

**BEFORE THE HONBLE NATIONAL GREEN TRIBUNAL
WESTAERN ZONAL BENCH AT PUNE
MEMORANDUM OF APPLICATION
ORIGINAL APPLICATION NO 57 OF 2022
DISTRICT : PUNE**

Shri. Mahesh Kashinath Ranawade .. Applicant

Vs.

The State of Maharashtra & others.. Respondent

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Pune

Date - 13/01/2023

Advocate

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**Affidavit Cum Objections to the Joint Committee Report
Dated 25/11/2022 on behalf of Original Applicant is as follows**

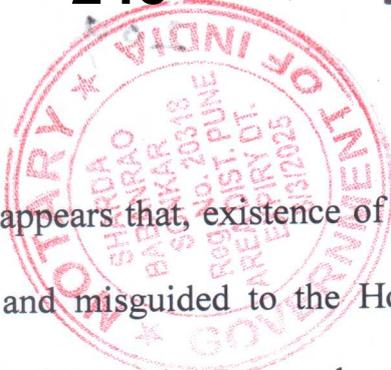
I Mahesh Kashinath Ranawade Age about 28 years Occ Agriculturist r/at
Village Nande Post Lavale Taluka Mulshi Dist Pune 412115 do hereby
state on solemn affirmation as under :-

1 In compliance of the Order Tribunal Dated 7/07/2022 Joint
Committee has filed their report dated 25/11/2022. I say that I have read
the copy of the Report filed by the Joint Committee and annexure
annexed thereto and I am conversant with the facts of the case so as to
depose the present Reply/ Objection to the same. I deny each and every
statement, averment and contention submitted by the Joint committee
which is contrary to and inconsistent with the map published by the
Respondent No 3 on their web site.

2 At the outset, I say and submit that the present Report is misconceived and the Joint Committee has suppressed various material facts from this Honourable Court and on this ground alone the present report is liable to be dismissed.

3 I say that Respondent No 3 i.e. Khadakwasala Irrigation Department had published the map of blue line on their web site @ wrd.maharashtra.gov.in. Hereto annexed and marked **EXHIBIT "A"** Colly are the copies of the said map. After perusing the map it is clearly shows that Joint Committee without verifying the map and wrongly comes to conclusion that Respondent No 6 to 9 made construction of road outside blue line of river Mula. The Joint committee have failed to consider fact of flowing of the Mula river right through the project site and have completely ignored the vital and relevant aspect of Respondent No 6 to 9 have made construction of road in the inner part of blue line.

4 The Joint committee purposely and deliberately wrongly mentioned only 4 cm distance between Red line and Blue line at disputed area. The Joint committee wrongly mentioned the distance of blue line at survey No 74 instead of S. No 1 of village Nande Taluka Mulshi Dist Pune. The joint committee purposely tried to misguide the Hon'ble Court regarding deviation of blue line by mentioned fixed point at different survey number.



5 A prima – facie appears that, existence of blue line of Mula river purposefully deviated and misguided to the Hon'ble Court regarding construction of road carried out by Respondent no 6 to 9. In the said report, it has been mentioned that construction of the Respondent No 6 to 9 is at location of blue line R.L. 558.750 and Red Line 558.790 i.e. only 4 cm difference is observed. In fact the said location of blue line R.L. 558.750 and Red Line 558.790 have no concerned with construction of road carried out in Survey No 1 of village Nande Taluka Mulshi Dist Pune. The subject matter of dispute raised by the applicant regarding construction of road in Survey no 1 of village Nande Taluka Mulshi Dist Pune and Joint committee deliberately mentioned the distance of blue line and red line at Survey No 74 of village Nande Tal- Mulshi Dist Pune. The Joint committee purposefully and deliberately taking advantage of narrow boarder line demarcated in survey No 74 and intentionally ignoring the construction of road carried out in blue line demarcated in Survey No 1 of Village Nande. Hereto annexed and marked **EXHIBIT "B" Colly** are the copy of map of survey Number 1 and 74 of village Nande.

6 The Applicant submits that, joint committee submitted the hand sketch map of road passing from the disputed area at page no 3 of the said report, which shows the road passed behind the metal sheet shed of

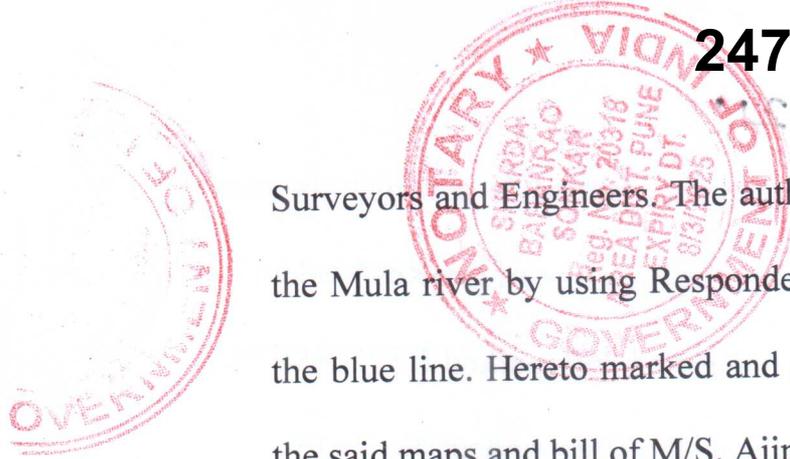
but in fact the said road is passing from front side of the said metal shed.

The Applicant submits that they have taken the photo of aerial view of the said position which clearly showing the road is not passing as per photo submitted by the Joint committee. Hereto marked and annexed

EXHIBIT "C" COLLY are the copies of map submitted by Joint committee along photos taken by aerial view by the Applicant.

7 As per map of Red and Blue line of Mula river published by Respondent No 3 i.e. Khadakwasala Irrigation Department, it clearly shows blue line is situated beyond the electric polls erected in the Survey No 1 and construction of road carried out inner area of the blue line and said fact not consider by the Joint committee. Hereto marked and annexed **EXHIBIT "D" COLLY** are the copies of Blue line sketch map with actual photo taken by camera by the Applicant.

8 The joint committee is failed to give fair conclusion and misleading on the construction of road out of blue line without actual measuring the land or verify the demarcated line as per approved plan issued by Respondent No 3. The Applicant submits that they have verified the said fact by compare the map published by Respondent No 3 on their website with actual photos taken by drone camera on date 4/01/2023 with permission of concerned police department. The Applicant has used Auto cad software to fix the Google images with map of Respondent No 3 with help of authorized surveyor M/S. Ajinkya



Surveyors and Engineers. The authorized surveyor draw the blue line of the Mula river by using Respondent No 3 map as base and demarcated the blue line. Hereto marked and annexed **EXHIBIT "E" COLLY** are the said maps and bill of M/S. Ajinkya Surveyors and Engineers.

9 The Applicant submits that, Respondent No 6 and 7 have disclosed brochure of their project at the time of obtaining environment clearance certificate. After carefully perusing the brochure, it prima facie revealed that all the construction of road is within the blue line but failed to disclose the same. Hereto annexed and marked **EXHIBIT "F"** is the copy of brochure submitted by the Respondent no 6 and 7 to get environment clearance.

10 The Applicant submit that at the time of inspection, joint committee never carried out any measurement nor verified the measurement map on the spot. The joint committee takes number of photos in their mobile at the time of inspection but only irrelevant four photos submitted with the said report which are no concerned with allegation made by applicant regarding construction of road in survey No 1 of village Nande.

11 The Applicant submits that, joint committee observed that Grampanchayat have constructed septic tank of capacity of about 96.0 m³ was constructed within blue river line and shocking neglected the construction of big boundary wall made by Respondent No 6 & 7

adjacent to the said plant. The Joint committee is surprisingly mum about the construction of wall within the blue line of the Respondent No 6 and 7 without any reason. Hereto annexed and marked **EXHIBIT "G"** is the copy of photo shows boundary wall of Respondent No 6 to 9.

12 The Applicant states that, Government of Maharashtra Urban Development Department Mantralaya Mumbai -32 have published gazette on dt 5/08/2019. As per the gazette it is very specifically cleared that, Area between the river bank and blue flood line (flood line towards the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground or like uses without any form of construction or nay form of earthwork with external dumping provided the land is feasible for such utilisation.

Provided that, the redevelopment of the existing authorised properties within river bank and blue line, may be permitted subject to condition that, plinth height of the building shall not be less than 0-45 m above the R.L of Red flood line and after obtaining the NOC from Irrigation Department.

The Respondent in their affidavit and reply in paragraph 3 specifically contended that, road was in existence and used by villagers and farmers since long back and per gazette dated 03/05/2018, essential

road for public purpose is allowed in restrictive zone and specified at para 8 (ii) of the said circular. Thus Respondent admitting there is road and Joint committee observed that, the said construction of approached road from Nande road to proposed project site developed by Respondent No 6 and 7 not being affected. In fact even PMRDA cannot grant permission to proposed road within the blue line. Hereto annexed and marked **EXHIBIT "H"** is the copy of gazette on dt 5/08/2019 published by Government of Maharashtra Urban Development Department Mantralaya Mumbai -32.

13 The applicant submits that, the joint committee have admitted that construction of road was going on the spot but failed to point out the said construction within blue line of the mula river.

14 The applicant states that, Joint committee ought to have mentioned the fact that heavy debris have dumped for the road construction on the spot but purposefully neglected the same.

15 The applicant states that, it is admitted position that construction of road was going to carried out by dumping debris on the bank of river no any permission have been got from competent authority by Respondent No 6 to 9 but said illegal construction not mentioned in the report submitted by the joint committee.

16 The joint committee is failed to give fair conclusion and misleading on the construction of road out of blue line without actual

measuring the land or verify the demarcated line as per plan issued by Respondent No 3.

17 The joint committee deliberately and purposefully suppressed the fact that construction of road is within the blue line of river Mula. The joint committee can take statements of various villagers who gathered at the time of spot inspection regarding from when construction of road going on the spot but Joint committee purposefully avoided the same.

18 That joint committee is failed to give fair conclusion and misleading on valid permission for land use change from competent authority i.e. Non Agricultural permission from Collector.

19 That joint committee is failed to enquired from the Respondent No 6 to 9 about measurement sheets and zoning of the measurement sheet and various details mentioned to get permission for environment clearance(EC) from concerned authorities. In fact without verifying and examine measurement and demarcation sheets of the said land by Respondent No 6 to 9, joint committee comes to conclusion that the said construction outer part of blue line by deviating the line by hand sketch map.

20 The Joint committee failed to compute the environmental compensation on account of damage caused by illegal construction of this period from to and also failed to take action against project proponent.

- 21 The Joint committee have shown their incompetence blindness and incapability to impose environmental damages on project proponent.
- 22 That joint committee report is prepared from absolutely false and misleading letter dated 10/10/2022 wherein Respondent No 3 have stated only 4 cm difference is observed at the site. The Joint committee under the shelter of false and bogus letter issued by Respodnet No 3 given clean chit to the Respondent No 6 to 9 without verifying minute details.
- 23 That joint committee ought to disclose building materials and dumping of debris on the site for road construction on their report but failed to disclose such quantity of building material and debris used for construction of road.
- 24 That joint committee have intentionally failed to consider the fact that, vast damage cause to due to illegal construction of road by vast debris dumped and trees cutting on the banks of Mula river due percolation of excess water in river is obstructed in rainy season also due to which in the rainy season lots of high waters may entered in to the village Nande.
- 25 The construction of road by heavy dumping of debris which cause environmental damage by violation environmental norms which have not consider by Joint committee without application of mind.

26 That joint committee is failed to give fair conclusion and misleading on account of Respondent No 6 to 9 made construction of road for their private usage and separate gate put to restrict villagers to enter the disputed area. The Applicant state that Respondent No 6 to 9 have closed the road by constructing boundary wall from western side of the applicant agricultural land. The Applicant submits that around 500 to 600 local residents are doing the agricultural activities full depends on the river Mula which are restrained by Respondent No 6 to 9 illegally.

27 The report of joint committee shows clear non application of mind on account of photo copies submitted by applicant about Google Earth Arial views of dt 23-04-2009, 15-01-2013, 13-01-2015, 29-04-2018, 19-12-2021 of the said Nande Village which clearly shows that before making complaint in the month of March 2022 there is no road available on the spot.

28 The report of joint committee shows clear non application of mind on account of illegal and unauthorised construction of Township project of Respondent No 6 and 7 on the banks of river Mula by deviating the original route of river and thus, have violated all the criteria, norms, guidelines and regulations for construction of road on the banks of river which cause heavy choking of river flow within the fields of villagers including Applicant.

29 That joint committee has intentionally ignored to impose the penalty of Rs 5 Crores for not obtaining prior permission and also failed to imposed the exemplary damages of minimum 10 % cost to have deterrent effect on PP held by Supreme court in Goel Ganga Case.

30 The Respondent No 6 to 9 have started construction of road by dumping heavy debris on the bank of river without any permission from competent authority. These illegal acts have not only damaged environment and ecology but also increased corrupt practices in the government admistration causing damage to public at large.

31 The joint committee has considered the matter in bias manner to protect the builder and promoters Respondent no 6 to 9 for their illegal construction of project road within the blue line of river Mula.

32 The Applicant submits that in view of the above facts which are not properly disclosed by joint committee, it is necessary to ascertain facts from an independent committee of Irrigation Department/ Water Resources Department Maharashtra.

33 Hence it is prayed that,

A The Hon'ble Court be reject the report submitted by Joint committee.

B The Hon'ble Court may kindly refer this matter to an independent Joint inspection Committee of concerned authorities/experts. i.e.

Collector Pune, and Secretary, Irrigation Department/Water Resource Department, Maharashtra as court deems fit.

B Alternatively the Hon'ble Court may direct Joint committee to verify blue line map of village Nande with map of Respondent No 3 with clear factual map and legible copies,

C Any other prayer in the interest of environmental justice as court deems fit.

Whatever stated above is true and correct to the best of my knowledge, belief and information, hence to verify the same. I have signed hereunder at Pune.

Solemnly affirmed at)
Pune on this 13th day of)
January, 2023)
Identified by me:

Deponent

Advocate

Adv. Prateem S. Nijade

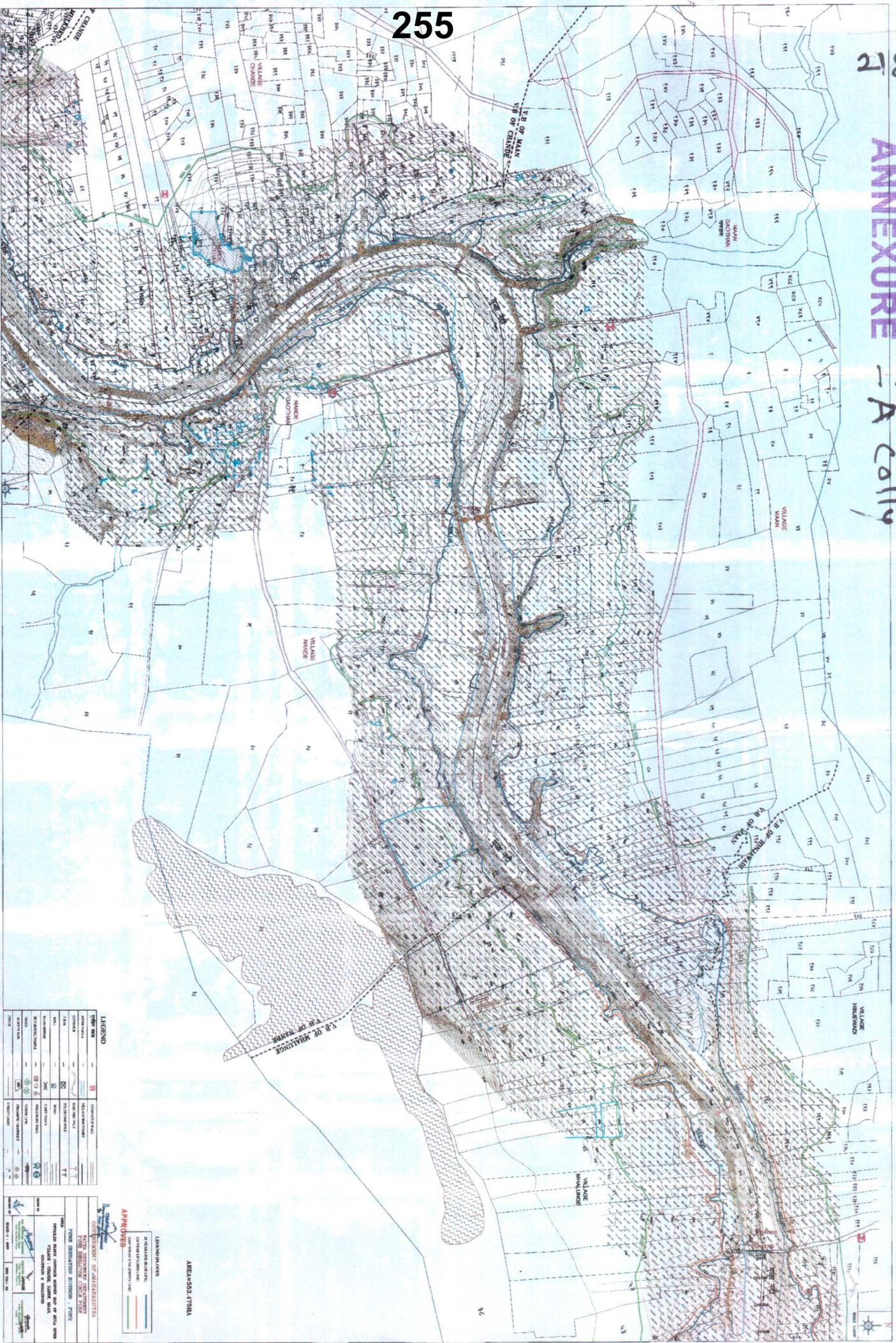
Before me,
BEFORE ME

SHARDA BABANRAO SONKAR
NOTARY
GOVT. OF INDIA
REG. NO. 20318

Noted And Registered At Pune
Serial No. 33/23

13 JAN 2023





LEGEND

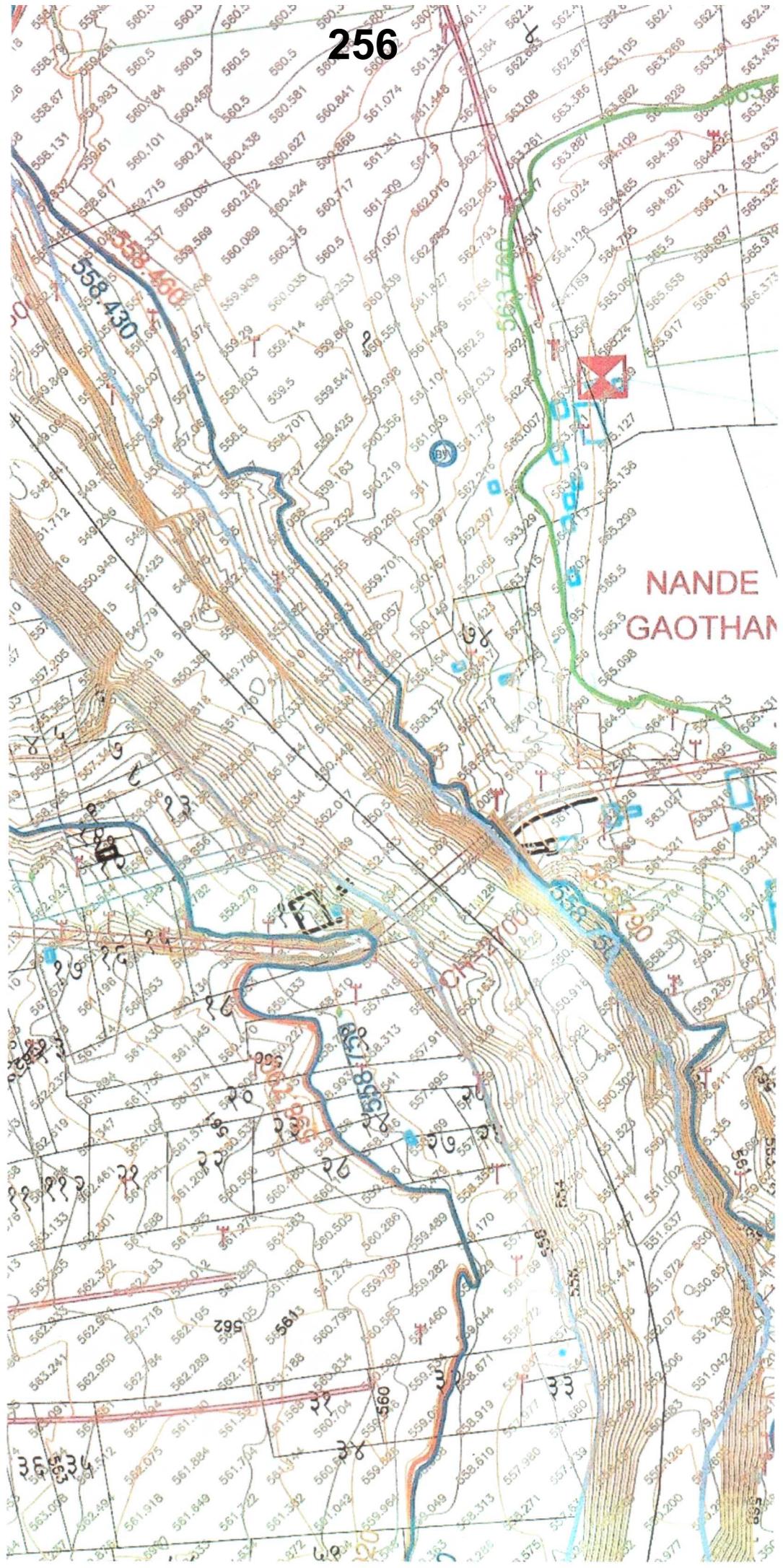
STREET NAME	CONCRETE WALL
CONCRETE WALL	CONCRETE WALL
ROAD	ROAD
RAILWAY	RAILWAY
WATER	WATER
...	...

APPENDIX

...	...
...	...
...	...

AREA: 553.770HA





LEGEND

सुरक्षित स्तळ		COMPAUND WALL	
RIVER/NALLA		VILLAGE BOUNDARY	
CONTOUR		ELECTRIC POLE	
T.B.M		TELEPHONE POLE	
WELL		ROAD	
ROAD BRIDGE		CART TRACK	
HUT,HOUSE,TEMPLE		WELL/BORE WELL	
TREES		TOWER LINE	
SURVEY NOS.		CHAMBER / MANHOLE	
FENCE		STREET LIGHT	

LEGEND (FLOOD)

25 YEAR LINE (BLUE LINE)	
100 YEAR LINE (RED LINE)	
DAM BREAK LINE (GREEN LINE)	

APPROVED

Chief Engineer
Water Resources Department
Pune - 411 011.

GOVERNMENT OF MAHARASHTRA

WATER RESOURCES DEPARTMENT
PUNE IRRIGATION CIRCLE PUNE

PUNE IRRIGATION DIVISION, PUNE

TITLE:

DETAILED BLOCK CONTOUR SURVEY MAP OF MULA RIVER
VILLAGE : CHANDE, NANDE, MAAN,
HINJEWADI & MHALUNGE

DRAWN BY

SUB-DIVISIONAL ENGINEER
Khadkewasala Canal
Sub-Div.No.2 Pune

EXECUTIVE ENGINEER
Pune Irrigation
Division, Pune-1

SUPERINTENDING OFFICER
Pune Irrigation
PUNE - 11

CHECKED BY

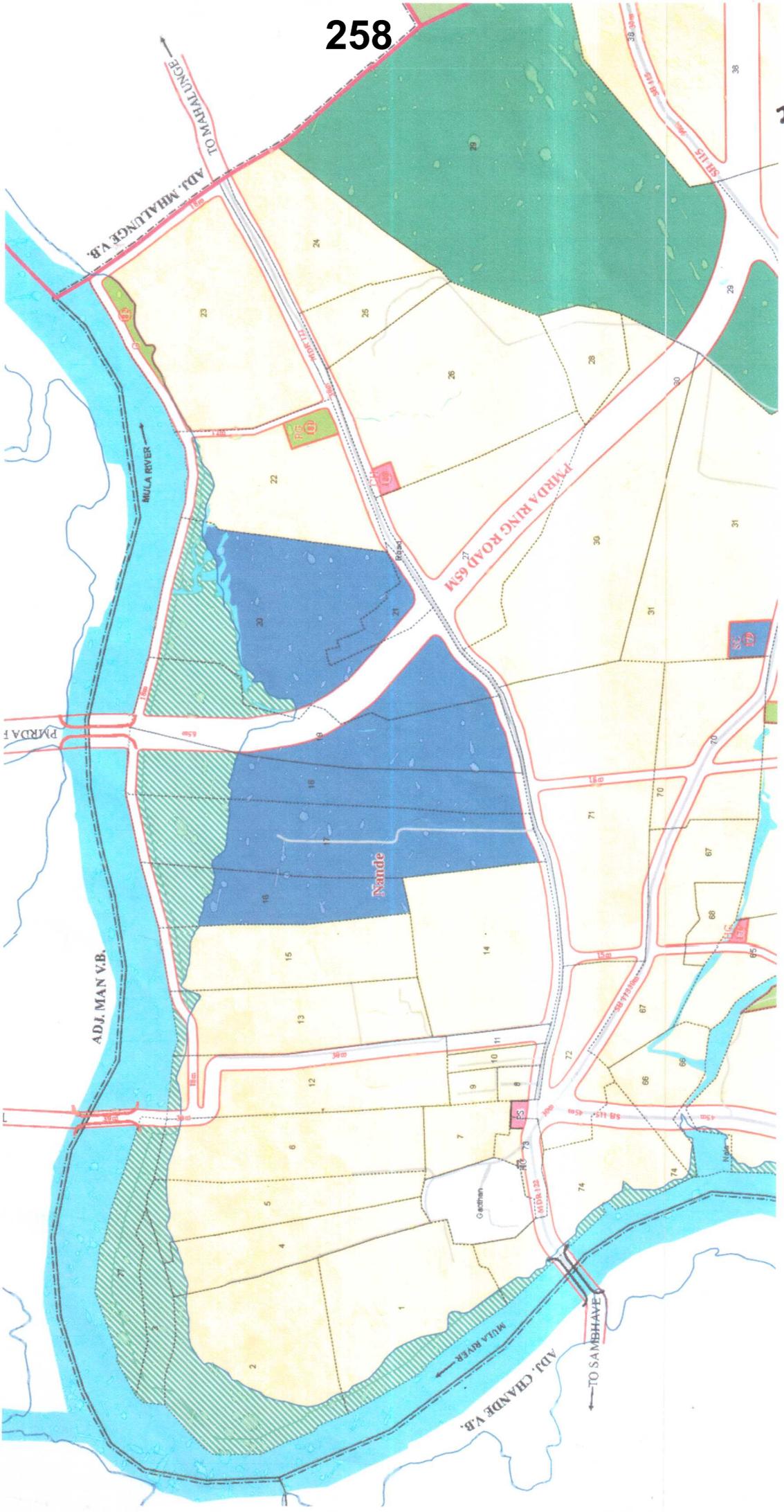
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ANNEXURE -B' con 14





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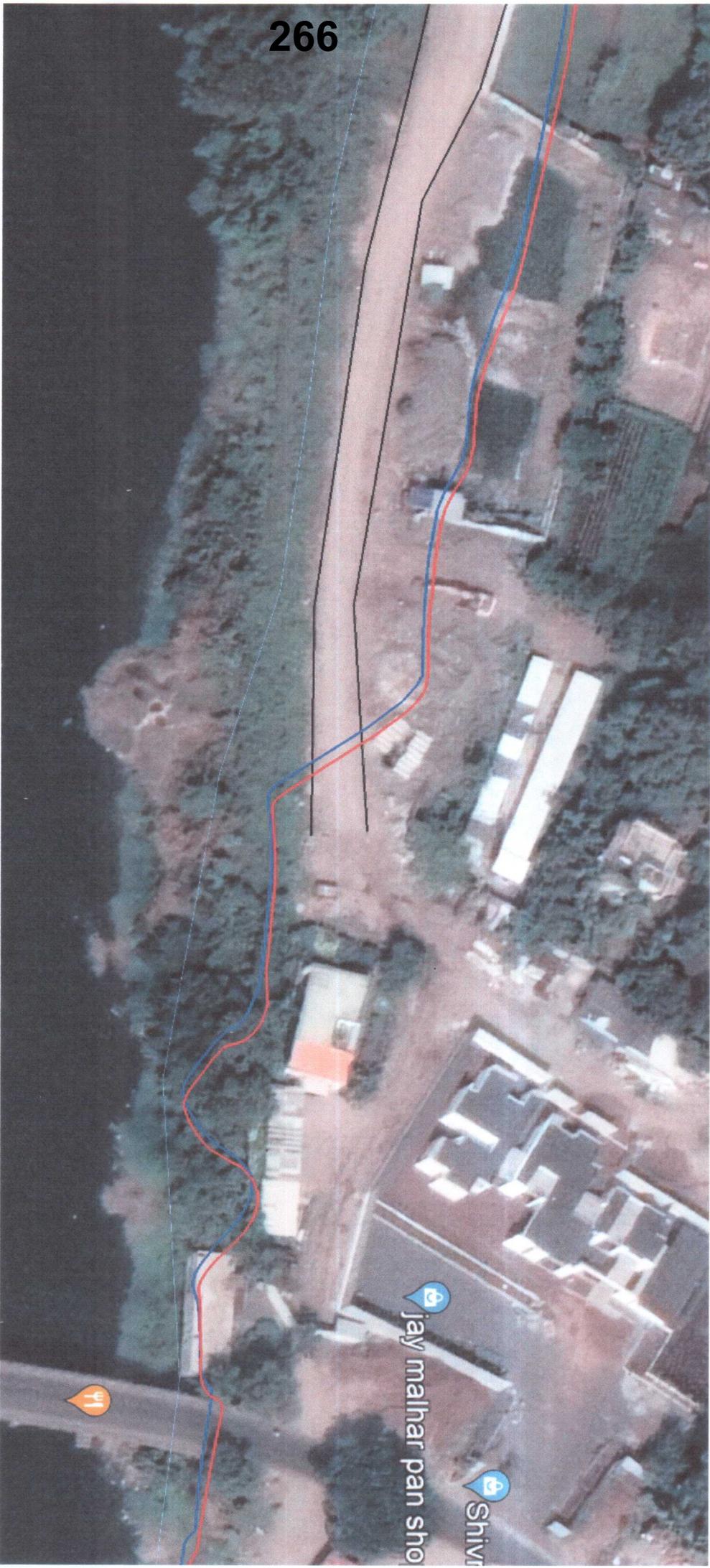
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ANNEXURE - E'copy

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jay malhar pan sho

Shiv



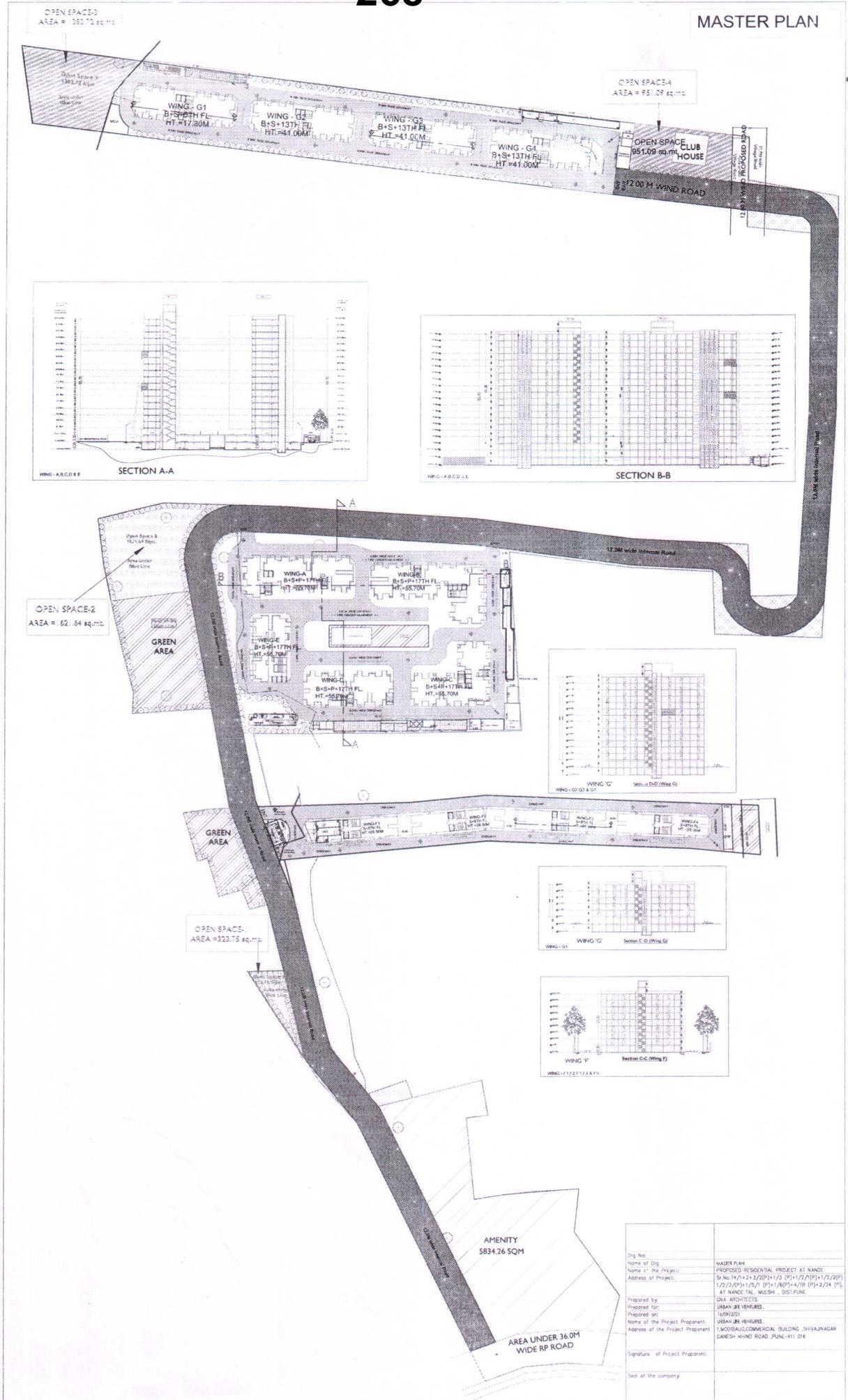
267

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Tax Invoice

 AJINKYA SURVEYORS AND ENGINEERS Flat No.-1, Omkar Apartment, Sanket Park, Mohmmawadi Road, Hadapsar, Pune-411060 Phone no.: 9762226305 Email: keshavsalgars@gmail.com GSTIN: 27CIEPS3216C1Z1 State: 27-Maharashtra		Invoice No. 103	Date 13-01-2023		
		Place of Supply 27-Maharashtra			
Bill To Mahesh Kashinath Ranwade Nande, Tal- Mulshi, Pune Contact No.: +91 86238 47414					
#	Item name	HSN/ SAC	Quantity	Price/ Unit	Amount
1	Plane table and Detailed survey and its drawing using DGPS		1	₹ 10,000.00	₹ 10,000.00
	Total		1		₹ 10,000.00
Invoice Amount In Words Ten Thousand Rupees only		Amounts: Sub Total ₹ 10,000.00 Total ₹ 10,000.00 Received ₹ 10,000.00 Balance ₹ 0.00			
Terms and conditions: Thanks for doing business with us!		Company's Bank details: Bank Name: BANK OF BARODA, MANTRI MARKET Bank Account No.: 24830200000771 Bank IFSC code: BARB0HADAPS Account Holder's Name: AJINKYA SURVEYORS AND ENGINEERS For, AJINKYA SURVEYORS AND ENGINEERS  Authorized Signatory			

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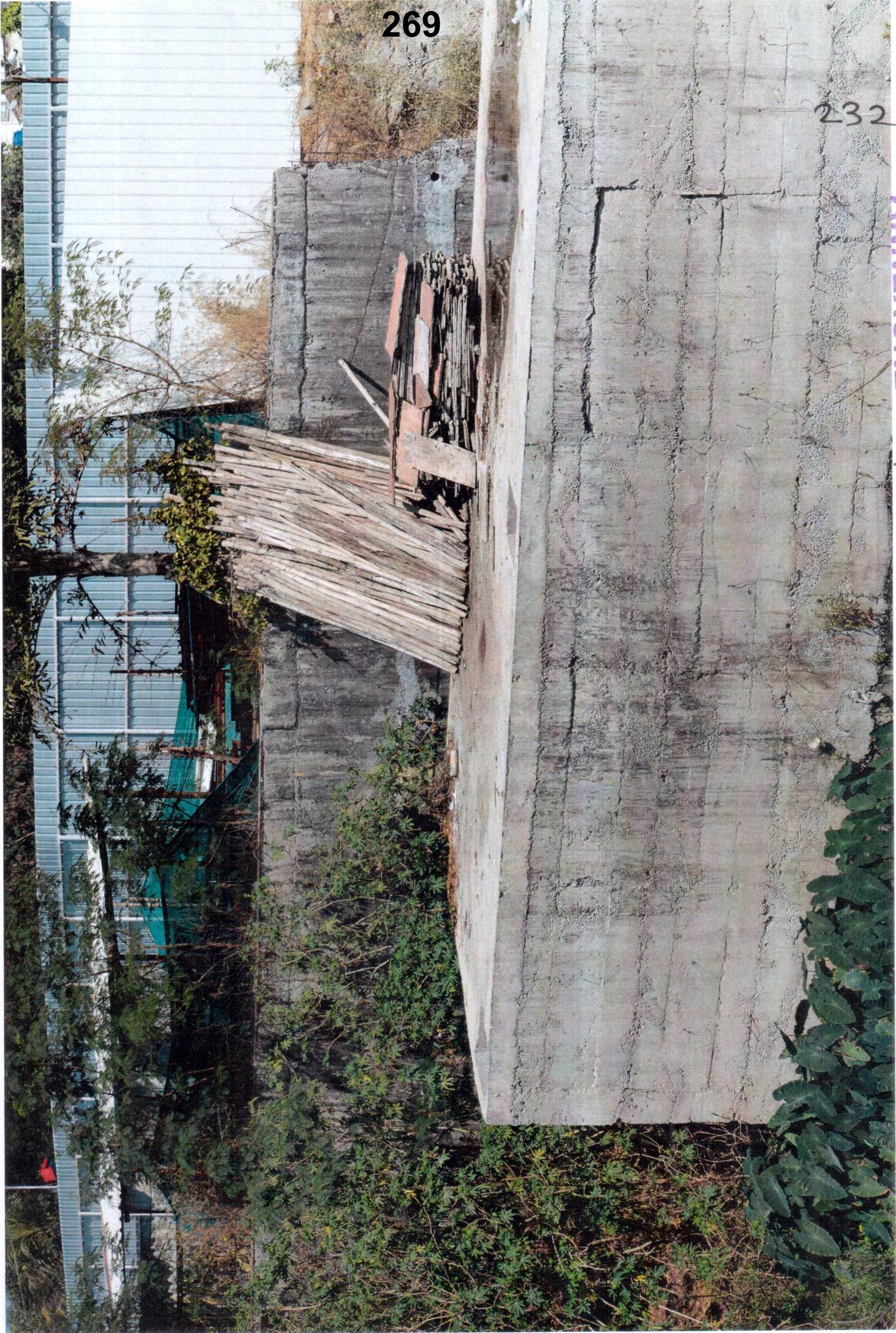


ANNEXURE - 1

Dig No. Name of Dig. Name of the Project. Address of the Project. Prepared by: Prepared for: Prepared on: Name of the Project Proponent: Address of the Project Proponent: Signature of Project Proponent: Seal of the company	MASTER PLAN PROPOSED RESIDENTIAL PROJECT AT WANDRE SR.No. 7/1-2+3/2/P+1/3 (P)+1/2/P+1/2/2/P 1/2/3/P+1/2/1 (P)+1/2/P+1/2 (P) AT WANDRE TAL. MULSHI, DIST.PUNE. URBAN LIFE VENTURES, 1, MOORBAUG, COMMERCIAL BUILDING, SHIVAJINAGAR GANESH KHIND ROAD, PUNE-411 016
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NOTICE

**Government of Maharashtra
Urban Development Department,
Mantralaya, Mumbai-32.
Date :05/08/2019**

Maharashtra
Regional and
Town
Planning
Act, 1966

No.TPS-1819/UOR/32/CR-146/19/UD-13 :- Whereas, the Government in the Urban Development Department, vide its Notification No.TPS-1895/227/CR-26/ 95/UD-13 dated the 25th November, 1997, (hereinafter referred to as "the said notification") has sanctioned the Regional Plan for Pune District (hereinafter referred to as "the said Regional Plan") under Section 15 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the said Act."), which has come into force with effect from the 10th February, 1998;

And whereas, the Government in the Urban Development Department, vide its Notification No.TPS-1817/1246/CR-40/18/20(4)/UD-13, dated the 11th December, 2018, (hereinafter referred to as "the said notification") has sanctioned the Development Control and Promotion Regulations-2018 (hereinafter referred to as "the said regulations") for Pune Metropolitan Region Development Authority (hereinafter referred to as "the said Authority") under Section 20(4) of the said Act which has come into force with effect from the 10th February, 1998;

And whereas, as per the proposals of the said Regional Plan, Residential/Public-SemiPublic/Industrial/Afforestation/Green Belt/Agriculture and No Development etc. Zones are proposed along the Indrayani River (hereinafter referred to as "the said Proposals"),

And whereas, in consonance with order passed by Hon'ble High Court in Writ Petition No. 4795/2010 & 4502/2010, the Revenue and Forest Department requested to Urban Development Department vide UOR dated 13.06.2019, to incorporate Blue and Red flood lines along Indrayani river in said Regional Plan and make the provisions for Redevelopment in between river and blue flood line in the said regulations;

And whereas, the Government is of opinion that, it is necessary to to incorporate Blue and Red flood lines along Indrayani river in said Regional Plan and make the provisions for Redevelopment in between river and blue flood line in the said regulations as per Appendix "A" under sub-section (2) of Section 20 of the said Act, and for that purpose it is necessary to modify the said Regional Plan and said Regulations (hereinafter referred to as "proposed modification.");

Now therefore, as provided in sub-section (3) of Section 20 of the said Act, the Government hereby declares its intention to make the proposed modification and for that purpose, invites suggestions and / or objections from the general public with respect to the proposed modification. Suggestions and / or objections in this regard shall be submitted to the Assistant Director of Town Planning, Pune Branch, Pune, New Administrative Building, 'D' wing, 3rd floor, East side, opposite Vidhanbhavan, Pune-411 001 who is hereby appointed

[Signature]

as the "Officer" for giving hearing in respect of the Suggestions and / or Objections received in this regard and to submit his report to the Government;

Suggestions and / or objections received by the Assistant Director of Town Planning, Pune Branch, Pune within the period of 30 (thirty) days from the date of publication of this Notice in Maharashtra Government Gazette will only be considered.

The plans bearing No.TPS-1819/UOR/32/CR-146/19/UD-13, showing the proposed modification and Appendix 'A' shall be kept open for inspection of the general public during office hours on all working days at the following offices :-

- 1) Metropolitan Commissioner, Pune Metropolitan Region Development Authority
Pune.
- 2) Assistant Director of Town Planning, Pune Branch, Pune.

This notice shall also be published on the Government web-site at www.maharashtra.gov.in

By order and in the name of the Governor of Maharashtra,



Kishor Gokhale
(Kishor Gokhale)
Under Secretary to Government.

Appendix 'A'

Following New Proviso is proposed to be inserted in sanctioned Rule No.13.3 (i) of the said regulations.

13.3 Construction within Flood Line -

i) Area between the river bank and blue flood line (Flood line towards the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground, or like uses without any form of construction or any form of earthwork with external dumping, provided the land is feasible for such utilisation.

provided that, the redevelopment of the existing authorised properties within river bank and blue flood line, may be permitted subject to condition that, the plinth height of the building shall not be less than 0.45 m. above the R. L. of Red flood line and after obtaining the NOC from Irrigation Department.



Kishor Gokhale
(Kishor Gokhale)

Under Secretary to Government.