



BEFORE THE NATIONAL GREEN TRIBUNAL

I.A.131/2025

IN

ORIGINAL APPLICATION NO. 166/2024 (WZ)

Nusli Neville Wadia

.... Applicant

V/s.

State of Maharashtra & Others

.... Respondents

Affidavit in Reply on behalf of Respondent No. 7

I, Sanjay Shreeniwas Shenolikar, Age - 58 yrs. Occupation – Service, Authorised Representative of Respondent No. ⁷11, having office at 2nd Floor, Opp. Khar Telephone Exchange, Khar (West), Mumbai 400052 do hereby state on solemn affirmation as under –

1. I am the authorized Representative of Ferani Hotels Pvt. Ltd. Resolution authorizing me to file the affidavit is already on record in Original Application No.166/2024. I hereby reaffirm all the contents of the of the affidavit filed on record in the OA 166/24. I have read the application filed by the Applicant, which was served on the Respondent. I am filing the affidavit in reply.

2. It is submitted that under the pretext of damage to the environment, Applicant is trying to enlarge the scope of dispute which is outside the scope of jurisdiction of the Tribunal. Moreover, the Applicant is trying to raise new issues which are not the subject matter of the main application. The permissions granted by the Local Authorities in favour of this Respondent after following due process of law cannot be questioned under the pretext of

damage to the environment. The Applicant is trying to enlarge the scope of the original application by filing the application under reply. The plea under reply is barred by the provisions of law. The Applicant is trying to resolve the **inter se** dispute **between the Applicant and Respondent No.7** which is pending before the Original Side of Bombay High Court.

3. I say that this Respondent is not carrying out any activity of illegal cutting, felling of trees, illegal deforestation, illegal construction, hill cutting, change of natural course of river at the land CTS 827(Part), S.No.239(Part) Malad. I say that this Respondent has already filed a detailed reply filed on record and **craves leave to refer to and** rely upon the contents of the same in order to avoid repetition.

4. The contents of Para 1 of the application under reply are not true and correct and I do not admit the same.

5. The contents of Para 3 of the application under reply are principally barred by provisions of law. The Applicant herein is challenging the permission dtd.1/11/2018 issued by Office of the Deputy Conservator of Forest, Thane Forest Division by filing the application under reply on the face it the prayer is barred by law of limitation. Besides this, the letter dtd.1/11/2018 is acted upon and development activities which are permissible as per the Notification dtd.5/12/2016 is commenced and infrastructure of road and the IT buildings **are constructed and the balance work is in progress as per plans approved by planning authority** It is submitted that once the valid permission is granted, which is acted upon cannot be revoked when the same has been acted upon.

6. I **emphatically deny** with the contention raised by the Applicant that the proposed development of a residential commercial project on the land within eco-sensitivity zone is a complete contravention of Notification dtd.5/12/2016 issued by Ministry of Environment, Forest and Climate Change notifying the boundary of Sanjay Gandhi National Park. I do not agree that the Applicant is entitled to seek stay of the effect of the implementation of the permission dtd.1/11/2018 in favour of the Respondent No. 7 pending the final application.

7. The contents of Para 4 of the application are incorrect. OA 100/24 has been filed by Vanashakti against MCGM and ors. The present OA and OA 100/24 are having similar issues. At the cost of repetition, I submit that OA 100/24 which has been filed by Vanashakti in consonance with the Applicants present OA and the same has been sponsored by the present Applicant.

8. The Applicant is put to the strict proof with respect to the contents of para 5 and 6 of the application.

9. The contents of Para 7 of the application are denied. I say that Respondent No. 7 has filed its reply to the report dtd.21/8/2024 and I rely upon the same. I say that as per the Notification dtd.5/12/2016, more particularly as per Column No.11, construction activity is permitted within the Eco-Sensitive Zone as per the approved development plan and other applicable rules and regulations under the Maharashtra Regional Town Planning Act. Accordingly, permission is granted in favour of the Respondent; thus, the contents of Para 7 are not admitted. I say that **NDZ is**



allowed to be developed for various users, including IT / ITE, along with residential users as per DC&P Regulations.

10. I **deny** the content of Paragraph 8 of the application under reply. The Applicant is making an intentionally misleading statement that he was not aware of the permission dtd.1/11/2018. I do not agree that the contents that the Applicant came to know only after perusing the report dtd.21/8/2024. The Applicant is a vexatious litigant and was having knowledge of the said permission dated 1/11/18, based on which the present Respondent is carrying on construction. The Respondent is engaged in several litigations with the Applicant in relation to the construction on the Applicant's land and it is not at all possible that the Respondent did not have knowledge about the permission dated 01/11/18 before 21/08/24. The present IA is therefore also barred by the law of limitation. I deny that the impugned permission dated 1.11.2018 issued to Respondent by SGNP monitoring Committee is illegal.

11. I **deny** the contents of Para 9 of the application under reply. I **deny** that the land which is under development for residential and commercial buildings, is impermissible by law, as alleged or otherwise. I deny that the said land is notably devoid of tree growth as alleged or otherwise, which is in stark contrast to the adjoining area and indicates an impact on the environment. It may be noted that this Respondent has already planted 1003 trees and the Applicant has already submitted the letter issued by Garden Department to that effect, which is filed on record.

12. I say that in Paragraph Nos 10 to 17 of the application under reply, the contents of Notification dtd.5/12/2016 are pleaded as per the



convenience of the Applicant, and this Respondent will rely upon the true interpretation of the same. The Applicant submits that the Respondent in para 13 has relied upon only certain portion of the said notification in order to portraint a false understanding of the notification. The said notification has to be read in totality for its correct interpretation. The extract from said notification is reproduced below:

There is no restriction on development so far it is in conformity with Development Plan and DCPR subject to compliance of ESZ NOC.

13. Development Work carried out at the Site –

- a. It is submitted that for the purpose of development of the said land, the developer is required to carry out leveling/plateauing, excavation for the foundation of structures to lay the roads, lay the water supply, gas lines and provision for electricity lines, lay the sewer and storm water drain system etc., which is being carried out as per the sanctions granted by the Planning Authority from time to time as per the provisions of prevailing Development Control Regulations.
- b. Respondent No.7 has completed 05 IT/ITE buildings as per the sanction issued by the Planning Authority, for which occupancy certificates have been granted by the Planning Authority.
- c. Thereafter, Respondent No.7 has created third-party interest with respect to some of the buildings that are constructed and the consideration which is required to be paid, is paid.
- d. The Respondent has carried out the development as per the approvals granted by planning authority as per rules and regulations. It may be noted that upon the said land, there are shrubs and there are no grown-up trees. The same has also been observed in the letter issued by Garden Department.



In fact, this Respondent has presently planted about 1003 trees. The Staff Garden Department of Brihanmumbai Municipal Corporation have inspected the said land and acknowledged the fact that 1003 trees are planted.

Incident of fire on 28th December 2024 on said land.

14. The Respondent denies the contents of paragraphs 18, 19 and 20. The said issue has already been decided by the Hon'ble Tribunal in the IA 45/25 filed in OA 100/24. The Applicant is trying to reopen the issue which the Hon'ble Tribunal has already decided upon by rejecting the IA 45/25 vide order dated 24/04/25. As the cost of repetition, the Respondent submits that as per the fire report of Mumbai Fire Brigade, the fire incident took place on the adjoining ploton 28/12/24. The present Respondent is not at all concerned with the said incident. The newspaper articles filed by the Applicant before the Hon'ble Tribunal are in relation to the fire dated 28/12/24 and are non-concerned with the present Respondent and are irrelevant.

15. As per the Fire Investigation Report for the incident dated 28/12/24, it can be seen that the fire broke out in an area which is a prohibited place and persons cannot enter upon without permission of the Competent Authority. The name of occupier mentioned in the said report is MOEF. I deny that the said fire incident occurred on a mountain slope. I deny that the prima facie inspection of fire has indicated signs consisting of human acts rather than natural causes.

16. The Respondent denies the contents of para 21. The Joint Committee, in its additional report, has not made any observation on the previous incidents of unlawful activities regarding the destruction of trees on the said land, including incidents of fire. The committee has not made any observations in relation to any unlawful activities by the present respondent.

17. The Respondent denies the contents of para 22. The Respondent at the cost of repetition, states that FIR was already registered in connection with the felling of trees. The concerned agency i.e. the police have already conducted investigation and concluded the same in the form of C and A summary reports which have been filed before the Hon'ble JMFC Court. Therefore the said issue is sub-judice before the Hon'ble JMFC Court. It is submitted that these respondents are carrying out development on the said land on the basis of approvals issued by planning authority and ESZ NOC issued by SGNP monitoring committee. The BMC has already filed affidavit in reply in original application. The Respondent is trying to widen the scope of the present OA by filing the IA no.131/25 before the Hon'ble Tribunal.

18. It is therefore prayed that the I.A may be rejected.

What is stated in Paragraphs Nos 1-3, and are the information which I believe it to be true, Paragraph no. 4 to 17 is denial and I believe the same to be true.

Solemnly declared at Pune)
This 21st of August, 2025)

[Signature]
Respondent No. 7

[Signature]
Adv for Respondent

BEFORE ME
[Signature]
M. B. SONAWANE
NOTARY GOVT. OF INDIA
PUNE
NOTED AND REGISTERED
SERIAL NUMBER 11513
21 AUG 2025

