

BEFORE THE NATIONAL GREEN TRIBUNAL
WZ BENCH, AT PUNE

ORIGINAL APPLICATION NO.206/2023(WZ)



Yogesh Pratap Singh

.....

Applicant

Versus

Member Secretary, National Coastal Zone management Authority

&Ors.

.....

Respondent

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO.5 EXECUTIVE ENGINEER, BUILDING PERMISSION CELL, MAHARASHTRA HOUSING AND AREA DEVELOPMENT AUTHORITY (MHADA) IS AS UNDER:

I, Prashant D Dhatrak , being the Executive Engineer, Building Permission Cell, Authority, Mumbai of Respondent No. 05, i.e. Maharashtra Housing and Area Development Authority, Mumbai, having my office at Room No 39 At Ground Floor, Gruhanirman Bhavan ,Kalanagar Bandra East Mumbai 400051. do hereby, on solemnly affirmation state as under:

1. I say that I am the Executive Engineer of Respondent No. 05 - Building Permission Cell, Maharashtra Housing and Area Development Authority, Mumbai and am authorised to affirm the



present reply affidavit on its behalf. I have made myself conversant with the facts of the case and am competent to depose on behalf of Respondent No. 05 herein. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the above Application. Nothing in the contents of the above Application may be deemed to have been admitted for mere want of specific denial.

2. I say that the Applicant has filed the present Application seeking demolition of constructions within the CRZ areas of Mumbai which are allegedly in violation of the Local Town and Country Planning Regulations as mandated under the CRZ Notification 2019, by way of invoking the 'Precautionary Principle'.
3. I say that the Applicant has impleaded the Answering Respondents for allegedly being one of the four main planning authorities who grant building permissions in Mumbai, including those which are situated in CRZ areas. I say that The Government of Maharashtra has declared 'MHADA' as a Planning Authority vide Notification Dated 23.05.2018. As per chapter IV of MRTP Act 1966, for MHADA Layouts under the Jurisdiction of MCGM, since then MHADA is working as a Planning Authority for MHADA layouts in the Jurisdiction of MCGM.
4. I say and submit that The Applicant has annexed layout plans of 10 constructions as examples in support of his claim. However, the entire application is vague and ambiguous and does not provide specific details of the constructions that are in violation as alleged, that are being carried out in the entire city of Mumbai.



The Applicant has not made any Developers of the purported illegal constructions as parties and the Applicant is not seeking any specific relief against the said violating Developers. The Applicant is duty bound to put forth a specific challenge that raises a substantial question relating to environment, which the Applicant in the present matter has failed to establish. Therefore, it is submitted that on this ground, the captioned Original Application ought to be dismissed.

5. I say and submit that the OA challenges all constructions within CRZ area of the city of Mumbai violating provisions of DCPR 2034, more particularly, the open spaces regulations provided in Regulation 41 of DCPR 2034. It is a well settled principle of law that this Hon'ble Tribunal being a creation of the NGT Act, is bound by the parent Act. The NGT Act, more particularly, Schedule-1 of the NGT Act, lists the acts with respect to which this Hon'ble Tribunal has jurisdiction. It is pertinent to note that the allegations of contravention of the DCPR 2034 do not fall within the ambit of Schedule-I of the NGT Act. Therefore, this Hon'ble Tribunal ought not to entertain the OA as the Applicant ought to have approached an appropriate forum for dealing with the alleged issues as raised in the OA.
6. I say that without prejudice to the contentions raised above, regulation 6 (b) of the DCPR 2034, empowers the sanctioning authority i.e. Respondant no 5 in the present matter, to permit any of the dimensions prescribed by the Regulations to be

modified except those relating to the FSI, which is quoted as follows -

6 Discretionary powers:

(b) In specific cases where a clearly demonstrable hardship is caused, the Commissioner/ CEO MHADA may for reasons to be recorded in writing, by special permission permit any of the dimensions prescribed by these Regulations to be modified, except those relating to floor space indices unless otherwise permitted under these Regulations, provided that the relaxation will not affect the health, safety, fire safety, structural safety and public safety of the inhabitants of the building and the neighbourhood.

(c) Any discrepancy/error in regard to location/size/use of designations and any relocation of reservation approved by the competent authority along with its development at its relocated position if not reflected in this Development Plan and that are brought to the notice of MCGM/ sanctioning authority may, after due enquiry, be corrected with the special permission of the Commissioner/ CEO MHADA. Provided that the Municipal Commissioner/ CEO MHADA shall issue a well-reasoned order of such correction, along with the authenticated part plan showing the location under his seal and signature, with a copy to the Govt., Director of Town planning, Maharashtra State, Deputy Director of Town Planning, Greater Mumbai for information and record purpose. The proposal of Development Plan shall stand modified to that effect.



Hence the Municipal Commissioner / the CEO MHADA, may for reasons to be recorded in writing, by special permission permit any of the dimensions prescribed by these Regulations to be modified, except those relating to floor space indices unless otherwise permitted under these Regulations of DCPR 2034 and policies in force prevailing as on the date of CRZ Notification 2019.

- 7. I further say and submit that this Respondent will abide by any directions given by this Hon'ble Tribunal.
- 8. Thus for the reasons aforementioned, the present Respondent is hereby challenging the very maintainability of the Application.
- 9. I say that the present Respondent expressly craves leave to file an Additional Affidavit dealing with the OA if the circumstances so warrant.

M. Anubas
DEPONENT
 Executive Engineer (GM)
 Eastern Suburban/
 Maharashtra Housing & Area
 Development Authority
 Bandra (E) Mumbai 51

VERIFICATION

I, the deponent above-named do solemnly affirm that all that is stated in this Affidavit is true to the best of my knowledge and belief, which is based on the records available in respect of the issue involved in the above-captioned Application. Nothing false has been stated herein.

Solemnly affirmed this ... day of April 2025 at Mumbai.

M. Anubas
 Executive Engineer (GM)
 Eastern Suburban/
 Maharashtra Housing & Area
 Development Authority
 Bandra (E) Mumbai 51



BEFORE ME

S. K.
SANTOSH K. SINGH
 NOTARY
 MAHARASHTRA
 (Govt. of India)

11.11 JUN 2025