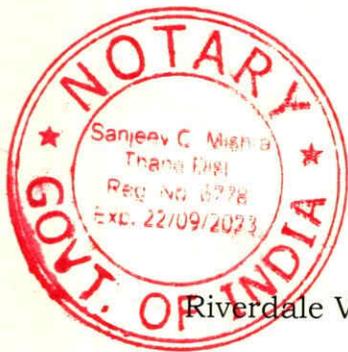


**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH AT PUNE**



Original Application No.59/2020

Riverdale Vista Co-operative Housing Society ... Applicant

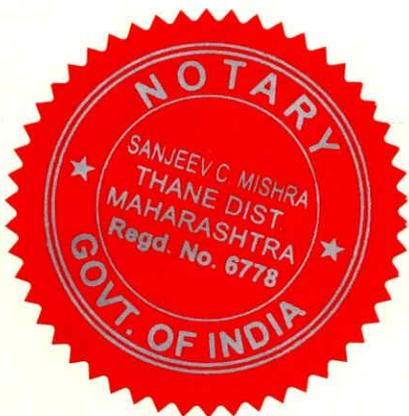
Versus

Ministry of Environment Forest &  
Climate Change & Ors. ... Respondents

**Additional Affidavit Reply**

I, Shri Bhalchandra B. Nemade, Age : 57 Adult, Occupation :Executive Engineer (Solid Waste Management Project), the Respondent No.5 do hereby state on solemn affirmation as under :-

1. I sworn this Affidavit in response to the OA filed by the Applicant inter-alia seeking declaration that earmarking of the Common Municipal Solid Waste Management Facility Site at Revenue Village Barave is illegal as it is in contravention of Solid Waste Management Rules 2016 which will ultimately lead to Environmental Pollution in the vicinity.
2. I say that I am aware of the facts leading to filing of all the proceedings related to said project. I say that I am filing this Affidavit in Reply for the limited purpose of opposing admission of the present OA which is indirectly challenging Environmental Clearance granted and indirectly challenging the order passed by this Hon'ble Tribunal, Principal Bench in the previous proceeding, bearing OA No.30/2020.



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3. I say that all the issues with reference to the Environmental Clearance with reference to this particular site has already been finally decided by this Hon'ble Tribunal and as such, the OA as has been filed is not legally maintainable and tenable and on this ground also, the petition is required to be dismissed.
  4. I say that at the outset I deny all the contentions made by the Petitioner in the Petition including the prayers made therein.
  5. I say that reasoned, judgment and Order of the Hon'ble Tribunal in Appeal No.30/2020 dated 25/09/2020 now cannot be interfered by this Hon'ble Tribunal.
  6. I say that one Mr. Rajesh Lulla had filed OA No.52/2018 before the Hon'ble National Green Tribunal, Western Zone, Pune. In view of the notices being served upon this Respondent, this Respondent appeared before the Hon'ble Tribunal and filed its detailed Affidavit/Reply along with the necessary Annexures thereto. A copy of the said Affidavit/ Reply along with annexures is filed separately as **Annexure "A"**. I say that I reiterate the contents of the said Affidavit/Reply as part of the present Affidavit.
  7. I say that after giving opportunity of being heard to both the parties in the said Appeal, the Hon'ble Tribunal was pleased to pass order dated 27/09/2018 inter-alia giving reference of the order passed by the larger Bench of the Tribunal dated 20/08/2018 in O.A. No.606/2018, to appear before the Committee so constituted within period of two weeks and put up their respective cases before it. A copy of the said order dated 27/09/2018 is annexed as **Annexure "B"**.

8. I say that in view of such directions being given by the Hon'ble Tribunal in Appeal No.52/2018, both parties appeared before the Committee so constituted comprising of Justice Shri Jaiprakash P. Devadhar - Former Judge Bombay High Court & Chairperson State Level Monitoring Committee, Smt. Manisha Mhaiskar - Principal Secretary UD(ii) GoM, Shri Anil Diggikar- Principal Secretary Environment Department GoM, Shri Shyamlal Goyal - Addiitional Chief Secretary Water Supply & Sanitization Department, Dr. Pradeep Kumar - Principal Secretary Public Health Department GoM, Shri Aseem Gupta - Principal Secretary Rural Development Department GoM, Shri Muthukrishnan Sankaranarayanan - Commissioner & Director DMA GoM, Shri E. Ravendiran - Member Secretary MPCB. After giving sufficient opportunity of being heard , the State Level Monitoring Committee considered all the objections vide Report dated 18/07/2019. I say that the said report is a comprehensive report and all the issues are dealt with by the Committee point by point and has observed that there is no fault with Environmental Clearance granted to the Barave site. A copy of the said Report is annexed as **Annexure "C"**.
9. I say that in spite of the said report, said Rajesh Lulla filed Appeal No.27/2020 before the Hon'ble Tribunal, Western Zone and thereafter requested the Hon'ble Tribunal to place the matter before the Hon'ble Chairperson. The Hon'ble Tribunal, Western Zone was pleased to pass the order dated 28/08/2020 inter-alia directing the Registry to place the matter before the Hon'ble Chairperson for transferring the application to the Principal Bench, New Delhi. Thereafter the said Appeal No.27/2020 filed before the Western Zone was renumbered as Appeal No.30/2020 and was



placed before the Hon'ble Tribunal, Principal Bench at New Delhi. A copy of the said order is annexed as **Annexure "D"**.

10. I say that after hearing the parties to the said Appeal, the Hon'ble Tribunal, Principal Bench was pleased to pass detailed order dated 25/09/2020 inter-alia affirming report submitted by the Committee. A copy of the said order is attached herewith as **Annexure "E"**.



11. I say that merely by going through the order passed by the Hon'ble Tribunal, Principal Bench dated 25/09/2020, it is evident that now nothing remains to be decided by the Hon'ble Tribunal with reference to the contentions raised by the Applicant in the present OA.

12. I say that for any reason if the present OA is entertained it will cause serious prejudice and loss to this Respondent. I say that the work at the site has already been assigned and the work at the site has already been started and as such, if the present OA is otherwise entertained it will cause serious prejudice to this Respondent and the tax payer resident of Kalyan-Dombivili.

13. I say that the present petition is nothing but an abuse of process of law, further there is no merit in the petition. I say that, the intention of the Applicant in filing the petition is only to compel this Respondent to run from the pillar to the post. The petition is absolutely meritless. The grounds raised in the present OA have already been considered by the Committee so constituted mentioned herein above and as such, in view of the order by the Hon'ble Tribunal, Principal Bench dated 25/09/2020 has already got finality.

14. I say that therefore in view of the above mentioned orders passed by the Hon'ble Tribunal, now nothing remains to be decided in the present OA and the same is required to be dismissed in limine.



15. As per final order of Hon. NGT, Principal Bench, New Delhi. In the matter 95 Appeal No. 30/2020 (Earlier appeal 27/2020 WZ) on 25<sup>th</sup> Sept 2020 of Rajesh Lulla vs KDMC & others, Hon. Court has given direction in para 7 as below.

*"We suggest that the Municipal Council may use the present site as a transfer station as defined in Rule 3 (52) of the SWM Rules, 2016, for receiving solid waste from collection areas and transporting in bulk to another waste processing facility in view of its proximity to river, habitation and flood plains. The Municipal Council may also develop an appropriate buffer zone around the site, in the form of a bio-diversity park, to address the concern to neutralize the odour emanation. Subject to these observations report of the Committee is affirmed and this order be read with the order already passed in Appeal No. 52/2018."*

It is submitted that as per Hon NGT Principal Bench's above order, K.D.M.C. started to use the Barave ISWMF site as a transfer station, but it is noticed that the bad odour is spread while transferring the wet waste. It is due to the decomposition of organic material which is found in wet waste only.

Hence considering the above directions of Hon. Court, even if K.D.M.C. use this site as a transfer station, the public nearby the site will face the problem of bad smell. To avoid it, K.D.M.C. decided not to use this site as a transfer station and started to use

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this site for processing of dry waste only. There is no bad smell from segregated dry waste. The processing of dry waste includes the segregation by using 75 mm trammel & mechanical conveyor belt. The recyclable materials like plastic, bottles, tins, metals, electronic & electrical materials, papers, boxes, clothes etc. are separated with the help of conveyor belt and sent to the recycler for further process. In this process there is no bad smell found. Further activities of segregation of mixed waste and treatment thereof can be taken up in due course.



Further K.D.M.C. developed the green belt surrounding the processing facility in which tree plantation is done. However at present the plants are small, it will take some time to give proper result. Also K.D.M.C. constructed 3.00 meter high compound wall between residential zone & SLF facility.

I say that the **annexure A to E** has been attached with affidavit filed by K.D.M.C. in this matter on dated 28.12.2020. The recent photographs of compound wall, dry waste processing plant and tree plantation are attached herewith as **Annexure "F"**.

I say that, the contents of all paragraphs 1 to 15 are true and correct, as per records and information available in office and I have signed it as on today.

I know the Affiant

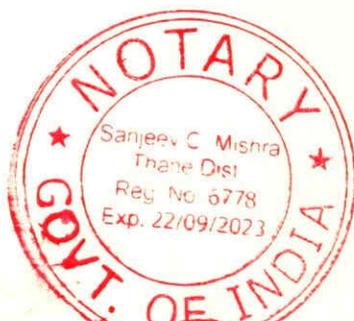
**Explained & Identified By Me**

Advocate

Affiant

*Nomachy*

Executive Engineer (SWM-P)  
Kalyan Dombivali Municipal Corporation



**BEFORE ME**

*S. Mishra*  
17-12-21

**Sanjeev Kr. C. Mishra**  
NOTARY

Government of India P.No. 175 26  
Thane-Dist. Notary Register No. 3 Date 17-12-2021

**17 DEC 2021**

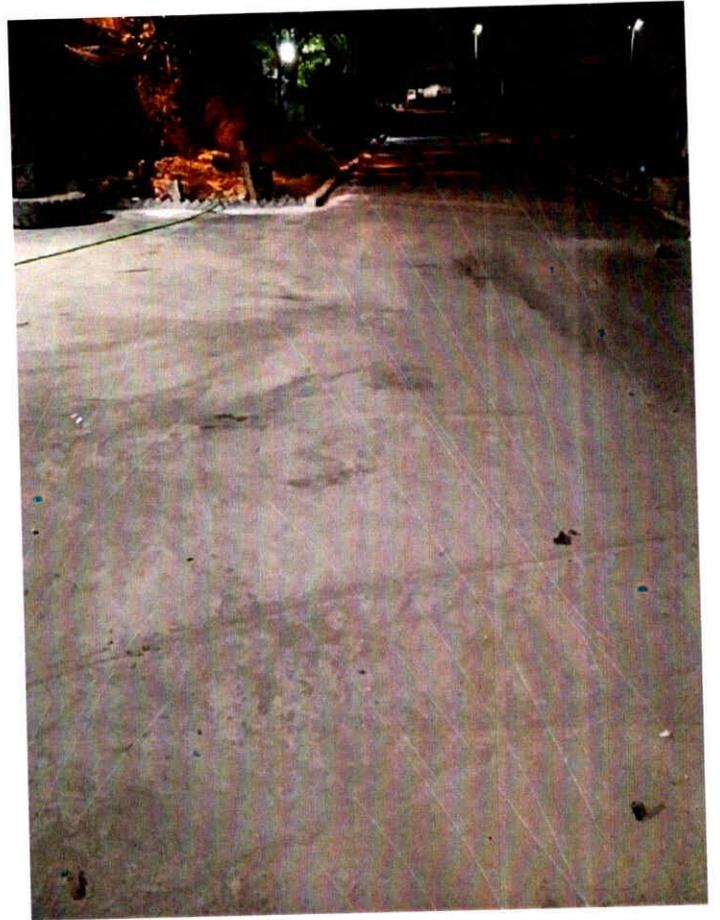
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Annexure - F.



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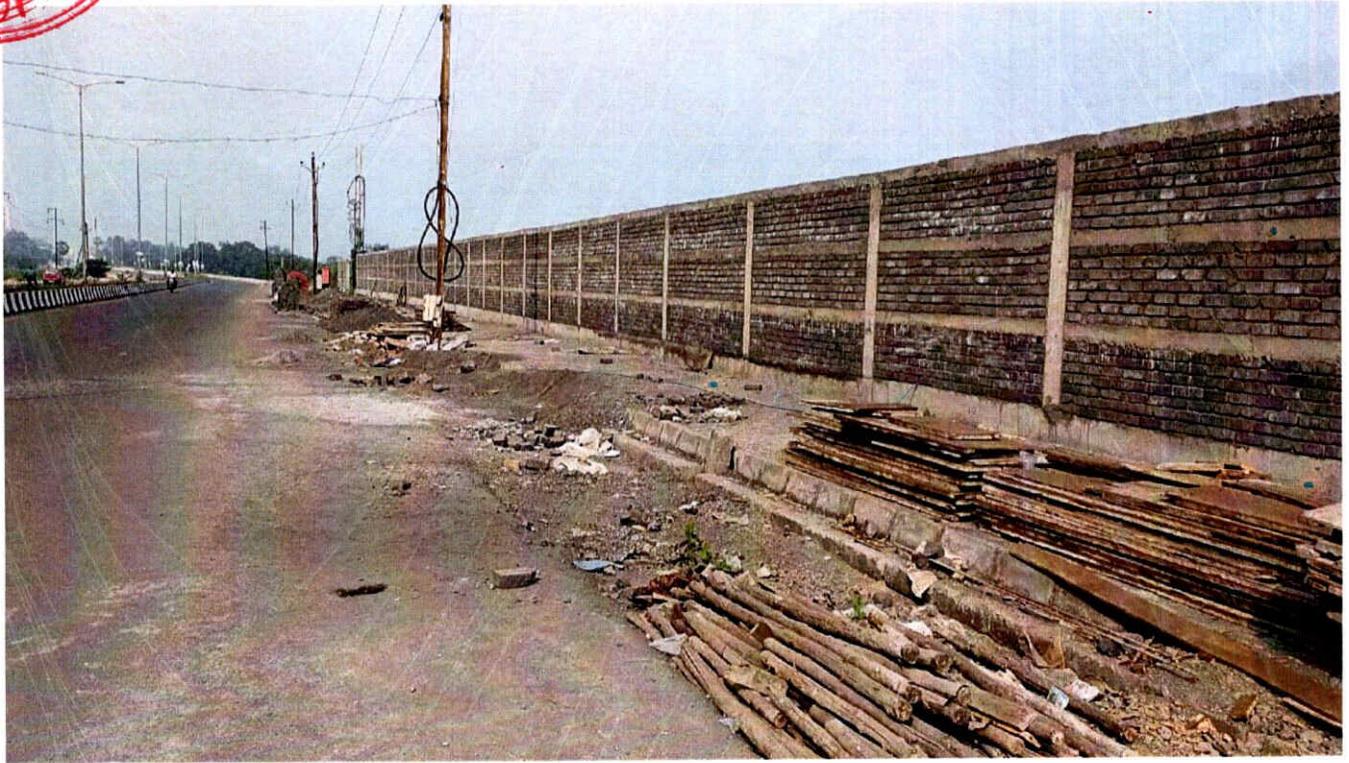


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New Delhi  
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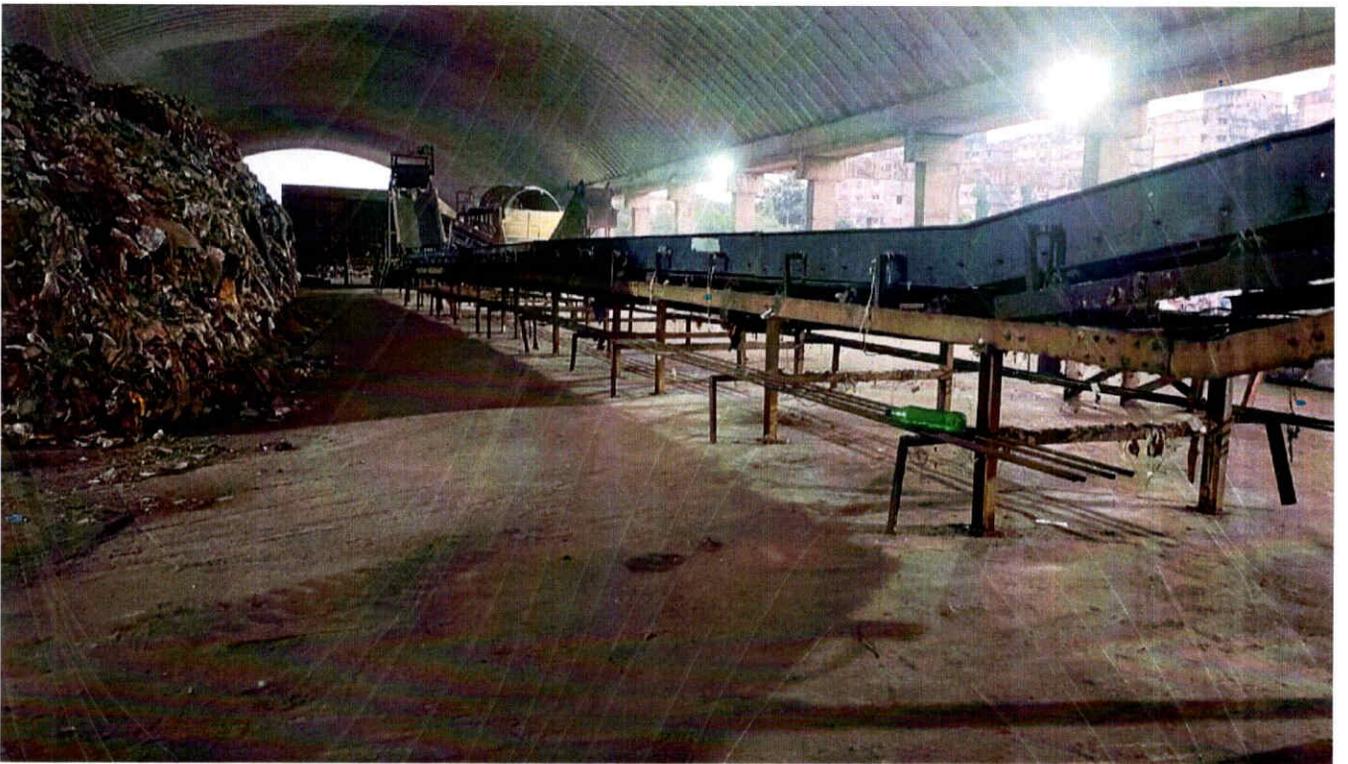
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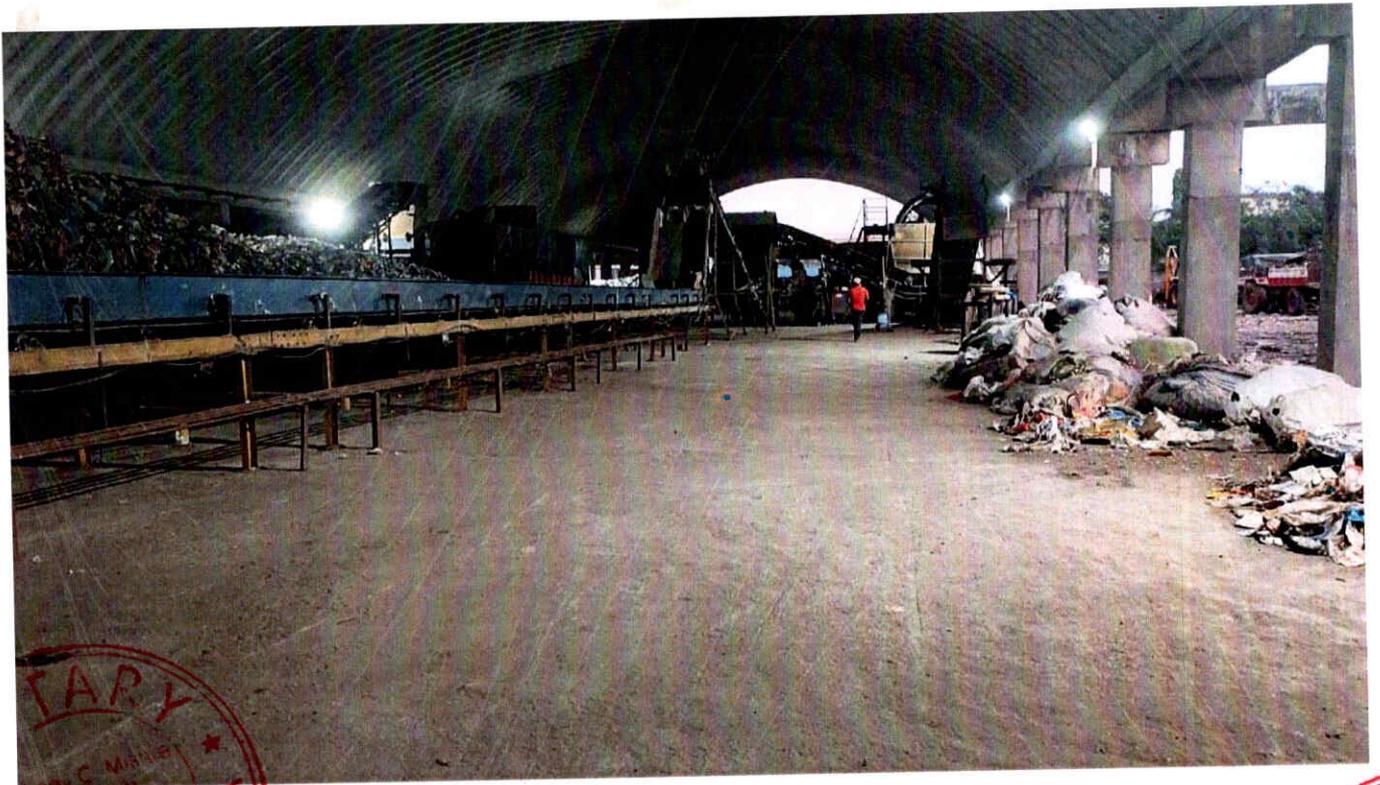


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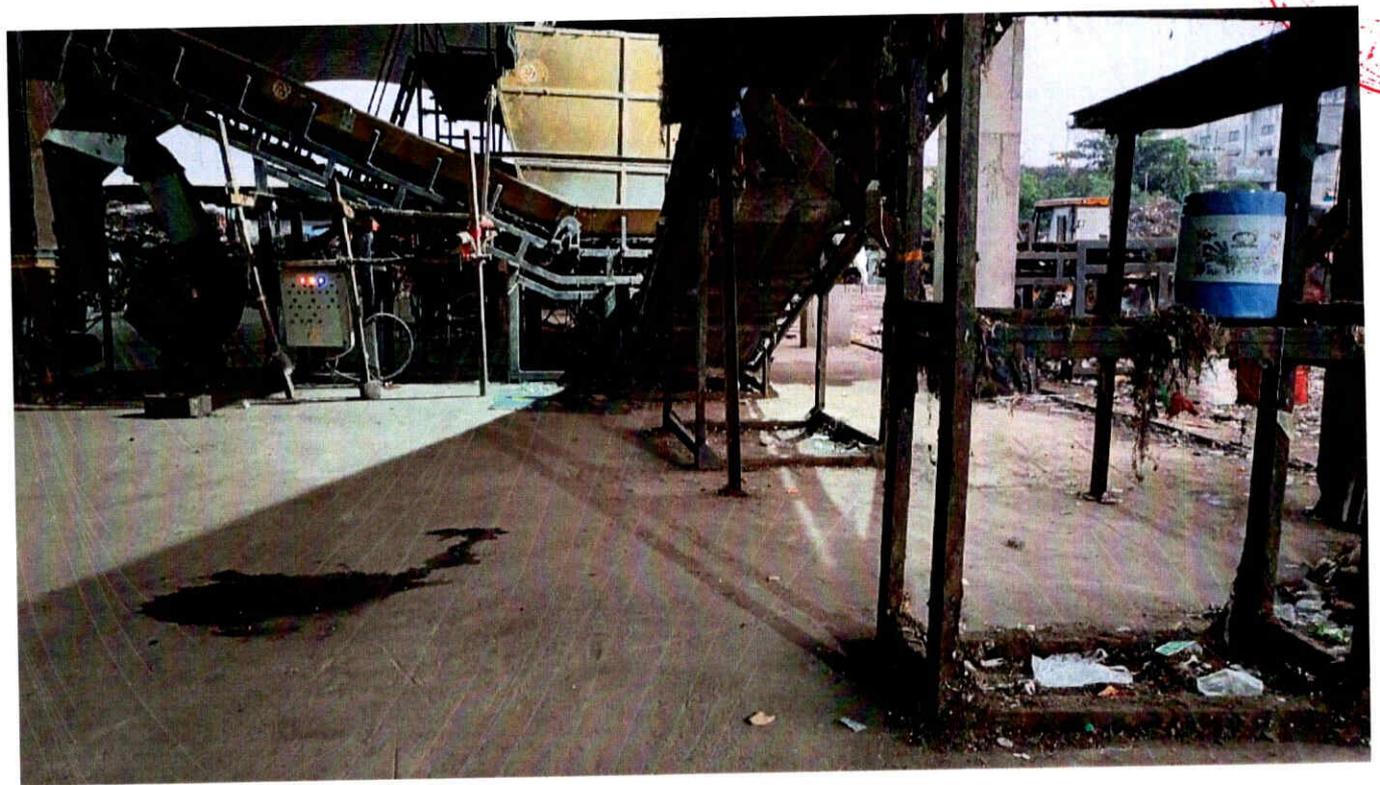
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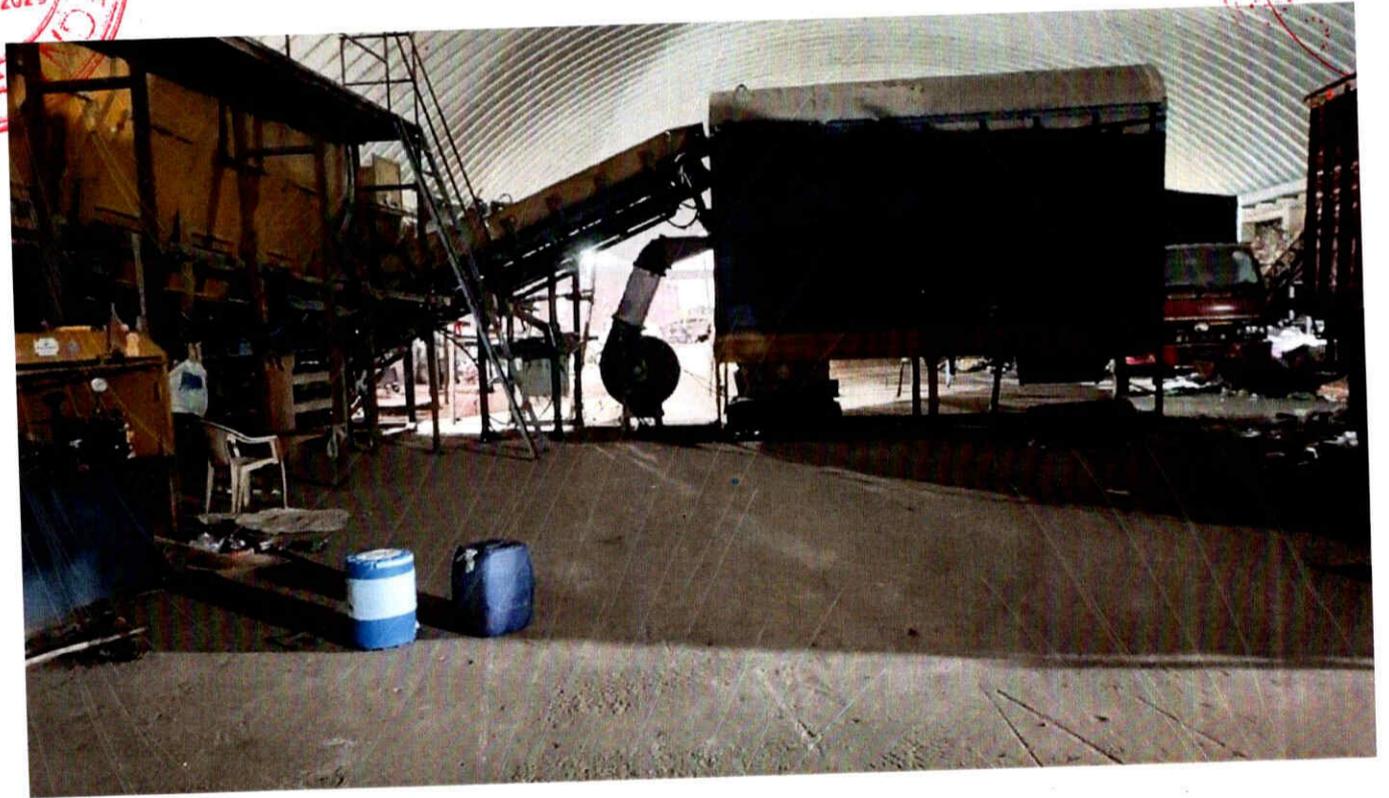
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