

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE

**(UNDER SECTION 14 OF THE NATIONAL GREEN TRIBUNAL ACT,
2010)**

ORIGINAL APPLICATION NO. 75 OF 2022

BETWEEN

Rekha Sankhala & Ors.

...Applicants

versus

City and Industrial Development Corporation

Of Maharashtra Ltd. & Ors.

...Respondents

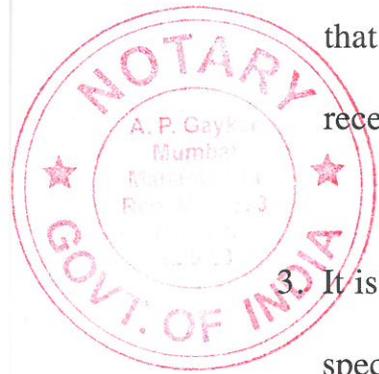
AFFIDAVIT IN REPLY TO THE ADDITIONAL AFFIDAVIT FILED BY

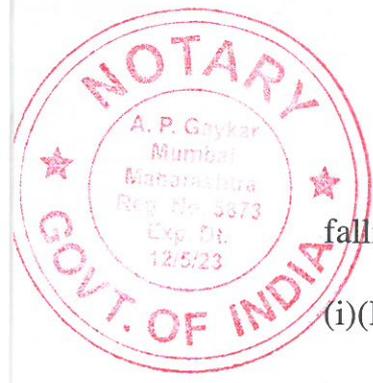
THE RESPONDENT NO.1 DATED 28.12.2022:

I, Rekha Sankhala, the Applicant No.1 herein, residing at 12/801, NRI Complex, Nerul, Navi Mumbai 400 706, do solemnly affirm and state as follows:

1. I say that I have read a copy of the Additional Affidavit filed by the Respondent No.1 dated 28th December 2022 and am filing this Affidavit to deal with the contents of the said Affidavit.

2. In the Affidavit dated 28th December 2022 the Respondent No.1 has stated that it has decided to cancel the bid received for Plot No.2A as the offer received for the said plot is allegedly below the prevailing market rate.
3. It is further stated that it intends to re-tender the said plot incorporating a specific condition clarifying that the mangrove buffer zone or CRZ-IA area shall not be disturbed by the successful bidder/ allottee apart from with certain other conditions that it proposes to impose.
4. The Respondent No.1 has thus sought the approval of this Ld. Tribunal to re-tender the plot after incorporating these conditions in the tender document.
5. The Respondent No.1 has thus sought the dismissal of the present O.A. and that the interim order be vacated in light of the clarifications it now proposes to incorporate into the tender document with respect to the CRZ-IA areas.
6. I say that the present O.A. seeks to challenge the auctioning of the Plot No.2A not only on the ground that it falls within CRZ-IA areas where construction activities are prohibited, but that even on the parts of the plot





falling within CRZ-II, no development is permissible in view of Clause 8 (i)(II) of the CRZ Notification, 2011.

7. Notwithstanding the above, I say that the CRZ-IA areas of Plot No.2A cannot form part of plot being auctioned for the reasons mentioned in the O.A. which are not being reproduced herein for the sake of brevity.
8. I say that aside from the specific challenge to the inclusion of Plot No.2A under the E-tender cum E-auction initiated under Scheme No. MM/SCH-28/2022-23, the O.A. also seeks a direction to restrain the Respondent No.1 from disposing of the plot through any other means and maintain it as an open space as indicated in the layout plan for Nerul Node.
9. I say that the public trust doctrine places an embargo on the right of the State to transfer public properties to private parties if such transfer affects public interest and in fact mandates affirmative state action for the effective management of natural resources.
10. I say that the Respondent No.1 appears to be attempting to obtain the prior sanction of this Ld. Authority to re-tender the said Plot to preclude any future challenge to the proposed re-auction, which ought not to be permitted by this Ld. Tribunal.

11.I say that re-tender as proposed does not address the grounds of challenge raised by the present O.A. and proceeds on the false footing that construction activities in the CRZ-II areas of Plot No.2A are permissible. If the plot is re-tendered on the conditions stated above, the same would amount to permitting or sanctioning development on a plot where construction activities are not permissible. The reasons why construction is not permissible have been dealt with in paragraph 10 to 15 and Ground A to D of the O.A. The contents of the same are repeated herein. It is therefore prayed that the O.A. be dealt with on merits and the re-tender of the plot as proposed by the Respondent No.1 be rejected.

Solemnly affirmed at Mumbai)

Lebha Sonkhala

Dated this 27 day of February, 2023)

Applicant No.1

Identified by me

Meenaz Kakalia

Meenaz Kakalia

Advocate for the Original Applicants



Before me,

BEFORE ME

27 FEB 2023

ASHOK P. GAYKAR
B.Com, LL.B., G.D.C. & A.,
ADVOCATE HIGH COURT
NOTARY GOVERNMENT OF INDIA
Reg. No. 5873

Reg. No. 28
Sr. No. 7473
Date 27 FEB 2023
OF NOTARY REGISTER

