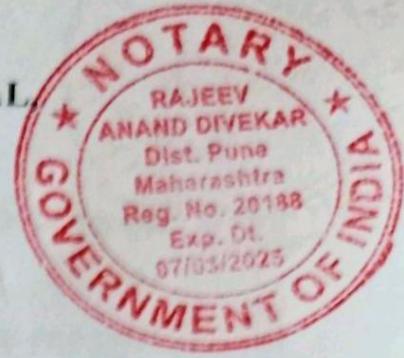


BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

Original Application No. 33/2020



Tanaji Balasajeb Gambhire

..... Applicant

Vs

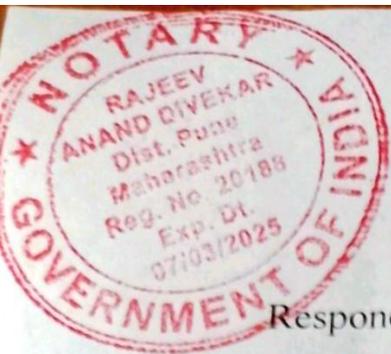
Union of India & Ors

..... Respondents

AFFIDAVIT

I, Lokesh Sadashiv Bhavakar the Chairman, Prayaja Cooperative Housing Society, Age: 46 years, Occupation: Service, Residing at: C 2 , 802, Prayaja Co-operative Housing Society Limited, "Prayaja City", Survey No. 71/72, Opp Funtime Multiplex, Singhgad Road, Wadgaon Budruk, Pune – 411068, do take oath and state as under:-

1. I state that, the present Respondent is a registered housing society vide No. PNA/PNA(4)/HSG/(TC)/11870/2012-13, dated 11.06.2012 formed by the flat purchasers. I being the Chairman of the Respondent Society, affirming the present Affidavit.
2. I state that, we are having 267 Members from 7 residential buildings namely, B1, B2, C1, C2, C3, C4 and E1. I say and submit that, the Respondent No.13 is expanding the project by including additional 5 buildings without following due process of law. Moreover, the Respondent No. 13 has never disclosed about the present ongoing proceedings with utterly motive. The Respondent No. 13 is not coming before this Tribunal with clean hands. Not only the



Respondent has suppressed the material facts from the Society, but also violating the Environmental Rights of all the members of the present Respondent. The Respondent No. 13 not only dishonestly suppressed the legal discrepancies, but also tried to use its dominant position over the present Respondent.

3. I say and submit that, the Respondent No.9 has granted Layout Sanctions, dated 29.03.2007, 06.09.2007, 02.04.2008 and 03.08.2013 wherein there is a systematic gradual increase in the project area by which project potential has been increased; the details of which are given as under :

Sr. No.	Layout Date	Minimum Area of Plot	30M Road	DP	18M Road	DP	Net Area of the Plot
1	29.03.2007	21991.00	1783.85		3235.62		16971.53
2	06.09.2007	21991.00	1783.85		3235.62		16971.53
3	02.04.2008	29290.67	1783.85		3235.62		24271.20
4	03.08.2013	40549.13	3036.51		3652.17		33860.45

4. I say and submit that, the total project land area sanctioned in first layout was admeasuring 2199.00 Sq. Metres which was increased to 40549.13 in Sq. Metres till the last sanctioned layout by amalgamation of plots, dated 3.8.2013. The same was sub-divided into two plots, Plot No.1, admeasuring land area 23991.17 Sq. Metres and Plot No.2, admeasuring land area 16557.96 Sq. Metres. I say and submit that, the Respondent No. 9 has finalized the following Area Statement.

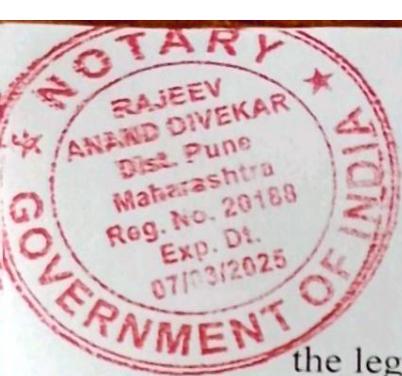




Sr. No.	Description			Sq. Metres
A	Area of plot as per Approved Plan Add New Plot			29290.67 3300.00 7958.46
B	Total area of the plot			40549.13
C	Less area under 30M D.P. Road			3036.51
D	Less area under 18M D.P. Road			3652.17
E	Balance area of plot			33860.45
	Area Statement	Plot No.1	Plot No.2	Total
F	Area of Plot	19833.33	14027.12	33860.45
G	Less Open Space	2333.33	1052.71	3386.04
H	Balance area of Plot	17500.00	12974.41	30474.41
I	Less area of Amenity Space	-----	5079.07	5079.07
J	Net Plot Area	17500.00	7895.34	25395.34
K	Permissible FSI	25900.00	11685.10	37585.10
L	Proposed FSI	24185.96	10309.38	34495.34

5. I further say and submit that, the Respondent No. 13 has amalgamated additional lands in 2013 and subsequent thereto the project is sub-divided into two plots. The Respondent No.9 has sanctioned Building Plans dated 12.03.2014 and 10.07.2017 for Plot No.1. For Plot No.2 the Respondent No.9 sanctioned Building Plans on 08.10.2015. I say and submit that, our society has been registered in the year 2012, in spite of this fact, the Respondent No.13 kept on altering and expanding the scope of project without informing the Society Members. I say and submit that, this not only in contravention of





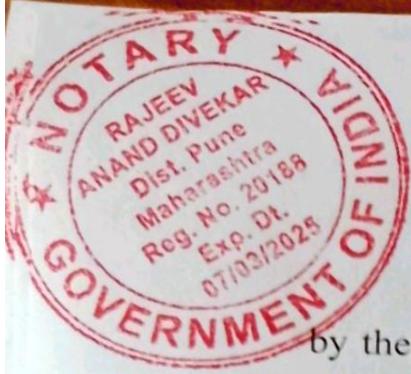
the legal provisions under Maharashtra Ownership Flats Act, 1966 (MOFA), but also various Environmental Rights envisaged under the Environmental Laws. Therefore, it can be said that, the illegal expansion of the said project which is 'the development' has been carried out since 2013 and the same has been continued thereafter. The Respondent No.13 to escape from the legal complexities, mala fide sub-divided a single project and trying to form independent societies under the false pretext of efficient management of the society affairs.

6. I say and submit that, the Respondent No. 13 has till date suppressed the material facts that, there are no occupancy certificates for some of the flats and still the same are occupied by the Flat Purchasers. I say and submit that, an Occupancy Certificate (OCC) has been issued by Respondent No.9 on 29.12.2012 for 350 flats, 9.01.2014 for 43 flats, 21.05.2021 for 9 flats. But the fact remains that there had never been any transparency from the side of Respondent No.13 regarding expansion of project nor for subsequent legal compliances like- Occupancy Certificate etc.
7. I say and submit that, the Respondent No.13 has not obtained a Non-Agricultural Permission for commercial shops constructed in the said project. I say and submit that, the Respondent No.12 has issued Change Land Use Permission vide Non-Agricultural Permission, dated 11.05.2007 for an area of 16971.53 Sq. Metres for residential purpose only and revised Non-Agricultural Permission dated 09.01.2015 for an area of 16888.92 Sq. Metres for residential purpose only. I say and submit that, obtaining a prior 'Environmental Clearance' was a condition precedent while granting these above permissions by Respondent No.12. Hence it would not be incorrect to

say that, the Respondent No.13 not only failed to adhere to the legal provisions, but also dishonestly suppressed/ intentionally violated the Environmental Provisions with respect to the present Respondent.

8. I say and submit that, it is evident from the application under EIA Notification 2006 of the Respondent No.13 whereby it has admitted completion of Phase I (Built up area more than 56292.04 Sq. Metres) and Phase II (Built up area more than 11200.15 Sq. Metres). Moreover, it has also mentioned proposed expansion of project in Phase II whereby making the total built up area of the project to be 93387.13 Sq. Metres. I say and submit that, this fact has till date been suppressed by the Respondent NO.13 from Respondent NO. 14. Although the Respondent NO.13 is legally duty bound not only to disclosed it to the Respondent No.14, but also it is legally duty bound to abide by the Constitutional Rights with respect to environment of the members of the present Respondent.
9. I say and submit that, the Respondent No.13 has willfully violated/ breached the Undertaking given before the Hon'ble Supreme Court. The Respondent No.13 has not stopped the construction work as mentioned therein. It still continues to procure Occupancy Certificate of Building H and carrying out construction of G1 and G2.
10. I further say and submit that, as the Flat Purchases; being members of Respondent No.14 society, the Respondent No.13 is legally duty bound to project the environmental rights of all the members of the present Respondent.
11. I say and submit that, the present Respondent came to know about the Joint Committee Reports and were shocked to see the observations wrongly made





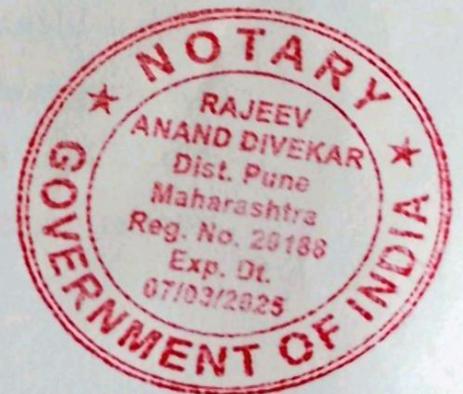
by the said Committee Members. I say and submit that, I do not agree and accept the observations of the Committee with respect to Sewage Treatment Plant, Organic Waste Converter, Rain Water Harvesting, RG Area, Ground Water Extraction, Soil Conservation, Fire Safety Systems, Space for Fire Tender Movement. I say and submit that, there is no sewage treatment plant in the project premises. The place designated for the STP is locked since inception of its installation and the same is not in operation since inception. It has never been communicated to the present Respondent that, it is a STP Room, but the Respondent No.13 always shown it as a Temporary Storage Room; the constructions/erection of which is not sanctioned by the Respondent No.9 and hence the same is not shown in any of the Sanctioned Plans. I say and submit that, there does not exist any STP at site. The untreated sewage water is directly discharged into the sewer line. I say and submit that, the Respondent No.13 not only duty bound by way of a contract, but also with respect to the EIA Notification to provide the STP. The reason been such provision is that, the quantum of water consumption would be reduced if the STP of adequate capacity is set up and operated. Due to non-availability of STP, the water consumption is increased. If the STP of appropriate capacity would have been installed, the treated water from the same could have been used for flushing and gardening purposes. I further say and submit that, there is no separate flush line constructed/ installed by which treated water from STP can be used for flushing and gardening purposes. It is further stated that, the Respondent No.13 has undertaken to install the STP's of 380 KLD and 180 KLD, as mentioned in the application of Environmental Clearance. I say and submit that, the same may be directed to be installed by Respondent No.13.

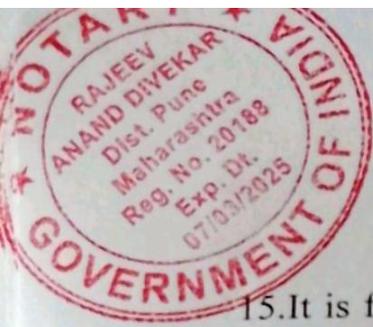


12. I say and submit that with respect to Organic Water converter (OWC), the Respondent erected a tin sheet shed in the site area in December 2019. The same was used as the building material storage room by Developers for construction of Building D. I say and submit that, the said place had never been designated as OWC. Mere erection of the shed cannot be construed as OWC. In the month of June, 2020 there was odor from the shed, the present Respondent could see some big steel buckets and one shredder inside the Tin Shed. It is neither a scientific nor hygienic method to be construed as OWC. The same is also not shown in the Sanctioned Plan. I say and submit that, there is no OWC provided by the Respondent No.13, the same may be provided by the Respondent No.13. I further state that, in the application for Environmental Clearance the Respondent No.13 to install the OWC of 950 KGD and 529 KGD capacity. The same may be directed to be installed by Respondent No.13

13. I say and submit that, the Respondent No.13 has undertaken to install the Solar Panels for 15% energy savings of the total demand. The present status of installation of Solar Panels is very poor. There are newly installed 4 Solar Water Heaters constructed in Building F1, F2, E2 and D. The observations of the Joint Committee of installation of Solar Panels on 10 Buildings, out of 16 Buildings is absolutely incorrect. It is pertinent to note that, there are no Solar Panels for common area lightings. I hereby object to the observations made by the Joint Committee Report dated 23.08.2020.

14. I say and submit that, the RG Area of 2333.33 Sq. Metres in Plot No.1 is provided on podium which is in contravention of the law.





15. It is further stated that, there is an excessive ground water extraction as the Respondent No.13 has not provided the STP. The bore well situated at Plot No.2 is used for construction. None of the bore well is converted into ground water recharge. I say and submit that, installation of STP of adequate capacity, erection of separate flush line for use of STP treated water would reduce the ground water extraction.
16. I say and submit that, there is no rain water harvesting system (RWH) installed at the project site. The rain water collected from all the buildings is directly collected to the storm water line of Pune Municipal Corporation which is technically not the concept of Rain Water Harvesting. A small tank is constructed at the main entry gate which collects rain water from the internal roads. As per the EC application the Respondent No.13 should install 10 RWH Systems in Plot No.1 and 6 RWH Systems in Plot No.2 in the project to recharge ground water.
17. I say and submit that, the Respondent No.13 has planted less than 250 trees. At actual there are less than 250 trees.
18. I say and submit that, the Respondent No.13 is not only bound by a contract, but more than that, the Respondent No.,13 is bound to comply with the provisions of Environmental Laws.
19. It is therefore prayed that, I further say and submit that the Respondent No. 13 has illegally created the Third Party rights by selling the flats in Project knowing well that the same is not in consonance with law. The Respondent No.13 thus fraudulently created third party interests for its own commercial profits thereby violating the law. The flat purchasers had never disclosed

about the legal requirement and always been portrayed the picture that the Project is complying all the legal norms. If the Hon'ble Tribunal considers the prayer of demolition; bona fide flat purchasers will be at loss. It is in the interest of public at large; the direction for demolition may not considered.

20. The Respondent submits that The Respondent No.13 may kindly be directed to abide strictly adhere to all the terms and conditions mentioned in the Environment Clearance. Directions with respect to compensate the present Respondent for the non-compliance of the terms and conditions in the EC also necessary.

Hence this Affidavit.

M. B. Kharvetkar
Affiant

I know the affiant.

Advocate

BEFORE ME
[Signature]
RAJEEV ANAND DIVEKAR
ADVOCATE & NOTARY
GOVERNMENT OF INDIA
Noted and registered
at Sr. No. 479/2023
22 AUG 2023

