

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH AT PUNE

ORIGINAL APPLICATION NO. 35 OF 2019

In the matter of:

Sapna Rajaram Melanta ...Applicant

Versus

Namrata Developers Pvt. Ltd. and OrsRespondents

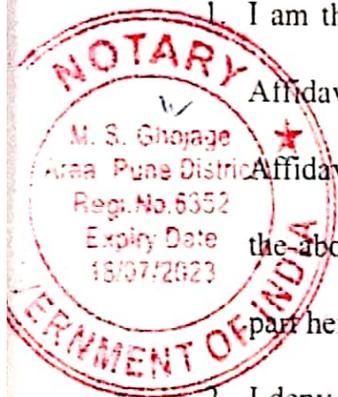
AFFIDAVIT-IN-REJOINDER ON BEHALF OF THE APPLICANT TO

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 2

I, Sapna Rajaram Melanta, the Applicant, Age: 51 years, Occupation: Retired Professor and Farmer, residing at Plot No. 23/4, House No, 1418, Next to Namrata Eco-city (Phase 2) "BRINDAVANA", Varale village, Talgaon-Dabhade, Pune – 410507 (Maharashtra) do hereby solemnly affirm and state as under:

1. I am the Applicant in the abovementioned Original Application. I have read the Affidavit in Reply on behalf of Respondent No. 2 and I am making the present Affidavit in Rejoinder thereto. I repeat, reiterate and confirm everything stated in the abovementioned Original Application and submit that the same be treated as part hereof.

2. I deny the contents, allegations and averments of the Affidavit in Reply on behalf of Respondent No. 2 that are contrary to and / or inconsistent with anything stated in the abovementioned Original Application and the present Affidavit in Rejoinder. Nothing contained in the Affidavit in Reply on behalf of Respondent No. 2 ought to



be deemed to have been admitted by myself of not having been denied specifically herein.

3. At the outset, I say that bare perusal of the Affidavit in Reply on behalf of Respondent No. 2 shows are the averments in the same are misleading and violation of law. I say that bare denials of the averments made in the Plaint and documents produced therewith are not sufficient to disprove the case of the Original Application.
4. At the outset, it is stated that Respondent No. 2 have endeavoured to set up a case in the said Affidavit without proper and due consideration of facts and circumstances in totality.
5. It is submitted that the Present Application is regarding the accumulation and improper management of construction debris, including bricks, concrete cements in powder and solid block form, plastics, steel, wood in the vicinity of residence of some villagers of Varale and the Applicant. I reiterate that that the Respondent No. 1 has been dumping their construction waste in the illegally in the said pasture land which is located opposite the premises of this Applicant and which is the subject matter of this Original Application.
6. Without prejudice to the aforesaid, I shall now deal with the said Affidavit in Reply paragraph wise as follows:
7. With reference to contents of Paragraph 1, I say that the same are formal in nature and therefore, requires no comments from this Applicant.
8. With reference to contents of Paragraph 2, I deny and state that the Respondent No. 2 have not performed their duties and that there is indiscriminate dumping at the said site. This Applicant and her son (also the counsel for the Applicant/myself) have constantly followed and made complaints verbally and in writing about the misuse of the said land in dumping of construction waste. But the same fell into their deaf ears.
9. With reference to the contents of Paragraph 3, I say that the 7/12 extracts of the said land annexed and marked as Annexure R2-1 (colly) in the Affidavit in Reply of



Respondent No. 2 explains that same land is reserved as *Gayran* (meaning grazing land) and for rehabilitation of people who were displaced by Andhra Valley Dam Project, an earthfill dam on Andhra river, which is geographically not far from the said land. But unfortunately, the said land is not being used as grazing land nor for rehabilitation of people displaced by the Andhra Valley Dam.

The Respondent No. 2 says that a part of the said land is reserved to setup solid waste plant. This Applicant says that the said resolution was passed without any scientific application of mind as the "proposed solid waste treatment plant" is located not only midst of residence the village like the Applicant, the Respondent No. 1 project (i.e. Eco city 2.0) but also very near to a water body nor has the Respondent No. 2 presented any plan or survey as to how much waste is generated by the village and how the Respondent No. 2 seeks to treat them.

This Applicant further denies that the Respondent No. 2 has been collecting construction debris for the purpose of "levelling". It pertinent to note there is a difference between the definitions of "land levelling" and "land filling"

The *Oxford Dictionary of Construction, Surveying and Civil Engineering* (2nd edition, latest) defines "levelling" as follows

Levelling

1. *Moving material around so that it is flattened*
2. *Moving earth or other material around so that it is horizontal*

And defines "landfill" as follows:

Landfill

The disposal of waste material by burial

The copies of the excerpt of definitions for reference is marked and annexed as

Annexure "1 (colly)"



In various places in the Original Application, specifically in Paragraph No. 20 and Annexure 6 of the Original Application this Applicant has stated how a huge mound of waste is created and then flattened. This action cannot be termed as land levelling but it is clearly in the form of landfill as the debris is buried under a layer of mud which Respondent No. 2 calls "levelling".

This Applicant further states that the said dumping have stopped only because the Hon'ble Tribunal's prudent approach towards the grievance addressed by this Applicant. Merely saying that the Respondent No. 2 stopped collecting debris for the purpose of "levelling" which is actually landfilling will not automatically bring back the said land back to its original form and absolve the Respondent No. 2 of its responsibilities towards the environment of the village. The said resolution as referred to by the Respondent No. 2 further states that Respondent No. 2 shall seek necessary permission from the District Collector but till date the Respondent No. 2 has not acted towards its own resolution thus giving way to Respondent No. 1 to "landfill" its construction debris and Respondent No. 2 labelling it as "levelling the land". Thus, not only Respondent No. 1 but also Respondent No. 2 is also responsible for the degradation caused by the illegal dumping of construction debris.

10. With reference to Paragraph 4, I say that nowhere in the Original Application this Applicant has referred "Ecologically Sensitive". This Applicant is aware Ecologically Sensitive Areas are areas notified by Ministry of Environment, Forests and Climate Change (MoEFCC) and the said land is not being declared as Ecologically Sensitive Area. This Applicant further denies that the said land was not "valley like". This Applicant used words like "valley-kind", "beauty", "beautiful" purely for the purpose of attributing qualities to the appearance of the said site. This Applicant believes that since the meaning of the said words are open for different interpretation semantically, the same are irrelevant. The Respondent No. 2 is digressing from the subject matter of this Original Application and hence deserves no response thereto.



This Applicant is not against reserving of the said land for building of waste facilities if it is for the benefit of the villagers but this Applicant is against non-compliance of law and non-application of mind and unscientific actions of the Respondent No. 2.

In the view of aforesaid the dumping in the said site is in violation against the words and spirit various laws as listed in Schedule-I of the National Green Tribunal, 2010 and hence denies that this Original Application is not governed by the Hon'ble Tribunal. This Applicant believes that the Hon'ble Tribunal by was rightfully judicious in admitting this Original Application.

11. With reference to the Paragraph 5, I deny that the Respondent No. 2 has been diligent in performing its duties with regard to addressing this Applicant's concern over Respondent No. 1 dumping their construction debris. This Applicant's primary concern in this Original Application is dumping and landfilling of construction debris in the said land. This Applicant also stated that the dumping of the said construction debris has induced local residents to dump their household wastes as they thought the same to be a dumping ground. This Applicant states that it is only after filling of this Original Application that an agency has been appointed to collect the household wastes door to door. This Applicant states that primary concern of this Original Application is not disposal of household waste but dumping of construction debris by Respondent No. 1, hence the same deserve to further response apart from aforesaid thereto.

This Applicant also further denies that Respondent No. 2 is diligent in performing its duties. This can be said from the fact that pending the filing of the compliance report yet to be filed by the Respondent No. 7, there has been some activities of the nature of construction and dumping taking place. This Applicant says that the said activity is place with Respondent No. 2 being aware and this omission/commission of the said activity is done deliberately so as to prevent the Respondent No. 7 is to implement their compliance report. This Applicant humbly pray that the Respondent No. 2 is injuncted to carry out any activity until this Original Application is disposed

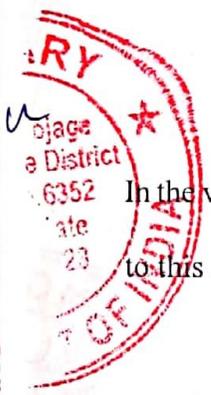


off. The latest photos proving that the activities of the nature of construction and dumping taking place are hereto annexed and marked as Annexure "2 (colly)".

12. With reference to Paragraph 6, I say that it is true that post the filling of the Original Application Respondent No. 2 have warned the villagers of disposing garbage at the said illegally and but at the same time this Applicant denies that any board is erected at the said site. The board referred to by the Respondent No. 2 is being just erected just for the sake of taking photo and filing of their Reply. This is done in order to hoodwink and mislead the Hon'ble Tribunal. It is evident from the photo annexed in the Reply of the Respondent No. 2 that the board is erected is not affixed to ground but merely supported by stones and cement blocks.

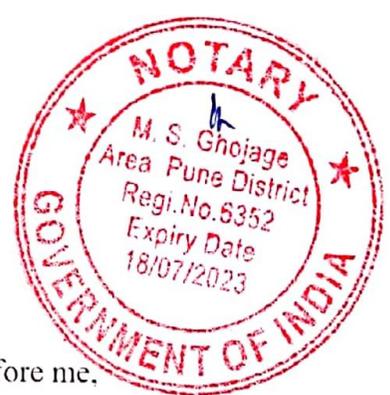
13. With reference to Paragraph 7, I deny that this Original Application is based on surmises and conjectures and also deny that Applicant does not have a case which merits attention of this Hon'ble Tribunal. This Applicant that believes if this Original Application is dismissed at this stage it will be lead to greater harm to the environment.

In the view of what is stated herein above, I humbly pray to this Hon'ble Tribunal do justice to this Applicant.



Solemnly affirmed at Pune)

On this 3rd day of October, 2020)



Before me,

Melanta

Advocate for the Applicant

ADV. HARSHVARDHAN R. MELANTA
MOB: 8308243552

Name S. R. Melanta
NOTED & REGISTERED
Sr.No. 888/2020

Sapna

Applicant
Sapna Rajaram Melanta

BEFORE ME

[Signature]

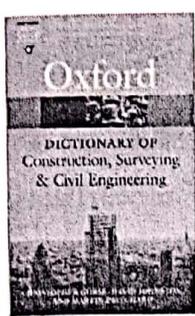
3 OCT 2020

**MACHCHHINDRA S. GHOJAGE
NOTARY GOVT. OF INDIA
DIST.-PUNE**

ANNEXURE - 1 (COLLY)

10/3/2020

Levelling - Oxford Reference



A Dictionary of Construction, Surveying and Civil Engineering (2 ed.)

Edited by Christopher Gorse, David Johnston, and Martin Pritchard

Publisher: Oxford University Press Print Publication Date: 2020
Print ISBN-13: 9780198832485 Published online: 2020
Current Online Version: 2020 eISBN: 9780191871061

levelling.

1. Moving material around so that it is flattened. 2. Moving earth or other material around so that it is horizontal....

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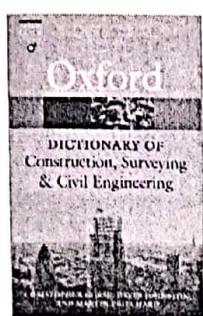
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10/3/2020

Landfill - Oxford Reference



A Dictionary of Construction, Surveying and Civil Engineering (2 ed.)

Edited by Christopher Gorse, David Johnston, and Martin Pritchard

Publisher: Oxford University Press
Print ISBN-13: 9780198832485
Current Online Version: 2020

Print Publication Date: 2020
Published online: 2020
eISBN: 9780191871061

landfill

The disposal of waste material by burial. ...

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date: 03 October 2020

ANNEXURE - 2 (colly)

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Govt says it is successful in preserving jobs, livelihoods and preventing insolvency of MSMEs during the Covid-19 pandemic.

Moderna says its vaccine is unlikely to be ready before US election even as FDA widens safety inquiry into AstraZeneca vaccine, a review of which is also set to begin in Europe.

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