

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

**ORIGINAL APPLTCATTON NO. 33/ 2018**

In the matter of

*Sanjay Bhegade & Ors,*

*...Applicant*

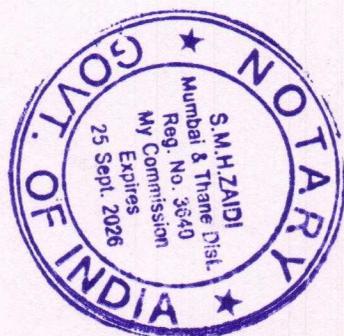
**VERSUS**

*The State of Maharashtra & Ors*

*...Respondents*

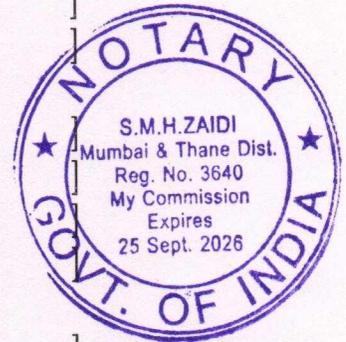
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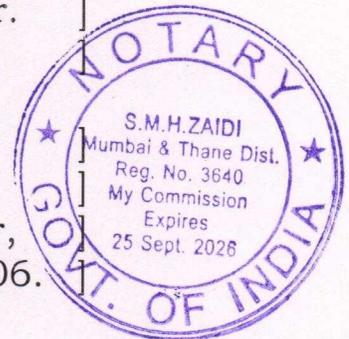


4. **Homi Jesia,** ]  
R/at Survey/Gat No.68/3, ]  
Gevanda Khadak, At Pavananagar, ]  
Taluka Maval, Dist.- Pune ]  
Pin- 410 406. ]
5. **Surendra Pandurang Naravekar** ]  
R/at Gat No.148/1, Village Pale, Pama, ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
6. **Dinesh Dharmachand Patel** ]  
R/at Survey No.51, Village Shevati, ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
7. **Vijay Punjabi** ]  
R/at Gat No. 439, 440, Village Tikona. ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
8. **Abhay S. Choksy** ]  
R/at Gat No. 536, Village Tikona, ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
9. **Linesh Patel** ]  
R/at Gat No.93, Village Pale, ]  
Pama, At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
10. **Mr. Yazhdi H. Desai,** ]  
R/at Amarja Hills, Plot No.33/36, Village ]  
Mahagaon, at Pavanagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
11. **Ravi Khemkar,** ]  
R/at Gat No. Nil, Village Tilona ]  
Pavanagar, Taluka Maval, ]  
Dist.- Pune. Pin- 410 406. ]
12. **(a) Manoj Sainani** ]  
**(b) Sumit Chawla** ]  
R/at Amarja Hills, Mahagaon, ]  
at Pavanagar, Taluka Maval, ]  
Dist.- Pune. Pin- 410 406. ]
13. **Mr. Paresh Harikisan Mehata** ]



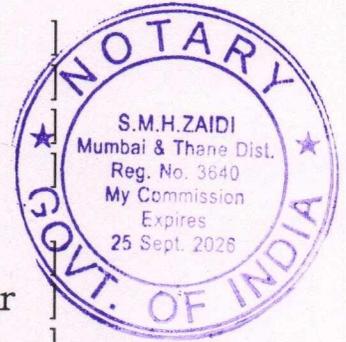
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- R/at Plot No.2/5/8 Mahagaon,  
Amarj Hills, Pavananagar,  
Taluka Maval, District Pune.  
At Pavanagar, Taluka Maval,  
Dist.- Pune. Pin- 410 406.
14. **Ashish Singh Chawla,**  
R/at Mahagaon,  
Amarja Hills, Pavananagar,  
Taluka Maval, District Pune  
Dist.- Pune, Pin- 410 406.
15. **Yashwant Shelania (Chourasia)**  
R/at Mahagaon, Amarja Hills,  
Pavananagar, at Pavanagar,  
Taluka Maval, Dist.- Pune.  
Pin- 410 406.
16. **Radhika Akash Shah,**  
R/at Gat No. Nil, Village Tikona,  
At Pavananagar, At Pavanagar, Taluka  
Maval, Dist.- Pune, Pin- 410 406.
17. **Anant Mehata**  
R/at Mahagaon,  
Amarja Hills, Plot No.40, Pavananagar.  
Taluka Maval, District Pune.
18. **D.B. Mowdawala,**  
R/at Survey No. 06/02 Village  
Thakursai Pavananagar, at Pavanagar,  
Taluka Maval. Dist- Pune, Pin- 410 406.
19. **Dr. Sonawala**  
R/at Gat No. 576/A, 576/B, Village  
Tikona Pavananagar, at Pavanagar,  
Taluka Maval, Dist.- Pune, Pin- 410 406.
20. **Kalparaj Dharmsing**  
R/at Survey No.34/02,03 Gevande  
Khadak Pavananagar, at Pavanagar,  
Taluka Maval, Dist.- Pune, Pin- 410 406.
21. **Rastik Hariya**  
R/at Survey No. 64/14 Gevande Khadak  
Pavananagar, Taluka Maval, Dist.- Pune  
Pin- 410 406.



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22. **Calimati D'silva** ]  
R/at Survey No.39/4, Village Thakursai, ]  
At Pavananagar, Taluka Maval, Dist.- ]  
Pune, Pin 410 406. ]
23. **Ardeshir Shapur Nariyalwala** ]  
R/at, Gat No.447 Village Tikona at ]  
Pavananagar, Taluka Maval, ]  
Dist. - Pune, Pin- 410 406. ]
24. **Firoz Irani** ]  
Rat, Survey No. Nil, Gat No. Nil, Village ]  
Shindgaon at Payananagar, Taluka ]  
Maval, Dist.- Pune, Pin- 410 406. ]
25. **Gopal Dinubhai Amin** ]  
R/at, Survey No.58/1, Village Thakursai ]  
At Pavananagar, Taluka Maval, ]  
Dist.-Pune , Pin- 410 406. ]
26. **Tinna Madam** ]  
R/at, Survey No. Nil, Gat No. Nil, ]  
Village Ambegaon, (Pin 410 406) At ]  
Pavananagar, Taluka Maval, Dist.- Pune ]
27. **Senepi Lobo** ]  
Rat, Cat No. 534 Village Tikona at ]  
Payamanagar, Taluka Maval, ]  
Dist. - Pune, Pin- 410 406. ]
28. **Deepak M Mehta** ]  
R/at. A/2 Sterling Apartment 38 Peddar ]  
Road Mumbai, Pin 400926. ]
29. **Insia Lamak Ijjudin** ]  
R/at, Gat No. 568 and 569 Village ]  
Tikona, At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
30. **Punit Shetti** ]  
R/at, Amarja Hills, Survey No. Gat No. ]  
9 Village Mahagaon at Pavananagar, ]  
Taluka Maval, Dist.- Pune, Pin- 410 406. ]
31. **Mr. Vijay Katariya** ]  
R/at, Gat No.537 Village Varu at ]  
Pavananagar, Taluka Maval, ]



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- Dist.- Pune, Pin- 410 406. ]
32. **Shreyas Sankhe** ]  
R/at. Survey/Gat No.5/1/2/Village ]  
Gevande Khadak, At Pavananagar, ]  
Taluka Maval, Dist.- Pune, Pin- 410 406. ]
33. **Kumendra S. Chakrawarti** ]  
R/at. Gat/Survey No.19/1/F Village ]  
Gevande Khadak, At Pavananagar, ]  
Taluka Maval, Dist.- Pune, Pin- 410 406. ]
34. **J. Rajanikant Shroff** ]  
R/at, Survey No./Gat No. 50A Village ]  
Pavana Nagar, At Pavananagar, Taluka ]  
Maval, Dist.- Pune, Pin- 410 406. ]
35. **Pradip Thampi** ]  
R/at, Survey No Gat No. 29, Amarja ]  
Hills, Village Mahagaon, At ]  
Pavananagar, Taluka Maval, Dist.- Pune ]  
Pin- 410 406. ]
36. **Deep Trivedi** ]  
R/at, Survey No. 147, Village Pale at ]  
Pavananagar, Taluka Maval, Dist. -Pune ]  
Pin- 410 406. ]
37. **Devdatta Gangawan** ]  
R/at, Gat No. Nil Village Tikona ]  
At Pavananagar, Taluka Maval, ]  
Dist. - Pune, Pin- 410 406. ]
38. **Kishore Choudhari** ]  
R/at, Gat No.31/2, Village Dudhiware at ]  
Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
39. **Jitendra Sartandel** ]  
R/at, Gat No.36/1 Village Dudhiware ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
40. **Joseph D'Souza** ]  
R/at, Survey No.32/8 Village Thakursai ]  
at Pavananagar, Taluka Maval, Dist. - ]  
Pune, Pin- 410 406. ]



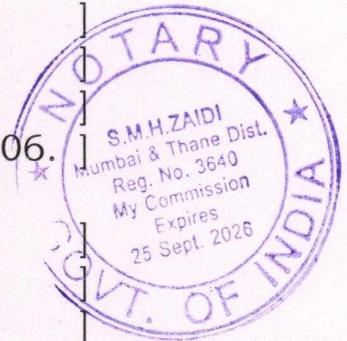
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41. **Motilal C. Bijlani** ]  
R/at, Gat No.577, Village Tikona at ]  
Pavananagar, Taluka Maval, Dist. - ]  
Pune, Pin- 410 406. ]
42. **Shekhar Dadarkar** ]  
R/at, Gat. No. Nil, Village ]  
Thakursai/Gavande Khadak at ]  
Pavananagar, Taluka Maval, Dist. - ]  
Pune, Pin- 410 406. ]
43. **N.L. Narula** ]  
R/at, Survey No.114/B Village ]  
Ambegaon at Pavananagar, Taluka ]  
Maval, Dist.- Pune, Pin- 410 406. ]
44. **M.S. Gilotra** ]  
R/at, Gat No. 601 and 604 Village ]  
Tikona at Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
45. **Vivek Manohar Lutharia** ]  
R/at, Gat No.601 and 604, Village ]  
Tikona at Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
46. **Samir Sariya** ]  
R/at, Gat No.40/2 A, B, C. D Village ]  
Shevani at Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
47. **Atul Dayal** ]  
R/at, Survey No./Gat No. Nil, Village ]  
Tikona at Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
48. **Amol Damodar Mahale** ]  
R/at, Gat No. 93, Village Pale at ]  
Pavananagar, Taluka Maval, Dist.- Pune ]  
Pin 410 406. ]
49. **Nahid Nurul Hasan Bhaiji** ]  
R/at, Gat No. Survey No. Nil, Village- ]  
Shindgaon at Pavananagar, ]  
Taluka Maval, Dist. - Pune ]  
Pin- 410 406. ]



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50. **Dilip Sanghvi** ]  
R/at, 801 Abhay Building N.S. 9th Road ]  
Juhu, Mumbai, Pin- 400049. ]
51. **Chandrakant Sajjanlal Choksi** ]  
R/at, Survey No. Gat No. Nil Village ]  
Shindgaon at Pavananagar, Taluka Maval, ]  
Dist. - Pune, Pin- 410 406. ]
52. **Imran Attarwala Wela** ]  
R/at, Gat No.112 Village Ambegaon at ]  
Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
53. **Sandhya Chanda Mohan Wadkar** ]  
R/at, Survey No.113, Village Ambegaon ]  
at Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
54. **Haresh Balani** ]  
R/at, Survey No. Nil, Village Ambegaon ]  
at Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
55. **Vishal Dadlani** ]  
R/at, Survey No. Gat No. Nil, Village ]  
Tikona at Pavananagar, ]  
Taluka Maval, Dist.- Pune, Pin- 410 406. ]
56. **Anand Shevale** ]  
R/at, Amarja Hills Bungalow No. 12, ]  
Village Mahagaon. ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
57. **Sammy Lalla** ]  
R/at, Gat No. Nil Village Tikona ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
58. **Rahulbhai Dholkiya** ]  
R/at, Gat No, 144/1 Village Pale, Pama ]  
At Pavananagar, Taluka Maval, Dist- ]  
Pune, Pin- 410 406. ]
59. **Sunil Aditya Choksi** ]



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- R/at, Gat No.570/A, 570/B Village  
Tikona at Pavananagar, Taluka Maval,  
Dist.- Pune, Pin- 410 406. ]
60. **Lashit Lallubhai Sanghavi** ]  
R/at, Gat No.58/25 Village Thakursai ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
61. **Mehernosh Daruwalla,** ]  
R/at 401, Marker Mansion, ]  
623 Lady Jahangir Road, ]  
Dadar, Parsi Colony, Mumbai- 400 014. ]
62. **Samir Shah** ]  
R/at, Survey No.112, Village Ambegaon ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
63. **Rajesh Shendge** ]  
R/at, Survey No.4/20, Village Gevande ]  
Khadak at Pavananagar, Taluka Maval, ]  
Dist.- Pune Pin 410 406. ]
64. **Sumit Sunil Chakrawarti** ]  
R/at, Survey No.17/5, Village ]  
Sindhgaon Ar Pavananagar, Taluka ]  
Maval, Dist.- Pune, Pin- 410 406. ]
65. **Khurshid Daruwala** ]  
R/at, Gat No.571, Village Tikona ]  
At Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin- 410 406. ]
66. **Jojar Khurakiwala** ]  
R/at, Ume Kunj Bungalow, Sarvey No. ]  
Gat No. Nil, Village Thakursai at ]  
Pavananagar, Taluka Maval, ]  
Dist.- Pune, Pin 410 406. ]
- ]..Respondents



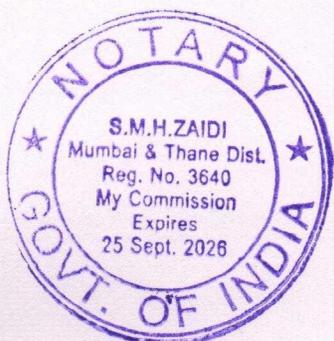
**AFFIDAVIT-IN-REPLY OF RESPONDENT NO.66 i.e. MR**  
**JUZAR KHORAKIWALA**

**MOST RESPECTFULLY SUBMITTED:**

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I, MR. JUZAR KHORAKIWALA (not **Jojar Khurakiwala as stated in the cause title**), aged 72 years, Indian Inhabitant, Resident of Ume Kunj Bungalow, Survey No. 711 & 712, Gat No. Nil, Village Thakursai at Pavananagar, Taluka Maval, Dist.-Pune, Pin 410406, answering as Respondent No.66, do solemnly state on oath and affirm as under:-

1. I have gone through the above Original Application bearing No. 33/2018 and documents filed along with the same by Mr. Sanjay alias Bala Bhegade & 2 Others. That I am Respondent No.66 in the abovementioned Original Application bearing No. 33/2018 and being familiar with the facts and circumstances of the case, hence am competent to swear this Affidavit.
2. I am filing this Affidavit in reply for the limited purpose of opposing the Original Application and the grant of any reliefs as against Respondent No.66. I crave leave of this Hon'ble Tribunal to file a further affidavit, should the same be necessary, or be advised. I Say that the Answering Respondent is filing the instant Affidavit-in-reply to Present Original Application to bring on record correct facts and circumstances of the case.

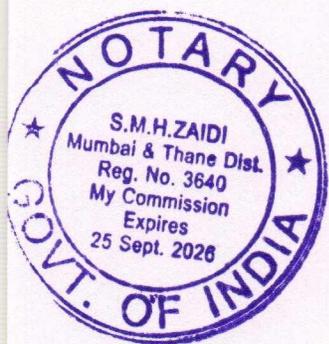


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3. At the outset, I deny all allegations, contentions and submissions made in the OA No. 33/2018 against the Respondent No.66, which are contrary or inconsistent with what is stated in this Affidavit. Further, I say that I oppose all the reliefs prayed for in the OA No. 33/2018 against the Respondent No.66. I further state that any allegations, contentions or submissions in the said OA No. 33/2018 which have not been specifically dealt with or denied by me, may not be deemed to be admitted.

4. Respondent No.66 (hereafter called as a Respondent only) has been impleaded by the Applicant as a party to the Original Application No. 33/2018 as Respondent No.66. Respondent hereby prays to allow for the submission of this Affidavit, as otherwise so far, Respondent No.66 was not heard in the matter by this Hon'ble Tribunal. This shall be in accordance with the provision of Section 19 (i) of the NGTA and also in accordance with the principles of natural justice.

5. In this OA No. 33/2018, the Applicant has made various allegations against the Respondent and has sought many

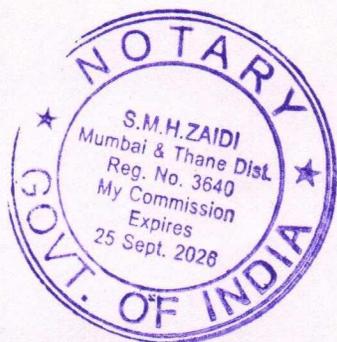


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reliefs, which, if granted, will affect the Respondent and are, therefore, opposed in this affidavit by Respondent.

**PRELIMINARY SUBMISSIONS/ OBJECTIONS ON THE  
GROUNDS OF MAINTAINABILITY**

6. The present application was filed by the Applicant on 16.08.2018 with lodging no. 33/2018 whereas Respondent has received the permission for construction in the year 2000 and initiated the construction work in the year 2000 and finished it in the year 2001.
7. The construction in totality was conceived, planned, approved prior to EIA Notification 2006 and work commenced on it. The cause of action mentioned in the application is obtaining the documents and received a letter from PMRDA in the month of September 2017. **The delay in filing the Application is of 12 Years OR more than approximate 4380 days from the expiry of even grace period of limitation period of six months, u/s. 14(3) of the NGTA 2010 and five years, u/s 15(3) of NGTA 2010.**



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8. There is no explanation or application for condonation of delay explaining what PREVENTED the Applicant from filing this application within the period of limitation which actually ends in the year 2005. Whereas Applicant in this application stated that he is the resident of this affected area. On this ground, alone, the Hon'ble Tribunal loses its jurisdiction to entertain the application and go into the merit of the matter.
9. The Applicant created confusion as regards facts, cause of action, remedies, and prayers sought and has led the Hon'ble Tribunal astray by these incoherent details.
10. In light of these facts, Respondent has serious objections to the maintainability of this present application on the following grounds, without prejudice to each other. Respondent urges that the same should be first heard and decided before entertaining the application and/or before exercising the original jurisdiction under s.14, 15 by the following procedure as per s.17 and 18 of the Act.
11. That the application must pass the test of maintainability and be within the period of the limitation stated in the act must fall under the original jurisdiction of the NGTA, i.e., action should violate the provisions of acts



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listed categorically in Schedule-I of the NGTA and fall under the definition of 'substantial question related to environment' u/s. 2(m) which states"

**2(m) "substantial question relating to environment"**

**shall include an instance where,—**

*(i) there is a direct violation of a specific statutory environment obligation by a person by which, —*

*(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or*

*(B) the gravity of damage to the environment or property is substantial; or*

*(C) the damage to public health is broadly measurable;*

*(ii) the environmental consequences relate to a specific activity or a point source of pollution;*

12. Applicant has not shown, or even pleaded to show, as to how the cause of action when first arose, by a grant of permission of Collector Pune is direct violation resulting in an adverse impact on the environment as stated in section 2(m) (i) (A), (B) or (C).



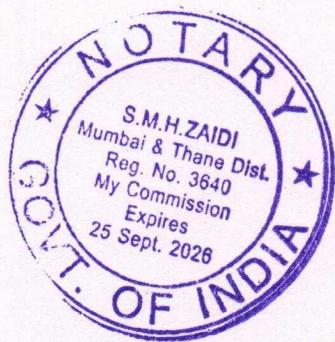
13. To put it in simple words, the law provides that general or minor environmental issues, if any, that do not

*[Handwritten signature]*

have '**substantial question related to the environment**', should not be brought, dealt with, and adjudicated by this Hon'ble Tribunal. This protects Respondent from frivolous litigation, saving the precious time of the Hon'ble Tribunal, and also prevents unnecessary flooding of the Hon'ble Tribunal with Applications that do not raise any 'substantial question related to the environment.'

14. The maintainability, therefore, will have to be tested on the face of it, as a preliminary objection, in respect of each allegation, without going into merit OR adjudication. Those preliminary tests shall be:

- a) *Which is that one single cause that can be entertained in an application?*
- b) *Is this cause raised within the period of limitation, starting from the day it first arose?*
- c) *Does this cause raise a 'substantial question related to the environment?'*
- d) *What relief has been asked in prayers? Is it compensation or restitution?*
- e) *Are all the reliefs sought in the prayer consequential to each other and can be granted under the one single surviving cause of action?*



*[Handwritten signature]*

f) Does the applicant have locus standi for the relief and compensation sought in the Application?

15. Respondent humbly submits that this entire application does not survive this test and the mandatory statutory provisions spelled in detail above. Surviving portion, if any, of the application ought to be determined after trimming off the irrelevant causes that are not maintainable. Only then the remaining application with the one single cause may be taken up for further adjudication.

#### FACTS OF THE CASE

16. Respondent is an environment loving citizen. He is a resident of the above-mentioned address for last 22 years. He is utilizing his property for the residential use of his own family.

17. They constructed the house in the year 2000 after receiving legal permission from the concerned authority in Pune. At that time PMRDA was not in existence. ***(Annexed herewith and marked as "Exhibit-A" is the Copy of permission dated 26/08/2000 granted by Village***



*[Handwritten signature]*

**Panchayat, Thakursai alongwith its English translated copy)**

18. After receiving aforesaid permission, he started the work and completed the construction as per the prescribed norms.
19. Respondent constructed home for his own use and not for commercial use. He followed all the norms applicable to him at the time of construction.
20. Respondent completed the construction of his home in the year 2001 and after that, he and his family used the same home for the residential purpose. **Presently there is no construction going on or in the future also Respondents not going to construct anything.** If required, he may apply to the concerned government authority for the revision of the construction area and plan. The application filed by the applicant is in the year 2018 which is near about 17 years after the completion of the construction.

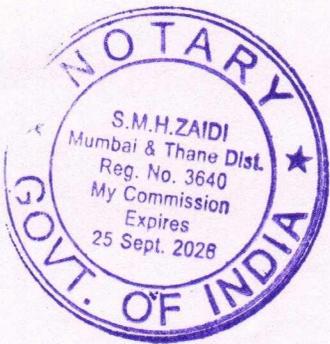


**REPLY ON MERITS**

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21. Through this affidavit Respondent wants to submit point wise reply to the allegation made by the applicant in this application and the report filed by the joint committee as per Order dated 30-06-2020 passed by this Hon'ble Tribunal subject to and without prejudice to the preliminary objections mentioned above:

- i) Contents of Point I and II are matters of record and need no reply. Contents of paras hereinabove are reiterated and reaffirmed.
- ii) With respect to contents of Point III, it is denied that Respondent has done any illegal and anti-environment Construction and encroachment on hilltops and hill-slopes. Further, it is submitted that Gram Panchayat has granted me permission dated 26/08/2000 and the slope is within stipulated norms of 1:5.
- iii) With respect to contents of Point IV, Respondent submits that applicant has unnecessarily invoked s.15 only to take advantage of the limitation period of six months corresponding to that section.



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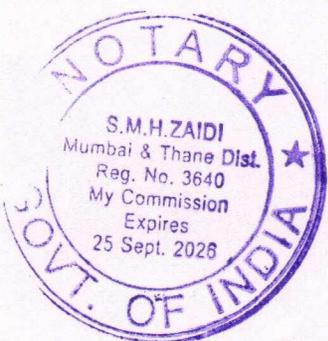
- iv) Contents of Point 1 to 5 are matters of record and need no reply. Contents of paras hereinabove are reiterated and reaffirmed.
- v) With respect to contents of Point 6, it is denied that no such illegal activities as contended by applicant is going on at Respondent's plot of land.
- vi) Contents of Point 7 are matters of record and need no reply. Contents of paras hereinabove are reiterated and reaffirmed.
- vii) With respect to contents of Point 8, it is denied that Respondent is politically influential and destroyed the ecology and environment in this area.
- viii) With respect to contents of Point 9, it is denied that Respondent has cut any tree without permission as alleged by applicant, on contrary the Respondent have planted several more trees in his plot of land to enhance environmental greenery. Further there is no air pollution due to any construction by Respondent as the house of Respondent was built long back in the year 2001. Presently there is no construction



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activity is going on Respondent's plot area which can contribute to dust formation.

- ix) With respect to contents of Point 10 & 11, it is denied that Respondent has done huge construction in eco-sensitive zone. It is relevant to mention that Respondent had constructed a small House in accordance with valid permission obtained from appropriate authority and that is done only on **around 1-2% of total land of respondent.** Respondent has maintained environmental greenery and contributed to cherish the same. It is pertinent to mention that Respondent has not done any environmental destruction and also he has not put a single brick of his house illegally/ without permission.
- x) With respect to contents of Point 12, it is denied that Respondent has done any huge construction due to which there is need of soil moistures conservation and nursery development in this area.
- xi) With respect to contents of Point 13, it is specifically denied that animals which used to feed on the grass



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grew on the hilltops and hill-slopes in Maval Taluka, is getting destroyed due to respondent.

- xii) Contents of Point 14 & 15 is matters of record and need no reply. Contents of paras hereinabove are reiterated and reaffirmed.
- xiii) With respect to contents of Point 16 & 17, it is denied that Respondent has done any illegal encroachment in violation of various provisions of law. Further, it is denied that there are any constructions without valid or legal permission/license as alleged by applicant.
- xiv) With respect to contents of Point 18, it is denied that respondent has done any illegal construction, tree cutting and deforestation at the Pavana Nagar area in Maval taluka due to which said area lost its greenery and its became barren. It is submitted that the Respondent has maintained the greenery of his plot very well.
- xv) Contents of Point 19 to 26, it is submitted that the cases relied upon by applicant is not applicable in this case.



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- xvi) With respect to contents of Point 27, it is denied that said photographs are belonging to Respondents land.
- xvii) Contents of Point 28 is general prayer and hence needs no reply.
- xviii) With respect to contents of Point 29 & 30, Respondent submits that the same is not at all applicable to Respondent's case. Respondent has the construction of total built area of the house only 417.30 sq. m. which is much lesser than the prescribed construction area in EIA notification 2006.
- xix) With respect to contents of Point 31 & 32, It is denied that there is any such pollution and environment degradation being caused by respondent. Further, it is relevant to submit that Respondent has not contributed any type of pollution load at the time of construction as well as operating the facility. There is no adverse impact observed by the joint committee at the time of joint inspection.



**REPLY TO THE GROUNDS**

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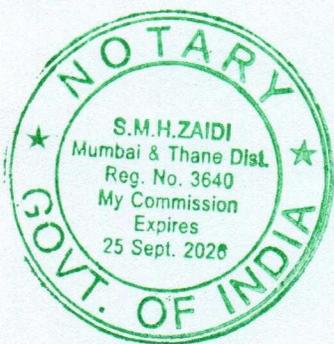
22. Contents of the petition are misconceived and denied.  
Para-wise reply to the grounds is as under:

**GROUND A TO P:**

- Grounds A, B, C, D, E, F, G, H, I, J, K, L, M, N, O & P of Original Application are misconceived, baseless and denied and the averments made in the paras hereinabove are reiterated and reaffirmed. That the contents of the ground under reply have been replied specifically in the above submissions and the same are not repeated herein for the sake of brevity.

**GROUND Q:**

- Grounds Q(1) & Q(2) of Original Application are misconceived, baseless, wrong and denied and the averments made in the paras hereinabove are reiterated and reaffirmed. It is denied that the respondent has done any illegal construction without permission.
- Grounds Q(3) of Original Application is misconceived, baseless, wrong and denied and the averments made in the paras hereinabove are reiterated and reaffirmed. It is submitted that Respondent has the construction of total built area of the house only 417.30 sq. m. which is much lesser than the prescribed construction area in EIA notification 2006.
- Grounds Q(4) of Original Application is misconceived, baseless, wrong and denied and the averments made



*[Handwritten signature]*

in the paras hereinabove are reiterated and reaffirmed. It is submitted that Respondent's farmhouse is much less than 1000 meters altitude from the HFL of Pawana Lake.

- Grounds Q(5) & Q(6) of Original Application are misconceived, baseless, wrong and denied in toto and the averments made in the paras hereinabove are reiterated and reaffirmed. It is submitted that, for the past more than two decades, there is not a single incident of landslide in and around our property observed or noticed by Respondent or surrounding people. Further, there is no artificial flooring done by Respondent. There is huge land remains after the construction of residential patches and internal roads for natural water percolation in our property. It is pertinent to mention that Respondent has not affected the free-flowing stream in his premises. It is denied that Respondent has affected the habitat of wildlife animals or surrounding creatures. It is relevant to submit that Respondent uses the said property for residential purposes and not for commercial purpose.



**GROUND R:**

- Grounds R of Original Application is misconceived, baseless, wrong and denied and the averments made in the paras hereinabove are reiterated and reaffirmed. It is denied that Respondent has done any environmental damage. Further, the answering Respondent has good prima-facie case while the

*[Handwritten signature]*

original application bearing No. 33/2018 is only speculative in nature.

**ON GROUNDS OF LIMITATION**

23. Respondent states that the entire application and the causes stated in it are barred by limitation. Even if one goes by the submissions of the applicant, the limitation period was triggered in the year 2000 and ended after six months, or after five years i.e., the year 2005. The application was filed on 31/03/2018.

24. Respondent submits that letter from PMRDA by itself can't be the cause of action. The cause of action has to raise the substantial question related to the environment. RTI documents or Government authority letter is not under Schedule-I and doesn't raise any '**substantial question related to the environment**'. This phrase has been specifically and substantively defined in the NGT Act u/s.2(m). As such approval of plan can't be the cause contemplated and eligible under s.14 of the NGTA.



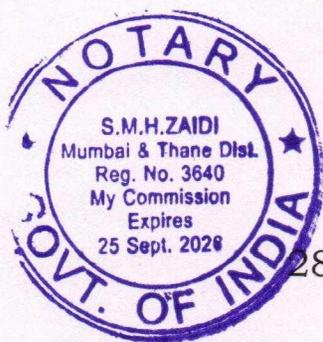
25. Respondent submits that applicant has unnecessarily invoked s.15 only to take advantage of the limitation period of six months corresponding to that section. Even

*[Handwritten Signature]*

under this section, which provides for 'relief, compensation, and restitution, there are corresponding eligibility criteria as to who can claim that. The applicant is not claiming any relief in respect of the cause of action. Relief or more reliefs that should be consequential to each other. Mere reading of prayers shows that those are not the reliefs consequential to each other. Further, they have no bearing to correct the very cause of action, even assuming but not admitting that the same can be the cause.

26. Those reliefs are not for any environmental 'relief, compensation, and restitution but to threaten the Respondent, terrorize him and create fear in his mind.

27. Admittedly there is a delay beyond six months from the date of cause of action. The delay beyond this time period is not condonable as much as the Hon'ble Tribunal has no such powers to condone the delay.



28. Even the extra period of 60 days beyond limitation, doesn't help in fitting the cause within the period of limitation. Waiver from condonation of the delay also is not a matter of right. The applicant has neither prayed for

*[Handwritten signature]*

condonation of any delay nor showed by giving sufficient cause as to how he was 'prevented' from applying in time.

29. The cause of action ought to have first arisen within the stipulated period of limitation of six months only AND that should be the cause which gives rise to '**substantial question related to the environment**'. The Applicant's submission that the cause of action arose on receipt of documents and letter from PMRDA is not acceptable. Also, this act in no way raises 'substantial questions related to the environment'. Therefore, this cause stated by the Applicant in itself is flimsy and untenable under s.14 and s.15 of NGTA.

**REPLY TO COMMITTEE REPORT DATED 11.08.2021**

Sr. No.	Joint Committee Remark	Reply be Respondent
1.	It is stated that during the site visit, the Record related to land viz. name on the 7/12 extract, Details of building permission, year of construction, Type of Construction and its use, whether the property is located uphill or downhill, distance from Pavana Dam,	Nothing to say



*[Handwritten signature]*

	etc. was checked.	
2.	In the survey, 10 out of 63 constructions were found in the private forest which are deemed to be reserved forest as per the provisions of the Maharashtra Private Forest Acquisition Act, 1975. Such constructions in the reserved forest means encroachment over the reserved forest which is prohibited as per the provisions of the Indian Forest Act 1927	Nothing to say
3.	It is stated that during site visit inspection the area was surveyed in order to find out the unauthorized constructions (illegal) constructions in Pavananagar area.	Nothing to say
4.	After carrying out the site inspection and going through the report filed by the SDM, it can be stated that most of the properties are used for residential purpose. Hence, the pollution potential seems to be low and all properties have provided with septic tanks and soak pit arrangement for treatment of	This remark of Maharashtra Pollution Control Board in Joint Committee Report is self-explanatory and sufficient to prove that no pollution/ environmental damage is done



*[Handwritten Signature]*

	sewage generation from domestic effluent.  <i><b>During the visit no direct          sewage discharge to the          river was observed from any          of the property.</b></i>	by Respondent.
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**PRAYER**

30. In light of the facts and circumstances stated hereinabove, the Respondent prays and urges that this Hon'ble Tribunal be pleased to:

- a. hear and decide this matter in light of the preliminary objections raised, on the issue of maintainability, including but not limited to the points of a period of limitation, issues that have substantial questions related to the environment, and multiple causes raised in one single application;
- b. adjudicate the matter on merit on whether the constructed house is nothing but the farmhouse/forest house under private property owned by Respondent when constructed before the existence of EIA notification 2006, and there being nothing of the nature of violation or damage to the environment.
- c. decide and direct the additional environmental features to be provided ask the applicant to submit more details based on ground facts or real facts rather than literature supports



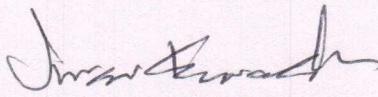
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- d. Remove the name of the Respondent as a party from this application and non-applicability of judgment/Order passed or going to pass by this Tribunal in this Original Application 33/2018.
- e. Hon'ble Tribunal may ask each applicant to pay the cost of Rs.1 LAKH against the legal fee and documentation for this application to Respondent which is already paid by Respondent No.66.

any other order as deemed fit.

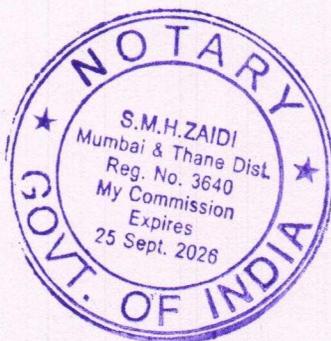
AND for this act of kindness, as duty bound shall ever pray.

Date:



Deponent

Respondent No.66



**AFFIDAVIT AND VERIFICATION**

I, MR. JUZAR KHORAKIWALA, aged 72 years, Resident of Ume Kunj Bungalow, Survey No. 711 & 712, Gat No. Nil, Village Thakursai at Pavananagar, Taluka Maval, Dist.- Pune, Pin 410406, do hereby state that I have submitted this Affidavit on solemn affirmation and oath. I have verified that the facts are true to my personal knowledge. I have not suppressed any material fact known to me and relevant to this matter. Translation of it has been explained to me in brief in a language that I can understand.

Date: - 8 FEB 2023

*Juzar Khorakiwala*

Deponent

Respondent No.66.

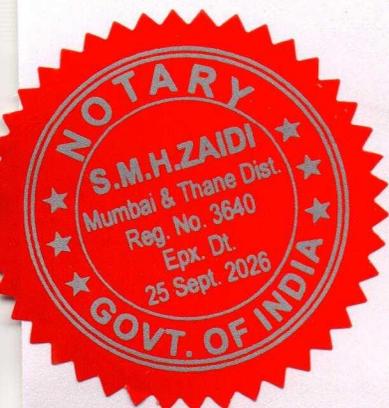
Identified by & before me:

Advocate

**BEFORE ME**  
*S.M.H. ZAIDI*  
S. M. H. ZAIDI  
NOTARY 8/2/23  
Government of India  
Mumbai & Thane Dist.  
- 8 FEB 2023



**NOTED & REGISTERED**  
Sr. No. 1588 Page No. 125  
Book No. Date: - 8 FEB 2023



We are not member of Welfare Society Fund therefore stamp of Rs.2/- is not affixed herewith.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTREN ZONE BENCH, PUNE.**

**Application No. 33/2018 (WZ)**

Sanjay alias Bala Bhegade & Others ) ...Applicants

V/S

The State of Maharashtra & Others ) ....Respondents.

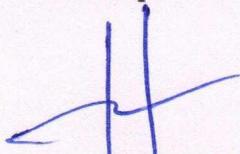
**VAKALATNAMA**

I/We above named Respondent No. 66 i.e. JUZAR KHORAKIWALA do hereby appoint **HIRANYA PANDEY and MUKESH GUPTA** Advocates to act, appear and plead on my / our behalf in the above matter.

In witness whereof I/we have set my/our hands to this writing at Bombay.

Dated this 08<sup>th</sup> day of February 2023.

Accepted



**HIRANYA PANDEY / MUKESH GUPTA**

Advocates for Respondent.

Office No.24/20, 2<sup>nd</sup> Floor, 105

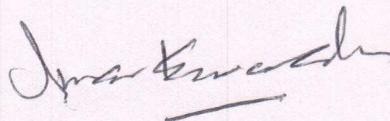
Abubaker House, Opp. Bharat House,

Apollo Street, Mumbai Samachar Marg,

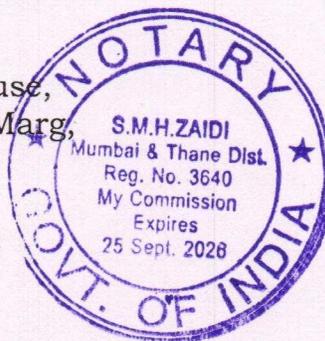
Fort, Mumbai-400 001.

Mobile:- 9821406824

E-mail:hiranyapandey@yahoo.com



**JUZAR KHORAKIWALA  
Respondent No.66**





**English translation of Annexure -"A"****HOUSE CONSTRUCTION PERMISSION  
(CERTIFICATE)**

Under Section 152 of Grampanchayat Act, 1958

From,  
Sarpanch Grampanchayat  
Mu.Thakursai, Tal. Maval,  
Dist. Pune

To,  
Mrs. Nisrin Juzar Khurakiwala, r/at Thakursai

On an application filed on 25/8/2000 Gram  
Panchayat Thakursai, this is to inform you that:-

Permission is granted to construct Farm  
House on Land bearing s. No. 7/1 and 7/2  
admeasuring 417.30 sq.mtrs. on the following  
conditions.

1. There will be no obstruction and danger to go towards and from the public road.
- (2) Shall not do any act of encroachment on adjoining land.
- (3) You should complete the work within 1 year from the date of permission for construction. Failing which the permission granted to you shall be deemed to have been cancelled. During construction, construction should not be carried out beyond the existing



*[Handwritten signature]*

construction by leaving open spaces at sides as per other houses.

- (4) If it is observed by the Panchayat that the construction is carried out without the permission of the Gram Panchayat, the work shall be stopped. No obstructions will be caused for the same or no legal procedure can be adopted.
- (5) If the construction is to be done in agricultural land, obtain N.A. permission directly from Resp. Collector. If no such permission is received, no permission will be given by Grampanchayat.
- (6) After complete construction of house or repairs, the expenses for the same shall be informed to Panchayat.
- (7) All the conditions mentioned as above are acceptable to you and you should not act against it, if you do you so, you have to face consequences.

Received copy                      Sd/-

Date : 26.8.2000

Place : Grampanchayat Mu. Thakursai, Po. Pavna  
Nagar, Tal. Maval, Dist. Pune.

Sd/-  
Gramsevak

Sd/-  
Sarpanch



*[Handwritten signature]*