

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE CHENNAI
MEMORANDUM OF APPLICATION
[Under Section 18(1) read with Sections 14, 15, 16 & 17 of the National Green Tribunal Act, 2010]

O.A. NO. 39 OF 2020

Between:

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H#12-2-389/A/72/A, Mahaveer Nagar
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.....Applicant

AND

1-State of Telangana
Rep by its Chief Secretary
Vice-Chiarperson State WALTA Authority
Secretariat, B-Block, BRKR Bhavan,
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040-23452620, 23455340, EXT-2562

.....Respondent and 8 others

ADDITIONAL AFFIDAVIT FILED BY APPLICANT

FILED ON 1 DECEMBER 2021

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ADDITIONAL AFFIDAVIT BY APPLICANT

'1'

AS NO OBJECTIONS FILED BY HMDA OR PROJECT PROPONENT TILL DATE , APPEAL TO ORDER RESTORATION OF WATER BODY AS SPECIFIED IN GO MS 375 DATED 15 SEP 2004:

As per Tribunal Order dated 12 July 2021 [correction order issued on 26 July 2021], Hyderabad Metropolitan Development Authority (HMDA) as well as the project proponent have been directed to file their objections if any to the additional affidavit filed by the Applicant. Below is relevant part of the Order:

'3. The Hyderabad Metropolitan Development Authority (HMDA) as well as the project proponent are directed to file their objections, if any to the additional affidavit filed by the applicant in the form of an objection to the further report submitted by the committee.'

It is submitted that no objections have been submitted by the HMDA or the project proponent till date as per orders dated 12 July 2021/26 July 2021.

Hence it is appealed that the Tribunal please order for restoration of water body/water bodies as specified in GO Ms 375 dated 15 Sep 2004.

The schedule of boundaries of layout in Sy no 286 Poppalguda village, Gandipet (then Rajendranagar) Mandal, RR District as submitted by the Applicant in Additional affidavit dated 5 July 2021 (physical copy couriered to Tribunal on 29 July 2021) to the relevant extent is reproduced below:

'As per GO Ms 375 dated 15 Sep 2004 with subject line 'Hyderabad Urban Development Authority, Hyderabad - Change of Land Use in Survey No.286 (Part) of Poppalguda Village, Rajendranagar Mandal, Ranga Reddy District to an extent of Acres 13-18 Guntas from partly Recreational and partly Conservation use zone to Residential use zone and deletion of proposed 30 Meters wide road - Draft Variation - Confirmed - Orders- Issued.', the schedule of boundaries for Residential use zone is as under:

'Schedule of boundaries:

North : Survey Nos.314 and 315 of Poppalguda Village Hillock area.

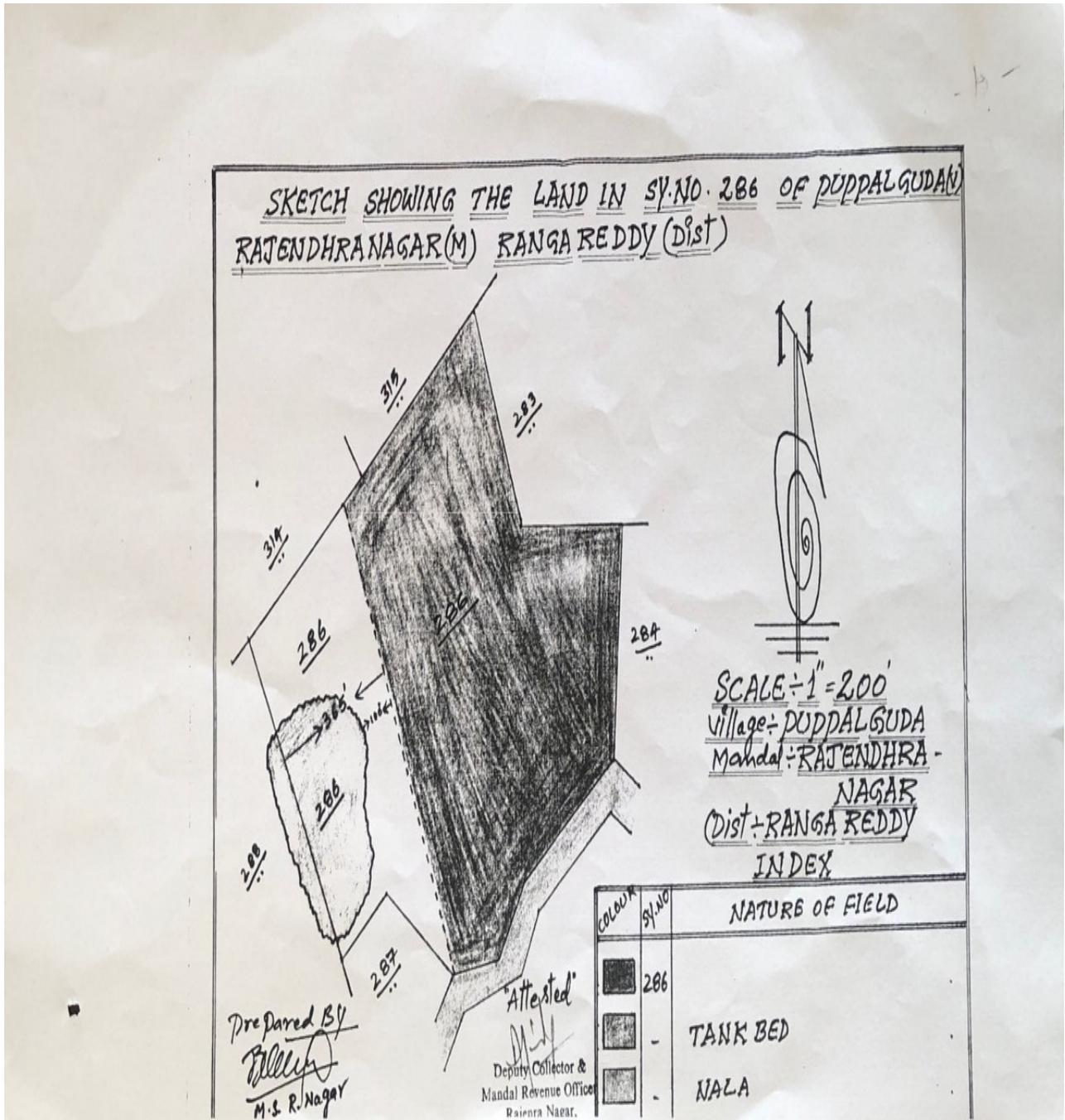
South : Survey No.285 of Poppalguda Village, Waterbody area.

East: : Survey Nos.283 to 284 of Poppalguda Village vacant land.

West: Survey No.287 of Poppalguda Village vacant land and Survey No.288 of Poppalguda Village, water bodies area.'

GO with notings and rough sketches of water body as evidential in historical satellite imageries from Google Earth, have been submitted by Applicant to the Tribunal both online on 5 July 2021 and physical copies in color on 29 July 2021.

Apart from the Schedule of boundaries, Relevant map from the GO Ms 375 dated 15 Sep 2004, of water body/water bodies area is also reproduced below from the additional affidavit of 5 July 2021 (physical copy couriered to Tribunal on 29 July 2021):



Picture 1: 'SKETCH SHOWING THE LAND IN SY NO. 286 OF PUPPALGUDA(V) RAJENDHRA NAGAR(M) RANGA REDDY (DIST)' as per All notings on File No. 000041477/MAU/1/2004(2028) pertaining to GO Ms 375 dated 15 sep 2004

It is submitted that, as there are no objections from respondents, the area of water bodies as mentioned in the GO Ms 375 dated 15 sep 2004, Tribunal please order for restoration of water bodies.

'II'

VIOLATION OF TRIBUNAL ORDER IS A CRIMINAL OFFENCE - APPEAL TO PROCEED AGAINST RESPONDENTS IN LIGHT OF THE TRIBUNAL'S ORDERS DATED 12 JULY 2021/26 JULY 2021, 28 JAN 2021, 1 JUNE 2020:

It is submitted that the Respondents have not submitted the replies as specifically ordered by the Tribunal in orders dated 12 July 2021/26 July 2021, 28 Jan 2021 and 1 June 2020. The relevant part of the Orders are chronologically placed below with dates of the Orders.

(a) Tribunal Order dated 12 July 2021 [correction order issued on 26 July 2021]:

'3. ... In the meantime, the District Collector, Rangareddy District is also directed to file a statement, after verifying the original Revenue records (Prior to 1950's) and check what is the extent of the water body along with its survey numbers and also produce the extract of the original records and copy of the original village map showing the Mamasani Kunta water body, along with copies of D sketch and Field Measurment Book (FMB) records before the next hearing date.'

'4. The District Collector, Rangareddy District is also directed to submit his views on the Google Map produced by the applicant showing the location and also the extent of the water body marked in the map. The observation that the water body does not contain the water cannot be a ground to come to the conclusion that there exists no water body at all. If the inlet channels are choked water way not reach the lake. Once it is noted as water body as per the Revenue records, the same has to be maintained by them, especially when there restrictions have been imposed for converting water bodies any other purposes, by series of decisions, by the Hon'ble Supreme Court, this Tribunal and also by notifications issued by the State Governments as well.'

'5. They are directed to comply with the above directions on or before 30.07.2021 by e-filing in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per rules by giving copies to the counsel appearing for all the parties, so that the hearing can be conducted on 04.08.2021.'

(b) Tribunal order dated 28 Jan 2021:

'Respondents 1 and 2 are also directed to submit their independent response, without giving evasive reply, after considering the scope and nature of the allegations made in the application and also the objections filed by the applicant to the Joint Committee Report on or before 18.2.2021, after serving copy to the other respondents as well as to the applicant.'

(c) Tribunal order dated 1 June 2020:

'6. Considering the peculiar circumstances, we feel it appropriate that we can give one more chance to the committee to inspect and submit the report, but that will not prevent the statutory authorities from exercising their duties provided under the statute in order to comply with the directions of the Hon'ble Supreme Court in protecting the water bodies and submit their independent response regarding the same.'

It is submitted that, the respondents in spite of specific instructions to submit replies have failed to do so and thus have violated the orders of this Tribunal and as such liable under sections 25 and 26 of NGT Act as under:

***‘Sections 25 and 26 of the National Green Tribunal Act, 2010 (NGT Act):
Under Section 26 of the NGT Act, violation of order of this Tribunal is a criminal offence punishable with imprisonment upto three years and fine upto Rs. 10 crores. Under Section 25 of the NGT Act, 2010, the order is executable at the decree of the Civil Court. Under Section 51 of the Code of Civil Procedure, 1908, there is provision for civil imprisonment or any other order. Any other order can include stopping of salary of the erring officers.’*** - Order of NGT Principal bench, New Delhi, in Original Application No. 614/2018 dated 15 June 2021.

It is submitted that in interest of justice and as a deterrent and as per wisdom of the law the respondents may be proceeded against invoking relevant sections as cited from the Order of Principal Bench New Delhi in OA No. 614/2018 dated 15 June 2021.

‘III’

FURTHER EVIDENCE FROM NATIONAL REMOTE SENSING CENTER’S BHUVAN-2D MAPS SUBSTANTIATING THE LOCATION OF WATER BODIES IN PUPPULGUDA v, GANDIPET M, RR DIST, AS STATED IN GO MS 375 DT 15 SEP 2004 AND IT’S NOTINGS FILE No. 000041477/ MAU/1/2004(2028)

It is submitted that water bodies in the Survey Nos 285, 286, and 288 have been clearly mentioned in GO Ms 375 dated 15 Sep 2004 both through Schedule of Boundaries and also through sketched map.

‘Schedule of boundaries:

North : Survey Nos.314 and 315 of Poppalguda Village Hillock area.

South : Survey No.285 of Poppalguda Village, Waterbody area.

East: : Survey Nos.283 to 284 of Poppalguda Village vacant land.

West: Survey No.287 of Poppalguda Village vacant land and Survey No.288 of Poppalguda Village, water bodies area.’

It is submitted that TSIC Respondent No. 9 in the reply affidavit dated February 2021, referred to its jurisdiction of the survey numbers 285, 286 and 287 and TSIC also stated that it has given building permissions in sy no. 285/P and 286/P.

It is submitted that, observations from Satellite imageries from NRSC-Bhuvan2D submitted when read with the Schedule of boundaries and the sketch map from GO Ms 375 dated 15 Sep 2004, establishes the existence of multiple water bodies in the survey numbers 285, 288 and 286 including those under jurisdiction of TSIC, and also the channel flowing between the two survey numbers 285 and 286. Comparison with the NRSC Bhuvan-2D imageries of 2012-2016 and 2009 with that of 2018 proves the constructions on the water bodies area mentioned in the GO 375 of 15 Sep 2004 schedule of boundaries and the sketch map.

(i) Satellite Imagery of NRSC Bhuvan-2D website from HR Data(1m) - 2012 to 2016 layer:

Below is picture extracted from satellite imagery of NRSC Bhuvan2D weblink with rough demarcations of water bodies in Sy no. 285, 288 and 286 and the Balkapur channel flowing between the two survey numbers. Imagery is extracted from following link: <https://bhuvan-app1.nrsc.gov.in/bhuvan2d/bhuvan/bhuvan2d.php#>

Legend to read the map below is as follows:

Redline: demarcation of extended construction site as observed from satellite imagery survey and field survey;

Yellow line: demarcation of construction site of R9 as available on EC report;

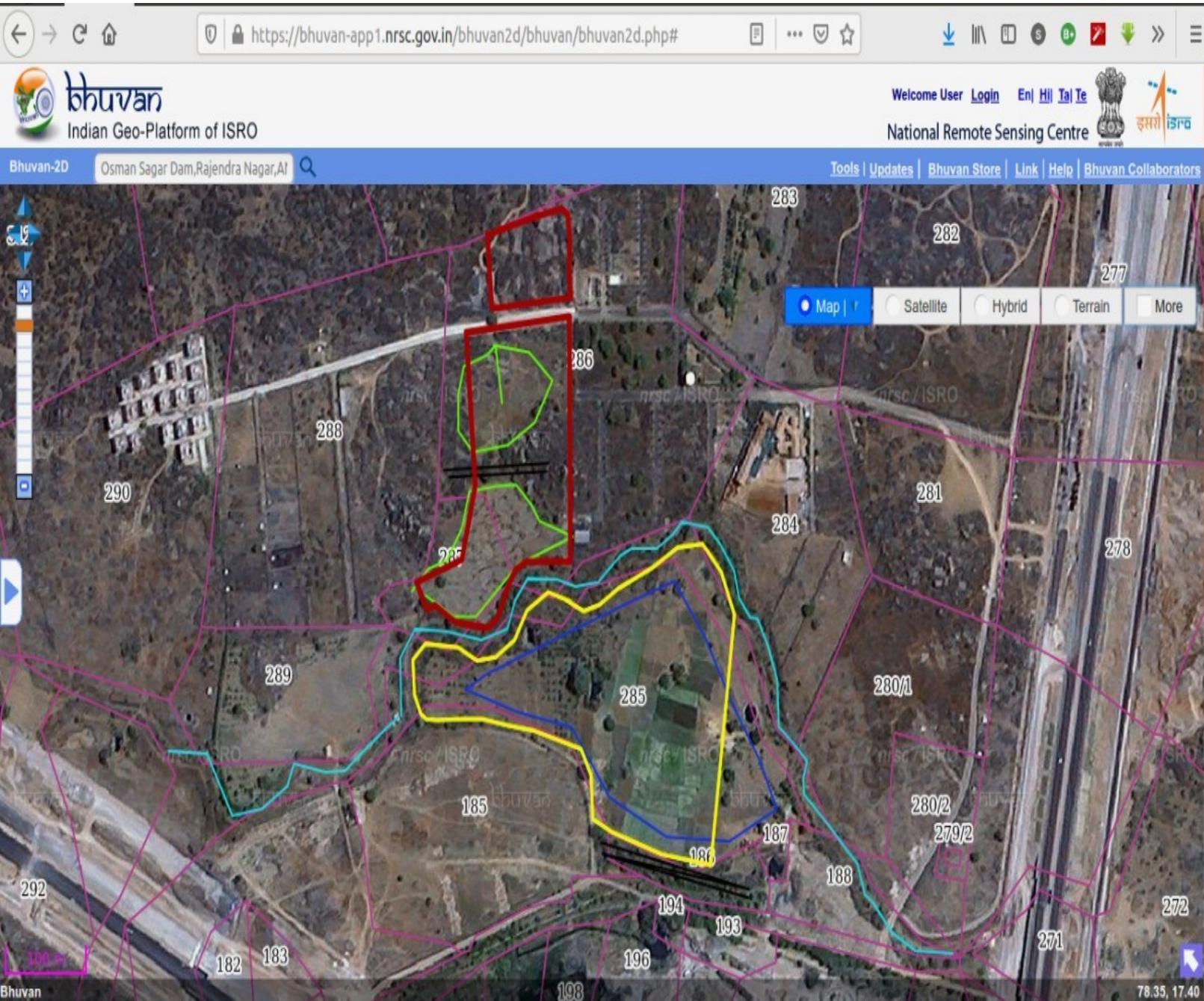
Pink lines are the Cadastral boundary layer activated from the NRSC Bhuvan-2D site;

Green Lines: are rough sketch of Mamasani kunta and its ayacut area north of balkapur channel;

Blue line: rough sketch of Mekasani kunta south of balkapur channel;

Black parallel lines: rough sketches of bunds of both the water bodies;

Aqua line : Balkapur channel flowing from west to east;

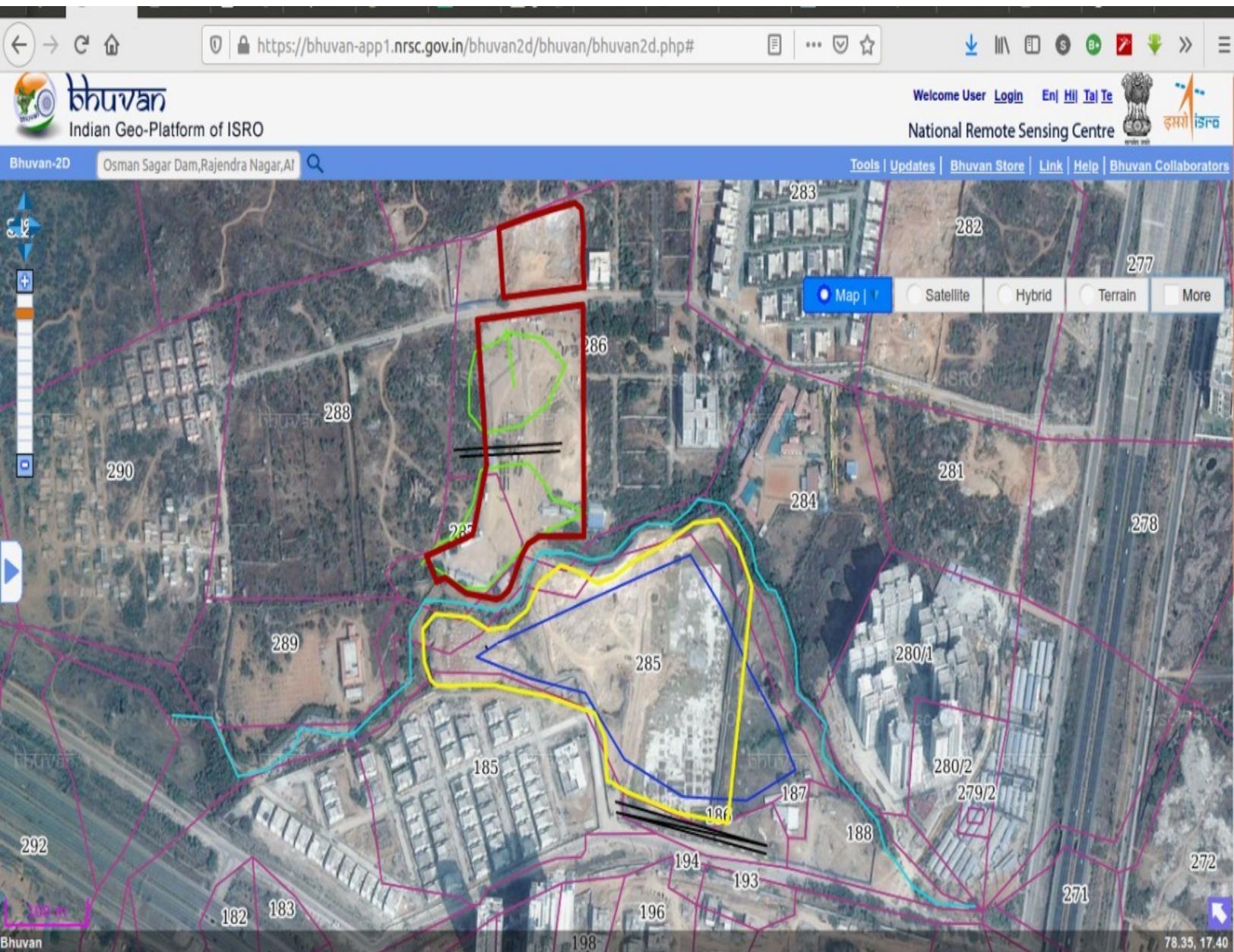


Picture 2: Satellite Imagery of NRSC Bhuvan-2D website from HR Data(1m) - 2012 to 2016 layer indicating Cadastral boundary in pink lines, alongwith R9 construction site in yellow line and extended construction site boundary from online and field surveys overlaid by Applicant in red lines. Blue lines are rough sketch of water body in sy no. 285 and green sketch indicate water body in sy no. 286,288 and its ayacut area showing fields below the bund. Bunds are indicated by two parallel black lines. Aqua line is the balkapur channel flowing from west to east (see Annexure I for map in full page)

From the satellite imagery extracted from NRSC Bhuvan 2D website using 1HR Data(1m) - 2012 to 2016 layer, it is observed that the water body and its ayacut area are clearly evident along with the rocky bund.

Further bund of lake is corroborated by the traditional bund temple viz,, Katta maisamma temple, which is present even now and is active. The temple was shown by Applicant to the Respondents and to the Joint Committee. The Balkapur channel flowing west to east between the two Sy Nos 285 and 286 is indicated by the Aqua line. Water body south of the balkapur channel demarcated by blue lines indicates Mekasani kunta. Bund of this lake is marked with two black parallel lines. Downstream of Mekasani kunta sy no. 285 is the nalla cheruvu. Nalla cheruvu is a notified lake with HMDA lake id 2929.

(ii) Satellite Imagery of NRSC Bhuvan-2D website from HR Data(1m) - 2018 layer:



Picture 3: Satellite Imagery of NRSC Bhuvan-2D website from HR Data(1m) – 2018 layer indicating Cadastral boundary in pink lines, alongwith R9 construction site in yellow line and extended construction site boundary from online and field surveys overlaid by Applicant in red line. Blue lines are rough sketch of water body in sy no. 285 and green sketch indicate water body in sy no. 286,288 and its ayacut area . Bunds are indicated by two parallel black lines. Aqua line is the balkapur channel flowing from west to east (see Annexure II for map in full page)

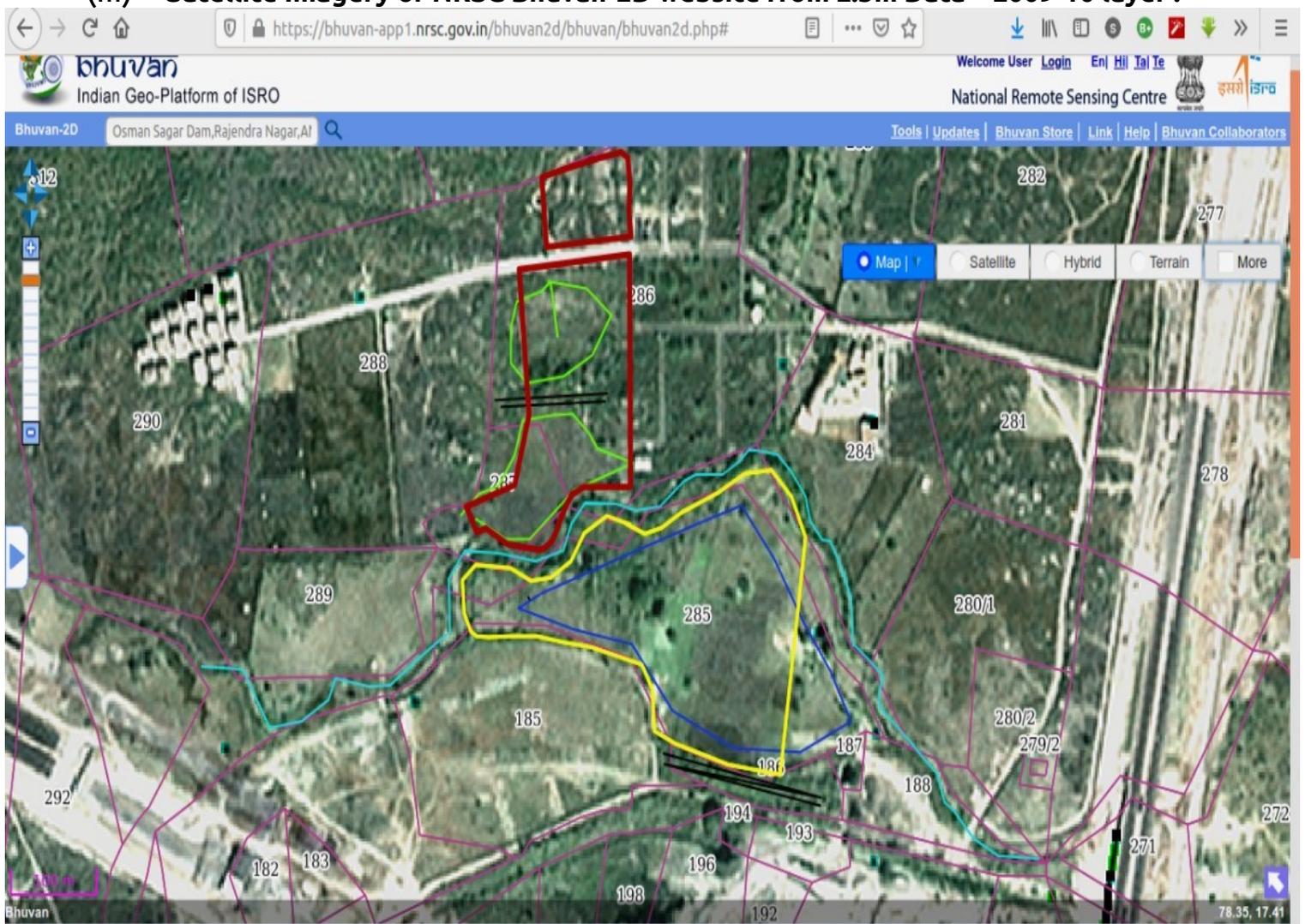
From the satellite imagery extracted from NRSC Bhuvan 2D website using 1HR Data(1m) - 2018 layer , it is observed that the water bodies area and its channels are now destroyed in sy no. 285 and sy no. 286.

Further bund of lake is corroborated by the traditional temple on the bund viz., Katta maisamma temple, which is present even now. Locals narrated about the water body. The bund temple was shown by Applicant to all the Respondents and to the Joint Committee.

The Balkapur channel flowing west to east between the two Sy Nos 285 and 286 is indicated by the Aqua line. It is seen that the Balkapur channel has been destroyed and divided by dumping the channel.

Water body south of the balkapur channel demarcated by blue lines indicates Mekasani kunta. Bund of this lake is marked with two black parallel lines. Downstream of Mekasani kunta sy no. 285 is the nalla cheruvu. Nalla cheruvu is a notified lake with HMDA lake id 2929.

(iii) Satellite Imagery of NRSC Bhuvan-2D website from 2.5m Data – 2009-10 layer :



Picture 4: Satellite Imagery of NRSC Bhuvan-2D website from 2.5m Data – 2009-10 layer indicating Cadastral boundary in pink lines, alongwith Phoenix construction site in yellow line and extended construction site boundary from online and field surveys overlaid by Applicant in red line. Blue lines are rough sketch of water body in sy no. 285 and green sketch indicate water body in sy no. 286, 288 and its ayacut area showing fields below the bund. Bunds are indicated by two parallel black lines. Aqua line is the balkapur channel flowing from west to east (see Annexure III for map in full page)

It is submitted that imageries from the NRSC Bhuvan-2D hosted by ISRO are irrefutable evidence of the water bodies as stated in GO Ms 375 dated 15 sep 2004. Structures of water bodies in the form of inflow channels, culverts, bunds, bund temples, and balkapur channel are still present on ground. Destruction and diverting of the channel has already been accepted by the respondents thru their reply affidavits.

Hence, it is appealed for restoration of water bodies as scheduled and corroborated by multiple evidences.

'IV'

APPEAL TO EXAMINE HOLISTICALLY, THE DESTRUCTION OF MULTIPLE WATER BODIES IN SY NOS 285, 286, 287 IN THE JURISDICTION OF SINGLE AGENCY THE TSIC, AND CONSTRUCTIONS BY SINGLE PROJECT PROPONENT R9, IN LIGHT OF GO 375 DATED 15 SEP 2004 AND NRSC BHUVAN 2D IMAGERIES, FOR RENDERING OF JUSTICE AND RESTORATION OF MULTIPLE WATER BODIES

It is submitted that, respondent 5, the TSIC have themselves filed reply affidavit, that their jurisdiction is across all the three survey numbers viz., sy no. 285, 286 and 287. They have also stated that the respondent 9, the project proponent, has applied for building permissions in the three survey numbers viz., sy no. 285/P, 286/P and 287. Hence, as the permitting authority and the project extent and project proponent is the same for project site area encompassing sy nos 285/P, 286/P and 287, it has become imperative to examine the water bodies in the sy nos 285/P, 286/P, 288 and 287 holistically, especially in light of the GO Ms 375 dated 15 sep 2004. Further, the NRSC Bhuvan 2D imageries, as well as existing lake structure on ground, alongwith other substantiating material already submitted by applicant, be examined holistically, for rendering of justice and restoration of water bodies.

'V'

GO MS NO. 375 DATED 15 SEP 2004 NOT SUBMITTED BY OFFICIALS TILL DATE TO THE TRIBUNAL

It is submitted that Respondent officials have not submitted the GO Ms 375 dated 15 sep 2004 till date to the Tribunal. This GO, that maps the area of water body in sy no. 286 and 288 and additionally substantiates the water bodies in sy no. 285, and the balkapur channel north of sy no. 285 and south of sy no. 286 has been issued by one of the respondents. Joint Committee member is also a signatory to the Notings of the said GO.

'VI'

SURVEY NO. 286 UNDER SCRUTINY OF TRIBUNAL, YET ENVIRONMENTAL CLEARANCE GIVEN BY JOINT COMMITTEE MEMBER ON 17 JULY 2020

It is also submitted that the Environmental Clearance has been given to the project as latest as on 17 july 2020 to the project proponent Respondent 9 for the survey nos. 285/P, 286 and 287, the area that is under the jurisdiction of the TSIC.

It is submitted that, the Environmental Clearance issued by Joint Committee member on 17 july 2020 for an area viz., sy no. 286/P, that is being examined by the Tribunal.

The inflow channel that has been submitted by Applicant as a proof of the hydrological structure of the lake, is in sy no 286.

The inflow channel flowing from north to south of the road which is destroyed due to project site area, is in sy no. 286. The huge structure raised in front of the excavated 6.3M two-vented culvert inside the project site area, is in sy no. 286.

The inflow channel that was culverted due to road, has now been piped and diverted both inside the site area of project proponent and also on the public road, is in survey no. 286.

TSIIC had themselves excavated the culverted channel inside the project site area measuring around 6.35M with two vents, but now, have destroyed the natural channel and diverted the channel on the road and piped back into site area in order to save the constructions of R9. The pipes had to be diverted back into the site area as the adjacent area belonged to another private owner.

It is submitted that, Respondents and Joint committee have been claiming innocence that constructions of R9 are not in sy no. 288 and water body is in sy no. 288. In spite of respondents claiming proof of constructions not inside the water body, they have diverted the channel that is in sy no. 286. And the piped channel is laid back into the sy no. 286 area of the project site area as it had to be connected to the balkapur channel which was the original flow of the inflow channel.

It is submitted that, Respondents have themselves offered proof of the hydrological structure of inflow channel inside the sy no. 286.

It is prayed that the channel of 6.3M wide excavated by TSIIC be re-excavated and restored to its original natural flow traversing from inside the sy no. 286 to the balkapur channel.

'VII'

PRAYER

- 1- To stay all constructions by project proponent on water bodies' areas in sy nos. 285, 286/P and 287 and on Balkapur channel;
- 2- To order for restoration/revival of the naturality of multiple water bodies that have been destroyed in sy nos 285, 286, 288 and balkapur channel.
- 3- To order for a high level time-bound judicial probe into the wanton destruction of multiple water bodies and their hydrological structures in sy no. 285, 286, 288 and the Balkapur channel that is between sy nos 285 and 286;
- 4- To proceed against the respondents for suppressing of information, for contempt of court in not saving and reviving the water bodies. For anti-constitutional conduct against Article 51-A and Article 48A as follows:

Part IV.—Directive Principles of State Policy 48A. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

Art 51A (g) in Part IVA: Fundamental Duties of the Indian Constitution: (51A) It shall be the duty of every citizen of India—(g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.



.....
SIGNATURE OF APPLICANT

VERIFICATION:

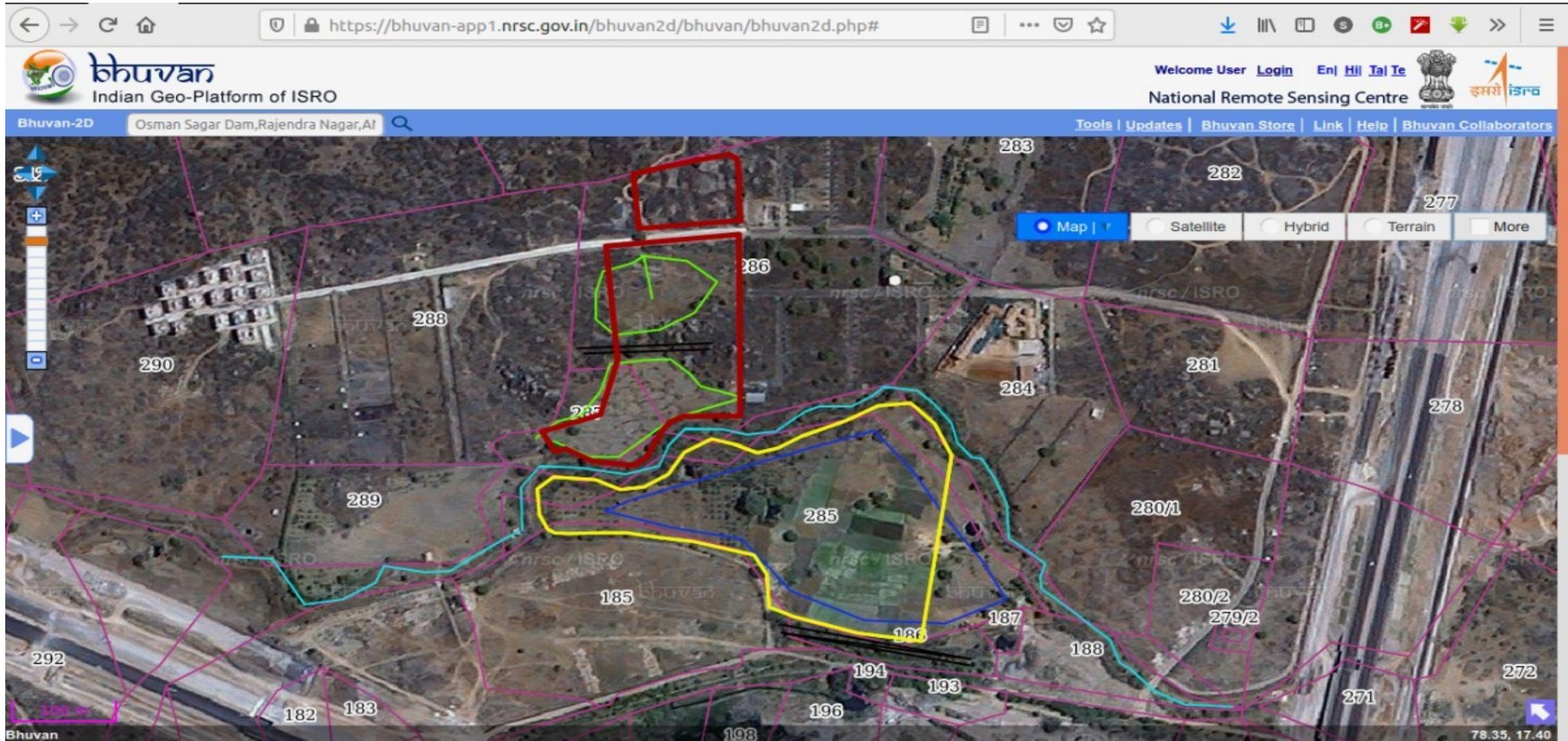
I, Dr Lubna Sarwath, d/o late Muhammad Khaleelullah & Mrs Roohi, identified with voter id no. WRH2244622, Passport no. S6464105 hereby verify that all stated above are true to my personal knowledge and i have not suppressed any known material fact.

DATE: HYDERABAD
PLACE: 1 december 2021



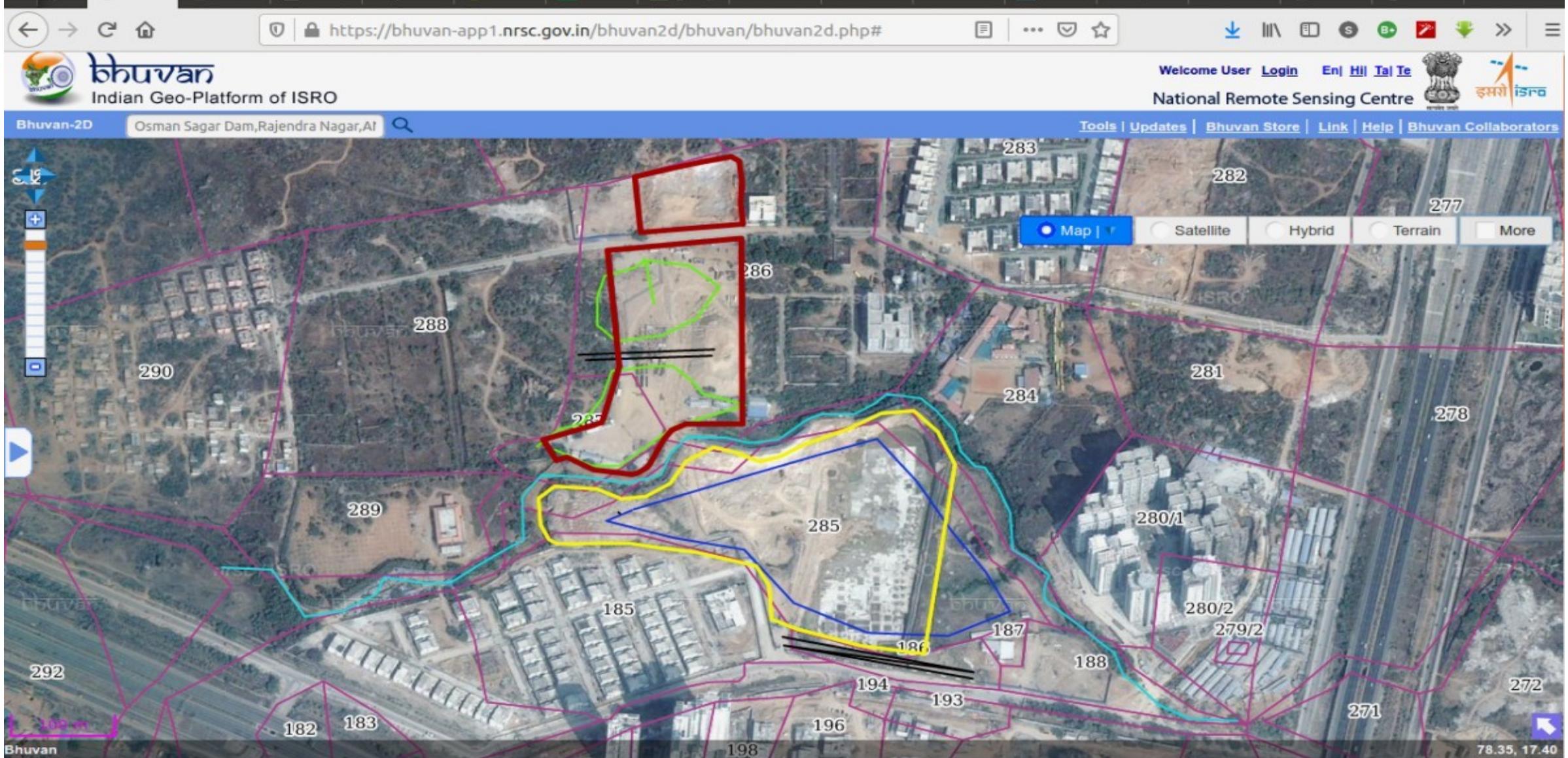
DR LUBNA SARWATH
APPLICANT





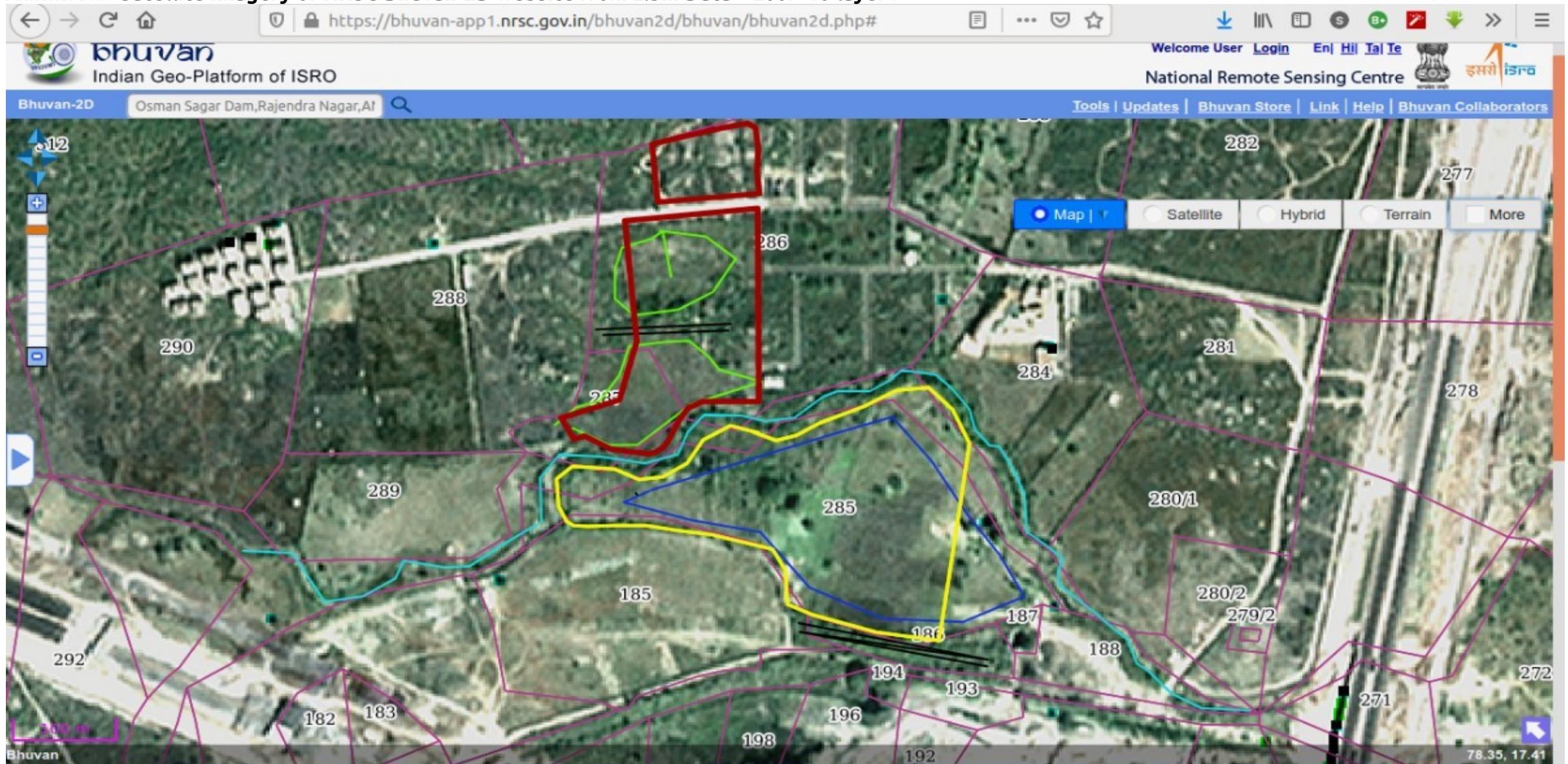
Picture 2: Satellite Imagery of NRSC Bhuvan-2D website from HR Data(1m) - 2012 to 2016 layer indicating Cadastral boundary in pink lines, alongwith R9 construction site in yellow line and extended construction site boundary from online and field surveys overlaid by Applicant in red lines. Blue lines are rough sketch of water body in sy no. 285 and green sketch indicate water body in sy no. 286,288 and its ayacut area showing fields below the bund. Bunds are indicated by two parallel black lines. Aqua line is the balkapur channel flowing from west to east

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Picture 3: Satellite Imagery of NRSC Bhuvan-2D website from HR Data(1m) – 2018 layer indicating Cadastral boundary in pink lines, alongwith R9 construction site in yellow line and extended construction site boundary from online and field surveys overlaid by Applicant in red line. Blue lines are rough sketch of water body in sy no. 285 and green sketch indicate water body in sy no. 286,288 and its ayacut area . Bunds are indicated by two parallel black lines. Aqua line is the balkapur channel flowing from west to east

sdh



Picture 4: Satellite Imagery of NRSC Bhuvan-2D website from 2.5m Data – 2009-10 layer indicating Cadastral boundary in pink lines, alongwith Phoenix construction site in yellow line and extended construction site boundary from online and field surveys overlaid by Applicant in red line. Blue lines are rough sketch of water body in sy no. 285 and green sketch indicate water body in sy no. 286,288 and its ayacut area showing fields below the bund. Bunds are indicated by two parallel black lines. Aqua line is the balkapur channel flowing from west to east

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