Nos. 17150-17151/2011

(With appln. for exemption from filing C/C of the impugned judgment and with prayer for interim relief and office report)

SLP (C) Nos. 17155-17156/2011

(With appln. for exemption from filing C/C of the impugned judgment and with prayer for interim relief and office report)

With

SLP (C) No. 17160/2011

(with appln. for exemption from filing C/C of the impugned Judgment and with prayer for interim relief and office report)

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SLP (C) Nos. 17313-17314/2011

(With appln. for permission to file lengthy list of dates and deletion of proforma respondents and with prayer for interim relief and office report)

SLP (C).....CC 11601/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

SLP (C)CC 11608/2011

(With appln. for permission to file SLP and office report)

SLP (C).....CC 11607/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

SLP (C).....11800/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

SLP (C).....11711/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

SLP (C).....11751/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

With

SLP (C).....11750/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

SLP (C).....11759/2011

(With appln. for permission to file SLP and with prayer for interim relief and office report)

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PART-B LIST FOR FINAL DISPOSAL

328. I.A. NO. 2469 WITH I.A. NOS. 2782, 2939-2940 AND I.A. NOS. 3023-3024 IN I.A. NO. 2782, 3030 AND 3032 IN W.P. (C) NO.202/1995 (FOR PERMISSION AND INTERVENTION AND DIRECTION AND BRINGING ON RECORD AND EXEMPTION FROM FILING O.T., INTERIM DIRECTIONS AND PERMISSION TO FILE ADDITIONAL AFFIDAVIT)

WITH

W.P.(C) NO. 130/2011
(WITH APPLN.(S)FOR EXEMPTION FROM FILING O.T. AND OFFICE REPORT)

329. SANDALWOOD MATTERS

I.A. NOS. 1287, 1570-1571, 1624-1625, 1978, 2395, 2795-2796 IN W.P. (C) NO. 202/1995
(REPORT OF CEC, IMPLEADMENT, DIRECTION AND EXEMPTION)

WITH

I.A. NOS. 2470-2471, 2472-2473, 2474-2475, 2476-2477, 2966-2967 IN 1287 IN W.P. (C) NO. 202/1995

(FOR IMPLEADMENT AND DIRECTIONS)

330. MAHARASHTRA GREAT INDIAN BUSTARD WILDLIFE SANCTUARY

I.A. NO. 2882 IN I.A. 2342 IN I.A. NO. 2119, 1483, 1997, 2023, 2923-2925 IN W.P. (C) NO. 202/1995
(FOR DIRECTIONS, IMPLEADMENT, PERMISSION, MODIFICATION AND EXEMPTION FROM FILING O.T.)

331. PANCHMARHI MATTERS (TIGER RESERVE ETC.)

I.A. NOS. 2202-2203, I.A. NOS. 2601 & 2915-2917 IN I.A. NOS. 2202-2203, 2602, 2929-2931 WITH 1606, 2002-2004, 2011, 2062-2063 IN 1220 IN 548 IN W.P. (C) NO. 202/1995
(FOR DIRECTIONS, EXEMPTION, FROM FILING O.T., PERMISSION & CLARIFICATION/MODIFICATION OF RECOMMENDATION OF C.E.C. DATED 16.09.2008, INTERVENTION AND IMPLEADMENT)

WITH

I.A. NO. 1697 IN 548 AND 2595-2596 IN W.P. (C) NO. 202/1995
(FOR CLARIFICATION/MODIFICATION OF ORDER DT. 14.2.2008 PERMISSION TO BRING ON RECORD THE ADDL. FACTS AND DOCUMENTS AND EXEMPTION FROM FILING O.T.)

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332. ASKOT MUSK DEER SANCTUARY

I.A. NOS. 1791-1792 IN W.P. (C) NO. 202 OF 1995
(FOR PERMISSION TO DEMARCATATE BOUNDARIES OF ASKOT MUSK DEER WILDLIFE SANCTUARY AND EXEMPTION FROM FILING O.T.)

WITH

I.A. NO. 139 IN W.P. (C) NO. 337/1995
(FOR PERMISSION REGARDING PROPOSED RATIONALISATION OF BOUNDARIES OF PROTECTED AREAS IN HIMACHAL PRADESH)

333. I.A. NOS. 1308, 1323, 1455, 1468, 1478 IN W.P. (C) NO. 202/1995
(FOR DIRECTIONS, INTERVENTION AND EXEMPTION FROM FILING O.T.)

Date: 15/07/2011 These applications/Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.S. PANICKER RADHAKRISHNAN

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301. Mr. B. Chahar, Sr. Adv.
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302. Ms. Shweta Verma, Adv.
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Mr. Aljo K. Joseph, Adv.
Mr. Dileep Poolakkot, Adv.

- 8 -

- 305 Ms. Lalitha Kaushik, Adv.
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307. Dr. Manish Singhvi, AAG
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308. Mr. P.K. Manohar, Adv.
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309. Mr. P.K. Manohar, Adv.

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310. Mr. P.K. Manohar, Adv.
Ms.Jyoti Mehndiratta, Adv.
Mr. Kamal Mohan Gupta, Adv.

311. Mr. P.K. Manohar, Adv.
Mr. B.S. Banthia, Adv.

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312. Mr. P.K. Manohar, Adv.

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313. Ms. Asha G. Nair, Adv.
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Mr. Aditya Dewan, Adv.
318. Mr. Narender Hooda, AAG
- Mr. Manjit Singh, AAG
- Mr. Vivekta Singh, Adv.
Mr. Tarjit Singh, Adv.
- Mr. Pahlad Singh Sharma, Adv.
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Mr. Rajesh Prasad Singh, Adv.
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Mr. R. Ayyam Perumal, Adv.
- 10 -
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Mr. D.S. Mahra, Adv.
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322. Mr. B.S. Banthia, Adv.

323. Ms. Asha G. Nair, Adv.

324. Ms. Rani Chhabra, Adv.

Mr. Kamalendra Mishra, Adv.

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325. Ms. Hemantika Wahi, Adv.

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326. M/s. A.P. & J Chambers, Advs.

327. Mr. K. K. Venugopal, Sr. Adv.

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Mr. Shyam Mohan, Adv.
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Mr. Shuaib-uddin, Adv.

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Mr. Naveen Kumar, Adv.

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Ms. Manik Karanjawala, Adv.
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Mr. Balraj Dewan, Adv.
M/s. Aruputham Aruna & Co., Advs.
M/s. Prakash & Co., Advs.
Mr. N Ganapathy, Adv.

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- 13-

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Mr. T.V. George, Adv.
Mr. Naresh K. Sharma, Adv.
Mr. Prashant Bhushan, Adv.
Ms. Anita Shenoy, Adv.
Mr. Shibashish Mishra, Adv.

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

MM-1

List the matter next Friday.

MM-2

List the matter before appropriate Bench.

Item No.301

Adjourned to enable the Ministry of Environment &
Forest to produce the order dated 12th April, 2010 of
National Board for Wild Life.

List the matter next Friday.

Item No. 302

Time extended for four months from today, as
prayed.

Item No. 303

Four weeks' time is granted, as prayed.
List after two months.

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Item NO. 304

Serve notice on the Standing Counsel, Mr. G. Prakash,
for the State of Kerala.

List after two weeks.

Item No. 305

On the request of the learned counsel for the
Petitioners, the matter is adjourned so as to permit
the CEC to examine whether the petition is covered by
order dated 23.11.2001 in I.A. No. 703 in W.P. 202/1995.

List the matter after four weeks.

Item No. 306

List the matter for final hearing.

Item No.307

Application filed by the State of Rajasthan
seeking permission for the construction of missing link
of National Highway No.11A was considered by the
Standing Committee of NBWL, in its meeting held on 17th
July, 2009 and resolved as below:

"Diversion of 4.17 hac of forest land from
Janwa Ramgarh Wildlife Sanctuary for

Construction of missing link of National Highway-11 (Dausa-Manoharpur), Rajasthan. In this connection, a site inspection was made by Dr. Divyabhansingh Chandra, Member, and Dr. Anmol Kumar, DIG (WL). The site inspection report had been circulated to all the members. Member Secretary informed that the inspecting team has recommended the proposal subject to three conditions i.e. Compliance of all the conditions envisaged by CWLW in his recommendation; Appropriate action against the erring official of the PWD who have violated the Wildlife (Protection) Act, 1972, and direction of the Hon'ble Supreme Court by undertaking construction on Highway without necessary clearances; and , obtain approvals under the Forest (Conservation) Act, 1980, and

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of Hon'ble Supreme Court in the matter.

The Committee unanimously approved the recommendations of the inspecting team subject to conditions envisaged by CWLW in its recommendation."

The decision is reflected in the Annexure-A1 letter dated 27.7.09 of MoEF and the same has been approved.

The IA is, therefore, allowed in accordance with the directions given by National Board for Wild Life in 15th Meeting held on 17th July, 2009.

Item No. 308

I.A. No. 2920 of 2010 is allowed.

Item No. 309

In view of the decision taken by the Standing Committee in National Board for Wild Life in 13th meeting held on 12th January, 2009 and 16th meeting held on 7th October, 2009, I.A. No. 2857/2010 filed by the State of Rajasthan is allowed.

Item No. 310

Learned Amicus Curiae, Shri P.S. Narasimha submitted that issue relating to Aravali Forest Land is pending for consideration before the First Forest Bench and hence, this matter be tagged with Aravali Batch. Be listed before the First Forest Bench.

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Item No. 311

Mr. Kalu Ram Yadav, Driver/Hawaldar was alleged to have transported illegally timber in a Police vehicle and a case was charge-sheeted against him, but was

acquitted of that charge by order dated 4.12.2004 passed by the Chief Judicial Magistrate, Demoh in CrI. Case No. 1585 of 2002.

No appeal has been preferred against the said order and the same has attained finality.

Therefore, the I.A. has become infructuous and the same is dismissed.

Item No. 312

List the matter after four weeks.

Item No. 313

Perused the Report of the CEC in Application No.1246/2010. Application was preferred seeking permission for transportation and the use of the Mapia Foetida (a medicinal plant) planted on non-forest land falling within the boundary of the Koyna Wildlife Sanctuary. Principal Chief Conservator of Forest (Wildlife), Maharashtra Forest, raised no objection in issuing transit passes. Report of the CEC dated 11.5.10 is accepted and the application is disposed of as prayed for.

Item No. 314

Learned counsel appearing for the Municipal Council referred to Annexure A-5 letter dated 26.10.2010 of the Ministry of Environment & Forest, (Wildlife Division) addressed to the Chief Wildlife Warden and submitted that the council has some objection with regard to sub-paragraphs (iii) and (v) of paragraph 1 of that letter. If that be so, it is

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open to the Municipal Council to move the Ministry of Environment and Forest, and in turn, MoEF may vary the conditions, if so warranted.

Perused the report of the CEC dated 20.4.11 and permission is accorded to use of 1.241 hectares of forest land falling in Madhav National Park for laying of the underground pipeline for supply of drinking water to Shivpuri town, Madhya Pradesh subject to the conditions enumerated in paragraph 6 of the report of the CEC.

This IA is disposed of in the above terms.

Item No.315 (I.A. No. 2637 of 2009)

Application is disposed of giving liberty to the applicants to approach the Notified Authority under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and it is for the Notified Authority to consider their applications and to take appropriate decisions in accordance with law.

Petitioners, if so advised, may also approach the State Legal Services Authority for legal assistance.

Application is disposed of accordingly.

Item No. 316

Perused the report of the CEC dated 26.2.2010. Learned Amicus Curiae submitted that the applicant had

earlier moved the application No.1025 in respect of the same project which was allowed by this Court on the
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basis of the report of the CEC dated 28.9.2007. This application is accordingly disposed of incorporating the following conditions:

- (i) "Approval under the Forest (Conservation) Act for the use of the forest land will be obtained and the stipulated conditions including the condition regarding the payment of the NPV will be complied with;
- (ii) the conditions laid down by the Chief Wildlife Warden for carrying out of the work of the Ratapani Wildlife Sanctuary will be strictly complied with."

Item No. 317

Applications are allowed with a direction to the applicant to approach the National Board for Wild Life for appropriate directions under the Wildlife Protection Act, 1972. List the matter after four months.

Item No. 318

We find no reason to entertain this SLP, which in our view is an abuse of the process of this Court. Petitioner was not a party before the High Court and has approached this Court directly and obtained an interim stay of the judgment, which the parties to that judgment could not get so far. Further, the same issue is pending consideration in four other SLPs before the First Forest Bench, where cases relating to mining are dealt with.

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Petitioner, if so advised, may move for impleadment in SLP No. 19305 of 2010 and connected matters.

Permission to file the SLPs is rejected. Contempt Petition (C) No. 252/2011 is not entertained.

Item No. 319

List after two weeks.

Item No. 320

Parties in person appeared.

Prayer of the applicants in the application is for a direction to MoEF to consider the suggestions given by the applicants in their two representations dated August 27, 2010 and October 15, 2010 and also to hold up the study conducted by AHEC, IIT, Roorkee.

Prayer is over-ambitious and cannot be granted.
MoEF, if so inclined, examine suggestions made by the
applicants. The Applications are disposed of as above.
Item No. 321

Issue notice returnable within three weeks.

Item No. 322

I.A. Nos. 2792-2793 are allowed in terms of the
conditions enumerated in the Report of the CEC dated
19.1.2011.

Item No. 323:

I.A. No. 2783 of 2009 is allowed in terms of the
Report of the CEC dated 18th January, 2010, subject to
the fulfillment of the conditions imposed by NBWL
reflected in the letter of MoEF dated 27.7.09.

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Item No. 324:

I.A. Nos. 2974 and 2980 of 2010

I.A. Nos. 2974 and 2980 of 2010 are allowed following
the order of this Court in I.A. Nos. 2968 and 2970 dated
14.3.11, by which this Court has permitted relocation of
the saw mills of the applicant and other wood based
industries in (a) industrial areas notified by the U.P.
Government / Government of India and (b) Nagar Nigam Area
(Municipal Corporation) Areas irrespective of the distance
of such areas from the nearby forest in the State of U.P.
The report of the CEC dated 20.4.11 has stated that the
applicant's saw mill is also covered by the above mentioned
order.

After hearing the counsel and the amicus curiae, we
are inclined to allow the applications following the order
of this Court dated 14.3.11.

I.A. No. 2975 of 2010

This application is also allowed.

Item No. 325

Adjourned for a week.

Item No. 326

Application is allowed in terms of the
recommendations of the CEC dated 20th April, 2011 subject to
the condition incorporated therein.

Item No. 327

Permission to file SLP granted.

Issue notice. In addition dasti notice.

State to file Counter Affidavit within four weeks.

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Meanwhile, there shall be stay of dispossession and
demolition of the buildings of the petitioners for a period
of two months.

Application for deletion of Proforma Respondents in
SLP (C) Nos. 17313-17314 of 2011 is allowed at the risk of
the Petitioner.

Item No. 328

List the matter after four weeks.

Item No. 329

Sandalwood matters would be taken up for hearing next
Friday.

Parties to get ready on that day.

Item NO. 330

List the matter next week.

Item No. 331

List the matter after four weeks.

Item No. 332

List the matter next Friday.

Item NO. 333

List the matter after four weeks.

(Sharda Kapoor)
Court Master

(Rajni Mukhi)
P.A.