

SERIAL NO. 449
 DATE 12.9.2024

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

Original Application 104/2023

Charan Bhatt

...Applicant

Versus

Environment Department,

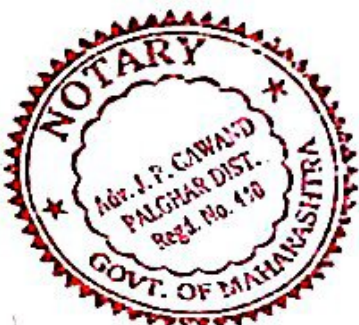
Government of Maharashtra & Ors

...Respondents

AFFIDAVIT IN REPLY ON BEHALF OF THE
RESPONDENT NO 3, 4 & 6

I, Y. Shiva Reddy, Aged about 56 years working as the
 Deputy Director Town Planning, having office at VVCMC
 Head Office, Yashwant nagar, Virar (West) 401303.

I say that I am working as the Deputy Director of Town
 Planning Department In the Respondent No 3 Municipal
 Corporation and hence I am competent to swear this Affidavit.



1. At the outset the Answering Respondent wholly and singularly denies all the contents of the entire Original Application in its entirety, unless specifically admitted, nothing herein be deemed to be admitted for lack of a specific traverse.

2. At the further Outset the Answering Respondent states that the present Application is not maintainable before this Hon'ble Tribunal because the same is not under Schedule-I of the National Green Tribunal Act, 2010. Further the present Original Application read along with the documents relied upon by the Applicant clearly indicates that the present Original Application is barred by limitation. The Answering Respondent would without prejudice to the above objections bring out the correct facts before this Hon'ble Tribunal, which should bring the present Original Application to its logical conclusion.

Relevant Facts

3. The present Original Application has been filed with respect to an alleged presence of a pond in Survey no 47 Hissa no 5, 7a &b, and Survey No 48 Hissa no 6,10, 11 Survey No



50 Hissa No 3 at Village Waliv District Palghar. the same was shown as a pond not a reservation in the Development Plan prepared by CIDCO but there is no physical verification of the existence of the pond nor the same was ever shown in form 14 as per the revenue records of the village. On 01.11.2022 the Answering Respondent issued a revised development plan to the Respondent No 9 the same was after due verification after conducting a spot inspection report from the Circle Officer Mandvi dated 16.06.2022, Report from the Tahsildar of Vasai Taluka dated 22.06.2022, Village form No 14 issued by the Talathi Waliv, a spot verification by 5 witnesses (Panchnama). The Answering Respondent also addressed a communication to the Urban Development Department dated 27.03.2023 for the Clarification on rectification of the drafting Error in the Development Plan. As per the communication of the Urban Development Department vide letter dated 23.04.2023, which referred to Clause 2.5 of the UDCPR the power for the same vests with the Local Body and thus accordingly the Answering Respondent has taken appropriate action.



4. The primary grievance of the Applicant seems to be the decision taken by the Answering Respondent to issue the Revised Development Permission dated 01.11.2022 according to which the error has been rectified. The Answering Respondent has taken those decisions as per the powers vested upon it as per the provisions of the Maharashtra Land Revenue Code, 1966, Maharashtra Regional Town Planning Act, 1966 and the Maharashtra Municipal Corporations Act, 1949. It is relevant to mention that none of the following acts are listed in the Schedule - I of the National Green Tribunal Act, 2010, and the Applicant had a remedy to challenge the same as per the remedies available in each statute, but why the same was not preferred is a question that would be best answered by the Applicant himself. The guidelines relied upon by the Applicant are not relevant to the issues alleged by the Applicant and thus the present OA is not maintainable. It is further submitted that the Applicant has merely pleaded in Paragraph 34 of the present OA that the present Application is within limitation, but has not gone on to explain as to when the cause of action arose and how the same is not barred by limitation. The Applicant has conveniently



chosen to ignore his own document which is his Complaint addressed to the Urban Development Department dated 15.03.2023 in which the Complainant mentions the year 2014, though no proof of the physical existence of the pond is ever shown by him, thus upon a bare perusal of the aforesaid document and the Pleading by the Applicant, the present Original Application is hopelessly barred by time and the same deserves to be dismissed.

5. The Answering Respondent submits that the Development Plans and other documents sometimes end up reflecting inaccurate information, and the law itself provides for the rectification of the same, in the present scenario after the error was noted the Answering Respondent took due care to verify the correct facts and accordingly the Answering Respondent asked for a verification from the Circle Officer, which is a senior post in the Revenue Department, and is an independent officer not under the control of the Answering Respondent. The Answering Respondent further called for a report from the Tahsildar dated 22.06.2022 and the talathi confirmed the same according to the relevant documents. The Answering Respondent further conducted a site



inspection which involves 5 individuals from the said locality. Further the Answering Respondent written to the Urban Development Department. Thus the Answering Respondent has diligently verified the correct facts at hand and has thereafter taken a decision, which for the reasons best known to the Applicant has not been challenged according to the relevant statutes.

6. The Joint Committee appointed by this Hon'ble Tribunal in its Report also has not mentioned about the physical existence of any pond and has further noted that, even as per the Gaon Nakasha did not reflect existence of the same and has further mentioned that the Answering Respondent has duly followed the administrative procedure.
7. Thus the present Original Application deserves to be dismissed.



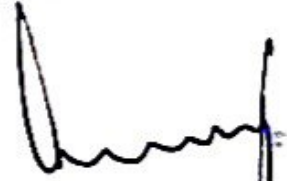
Respondent

**No 3,4,& 6
Deputy Director Town Planning
Vasai Virar City Municipal
Corporation.**



Verification

I, Y. Siva Reddy do hereby verify the contents of the paragraphs which are true to my own knowledge and /or are in the nature of legal submissions which I believe to be true and no material has been suppressed herewith.



Respondent No 3, 4, 6
Deputy Director Town Planning
Vasai Virar City Municipal Corporation,

Solemnly Affirmed on

This 12th Day of September 2024 at Virar.

**SWORN AND EXECUTED
BEFORE ME ON 12.9.2024**



12.9.2024
**JAGDISH P. GAWAND
ADVOCATE & NOTARY
VIRAR, TAL. VASAI,
DIST. PALGHAR, PIN 401303.**

