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Next date of hearing 25.07.2025

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

Original application no. 463 of 2022

IN THE MATTER OF :

Vipin Nayyar

...Applicant

Versus

Union of India & Ors.

...Respondents

INDEX

Sl. No.	Particulars	Court fees
1.	Affidavit on behalf of Respondent no. 5 (Mussorie Dehradun Development Authority)	

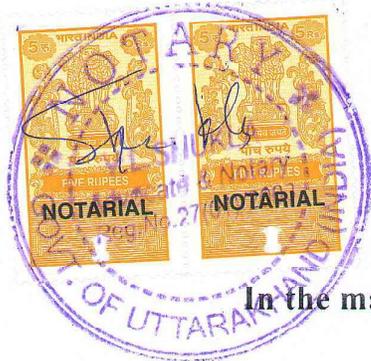
Filed on 18.07.2025

(VINAY GARG)

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH
NEW DELHI

Original Application No. 463 of 2022



In the matter of:

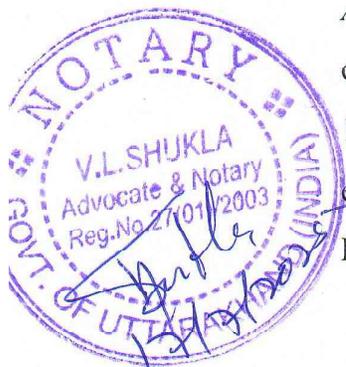
Vipin Nayyar ... Applicant

Vs.

Union of India & Ors. ... Respondents

I, Harichand Singh Rana, aged about 59 years, S/O Late Shri Soban Singh Rana, presently posted as Chief Engineer, Mussoorie Dehradun Development Authority, Transport Nagar, Saharanpur Road, Dehradun, do hereby solemnly state on oath as under:

1. That deponent is posted as Chief Engineer in Mussoorie Dehradun Development Authority and is well conversant with the facts of the case hence competent to swear this affidavit.
2. That so far as Mussoorie Dehradun Development Authority is concerned, it a statutory authority constituted in the year 1984 under the UP Urban Development & Planning Act, 1973 (*now known as "The Uttarakhand Urban and Country Planning and Development Act, 1973 as applicable to the State of Uttarakhand*) and is bound and obliged to function within the jurisdiction as provided under the Act, 1973. The respondent no. 5 has no authority to exercise its jurisdiction either under the Uttarakhand Flood Plaining Zone Act 2012 or the Environment Protection Act, 1986.



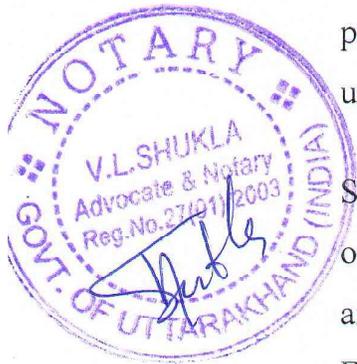
3. That the present original application has been filed for demolition and removal of Hotel Ganga Forest View and Restaurant Hide Out Café stated to be illegally constructed in the flood plain zone of river Ganga in Rishikesh.
4. That at the outset it is submitted that under the Uttarakhand Flood Plaining Zone Act, 2012, the Collector of the District or such other authority as a State Government considers necessary, is appointed as the Flood Zoning Authority to discharge the duties under the Act, 2012.

Under section 12 of the said Act, 2012, the State Government by notification may prohibit or restrict the activities in flood plain zone and no person shall undertake any activity within the prohibited area and in the restricted area with the previous permission of the Flood Zoning Authority.

Section 13 provides for imposition of penalty and imprisonment if any person is found to carry out any activity contrary to those notified under the provisions of the section 12.

Section 24 provides that the Flood Zoning Authority may direct any owner or occupier of land to remove any unauthorized obstructions and in case such owner or occupier fails to comply with the orders of Flood Zoning Authority, the Flood Zoning Authority may cause the act to be performed or cause the obstructions to be removed.

5. That the present affidavit is being filed to place on record the action taken by the Mussoorie Dehradun Development Authority under the Act, 1973 with regard to both hotel Ganga Forest View and Hide Out Café.



The action taken by Mussoorie Dehradun Development Authority with regard to both the constructions under the Act, 1973 is narrated herein below.

Hotel Ganga Forest View [Respondent - 6]

6. That under section 27 of the Act, 1973 the Authority has power to order demolition of any development which has commenced or is being carried on or has been completed in contravention of the Master Plan or without the permission approval of the Authority, after following the due procedure as prescribed therein. The procedure adopted by Mussoorie Dehradun Development Authority under the Act, 1973 is as follows-

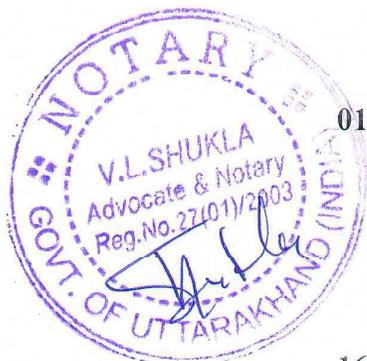
05.01.22 Show cause notice was issued by MDDA u/s 27 of the Act, 1973 to Hotel Ganga Forest View (**R - 6**) for demolition of unauthorized constructions of four storied building in an area of 28 feet x 55 feet.

01.04.22 Since R-6 did not submit the sanctioned map of construction, hence notice for sealing of the premises was issued. Despite several dates being fixed, R-6 did not submit any sanctioned/compounding map.

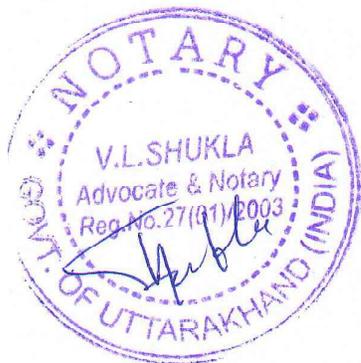
16.05.24 Sealing order was passed & premises was sealed. Appeal no. 151/23-24 was filed by R-6 against the order which was dismissed by the Chairman MDDA (**R-5**).

30.05.24 A notice was issued by MDDA to R-6 to show cause as to why demolition order be not passed for violation of S. 14 & 15 of the Act, 1973.

13.06.24 was fixed for hearing.



- 11.06.24** R-6 filed WP No. 1468 of 2024 against the demolition notice. Hon. High Court Uttarakhand declined to interfere. However, R-6 was permitted to file reply by 18.06.24 and MDDA was directed to consider the same within 3 weeks. It was further directed that in case of adverse orders, the order shall not be implemented within the time granted u/s 27 of the Act, 1973 in order to have judicial recourse to the petitioner (R-6 herein) against the said order.
- 13.06.24** R-6 submitted only a copy of order dated 11.06.2024 passed in WP 1468/24.
- 08.07.24** Demolition order was passed for violations with an option to demolish the unauthorized construction within 15 days or else it shall be demolished by MDDA at the cost of R-6.
- 24.07.24** The demolition order was again challenged in the Writ petition (WPMS) no. 1953 of 2024 in which the Hon'ble High Court of Uttarakhand allowed the writ petition by way of remand to the Vice Chairman of Mussoorie Dehradun Development Authority with a direction to pass fresh order after considering the reply submitted by the petitioners. The liberty was given to the petitioner to produce the sanction plan, if available.
- 27.09.24** A certificate issued by Nagar Nigam Rishikesh was placed on record. This certificate states that the property number old 86/86/1, Veerbhadra Marg Rishikesh as per Nagar Palika record was earlier entered in the name of Shri Dayal Singh Rawat and this constructed building is in record from the year 1977-1982. At present a part of this property number 86/86/1 Veerbhadra Marg Rishikesh is entered in Nagar Nigam record as property

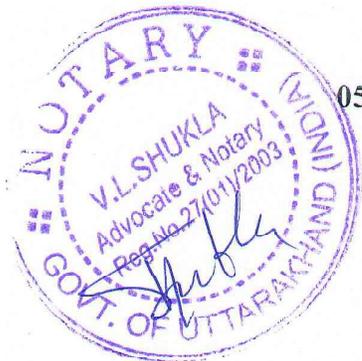


no. 97/1 Veerbhadra Marg Rishikesh in the name of Smt. Rama Arora w/o Shri Madan Lal. The copy of the certificate is already annexed at pg. 669 with the affidavit of the District Magistrate dated 18.11.2024.

The building constructed being of the period prior to the constitution of MDDA, hence MDDA could not have taken any action under the Development Act, 1973. Hence the property had to be de-sealed. This position had already been communicated by Mussoorie Dehradun Development Authority to the Additional District Magistrate vide letter dated 13.11.2024. Copy of communication dated 13.11.24 is already annexed at page 660 of the Paper-book.

HIDE OUT CAFÉ [Respondent -7]

7. That similarly procedure adopted by MDDA is as follows-

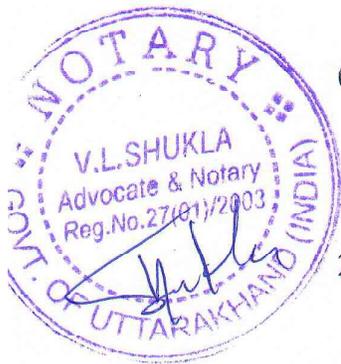


05.01.22 Show cause notice was issued by Mussoorie Dehradun Development Authority u/s 27 of the Act, 1973 to R-7 for unauthorized constructions of Ground Floor and First Floor in an area of 15 feet /4.9 m x 25 feet/11 m and a tin shed with the help of pipes (6m X 25m).

11.01.22 R-7 claimed the construction to be very old but no evidence of the date of construction was filed.

01.04.22 Since R-7 did not submit the sanctioned map of construction, a notice for sealing/demolition was issued. Despite several dates being fixed, R-7 did not submit any sanction/compounding map.

- 13.01.23** R-7 vide letter dated 13.01.23 informed Mussoorie Dehradun Development Authority that his property was according to the standards of NGT and asked time to file his reply. However, no documents were submitted despite several opportunities.
- 16.05.24** The sealing order was passed by Mussoorie Dehradun Development Authority and the premises was sealed.
- 20.05.24** R-7 submitted online a commercial compounding map.
- 29.5./1.6.24** In an Appeal filed by R-7 before the Chairman MDDA (R-5) against the order dated 16.5.24, the Appellate Authority passed the orders directing that in case the MDDA does not decide the compounding map of R-7 within a week, then the sealing order passed by MDDA will become ineffective and it will have to de-seal.
- 30.05.24** A notice was issued by MDDA to R-7 to show cause as to why demolition order be not passed for violation of S. 14 & 15 of the Act, 1973.
- 09.06.24** Another compounding map (*this time residential*) was submitted online by R-7. Objections were raised by MDDA on the map.
- 20.06.24** The compounding map also stood auto-rejected in absence removal of objections.
- 08.07.24** Demolition order were passed for violations with an option to demolish the unauthorized structure within 15 days or else it shall be demolished by MDDA at the cost of R-7.
- 21.08.24** In pursuance to the Writ Petition No.2028/2024, on 21.08.2024 a committee consisting of 2 Assistant Engineers of Irrigation department along with junior engineer of Mussoorie Dehradun Development

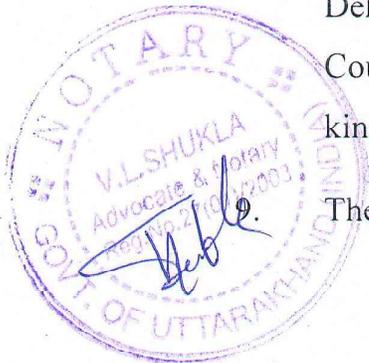


Authority was constituted. This Committee conducted an inspection and found that the aerial distance of Hide Out Café from one side is 30.99 meters from the bank of river Ganges and from the other side was 29.27meters, the average of which comes out to 30.12 meters.

04.11.24 In view of the G.O. dated 14.12.2016 issued by the Government of Uttarakhand, the Mussoorie Dehradun Development Authority approved by compounding the residential map of the Hide Out Café. Copy of the inspection report and the Sanction Letter is enclosed herewith as Annexure A & B

8. That the above position with regard to the action taken by Mussoorie Dehradun Development Authority under The Uttarakhand Urban and Country Planning and Development Act, 1973 is placed on record for kind consideration of this Hon'ble Tribunal.

The annexures filed are true copies of their originals.



[Signature]
Deponent

Verification

I, the above named deponent, do hereby verify that the contents of the above paragraphs are true and correct to the best of my knowledge and are being verified on the basis of record.

Verified today the 17th Day of July, 2025 at Dehradun

[Signature]
Deponent

S.No. 770/2025
This affidavit is sworn before me on
Shri. Han Chand Singh Rana
who is identified by Amit Chaudhary
at Dehradun on 17/7/2025 At

[Signature]
Smt. Vijay Laxmi Sharma
Advocate & Notary, D. Dun

Identified By:-

[Signature]
AMIT CHAUDHARY
Advocate
Reg.No.UA5541/2004
Mobile No.9897001990
E-mail ID:amit_4926@yahoo.co.in

संयुक्त निरीक्षण आख्या

आज दिनांक 21.08.2024 को कार्यालय मसूरी देहरादून विकास प्राधिकरण देहरादून के पत्रांक 12575/बाद सं०-सी-003/2022, दिनांक 16/08/2024 के क्रम में रिट सिटीयन सं० - W.P.M.S.-2028/2024 हाईड्रू आऊट कैफे, नीर शूट मार्ग मसूरी के किनारे निर्मित शवन की डूरी नापने हेतु निम्नलिखित अधिकारी/कर्मचारी उपस्थित रहे।

- ① डॉ० कुलदीप सिंह, उपपर सहायक अभियन्ता, सिंचाई खण्ड देहरादून।
- ② डॉ० आशीष बिष्ट, उपपर सहायक अभियन्ता, सिंचाई खण्ड देहरादून।
- ③ डॉ० संजय जगड़ी, कनिष्ठ अभियन्ता, सम० डी० डी० सं०, मसूरी केफे।

गंगा नदी के दांये तट पर स्थित हाईड्रू आऊट कैफे के निर्मित शवन के दोनों किनारों से गंगा नदी के तट से दूरी क्रमशः 30.99 मी० एवं 29.27 मी० नापी गई। अतः गंगा नदी के किनारे से हाईड्रू आऊट कैफे की औसतन दूरी 30.12 मी० आंकलित की गई है।

उक्त कैफे के मानचित्र स्वीकृति से सम्बन्धित समस्त अग्रेतर कार्यवाही M.D.D.A. द्वारा की जानी है।


डॉ० संजय जगड़ी
कनिष्ठ अभियन्ता
सम० डी० डी० सं०


डॉ० आशीष बिष्ट
उपपर सहायक अभियन्ता
सिंचाई खण्ड, देहरादून


डॉ० कुलदीप सिंह
उपपर सहायक अभियन्ता
सिंचाई खण्ड, देहरादून







788

ANNEXURE B



Uttarakhand Housing & Urban Development Authority
Department of Housing, Govt. of Uttarakhand
Rajeev Gandhi Multipurpose Complex, Dispensary Road
Dehradun - 248001 Telefax - 0135-2719500

MUSSOORIE DEHRADUN DEVELOPMENT AUTHORITY
Transport Nagar, Saharanpur road, Near ISBT
Dehradun-248001 (Uttaranchal) INDIA
GST No. 05AAAAAM4651Q1Z/

Sanction Letter

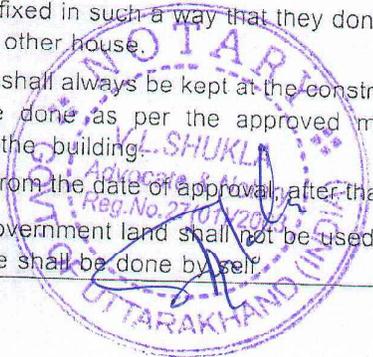
Online Application For Building Construction Permit			
Applicant Name	Nitin Dev	File No.	OR/0406/24-25/RE2
Father's Name	Dev Raj	Submission Date	30/09/2024
Co-Applicant	NO	Plan Type	OTS
Address	GANGA VIHAR,298,,Dehradun,Dehradun,,Dehradun,Uttarakhand		
Sector	Sector Rishikesh	Property Category	Residential Building
Contact Number	8077027274	Site Purpose	Single Dwelling Unit
Co-Applicant Name(s)		Approval Date	04/11/2024

Subject: - Letter of sanction towards your application No.OR/0406/24-25/RE2 for Building Permit

Dear Mr./Ms. Nitin Dev

Your proposal # OR/0406/24-25/RE2 received on 30/09/2024 through your Architect/ L.E./ Own self (Nitin Dev) and proposal is approved on dated 04/11/2024 with the following terms and conditions:

1. By approval of this map, the rights and ownership of any government department or local body or any individual in the government department is not affected.
2. The Map will be used for the same purpose for which it has been approved, if there is any deviation in purpose, the whole construction will be considered invalid.
3. For any development work in future, if development charges are asked, shall be payable without any objection. If required, additional development charges for any project development work in the same area shall be paid without any objection, so that the development work of the area could be done from the development charges received from the same area.
4. The government or the local body will not be responsible for any development work in the area which is not suitable for the development work.
5. Doors and windows should be fixed in such a way that they don't open in any government land or road and do not affect the light or air of any other house.
6. One approved copy of the map shall always be kept at the construction site so that it can be investigated at any time. The construction will be done as per the approved map specifications and the applicant shall be responsible for ownership of the building.
7. This map is valid for five years from the date of approval, after that no construction work will be done.
8. The road service lane or the government land shall not be used for putting any building construction material and the arrangement of sewage shall be done by self.



Digitally signed by SUNIL KUMAR

Date:04-11-2024 14:33:28



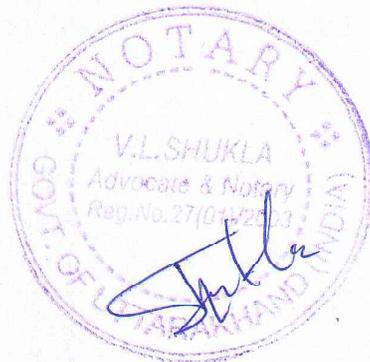
789



Uttarakhand Housing & Urban Development Authority
Department of Housing, Govt. of Uttarakhand
Rajeev Gandhi Multipurpose Complex, Dispensary Road
Dehradun - 248001 Telefax - 0135-2719500

MUSSOORIE DEHRADUN DEVELOPMENT AUTHORITY
Transport Nagar, Saharanpur road, Near ISBT
Dehradun-248001 (Uttaranchal) INDIA
GST No. 05AAAAAM4651Q1ZA

9. After the completion of the construction work, within 3 months of the completion according to the approved map, certificate should be obtained from the authority then only the building should be used else the approval will be cancelled.
10. If there is any tree in construction area; before cutting it, approval must be taken.
11. After getting the approval, at any point of time if the Vice Chairman or any other authorized person finds out the approval has been taken by hiding the facts or by submitting the forged documents the officer will have right to cancel the approval and in that case the construction under the map will stand cancelled.
12. After getting the approval if the court cancels the ownership of the applicant the approval will stand cancelled automatically.
13. The approval of the map will not be considered as ownership of the map and in any court this map will not be considered as proof of land ownership.
14. If there is any violation on ceiling land, government land or public land, this approval will stand cancelled automatically.
15. In road widening area if there is any violation of boundary wall, gate or public land, the approval will stand cancelled automatically.
16. In summer season, keeping in view the drinking water scarcity, between 15th April to 30th June; the construction will not be done.
17. Hill cutting will not be done from any hilly terrain.
18. During the building construction, earthquake and other security measures must be considered.
19. 2 trees must be planted in the front portion of the building.
20. In case if there is change in name of the building owner in the approved map or renaming the building, it is mandatory to inform the authority.



Digitally signed by Sunil Kumar
Date: 2024.11.04 14:33:28 +05:30
Reason: Online Map Approval
Location: Dehradun