

BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE BRANCH,

PUNE

O.A. No. :- 5 of 2020

Mr. Bhanudas Pandurang Salave

..... Applicant

V/S

M/s. Malganga Enterprises Patharwadi and ors.

..... Respondents

Affidavit in reply on behalf of Respondent No. 1 –

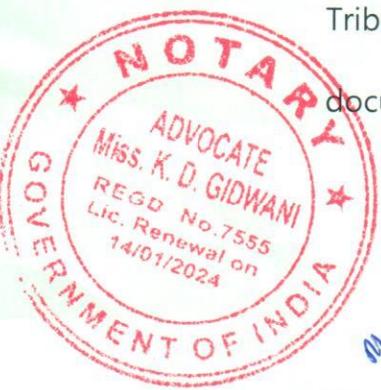


I, Sunil Ragunath Pawar, Age-~~46~~ Adult, Occ. Business, R/at- At Post Patharwadi, Tal. Parner, Dist. A'Nagar, in my capacity as partner of – M/s Malganga Enterprises, Patharwadi, do hereby solemnly sworn as under-

NGT/WZ/PUNE/INWARD/ 728 /2020
Date 06/10/2020
Sign. *[Signature]*

1. I say that I am one of the partner of Respondent no. 1 firm and also the part owner of the property in issue in this application at Gat No. 1029, Patharwadi, Tal. Parner, Dist. A'Nagar. I am making this affidavit on behalf of respondent no. 1 firm.

2. I say that I am served with the copy of application filed with the copy of application filed by the applicant with this Honorable Tribunal. After carefully going through the contents and the documents, I say that the application is false, mischievous and



*Mr. Sunil
P/S
06-10-2020
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entirely mis-conceived. I say that generally all the contents of the application are denied except for any averment specially admitted. Therefore the application deserves to be rejected in the first case being devoid of any merit and not maintainable.

3. I say that in the appeal the applicant has raised grievance of nuisance and encroachment which is a private civil matter and not at all related to environment. Thus the present application is not maintainable before this Hon. Tribunal.

4. At the outset I would like to state that the allegations of illegal stone crushing by the respondents are false. The respondent no. 1 has carried out stone crushing activity legally for past many years. I say that the respondent no. 1 has documents in support of the activity of for stone crushing on the property mentioned in the application.

5. I say that respondent no. 1 has duly received consent from respondent no. 2 on 4/1/2020 bearing consent no. **RO-Nashik/Consent/2001000218**. The said consent is valid up to 31-3-2022. As one of the term in the said consent the respondent no. 1 has furnished Bank Guarantee in favor of respondent No. 2 dated 2/7/2020 for Rs. 50,000/- **Annexed herewith and marked as Annexure R1 is the copy of Consent dated 4/1/2020 and R-2 is Copy of Bank Guarantee dated 20/7/2020.**



6. I say that the land at Gat No. 1029 is owned by me to the extent of 40R the said Land is already NA as per order of the Tahasildar dated 5/11/2014. The said NA is specifically for the purpose of stone crushing. **Annexed herewith and marked as Annexure R3 is copy of 7/12 extracts with Mutation Entry No. 2699 and R4 being copy of NA order of Tahasildar.**
7. I say that I am carrying out the business of stone crushing through my Respondent No. 1 firm since 2012. From time to time I have taken permission for stone crushing from 2012 onwards. The state Government Authorities has been pleased to grant me permission for these activities. I have paid Royalty for the stone crushing activity since 2012 till 2020 which the Government has duly received from time to time without any objection. Since 2012 the business of stone crushing has been carried out by respondent no. 1 and No objection has been taken till resent objection by the applicant. It is surprising that the applicant has raised these frivolous issues in the application without verifying factual situation. I say that Respondent No. 1 has got permission for stone crushing dated 27/2/2012 on Gat No. 1029 against payment of Royalty. **Annexed herewith and marked as Annexure R5 is copy of permission from Tahasildar dated 27/6/2012, and Annexure R6 are receipts of payment of Royalty to Government from 2012-2020 (Colly).**



8. I say that the Government Authorities till filing of the application have not taken any objection on the activity of Respondent No. 1. Rather the statutory Authority has accepted the Royalty from respondent no. 1 against the stone crushing activity. I say that the respondent no. 1 also has got permission from the collector of A'Nagar for stone crushing activity at Gat No. 1029 vide the resolution dated 17/3/2020. Hence the respondent No. 1 has the permission from Collector to carry out this activity. **Annexed herewith and marked as Annexure R7 the copy of the permission from collector A'Nagar dated 17/3/2020.**

9. I say that the applicant's complaints were taken up by the Authorities and it is clear from the communication which I am filling with this reply, that the various application that have filed by the applicant are duly answered. The circle officer Nighoj has given his report to the Tahasildar dated 16/12/2019 after the compliant of the applicant, where various issues raised by the applicant herein have been inquired by the circle officer. The said report clearly states that the local farmer has been no objection with respondent No. 1 and its mining activity. The report also has Panchanama of local farmers dated 12/12/19 where the local farmers around Gat No. 1029 have stated that there is no threat to the crops from the stone crushing. They have also confirmed that the stone crushing never polluted the



water of well and that they have never raised any objection to the stone cutting activity. From this it is crystal clear that the local farmers have no objection to the stone cutting by respondent no. 1 and also the crops and well water have not been affected. Furthermore the Sub Divisional Engineer of PWD Parner has given a certificate dated 21/12/2019 to me which states that the highway is almost 3.2 km from the crushing activity and the nearest locality is more that 2km away. In so far as the treat to the forest around the Gat No. 1029 is concerned, the Forest Officer, Parner has given his report on 5/2/2020 based on the complaint of the applicant. The said officer has conducted inquiry and has given report that the forest limit is almost 1.5 km away from the crushing activity. The officer also observed that the Gat No. 1029 is not forest land. He has also states that Gat No, 1029 in not Eco-sensitive zone and also not within the 1 km periphery of National parks. From these observations it is clear that the Stone crushing activity is not causing hazardous to environment. I say that the Sub- Divisional officer was also by letter dated 14/2/2020 written to the Executive Engineer mentioned that, there is no threat to the Canal Road and there is no alternate road to the stone crushing area. He has stated that the stone crushing activitiy has been their even before. From all these communications it can be inferred that-



- a. The complaints of that applicant have been attended by the authorities time to time and they have given their reports time to time.
- b. The activity of the respondent No. 1 is not of any threat to the environment.

Annexed herewith and marked as Annexure R8 is Report of the Forest Officer, Parner dated 5/2/2020, Annexure R9 is letter of Sub-Divisional Officer to the executive engineer about use of canal road dated 14/2/2020., Annexure R10 is Copy of the certificate of Sub- Divisional Engineer dated 21/12/2019 and Annexure R11 Copy of the report of the Circle officer along with Panchanama to the Tahasildar dated 16/12/2020.



10. Additionally, I have applied for the environmental clearance for the said activity. However, the same has been pending for a long time and various autocratic level.
11. I say that from all the documents which I have annexed herewith are enough to suffice the genuineness of stone crushing activity. The Government Authorities are accepting the Royalty against Stone crushing activity with any objection since 2012. It has been almost 8 years that respondent No. 1 is engaged in this activity without any hassle. It is first time that this applicant for reason best known to his has raised objections against the respondent no. 1. He is not even leaving in the vicinity of Gat No. 1029. It is only to pressurize and harass the respondent no. 1 that the applicant has filed compliant

which include present application. Without prejudice to the above reply to the contents of the application is as under-

12. I say that the facts in brief which are mentioned in the application are false and misleading. The contents of Para 1 of facts are denied. There is no substantial question relating to environment raised in the application. Rather as pointed above the grievance of applicant is more about personal grudge and ulterior practice of pressure. The portion of land where stone crushing carried out is already NA as per documents supra. Thus, the applicant has made false allegations that the land is agricultural land. Contents of Para 2 are also false and hence denied. The stone crushing activity is not causing any harm to the trees, crops or emitting dust in large quantity. The applicant is raising issue of nuisance which is causing civil wrong and does not coming under ambit of this Hon. Tribunal. I say that the plants, crops and air in the vicinity are not affected. This can be inferred from the Panchanama of farmers which is annexed from this reply. The photographs attached with the application are false and denied.

13. I say that contents of Para no. 3 and 4 are not true. The respondent No. 1 is legally carrying out mining activity and paying Royalty to Government against it. There is no encroachment by the respondent, perhaps issue of encroachment on adjoining land is not within the



ambit on this Hon. Tribunal. It is also denied that respondent no. 1 is polluting the well water. The documents filed with reply referred in previous Paras shall be adequate to establish this. I say that the contents of Para 5,6 and 7 are denied. The activities of respondents do not affect substantial use and development of land or damage agricultural land. The Statutory Authorities have given permission for respondent to carry out the business of stone crushing and have observed no threat to environment.

14. I say that the contents of Para 8, 9 and 10 are not true and correct.

The respondent no. 1 has obtained all sanctions and clearances mentioned above in the reply which are known to him. The complaints and the applications by the applicant have been duly considered and duly enquired & replied by the statutory authorities. I further say that Para 11 are also false. I have already pointed out that the Sub Divisional has written to the Executive Engineer letter dated 12/2/2020 that the canal is unaffected and has not threat due to the mining of the respondent no. 1. There is no likelihood of any injury to the canal from the activities of the respondent.

15. I say that the contents of Para No. 12, 13, 14 are emphatically denied. The applicant is falsely accusing the Gram Panchayat and the respondent no. 1 to be hand in glove. The applicant has also given about wrong statistics of vicinity House of residents and the location of forest from the mining area. I say that I have already filed on



record documents to show that the forest is not within the alleged vicinity mentioned in the application and the residential area is also far away from mining area. I further submit that the canal road is the only approach road and no damage is caused to the canal road as has been noted by the Sub Divisional officer in letter dated 14/2/2020. Hence contents of Para 15 are denied.

16. I say that the contents of Para No. 16 & 17 and the grounds of application are denied. The grounds of application are nothing but repetition of the facts. These grounds hold no water. In Para 16 respondent no. 1 has again raised about the issue of nuisance at night hours which is false. Civil nuisance is not subject matter that cannot be entertained by this Hon. Tribunal.

17. I say that applicant has no case for him but has tried to raise the frivolous issue against the respondent. It is pertinent to note that most of the issue that the applicant raises are relating to the residents and farmers in the vicinity of stone crushing activity. But since 2012 none of such residents or farmers have even made a single complaint of any environmental effect on crop, air, water or animal life. The applicant unnecessarily beating a trumpet in the name of such persons, when they themselves say that they are unaffected. Thus all the grounds in the application are false, frivolous and imaginary. The applicant is unnecessarily making a mountain of a mole hill in order to pressurize and harass the applicant or





perhaps extort money from the respondent no.1 under the garb of being a social worker.

18. I say that there is no jurisdiction to try and entertain this matter before this Hon. Tribunal. And I further say that all the documents filed by the applicant with this application are denied in toto.

19. I crave leave for filing additional documents as per the situation or filing additional reply, if necessary. Substantial documents are in Marathi language and the translation of those documents in English is in process and will be submitting within 15 days before the tribunal. A separate undertaking is also filed on record regarding the same.

20. I say that the applicant filed this application is totally false and misleading. Entertaining this matter is waste of valuable time of the Hon. Tribunal. The application is devoid of merits.

21. Hence respondent says that the application be rejected in toto. The applicant is saddled with heavy cost for subjecting the respondent to frivolous litigation.

WHATEVER THAT IS STATED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

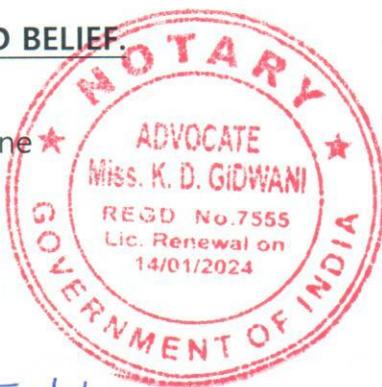
28/09/2020, AT Pune

Respondent no. 1

Shree Abhyuday

Advocate

*Adu. Abhyuday Joshi,
MAH 2294/2015
Deccan Gymkhana
Pune.*



[Signature]

Sunil Raghunath Pawar

BEFORE ME

[Signature]
Miss. K. D. Gidwani
Advocate & Notary
GOVT. OF INDIA

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Noted & Registered
At. Sr No. 934/2020

28 SEP 2020