



NGT-WESTERN ZONE BENCH PUNE <punengtwzb@gmail.com>

**Affidavit on behalf of R2 PMC listed on 27/09/2021 at serial no. 5 in cause list no.1
O.A.71/2020**

Admin MGK Legal <admin@mgklegal.com>

To: ngt-pune@gov.in, NGT-WESTERN ZONE BENCH PUNE <punengtwzb@gmail.com>

Sat, Sep 25, 2021 at 1:46 PM

Dear Sir

I apologize for not filing the english translated copy of the annexure with the affidavit.

All the contents of the annexure are referred to in the Affidavit as well therefore I request you to place the affidavit before the Hon'ble Bench for the hearing on Monday.

I am not going to refer to the contents of the Annexures during the course of argument.

Regards

Rahul Garg
Advocate
9970317467

[Quoted text hidden]

**BEFORE THE HONBLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO. 71 OF 2020 (WZ)**

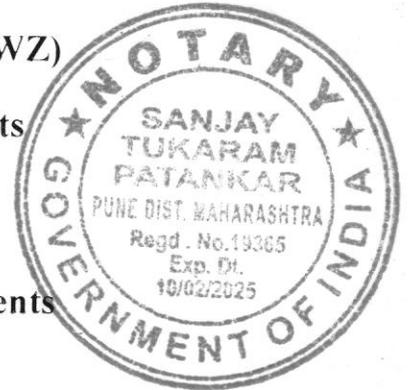
Sarang Yadwadkar & Ors.

...Applicants

Versus

Gokhale Landmarks LLP & Ors.

...Respondents



Affidavit on behalf of Respondent no. 2 Pune Municipal Corporation:

1. I, **Santosh Shreekrishna Tandale**, am Incharge of Drainage Department, Pune Municipal Corporation and I, **Bipin Shinde**, Executive Engineer, Building development department, zone 6 am competent to file say. I am filing this Affidavit on the basis of information given to me and documents made available to me.
2. I state and submit that this Affidavit has been filed by Respondent No. 2 PMC to bring certain facts on record and to respond to the Affidavit in reply of the Respondent No. 1 to the Committee report (Henceforth referred to for the sake of brevity as 'Committee Report Reply by R1').
3. I state and submit that I deny all the allegations made by the applicant in the original application as well as the 'Committee Report Reply by R1' in and failure to deny each and every allegation does not amount to admission thereof on part of this Respondent.
4. I state and submit that two incidents took place where the sewer line was damaged by the R-1 Gokhale Landmarks LLP. The first incident took place on 23/08/2019. The PMC officials immediately conducted a site visit to investigate the incident as soon as it was brought to their notice. During the site visit, it was observed that excavation was in progress for the purpose of new construction and the sewage line was threatened because the strata below the existing trunk line was of black cotton soil and there was no firm support for the trunk line. From the report submitted by the committee comprising PMC and MPCB at para 3 it is clearly stated that "PP has broken the chamber of the drainage line in the nallha." PMC issued a notice dated 26/08/2020 to R-1 Gokhale

Landmarks LLP for non compliance of the instructions given by PMC. During site visit conducted on 20/09/2019 it was observed that R-1 Gokhale Landmarks LLP had not repaired the damaged sewer line. Thereafter PMC suo moto commenced the repair work and it was completed by the R-1 and the drainage department was informed about the same by the R-1 vide a letter dated 15/11/2019.

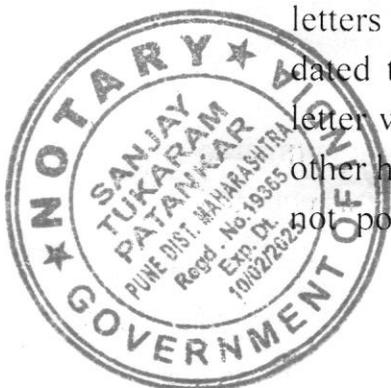
5. The second incident took place on 27/04/2020. The PMC officials also conducted site visit to investigate this incident as soon as it was brought to their notice. PMC instructed the R-1 to repair the trunk line and chamber which were damaged due to the constantly collapsing black cotton soil. Building permission department gave permission vide letter dated 30/04/2020 to R-1 to repair the damage sewer even during the covid19 lockdown period. Notices were issued u/s.52A and 53(1) of MRTP Act, 1966 to the R-1. In reply to the said notices R-1 informed the PMC that temporary repair work has been completed and to complete the remaining work it will take the R-1 2 or 2.5 months. Two letters dated 13/07/2020 and 28/07/2020 were issued to the R-1 instructing him to complete the repair work. Finally the R-1 informed PMC on 19/08/2020 that he has completed the repair work. After the sewer line was damaged for the first time on 23/08/2019, the R-1 should have exercised extreme caution and care during the ongoing construction activity to ensure that the sewer chamber is not damaged again. However the R-1 was negligent and careless during the construction process and the sewer chamber was damaged for a second time on 27/04/2020.
6. I state and submit that R-1 is repeatedly trying to create an impression that the sewer line was damaged due to lack of inspections by the PMC. The sewer line was damaged due to the actions of R-1 and not due to inaction by PMC. The report submitted by the committee comprising PMC and MPCB at para 3 clearly states that "PP has broken the chamber of the drainage line in the nallha." The drainage department of PMC is responsible for repairing sewer lines damaged in the course of natural wear and tear. However the R-1 is solely responsible when his actions lead to damage to the sewer lines.
7. I state and submit that respondent no.1 is repeatedly alleging that the existence of the sewer line passing through the construction site owned



by respondent no.1 was never revealed to them by the drainage department of PMC. This allegation carries no merit. I state and submit that about 70 meters of the sewer line which is 900 mm wide passes through the site owned by the R-1 Gokhale Landmarks LLP. There are two chambers of the sewer line which are clearly visible above ground level. Since the chambers are clearly visible above the ground the level R-1 Gokhale Landmarks LLP cannot claim that he was unaware of the existence of the sewer line. Thus, it is clear that R-1 Gokhale Landmarks LLP has always been aware about the existence of sewer lines. Hence the R-1 Gokhale Landmarks LLP cannot shift the blame on the Drainage Department of PMC.

8. I state and submit the R-1 is making a representation that they have borne the burden of repairing the damaged sewer line on both occasions. R-1 Gokhale Landmarks LLP is also alleging that PMC should have repaired the damage sewer line instead of R-1 Gokhale Landmarks LLP. I state that PMC is responsible for repairing and maintaining the sewer lines damaged in the natural course of wear and tear. In this case, R-1 Gokhale Landmarks LLP, and not the PMC, is duty – bound to repair the damage that they have caused. Eventhough the necessary labour was engaged by and paid for by the R-1 Gokhale Landmarks LLP, for repairing the damaged sewer line, I state that PMC provided instructions to the R-1 Gokhale Landmarks LLP regarding the repair work from time to time. The PMC also provided their full cooperation to the R-1 Gokhale Landmarks LLP for carrying out the repair work.

9. I state and submit that the R-1 is trying to mislead this Hon'ble tribunal by making far - fetched claims. The R-1 avers that he wrote two letters dated 26/08/2019. In one of the letters it is stated that the R-1 is ready to repair the damage sewer line. In the second letter bearing the same date i.e. 26/08/2019, the R-1 is claiming that he has already repaired the damaged sewer line. Thus the content of the two letters allegedly sent on the same date is contrary to each other. I submit that contents of both the letters cannot be true and one of the letters has been conveniently back dated to mislead this Hon'ble Tribunal. It is pertinent to note that one letter was received by the PMC on the same day i.e. 26/08/2019. On the other hand the second letter was received by the PMC on 15/11/2019. It is not possible that two letters sent on the same date by the R-1 were



received with a gap of several months between the two letters. This clearly shows that R-1 is trying to paint a false picture and mislead this Hon'ble Tribunal. A copy of the two contradictory letters sent by R-1 on 26/08/2019 is annexed herewith and marked under '**Annexure A**'.

10. I state and submit that since March 2020 India was under complete lockdown due to Covid19 pandemic. In light of this pandemic, a lockdown was imposed and all the ongoing development projects came to a complete standstill. In spite of the blanket ban on development projects the present R-1 was allowed to repair the damaged sewer line. Thus, PMC made an exception for the present R-1 in order to enable him to repair the damaged sewer line. Thus, considering the Covid-19 situation the PMC has acted appropriately and given permission to present R-1 to repair the damaged sewer line and thereby prevent further pollution and nuisance. A copy of letter dated 30/04/2020 addressed to the R-1 giving permission to repair damaged sewer line is annexed herewith and marked under '**Annexure B**'.
11. I state and submit that PMC instructed R-1 Gokhale Landmarks LLP to carry out repair work for second time vide letters dated 13/07/2020 and 28/07/2020. The R-1 claims that he never received letter dated 13/07/2020. This allegation is highly improbable and I submit that the R-1 is deliberately concealing the fact that they received the letter dated 13/07/2020.
12. I state and submit that according to Section 20 of the National Green Tribunal Act, 2010 (Henceforth referred to for the sake of brevity as 'NGT Act'), the Hon'ble Tribunal is required to apply the principles of sustainable development, the precautionary principle and the polluter-pays principle when passing any judgement or order. Section 20 of the NGT Act is reproduced below for ready reference:

Section 20. Tribunal to apply certain principles.

The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.

In practice, the polluter pays principle means that the entity responsible for causing the pollution must bear the costs associated with it. From the



report submitted by the committee comprising PMC and MPCB, at para. 3, it is clearly stated that "... observed that excavation at site was in progress for the purpose of new construction and during excavation there was threat to the existing trunk line / sewage carrying line passing through the premises of PP... PP has broken the chamber of the drainage line in the nallha which is outside the project opposite of Pashima Nagari CHS" Thus in the present application, the polluter is Respondent no.1 who also must bear the cost of the pollution caused by him.

13. I state and submit that the PMC has fulfilled its obligation as a local body under section 181 MMC Act, 1949. PMC issued notice under section 52A and 53(1) of MRTP Act, 1966 to the R-1 Gokhale Landmarks LLP. PMC made an exception in the case of present R-1 and allowed him to repair the damage sewer line even during Covid19 lockdown period. PMC has made numerous site visits to inspect the damage caused by the R-1. Thus, it is amply clear that PMC has acted responsibly and promptly. On the other hand the R-1 has twice damaged the sewer line thereby showing his reckless attitude towards the environment. He has also sent a back dated letter to PMC to create misleading impression. The R-1 Gokhale Landmarks LLP is trying to shift the responsibility of the pollution caused by them on the PMC by making false and misleading statements. Thus, according to the precautionary principle and the polluter pays principle, the R-1 Gokhale Landmarks LLP is responsible for the damage to the environment.



Santosh Shreekrishna Tandale

Incharge

Drainage Department,

Pune Municipal Corporation



Bipin Shinde

Executive Engineer, Building

Development Department, Zone 6,

Pune Municipal Corporation



VERIFICATION

I, I, **Santosh Shreekrishna Tandale**, am Incharge of Drainage Department, Pune Municipal Corporation and I, **Bipin Shinde**, Executive Engineer, Building development department, zone 6, Pune Municipal Corporation, do hereby state on solemn affirmation that what is stated in this Affidavit in paragraphs 1 to 13 is true and correct on the basis of documents and records available with me and information given to me.

Solemnly affirmed at Pune

Date: 24/09/2021

25 SEP 2021



Deponent/Affiant

Santosh Shreekrishna Tandale

Drainage Department,

Pune Municipal Corporation

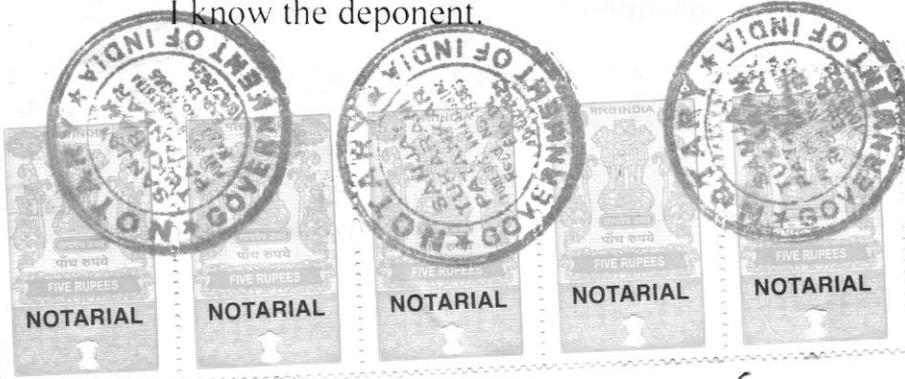
Bipin Shinde

Executive Engineer, Building

development department, zone 6,

Pune Municipal Corporation,

I know the deponent.



BEFORE ME
Advocate

SANJAY TUKARAM PATANKAR
NOTARY, GOVT. OF INDIA
PUNE DIST. MAHARASHTRA
Regd. No. 19365 Exp. Dt. 10/02/2025

25 SEP 2021



मा. कार्यकारी अभियंता,
मलनि:सारण देखभाल व दुरुस्ती विभाग,
पुणे महानगरपालिका.

विषय : मलनि:सारण पाईप लाईन स्थलांतरित करून मिळणेबाबत.

संदर्भ : सदर काम हे पुणे मन्पाचे आरक्षित पार्किंग चे आहे.

महोदय,

पेठ कोथरूड, प्लॉट नं. 6अ, सि.स.नं. 667, स.नं. 20/2 येथील आमचे स्वमालकीच्या मिळकतीमधून मलनि:सारण पाईप लाईन गेली आहे. सदर मिळकतीचे दि. 30.03.2019 रोजी सीसी/4121/2019 अन्वये मान्य झालेल्या नकाशानुसार विकसनाचे काम चालू आहे. सदर मलनि:सारण पाईप लाईन धोकादायक झालेली आहे. पाईप लाईन मधून होणारा पाण्याचा प्रवाह हा रूपा मोठ्या प्रमाणात आहे. कदाचित पाईप लाईन फुटण्याचीही शक्यता नाकारता येत नाही तसेच आमच्या मिळकतीच्या मागील बाजूस सदर पाईप लाईन चा चंवर पाण्याच्या प्रवाहामुळे व अतिवृष्टीमुळे नाल्यातील बाजूस फुटलेला आहे. सदरील चंवरची दुरुस्ती आम्ही आमच्या स्वखर्चाने करू. आमच्या मिळकतीमधून गेलेली पाईप लाईन चा मार्ग नाल्याच्या बाजूने वळविण्यास परवानगी मिळावी व ते काम आम्ही स्वखर्चाने करू. सदर मिळकतीमध्ये चालू असलेले काम हे पुणे मन्पाचे आरक्षित पार्किंग,चे आहे.

ठिकाण - पुणे

दिनांक - 26.08.2019

कळावे,

Mancha

मे. गोखले लँडमार्क्स एलएलपी करिता

मोबाईल नं. 9762077001, 7875714948, 8408992022

PS. 24/198
मलनि:सारण देखभाल व दुरुस्ती विभाग
पुणे महानगरपालिका



प्रति,

मा. कार्यकारी अभियंता,

मलनि:सारण देखभाल व दुरुस्ती विभाग,

पुणे महानगरपालिका .

विषय : मलनि:सारण पाईप लाईन व चेंबर दुरुस्ती केल्याचे कळविणेबाबत .

संदर्भ : आपले जा.क. 1134 दि. 26.08.2019 रोजीचे पत्र .

महोदय,

पेठ कोथरूड, प्लॉट नं. 6अ, सि.स.नं. 667, स.नं. 20/2 येथील आमचे स्वमालकीच्या मिलकतीमधून मलनि:सारण पाईप लाईन गेली होती. सदर झिडक्याचे मान्य झालेल्या नकाशानुसार विकसनाचे काम चालू आहे. सदर मलनि:सारण पाईप लाईन व चेंबर पावसाच्या पाण्याच्या अतिदावामुळे फुटला होता. सदर पाईप लाईन चा चेंबर पाण्याच्या प्रवाहामुळे व अतिवृष्टीमुळे जाळ्यातील वाजूस फुटलेला होता. सदरील चेंबरची व मलनि:सारण पाईप लाईनची दुरुस्ती आम्ही आमच्या रखरखीने करून घेतली आहे वशी पुणे महानगरपालिकेस कोणत्याही प्रकारची तोंडिस लागू दिली नाही. सदरील मलनि:सारणाच्या पाण्याचा प्रवाह हा सुस्थितीत चालू असल्याचे सदर पत्राद्वारे कळविते आहेत.

टिकाण - पुणे

दिनांक - 26.08.2019

कलावे,

मे. गोखले लँडमार्कस एटारनापी कार्यालय

मोबाईल नं. 9762077001, 7875714948, 8408992022

मलनि:सारण देखभाल व दुरुस्ती विभाग
पुणे महानगरपालिका

GOKHALE LANDMARKS

Gokhale House, Plot No. 6A, Peth Kothrud,

Scanned with CamScanner

पुणे महानगरपालिका ०१८३९



उपअभियंता कार्यालय
बांधकाम विकास विभाग
झोन क्र.६,
पुणे महानगरपालिका
जावक क्र.: शकन/३४५
दिनांक: ३०/४/२०२०.

मा. विशाल गोखले,
गोखले लॅडमार्कस, एलएलपी,
एरंडवणा, पुणे ०४.

यांसी ...

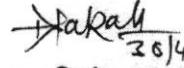
संदर्भ :- १. आपले दि. २९/४/२०२० रोजीचे पत्र.
२. दि. २७/४/२०२० रोजी कार्यकारी अभियंता मलनिःस्सारण विभाग,
जा.क्र. ५७, दि. २७/४/२०२० चे पत्र.

महोदय,

कोथरूड सिटीप्राईड थिएटर समोरील प्लॉट क्र. ६, स.नं.२०, कोथरूड या जागेमध्ये आपलेमार्फत पुणे मनपा पार्किंग हस्तांतर बांधकामासाठी पाया खोदाई पूर्ण झालेली आहे. सदर मिळकती मधील काळी माती असल्याने ती सतत ढासळून सदर मिळकतीमधून गेलेली मलनिःस्सारण विभागाची लाईन फुटून मलवाहिनी चे नुकसान झालेले दिसून येते. तसेच काही दिवसात पावसाळा सुरू होत आहे व खड्ड्यामध्ये पाणी साचून आरोग्यास धोका निर्माण होऊ शकतो.

आपले दि.२९/४/२०२० रोजी दिलेल्या विनंती पत्राच्या अनुषंगाने आपणास काम करणेबाबत परवानगी देत आहोत.

मा. स. कळावे.


२६/५
उपअभियंता कार्यालय
बांधकाम विकास विभाग
(झोन क्र.६),
पुणे महानगरपालिका