

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
APPEAL NO.17/2024 (WZ)**

Vishal Shantaram DarwatkarApplicant

Versus

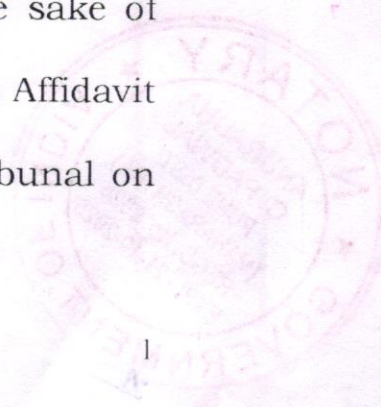
Union of India, through Secretary,

MoEF&CC & OrsRespondents

**AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NO. 9 to 13 PUNE MUNICIPAL
CORPORATION (PMC).**

I, Vilas Ramkrishna Nawali Age: adult years,
(Building Permission Department Zone 2), Pune
Municipal Corporation do state on solemn
affirmation as under:

- (1) I say and submit that I am working as
Executive Engineer, Building Permission
Department 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. 9to 13 PMC.



(2) At the outset, I deny all the contentions and/or statements and/or allegations contained in the present Appeal to the extent those are contrary to and/or inconsistent with what is stated in the present Affidavit in Reply. Nothing contained in the Appeal, should be 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 Appeal is filed by the Appellant to Quash and set aside the Environment Clearance granted vide No. EC24BO38MH115203 dated 09/02/2024 to the Respondent-PP-M/s Sai Shraddha

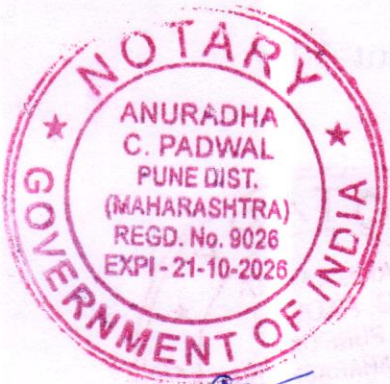




Developers for the project "Meriton Towers" at Survey No.28/10/1, 28/10/2, 28/10/1/3, 28/10/3, 28/10/4, 28/10/5, 28/10/5A, 28/11/2, 28/12/2, 28/14 of village Ambegaon Budruk Taluka Haveli, District Pune, Pin-411043.

(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 Maharashtra Regional and Town Planning Act, 1966.

(6) I say and submit that the Project Plans are sanctioned on the application made under section 44 of Maharashtra Regional and Town Planning Act, 1966 through a licensed Architect, thereafter proposals are sanctioned under section 45 Maharashtra Regional and Town Planning Act, 1966.



(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.

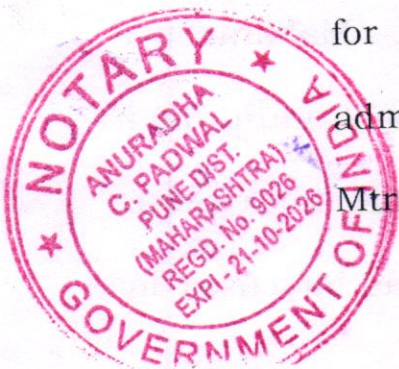
- (9) I say and submit that on 10/01/2020 PMC granted the Commencement Certificate and Sanctioned the layout of the project in question for the Total Built Up Area 29,146.19 Sq mtr. on a condition that Project Proponent shall obtain prior Environment Clearance before commencement of the construction.
- (10) I say and submit that on 21/07/2020 the Project Proponent obtained Environment Clearance for the Total Built Up Area 29,146.19 Sq mtr.
- (11) I say and submit that Urban Development Department, Government of Maharashtra published Unified Development Control and Promotion Regulations for Maharashtra State on 02/12/2020 wherein FSI was increased in



the Municipal areas increasing the potential of the plots for constructions.

(12) I say and submit that on 09/07/2021 as per the application of Project Proponent and following the Rules of UDCPR – 2020, revised Commencement Certificate was granted to the Project Proponent for Total Built Up area of 43,825.96 Sq Mtrs. with a condition that Project Proponent shall construct only as per the Environment Clearance dated 21/07/2020 and shall commence construction of the revised plan only after obtaining revised Environment Clearance. Project Proponent also submitted an undertaking to PMC in this regard.

(13) I say and submit that on 09/02/2024 SEIAA, Maharashtra granted Environment Clearance for expansion of the Project for the area measuring Total Built Up Area 43,825.96 Sq Mtrs. which is under challenge in this Appeal.




(14) I say and submit that on 16/02/2024 Respondent PMC issued stop work notice to the Project Proponent under section 267 (1) of Maharashtra Municipal Corporation Act, 1949 and under section 54 of Maharashtra Regional Town Planning Act, 1966. I state that PMC has not issued occupancy certificate to the Project.

(15) I say and submit that Environment Clearance dated 09/02/2024 granted by SEIAA, Maharashtra is the subject matter of this Appeal PMC has no role in either granting or monitoring the violation of Environment Clearance.

Pune

Date: 14/09/2024


Respondent No. 9 to 1
Pune Municipal
Corporation

Executive Engineer

Building Permission Department, Zone No
Pune Municipal Corporation



VERIFICATION

I, Vilas Ramkrishna Nawali Age: adult years Building Permission Department Zone 2, 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 18th day of September, 2024



Respondent No. 9 to 13
Executive Engineer

Building Permission Department, Zone No. 2,
Pune Municipal Corporation

Rgarg

Adv. for Respondent No. 9 to 13

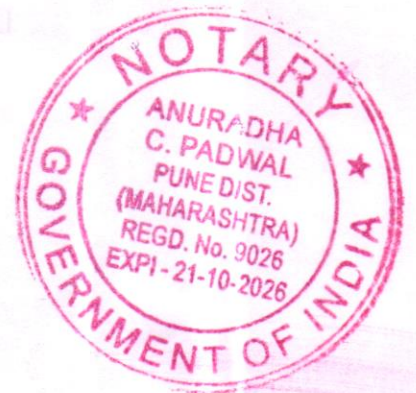
BEFORE ME

A Padwal

ANURADHA C. PADWAL,

NOTARY

GOVERNMENT OF INDIA



NOTED & REGISTERED AT

SERIAL NUMBER 44/2024



18 SEP 2024

