

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO. 32714 OF 2024 (GM-MM-S)

C/W WRIT PETITION NO. 26096 OF 2024 (GM-MM-S)



IN W.P. No. 32714/2024

BETWEEN:

1. SHIVAGANGA STONE CRUSHING INDUSTRIES
NO.35, NO.30/41, 1ST FLOOR
MADURA ESTATE
KESWAPURA VILLAGE
KESWAPURA HOBLI
HUBBALLI TALUK
DHARWAD DISTRICT - 580 023
REPRESENTED BY ITS PARTNER
SRI SHASHANK S SHETTAR
2. SRI S.R. BELLARY
S/O LATE RUDRAPPA
AGED ABOUT 49 YEARS
R/AT MUTEBENNUR VILLAGE
MUTEBENNUR HOBLI
BYADAGI TALUK
HAVERI DISTRICT - 581 110
3. SRI JAGADISH M. BATTURA
S/O MAHADEVAPPA D BATTHURA
AGED ABOUT 42 YEARS
R/AT MULUGUNDA VILLAGE
MULUGUNDA POST
GADAG TALUK
GADAG DISTRICT - 582 117
4. SRI A.J. KALKERI
S/O JANDI SAB KALKERI
AGED ABOUT 46 YEARS

Digitally
signed by
AMBIKA H B
Location:
High Court
of Karnataka

R/AT NO.1152/A
GUNDIKERI PLOT
HIREVADHATTI
MUNDARGI TALUK
GADAG DISTRICT - 582 113

...PETITIONERS

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W
SRI CHANNAMALLIKARJUNA GOUDA PATIL, ADVOCATE)

AND:

1. UNION OF INDIA
REPRESENTED BY THE SECRETARY
MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE (MOEF)
INDIRA PARIYAVARAN BHAVAN
JORABHAG ROAD
ALIGANJ, NEW DELHI -110 003
2. THE GOVERNMENT OF KARNATAKA
REPRESENTED BY THE CHIEF SECRETARY
SECRETARIAT
VIDHANA SOUDHA
BENGALURU - 560 001
3. THE PRINCIPAL CHIEF
CONSERVATOR OF FORESTS
OFFICE OF THE PRINCIPAL
CHIEF CONSERVATOR
OF FORESTS
ARANYA BHAVANA
MALLESHWARAM
BANGALORE - 560 003
4. THE PRINCIPAL CHIEF
CONSERVATOR OF FORESTS
AND CHIEF WILD LIFE WARDEN
ARANYA BHAVANA
MALLESHWARAM
BANGALORE - 560 003
5. THE SECRETARY
DEPARTMENT OF ENVIRONMENT
AND FOREST
SECRETARIAT

VIKASA SOUDHA
BANGALORE - 560 001

6. THE DISTRICT COMMISSIONER
GADAG DISTRICT
GADAG - 583 101
7. THE DISTRICT FOREST OFFICER (DFO)
WILD LIFE WARDEN
KAPPATHGUDDA WILDLIFE SANCTUARY
GADAG - 583 101
8. THE DISTRICT TASK FORCE
COMMITTEE (MINES)
GADAG DISTRICT
GADAG - 583 101
REPRESENTED BY ITS CHAIRMAN
9. THE SENIOR GEOLOGIST
GADAG DISTRICT
GADAG - 583 101
10. NATIONAL BOARD FOR WILDLIFE
NEW DELHI
REPRESENTED BY ITS
MEMBER SECRETARY

(IMPLEADED AS PER COURT ORDER DATED 11.03.2025)

...RESPONDENTS

(SRI RAJASHEKAR S, CGC FOR R-1 & R-10;
SRI KIRAN V. RON, AAG A/W
SMT. NILOUFER AKBAR, AGA FOR R-2 TO R-9)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION TO MODIFY THE BOUNDARY OF KAPPATHGUDDA WILDLIFE SANCTUARY FOR RESTRICTING TO 178 SQ.KM AS DECIDED EARLIER OR UPHOLD AND DECLARE THE GAZETTE NOTIFICATION NO.FEE-291-FWL-2015 DATED 11/04/2017 PRODUCED AS ANNEXURE-E, AS FINAL AND VALID, DECLARING KAPPATHGUDDA CONSERVATION RESERVE AND CONSEQUENTLY QUASH IMPUGNED NOTIFICATION IN SO FAR

BLOCK NO.4 OF SO-CALLED KAPPATHGUDDA WILDLIFE SANCTUARY VIDE NOTIFICATION NO.FEE-57/FWL/2019 DATED 16/05/2019 DECLARING KAPPATHGUDDA WILDLIFE SANCTUARY AS PER ANENXURE-G & ETC.

IN W.P. NO. 26096/2024

BETWEEN:

1. M/S SRI GAGANDEEP STONE CRUSHER INDUSTRIES
2ND CROSS, NANDESWAR NAGAR
KALASAPUR ROAD
GADAG
REPRESENTED BY ITS PROPRIETOR
SRI SHIVANAND V PALLED
2. M/S. SRI DEVI STONE CRUSHER INDUSTRIES
M.I.G.-1, HOUSE NO.364
HUDCO COLONY, GADAG
REPRESENTED BY ITS
PROPRIETOR
SRI BASAVARAJ.S RAYAPUR
3. M/S SRI ADISHAKTI STONE CRUSHER
RESIDING AT MOTEBENNUR VILLAGE
MOTEBENNUR HOBLI
BYADAGI TALUK, HAVERI DISTRICT
PIN CODE - 581 110
REPRESENTED BY ITS
PROPRIETER
SRI VIKRAM B. BELLARY
4. M/S SRI VENKATESWAR INDUSTRIES
2ND CROSS, VIDYANAGAR
SHIRHATTI-VILLAGE
SHIRATTI-TALUKA
GADAG DISTRICT
REPRESENTED BY ITS
PROPRIETOR
SRI S SUDHEER REDDY
5. M/S. SRI SAI STONE CRUSHER
MAGADI-VILLAGE
SHIRHATTI-TALUKA
GADAG- DISTRICT

REPRESENTED BY ITS
PROPRIETOR
SRI C. SUBBAREDDY

...PETITIONERS

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W
SRI CHANNAMALLIKARJUNA GOUDA PATIL, ADVOCATE)

AND:

1. STATE OF KARNATAKA
ADDITIONAL CHIEF SECRETARY
TO GOVERNMENT
FOREST, ECOLOGY AND ENVIRONMENT DEPT.
M.S. BUILDING
BENGALURU - 560 001
2. SECRETARY TO GOVERNMENT
FOREST ECOLOGY AND
ENVIRONMENT DEPARTMENT
M.S.BUILDING
BENGALURU - 560 001
3. PRINCIPAL CHIEF CONSERVATOR OF FORESTS
HEAD OF FOREST FORCE
4TH FLOOR, ARANYA BHAVAN
18TH CROSS MALLESWARM
BENGALURU - 560 003
4. PRINCIPAL CHIEF CONSERVATOR OF FOREST
(WILD LIFE), 2ND FLOOR
ARANYA BHAVAN
18TH CROSS, MALLESHWARAM
BENGALURU - 560 003
5. THE KARNATAKA WILDLIFE BOARD
REPRESENTED BY ITS SECRETARY
8TH FLOOR, V.V. TOWER
AMBEDKAR VEEDHI
BENGALURU - 560 001
6. SECRETARY TO GOVERNMENT
(MINING SSI AND TEXTILES)
COMMERCE AND INDUSTRIES DEPARTMENT
VIKASA SOUDHA
BENGALURU - 560 001

7. DIRECTOR OF MINES AND GEOLOGY
DEPARTMENT OF MINES AND GEOLOGY
5TH FLOOR, KHANIJA BHAVAN
RACE COURSE ROAD
BENGALURU - 560 001
 8. DEPUTY COMMISSIONER
GADAG DISTRICT, GADAG - 582 101
 9. NATIONAL BOARD FOR WILDLIFE
NEW DELHI
REPRESENTED BY ITS
MEMBER SECRETARY
 10. THE SECRETARY
MINISTRY OF ENVIRONMENT FORESTS AND
CLIMATE CHANGE
INDIRA PARYAVARAN BHAWAN
JORBAGH ROAD
ALIGANI, NEW DELHI -111 003
(IMPLEADED AS PER COURT ORDER DATED 11.03.2025)
...RESPONDENTS
- (SRI RAJASHEKAR S, CGC FOR R-1 & R-10;
SRI KIRAN V. RON, AAG A/W
SMT. NILOUFER AKBAR, AGA FOR R-2 TO R-8 &
SRI RAJASHEKAR S., CGC FOR R-9 & 10)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION TO MODIFY THE BOUNDARY OF KAPPATHGUDDA WILDLIFE SANCTUARY FOR RESTRICTING TO 178 SQ.KM AS DECIDED EARLIER OR UPHOLD AND DECLARE THE GAZETTE NOTIFICATION NO.FEE-291-FWL-2015 DATED 11/04/2017 PRODUCED AS ANNEXURE-B, AS FINAL AND VALID, DECLARING KAPPATHGUDDA CONSERVATION RESERVE AND CONSEQUENTLY QUASH IMPUGNED NOTIFICATION NO.FEE-57/FWL/2019 DATED 16/05/2019 DECLARING KAPPATHAGUDDA WILDLIFE SANCTUARY AS PER ANNEXURE-D & ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, ORDER WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

C.A.V. JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The petitioners hold licenses to operate stone-crushing industries on *patta* lands located in the immediate vicinity of the fourth block of the Kappathagudda Reserved Forest. They have filed these petitions impugning a Notification dated 16.05.2019, declaring the area measuring 244.15 sq. km. (24415.73 hectares) excluding enclosures, revenue villages, *patta* lands and revenue lands as on the date of publication of the notification in Gadag, Mundaragi and Shirahatti Taluks of Gadag District as Kappathagudda Wildlife Sanctuary [**KW Sanctuary**]. The petitioners are aggrieved by the delineation of the boundaries of the KW Sanctuary. Their grievance stems from the fact that their respective units fall within the Eco-Sensitive Zone [**ESZ**] of the KW Sanctuary. This renders it impermissible for them to carry on any mining activities or to operate their stone-crushing units. Therefore, the petitioners, *inter alia*, seek that directions be issued to modify the boundaries of the KW Sanctuary and restrict it to 178 sq. kms., as decided earlier. They seek that the Notification dated

11.04.2017, proposing the extent of KW Sanctuary be held as final. The petitioners also pray that directions be issued to the respondent to prepare an exit plan/scheme for settling their rights in respect of stone-crushing units located within 1 km. of the KW Sanctuary. In addition to the aforesaid prayers, the petitioners in Writ Petition No.26096/2024 also impugn the order dated 27.06.2024, issued prohibiting the operation of stone-crushing and mining activities by the units operated by the respective petitioners.

2. Mr. G.S. Kannur, learned Senior Counsel appearing for the petitioners, focused his arguments challenging the impugned notification on the ground that the State Government had altered the boundaries of the KW Sanctuary without obtaining permission from the National Board for Wildlife. He submitted that the Notification dated 11.04.2017 had restricted the area of the KW Sanctuary to 178 sq. kms. However, the said boundaries had been altered by the State Government without following due process of law.

3. Mr. Kannur also contended that the impugned notification did not conform to any decision taken by the concerned authority. He submitted that even if the subsequent decision of the eleventh meeting of the Karnataka State Board for Wildlife [**the Board**] was

accepted, the notification declaring the KW Sanctuary ought to have declared an area of 300 sq. kms as the KW Sanctuary. He contended that the boundaries of the KW Sanctuary had been reduced to benefit certain mining units and for no other purpose.

PREFATORY FACTS

4. Parcels of land, aggregating about 300 sq. kms., including the area declared as the KW Sanctuary under the impugned notification, were declared as a reserve forest during the period 1882-1962. The forest in question comprised four blocks covering an area of about 300 sq. kms. However, there is some controversy in this regard. The learned counsel for the respondents submits that the precise calculation comprising all four blocks of the reserve forest is 282 sq. kms.

5. In a meeting held on 11.08.2010, the Board considered the proposal submitted by the Principal Chief Conservator of Forests (Wildlife) and the Chief Wildlife Warden to declare an area of approximately 300 sq. kms. of the Kappathagudda reserve forest as a Wildlife Sanctuary. The respondents state that during the meeting, concerns were raised regarding certain developmental activities within those limits. Hence, a Sub-committee was constituted to conduct public consultation and submit a report.

6. At the fourth meeting of the Board held on 26.07.2011, the members of the Board expressed their unanimous view that the matter regarding the declaration of the KW Sanctuary could not be deferred, as such a declaration was of utmost importance for the conservation of biodiversity. All the members resolved to declare KW Sanctuary early.

7. The fifth meeting of the board was held on 15.12.2012. Once again, the issue regarding declaring KW Sanctuary was discussed. It was again suggested that the sub-committee of the Board shall take immediate action to conduct public consultation, and, after consultation, if the sub-committee reaches a conclusion on constituting a sanctuary, the proposal to that effect should be sent to the government. The respondents state that a public consultation meeting was convened by the sub-committee under the Chairmanship of Sri Anil Kumble on 21.02.2013. It is stated that during the proceedings, a large section of persons supported the proposal. A copy of the proceedings has been placed on record. However, some persons also opposed such a declaration.

8. At the meeting of the sub-committee of the Board held on 15.03.2013, the sub-committee concluded that there was an urgent need to protect and conserve the degraded habitat of the

Kappathagudda forest area, and that it would be appropriate to expedite the declaration of the Kappathagudda forest as a wildlife sanctuary. It is stated that despite the aforesaid conclusion, the State Government had sent a communication dated 27.05.2014, conveying that the proposal for declaration of the Kappathagudda forest as a wildlife sanctuary had been dropped.

9. At the seventh meeting of the Board, held on 15.07.2014, it was noted that the proposal had been moved by the Board's sub-committee to declare the KW Sanctuary. It is stated that during the said meeting, the Additional Chief Secretary of the Forest, Ecology and Environment Department stated that the matter would be reconsidered after a joint inspection by the Principal Chief Conservator of Forests (Wildlife), the Chief Wildlife Warden, and the concerned officers. The other members of the Board accepted the said proposal.

10. At the meeting of the sub-committee of the Board held on 09.04.2015, it was resolved that the proposed area may be notified as a conservation reserve. The relevant extract of the said meeting is reproduced below:

"I. **Agenda of 4th meeting of State Board for Wildlife**

1) **Kappathagudda Wildlife Sanctuary**

Regarding the proposal for declaration of Kappathagudda Wildlife Sanctuary, matter was discussed and Addl. Chief Secretary, Forest, Ecology and Environment informed that this area was visited by him and Principal Chief Conservator of Forests (Wildlife). Based on the filed visit and interaction with public and feedback from local people it was decided that proposed area of Wildlife Sanctuary may be notified as Conservation Reserve that will ensure protection of the area. It was resolved that same may be recommended to the State Board of Wildlife."

11. The issue was also discussed at the eighth meeting of the Board held on 11.09.2015, and pursuant to the proceedings, the Government of Karnataka issued a Notification dated 19.12.2015, declaring 17,872.248 hectares of the reserve forest area as the Kappathagudda Conservation Reserve.

12. The respondents state that, after the said notification, representations were received from members of the public and various organisations objecting to the said notification, *inter alia*, on the ground that the mandatory procedural requirement for consultation with local communities was not met. In view of the above, the Board resolved to withdraw the said notification issued under Section 36-A of the Wild Life (Protection) Act, 1972 [WPA] and a notification dated 19.11.2016 was issued withdrawing the earlier notification dated 19.12.2015.

13. It is stated that pursuant to the ninth meeting of the Board held on 31.08.2016, the Principal Chief Conservator of Forests (Wildlife) issued directions to the officials to conduct a public hearing without any delay. Pursuant to the said directions, the Deputy Commissioner of Gadag District issued letter dated 07.01.2017 convening a public hearing on 16.01.2017 at Tontadarya Kala Bhavan, Dambal Village of Mundaragi Taluk, Gadag District. It is also affirmed on behalf of the State Government that, prior to the public hearing, all 16 Gram Panchayats passed unanimous resolutions supporting the proposal to declare Kappathagudda Reserve Forest as Kappathagudda Conservation Reserve. Thereafter, the notification dated 11.04.2017 was issued under Section 36-A of the WPA, declaring an area of 17,872.248 hectares of reserve forest as the Kappathagudda Conservation Reserve.

14. The said Notification dated 11.04.2017 was challenged by way of writ petitions in this Court [W.P Nos.25212/2017 and 25733-25740/2017 (GM-MMS)]. The said petitions were dismissed by an order dated 31.05.2019.

15. At the eleventh meeting of the Board held on 09.11.2019, the Board resolved that the entire 300 sq. kms. of Kappathagudda

Forest Area be declared as Kappathagudda Wildlife Sanctuary.

The relevant extract of the minutes of the eleventh meeting of the

Board held on 09.11.2019 is set out below:

"The Board was informed about re-notifying 178.66 Sq.kms. of Kappathagudda Reserve Forests as "Kappathagudda Conservation Reserve" as per Section 36-A of Wildlife (Protection) Act - 1972. The Board further deliberated on the issue and many of the members expressed that the Status of the land at Kappathagudda being a reserve forest is not appropriate to constitute the Reserve Forests as a Conservation Reserve. The Board during the 3rd meeting held on 11-08-2010 had proposed for declaring the entire 300 sq.kms. of Kappathagudda Reserve Forests as Kappathagudda Wildlife Sanctuary.

Kappathagudda Reserve Forests is unique as the vegetation in the area has many medicinal plants and it is worth preserving the same for eternity. All the members unanimously suggested to declare the entire 300 sq. kms. of Kappathagudda Reserve Forest as Kappathagudda Wildlife Sanctuary. The board resolved in favour of proposal to declare entire 300 Sq.Kms. area of Kappathagudda RF as Wildlife Sanctuary. Detailed proposals with draft notification has to be submitted to the Govt. for declaring the forests of Kappathagudda as Wildlife Sanctuary, under Section 26-A of Wildlife (Protection) Act-1972."

16. The State states that, pursuant to the said resolution, the impugned notification dated 16.05.2019 was issued, declaring the Kappathagudda Reserve Forest as the Kappathagudda Wildlife Sanctuary.

ANALYSIS

17. It is apparent from the facts as narrated above that there has been no decision to alter the boundaries of the KW Sanctuary. It is relevant to refer to Section 26A(3) of the WPA to examine if the same has been violated as contended on behalf of the petitioners.

Section 26A of the WPA is reproduced below:

"26A. Declaration of area as sanctuary.—(1) When—
(a) a notification has been issued under section 18 and the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government; or

(b) any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological faunal floral geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wild life or its environment, is to be included in a sanctuary,

the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be a sanctuary on and from such date as may be specified in the notification:

Provided that where any part of the territorial waters is to be so included, prior concurrence of the Central Government shall be obtained by the State Government:

Provided further that the limits of the area of the territorial waters to be included in the sanctuary shall be determined in consultation with the Chief Naval Hydrographer of the Central Government and after taking adequate measures to protect the occupational interests of the local fishermen.

(2) Notwithstanding anything contained in sub-section (1), the right of innocent passage of any vessel or boat through the territorial waters shall not be affected by the notification issued under sub-section (1).

(3) No alteration of the boundaries of a sanctuary shall be made by the State Government except on a recommendation of the National Board.

18. The premise that the provisions of Section 26A(3) of WPA have been violated – as earnestly contented on behalf of the petitioners – is unfounded as the boundaries of the KW Sanctuary have not been altered after KW Sanctuary was declared.

19. In the present case, the facts as noted above, clearly indicate that the area spanning over 300 sq. kms. (or 288 sq. kms. as asserted by the State) had been declared as a reserve forest.

20. Section 26A(1) of the WPA mandates that the State Government shall issue a notification specifying the limits of the area, which shall be comprised within a sanctuary, if it considers the area comprising within a reserve forest to be of adequate ecological faunal, floral, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wildlife or its environment.

21. There is ample material on record which indicates that KW Sanctuary is rich in flora and fauna. The respondent has placed on

record the report of the studies conducted by the Wildlife Institute of India [WII] at the Kappathagudda Wildlife Sanctuary. The said study is titled "The Study on the status, habitat and conservation of Indian Grey wolf and associated carnivores at Kappathagudda Wildlife Sanctuary and other forests in Gadag Division." The report indicates that the camera trap study and field research documented the presence of extensive wildlife in the sanctuary. The said reports include photographic evidence of the presence of species like,

1. Leopard (*Panthera pardus fusca*)
2. Jungle cat (*Felis chaus*)
3. Stripped hyena (*Hyaena hyaena*)
4. Indian grey wolf (*Canis lupus pallipes*)
5. Golden jackal (*Canis aureus*)
6. Bengal fox (*Vulpes bengalensis*)
7. Blackbuck (*Antilope cervicapra*)
8. Four horned antelope (*Tetracerus quadricornis*)
9. Rusty-spotted cat (*Prinailurus rubiginosus*)
10. Asian palm civet (*Paradoxurus hemaphroditus*)
11. Small Indian civet (*Viverricula indica*)
12. Indian crested porcupine (*Hystrix indica*)
13. Black napedhare (*Lepus nigricollis*)
14. Bonnet macaque (*Macaca radiate*)
15. Chinkara (*Gazella benettii*)
16. Jackal (*Canis aureus indicus*)
17. Grey Langur (*Semno pithecius*)
18. Indian grey mongoose (*Urvae edwardsii*)
19. Spotted Deer (*Axis axis*)
20. Wild Pig (*Sus scrofa*)

22. The minutes of the meeting of the Board clearly indicates that the members are unanimous in their opinion that the area in question is rich in flora and fauna and requires to be protected.

23. The petitioners' contention that, since only 178.66 sq. kms. were initially declared as a conservation reserve, the impugned notification altered the boundaries of the KW Sanctuary is erroneous. The impugned notification declared the KW sanctuary for the first time; therefore, the contention that it altered the boundary of a declared sanctuary is without any basis. As noted above, the Board had, as early as in its third meeting held on 11.08.2010, considered the proposal for declaring approximately 300 sq. kms. of the Kappathagudda forest area as a wildlife sanctuary.

24. Subsequently, a part of the said forests was declared as a conservation reserve. There was no impediment for the State Government to declare the area as a wildlife sanctuary.

25. The State has also filed three coloured maps indicating area of 178.8 sq. kms. of the reserve forest, which had been declared as Kappathagudda Conservation Reserve. The KW Sanctuary includes the entire 178.8 sq. kms. area of the Kappathagudda Conservation Reserve and part of the remaining reserve forests. In other words, no part of the area that was declared as Kappathagudda Conservation Reserve was excluded from the boundaries of the KW Sanctuary. However, certain pockets of

reserve forest, which were not included within the Kappathagudda Conservation Reserve, were also included as a part of the KW Sanctuary.

26. Inexplicably, some parts of the Kappathagudda reserve forest are excluded from the area of the KW Sanctuary. There is no ambiguity in the resolution dated 09.01.2019 passed by the Board, where the entire 300 sq. kms. of the reserve forest is declared as a wildlife sanctuary. It is affirmed on behalf of the State that the impugned notification was issued pursuant to the decision of the eleventh meeting of the Board under the Chairmanship of the Hon'ble Chief Minister. However, the impugned notification declares the only area of 24415.73 hectares (244.15 sq. kms.) as KW Sanctuary. This raises a question as to why approximately 55 sq. kms. of reserve forest was not declared as a wildlife sanctuary.

27. Although no relief to the effect of including the left out portions of the Kappathagudda forests in the KW Sanctuary is sought, this court had invited the counsel to advance submissions in this regard.

28. The petitioners contend that the same has been done to benefit a few units which are owned by influential persons. In the

aforesaid context, we also directed the State to indicate the reasons for reducing the area of the KW Sanctuary in the impugned notification.

29. Mr. Kiran Ron, learned Additional Advocate General, fairly states that no document is available regarding any decision to reduce the area of the KW Sanctuary. He, however, states that there is an error in recording the extent of Kappathagudda forest as 300 sq. kms. He submits that the aggregate area of the various notifications declaring reserve forests in Blocks I to IV of the region is approximately 288 sq. kms. He fairly states that although the decision of the Board was to declare the entire said area of reserve forest as KW Sanctuary, the notification for inexplicable reasons had reduced the area to 244.15 sq. kms. He states that there is neither any decision nor any file which contains any information as to why the impugned notification had confined the KW Sanctuary to an area of 244.15 sq. kms. Importantly, he also did not oppose the issuance of any directions to that effect

30. Once the Board has taken a decision to declare the entire area of the reserve forest as KW Sanctuary and the State Government has acted upon the decision, in the absence of any reasoned decision restricting the area of the KW Sanctuary, the

impugned notification confining the area of the KW Sanctuary contrary to the Board's decision, is *ex facie* arbitrary.

31. It is thus necessary for the respondent - State Government to issue a notification further including the left-out portions of the Kappathagudda Reserve Forest within the area of the KW Sanctuary.

32. Insofar as the challenge to the various orders directing closure of the stone crushing activities is concerned, the learned Senior Counsel appearing for the petitioners fairly stated that carrying on stone crushing and mining activities is impermissible within the ESZ of the sanctuary. There is no dispute that the petitioners' units fall within ESZ as notified under the notification dated 04.06.2025 issued under Section 3 of the Environment (Protection) Act, 1986. Thus, the petitioners' stone crushing units cannot be permitted to operate within the ESZ.

33. However, the learned Senior Counsel further submitted that the petitioners had made investments in the units that were required to be compensated under an appropriate exit plan. However, he is unable to point out any statutory framework that entitles the petitioners to any compensation. It is also material to

note that not all activities within the ESZ are proscribed. Therefore, the petitioners can utilise any land owned by them for permissible purposes.

34. In view of the above, the present petitions are dismissed. However, the respondents are directed to issue a further notification, including the left-out areas of the Kappathagudda Reserve Forest as a part of the KW Sanctuary, in accordance with the resolution passed at the eleventh meeting of the Board held on 09.01.2019. However, we clarify that if the State is of the view that it is necessary or expedient to exclude a part of the area from the boundaries of the KW Sanctuary, this order will not preclude the State Government to take a decision for altering the boundaries of the KW Sanctuary (which includes the left out portions of the reserve forest), *albeit* in accordance with the law.

35. The pending interlocutory applications also stand disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

AHB