

**BEFORE THE NATIONAL GREEN TRIBUNAL,**

**SOUTHERN ZONE, CHENNAI**

**OA No.66 /2022**

**BETWEEN**

**N.Rajagopal Reddy**

**..... Applicant**

**AND**

**Deputy Commissioner and others .....**

**Respondents**

**I N D E X**

<b>Sl.No.</b>	<b>Particulars</b>	<b>Page Nos.</b>
<b>1</b>	<b>Revised Counter affidavit as per advise filed by the respondent No.2 along with an affidavit duly notarized</b>	<b>1-19</b>

**Bangalore  
21.02.2023**

  
**Advocate for Respondent No.2**  
**Sri.Liaquat.A.Pathan,B.Sc,LL.B(Sp)**  
**Advocate,KAR/1172/2013**  
**Flat No.302,Tristar Splendor,**  
**#505,4th Main,1st Stage,3rd Block,**  
**HBR Layout,Bangalore-560043**

CHENNAI

OA No.66/2022

BETWEEN

N.Rajagopal Reddy ... Applicant

AND

Deputy Commissioner and others ..... Respondents

REVISED COUNTER FILED ON BEHALF OF THE 2nd RESPONDENT

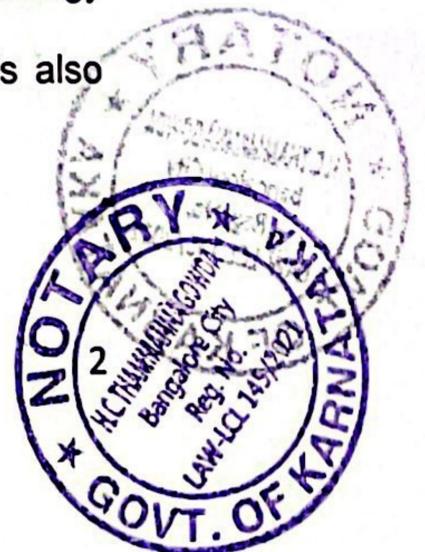
1. I, Sri.Mahesh Chandra Gowda,S/o Bhadraiah , aged Major, Member secretary ,Gowribidanur Planning Authority having its office at Behind Dr.H.N.Kalabhavan, V.V.Puram, Gowribidanur, Gowribidanur Taluk, Gowribidanur District 561208, Karnataka State, do hereby solemnly affirm and sincerely state as follows:
2. I submit that I am the 2<sup>nd</sup> respondent in this case and as such am well aware of the facts of the case. I further submit that this respondent reserves the right to file a more detailed affidavit with the leave of this Hon'ble Tribunal, if necessary, at a later stage as the present affidavit has been filed in the limited time available with the Respondent.
3. I submit that the petition is neither just nor maintainable either in law or on facts filed with misrepresentation of facts.



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Member Secretary  
Gauribidanur Planning Authority  
Gauribidanur-561208

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4. I hereby deny and dispute all the facts stated, contentions raised and grounds urged in the present Petition except those, which are specifically and unequivocally admitted in this reply. That the answering Respondent is filing the instant Counter Affidavit to the present application to bring on record correct facts and circumstances of the case before this Hon'ble Tribunal.
  5. It is further humbly submitted that although the environment and ecology are important for human existence , however development work is also equally important and as such any development work out not to be hampered on trivial environmental issues when this respondent has substantially complied with existing environmental norms.
  6. It is humbly submitted by this respondent that this Hon'ble Tribunal ought not to permit the person with vested interest to use Environmental Laws as tool for the ulterior motive/purposes.
  7. Before advertng to the application served so far in the present subject matter, this Respondent seeks to submit para wise replies for the aversion made in the said application. The para wise replies submitted by this respondent herein are all based on true records available with the government departments like sanctions, approvals, recommendations, inspections, various reports.
  8. It is further humbly submitted that although the environment and ecology are important for human existence , however development work is also

  
**Member Secretary**  
**Gauribidanur Planning Authority**  
**Gauribidanur-561208**



equally important and as such any development work out not to be hampered on trivial environmental issues when this respondent has substantially complied with existing environmental norms adhering to all Government norms, rules and regulations.

9. It is humbly submitted by this respondent that this Hon'ble Tribunal ought not to permit the person with vested interest to use Environmental Laws as tool for the ulterior motive/purposes.
10. Before adverting to the application served so far in the present subject matter, this Respondent seeks to submit para wise replies for the aversion made in the said application. The para wise replies submitted by this respondent herein are all based on true records available with the government departments like sanctions, approvals, recommendations, inspections, various reports.
11. Para 1 & 2 need no reply as aversions are as per records.
12. With regard to para 3, it is submitted that there is no encroachment of any Government water channels as alleged and also no construction of any unauthorized and illegal Bridges/Roads. Further, there are no violations of any framed guidelines, so for as Comprehensive development plan is concerned and all the permissions are as per Rules/Guidelines in accordance with direction passed by Government of Karnataka from time to time and all the aversions raised are wrong, incorrect, misconceived and hence misleading. Hence all are denied.



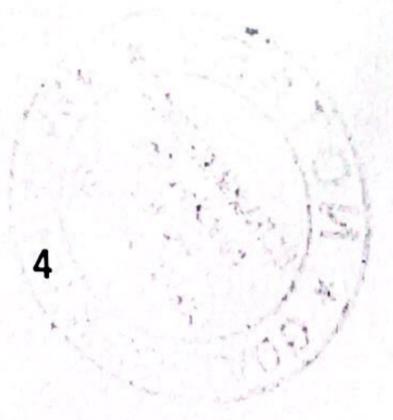
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**Member Secretary**  
**Gauribidanur Planning Authority**  
**Gauribidanur-561208**

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13. In reply to para 4, it is submitted that it is as per record needs no reply.
14. In reply to para 5, it is submitted that it is as per record needs no reply.
15. In reply to para 6, it is submitted that it is as per record needs no reply. In reply to para 7, it is submitted that the approvals of the government authorities are as per norms/guidelines/rules/regulations needs no reply.
16. In reply to para 8, it is submitted that all the aversions are wrong, incorrect, misleading and as such totally denied by this respondent.
17. In reply to para 9, It is further submitted that the aversion made therein, that respondent No.8 is developer of the land bearing Sy.Nos. 7/1, 7/2, 7/3, 7/4 and 7/5 is true and also construction of bridge across water channel. Further submitted that The Tahasildar, Gowribidanur Taluk has also permitted the construction of bridge vide approval reference No.L.N.D.C.R/42/2019-20 dated 09.09.2019 taking all the pros and cons within the purview of law. The said approval is produced herewith and Marked as **Annexure R-1**. However, in continuation of the said approval further permission was confirmed from the concerned department of Minor irrigation permitting construction of bridge vide approval bearing No.SSB/S.Em2/Kalvart- Muganahalli/02/2021-22 dated 05.01.2022. The said approval is produced herewith and Marked as **Annexure R-2**. The allegation as to there is already existing road in land bearing Sy.No.8/2, an appeal was made by the applicant herein to Regional commissioner , Bangalore region and survey department made the survey about the



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**Member Secretary**  
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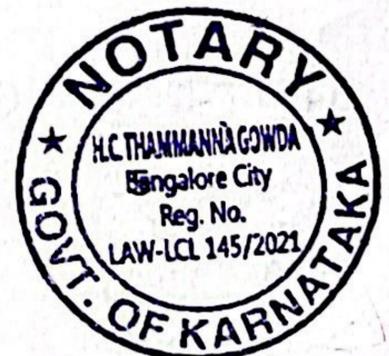
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existing road in Sy.No.8/2 and reported that there is not at all any road in the land in Sy.No.8/2 and the same was confirmed by the Tahasildar, Goribidanur to the District Deputy Commissioner vide letter No.A.L.N.C.R/131/2022-23 dated 10.08.2022 and the same is produced and Marked as **Annexure R- 3**. The confirmation of Taluk Surveyor in this regard is submitted to Tahasildar Office vide reference No.A.L.N.C.R /131/2022-23 dated 10.09.2022 is produced and Marked as **Annexure R- 4**. It is pertinent to place before the Hon'ble Tribunal that all the allegation made before the concerned government authorities repeated herein which have been looked into and replied suitably. The same matter is disputed again and again by filing this unwarranted application before this Hon,ble Tribunal and thereby abusing process of law and it is Resjudica.

18. The aversion made in Para No.10 are totally denied as false and misleading and the applicant should be put to strict proof of the same.

19. It is further submitted with regard to aversion made in **Paragraph 11** that the inspection report submitted by the applicant done by The Assistant commissioner, Chickballapur division enclosed as **Annexure A-5** by the applicant is dated 11.08.2015 and inspection report enclosed as **Annexure A-6** of DDLR is dated 07.09.2015 prior to getting approval of the layout by the respondent No.7 from the Gowribidanur Planning Authority on 17.05.2022, Produced and marked as **Annexure R-5** and all the alleged aspects of the applicant herein have been studied and examined and then approval is given. Raising unnecessary and unwanted

  
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**Gauribidanur Planning Authority**  
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allegation at this juncture is nothing but the nexus between the lis and the applicant is personal revelry.

20. It is further submitted with regard to aversion made in Paragraph 12, the applicant made, nothing but repetition of allegation.

21. With regard to aversions made in **paragraph 13** that the bridge of 50 feet is constructed in an unscientific manner, it is submitted that the bridge is constructed as per specification stipulated by the approval authority and it is inspected and approved as per **Annexure A - 4** submitted by the applicant is nothing but the photos of the bridge constructed by the applicant without any approval and permission which is causing water logging due to small water outlet holes in the bridge constructed by the applicant. It is not due to 50 feet wide bridge as alleged. The applicant has suppressed this information. The permission was given for construction not to construct for individual or personal of respondent No.7's use but for the benefit of all the residents who are residing in the surroundings, permitted though deliberation, consultation and application of mind by all concerned authorities and experts have gone into the decision making process. The decision of the authorities cannot be said to be arbitrary or capricious or one not in good faith or actuated by improper motive or extraneous considerations.

22. The aversion made in para No.14 is totally denied as false and baseless.

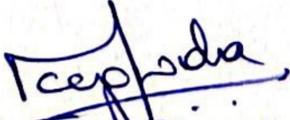


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**Member Secretary**  
**Gauribidanur Planning Authority**  
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23. It is further submitted that the aversion made in **paragraph 15** that there is a access to the land is already available from both of the Puttapurlahalli and Gotakanapura village is true and the said road is blocked by the applicant for not to use by others. Hence the Government authority requested for construction of alternative bridge to provide passage to the general public, which fact has been suppressed by the applicant herein. The **Annexure A -7 and A -8** produced by the applicant herein are the approvals given by The Tahasildar Gowribidanur and Assistant executive Engineer minor irrigation department respectively, which facts the applicant has not brought to the notice of Hon,ble Tribunal except enclosing them to mislead the Hon,ble Tribunal

24. It is further submitted that the aversion made in **paragraph 16** that the bridge has been constructed without obtaining permission or any objection from respondent No.2 and 5 i.e Gowribidanur Planning Authority and Gowri Bidanur City Municipal Council. It is pertinent to submit that at the time of construction of bridge, the Planning authority or City Municipal council office did not exist and hence seeking permission/approval / no objection before respondent No.2 & 5 came into existence do not arise. This fact has not been brought to the notice of this Hon,ble Tribunal and the applicant has created spurious and baseless aversions .

25. It is submitted that Gowribidanur Planning Authority that has given modified provisional technical approval for the residential layout plan of 1 acre 03 Guntas in Sy.No.33/2A and 1 acre 08 Guntas of land in

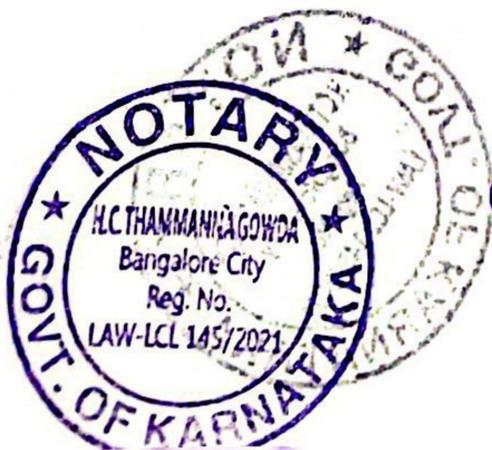
  
**Member Secretary**  
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Sy.No.33/2B of Gotakanapura Village , Kasab Hobli Gowribidanur Taluk, having total extent of 2 Acres 11 Guntas the residential layout formed by the respondent 7 herein vide approval reference Sl.No.GOWYoPra/Vinyasa/05/2019-20/77 dated 17.05.22 under section 17 of Karnataka Town and Country planning Act and Karnataka Planning Authorities Rule 36.

It is further submitted that the above modified provisional technical approvals given based on the recommendations and approvals given by various Karnataka Government Departments as listed under:

- i) Hon'ble Deputy commissioner , Chickballapur District official memorandum bearing No.ALN(Gow) SR/110/2014-15 and ALN/(Gow) SR119/2014-15 dated 01.07.2019. **Produced and marked as R-9**, along with English Translation
- ii) Court of Hon'ble Deputy Commissioner , Chickballapur District Chickballapur , Case No.A.L.N.(Gow)SR/119/2014-15 and also No.A.L.N.(Gow)SR/110/2014-15 dated 04.01.2021. **Produced and marked as R-10**, along with English Translation
- (iii) Assistant Executive Engineer, Minor irrigation and Ground water Development, Sub Division, Chickballapur letter No.SaSaBa/Sa. En-1/Gowribidanur/ Mooganahalla Mori Nirmana/461/2109 dated 29.08.2019. **Produced and marked as R-11**, along with English Translation.
- iv) Office of the Tahasildar , Gowribidanur Official Memorandum



*Thammania Gowda*  
**Member Secretary**  
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Number L.N.D.C.R/42/2019-20 dated 09.09.2019. **Produced and marked as R-12**, along with English Translation

- v) As per the decision regarding Subject No.07 in the 18<sup>th</sup> of the General Meeting of the Authority – produced and marked as R-13 with English Translation
- vi) As per Karnataka Gazette Notification number VyaShaA/24/Shasana /2015, Bangalore dated 10.09.2019.

26. It is further submitted that the aversion made in **paragraph 17** that a cause way exists for the use of the public and cross the vehicles since a decade. As replied to the aversions made in paragraph 15, the said road is blocked by the applicant for not to use by others. Hence the Government authority requested for construction of alternative bridge to provide passage to the general public, which fact has been suppressed by the applicant herein. and hence the Government authority requested for construction of alternative bridge to provide passage to the general public for their convenience to solve the problem , which fact has been suppressed by the applicant herein.

27. It is further submitted that the aversion made in **paragraph 18** that the 24-meter wide bridge and road has been planned in the master plan. The authorities while granting permission have considered all aspects and permitted for construction of 23 feet wide bridge and road as permitted in the master plan adhering to all rules and regulations and reputedly

  
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alleging and complaining about the powers of the authorities is nothing but abuse of court process.

28. It is further submitted that the aversion made in **paragraph 19** that the constructed bridges causes water logging and inundation of the surrounding lands is an assumption made by the applicant to suit this application. This allegation is not all true as big holes of water outlets have been provided in the bridges constructed to allow free flow of water or any excess water in case of heavy rains without interruption under any circumstances. The minor irrigation department has studied this aspect in depth and stipulated conditions and adhering to the said stipulations bridges are constructed. Therefore, it is submitted that the bridge is authorized construction with due permission.

29. It is further submitted that the aversion made in **paragraph 20** are nothing but repetition of the same aversions and the flooding pictures produced by the applicant are taken before construction of bridge as produced by the applicant in **Annexure A-11**. The applicant to mislead and suit his allegations does this.

30. It is further submitted that the aversion made in **paragraph 21** that the layout is carried out in collision with government authorities is far from the truth and the aversions are baseless. Powers by the officials of the sanctioning authorities are vested with them by the Government and they



*Thammanna*  
Member Secretary  
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are supposed to use them adhering to all the rules and regulations while taking action/sanctioning/giving approvals.

31. It is further submitted that the aversion made in **paragraph 22** that 7<sup>th</sup> respondent's layout is carried out in collision with government authorities is far from the truth and the aversions are baseless and the aversions are made to suit this application.

32. It is further submitted that the aversion made in **paragraph 23** that the endorsements given by both Tahasildar and Assistant director land records is within their purview and this respondent need not submit his reply in this regard as it is their official duties/capacity/powers.

33. It is further submitted that the aversion made in **paragraph 24** that this respondent is/was a mute spectator and turning blind eye for construction of bridges across the water channel coming in the jurisdiction of planning authority is baseless/unwanted allegations and are far from the true facts. As replied in para 17, this Gowribidanur Planning Authority was not at all in existence at the time of approvals given to Respondent No.7. All approvals/permissions/sanctions are given by other government departments only adhering to all Government Guide Lines as replied in para No.17 and as such the constructions of Bridge is not all illegal, unauthorized and unlawful. Approvals are given in their official capacity, with powers vested with them prerogative exercising

  
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their powers adhering to the Government guidelines , rules and regulations. Hence all aversions made by the applicant are totally denied.

34. It is further submitted that the aversion made in **paragraph 25** that the power of The Assistant Executive Engineer of Minor irrigation department's approval permitting construction of new bridge by a private persons on government's land at his cost is questioned herein. This respondent submits one such permission given by the Government of Odisha is produced and marked as **Annexure – R- 6**. This respond also refer LAW ON PUBLIC ROADS (Official Herald RS, issue 10/1/2005) guide line issued by the Government of India so for as public roads are concerned.

35. It is further submitted that the aversion made in **paragraph 26**, the reply is already submitted in reply to Paragraph 16 of the application that a cause way exists for the use of the public and cross the vehicles since a decade. As replied to the aversions made in paragraph 15, the said road is blocked by the applicant for not to use by others. Hence the Government authority requested for construction of alternative bridge to provide passage to the general public, which fact has been suppressed by the applicant herein. Hence the Government authority requested for construction of alternative bridge to provide passage to the general public for their convenience to solve this problem, which fact has been suppressed by the applicant herein.



*Kejroda*  
Member Secretary  
Gauribidanur Planning Authority  
Gauribidanur-561208

36. It is further submitted that the aversion made in **paragraph 27**, the existing bridge is in dilapidated condition not fit for its use and there was representation from the general public to construct new bridge for free flow of excess water in case of flooding. Hence, construction of new bridge was necessitated and permitted the respondent No.7 to construct at his expenses for public benefit. It is not on the buffer zone as alleged and one shown in the photographs in **Annexure A-15** submitted by the applicant is not at all true and misleading the Hon'ble tribunal.
37. It is further submitted that the aversion made in **paragraph 28** that when there was no indiscriminate construction of bridges or roads, as alleged, the this respondent has no power to initiate or meddle with the powers or action of other Government bodies in this regard when they are made/constructed as per rules with all the approvals /permissions and the aversions are baseless.
38. It is further submitted that the aversion made in **paragraph 29** the aversions are baseless and misleading the Hon,ble Tribunal . The aversions are wrong, incorrect, misleading when carrying out /conducting inspection, reports are based on government guidelines. Hence, all aversions are denied as incorrect.
39. It is further submitted that the aversion made in **paragraph 30** that when there was no encroachment by any one and the aversions are baseless and hence denied.

  
**Member Secretary**  
**Gauribidanur Planning Authority**  
**Gauribidanur-561208**



40. It is further submitted that the aversion made in **paragraph 31** is again repetition of allegation as made in earlier paragraphs. Reply to these aversions is submitted in earlier paragraphs and hence denied.

41. It is further submitted that the aversion made in **paragraph 32** is again repetition of allegation as made in earlier paragraphs. Reply to these aversions is submitted in details in earlier paragraphs. It is further submitted that there was absolutely no collusion of any sort with any Government officials as alleged and aversions are concocted stories created by the applicant as he is harassing all the Government bodies in one way or the other right from the beginning having political and personal revelry with the respondent No.7. The aversions are incorrect and misleading as such denied and this respondent rely upon the submission made herein above.

42. It is further submitted that the aversion made in **paragraph 33** is again repetition of aversions as made in earlier paragraphs. Planning authority has duly taken into all rules/regulations/stipulation as per the Master Plan and there is no deviation of any sort as alleged.

43. It is further submitted that the aversion made in **paragraph 34** is again repetition of allegation as made in earlier paragraphs, that a cause way exists for the use of the general public and cross the vehicles since a decade. As replied to the aversions made in paragraph 15, the said road is blocked by the applicant's family for their personal use and not to use



*Tejroda*  
Member Secretary  
Gauribidanur Planning Authority  
Gauribidanur-561208

it by others . It is further submitted that a police complaint as to blockage of road by the applicant for not to use by others. Hence the Government authority requested for construction of alternative bridge to provide passage to the general public, which fact has been suppressed by the applicant herein. Hence the Government authority requested for construction of alternate bridge to provide passage to the general public for their convenience to solve this problem, which fact has been suppressed by the applicant herein.

44. It is further submitted that all the approvals, sanctions, permissions, from Government body clearance are placed in public domain and there was or is any objections raised by the public except this applicant.

45. It is pertinent to place before the Hon' ble Tribunal that the applicant had also filed an appeal before The deputy commissioner, Chickballapur District vide appeals No.ALN/G/SR/119/2014-15 and No.ALN/G/SR/110/2014-15 raising all objections/aversions as made in this application and the appeals were rejected vide order dated 04.01.2021 and the same is produced and marked as Annexure R-8. Therefore, resjudica is applicable in this case repeatedly raising same issues before this tribunal also.

Therefore, it is submitted that the contentions put forth by the applicant are devoid of merit and have to be rejected and the application has to be heard on merits. The NGT has the power to hear all civil cases relating to

*Reproda*  
**Member Secretary**  
**Gauribidanur Planning Authority**  
**Gauribidanur-561208**



environmental issues and questions that are linked to the implementation of laws listed in Schedule I of the NGT Act.

It is obvious that such a litigative adventure by the present applicant is clearly against the principles of Res Judicata as well as principles of Constructive Res Judicata and principles analogous thereto.

It is further submitted that the Tribunal has jurisdiction over all civil cases only where a substantial question relating to the environment including enforcement of any legal right related to environment is involved and the said substantial question should also arise out of the implementation.

It is further submitted that applicant does not disclose all the material facts fairly and truly but states that in a distorted manner and mislead the Court.

In the above circumstances, in view of the reasons/facts stated as above, it is most humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above frivolous application with exemplary cost to deter others from venturing into such proxy litigations camouflaging bona fide environmental prosecution as it lacks merits and it is liable to be dismissed on facts and on law and justice

It is humbly submitted that this applicant has abused every jurisdictions available for redressal of his imaginary grievances and hence humbly prayed to dismiss this application as not maintainable .



*Keeyoda*  
**Member Secretary**  
**Gauribidanur Planning Authority**  
**Gauribidanur-561208 .**

Gowribidanur

Respondent no.2

VERIFICATION

Verified at Bangalore on this 13th day of February 2023 that the contents of my above affidavit are true and correct to my knowledge, information and belief and nothing material has been concealed there from ;

Advocate for respondent No.5

Sri.Liaquat.A.Pathan,B.Sc,LL.B(Spl)  
Advocate,KAR/1172/2013  
Flat No.302,Tristar Splendor,  
#505,4th Main,1st Stage,3rd Block,  
HBR Layout,Bangalore-560043

Member Secretary  
Gauribidanur Planning Authority  
Gauribidanur-561208



BEFORE THE NATIONAL GREEN TRIBUNAL , SOUTHERN ZONE,

CHENNAI

OA No.66/2022

BETWEEN

N.RajagopalReddy ..... Applicant

AND

Deputy Commissioner and others ..... Respondents

AFFADIVIT

I, Sri.Mahesh Chandra Gowda ,S/o Bhadraiah , aged Major, Member secretary ,Gowribidanur Planning Authority Having its office at Behind Dr.H.N.Kalabhavan, V.V.Puram, Gowribidanur, Gowribidanur Taluk, Gowribidanur District 561208, Karnataka State, do hereby solemnly affirm and sincerely state as follows:

That, I am the 2<sup>nd</sup> respondent in the above OA 66/2022 and therefore, I am fully conversant with the facts of the case and I am competent to sign ant swear this affidavit.



No. of Corrections.....

That the accompanying reply/counter affidavit has been drafted by my counsel and the same has been read over and explained to me and I state and declare that the same are true and correct.

That the content of accompanying reply/counter affidavit be read as part and parcel of this affidavit as the same are not repeated for the sake of brevity.

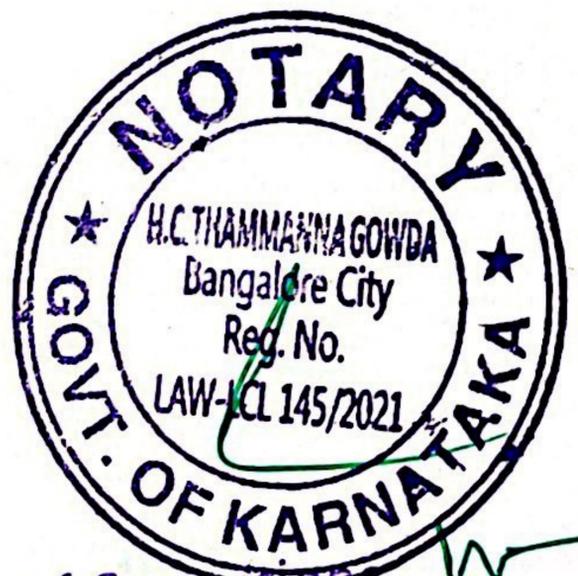
Filed by me  
Advocate for  
the 2<sup>nd</sup> respondent  
13.02.2023



Sri. Liaquat A. Pathan, B.Sc, LL.B(Spl)  
Advocate, KAR/1172/2013  
Flat No.302, Tristar Splendor,  
#505, 4th Main, 1st Stage, 3rd Block,  
HBR Layout, Bangalore-560043

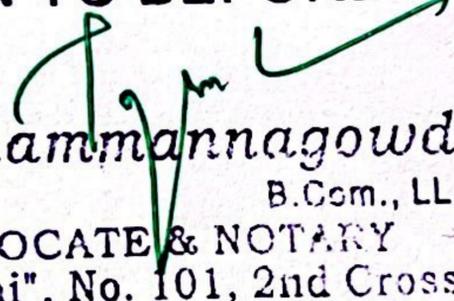


**Member Secretary**  
**Gauribidanur Planning Authority**  
**Gauribidanur-561208**



No. of Corrections.....

SWORN TO BEFORE ME

  
H.C. Thammannagowda  
B.Com., LL.B.  
ADVOCATE & NOTARY  
"Spoorthi", No. 101, 2nd Cross,  
Kamat Layout, Chikkabidarakallu,  
BANGALORE - 560 073.

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