



BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE
BENCH PUNE

Application No. 70/2020

Prafull Shivaji Pise ... Petitioner

Versus

Municipal Council of Chiplun & ors. ... Respondent

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO.4

I, Sudhir Sharad Butala, Age: 53 years, Occupation: Advocate, Having address at: Khed, Taluka- Khed, District- Ratnagiri, do hereby beg to state on solemn affirmation as under:

1. I say and submit that I have personal knowledge and information of the issue involved in the present petition. I have also gone through the records of the present matter. Hence, I am filing the present Affidavit being well versed with the facts of the case. However I should not be deemed to admit anything which is contrary to or inconsistent with what is stated hereinafter in the absence of specific denial.
2. At the outset, I say and submit that the present application is bad in law and the same is not maintainable on the ground of limitation. The present Respondent herein raises a preliminary objection on the point of limitation. That the Applicant has mentioned in the present application that the Applicant is the resident in the same area. Hence, it cannot be said that the Applicant was unaware of the alleged work being the resident of the said area. It was well within the knowledge of the Applicant that the work has commenced, still the Applicant mala fide filed the present Application. It is therefore clear that the present application is filed with mala fide intention. It is pertinent

to note that the same is beyond limitation and deserves to be dismissed on the same ground.

3. I say and submit that with respect to the issue involved in the present application I would like to bring certain relevant facts to the notice of this Hon'ble Tribunal which would directly reflect the ill-intention of the Applicant. I say and submit that the adjacent part of my property is owned by Mr. Deepak Nimkar which is the part of City Survey No. 6397. I say and submit that the portion of Sy. No. 6397 owned by Mr. Deepak Nimkar is at the back side and lacks front view from the road. Moreover, there is an apprehension of Mr. Deepak Nimkar that the construction of the Applicant may block the view of Mr. Deepak Nimkar's project and will eventually result into less commercial profits at the time of selling of the premises constructed on the plot. Considering this, with an ill-motive Mr. Deepak Nimkar has filed Writ Petition No. 713/2020 before the Hon'ble Bombay High Court. The Hon'ble High Court did not think it appropriate to grant any interim relief in the above-mentioned Writ Petition. The Writ Petition has been filed by Mr. Deepak Nimkar with a sole motive to obstruct the construction of the Respondent Nos. 4 to 7 so that the Respondent Nos. 4 to 7 won't be left with any other option but to sell their portion of land to Mr. Mr. Deepak Nimkar. There has been persuasion for the same to which the present Respondent did not succumb to. Thus, Mr. Deepak Nimkar being a politician is trying to pressurize the Respondent Nos. 4 to 7 and use all his influences to stop the construction of Respondent Nos. 4 to 7. It is pertinent to note that the present Applicant is a close acquaintance of Mr. Mr. Deepak Nimkar and on the instance of Mr. Mr. Deepak Nimkar the present Applicant has filed the present application. Moreover, it is with much persuasion of Mr. Mr. Deepak Nimkar a word "Nala" has been introduced and/or used for the first time; to cause losses to the Respondent Nos. 4 to 7. Hence it is submitted

that the present petition is outcome of ill-will of Mr. Dipak Nimkar who is politically influential person of Chiplun City, has an influential position in the city and has a strong connection with the officials of various authorities. Therefore the present application is an ill-motivated petition and lacks bonafide. It is submitted that Mr. Dipak Nimkar was expecting an interim order from the Hon'ble High Court in W.P. No. 713/2020, but the Hon'ble High Court did not feel it necessary to grant an interim stay. Therefore, this application has been filed with an ulterior motive. The copy of the Writ Petition 713/2020 is annexed herewith and marked as "**Annexure A.**"

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4. I say and submit that the contents in paragraph C-1 are partially true and correct. It is true to say that the Applicant is a resident at the abovementioned address. I further say and submit that it is not true to say that the present Applicant is a social worker. That the present application is ill-motivated, as he is a close acquaintance of Mr. Dipak Nimkar and the Applicant has only mentioned that he is a social worker to mislead the Hon'ble Tribunal and get favorable orders.
 5. I say and submit that the contents in paragraph C-2 are admitted facts and needs no comments from the present Respondent.
 6. I say and submit that the contents of paragraph C-3 are not true and correct. It is not true to say that there is Nala flowing from Prabhat Road, Royal Nagar, Chiplun i.e., South direction of city Survey No. 6397 i.e., said plot. It is pertinent to note that the Applicants contention that the said channel is a Nala is not true and correct as it is a sewage line carrying the sewage from the city.
 7. That in the year 2005, there was heavy flood in entire Konkan, Mumbai, Panvel, Raigad, Roha, Mangaon, Khed,

Mahad, Chiplun were affected. It was a nature calamity and not a manmade disaster. It has no concern with said "GUTTER" (Sewage Line). That whatever photograph produced by applicant are not according to the factual situation. The flood line as described by the Applicant is not correct. I say and submit that the road as well as the Gutter mentioned by applicant are constructed when City of Chiplun was developed & thereafter as per requirement, after following the due procedure of Law, land was acquired & widening of road was carried out and facility of Gutter is provided, so the said Gutter is outcome of the said procedure and is in public interest.

8. That in the year 1973, when some portion of the city survey no.6397 was acquired and measurement was carried out, at that time Government surveyor didn't notice "NALA" thereupon. So, it is 'Gutter' which is in existence since road was constructed.
9. I say and submit that all the channel of Gutters in Chiplun are ultimately merging with "SHIV NADI", not just this Gutter but also all channel of entire city merges into SHIV River. That this is nothing but part of arrangement of development. That said Gutter was not in existence before construction of road. It's not outcome of natural source. It is wrong to content that, it was 5.00 meter in width, on the contrary it was one- & one-half meter before constructing it, now its 3.20 meter in width.
10. I say and submit that the contents in paragraph C-4 are admitted facts. That the said Respondent has commenced the construction work only after getting permission from the Respondent No. 1 and fulfilling the conditions mentioned thereunder.

11. I say and submit that the contents in paragraph C-5 are false to the extent of the photographs and I deny the same.
12. I say and submit that the contents in paragraph C-6 are not true and correct. It is not true to say that the RCC construction of the Nala has impeded the natural flow of the 'Nala' and hence denied by the Respondent No. 4. It is submitted that the present Applicant has put false allegations on the basis of wrong facts; without putting forth any proof for the same. In fact, no 'NALA' as described by the applicant was and is in existence, so the question of changing the natural course of water doesn't arise. So, the question of violation of Sec-24 of the water (Prevention and control of pollution, act 1974) doesn't arise. Hence, I don't admit the same.
13. I say and submit that the contents mentioned in paragraph C-7 of the present application does not fall within the purview of Schedule I of the National Green Tribunal Act. In spite of this I state that whatever permission issued by the municipal council is according to rules and regulation and is valid and legal. Hence, the contents of paragraph C-7 is denied.
14. I say and submit that the contents in paragraph C-8 are not true and correct. It is not true to say that Respondent Nos. 4 to 7 for their personal gain are hand and glove with the authorities and have completely changed the natural course of Nala by disturbing the water body and is causing water logging and water pollution resulting into environmental degradation. I further say and submit that the present Applicant with mala fide intentions is falsely accusing the Respondent and had not put forth any proof to show the legitimacy of the allegations.

15. I say and submit that the contents in paragraph C-9 are not true and correct and hence the Respondent No. 4 does not admit the same. It is pertinent to note that the Respondent no. 1 granted conditional Sanction to the Respondent Nos. 4 to 7. That only after being satisfied that the Respondent Nos. 4 to 7 have completely abided by the conditions for commencement Respondent No. 1 directed them to continue with the construction work.

16. I say and submit that the contents in paragraph C-10 are not true and correct. It is not true to say that the said area is a flood prone area and due to such impediments in the natural course of the nala it will be high risk for the human habitant residing in the area and it will also cause great damage to the environment. It is pertinent to note that there has been no flood in the past 15 years, in spite of the heavy rainfall during the last monsoon. It is also important to note that the present Applicant had frequently alleged that the activity of the Respondents will cause great environmental damage but has failed to show any proof for the same.

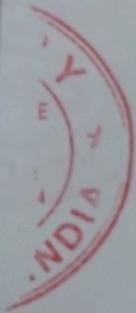
Without prejudice to anything stated above I hereby most respectfully submit:

17. That the Respondent No. 1 issued a conditional Sanction of Building Permission and Commencement Certificate dated 19.6.2019. It is submitted that the present Respondent only after the grant of the Commencement Certificate started the construction work and have always been in compliance of the conditions mentioned in the said Certificate.

18. It is submitted that the present Respondent carried the said construction adhering to all the conditions laid by the Respondent No. 1 and the construction carried out by the Respondent has never been detrimental to the environment.

19. The present Respondent submits that the present Respondent have got the NA permission (Non-agricultural use permission) in February, 2020. A demarcation has been carried out in that respect and also a map has been prepared depicting the same. The Respondent submits that the above mentioned map showing the land in question as a NA (Non-agricultural use permission) land does not mention existence of any Nala as alleged by the Applicant. The NA demarcation map is annexed herewith and marked as "**Annexure B.**" The Respondent further submits that a map of city Chiplun which is available in the office of Respondent No. 2 dated 10.2.1969 also does not reflect existence of any Nala as alleged by the present Applicant. The Respondent submits that there is one Nala flowing adjacent to Sy. No. 6397 this is at a distance of 200-300 meters from the site in question. The said map is annexed herewith and marked as "**Annexure C**".

20. The Respondent submits that in the present Application, the Applicant has raised the environmental issue about a RCC Construction of channel carrying water from the city consisting of sewage water. The said channel is not a Natural Source of water and it had been provided to carry out sewage from the city to the outskirts. All the official maps and records do not show any existence of channel at the site specified by the Applicant. The Applicant has wrongly alleged the same water flow as "Nala". The Respondent specifically denies the same.



21. It is submitted that the Respondent and the architect of the said project had received a letter from the Respondent no. 1 thereby directing the present Respondent to complete the RCC work of the channel and thereafter commence the construction work at site; the same being in public interest. The said letter dated 2.1.2020 is annexed herewith and marked as "**Annexure D**". It is submitted that the Respondent has replied to the said letter on 4.1.2020 mentioning thereby there does not exist any Nala but it is sewage. It is submitted that in the letter at Annexure D the Respondent No. 1 wrongly mentioned a "Nala". In fact, there does not exist any Nala as mentioned by Respondent No. 1. There is a sewage line for channelizing and flow of sewage generated in the area. The Respondent No. 1 had, without verifying the official records and material available came to a wrong conclusion and wrongly mentioned the same as "Nala". The reply dated 4.1.2020 is annexed herewith and marked as "**Annexure E**". On receipt of the same the Respondent No. 1 vide letter dated 5.1.2020 directed the present Respondent to complete the construction of sewage as envisaged in revised Development Plan and then commence the construction work. The copy of the letter dated 5.1.2020 is annexed herewith and marked as "**Annexure F**". Hence, it is very clear from the above mentioned correspondence that construction of the sewage is very necessary for the hygiene and health of the residents of the city and therefore the Respondent no. 1 had directed the present Respondent to complete the same on priority basis.

22. It is submitted that the Applicant has falsely alleged in the present application that the present Respondent along with Respondent Nos. 5 to 7 constructed the present Nala in RCC which has resulted into impediment of the Natural Flow of the Nala. So also it has allegedly changed the natural course of Nala which is causing water logging. The Applicant further stated that the change in the

natural water course has caused environmental degradation. It is pertinent to note that the allegations of the present Applicant are vague and the Applicant has failed to put forth any proof supporting the same. There is no iota of evidence to show the alleged adverse effect on the environment. Hence, the Respondent does not admit the same. The Applicant thus, has filed the present Application on vague contentions.

23. That the Applicant has falsely alleged in the present application that the construction of Nala by the present Respondents will cause water logging. It is important to note that the Applicant has mentioned the floods of 2005 but has failed to consider the heavy monsoon in 2019-2020. The Respondent submits that the work which the Respondent Nos. 4 to 7 have undertaken will, in fact reduce the chances of water logging and flooding in the area. And considering this the Respondent No. 1 thought it appropriate to put the same as a condition precedent in the permission granted by the Respondent No. 1. Hence, it is further submitted that the said construction will cause no obstruction to the flow of water, moreover will facilitate the freeflow of water.

24. It is submitted that the Applicant has alleged that the activity of the present Respondent will result into the degradation of the environment but at the same time has failed to put forth any proof to show the legitimacy of the said allegations. The present Respondent submits that the Respondent No. 1 is the authority which will definitely take this aspect into consideration before granting the permission to the present Respondent. It is further submitted that without considering the environmental feasibility; the Respondent No. 1 would not have granted the permission to the present Respondent.

25. It is therefore prayed that the application may kindly be dismissed with cost.

Solemnly affirmed on this the 13th day of January, 2021

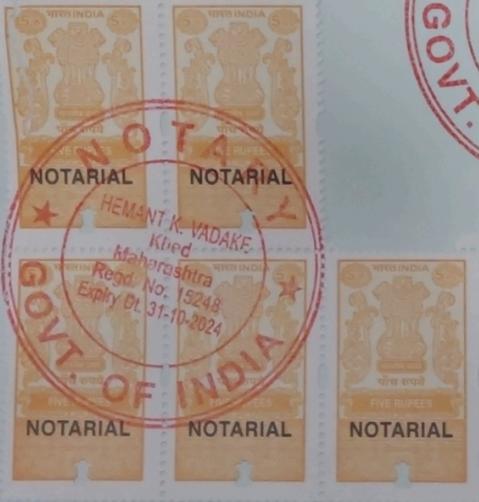
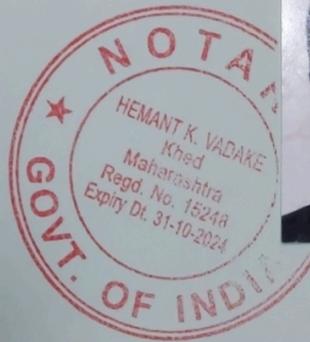
Affiant

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I know the Affiant

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Advocate



BEFORE ME

[Handwritten signature]
Adv. Hemant Kamalakar Vadake
Regd. No. 15248 B.Sc.LL.B.,
NOTARY, GOVT. OF INDIA
D.G. Chambers, Gala No. 6, Shivtar Road,
Opp. Civil Court, Tal-Khed,
Dist. Ratnagiri, Pin Code:- 415709.

Solemnly affirm before me by
Mr/ M/s. Sudhir Sharad Butala
Who is indentified to me by
Mr/ M/s. Sameer Sharad Sheth
to whom I Know Personally

Notary of Government of India
do not take any responsibility
of the contents of this document

NOTED & REGISTERED
Sr. No. 53 Page No. 28
Date: 13/1/2021

आयकर विभाग
INCOME TAX DEPARTMENT

भारत सरकार
GOVT. OF INDIA

SUDHIR SHARAD BUTALA
SHARAD DATTATRAY BUTALA

11/03/1966

Permanent Account Number
ABRPB8150G

Signature 






IDENTITY CARD 267 33 71

**BAR COUNCIL OF
MAHARASHTRA & GOA**

HIGH COURT, MUMBAI -32.

ADVOCATE




NAME : Sheth Sameer Sharad.
ADDRESS : At Post, Tal:- Khed,
(Gujarali),
Dist:- Ratnagiri.

EN. DATE 27.3.1999. Man/2357/1999 SECRETARY