



SL No. 90

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE, KOKATA BENCH
ORIGINAL APPLICATION NO. _____ OF 2024
Under Section 14, 15, 17 and 18 of the National Green Tribunal
Act 2010

IN THE MATTER OF:
Sushil Kumar Jain

...Applicant

VERSUS

**The Principal Secretary, Government of West Bengal, Department of Environment
& Ors.** ...Respondents

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Dated: 5.8.2024

05 AUG 2024

Sushil Kumar Jain

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SYNOPSIS

The present application is being filed under Section 14, read with Section 17 of the National Green Tribunal Act, 2010 by the applicant. The present petition is a civil case where a substantial question relating to environment is involved which arises out of the implementation of statutes relating to the environment, more particularly mentioned in Schedule-I of the National Green Tribunal Act, 2010. The case relates to illegally felling of trees by few miscreants and anti-environmentalists, which falls within the regional jurisdiction of this bench of this Hon'ble Tribunal. Therefore, this Hon'ble Tribunal has the jurisdiction to adjudicate over the present petition. The cause of action arose in or around 20th July, 2024, when the miscreants being the private respondents with the aid of their men and agents and employees had illegally with force tried to uproot and cut all the fully grown trees in the common area of the building at Rajat Gardens, 21, Ballygunge Park Road, Kolkata - 700 019. The Applicant made a written representation before the Respondent authorities, inter alia expressing its grievance in relation to the said illegal act and requesting them to take action against the wrongdoers. However, the Respondents Authorities have not taken any action and/or steps in protecting the environment and penalizing the wrongdoers. The applicant above named begs to present the Original Application against the inaction of the respondent authorities and for imposing environmental damages against the wrongdoers and to also protect future the fully grown trees, in and around the areas. Hence this Application.

By way of this application the applicant seeks intervention of this Hon'ble Tribunal praying inter alia for reliefs as more fully stated herein below.



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LIST OF DATES

Sr. No.	Date	Description
1	18th December, 2009	Date of Sale Deed for the flat purchased by the Applicant.
2	27th July, 2024	Date of representation made to the West Bengal Pollution Control Board regarding illegal felling of trees.
3	3rd July, 2024	Date when the cause of action first arose regarding the illegal felling of trees.
4	19th July, 2024	Additional date of cause of action related to the illegal felling of trees.
5	26th July, 2021	Date of the Order in WPO/242/2021 by the Hon'ble High Court at Calcutta related to a similar matter.



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& Ors.

...Respondents

MEMO OF PARTIES

1. Sushil Kumar Jain, son of Late B.C. Jain, residing at Ground Floor, Flat No. D2 & 106, Rajat Gardens, 21, Ballygunge Park Road, P.S. Karaya, Kolkata - 700 019. Email id: skj.pavangroup@gmail.com M: 9830044099;

...Applicant

VERSUS

1. The Principal Secretary, Government of West Bengal, Department of Environment, Prani Sampad Bhavan, 5th Floor, LB- 2, Sector III, Kolkata- 700 098, Email Id: psecy.env-wb@gov.in;
2. The Member Secretary, West Bengal Pollution Control Board, Paribesh Bhavan, 10A, LA Block, Sector- 3, Bidhan Nagar, Kolkata- 700106, E: ms.wbpcb-wb@bangla.gov.in M: 1800-345-3390.
3. Senior Environmental Engineer & In-Charge, Kolkata Regional Office, West Bengal Pollution Control Board, Mani Square, Block No. 8IT, Western Side, 8th Floor, 164/1, Maniktala Main Road, Kolkata- 700 054, E: M: +91-9433333016, E: ee12.wbpcb-wb@bangla.gov.in.
4. District Magistrate, Collectorate Building, South 24 Paraganas, Alipore South 24-Parganas. Kolkata - 700 027, India. dm-ali@nic.in.
5. The Officer-In-Charge, Karaya Police Station, 52, Karaya Road, Loer Range, Beckbagan, Ballygunge, Kolkata - 700 019; karayaps@kolkatapolic.gov.in
6. Divisional Forest Officer, South 24 Parganas, New Administrative Bldg, 4th Floor, 12, Biplabi Kanai Bhattacharjee Sarani, South Block, Alipore, Kolkata- 700 027; E: dfo24pgss.f-d-wb@gov.in
7. Rajat Garden Residents' Association, CIN No. U45204WB2008NPL128560, registered under the Companies Act, served through the Secretary being Shri Amit Bagri, Secretary) Flat- 103 & 505 and President and Committee member Shri Alok Tibrewal Flat- 301 & 406 having its address at Rajat Gardens, 21, Ballygunge Park Road, P.S. Karaya, Kolkata - 700 019; Email id: rajatgardens@gmail.com;

.....Respondents



Sushil Kumar Jain

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

EASTERN ZONE, KOLKATA BENCH

ORIGINAL APPLICATION NO _____ OF 2024

Under Section 14, 15, 17 and 18 of the National Green Tribunal

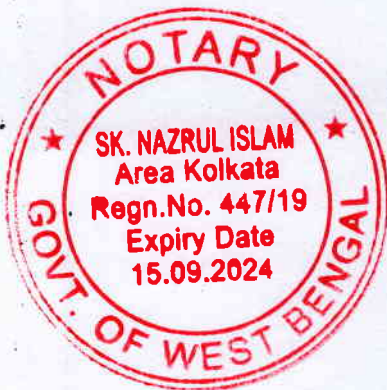
Act 2010

Susmit Kumar Jain, son of Late B.C. Jain, residing at Ground Floor, Flat No. D2 & 106, Rajat Gardens, 21, Ballygunge Park Road, P.S. Karaya, Kolkata - 700 019.

...Applicant

VERSUS

1. **The Principal Secretary,
Government of West Bengal,
Department of Environment
"Prani Sampad Bhavan",
5th Floor, LB- 2,
Sector III,
Kolkata- 700 098,
Email Id:
psecy.env-wb@gov.in;**
2. The Member Secretary, West Bengal Pollution Control Board, Paribesh Bhavan, 10A, LA Block, Sector- 3, Bidhan Nagar, Kolkata-



Susmit Kumar Jain

700106, Email Id: ms.wbpcb-wb@bangla.gov.in, M: 1800-345-3390;

3. Senior Environmental Engineer & In-Charge,
Kolkata Regional Office,
West Bengal Pollution Control Board,
"Mani Square",
Block No. 8IT, Western Side,
8th Floor, 164/1, Maniktala Main Road,
Kolkata- 700 054,
Mobile No: +91-9433333016,
Email Id:
ee12.wbpcb-wb@bangla.gov.in.
4. District Magistrate, Collectorate Building, South 24 Paraganas, Alipore South 24-Parganas. Kolkata - 700 027, India. dm-ali@nic.in.
5. The Officer-In-Charge, Karaya Police Station, 52, Karaya Road, Loer Range, Beckbagan, Ballygunge, Kolkata - 700 019;
Email id: karayaps@kolkatapolice.gov.in;
6. Divisional Forest Officer, South 24 Parganas, New Administrative Bldg, 4th Floor, 12, Biplabi Kanai Bhattacharjee Sarani, South Block, Alipore, Kolkata- 700 027;
E: dfo24pgss.fd-wb@gov.in
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.....Respondents

The humble application on behalf of the petitioners/ Applicant most respectfully.

SHEWETH:

1. The Applicant are law-abiding citizens of India and their residential accommodation as mentioned in the cause title hereinabove.
2. The addresses of the respondents are stated above for the purpose of service of notices pertaining to the instant application. All the acts, actions and inactions of the respondent authorities are amenable to the jurisdiction of this Hon'ble Tribunal. The respondent no. 1 to 6 are authorities within the meaning of Article 12 of the Constitution of India, 1950 and/or functionaries thereunder and respondent no. 7 is the private respondents i.e. Association and the Office bearers of the Apartment Association, who are primarily responsible.

A. FACTS OF THE CASE:

Susmit Kumar Jain



1. The present application is being filed under Section 14, read with Section 17 of the National Green Tribunal Act, 2010 (hereinafter referred to as the 'NGT Act'). The present petition is a civil case where a substantial question relating to environment is involved which arises out of implementation of statutes relating to environment, more particularly mentioned in Schedule- I of the National Green Tribunal Act, 2010.
2. Your Applicant would like to humbly state that the Applicant had vide a Sale Deed dated 18th December, 2009 purchased the said flat at the address mentioned in the cause title and have been living therein. The Applicant had started residing in the said flat on and from the year 2004 by virtue of an Agreement to Sale.

The Applicant craves leave of this Hon'ble Tribunal to refer to the copy of the relevant documents in this connection, at the time of hearing, if necessary.

3. Your Applicant would like to state that at the time of the construction of the building/apartment at the premises no. 21, Ballygunge Park Road, Kolkata - 700 019, there were fully grown trees and the same were protected during the construction of the apartment and made part of the common areas by the promoter for beautification of the building. The building was constructed in or about 22 years i.e 2002, furthermore, even the brochures of the building at the time of selling the apartment or flats contained pictures of the said trees cum garden as an alluring / captivating point for the buyers, as within the city a garden full of trees gives a feeling of calmness and a sense of being closer to the nature. The



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name of the building "Rajat Gardens" was given because of the greenery and the trees/plants in the said building area. There are three lawns in the said building, one being at the driveway (wherein the felling of the tree is being done), near the parking area, and one in front of the building.

Copy of the online project brochure photographs are annexed hereto and marked with Letter 'A'.

4. Your Applicant would like to state that respondent no. 7 with an ulterior motive is using different measures or tactics to damage either the roots or main branches of the trees so that the said trees either fall due to rotting of roots or either permanently wilt or dry out. Such an act is being committed on the pretext of increasing the width of the drive-way for parking of the cars.

Copies of the photograph of the trees and the ongoing construction being carried out in the manner to make the tree soil weak so as the roots of the trees rot or fall on their own is annexed hereto and marked with Letter "B Collectively".



5. Your Applicant would like to humbly state that the respondent no. 7 through their agents or mason have already finished a part of the construction by uprooting various small trees and bushes. If the respondent no. 7 and its members are not stopped within time, the entire area would be changed to a concrete driveway for parking of the vehicles and for their gain. The respondent no. 7 has also tried to make the open garden into a concrete space and has cleared all the

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vegetation therein for such purpose. The same was objected by other flat owners along with the Applicant, but to no avail.

Copies of the photographs of the small trees, shrubs and plants prior to uprooting and the current photographs after uprooting and the photographs of the open space and the complaint lodged by the other flat owners are annexed hereto and marked with Letter "C Collectively".

6. The Applicant would like to humbly submit that it is a laid down law that for uprooting any tree, permission has to be sought forth from the municipal authorities or the concerned authority. The said application for uprooting has to be made under Section 5 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006) seeking prior permission.
7. Furthermore, the applicant would like to state that as per Section 4 and Section 5 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, which states as followed:



“...Section 4: Restriction on Felling of Trees: -

Except as provided in this Act or the rules made thereunder, no person shall-

(a) fell any tree in the Non-Forest Areas; and

(b) cut, remove or otherwise dispose of any tree other than a tree which has felled without the aid of human agency....”

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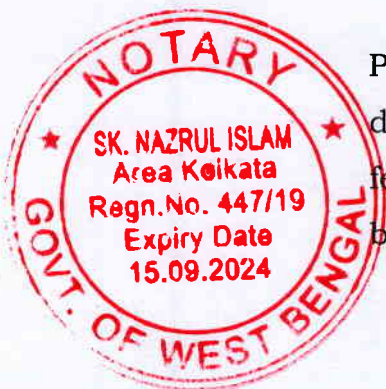
“...Section 5: Permission to Fell trees:

(1) A competent authority may, on receipt of an application from a person to fell a tree or otherwise dispose of any tree, for such purposes as may be prescribed, and on being satisfied with regard to the legality of documents towards the proof of ownership or lease of the land on which such tree stands and after making an inquiry, in such manner as may be prescribed, grant permission, in writing, to fell tree:

Provided that no such permission shall be granted, if it is found on inquiry that the nature or character of the land may change or the mode of use of the land may alter, unless the person concerned produces the conversion certificate obtained from the collector concerned under the provisions of section 4C of the West Bengal Land Reforms Act, 1955:

Provided further that in the Sadar sub-division, Kalimpong sub-division and Kurseang sub-division of the district of Darjeeling, no such permission shall be required, if a raiyat obtains permission under provisions of section 4A of the West Bengal Land Reforms Act, 1955, read with rule 474 of the West Bengal Land and Land Reforms Manual, 1991:

Provided also that the competent authority shall, within three days from the date of receipt of application, give permission of felling of trees, if it constitute such immediate danger, as may be prescribed to any person or property.



Susmit Kumar Jami

(2) Notwithstanding anything contained in sub-section (1), no permission shall be required if felling of trees is undertaken for not more than three trees at a time in rural areas:

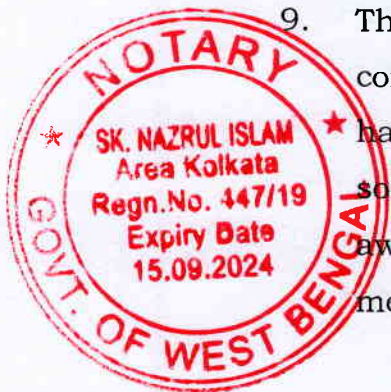
Provided that felling of trees shall not be undertaken in a particular plot of land more than once in a year.

Explanation 1 For the purposes of this section, "rural area" shall include all areas under Gram Panchayat and exclude the areas under Municipality, Notified Area Authority or Municipal Corporation.

Explanation II For the purposes of this section 'Municipality' and 'Notified Area Authority' shall have the same meaning as defined in the West Bengal Municipal Act, 1993.

8. Your Applicant would like to states that the respondent no. 7 in contravention to Section 5 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006), has taken the law in their hands and are removing the old construction near the tress or garden in such manner to make the soil and roots of the trees so weak that either the trees fall on their own or their roots wither.

9. The applicant would like to state that due to the rampant construction in and around the subsisting fully grown tree has caused few of the trees to slant due to the loosening of the soil and are almost on the verge of falling. Upon becoming aware of the ill motives of the respondent no. 7 and its members and seeing the current condition of the trees, the



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Applicant with the help of additional support have kept the tree from falling down or uprooting.

The Applicant crave leave to refer to the video of the construction work being carried out by the private respondent near the garden/trees, at the time of hearing, if necessary.

10. Your Applicant would like to humbly state that when the Applicant along with other family members tried to prevent respondent no. 7 and their agents or members from cutting these fully grown trees, the respondent no. 7 along with their agents and their goons threatened the Applicant with dire consequences.
11. Your Applicant states that the Applicant have made several complaints to the respondent authorities and called upon them to take strict action against such wrongdoers, but all is in vain. Till date none of the authorities have either come for inspection or even visited the site for the protection of the trees.

Copies of the complaints to the concerned authorities against the wrongful acts of the private respondent are annexed hereto and marked with Letter "D".

12. That upon the complaint of the Applicant, the Officer in charge, Karaya Police Station was directed to take action and file a report. **Copy of the said communication is annexed hereto and marked with letter E.**

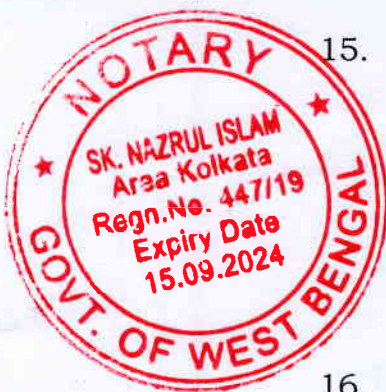


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13. That the Applicant would like to humbly submits that the Applicant had submitted representations vide a letter dated 27th July, 2024 to the respondent no. 2 (i.e. West Bengal Pollution Control Board) regarding the illegal felling of trees by the private respondents, but till date no action has taken by the concerned authority.

Copy of the Complaints dated 27th July, 2024 is annexed herewith and marked with the letter "F Collectively".

14. Your applicant would like to humbly state that the Applicant had planted various trees and saplings in its parking area to provide a better living standard for their family members and also to provide better environmental conditions by planting trees which automatically improves the air quality near their house as trees absorb carbon dioxide and release oxygen. Furthermore, it is a well known fact that trees act as a natural filter against pollution and they act as a natural air conditioner during summers by providing shade and they also attract birds and small wildlife to your surroundings. Additionally, planting a tree can enhance the aesthetic appeal of your property and increase its value.



15. Your Applicant states that there has been various studies and research that have shown that patients with the views of trees from their windows heal faster and have less complications when they have access to nature as exposure to trees and nature aids concentration by reducing mental fatigue.

16. Your applicant would like to state that several studies have explored active and passive experiences of trees and nature on

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mental health, combining physiological and validated self-report measures. It was found that depression decreased, and liveliness increased with forest immersion, with greater effects for subjects having higher initial stress levels, exposure to forest settings produced lower measures of anxiety, depression, anger, confusion, and fatigue and for women forest walking increased happiness more than walking in a gymnasium, with meditative walking in the forest being the most effective.

17. Your applicant would like to furthermore state that two studies used neurophysiological measures to assess brain state. Near-infrared spectroscopy (NIRS) of adults revealed a more relaxed brain state, and lower self-reported "anger and hostility" and "total mood disturbance" with forest views. These results align with findings from other studies that have used self-report data, which is the more common approach within this subdomain.
18. Your applicant would like to state that the Applicant have a special connection to the trees in general and thus had planted in the common garden as the applicant felt connected to nature and have accordingly nurtured these trees as a part of his family members.
19. Your Applicant would like to state that in the religious text known as Puranas, trees experience happiness, sorrow and have a conscience, and are living beings. Just like humans, trees are a part of samsara, also known as the cycle of life, death, and rebirth. Stemming from the ancient Vedic religion, the scriptures have held great reverence towards nature and

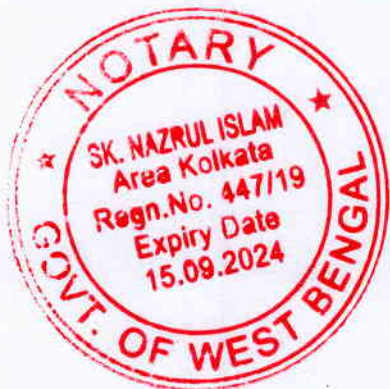


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believe trees are the origin of life. Trees hold high religious significance in Hinduism. In fact, every tree has a tree deity, or a god/goddess, who is to be worshiped, respected, and given offerings. Similarly, the Rig Veda states not as a warning but as a reminder to every human that, "Do not trouble trees. Do not uproot or cut them. They provide protection to animals, birds, and other living beings".

20. Furthermore, The Mahabharata, the Ramayana, the Vedas, the Upanishads, the Bhagavad Gita, the Puranas and the Smritis contain the earliest messages for preservation of environment and ecological balance. Nature, or Earth, has never been considered a hostile element to be conquered or dominated. In fact, man is forbidden from exploiting nature. He is taught to live in harmony with nature and recognize that divinity prevails in all elements, including plants and animals.

The Vedic Hymn to the Earth in Atharva Veda, 'MATA BHUMIH PUTROHAM PRITHIVYAH' means 'Earth is my mother, I am her son.' Mother Earth is celebrated for all her natural bounties and particularly for her gifts of herbs and vegetation. Her blessings are sought for prosperity in all endeavors and fulfilment of all righteous aspirations. Pancha Mahabhutas (The five great elements) - space, air, fire, water, and earth - are the foundation of an interconnected web of life. Hinduism recognizes that the human body is composed of and related to these five elements and connects each of the elements to one of the five senses. The human nose is related to earth, tongue to water, eyes to fire, skin to air, and ears to space.



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This bond between our senses and the elements is the foundation of our human relationship with the natural world. Dharma - often translated as "duty" - can be reinterpreted to include our responsibility to care for the earth. Similarly, animals were revered too. Kamadhenu was the wish-fulfilling cow, whose offspring are all the cattle on earth. But the greatest honour is given to animals which was their elevation as the vehicles of the Gods, Shiva rode the bull, Vishnu the eagle, Brahma the swan, and so on, 'God is in all things and all things are in God'.

21. Your Applicant would like to point out that even The Mahabharata hints that the basic elements of nature constitute the Cosmic Being, the mountains: His bones, the Earth: His flesh, the Sea: His blood, the Sky: His Abdomen, the Air: His Breath and the Agni (fire): His Energy. The whole emphasis of the ancient Hindu scriptures is that human beings cannot separate themselves from natural surroundings and Earth has the same relationship with man as the mother with her child.
22. The applicant would like to humbly state that In the Charak Sanhita, destruction of forests is taken as destruction of the State and reforestation an act of rebuilding the State and advancing its welfare. The Varah Purana says, "One who plants: one Peepal, one Neem, one Bar, ten flowering plants or creepers, two Pomegranates, two Oranges and five Mangos, does not go to hell."
23. The Rig Veda is a celebration of nature, it's hero the God of Rain. Nature has beautifully described in Rig Veda as:



Susmit Kumar Jais

"...Nature's beauty is an art of God. Let us feel the touch of God's invisible hands in everything beautiful. By the first touch of His hand rivers throb and ripple. When He smiles the sun shines, the moon glimmers, the stars twinkle, the flowers bloom. By the first rays of the rising sun, the universe is stirred; the shining gold is sprinkled on the smiling buds of rose; the fragrant air is filled with sweet melodies of singing birds, the dawn is the dream of God's creative fancy...". (Rig Veda 1.6.3)

24. Lord Krishna has also impressed on the significance of nature when he says in Bhagavad Gita (9.26):

"Patram pushpam phalam toyam, yo mey
Bhaktya prayachhati tadaham bhakt
Yopahrutam asnami prayataatmanaha"

Which means that I (i.e. Lord Krishna) accept a leaf, flower, fruit or water or whatever is offered to me with devotion.



25. Your applicant would like to humbly state and submit that the Applicant are Hindus and are connected to their Vedas and Sacred Texts but under no circumstances they are forcing their religious views upon the respondent authorities or the private respondents but the said rights and duties of the Applicant are also protected under Article 21 read with Clause (g) Article 51A of the Constitution of India, 1950, and the same duty is also casted upon the State (all the respondent authorities in this application are covered under Article 12 of

Susmit Kumar Jais

the Constitution of India) to protect and preserve the environment under Article 48A of the Constitution of India, 1950.

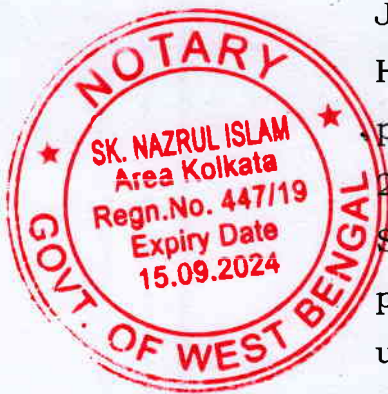
26. Your Applicant would like to state that the decision of the Hon'ble Supreme Court in the matter Hinchlal Tiwari v. Kamaladevi and Ors., reported in 2001 (6) SCC 496, in which, the Apex Court held that the natural resources of the community like forests, tanks, ponds, hillocks, mountain etc. is nature's bounty. As trees and natural habitats are essential for the well-being of a human to live in a clean and green environment. As it provides for a proper and healthy environment which enables people to enjoy a quality life, which is the essence of the right guaranteed under Article 21 of the Constitution.
27. Your Applicant states that there is grave urgency in the matter as the authorities are not taking any action and such heinous acts by the respondents are setting a bad example to the society at large showing that people can uproot and cut trees without any fear of the law.
28. The Applicant respectfully submit that the garden had various trees, plants and such removal of trees and plants not only cause problems to the Applicant and their family members but also a loss to the environment and infringes on the applicant right to a green and healthy environment and their right to enjoy a quality life which is protected under the Fundamental Rights of the Constitution of India.



Susmit Kumar Jain

29. Your applicant would like to state that in a similar matter, before the Hon'ble High Court at Calcutta in WPO/242/2021, the Hon'ble Court vide an Order dated 26th July, 2021, had held inter alia as followed:

"...The cutting of trees has nothing to do with the removal of accumulated water. Yet under the garb of removing water, as many as 62 (sixty two) trees have been cut. Compounding has also been sought on the ground of the petitioner is a first time offender and that he is willing to replant double the number of trees in the said plot or anywhere else that the Forest Department may direct. It appears that the owners had intended to construct a seven star hotel at the said premises. While the entreaties made by the petitioner appear to be attractive, one cannot lose sight of the fact that each tree, totaling 62 (sixty two) in numbers has left a permanent wound on the environment. Irreparable damage has been caused to society by the conduct of the petitioner. Given the heinous crime committed this Court the impugned order dated 5th January, 2019, does not otherwise call for interference. However, considering the fact that punishing the writ petitioner with limited amount of imprisonment under the 2006 Act would not bring back the trees, compensating the State/Forest Department/Society would be just and fair penalty, penance and retribution. The compensation shall be used to develop the environment in general and maintenance of better vigil against illegal tree felling. This Court is, therefore, inclined to permit compounding of the aforesaid offences mentioned in the aforesaid charge- sheet only upon payment of Rs. 40 (Forty) crores to the respondent no. 2 within a period of 15 days from date. The petitioner and/or



Sushil Kumar Jain

the owner of the property M/s. Emaar India Limited would additionally have to plant and ensure growth of about 100 trees on the said premises at No. 11 Russel Street, Kolkata 700071...".

Copy of the Solemn Order dated 26th July, 2021 of Hon'ble High Court at Calcutta in WPO/242/2021, is annexed hereto and marked with the Letter "D. G."

30. Your applicant would like to state that the Applicant situation is similar to that of the Writ Petition being WPO/242/2021, as the respondent in the writ petition by taking the shed of KMC, tried to cut down the trees by stating that the respondents need to cut the trees to remove the stagnant water that is accumulating in the property to discourage disease-carrying insects. The notice was issued to KMC and permission was sought forth to cut down the trees and as the land belong to the Government the compensation was paid to the concerned department for further beautification.

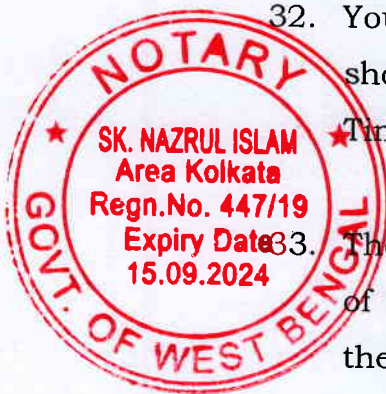
Accordingly, in the present case, the land belongs to all the members of the association including the owners of the flats and those who have rights over the common space as per the agreement. In the WPO/242/2021, the wrongdoers under the garb of creating driveway directly leading to the main road were felling down the trees and in this case, similarly the respondent no. 7 along with their agents and members are widening the driveway by uprooting and felling of trees and plants for hazel free egress and ingress of their large expensive BMW and Mercedes cars.



Suehid Kumar Jain

31. Your Applicant would like to submit that the main reason for the removal of the trees and plants from the garden and widening the existing driveway is being carried out for a very selective section of persons/owners of apartments or flats in the building. The said owners have a problem in waiting near the driveway for the car to pick them up from the parking, as for instance by the time the driver brings the expensive cars from the parking to stand near the gate of the building at the driveway, if another car comes behind it from the parking and has to pass through, the said owner of the flat would have to wait for their expensive car as the car would have to take a round of the building to come back to the gate to pick him or her up from the driveway. And for such small reason the respondent no. 7 and their agents are hell bent on destroying whatever little nature or environment is left in this concrete jungle. It is pertinent to understand that in a city which is already filled with concrete, even having few countable trees have an enormous impact upon the lives of residents and their kids.

32. Your applicant would like to state that the value of trees should not be calculated based on its monetary value (i.e. Timber Value) as the trees do not only produce timber.



33. The Applicant has not approached the Hon'ble Supreme Court of India or any other Court/Tribunal for reliefs pertaining to the self same cause of action.

34. If the reliefs as prayed for herein are not granted, the Applicant will suffer irreparable loss and injury.

Susmit Kumar Jais

35. The Applicant made a written representation before the Respondent Authorities, inter alia expressing its grievance in relation to the said felling of tree and for taking necessary steps. However, the Applicant has not received any reply or relief from the Respondent Authorities till date.
36. Being aggrieved by and dissatisfied with the said inaction by the Respondent authorities, the Applicant begs to move this application on, inter alia, the following amongst other:

B. GROUNDS:

- a. FOR THAT the respondent authorities have miserably failed to take any action for illegal felling of trees.
- b. FOR THAT the respondent authorities have miserably failed to appreciate that Applicant filed a complaint before the authorities regarding the illegal felling of trees by private respondents, but till date no action have been taken by the concerned authorities.



- c. FOR THAT by allowing indiscriminate felling of trees, the respondent authorities have acted in grave violation of their statutory duties.
- d. FOR THAT the absolute lackadaisical attitude demonstrated by the respondent authorities in protecting the environment.

Susmit Kumar Jain

- e. FOR THAT the inaction on the part of the respondent authorities in failing to prevent illegal felling of trees, is otherwise bad, illegal and cannot sustain the test of legality.

C. LIMITATION:

That there has been no delay in preferring this application and the present application is not barred by the Laws of Limitation. The offence is a continuing offence and the cause of action is still continuing as despite the Applicant's representations, no action was taken by the Respondents till date. The present Petition is thus well within time and is not barred by limitation. The cause of action in the instant case, accrued on 3rd July, 2024 and thereafter on 19th July, 2024, and the last letter was issued on 27th July, 2024 to the Respondent no. 2 calling upon the respondent authorities for taking any action against wrongdoers for the illegal felling of trees and as per Section 14 (3) of the National Green Tribunal Act, 2010, a dispute needs to be filed within 6 months from the date on which the cause of action for such dispute first arose. Thus, this application is well within the limitation period.



INTERIM PRAYER:

Pending final disposal of the application the applicant seeks issuance of the following interim orders:

- i. An interim order directing the respondent authorities to take action in accordance with law and/or submit action taken report;

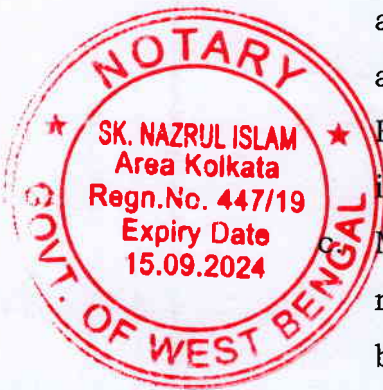
Sesid Kumar Jain

- ii. An interim order directing the respondent authorities to immediately take action against the private respondents being the respondent no. 7 and its office bearers and/or their servants and/or their employees and/or their agents for the illegal felling of trees till the disposal of the instant application;
- iii. An interim order restraining the respondent no. 7 and its office bearers and/or their servants and/or their employees and/or their agents from carry out any construction work at the drive way of the building and also the driveway from the In Gate & out Gate so as no trees or plants are harmed in any manner whatsoever;
- iv. Ad-interim order in terms of prayers (a) and (b) as above.

E. PRAYER:

In the circumstances aforesaid, the applicant prays that Your Lordships would be graciously pleased to pass the following order:

- a. An order directing the authorities to take action in accordance with law and/or submit action taken report;
- b. Mandatory order, do issue commanding the respondent authorities each one of them and their men, agents, assigns and subordinates to certify and transmit all the records to this Hon'ble Tribunal forming the basis of their inaction regarding illegal felling of trees;
- c. Mandatory order do issue commanding the private respondents being the respondent no. 7 and their office bearers and their men, agents, assigns and subordinates to take adequate measures to plant more than (10) ten number



Susmit Kumar Jain

- of trees against one tree felled illegally due to their activities in the common area in the guise of widening of driveway and to ensure and protect the tree leaned due to the construction activity initiated by the respondent no. 7 and its office bearers;
- d. Appropriated Penalty and compensation be imposed on respondent no. 7 and its office bearers for illegal felling of tree and for their deliberate action of causing damage to the trees;
 - e. An order of injunction restraining the private respondents being respondent no. 7 and its office bearers, their men, agents, servants and/or assigns, from destroying or make any construction on the driveway or the in & out gate of the driveway and thereby cause damage to the trees and plants;
 - f. Interim and ad interim orders in terms of prayers above;
 - g. Cost and/or incidental to the instant application
 - h. Such other and/or further order or orders as this Hon'ble Green Tribunal may deem fit and proper.

And your applicant, as in duty bound, shall ever pray.

Ripanta Jahan
H/3374/2022

Susmit Kumar Jain



Affidavit

I, Sushil Kumar Jain, son of Late B.C Jain, aged about 64 residing at Ground Floor, Flat No. D2 & 106, Rajat Gardens, 21, Ballygunge Park Road, P.s. Karaya, Kolkata - 700 019, do hereby solemnly affirm and state as follows:

1. That the Applicant herein and as such conversant with the facts of the accompanying original application and is competent to swear the present affidavit.
2. That the accompanying application may be read as part and parcel of the present affidavit as the contents of the same have not been repeated herein to avoid repetition.
3. That the documents filed with the present affidavit are true replica of their respective originals.
4. The statements made in paragraphs 1, 2, 6 to 10, 14 to 36, B and C in the foregoing petition are true to my knowledge and those contained in paragraph nos. 3, 4, 5, 11, 12 and 13 are matters of record and information derived from record, which are believed to be true and correct and the rest thereof including the prayer portion are my respectful submissions before this Hon'ble Tribunal.

Identified by me &
prepared in my office.

(Bipasha Jainwal)
Advocate
Bipasha Jainwal

Sushil Kumar Jain
DEPONENT

BEFORE ME

NOTARY PUBLIC



Solemnly Affirmed and
Declared before me U/S 139
CPC, U/S 297 (C) CrPC

SK
Notary

SK, Nazrul Islam
Notary, Govt. of W.B.
Regn. No. 447/19
City Civil Court, Calcutta

05 AUG 2024

VERIFICATION

Verified at Kolkata by the Deponent named on this the 5th day of August, 2024 and I do hereby verify that all the facts mentioned in the affidavit are true to my Knowledge and no part thereof is false and nothing material has been concealed there from.

Dated: 05.08.2024

Place: Kolkata

Susmit Kumar Jain
DEPONENT

Identified by me

(Bipasha Jainwal)
-Advocate
Bipasha Jainwal



-Annexure A-

- A -

- 29 -

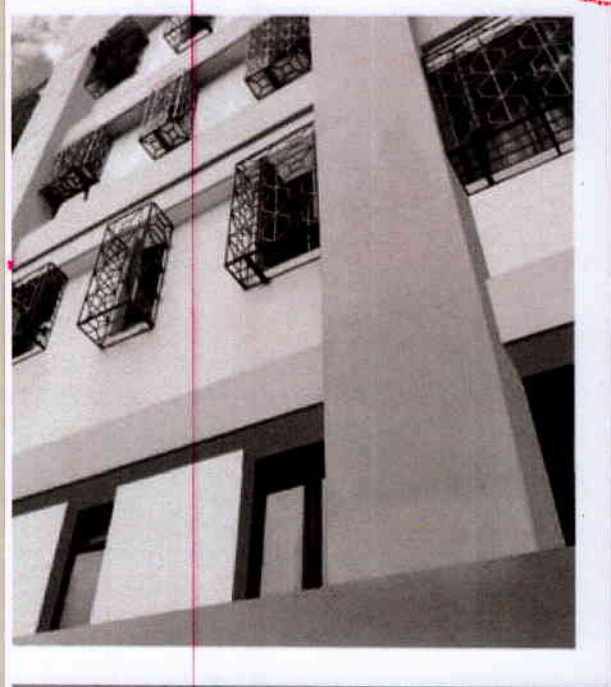


RAJAT villa SOLD OUT **Rajat gardens**

15 Chandramadhav Road, Kolkata - 700 020

NOTARY
 SK. NAZRUL ISLAM
 Area Kolkata
 Regn.No. 447/19
 Expiry Date
 15.09.2024
GOVT OF WEST BENGAL

21, Ballygunge Park Road, Kolkata - 700 019



Enquire Now



CORPORATE

PROJECTS

REFERRAL

CONTACT

SOLD OUT

RAJAT enclave

58, Manik Bandopadhyay Sarani, Kolkata - 700 040



SOLD OUT

RAJAT villa

25, Justice Chandramadhav Road, Kolkata - 700 020



SOLD OUT

Rajat gardens

21, Ballygunge Park Road, Kolkata - 700 019



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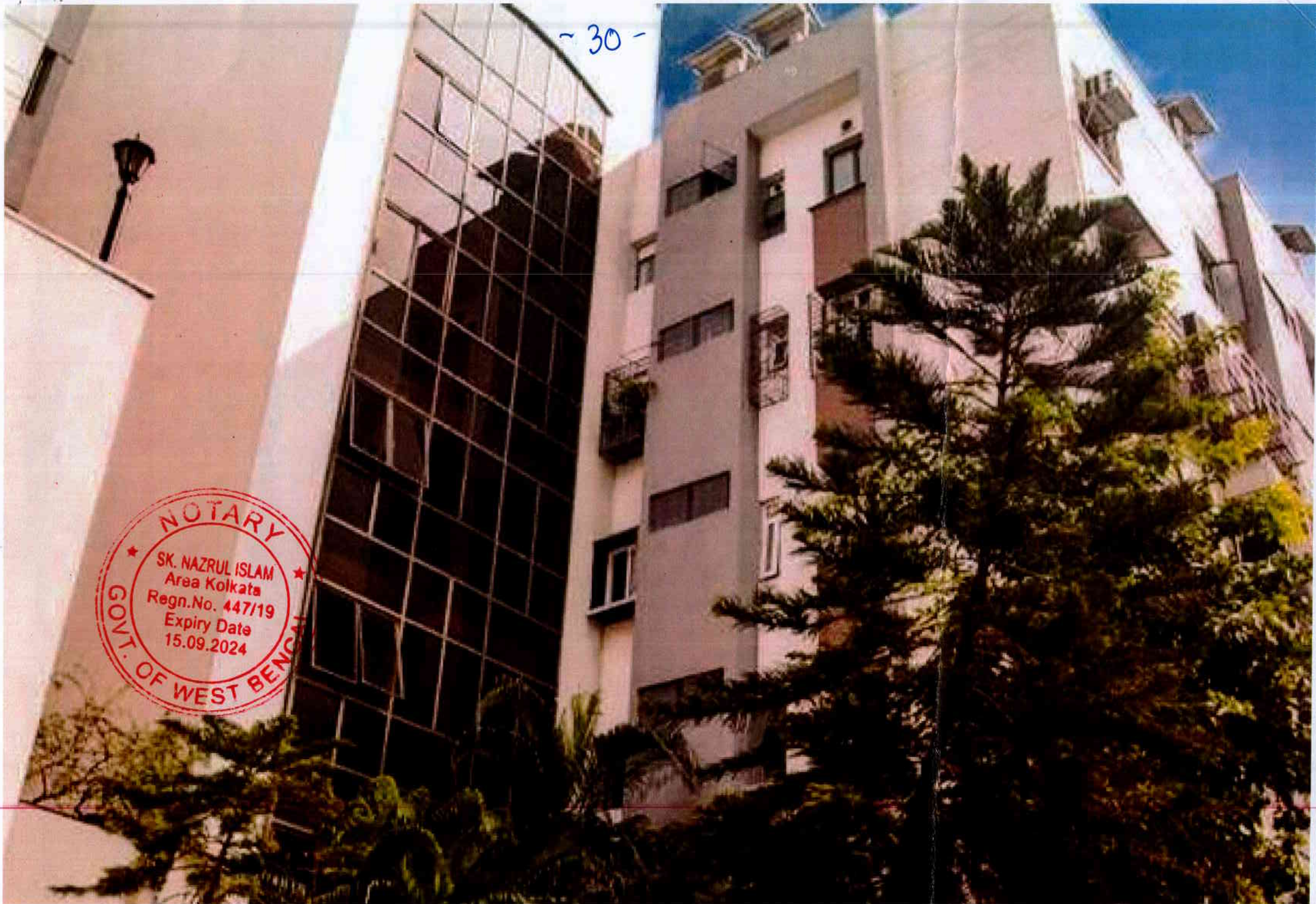
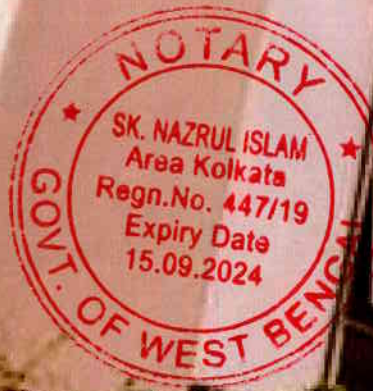
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WhatsApp

Enquire Now

- 30 -



HDR



NOTARY
SK. NAZRUL ISLAM
Area Kolkata
Regn.No. 447/19
Expiry Date
15.09.2024
GOVT. OF WEST BENGAL



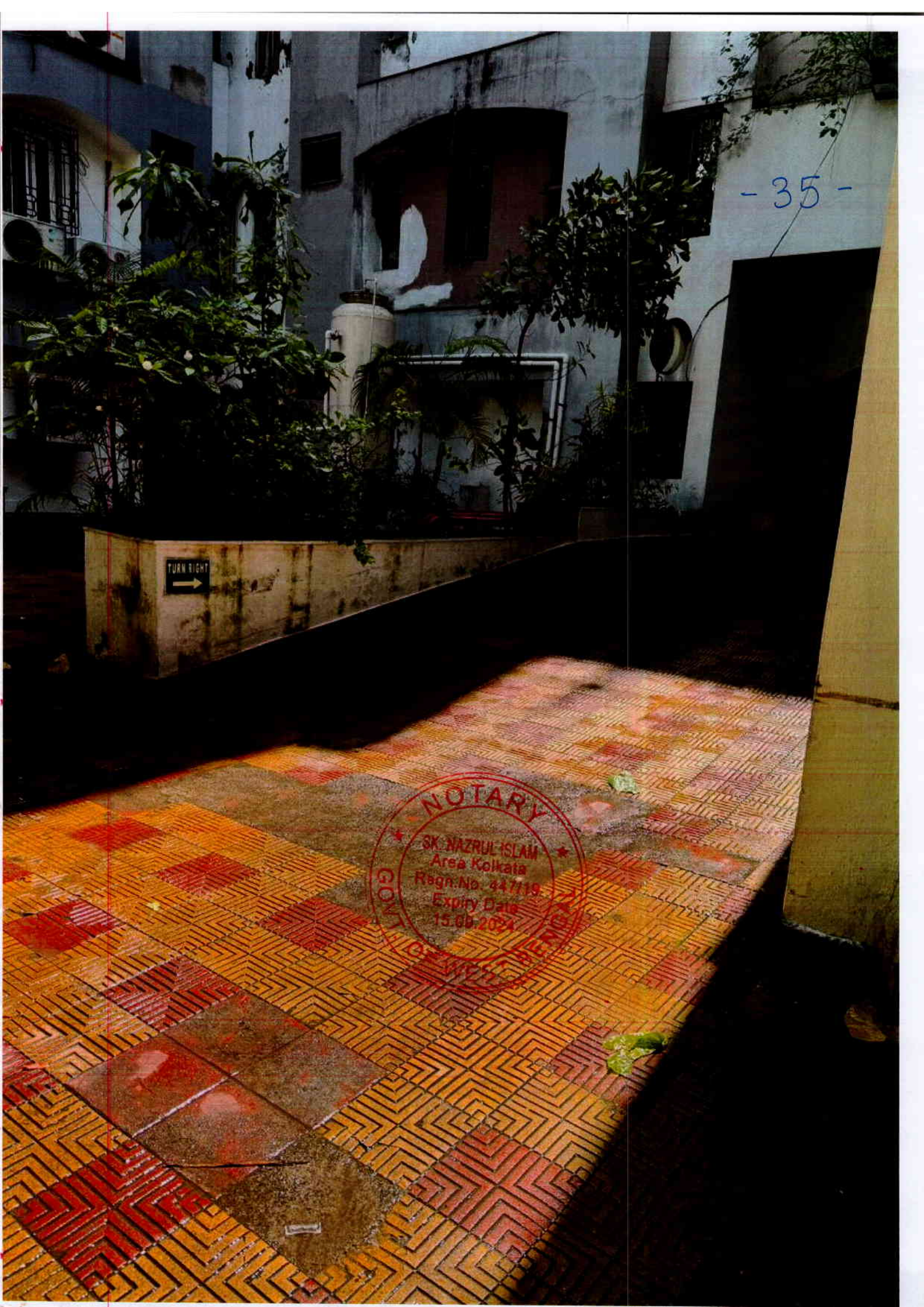
NOTARY
*
DR. MAZRUL ISLAM
Kolkata
No. 447/19
Date
09.2024
*
OF WEST BENGAL



SECRETARY
NAZRUL ISLAM
Gn. No. 47/19
Expiry Date
15.09.2024
GOVT. OF WEST BENGAL

- 34 -

NO. 34
SK. HAZRAT
Area No. 1
Regn. No. 447/19
Excise Date
15.09.2024
OF WEST BENGAL



- 35 -

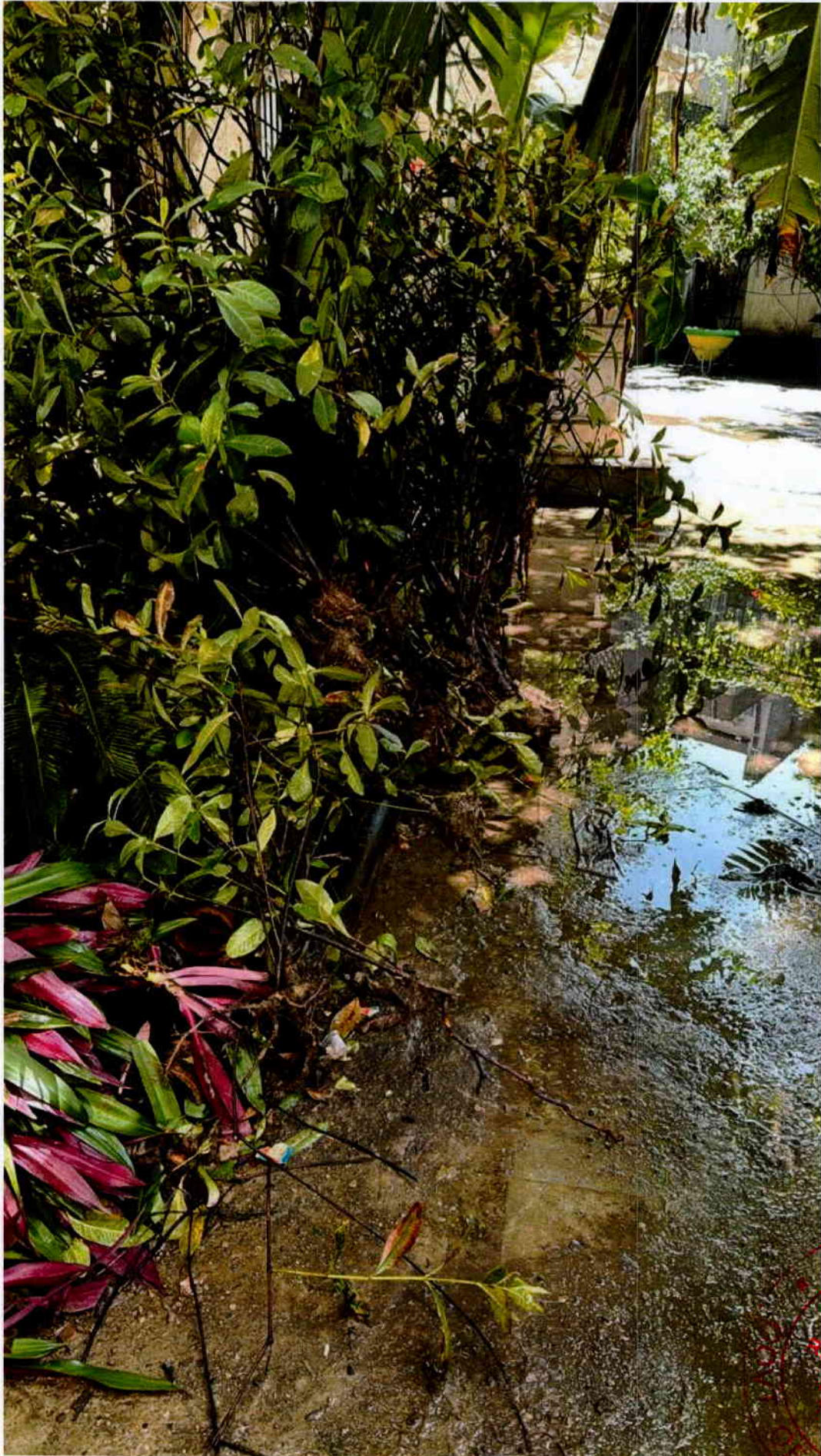
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NOTARY
SK. NAZRUL ISLAM
Area Kolkata
Regn.No. 447719
Expiry Date
15.06.2024

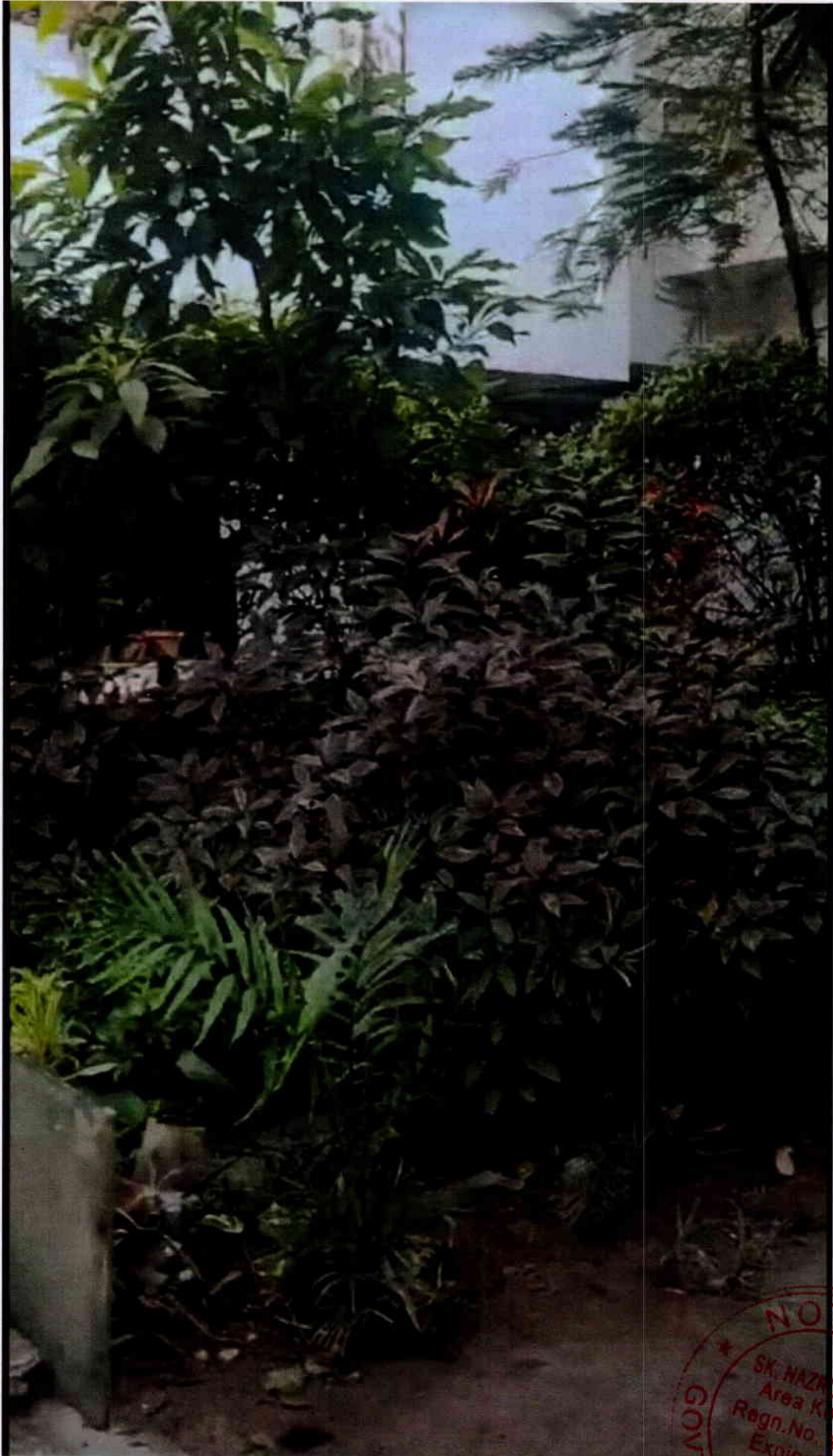
-Annexure C Colly-

C colly - 36 -

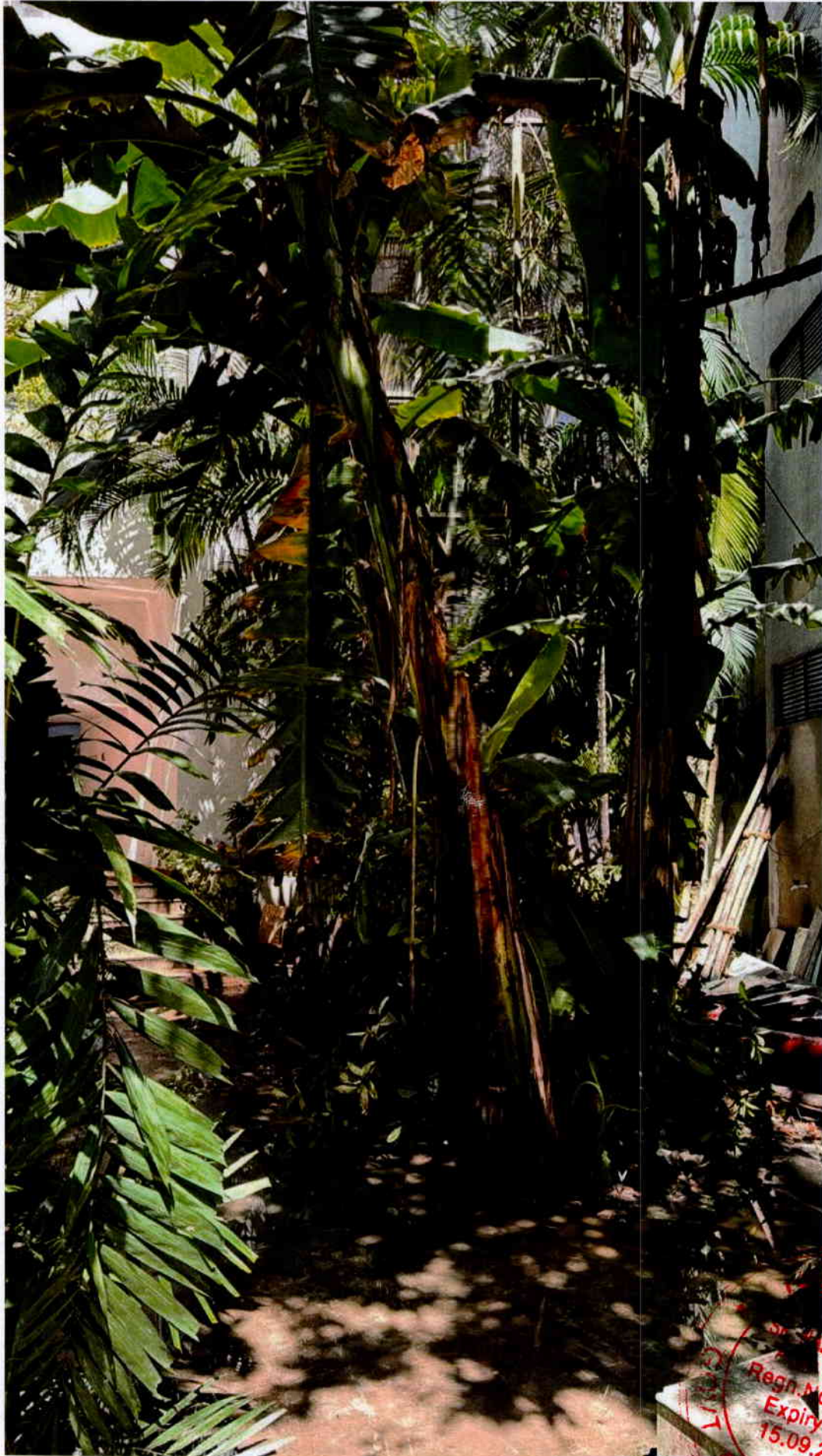




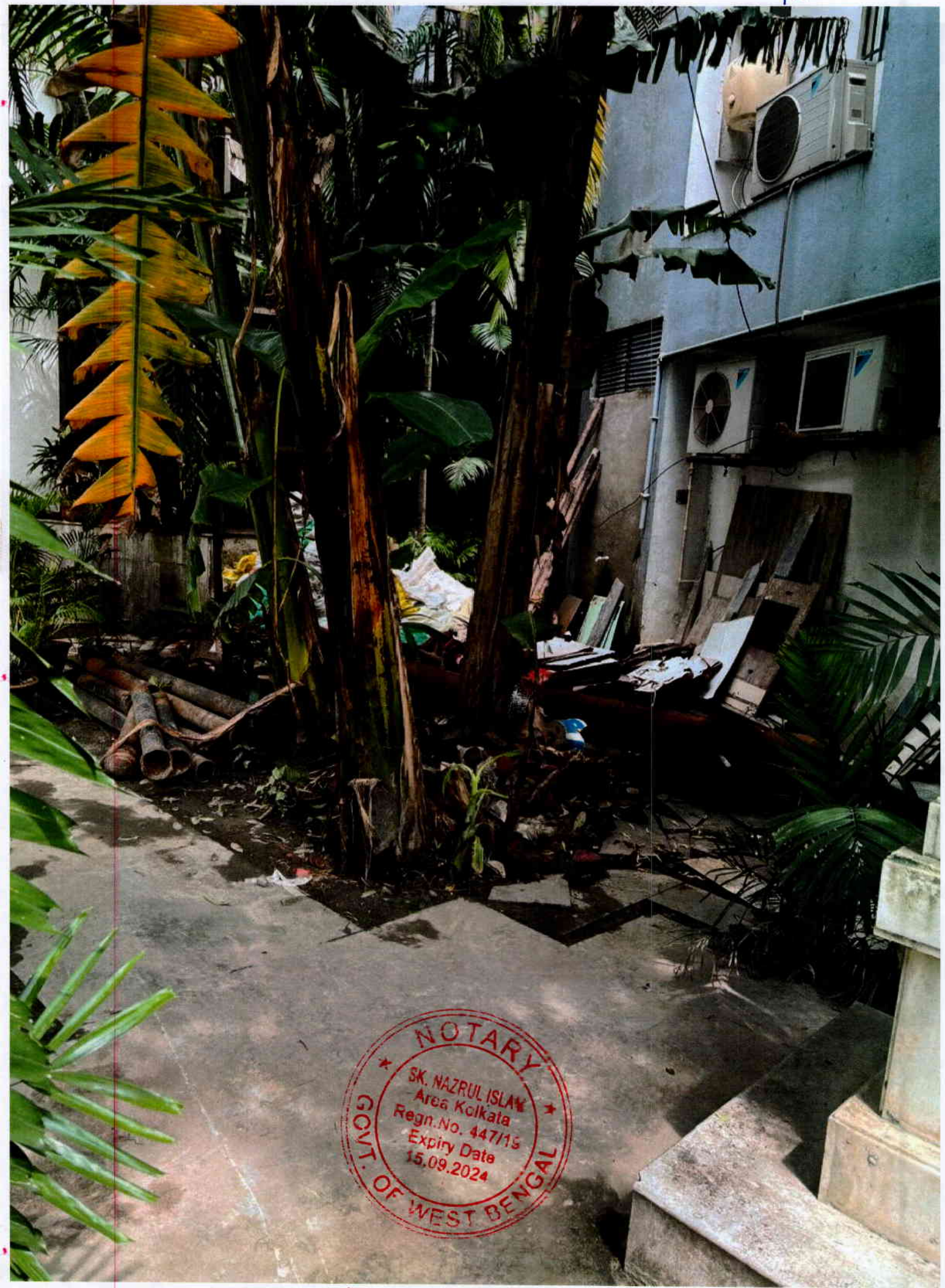
NOTARY
SK. NAZRUL ISLAM
Area Kolkata
Regn.No. 447/19
Expiry Date
15.09.2024
WEST BENGAL



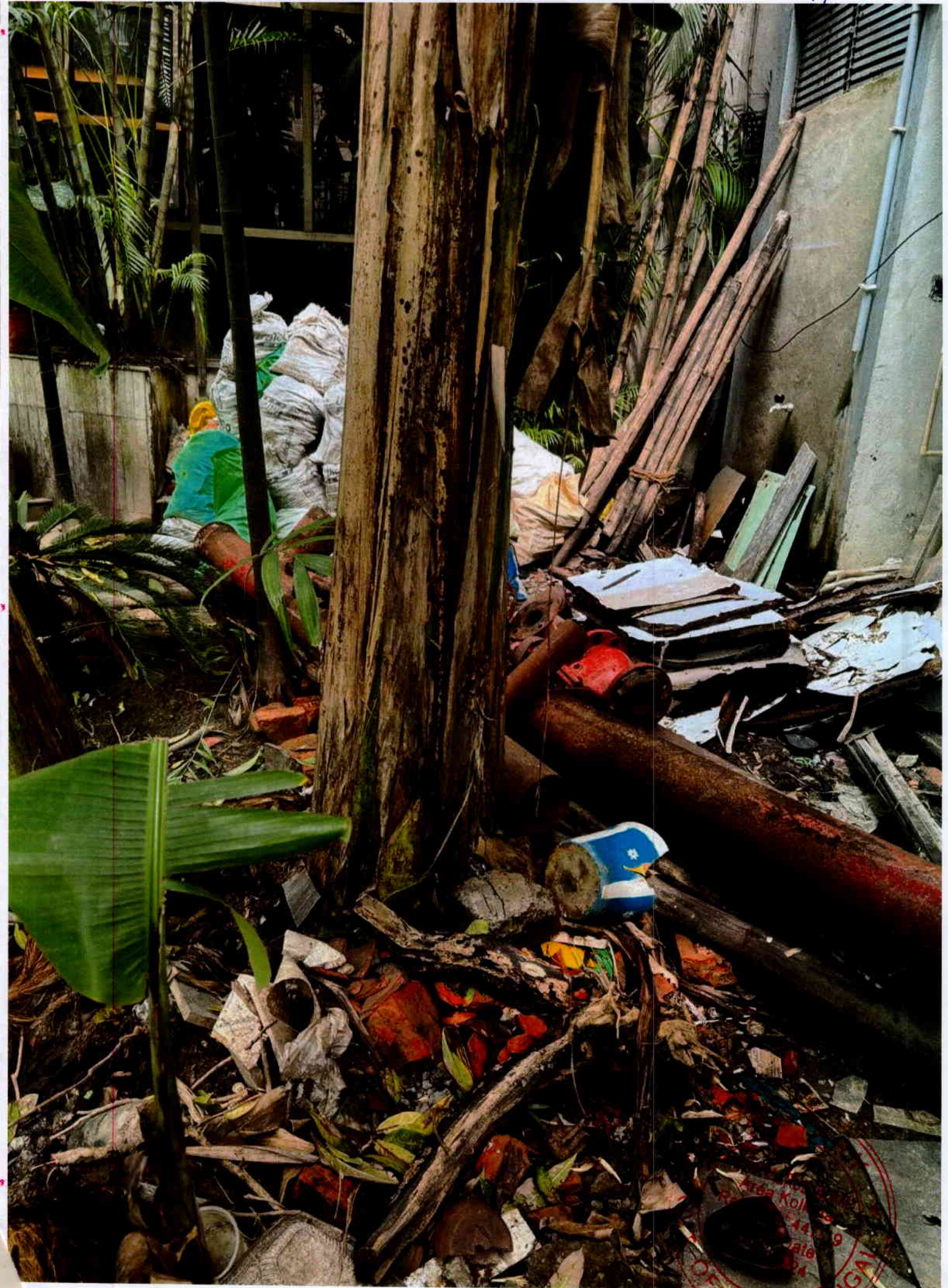
NOTARY
SK. HAZRUL ISLAM
Area Kolkata
Regn.No. 447/19
Expiry Date
15.09.2024
GOVT. OF WEST BENGAL



NOTARY
MR. AZRUL ISLAM
Kolkata
Regn. No. 447/19
Expiry Date
15.09.2024
WEST BENGAL



NOTARY
* SK. NAZRUL ISLAM *
Area Kolkata
Regn.No. 447/15
Expiry Date
15.09.2024
GOVT. OF WEST BENGAL



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GOVT. OF WEST BENGAL
A. NAZRUL ISLAM
Area Kolkata
Regn.No. 447/19
Expiry Date
15.09.2024

Curator.

R. V. Singh



Advocate

(B. A. LLB)



7890656554

Chamber :

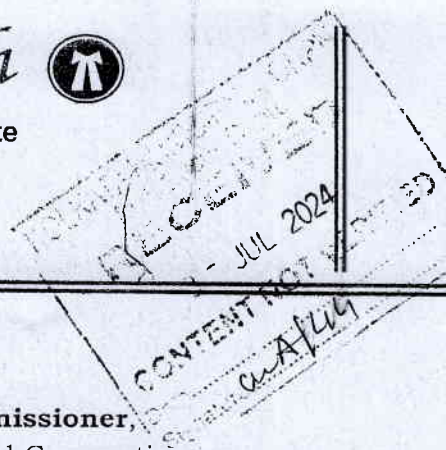
- 44 -

A/15 Subhash Marg, 3rd Bye Lane

P. O. & P. S. Parnasree

Kolkata - 700060

E-mail : singhrajvardhan2@gmail.com



To,

Municipal Commissioner,
Kolkata Municipal Corporation,
5, S.N. Banerjee Road,
Kolkata- 700 013

Date: 03.07.2024

My Client: One of the owners of Flat of Building namely "RAJAT GARDENS" being Premises No. 21, Ballygunge Park Road, Kolkata- 700 019 under Ward No. 65.

Sub: Illegal construction over the existing garden lying and situated at Rajat Gardens Building at 21, Ballygunge Park Road, by the the members of Rajat Garden Residents Association

Sir,


My client for the sake of safety and security of his/her family members does not want to be identified and intends to lodge this complaint through me being his Advocate in regard to illegal construction going on over the existing garden and greenery by uprooting the entire garden and greenery by demolishing the 100 feet long northern boundary wall and existing grill.

That the name of building is "RAJAT GARDEN" which itself discloses that while purchasing the flat in building in question the most essential attraction and influence for buying the flat was that the building shall have a adequate Garden along with its greenery protected by 100 feet long northern boundary wall and existing grill and at no point of time would be uprooted and demolished.

That today my client was shocked to witness that the existing office bearers of Rajat Garden Residents Association started uprooting the garden engaged mason and labour, gathering barge of cement and sand for



Raj Vardhan Singh
Adv

R. V. Singh 

Advocate

(B. A. LLB)



7890656554

Chamber :

- 45 -

A/15 Subhash Marg, 3rd Bye Lane

P. O. & P. S. Parnasree

Kolkata - 700060

E-mail : singhrajvardhan2@gmail.com

construction over the existing garden by uprooting the greenery and demolishing the existing 100 feet long northern boundary wall and existing grill.

That the said construction and demolition of existing boundary is ongoing without obtaining any sanction, permission or consent of local councilor

I request that immediately such illegal construction work be stopped for the ends of justice.

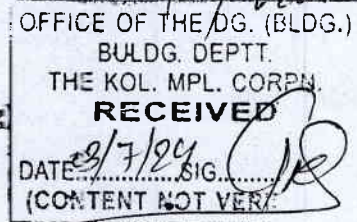
Thanking you,

Your faithfully,

Rajvardhan Singh

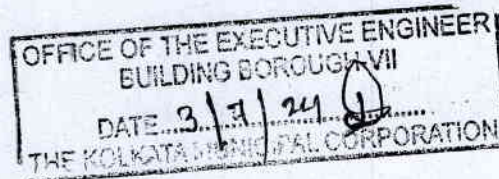
Copy to:

✓ 1) **The Director General (Building)**
Kolkata Municipal Corporation,
5, S.N. Banerjee Road,
Kolkata- 700 013



2) **The Director General (Building II) Unauthorized Cases,**
Kolkata Municipal Corporation,
5, S.N. Banerjee Road,
Kolkata- 700 013

✓ 3) **The Executive Engineer,**
Borough VII,
5, S.N. Banerjee Road,
Kolkata- 700013,



✓ 4) **The Officer-in-Charge,**
Karaya Police Station,
53, Karaya Road,
Kolkata- 700 019

RECEIVED
Contents not Verified

03/07/24 13:30
KARAYA P.S. Kol-19



- 46 -

From: HANUMANT AGARWAL

Date: 17.07.2024

S/o Late Prabin Chandra Bhojnagarwala,
Of Rajat Garden, Flat No. 101, 1st Floor,
21, Ballygunge Park Road
P.S. Karaya, Kolkata- 700 019
PH: 98310-88858



*Rein contained
not verified
Asst. Insp.
17-07-2024.*

To,

**The Officer-in-Charge,
Karaya Police Station,
Kolkata**

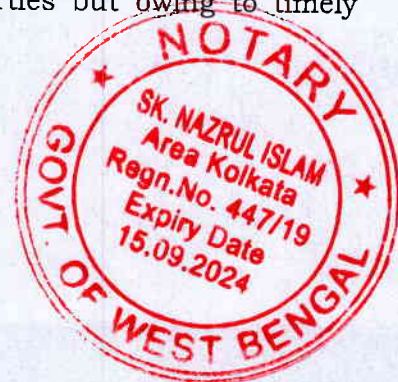
Sub: Complaint against office bearers of Rajat Garden Residents's Association who are adamant to uproot the Garden and Greenery of garden at **RAJAT GARDEN** 21, Ballygunge Park Road, P.S. Karaya, Kolkata- 700 019.

Sir,

With due respect I beg to state that I am the lawful and absolute owner of Flat No. 101 on the First Floor of building namely RAJAT GARDEN being Premises No. 21, Ballygunge Park Road, P.S. Karaya, Kolkata- 700 019.

That while purchasing the flat, I was exclusively influenced to purchase the flat in Rajat Garden building owing to presence of Garden and greenery in the building and likewise me many other flat buyers also purchased flat in the said building for presence of Garden in the building.

That very recently the office bearers of Rajat Garden Residents' Association attempted to uproot the entire garden and turn the same into a open banquet or Hall for doing and performing parties but owing to timely



- 47 -

intervention by several flat owners the office bearers of Association promised that they would not uproot the existing garden and only raise the boundary wall for safety and security purpose thus I along with other flat owners consented for the same but it was strongly restrained by all the flat owners present in the meeting that boundary wall should not be more than 6 feet in height as I am First Floor resident and further height would block my flat and balcony from outside view and air also alike other first floor flat owners.

That now the office bearers of Association have raised the boundary wall and grill over the wall is to be installed but on 17.07.2024 all on a sudden the office bearers of Association declared that they will not only uproot the existing garden wholly but also will demolish the marble fountain and would therefore concretise the same and convert into open barquet for conducting parties by removing all trees, bushes and greenery.

That when I reminded the office bearers of the earlier promise made by them to not to damage and uproot the garden and trees they paid no heed and dared me to do whatever I can do in a very audacious manner.

That owing to such illegal acts of office bearers of the Association there is imminent apprehension of serious breach of peace at Rajat Garden Building at 21, Ballygunge Park Road, P.S. Karaya, Kolkata-700019.

Under the above circumstances I request your good self to kindly look into the matter and take necessary actions against the illegal acts of the aforesaid persons who are adamant to uproot the 22 years existing garden and oblige.

Thanking you,

Yours faithfully,



Humairat Agawal
17/07/24

dc

-Annexure D Colly-

1

D Colly

- 48 -

From: SUSHIL KUMAR JAIN

S/o Late B.C. Jain

Flat No. D2 & 106, Rajat Garden,

21, Ballygunge Park Road,

P.S. Karaya, Kolkata- 700 019

PH: 9830044099

Date: 19.07.2024

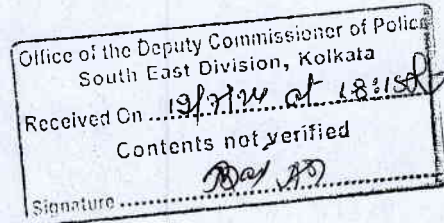
To,

1. **The Divisional Forest Officer,**
South 24 Parganas,
New Administrative Building,
4th Floor, Alipore,
Kolkata- 700027
2. **The Deputy Commissioner of Police,**
South East Division,
Park Court,
2 Syed Amir Ali Avenue,
Kolkata- 700 017
3. **The Officer-in-Charge,**
Karaya Police Station,
Kolkata- 700 019

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Contents Not Verified

Iman Ghosh 19/07/2024
for contact
Divisional Forest Office
24-Parganas (South) Division



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Contents not Verified

19/07/24 at 19:30
KARAYA P.S., Kol-19

Sub: Illegal uprooting and cutting of big and small trees and destruction of Garden including all its herbs, shrubs, grass turf and greenery by office bearers of Rajat Garden Residents' Association including **Amit Bagri** and **Alok Tiberwal** and their men and associates all of 21, Ballygunge Park Road, Rajat Garden, Kolkata- 700 019.

Respected Sir,

With due respect I beg to state that I along with my family reside at Ground Floor flat being Flat No. D2 & 106 at Rajat Garden, 21, Ballygunge Park Road, P.S. Karaya, Kolkata- 700 019.



That in the said premises from the very beginning the said premises and building is surrounded by beautiful greenery and an existing garden which include both big and small trees, flowers, herbs, shrubs and greenery and it impeccable to say that the said garden and greenery are the centre of attraction of the said premises and alike me many other flat owners of the premises had purchased flats in the said premises owing to existence of such green surrounding and greenery including all its trees and gardens.

That very unfortunately the office bearers of the association including said Amit Bagri being the secretary of Rajat Garden Residents' Association and Alok Tibrewal are men of notorious character and they are always indulged in various overt acts which are prejudicial to the interest of the other flat owners and for their such illegal acts many complaints have been lodged by me and others but the aforesaid persons did not mend their ways and continued their various sorts of illegal activities and they have considered the entire premises to be their own and carry on illegal acts in and around the premises.

That recently for the last 2 weeks the aforesaid persons intended to destroy the existing greenery and entire garden in the premises but with intervention of other flat owners who did not wish to get the greenery destroyed objected to their such illegal act and somehow till date have managed to preserve the greenery and trees which are not only beneficial to the residents of the premises but overall well being for population at large.

That despite of such efforts the aforesaid persons did not mend their ways and they threatened the objectors with dire consequences and forcefully and illegally attempting to uproot the trees including the big and small ones forming part of the garden and with such aim in view today i.e. on 19.07.2024



the aforesaid persons attempted to cut down the big and small trees including the pushparghya Christmas tree which are more than 20 feet and 40 feet in height respectively but they succeeded in cutting down small trees upto 5 feet in height and destroyed some parts of the garden including herbs, shrubs and small plants but with timely intervention they could not cut down the same though they have managed to injure it previously also but we somehow have managed to save the same.

That the aforesaid persons have declared that they will uproot and damage the entire garden and cut down all the trees from the premises and use the space and converting the same into open hall/banquet for the enjoyment and parties in disguise of widening the driveways inside the premises and if the aforesaid persons succeed in their such illegal acts very unfortunately we would have to loose such full grown beautiful trees and greenery which is highly illegal and not permissible.

Under the above situation I hereby request your good self to kindly look into the matter and take necessary and prompt action against the aforesaid persons in order to save the trees and greenery at the said place and oblige.

Thanking you,

Yours faithfully,

Sushil Kumar Jain

Enclosure:

1. pictures of destroyed and cut down small trees and greenery



Date: 19-07-24

- 51 -

From

**Sushil Kumar Jain
S/o Late B.C. Jain.
Of Flat No.D2 and 106, Ground Floor
Rajat Garden,
21, Ballygunge Park Road
P.S. Karaya, Kol-700019
PH : 98300440099**

To

**The Officer-in-Charge
Karaya Police Station
Kolkata-700019**

Sub: Illegal act of encroaching the two car parking spaces exclusively belonging to me under the guise of broadening the drive way passage by office bearer of Rajat Garden Resident's Association under the Leadership of Alok Tibrewal of 21, Ballygunge Park Road, P.S. Karaya, Kolkata-700019.

Respected Sir

With due respect I beg to state that the office bearers of Rajat Garden Residents' Association under the leadership of One Alok Tibrewal since last two weeks are changing the nature and character of Rajat Garden Building at 21, Ballygunge Park Road, by removing existing boundary walls, attempt of uprooting garden, dismantling marble fountain and when all the flat owners raised their protest their such illegal acts was restrained though they succeeded in raising boundary wall in the second week of July, 2024.

That today i.e. on 19.07.2024 in the morning I noticed that the office bearers of Rajat Garden Residents Association dismantling the existing driveway in front of



- 52 -

my flat and attempted to encroach my two car parking spaces under the guise of broadening the drive way and when I raised protest Alok Tibrewal and office bearers of Association threatened me with dire consequences and audaciously declared that they would forcefully convert my car parking spaces into drive way and dared me to do whatever I can do.

I somehow restrained myself to avert any breach of peace but the present situation is very much tense and there is imminent serious chance of breach of peace at Premises No.21, Ballygunge park Road, P.S. Karaya, Kolkata-700019 owing to such illegal acts of Alok Tibrewal and office bearers of Rajat Garden Residents' Association.

I therefore request your goodself to kindly look into the matter and take appropriate steps into the matter and oblige.

Thanking You

Yours faithfully

Sushil Kumar Jain



EW108697355IN IVR:6987108697355
 SP ALIPORE HD <700027>
 Counter No:3,01/01/2002,01:33
 To:THE OFFICER INCHARGE,KARAYA PS
 PIN:700019, Ballygunge SO
 From:SUSHIL KUMAR JAIN,BALLYGUNGE
 Wt:50gms
 Amt:17.70,Tax:2.70,Amt.Paid:18.00
 <Track on www.indiapost.gov.in>



9830044099

From: SUSHIL KUMAR JAIN

S/o Late B.C. Jain

Flat No. D2 & 106, Rajat Garden, 21, Ballygunge Park Road, P.S. Karaya, Kolkata-700 019

PH: 9830044099

-53-

1. To,
~~The Range Officer,~~ *The Divisional Forest Officer,*
~~Kolkata South Range,~~
Forest Utilisation Department,
8 Lions Range,
3rd Floor,
Kolkata- 700001.



- ✓ 2. The D.G Parks & Square,
5 S.N. Banerjee Road,
Kolkata-7



Sub: Illegal uprooting and cutting of big and small trees and destruction of Garden including all its herbs, shrubs, grass turf and greenery by office bearers of Rajat Garden Residents' Association including Amit Bagri and Alok Tiberwal and their men and associates all of 21, Ballygunge Park Road, Rajat Garden, Kolkata-700 019.

Respected Sir,

With due respect I beg to state that I along with my family resides at Ground Floor flat being Flat No. D2 & 106 at Rajat Garden, 21, Ballygunge Park Road, P.S. Karaya, Kolkata-700 019.

That in the said premises from the very beginning the said premises and building is surrounded by beautiful greenery and an existing garden which include both big and small trees, flowers, herbs, shrubs and greenery and it is impeccable to say that the said garden and greenery are the centre of attraction of the said premises and alike me many other flat owners of the premises had purchased flats in the said premises owing to existence of such green surrounding and greenery including all its trees and gardens.

That very unfortunately the office bearers of the association including said Amit Bagri being the secretary of Rajat Garden Residents' Association and Alok Tibrewal are men of notorious character and they are always indulged in various overt acts which are prejudicial to the interest of the other flat owners and for their such illegal acts many complaints have been lodged by me and others but the aforesaid persons did not mend their ways and continued their various sorts of illegal activities and they have considered the entire premises to be their own and carry on illegal acts in and around the premises.

That recently for the last 2 weeks the aforesaid persons intended to destroy the existing greenery and entire garden in the premises but with intervention of other flat owners who did not wish to get the greenery destroyed objected to their such illegal act and somehow till date have managed to preserve the greenery and trees which are not only beneficial to the residents of the premises but overall wellbeing for population at large.

That despite of such efforts the aforesaid persons did not mend their ways and they threatened the objectors with dire consequences and forcefully and illegally attempting to uproot the trees including the big and small



ones forming part of the garden and with such aim in view today i.e. on 20.07.2024 the aforesaid persons attempted to cut down the big and small trees including the

pushparghya Christmas tree which are more than 20 feet and 40 feet in height respectively Unfortunately they succeeded in cutting down small trees upto 5 feet in height and destroyed some parts of the garden including herbs, shrubs and small plants.

That today morning aforesaid persons were uprooting and damaging the entire garden and cut down all the trees from the premises and use the space and converting the same into Parking in disguise of widening the driveways inside the premises but timely invention & reporting to the matter on Dial 100 they could not succeed in cutting the bigger trees but if the aforesaid persons succeed in their such illegal acts very unfortunately we would have to loose such full grown beautiful trees and greenery which is highly illegal and not permissible.

Under the above situation I hereby request your good self to kindly look into the matter and take necessary and prompt action against the aforesaid persons in order to save the trees and greenery at the said place and oblige.

Thanking you,

Yours faithfully,



Sushil Kumar Jain
Rahul Jain

Enclosure: Photos of Previous Garden & current Photos



E.E.ICI/P & S/117/2024-25
at - 23/07/2024

To
The Officer in Charge
Karaya Police Station
52, Karaya Road, Lower range,
Beckbagan, Ballygunge,
Kolkata- 700019.

RECEIVED
Contents not verified

Asst. Comm. 23/7/24
KARAYA P.S., Kol-19 at 16.09 hr.

Subject:- Illegal intention to destruct the greenery inside Rajat Garden 21,
Ballygunge Park Road, Kolkata- 700019, Ward -65, Br- VII KMC.

Sir,

This is to inform you that a complaint received from Sushu Kumar Jain and Rahul Jain on 20/07/2024 on behalf of the residents of Rajat Garden at 21, Ballygunge Park Road, Kolkata- 700019 that some greenery inside the campus have been destroyed. It may also be mentioned that from photographs submitted by the applicant it appears that some shrubs & bushes have been cut and also due to dismantling of the existing garden one tree got leaned.

Therefore a complaint is hereby lodged with your P S. against the aforesaid illegal intention to destruct the greenery inside Rajat Garden 21, Ballygunge Park Road, Kolkata- 700019, Ward-65, Br- VII, KMC with a request to take necessary action from your end urgently so that the leaned tree can be saved.

Thanking you,

Yours faithfully

Ex. Engr. (C) (P&S)

Copy forwarded for kind information to:-

1. DG (P&S)
2. OSD & E.O. Dy. C.E. (C) (P&S)
3. Divisional Forest Officer, Utilisation Division
8, Lyons Range, Mitra Building,
Kolkata- 70000.
4. O/c
5. F/c



Ex. Engr. (C) (P&S)

Ex. Engr. (C)
Parks & Square Department
The Kolkata Municipal Corporation

-Annexure F-

1

- 56 -

From: SUSHIL KUMAR JAIN

S/o Late B.C. Jain

Flat No. D2 & 106, Rajat Garden,

21, Ballygunge Park Road,

P.S. Karaya, Kolkata- 700 019

PH: 9830044099

Date: 27/07/2024

To,

The Chairman,

West Bengal Pollution Control Board,

Paribesh Bhavan, 10A, Broadway Road,

LA Block, Sector- III, Bidhannagar,

Kolkata- 700106



Sub: Illegal uprooting and cutting of big and small trees and destruction of Garden including all its herbs, shrubs, grass turf and greenery by office bearers of Rajat Garden Residents' Association including **Amit Bagri** and **Alok Tiberwal** and their men and associates all of 21, Ballygunge Park Road, Rajat Garden, Kolkata- 700 019.

Respected Sir,

With due respect I beg to state that I along with my family resides at Ground Floor flat being Flat No. D2 & 106 at Rajat Garden, 21, Ballygunge Park Road, P.S. Karaya, Kolkata- 700 019

That in the said premises from the very beginning the said premises and building is surrounded by beautiful greenery and an existing garden which include both big and small trees, flowers, herbs, shrubs and greenery and it



impeccable to say that the said garden and greenery are the centre of attraction of the said premises and alike me many other flat owners of the premises had purchased flats in the said premises owing to existence of such green surrounding and greenery including all its trees and gardens.

That very unfortunately the office bearers of the association including said Amit Bagri being the secretary of Rajat Garden Residents' Association and Alok Tibrewal are men of notorious character and they are always indulged in various overt acts which are prejudicial to the interest of the other flat owners and for their such illegal acts many complaints have been lodged by me and others but the aforesaid persons did not mend their ways and continued their various sorts of illegal activities and they have considered the entire premises to be their own and carry on illegal acts in and around the premises.

That recently for the last 2 weeks the aforesaid persons intended to destroy the existing greenery and entire garden in the premises but with intervention of other flat owners who did not wish to get the greenery destroyed objected to their such illegal act and somehow till date have managed to preserve the greenery and trees which are not only beneficial to the residents of the premises but overall well being for population at large.

That despite of such efforts the aforesaid persons did not mend their ways and they threatened the objectors with dire consequences and forcefully and illegally attempting to uproot the trees including the big and small ones forming part of the garden and with such aim in view on 20.07.2024 the aforesaid persons attempted to cut down the big and small trees including the pushparghya Christmas tree which are more than 20 feet and 40 feet in height respectively but they have succeeded in cutting down small trees upto 5 feet in



height and destroyed some parts of the garden including herbs, shrubs and small plants and owing to such dismantling of the existing garden one pushparghya Christmas of 40 feet height got leaned by losing its root strength but with timely intervention by us by calling local police through 100 the aforesaid persons could not succeed in cutting the bigger trees.

That in order to save the trees and greenery I had reported the matter to the D.G. Parks & Square vide letter of complaint submitted on 20.07.2024 and also to the Divisional Forest Office, Forest Utilization Department, Kolkata vide letter on 22.07.2024.

“Copy of said letter submitted with D.C. Parks & Square and Divisional Forest Officer is annexed herewith for your kind perusal”

That inspite of reporting the matter to the concerned department no action has been taken against the illegal acts of the aforesaid persons and owing to such the above culprits with immunity and impunity have been continuing their illegal acts and as such I deem it fit and proper to report the matter to your good self and request you to kindly intervene into the matter and stopping such illegal activities of the aforesaid persons and oblige

Thanking you,

Yours faithfully,

Susil Kumar Jain

Enclosure:

1. Pictures of destroyed and cut down small trees and greenery
2. Letter of complaint



-Annexure G-

⊕ - G - - 59 -

ORDER SHEET

OD-2

WPO No. 242 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MR. SOUMITRA KANTI DEY
VERSUS
THE STATE OF WEST BENGAL & ANR.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date: 26th July, 2021.

(Via Video Conference)



Appearance:
Mr. Rohit Das, Adv.
Ms. Kishwar Rahman, Adv.
Mr. Indradeep Das, Adv.
For the petitioner.

Mr. Manoj Malhotra, Adv.
Mr. Suman Dey, Adv.
For the State.

The Court :- The writ petitioner has been charge-sheeted under the provisions of Section 11(1) of The West Bengal Trees (Protection And Conservation In Non-Forest Areas) Act, 2006 arising out of Case No. 70 of 2017 dated 27th February, 2017. He has been charged with cutting about 63 trees under the garb of removing stagnant water.

The writ petitioner has applied for compounding of the offence in terms of Section 16 of the said Act of 2006. It is submitted that the hacking

of trees occurred in course of compliance with a notice of the Kolkata Municipal Corporation to remove stagnant water that accumulated in the property to discourage disease-carrying insects.

The cutting of trees has nothing to do with the removal of accumulated water. Yet under the garb of removing water, as many as 62 (sixty two) trees have been cut. Compounding has also been sought on the ground of the petitioner is a first time offender and that he is willing to replant double the number of trees in the said plot or anywhere else that the Forest Department may direct.

It appears that the owners had intended to construct a seven star hotel at the said premises.

While the entreaties made by the petitioner appear to be attractive, one cannot loose sight of the fact that each tree, totaling 62 (sixty two) in numbers has left a permanent wound on the environment. Irreparable damage has been caused to society by the conduct of the petitioner.

Given the heinous crime committed this Court the impugned order dated 5th January, 2019 does not otherwise call for interference.

However, considering the fact that punishing the writ petitioner with limited amount of imprisonment under the 2006 Act would not bring back the trees, compensating the State/Forest Department/Society would be just and fair penalty, penance and retribution. The compensation shall be used to develop the environment in general and maintenance of better vigil against illegal tree felling. This Court is, therefore, inclined to permit compounding of the aforesaid offences mentioned in the aforesaid charge-



sheet only upon payment of Rs. 40 (Forty) crores to the respondent no.2 within a period of 15 days from date. The petitioner and/or the owner of the property M/s. Emaar India Limited would additionally have to plant and ensure growth of about 100 trees on the said premises at No. 11 Russel Street, Kolkata 700071.

It is made clear that the payment of the said amount would not ipso facto entitle the petitioner to develop the property. The same would be subject to permission of all the authorities under all applicable Statutes and Rules.

With the aforesaid direction, the writ petition is disposed of.

(RAJASEKHAR MANTHA, J.)

Snn.





তথ্য

- আধার পরিচয়ের প্রমাণ, নাগরিকত্বের প্রমাণ নয়।
- পরিচয়ের প্রমাণ অনলাইন অথেন্টিকেশন ধারা প্রাপ্ত করুন।

INFORMATION

- Aadhaar is proof of identity, not of citizenship.
- To establish identity, authenticate online.

16270406

- আধার সারা দেশে মান্য।
- আধার ভবিষ্যতে সরকারী ও বেসরকারী পরিষেবা প্রাপ্তির সহায়ক হবে।
- Aadhaar is valid throughout the country.
- Aadhaar will be helpful in availing Government and Non-Government services in future.

16270406



ভারতীয় বিশিষ্ট পরিচয় প্রাধিকরণ
UNIQUE IDENTIFICATION AUTHORITY OF INDIA

ঠিকানা:
১১, বি দি রোড, বালীগঞ্জ,
বঙ্গবাহর, কোলকাতা, পশ্চিমবঙ্গ,
700019

Address:
21, BALLYGUNGE PARK
ROAD, BALLYGUNGE,
Ballygunge S.O, Ballygunge,
Kolkata, West Bengal,
700019



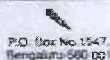
1947
1800 180 1947



help@uidai.gov.in



www.uidai.gov.in



P.O. Box No. 1547,
Bengaluru-560 001



ভারত সরকার

Unique Identification Authority of India
Government of India

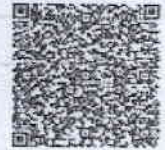
ভূমিকাঙ্কিত আই ডি/Enrollment No.: 1040/19797/12597

To
সুশীল কুমার জৈন
Sushil Kumar Jain
21 BALLYGUNGE PARK ROAD
BALLYGUNGE Ballygunge S.O
Ballygunge Kolkata
West Bengal 700019

16270406



MN162704064DF



আপনার আধার সংখ্যা/ Your Aadhaar No. :

5927 1728 0752

আধার - সাধারণ মানুষের অধিকার



ভারত সরকার
GOVERNMENT OF INDIA



সুশীল কুমার জৈন
Sushil Kumar Jain
পিতা : বাঙ্গাল চন্দ্র জৈন
Father : BANGAL CHAND JAIN
জন্ম তারিখ / Year of Birth : 1960
সুন্দর / Male

5927 1728 0752



আধার - সাধারণ মানুষের অধিকার

Sushil Kumar Jain



Sushil Kumar Jain

"VAKALATNAMA"

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE, KOKATA BENCH
ORIGINAL APPLICATION NO. _____ OF 2024
Under Section 14, 15, 17 and 18 of the National Green Tribunal
Act 2010

IN THE MATTER OF:
Sushil Kumar Jain

...Applicant

VERSUS

The Principal Secretary, Government of West Bengal, Department of Environment
& Ors.

...Respondents

KNOW ALL MEN by these presents that I, Sushil Kumar Jain do hereby in my/our name and my/our behalf constitute and appoint Ms. Bipasha Jaiswal; Amrita Pandey, Advocate, High Court, Calcutta, as our true and lawful Pleader/Advocate & Attorneys to appear and act for me/us in the matter noted above to file suit, written statement, conduct suit, appeal from original suit, order etc., And for that purpose to do all acts and things, whatsoever in that connection including compromise of the above matter depositing in or withdrawing money from, filing or taking out of appear, document and payment order from Court referring matters in dispute between the parties here to arbitration, withdrawing the above matters with liberty to file fresh suit, sending properties released from attachment, filing execution or miscellaneous cases and other petitions, bidding at execution sale, obtaining payment from us out of Court withdrawing custody and other fees and doing on my/our behalf other acts, in the above matter as are necessary and proper. I/We hereby agreeing to ratify and confirm all acts so done by the said advocate or attorneys as my/our own acts and as if done by me/us to all intents and purposes.

Date: 05.08.2024

Accepted by me: *Resand & sat signed by me*

Bipasha Jaiswal
(Bipasha Jaiswal)

Advocate

Amrita Pandey
Asst
F/747/2009

Bipasha Jaiswal *F/3374/2022*

Amrita Pandey F/747/2009

Advocate, High Court, Calcutta

Hastings chamber, 7C, Kiran Shankar Ray Road,

2nd Floor, Room no. 206, Kolkata - 700 001

Email id: amritalegal@gmail.com

M: 9830609262

5.8.24