

BEFORE THE NATIONAL GREEN TRIBUNAL

SITTING AT PUNE

ORIGINAL APPLICATION NO. 54 OF 2017

BETWEEN:

Pratap Lal Teli

.. Applicant

versus

Member-Secretary, State Level Environment

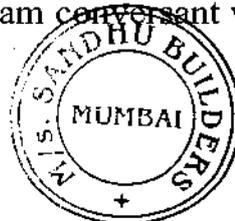
Impact Assessment Authority and Ors.

.. Respondents

**AFFIDAVIT IN SUR-REJOINDER ON BEHALF OF
RESPONDENT NO. 3 TO REJOINDER OF
APPLICANT**

I, Kanwar Dilersingh Sandhu, aged 39 years, of Mumbai, Adult Indian Inhabitant, the Partner of the Respondent No. 3 firm abovenamed, having my address at 41, Sandhu Palace, Pali Hill, Bandra (West), Mumbai – 400 050, do solemnly affirm and state as under:-

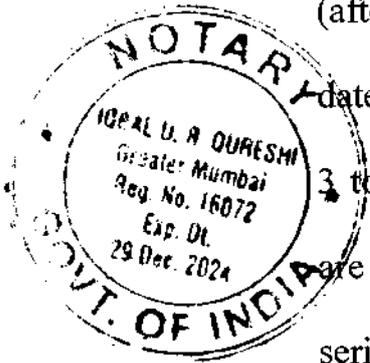
1. I say that I have read a copy of the Affidavit in Rejoinder dated 2nd May 2023 (“**Rejoinder**”) to the Affidavit in Reply dated 12th April 2023 (“**Reply**”) filed on behalf of Respondent No. 3 to the amended Original Application (“**OA**”). I say that I am conversant with the

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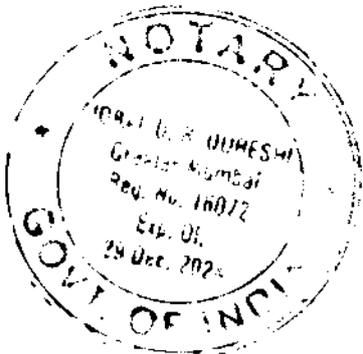
facts of the case and am able and authorised to depose to the same based on the records maintained by the Respondent No. 3. A copy of the Resolution passed by Respondent No. 3 authorising me to sign and depose to the present Affidavit is annexed at Exhibit '1' to the Reply.

2. At the outset, I repeat, reiterate, confirm and adopt, all and singular, the statements, averments, allegations, contentions and insinuations, as stated in the (i) Affidavit in Reply dated 23rd September 2017 (to the earlier amendment application), (ii) Affidavit in Reply dated 28th November 2017 to the Original Application (after the first amendment) and (iii) Affidavit in Reply dated 12th April 2023 filed on behalf of Respondent No. 3 to the amended Original Application, as if the same are incorporated herein in verbatim and traversed in seriatim and deny all that is contrary thereto and/or inconsistent therewith and with what is stated hereinafter. Further, I deny all and singular, the statements, averments, allegations, contentions and insinuations as stated by the Applicant in the OA as if



the same were set out herein in verbatim and traversed in seriatim. Nothing that is not specifically dealt with therein shall be deemed to have been admitted, merely for want of traverse.

3. At the further outset and without prejudice, I state and submit that I have stated in the said Reply that the aforesaid OA is liable to be dismissed on the ground that a comprehensive writ petition i.e., Writ Petition No. 155 of 2019 is pending before the Hon'ble Bombay High Court *inter alia* challenging the sanction of Occupation Certificate (OC), building proposal plans and the basis of grant of all no-objections/permissions by the Municipal Corporation of Greater Mumbai (MCGM), including *inter alia*, the Environmental Clearance (EC) in respect of the Building Project of Respondent No. 3. I state that the said Writ Petition No. 155 of 2019 is pending for hearing and final disposal by the Hon'ble Bombay High Court. I state and most respectfully submit that alongwith other permissions/sanctions, the EC forms the basis of the grant of OC by the MCGM in respect of the Building



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Project of Respondent No. 3. I further state that it is a settled law that when the *High Court of competent jurisdiction is found already in seisin of the matter with regard to the same cause of action, then in case of conflicting orders passed by NGT and the High Court, it is the orders passed by the constitutional courts, which would prevail over the orders passed by the statutory tribunals.* In the present case, the Hon'ble Bombay High Court, which is a constitutional court, is yet to hear and pass appropriate orders on the said Writ Petition No. 155 of 2019, which is pending before it. Therefore, I most respectfully state and submit that any orders passed by this Hon'ble Tribunal, which is a statutory tribunal, in the aforesaid OA, cannot prevail over the orders passed in the said Writ Petition No. 155 of 2019. I most respectfully state and submit that any order passed by this Hon'ble Tribunal may conflict with the orders passed by the Hon'ble Bombay High Court in the matter. I state and most respectfully submit that therefore, this Hon'ble Tribunal be pleased to pass the necessary order dismissing the aforesaid OA with costs, or in the alternative, stay the proceedings to await the



decision of the Hon'ble High Court. The issues raised in the present OA are also the subject matter of the said Writ Petition No. 155 of 2019 pending before the Hon'ble Bombay High Court. In this regard, reference and reliance is placed on the prayers in the said Writ Petition No. 155 of 2019 as quoted in the said Reply. I crave leave to refer and rely upon the judgement(s) passed on the said settled law, for their true and correct meaning, scope, interpretation and legal effect thereof, at the time of hearing.

4. I state and most respectfully submit that the Applicant has only given a superficially dealt with the contentions and legal submissions raised in the Reply. The Applicant has resorted to cherry-picking of the contentions and then dealing with the same in a way so as to skirt the main issue. The Applicant has not given any satisfactory reply to the contentions/legal submissions on the points of (i) Bar of Limitation, (ii) Abuse of Process of Law, (iii) Locus Standi, (iv) Unclean Hands, (v) Overlapping reliefs sought for in the IA and OA, (vi) Issue involved in the OA pending



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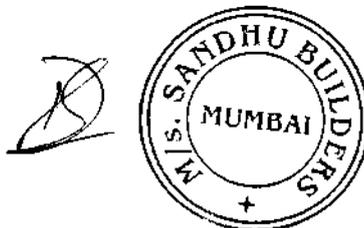
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before the Hon'ble Bombay High Court, (vii) Suppresio Veri and Suggestio Falsi and (vii) Non-Joinder of necessary party. The Applicant, knowing very well that it has no real answer to the same, has deliberately avoided replying to the same. I state and most respectfully submit that on this ground alone, the present IA and OA be dismissed with costs.

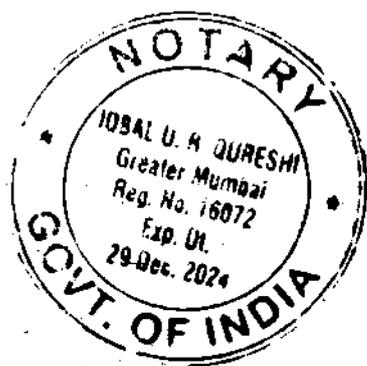
5. Without prejudice to the aforesaid, I shall now deal with, the Affidavit in Rejoinder paragraph wise in seriatim as under:-

(a) With reference to paragraph 1, the same require no comments.

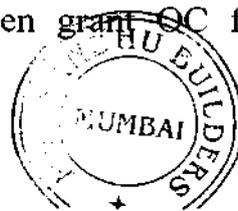
(b) With reference to paragraph 2, I deny that the Reply is verbose. Further, the two Questions of Law stated therein are not specified either in the grounds of the aforesaid IA and OA and are raised for the first time in the Rejoinder, as an afterthought.



- (c) With reference to paragraph 3, the same requires no comments.
- (d) With reference to paragraphs 4 and 5, the contents are mere repetitions of legal submissions which have ben dealt with by me hereinabove and are not repeated herein for the sake of brevity.
- (e) With reference to paragraph 6 (under the title “Overwhelming Point of Law based on which this Original Application ought to be allowed”), in my Reply, I have stated the circumstances under which, the requirement for a separate EC was dispensed with. The Applicant is trying to project an image as if Respondent No. 3 has deliberately not sought EC. However, the said Office Memorandum and the Letter dated 15th November 2017 did not require a separate EC for Respondent No. 3’s Building Project but the MCGM, after considering all the relevant permissions and sanctions, including *inter alia* whether the Building Project is in compliance of the environmental laws and then grant EC for the



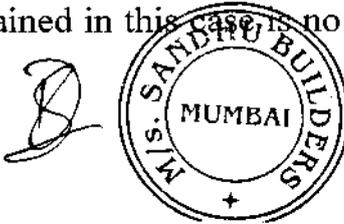
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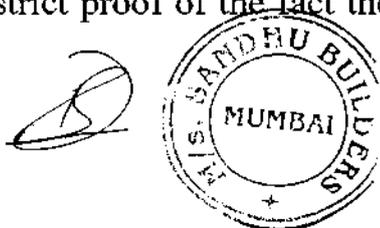
same. Further, the Applicant has quoted the extract of the noting of the MCGM (Annexure 'A-2' to the Rejoinder), which states that "*The same has been accepted and allowed as per Hon'ble MC's approval dated 09.08.2018.*". I state that therefore, the approval was granted one day prior to the Office Memorandum dated 7th July 2017 being quashed and set aside vide Judgement dated 10th August 2018 of the Hon'ble Supreme Court of India. I state and submit that therefore, there is no illegality in the process of EC in respect of the Building Project of Respondent No. 3. I deny that the relief as prayed for in the OA be made absolute. In this regard, reference and reliance is placed on all that is stated in the Reply, especially in paragraph 20 therein and deny all that is contrary thereto and/or inconsistent therewith.

- (f) With reference to paragraph 7, I put the Applicant to strict proof of the same.
- (g) With reference to paragraphs 8 and 9, I deny that the question ingrained in this case is no longer res



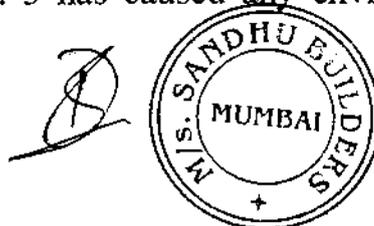
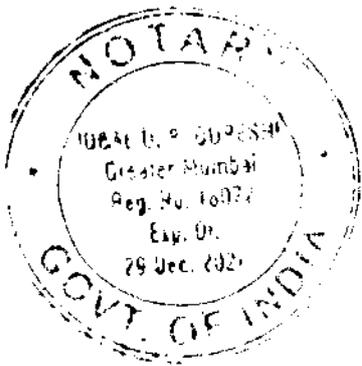
integra. I categorically deny any alleged recurring cause of action. I crave leave to refer to and rely upon the ruling given by the Hon'ble Principal Bench of this Tribunal in Application No. 24 of 2014, in the case of *Shiv Prasad* (Annexure 'A-4' to the Rejoinder) for its true and correct meaning, legal interpretation, scope and effect thereof, at the time of hearing. In any event, I deny that the ruling in *Shiv Prasad* has any application to the present case. I state and most respectfully submit that I have stated *in extenso* in paragraph 4 of my Reply, as to how the OA is barred by the law of limitation and even pursuant to the amendment thereto in December 2022. The Applicant has not dealt with the contentions as regards the law of limitation but has merely repeated what is stated in the IA. In this regard, I repeat and reiterate all that is stated in paragraph 4 of the Reply and deny all that is contrary thereto and/or inconsistent therewith.

- (h) With reference to paragraph 10, I put the Applicant to strict proof of the fact the contention



that he has allegedly complied with all the orders passed by this Hon'ble Tribunal. I deny any attempt on part of Respondent No. 3 to allegedly deflect the core tangible issues. Rest of the contents are legal submissions which will be dealt with at the time of hearing.

- (i) With reference to paragraph 11, I state and most respectfully submit that the Applicant has not been able to establish any nexus with the alleged pollution caused by the Building Project of Respondent No. 3 and the health of the Applicant/other people of the city. The contents raised by the Applicant are most frivolous and it is evident that the Applicant is making one false statement after another to put the Building Project of Respondent No. 3 in poor light and project it as a violator under law, to coerce Respondent No. 3 to his illegal demands. The Applicant has failed to demonstrate how the Building Project of Respondent No. 3 has caused any environmental

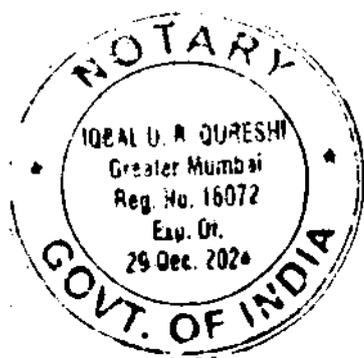


violation that has adversely affect his health and/or the health of other people in the city of Mumbai.

(j) With reference to paragraph 12, the contents thereof are mere repetitions of what is stated in paragraphs 2.0 and 2.1 of the IA, which has been dealt with in paragraph 22(j) of my Reply. In this regard, reference and reliance is placed on the contents of paragraph 22(j) of my Reply and I deny all that is contrary thereto and/or inconsistent therewith.

(k) With reference to paragraph 13, I deny that Respondent No. 3 has made any wild allegations or otherwise or at all. I deny any threat made by Respondent No. 3 to the Applicant and/or any alleged strong arm tactics, to allegedly get out of its alleged grave act of violation of environmental laws. Rest of the contents are legal submissions which shall be dealt with at the time of hearing.

(l) With reference to paragraph 14, the contents therein are frivolous and not tenable at all. A bare

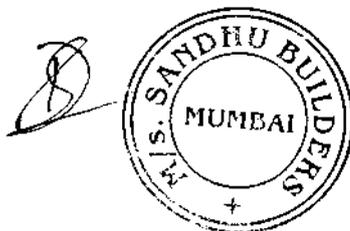


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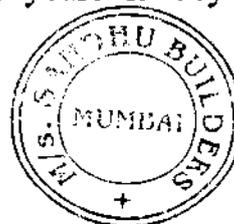
perusal of the same shall reveal that the Applicant has not dealt with the issue of 'date of knowledge'. The Applicant has made several contradictory contentions regarding the alleged 'date of knowledge', which show that the Applicant has no real knowledge of the facts concerning the case. Rest of the contents are mere repetitions which have been dealt with by me hereinabove.

- (m) With reference to paragraph 15, I state and submit that the limitation of 5 years was with reference to a petition filed under section 15 of the National Green Tribunal Act, 2010, which deal with restitution of the property damaged. The Applicant has failed to demonstrate any alleged damage to any property by the alleged acts of Respondent No. 3. I crave leave to refer to and rely upon the provisions of Section 15 of the National Green Tribunal Act 2010 and the ruling given by the Hon'ble Supreme Court of India in the judgement of *Mantri Techzone* for their true and correct



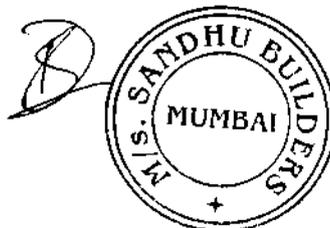
meaning, interpretation, scope and legal effect thereof, at the time of hearing.

- (n) With reference to paragraph 16, the Applicant states that “.....*It was only when the construction crossed the threshold limits that the Applicant got the hint that the construction was in violation of the Environment Protection Act, 1986.*”. It is a matter of record that the construction of the Building Project was complete in 2011, when the final building plans were sanctioned. Thus, if the Applicant “*got the hint*” in 2011 itself, then there is no reasonable explanation for the delay of 6 (six) years for filing the OA. The Applicant himself has relied upon the provisions of section 15 of the National Green Tribunal Act, 2010, for contending that an OA can be filed within a period of 5 (five) years from the date of the cause of action having arisen. Assuming without admitting that the statutory period of 5 (five) years is applicable to the present case, the said delay of 6 (six) years is beyond the said

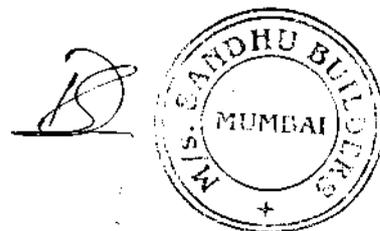
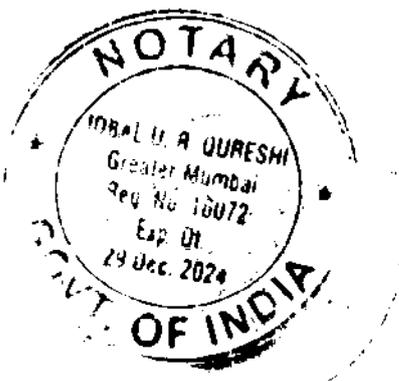
statutory period of 5 (five) years and hence, the OA is beyond limitation and is liable to be dismissed Without prejudice, the Applicant, in the entire OA or IA, has not given the specific date on which the cause of action has arisen. The Applicant, on the one hand, has stated that he *“got the hint after the construction crossed the threshold limit”* and on the other hand, has stated that he has a *“recurring cause of action”*. The Applicant is making contradictory statements on record and thus, there is no clear date on which the cause of action has arisen, according to the Applicant’s own showing. Thus, the OA deserves to be dismissed with costs.

- (o) With reference to paragraph 17, the contents therein are a duplication of paragraph 12 of the Rejoinder, which has been dealt with by me in sub-paragraph (j) hereinabove. In this regard, reference and reliance is placed on what is stated in sub-paragraph (j) hereinabove and I deny all



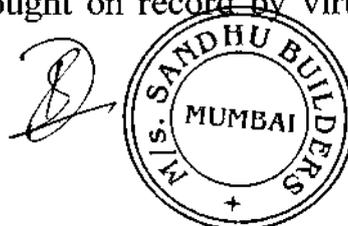
that is contrary thereto and/or inconsistent therewith.

- (p) With reference to paragraph 18, I state that the lack of knowledge of the Applicant of English language or otherwise, extends not only to pleadings filed in this Hon'ble Tribunal but also to collection of evidence. The Applicant has not clarified whether the applications made and the correspondence exchanged with the concerned authorities for collecting evidence was made in English language or in a vernacular language. The Applicant, in absence of a clear locus with the Building Project of the Respondent, could not have procured so much evidence without external help, especially when the entire building plans were submitted and sanctioned in English language, by the MCGM. It is possible that the Applicant is working on the instructions of and at the behest of/belief of some third party to extract monies from Respondent No. 3. It is very clear



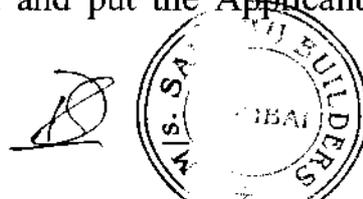
that the Applicant himself has made incorrect statements on oath and is liable for perjury.

- (q) With reference to paragraph 19, the contentions in the IA vastly differ from that of the OA. The amendment to the IA is based on certain facts/legal submissions which differ from the original prayers in the OA (prior to amendment). The contentions of the Applicant that it has every right to place on record further submissions with the leave of the Hon'ble Tribunal, goes against the very set norms of practice and procedure as laid down by law. The Applicant, in any event, ought to have been aware of the facts and documents which form the basis of the so-called "*further submissions*", as the Applicant has obtained the documents under Right to Information Act, 2005. The Building Project of Respondent No. 3 was substantially complete even prior to the OA having been filed in 2017. Therefore, the Applicant cannot contend to be in ignorance of the facts and legalities now brought on record by virtue of the



latest amendment. That there is a long gap of more than 3 (three) between the date when the OA was last listed and when the Amendment Application was filed on 22nd December 2022, shows the lackadaisical approach and the lack of interest of the Applicant in pursuing the present proceedings. Rest of the contents are denied.

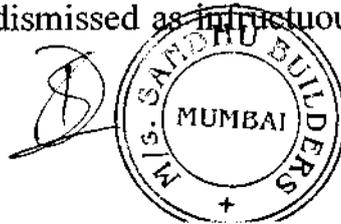
- (r) With reference to paragraph 20, the Applicant, having no real answer to the chronology of true and correct events in the proceedings, has only superficially dealt with the same. I deny that Respondent No. 3 has raised any pedantic and/or hyper technical points relating to minor shift in dates or constructing the building beyond the threshold limits without EC or has committed any open, grave or serious violation of the EIA Notification, 2006 and/or has jeopardized the right to life of the people of Mumbai and/or is seeking to escape from liability arising out of violation of the substantive law by citing pedantic procedural issues, as alleged and put the Applicant to strict



proof thereof. The Applicant cannot insinuate any jeopardy to the right to life of any individual in absence of any substantial evidence. The contents of the paragraph are baseless and unsubstantiated, denied *in toto* and ought to be rejected at the very threshold.

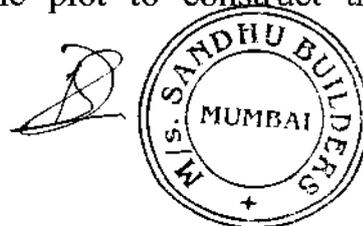
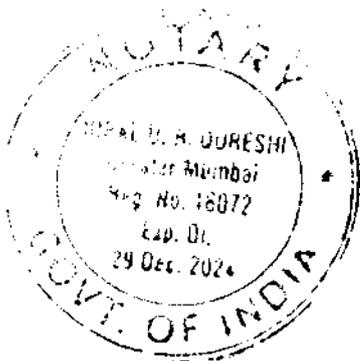
(s) With reference to paragraph 21, the contents thereof are legal submissions which shall be dealt with at the time of hearing. I dispute the veracity and correctness of the Google Earth Satellite Images

(t) With reference to paragraph 22, the contents thereof are legal submissions, which shall be dealt with at the time of hearing. I state and submit that the Order dated 13th May 2014 passed in Miscellaneous Application No. 166 of 2013 in Appeal No. 25 (Thc) of 2013 in the case of Smt. Octavio Albuquerque vs. Union of India (Annexure A-5 to the Rejoinder) is an interim order. The said Miscellaneous Application No. 166 of 2013 was dismissed as ~~infructuous~~ and the



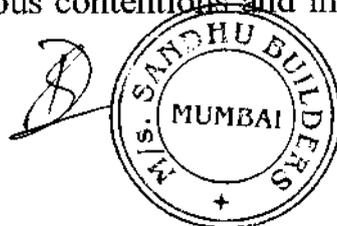
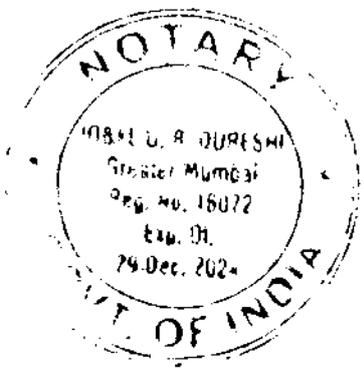
said Appeal No. 25 (The) of 2013 was disposed off vide a common order and Judgement dated 3rd May 2016 and hence, the said Order at Annexure A-5, being an interim/ad-interim order and being subject to the final Judgement, cannot said to have attained finality. The Applicant has conveniently suppressed this fact from this Hon'ble Tribunal and is trying to mislead this Hon'ble Tribunal with incomplete facts and records of another case. I state and submit that the Applicant has not come to this Hon'ble Tribunal with clean hands and therefore, the aforesaid OA be dismissed with costs.

- (u) With reference to paragraph 23, I repeat and reiterate that the Applicant has submitted incorrect facts. I categorically deny that the Respondent has submitted any incorrect facts as alleged or otherwise or at all. I state and submit that the sanction plans will reveal that the constructions started in 2006 by demolishing the existing structures on the plot to construct the present



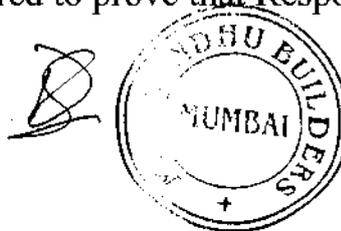
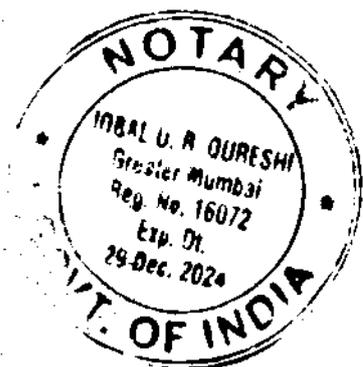
Building Project of Respondent No. 3. It is possible that when the Applicant took the photographs of the site in 2006, the then existing structures were demolished, which may have led the Applicant to erroneously believe that there is no construction on the site. The Applicant is making incorrect statements on oath and attempting to mislead this Hon'ble Tribunal with incomplete facts and evidence.

- (v) With reference to paragraphs 24 and 25, the Applicant's reluctance to reveal the source of the documents, in absence of any application under Right to Information Act, 2005, casts doubts on the Applicant's conduct and integrity and submit that adverse inference be drawn in respect of the same. The FIR referred to in the paragraph under reply has been quashed and no further dispute in respect of the same is pending between Respondent No. 3's partner and the residents of the Society. Respondent No. 3 has adequately deal with all the frivolous contentions and insinuations

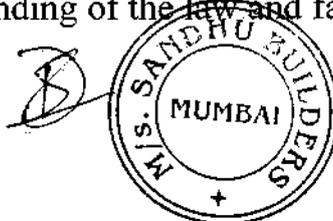


of the Applicant. Since the Applicant has no sufficient answer to the same, the Applicant is raking up dead issues from the past to prejudice this Hon'ble Tribunal and defame the partner of Respondent No. 3. The partner of Respondent No. 3 reserves his rights to initiate defamation proceedings against the Applicant, as may be advised.

- (w) With reference to paragraph 26, the contents thereof are entirely surmises and conjectures. Violations of Coastal Regulation Zone (CRZ)/Coastal Management Zone (CMZ), which is the basis of the ratio of *Adarsh Society* case, has no bearing on the present case. The Applicant has failed to establish how the ratio in the *Adarsh Society* case, is applicable to the present case, whether on fact or law. The Applicant also has not been able to establish how the 'Polluter pays Principle' and 'Precautionary Principle' is applicable to the case of Respondent No. 3. The Applicant is required to prove that Respondent No.



3 is guilty of violation under any law before invoking the principles on which penalty can be levied. Respondent No. 3 denies carrying out construction without EC and further denies committing any violation of Environment Protection Act, 1986 or otherwise or at all. On the contrary, pursuant to the directions of the MOEF to the office of the Ld. Municipal Commissioner, MCGM, to consider the requirement and conditions for EC alongwith other sanctions/permissions (as contained in the Letter dated 15th November 2017), the office of the Ld. Municipal Commissioner, MCGM, has given its final approval on 9th August 2018 and has approved the grant of OC in respect of Building Project of Respondent No. 3. The Applicant now cannot be permitted to sit in judgement on the process by which Respondent No. 3 has obtained the EC, especially when the Applicant has failed to allege, let alone prove any illegality in the same. The entire case of the Applicant is based on an erroneous understanding of the law and facts in the



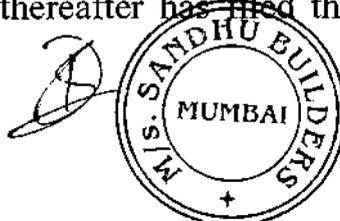
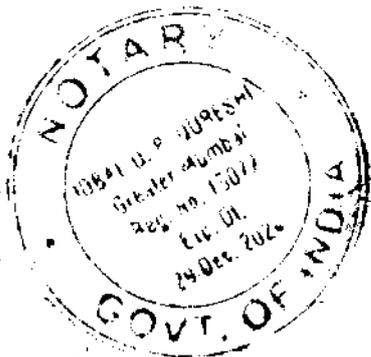
present case, which has caused tremendous harassment not only to Respondent No. 3 but also the officers of Respondent Nos. 1 and 2, for which, the Applicant ought to be severely penalized.

- (x) With reference to paragraphs 27 and 28, I state and submit that the Applicant has contended that the images on site seen and collected by him, were seen/collected "*by using historical imagery feature of Google Earth*". In this regard, I state and most respectfully submit that the historical imagery feature is not available in the basic version of the Google Earth Application but is available only in the "Pro" version of Google Earth Application, i.e., Google Earth Pro Application. It is evident that the Application is using the wrong media/applications to collect alleged evidence and any evidence collected through a wrong media/application cannot be relied upon in any court/tribunal. The Applicant is attempting to mislead this Hon'ble Tribunal by placing incorrect

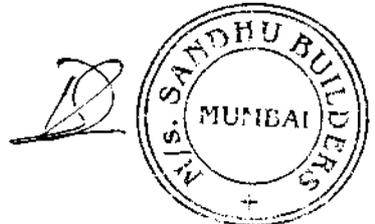
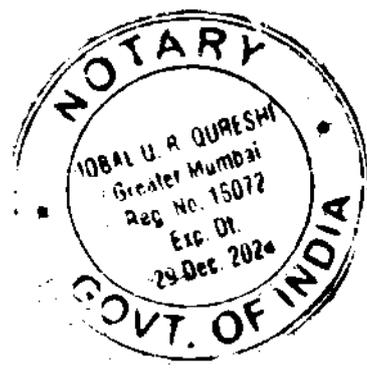


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facts and evidence on record. Further, the Applicant has to explain as to how he was able to use a sophisticated technology like Google Earth Satellite, if he does not have knowledge of English language. On the own admission of the Applicant, as stated in the paragraph under reply, if 10th March 2006 is to be taken as the date of limitation, then the present OA has been filed after a delay of 11 (eleven) years and the aforesaid IA has been filed after a delay of 16 (sixteen) years from the said date of limitation. Assuming without admitting that the present case is a case of 'continuous cause of action', the Applicant, if he is a prudent activist and genuinely concerned about the right of life of the people at Mumbai, ought to have been more prompt and diligent in filing the present proceedings. The judgement of the Hon'ble Bombay High Court militates against the principle of continuous cause of action. That the fact that the Applicant has filed the present OA after waiting for the entire Building to be fully constructed and thereafter has filed the aforesaid



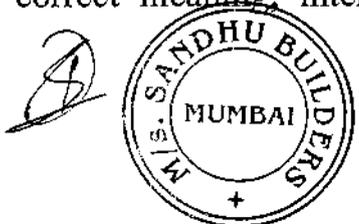
IA only after the grant of the OC, which shows that the entire proceedings filed by the Applicant are after a meticulous planning and effort to harass and threaten not only Respondent No. 3, but also the officers of Respondent Nos. 1 and 2. The Applicant is not moved by any genuine concerns for the environment but perhaps by certain extraneous consideration known only to the Applicant. I categorically deny that the Building Project of Respondent No. 3 is allegedly without mandatory safeguards which are prescribed when the EC is accorded. I deny that Respondent No. 3 has twisted any facts as alleged. The Applicant has neither made any averment regarding the dates on which the Applicant first became aware of the alleged environmental violation by Respondent No. 3 and the date when the historical imagery feature of Google Earth Satellite was used nor has he explained the reason for the lapse of time between the said two dates. The entire case of the Applicant is vague, unsubstantiated, bogus, false



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and frivolous and deserves to be dismissed with costs.

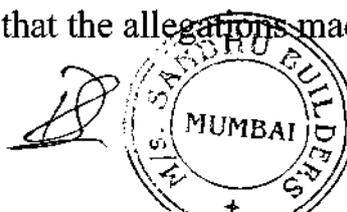
- (y) With reference to paragraph 29, Respondent No. 3 has stated *in extenso* on the issue regarding EC and inspite of the fact that the Applicant has filed a vague case against it. The Applicant has no substantial answer, either in fact or law, to the defense raised by Respondent No. 3.
- (z) With reference to paragraph 30, I deny any alleged grave wrong and/or grave violation of substantive law by delving into pedantic and undersigned procedural aspects as alleged or otherwise or at all.
- (aa) With reference to paragraph 31, the contents therein are legal submissions of a general nature and no particular bearing on the present case. I crave leave to refer to and rely upon the ruling of the Hon'ble Supreme Court of India in the case of *[Sambhaji and Ors. Versus Gaganbai and Ors. Reported in (2008) 17 Supreme Court Cases 117]* for its true and correct meaning, interpretation,



scope and legal effect thereof, at the time of hearing.

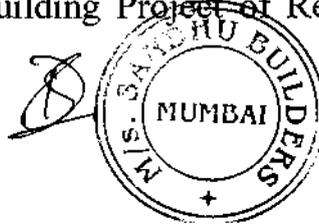
(bb) With reference to paragraph 32, I deny any overwhelming reliance on procedural law and silence on substantive law by Respondent No. 3 which ought to be rejected. On the contrary, it is the Applicant who has failed to make out any case whatsoever.

(cc) With reference to paragraph 33, I deny any alleged silence or any alleged substantive or other violation on behalf of Respondent No. 3, including *inter alia* "violation of the Development Control Regulations and attaching Fire Escape Passages with respective flats" and/or that the construction has been carried out without the statutory EC as mandated in the EIA Notification, 2006 issues under the provisions of the Environment Protection Act, 1986. I deny any silence on the part of Respondent No. 3 which can allegedly be construed against it and/or that the Building be demolished. I state that the allegations made by the

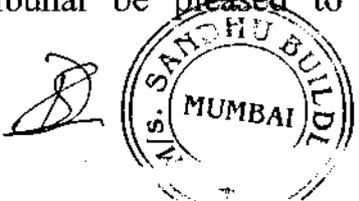
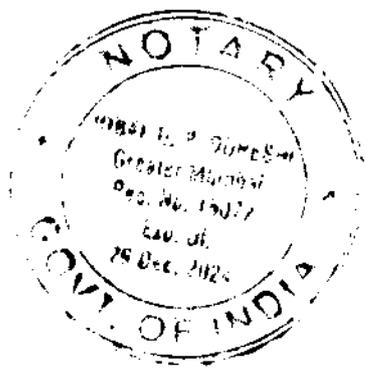


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Applicant in the paragraph under reply are the subject matter of the said comprehensive writ petition i.e., Writ Petition No. 155 of 2019 pending before the Hon'ble Bombay High Court *inter alia* challenging the sanction of OC, building proposal plans and the basis of grant of all no-objections/permissions by the MCGM, including *inter alia*, the EC in respect of the Building Project of Respondent No. 3. Since the Applicant has made these allegations, he is deemed to be aware of the filing and pendency of the said Writ Petition No. 155 of 2019, pending before the Hon'ble Bombay High Court the grounds on which it has been filed and yet, has continued to agitate the same cause of action against Respondent No. 3 before this Hon'ble Tribunal. I state that the said Writ Petition No. 155 of 2019 is pending for hearing and final disposal by the Hon'ble Bombay High Court. I state and most respectfully submit that alongwith other permissions/sanctions, the EC forms the basis of the grant of OC by the MCGM in respect of the Building Project of Respondent



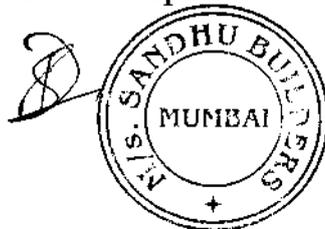
No. 3. I repeat and reiterate that it is a settled law that when the *High Court of competent jurisdiction is found already in seisin of the matter with regard to the same cause of action, then in case of conflicting orders passed by NGT and the High Court, it is the orders passed by the constitutional courts, which would prevail over the orders passed by the statutory tribunals.* In the present case, the Hon'ble Bombay High Court, which is a constitutional court, is yet to hear and pass appropriate orders on the said Writ Petition No. 155 of 2019, which is pending before it. Therefore, I most respectfully state and submit that any orders passed by this Hon'ble Tribunal, which is a statutory tribunal, in the aforesaid OA, cannot prevail over the orders passed in the said Writ Petition No. 155 of 2019. I most respectfully state and submit that any order passed by this Hon'ble Tribunal may conflict with the orders passed by the Hon'ble Bombay High Court in the matter. I state and most respectfully submit that therefore, this Hon'ble Tribunal be pleased to pass the



necessary order dismissing the aforesaid OA with costs.

(dd) With reference to paragraph 34, the contents therein are a reproduction of Rules 3 and 5 of Order VIII of the Code of Civil Procedure, 1908. I crave leave to refer to and rely upon the provisions of Order VIII of the Code of Civil Procedure, 1908, for its true and correct meaning, interpretation, scope and legal effect thereof, at the time of hearing.

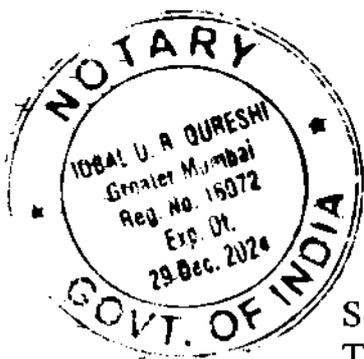
(ee) With reference to paragraph 35, I categorically deny that Respondent No. 3 has allegedly completely or otherwise, omitted to even touch upon the specific violations of law enumerated in a specific and self-contained manner in the Original Application and the further points enumerated in the amended Original Application. I deny any conspicuous or other omission or at all or any alleged implicit admission of the averments in the OA or amended OA. Respondent No. 3 has



serially traversed through and dealt with the case of the Applicant at each stage, as is borne out from the pleadings.

(ff) With reference to paragraph 36, I deny that the contentions of Respondent No. 3 are allegedly simply preposterous or otherwise and/or ought to be rejected outright on the very face of it or otherwise or at all. I deny that the prayers in the OA be made absolute. On the contrary, in view of the aforesaid facts and circumstances, I state and most respectfully submit that the OA be dismissed with costs.

6. In view of the aforesaid facts and circumstances, I respectfully submit that the present Original Application be dismissed with costs.



Solemnly affirmed at Mumbai)
This 21st day of July, 2023)

[Signature]

DEPONENT
Before me,

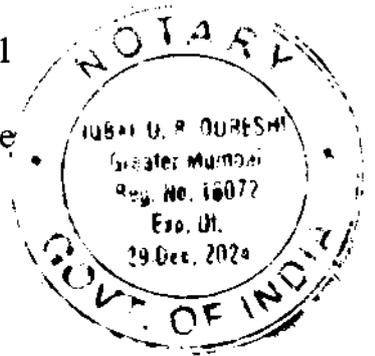


Identified by me,

[Signature: Farukh Desai]
Advocates for Respondent No. 3.

VERIFICATION

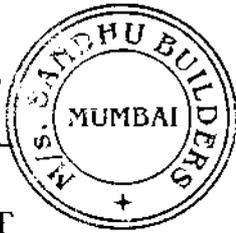
I, Dilersingh Sandhu, aged 39 years, of Mumbai, Adult Indian Inhabitant, partner of Respondent No. 3 abovenamed, having my office at 41 Pali Hill, Bandra (West), Mumbai-400 050, do hereby solemnly declare that what is stated in the foregoing paragraph 22 is based on the records maintained by Respondent No. 3 in the ordinary course of business and what is stated in the balance paragraphs 1 to 21 and 23 is based on legal advice and I believe the same to be true.



Solemnly declared at Mumbai)

This 21st day of July, 2023)

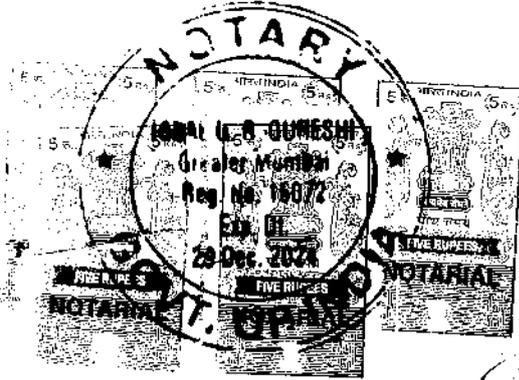
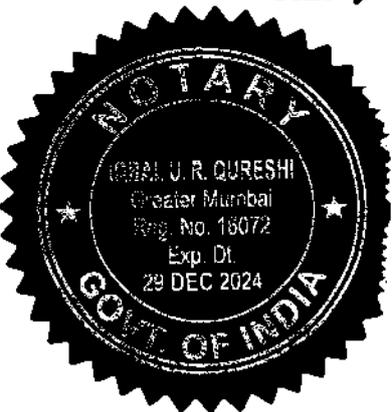
[Signature]
DEPONENT



Before me,

BEFORE ME

IQBAL U. R. QURESHI
NOTARY
Government Of India
Greater Mumbai Maharashtra
21 JUL 2023



Identified by me,

[Signature]
Advocates for Respondent No. 3

NOTED & REGISTERED
Sr. No. 2150 Page No. 113
Book No. 123 Date 21 JUL 2023

2023

BEFORE THE NATIONAL
GREEN TRIBUNAL SITTING AT
PUNE

APPLICATION NO. 54 OF 2017

BETWEEN :

Pratap Lal Teli ... Applicant

versus

Member / Secretary

State Level Environment

Impact Assessment

Authority and Ors.

... Respondents

**AFFIDAVIT IN SUR-
REJOINER ON BEHALF OF
RESPONDENT NO. 3 TO
REJOINER OF APPLICANT**

Dated this 21st day of July 2023

Parikshit Desai and Fawia
Misquitta

Advocates for Respondent No. 3

C/o. Himank Desai and Co.,

Chartered Accountants,

Office No. 2, Ground Floor, Gokul

Kunj building, opposite Bank of

India, Chitrakar Dhurandhar Marg,

Danpada, Danda, Khar (West),

Mumbai – 400 052.

Email :- PHdesai.84@gmail.com

Phone :- 98215 46105.

