

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 39 OF 2024 (WZ)**

Kalpesh Chandrakant YadavApplicant

Versus

M/sKrishna Construction & Ors.Respondents



**AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 3 PUNE
MUNICIPAL CORPORATION (PMC).**

I, Rohidas Nivrutti gavhane Age: Adult years, Executive Engineer (Bldg. Permission Department Zone 1), Pune Municipal Corporation do state on solemn affirmation as under:

1 I say and submit that I am working as Executive Engineer, Building Dept. in Pune Municipal Corporation (Henceforth referred as "PMC" for the sake of brevity) and I am authorized to file this Affidavit before the Hon'ble National Green Tribunal on behalf of Respondent No. 3 PMC.

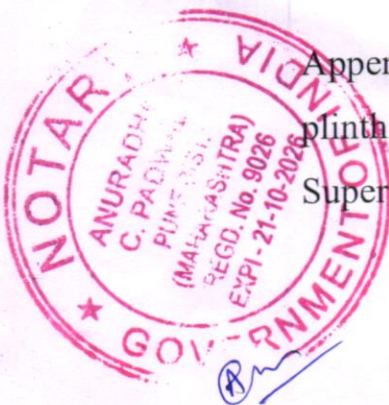
2. At the outset, I deny all the contentions and/or statements and/or allegations contained in the present Original Application to the extent those are contrary to and/or inconsistent with what is stated in the present Affidavit in Reply. Nothing contained in the Original Application, should deemed to be admitted by the PMC for want of specific traverse unless the same has been specifically admitted

herein below. I crave leave of this Hon'ble Tribunal to file Additional Affidavits as and when the occasion so arises.

3. I say and submit that I have perused the documents brought on record and on the basis of these documents, I placed this Affidavit in Reply.
4. I say and submit that the present Original Application is alleging that Respondent No. 1 Project Proponent "M/s. Krishna Constructions" has carried out construction of residential and commercial building project namely "Lotus Court", situated at S. no. 28/1, Old Kharadi-Mundhwa Road, Kharadi, Pune by violating terms and conditions of Environment Clearance and Consent.
5. I say and submit that the aforementioned project fall under the PMC limits. PMC is the local authority within the definition of Maharashtra Municipal Corporation Act, 1949 and as such is the Authority granting Building Permissions under MRTP Act.
6. I say and submit that the Project Plans are sanctioned on the application made under sec. 44 of MRTP Act, 1966 through a licensed Architect, thereafter proposals are sanctioned under sec 45 of MRTP Act.
7. I say and submit that relevant Rules regarding plinth checking, completion certificate and Occupancy certificate in UDCPR-2020 are reproduced below:-

Rule 2.8.4 Plinth Checking

The owner shall give intimation in the prescribed form in Appendix F to the Authority after the completion of work upto plinth level. This shall be certified by Architect/licensed Engineer/Supervisor with a view to ensure that the work is being carried out



in accordance with the sanctioned plans. After such intimation, the construction work shall be carried out further. The officers of the Authority, who are empowered to grant development permission and subordinate officers to him, shall each, inspect about 10% of such plinth certified cases.

Rule 2.8.5 Deviation During Construction –

If during construction of a building, any deviation of a substantial nature from the sanctioned plans is intended by way of internal or external additions, sanction of the Authority shall be necessary. A revised plan showing the deviation shall be submitted and the procedure laid down for the original plans shall apply to all such amended plans. Any work done in contravention of the sanctioned plans, without prior approval of the Authority, shall be deemed as un-authorized. However, any changes made within the internal layout of a residential or commercial unit, which do not violate FSI or other regulations, shall not be treated as unauthorised. Such changes shall be incorporated in plan along with completion certificate. Provided that revised permission may also be granted after completion of work before obtaining full occupancy certificate.

Rule 2.9 Completion Certificate –

The owner through his Architect/licensed engineer/town planner/supervisor, as the case may be, who has supervised the construction, shall furnish a building completion certificate to the Authority in the form in Appendix G. This certificate shall be accompanied by three sets of plans of the completed development, the certificate about the operation of the lift from consultant and certificate of structural stability, wherever necessary.



In case of special buildings, the Completion Certificate shall also be accompanied with the NOC from Chief Fire Officer of respective Authority or Director of Fire services, as the case may be.

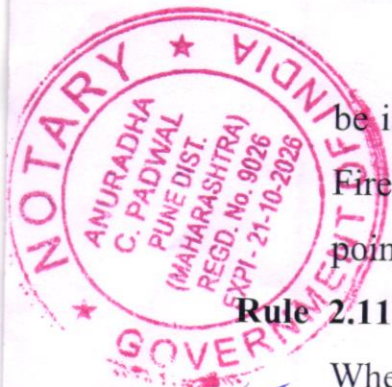
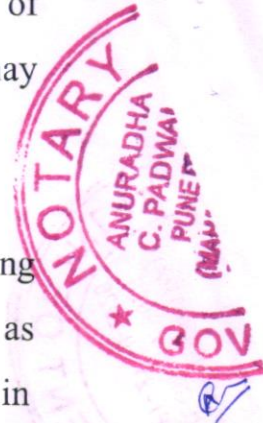
Rule 2.10 Occupancy Certificate –

The Authority after inspection of the work and after satisfying himself that there is no deviation from the sanctioned plans as mentioned in Regulation No.2.8.5, issue an occupancy certificate in the form in Appendix H or refuse to sanction the occupancy certificate in Appendix I within 21 days from the date of receipt of the said completion certificate, failing which the work shall be deemed to have been approved for occupation, provided the construction conforms to the sanctioned plans. One set of plans, certified by the Authority, shall be returned to the owner along with the occupancy certificate. Where the occupancy certificate is refused or rejected, the reasons for refusal or rejection shall be given in intimation of the rejection or the refusal. The applicant may request for Deemed Occupancy Certificate, if eligible, as above. The Authority shall issue the Deemed Occupancy Certificate within 15 (fifteen) days of the application.

In case of Special buildings, the occupancy certificate shall be issued by the Authority only after the clearance from the Chief Fire Officer regarding the completion of work from fire protection point of view.

Rule 2.11 Part Occupancy Certificate –

When requested by the holder of the development permission, the Authority may issue a part occupancy certificate for a building, or part thereof, before completion of the entire work as per



development permission, provided sufficient precautionary measures are taken by the holder of the development permission to ensure public safety and health of the occupants and users of the said portion of the building. The part occupancy certificate shall be subject to the owners indemnifying the Authority in the form in Appendix J.

8. I say and submit that once a construction is completed Licensed Architect submits a Completion Certificate to PMC certifying that all the conditions are fulfilled and the building is ready for occupation. On receiving the Completion Certificate PMC verifies permissions are in place and grants Occupation Certificate there are specific times in the Rules.
- 9 I say and submit that Respondent No. 1 Project Proponent "M/s. Krishna Constructions" has obtained Environment Clearance for said project on 10/08/2022 for Total Built Up Area 21,517.88 sq.m. (FSI-12989.84 sq.m. & NON FSI – 8528.04 sq.m)
- 10 I say and submit that PMC has granted Commencement Certificate to the Project Proponent i.e. Respondent No. 1. On the following condition 'Additional construction work to be started only after submitting the Revised EC to PMC.

Granted Commencement Certificate Details as below:-

Sr No.	Date	Commencement Certificate	TBUA Area (FSI & Non FSI)
1.	01/06/2022	CC/0549/22	FSI -12989.84 Sq.m. Non FSI 10064.83 Sq.m.



- 11 I say and submit that PMC has granted Occupancy / Part Occupancy Certificate to R-1 details are as below:-

Sr No.	Date	Occupancy / Part Occupancy Certificate	TBUA Area
1.	16.02.2022	OCC/1119/21 Part Occupancy Certificate-1	FSI 1329.904Sq.m. Non-FSI 670 sq. m
2.	09.11.2023	OCC/0853/23 Part Occupancy Certificate-2	FSI -9640.976 sq.m Non-FSI-9198.24sq. m

- 12 I say and submit that the Architect of the project vide its letter dated 22/06/2023 gave information in relation to the actual construction carried out by Respondent No. 1- Project Proponent at the site is 23,054.6 sq. meters Total Builtup Area. The height of the building is 55.95 meters. STP at the site is also operational.

- 13 I say and submit that as per Rule 9.13 of UDCPR Recreational Open space may be permitted on podium. Accordingly, an area of 463.59 Sq. mtrs. was sanctioned as open space on podium and an area of 508.787 Sq. mtrs. was sanctioned as Recreational Open Space on mother earth vide layout CC/0549/22 dt. 1/06/2022.

- 14 I say and submit that Tree Authority, Nagar Road Vadgaonsheri Ward Office, PMC visited the site and it was revealed that 972.37 Sq. Mtrs. which was to be developed as Green Belt was not Developed by R-1. R-1 was required to plant 1515 trees in the Green Belt Development Area with 3-4 meters difference between the trees and such trees shall be local indigenous trees. However, R-1 has not complied with this condition.

- 15 I say and submit that R-3 PMC has issued a notice to the project proponent R-1 dated 14/07/2023 u/s. 267(1) of Maharashtra

Municipal Corporation Act, 1949 and u/s. 54 of Maharashtra Regional and Town Planning Act, 1966 stopping R-1 to continue with the construction and also a show cause as to why the permission granted to R-1 shall not be cancelled. I state that no construction activities have been carried out after this notice.

16 I say and submit that PMC has no role in either granting or monitoring the violation of Environment Clearance Conditions and Consent Condition.

Pune

Date: 12/8/2024

Rgarg
Advocate
Respondent

R. Gavhane

Rohidas Nivrutti Gavhane

Executive Engineer

Building Permission Dept. zone-1

Pune Municipal Corporation



VERIFICATION

I, Rohidas Nivrutti Gavhane, Age Adult Building Permission Department , Zone-1 , PMC authorized signatory for PMC do hereby state on solemn affirmation that what is stated forgoing Para's is true and correct to my own knowledge and belief.

Solemnly affirmed at Pune

This 12 day of August, 2024

Rohidas Gavhane

Rohidas Nivrutti Gavhane

Executive Engineer

Building Permission Dept. zone-1

Pune Municipal Corporation

R. Garg

Adv. for Respondent No. 3



22 AUG 2024

BEFORE ME

A. Padwal

ANURADHA C. PADWAL
NOTARY
GOVERNMENT OF INDIA

8

NOTED & REGISTERED AT
SERIAL NUMBER 387/2024

