

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH PUNE

APPEAL U/s. 16 (h) r/w S.20 of NGT ACT, 2010 AND RULE NO. 24

OF NGT (P&P) RULES, 2011

APPEAL No. 127/2024 (WZ)

IN THE MATTER OF:

MR. SAYYED MOHAMMED SABIR USMAN

... APPELLANT

VERSUS

UNION OF INDIA THROUGH SECRETARY – MOEFCC & 3 ORS

... RESPONDENTS



AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 4

I, Karan Bharat Shroff, one of the designated partners of Sheth Smarthomes LLP, the Respondent No. 4 herein, do hereby solemnly affirm and state as under:-

1. I have read over the contents of the Appeal along with the annexures therein. I say that I am familiar with the facts and circumstances relating to the captioned matter and I am therefore able to depose and make the present Affidavit. I say that I am presently filing an Affidavit in Reply for the limited purpose of opposing grant of the prayers as prayed by the Appellant and any other reliefs in the Appeal.



Accordingly, I crave leave to file additional / further Affidavit and/or a detailed Affidavit in Reply, if so advised.

2. At the outset, I deny each and every statement, averment, submission, insinuation, allegation and/or contention in the present Appeal, and unless specifically admitted by me, all such statements, averments, submissions, insinuations, allegations and/or contentions are deemed to have been denied by Respondent No. 4. Nothing contained in the Appeal shall be deemed to have been admitted by me for want of specific traverse and non-denial.
3. At the further outset, I say that the Appellant is a completely unknown third party who is in no way concerned with the development of the Project or the Respondent No. 4.
4. I deny that the Respondent No. 4 has procured the impugned EC dated 08.02.2022 (as Annexure A-1 of the Appeal) from SEIAA on the basis of false, baseless and misleading information and in abuse of process of law as alleged and put the Appellant to strict proof thereof.
5. I deny that the Respondent No. 4 has not complied with the conditions as are required for grant of EC as alleged. I say that the Respondent No. 4 has from time to time complied with all the regulations as were required by the SEAC-II and SEIAA with respect to grant of EC for the Project.



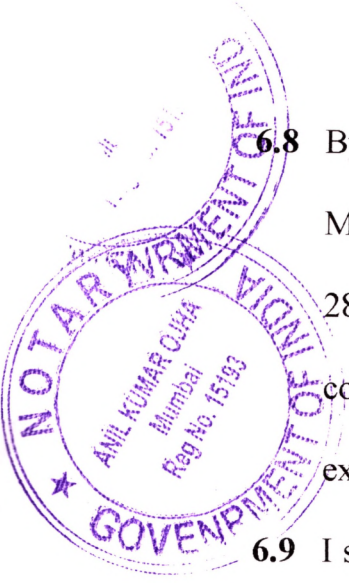
6. Without prejudice to all that is stated hereinabove, I shall now state the facts of the matter which are as under:

- 6.1 The Maharashtra Housing and Area Development Authority (“MHADA”) is the owner of and is absolutely well and sufficiently entitled to all that piece and parcel of land bearing CTS No. 458-A, admeasuring 6705.28 sq.mts or thereabouts situated, lying and being at Village Kurla Part-3, Taluka Kurla, M.S.D, Sion-Trombay Road, Chunabhatti (East), Mumbai – 400 022 (“**Property**”);
- 6.2 Vide a duly registered Redevelopment Agreement dated 10th October 2022, the Respondent No 2 as the Developer was granted development rights by one Om-Trimurti Co-Operative Housing Society Ltd. (“**Society**”) with respect to the redevelopment of the said Property alongwith Building 1, 2, 3 and 4A standing thereon;
- 6.3 MHADA issued Offer Letter dated 24th March, 2023 bearing reference no. CO/MB/REE/NOC/F-1444/856/2023 (“**Offer Letter**”) in respect of the Property, permitting redevelopment of the same to be undertaken under regulation 33(5) of Development Control and Promotion Regulations, 2034 and the Society was further permitted to make payment of premium in four instalments, as regards the redevelopment in the manner contained therein;



- 6.4 MHADA issued Offer Letter dated 20th September, 2023 bearing reference no. CO/MB/REE/NOC/F-1444/2468/2023 ("**Supplemental Offer Letter**") *inter alia* confirming the proposal of the Society on the terms and conditions mentioned therein;
- 6.5 MHADA issued Letter dated 03rd November, 2023 bearing reference no. CO/MB/REE/NOC/F-1444/2826/2023 to the Executive Engineer, Building Permission Cell ("**MHADA NOC**"), wherein MHADA granted its no objection for undertaking construction as per the proposal of the said Society as regards the Buildings standing on the Property on the terms and conditions contained therein;
- 6.6 By Intimation of Approval bearing No. MH/EE/(B.P)/GM/MHADA-23/1371/2023 dated 15th December 2023 ("**IOA**"), MHADA granted to the Respondent No. 4 planning permission.;
- 6.7 Subsequently, the Respondent No. 4 has obtained necessary permissions and made other statutory payments for various concessions and permissions, such as CFO NOC, Parking NOC, Solid Waste Management NOC and Environmental Clearance, Sewage Charges, Assessment Taxes etc.;





6.8 By Commencement Certificate bearing No. MH/EE/(B.P)/GM/MHADA-23/1371/2024/CC/1/New dated 28th March 2024 (“CC”), MHADA gave permission to commence construction for the proposed redevelopment of existing building No. 1, 2, 3 and 4A;

6.9 I say that this Respondent has incurred various expenses by way of payment of premiums and other statutory charges and payments made to the Society and its members running into crores of rupees. The Respondent No. 4 craves leave and liberty to refer to and rely upon the receipts/ ledgers of the of the cost incurred by the Respondent No.4 for obtaining various approvals;

6.10 The development of the sale component of the Project has been registered as a real estate project under Real Estate (Regulation and Redevelopment) Act, 2016 (“*RERA*”) and the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017 (“*RERA Rules*”), under registration no. P51800056060;

6.11 The Respondent No. 4 craves leave and liberty to refer to and rely upon the various permissions and approvals granted in favour of the Respondent No.4 by the competent authorities with respect to the redevelopment of the said Property;



7. Thus, it is evident from the abovementioned facts that the Respondent No. 4 has taken all necessary steps and acted in good faith with respect to the redevelopment of the said Property.
8. All the false allegations raised by the Appellant against the Respondent No 4 appear to be an intentional attempt of the Appellant herein to stall the development of the smooth sailing Project of the Respondent No. 4 with the sole intention to cause huge losses to the Respondent No. 4 and in-turn delay the timely completion of the Project.
9. I say that the Appellant who has no right, title & interest in the Property or the Project is merely trying to stall the Project for reasons best known to him.
10. I say that such acts of the Appellant are nothing but intentional blackmailing tactics and to harass the Respondent No. 4 so as to increase their expenses with respect to payment of rent and legal expenditure. I say that the Appellant is intending to merely delay the implementation of the Project for his ulterior motives and this in turn will not only be a huge impact to the Respondent No. 4 but also in turn delay the possession of the members of the Society who have already handed over possession of their premises thereby jeopardizing the entire redevelopment.



11. In view of the above, I say that the Appellants are not entitled to any reliefs and the present Appeal should be dismissed with costs.

DATED AT MUMBAI ON THIS THE 9th DAY OF SEPTEMBER,
2024

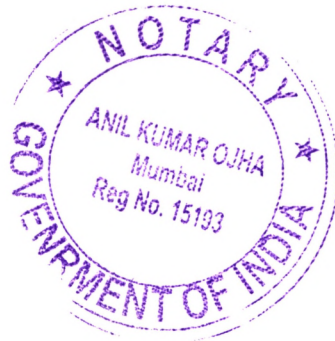


Advocate for Respondent No. 4

For Sheth Smarthomes LLP

Designated Partner

Respondent No. 4



VERIFICATION

I, Mr. Karan Bharat Shroff, one of the designated partners of Sheth Smarthomes LLP, the Respondent No. 4 hereto, having address at S-7/4, Pinnacle Business Park, Next to Ahura Centre, Mahakali Caves Road, Andheri (East), Mumbai – 400 093 do hereby solemnly affirm and declare that what is stated in the foregoing paragraphs is correct to the best of my knowledge and I believe the same to be true.

For Sheth Smarthomes LLP
[Signature]
Designated Partner

Solemnly affirmed at Mumbai)

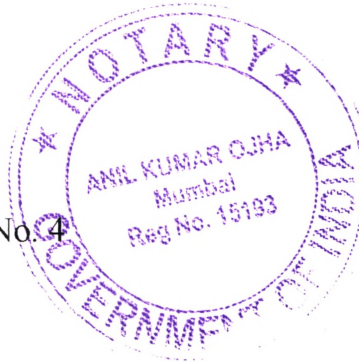
On this the 9th day of September, 2024)

Respondent No. 4

Deponent

[Signature]

Advocate for Respondent No. 4



Before me, **BEFORE ME**

[Signature] 9/9/2024

ANIL KUMAR OJHA
(B. A. LL.B.)
ADVOCATE & NOTARY GOVT. OF INDIA,
Trimurthi Niwas, Inas Wadi,
Near Fish Market, Kharodi Village,
Marve Road, Malad (West), Mumbai-400 095

Reg. No. 03/2024
Sr. No. 345/2024

