

**BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,  
AT NEW DELHI  
ORIGINAL APPLICATION NO. 327 OF 2024**

**IN THE MATTER OF:**

HUBTOWN LTD ... APPLICANT

VERSUS

UNION OF INDIA & ORS. ... RESPONDENTS

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**N.D.O.H.28.05.2024**

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**THROUGH**



**SAMIR MALIK, MAHIP SINGH & VARUN  
KALRA**

Advocates for the Applicant

**DSK Legal**

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Okhla Industrial Estate, Phase III

New Delhi – 110020, India

2Mo. No: 9818990959

Email: [varun.kalra@dsklegal.com](mailto:varun.kalra@dsklegal.com)

Place:- New Delhi

Dated:- 22.05.2024

**BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,  
AT NEW DELHI  
ORIGINAL APPLICATION NO. 327 OF 2024**

**IN THE MATTER OF:**

Hubtown Ltd

... Applicant

Versus

Union of India & Ors.

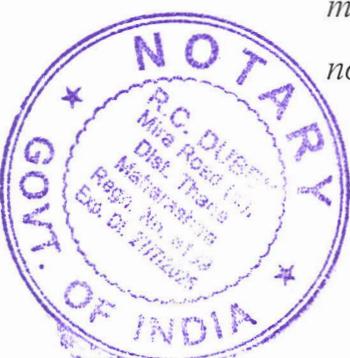
... Respondents

**AFFIDAVIT ON BEHALF OF THE APPLICANT IN COMPLIANCE OF  
THE ORDER DATED MARCH 22, 2024 PASSED BY THE HON'BLE  
TRIBUNAL:**

I, Ali Murtaza, s/o Muzaffar Ali aged 49 years, having office at Hubtown Seasons, R C Chemburkar Marg, Chembur (East) Mumbai – 400071, do hereby solemnly affirm and state as under:

1. I am the Assistant Vice President, Legal of the Applicant abovenamed. I am aware of the facts and circumstances of the captioned matter and I am able and competent to depose to the contents of this Affidavit and authorised to do so on behalf of the Applicant. I repeat, reiterate and confirm all that is stated in the captioned Original Application as if the same is forming a part hereof.
2. I say that when the captioned Original Application came up for hearing before the Hon'ble Tribunal on March 22, 2024, the Hon'ble Tribunal was pleased to note as under:  

*“7. We have pointed to the Learned Counsel for the Applicant that in view of the Order of Hon'ble Supreme Court dated 18.10.2022 in SLP Civil No.17931/2022, the matters arising out of State of Maharashtra and Goa are required to be heard by the Pune Bench. He submits that in the peculiar facts of the present case when the issue is already concluded by the order of the Principal Bench, this OA is required to be heard by the Principal Bench only and the Applicant is ready to approach the Hon'ble Supreme Court for appropriate clarification in this regard. He submits that in the meanwhile, notice may be issued to the respondents so that Applicant may not be made to suffer unnecessarily on account of delay in this process.”*



Annexed hereto and marked as Annexure "A" is a copy of the said Order dated March 22, 2024.

3. Pursuant to the said Order dated March 22, 2024, the Applicant approached the Hon'ble Supreme Court to seek clarification of the Order dated October 18, 2022 in SLP Civil No.17931 of 2022 as to which bench of the Hon'ble National Green Tribunal ought to hear the captioned Original Application. Since the Applicant was not a party to SLP Civil No.17931 of 2022, the Applicant filed an Application for Intervention, i.e. I.A. No.84014 of 2024 and an Application for Clarification, i.e. I.A. No.84015 of 2024 before the Hon'ble Supreme Court.

4. I say that by an Order dated May 17, 2024 passed by Their Lordships the Hon'ble Justice B.R. Gavai and Justice Sandeep Mehta in I.A. No.84014 of 2024 and I.A. No.84015 of 2024, the Hon'ble Supreme Court was pleased to allow the application for impleadment. The Hon'ble Bench was further pleased to clarify the Order dated October 18, 2022 to the effect that O.A. No. 327 of 2024, i.e. the captioned Original Application be permitted to be heard and decided by the Principal Bench of the National Green Tribunal. Annexed hereto and marked as Annexure "B" is a copy of the said Order dated May 17, 2024.

5. In view of the aforesaid, it is respectfully prayed that this Hon'ble Tribunal be pleased to hear and decide the captioned Original Application.

Solemnly affirmed at Mumbai )

This 22<sup>nd</sup> day of May, 2024 )

*Asim Kaling*

DSK Legal  
*Shadkey*  
Advocates for the Applicant.



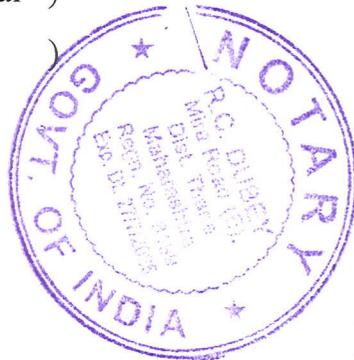
*Asim Kaling*

Deponent

BEFORE ME

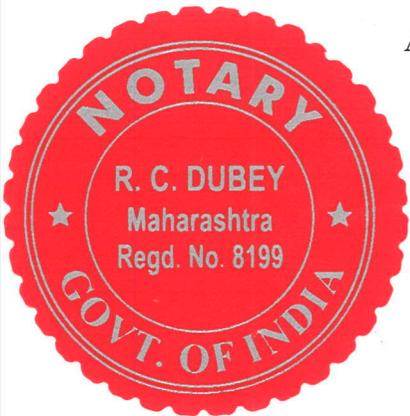
*R.C. Dubey*

R. C. DUBEY  
NOTARY  
Maharashtra  
Govt. of India)



R.C. DUBEY (NOTARY GOVT. OF INDIA)	
Notarial Register	
Sr. No	
833	22/5

22 MAY 2024  
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Item No. 07

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 327/2024

Hubtown Limited

Applicant

Versus

Ministry of Environment Forest and  
Climate Change & Ors.

Respondent(s)

Date of hearing: 22.03.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON  
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Karan Bharihoke, Ms. Falguni Thakkar &amp; Ms. Himani Yadav, Advs.

Respondent: Ms. Praveena Gautam, Ms. Kanika Kalyan, Ms. Akanksha Tyagi & Mr.  
Pawan Shukla, Advs. for R - 1 & 3**ORDER**

1. In this original application, the grievance of the Applicant is that though the issue is already concluded by the earlier order of the Principal Bench of the NGT but the respondents in violation thereof are treating the property in question as garden whereas the Principal Bench of the Tribunal has already rejected that stand and held it to be covered by slums.

2. He has submitted that the subject property was declared a census slum owing to the encroachment by slum dwellers. After the Coastal Regulation Zone (CRZ) Notification publication of 1991, the property in question was continued to be shown as garden. The Applicant's proposal to the Slum Rehabilitation Authority (SRA) for development of the subject property was accepted and LOI/ revised LOI were issued in 1998 providing for surrender of 4110.58 sq. meters as nonbuidable reservation



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garden to be handed over to BMC free of cost duly developed. Under revised LOI, FSI of 2.289 was granted but in situ FSI was restricted to 1.25. EC to the slum scheme was issued by the MoEF to the Applicant in 2007 but thereafter, MCZMA in 2009 took the view that proposed slum scheme of the Applicant is planned on the land reserved for garden as such not permissible. Hence, it referred the matter to MoEF for decision which rejected the proposal of the Applicant in 2009. After travelling the matter to the High Court, it came back to NCZMA which in 2012 rejected the Applicant's stand that subject property should not be categorized as CRZ-III. Hence, the Appeals were preferred before the NGT.

3. The Tribunal while deciding the Appeal by order dated 17.10.2012 had specifically recorded the finding to the following effect:

*"14. A close scrutiny of the record shows that there was no existence of garden or park on the subject plots since much prior to 1991. It is an admitted fact that the area is covered by hutments. It is a fact that a large group of hutment dwellers falls under the census carried out by the Government agency in or about 1976. In other words, the subject plots were treated as gardens/parks only because of the Coastal Regulations Zone Notification, 1991.*

*15. The question that needs to be addressed is whether the plots already covered by the slums could be treated as reserved gardens/parks. Such a reservation is assumed by giving "deeming effect" on account of issuance of the CRZ Notification, 1991. Needless to say, what did not exist, in reality, is assumed to be in existence by virtue of the CRZ Notification 1991 with retrospective effect. In our opinion, legal fiction may give deeming effect to the proposition or thing which does not exist as on the date of regulation or Law. However, no deeming effect can be given to assume non-existence of thing to be an existing thing with retrospective effect. Such an interpretation may create anomalous position. For example, where a building is constructed and stands and the same was constructed by obtaining necessary permission as per the Law, which was in force at the time of such construction, by subsequent executive Instructions or Regulations, the existence of such a building cannot be made to "disappear" by legal fiction. We mean to say that subsequent executive Instructions or Regulations cannot be interpreted so as to make the same unworkable and impracticable. There is no magic wand under the CRZ Notification, 1991 to make disappear such slums*



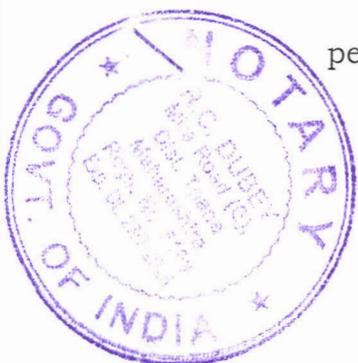
*which already existed since long before issuance of the CRZ Notification, 1991.”*

4. He submits that thereafter MCZMA in the minutes of the meeting dated 26.04.2013 had given effect to the order of the Tribunal and approved the SRA scheme under CRZ Notification, 1991 and in pursuance thereto, Applicant had also started construction activity and partially completed it. According to the Counsel for the Applicant, controversy was set at rest by virtue of the order of the Principal Bench of NGT.

5. The grievance of the Applicant started when the CRZ Notification of 2019 and draft CZMP were published wherein the subject land was again shown as green and the authorities proceeded to take action on that basis. The CZMP in the year 2023 held that the Applicant's slum scheme is situated in NDZ of CRZ-II by virtue of garden reservation as per the approved CZMP 2019.

6. Learned Counsel for the Applicant submits that once the issue is concluded by order of the Tribunal and authorities have acted upon it and construction is raised by the Applicant, the stand on the basis of subsequent Notification of 2019 cannot be changed. He submits that on account of changed of stand by the authorities, the construction work of the Applicant has stopped and Applicant is suffering the loss of approximately Rs. 90 lakhs per month on transit rent in addition to the other expenses which he required to incur.

7. We have pointed to the learned Counsel for the Applicant that in view of the order of Hon'ble Supreme Court dated 18.10.2022 in SLP Civil No. 17931/2022, the matters arising out of State of Maharashtra and Goa are required to be heard by the Pune Bench. He submits that in the peculiar facts of the present case when the issue is already concluded by



the order of the Principal Bench, this OA is required to be heard by the Principal Bench only and the Applicant is ready to approach the Hon'ble Supreme Court for appropriate clarification in this regard. He submits that in the meanwhile, notice may be issued to the respondents so that Applicant may not be made to suffer unnecessarily on account of delay in this process.

8. Ms. Praveena Gautam, Advocate accepts notice on behalf of Respondents No. 1 and 3. Let notice be issued to Respondents No. 2 and 4. Applicant is directed to serve the Respondents No. 2 and 4 and file affidavit of service at least one week before the next date of hearing.

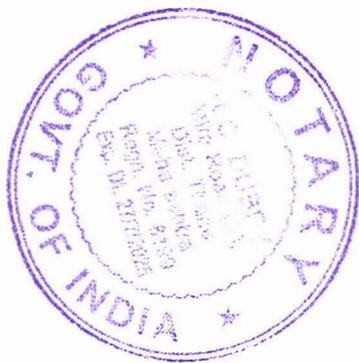
9. List on 28.05.2024.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

March 22, 2024  
Original Application No. 327/2024  
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ITEM NO.10

COURT NO.3

SECTION III

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 7807/2022

THE NATIONAL GREEN TRIBUNAL & ANR.

Appellant(s)

VERSUS

THE GOA FOUNDATION & ORS.

Respondent(s)

(IA No. 109170/2024 - CLARIFICATION/DIRECTION, IA No. 84015/2024 -  
CLARIFICATION/DIRECTION AND IA No. 84014/2024 -  
INTERVENTION/IMPLEADMENT)

Date : 17-05-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Appellant(s)

Mr. Arvind P. Datar, Sr. Adv.  
Mr. Santosh Krishnan, AOR  
Ms. Sonam Anand, Adv.  
Ms. Deepshikha Sansanwal, Adv.

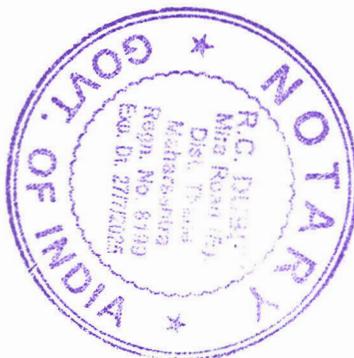
For Respondent(s)

Ms. Nupur Kumar, AOR  
Ms. Niharika Tanwar, Adv.

Ms. Aishwarya Bhati, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Swarupama Chaturvedi, Sr. Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. Rana Mukherjee, Adv.  
Ms. Arunima Dwivedi, Adv.

Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Siddharth Dharmadhikari, Adv.  
Mr. Abhikalp Pratap Singh, AOR  
Mr. Devanshi Singh, Adv.  
Ms. Yamini Singh, Adv.  
Mr. Kartikey, Adv.  
Mr. Ravi Shankar Pandey, Adv.

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Deepak Singh  
Date: 2024.05.20  
17:12:36 IST  
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Mr. Karan Bharioke, Adv.  
 Mr. Parag Kabadi, Adv.  
 Ms. Falguni Thakkar, Adv.  
 Mr. Mahip Singh Sikarwar, Adv.  
 Ms. Himani Yadav, Adv.  
 Mr. Chandra Prakash, Adv.  
 M/S. D.S.K. Legal, AOR

Mr. Ninad Laud, Adv.  
 Mr. Saurabh Kulkarni, Adv.  
 Mr. Ivo D Costa, Adv.  
 Ms. Anshula Grover, AOR  
 Ms. Anshula Vijay Kumar Grover, AOR

Ms. Madhusmita Bora, AOR  
 Mr. Pawan Kishore Singh, Adv.  
 Mr. Dipankar Singh, Adv.

Mr. Balbir Singh, Sr. Adv.  
 Mr. Aaditya A. Pande, AOR  
 Mr. Bharat Bagla, Adv.  
 Mr. Naman Tandon, Adv.  
 Mr. Sourav Singh, Adv.  
 Mr. Aditya Krishna, Adv.  
 Ms. Preet S. Phanse, Adv.  
 Mr. Adarsh Dubey, Adv.

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

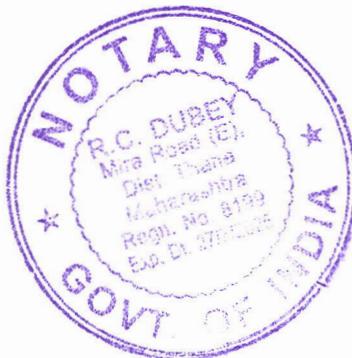
IA No. 109170/2024

In the peculiar facts and circumstances, we are inclined to allow this application in terms of prayer clause (a).

IA Nos. 84014-84015 of 2024

1. The application for impleadment is allowed.
2. For the reasons mentioned in the application, we clarify our order dated 18<sup>th</sup> October, 2022 to the effect that O.A. No. 327 of 2024 to be permitted to be heard and decided by the Principal Bench of National Green Tribunal.
3. The application is, accordingly, disposed of.

(DEEPAK SINGH)  
 ASTT. REGISTRAR-cum-PS



(ANJU KAPOOR)  
 COURT MASTER (NSH)

  
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# HUBTOWN

Regd. Office: Plaza Panchsheel, "A" Wing, 5th floor, Hughes Road, Behind Dharam Palace, Grant Road (West), Mumbai - 400007 INDIA  
Tel.: +91-22-67037400 • Fax: +91-22-67037403 • www.hubtown.co.in. • CIN:L45200MH1989PLC050688

**EXTRACT OF THE RESOLUTION PASSED AT THE MEETING OF THE COMMITTEE OF DIRECTORS OF THE COMPANY HELD ON JUNE 20, 2018**

"RESOLVED THAT Mr. Ali Murtaza or Mr. D V Prabhu, authorized official of the Company be and is hereby authorized to appoint advocates, counsels, and/or solicitors as may be deemed fit and to commence, institute, file, carry on, continue, prosecute, defend, answer & oppose all actions, suits, writ petition or other legal proceedings and demand notices, to sign and execute all papers, vakalatnamas, applications, plaints, petitions, replies to the Notice of Motion, written statements, bail bonds, counter affidavits, rejoinders, appeals, cross appeals, stay applications before any Courts and/or other Judicial/Quasi-Judicial Authorities and such other documents as may be required to be filed in any court including High Court or before any statutory or other authority, Tribunal and/or local authorities in connection with legal proceedings including Criminal Proceedings instituted by or against the Company and to represent/defend the Company in any Court of Justice in any actions instituted by and/or against the Company or in all other matters incidental thereto;

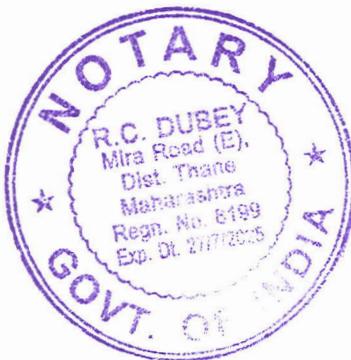
RESOLVED FURTHER THAT a copy of the aforesaid resolution certified to be true by any one of the Directors of the Company be furnished to Appropriate Authorities as may be considered necessary and they be requested to act thereon."

CERTIFIED TRUE COPY

For HUBTOWN LIMITED

*Chetan S. Mody*

CHETAN S. MODY  
COMPANY SECRETARY  
FCS: 2196



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