

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

I.A. NO. 478 OF 2024

IN

ORIGINAL APPLICATION NO. 710 OF 2023

**IN THE MATTER OF:**

SUSHIL RAGHAV

...APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS.

...RESPONDENTS

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Through



**RITWICK DUTTA**



**RAHUL CHOUDHARY  
ADVOCATE**

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Place:- Delhi

Dated:- 04.03.2025

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**PRINCIPAL BENCH AT NEW DELHI**

**I.A. NO. 478 OF 2024**

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**IN THE MATTER OF:**

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...RESPONDENTS

**AND IN THE MATTER OF:**

SHRI BRIJ RAJ SINGH

...APPLICANT

**REPLY ON BEHALF OF THE ORIGINAL APPLICANT IN THE  
ABOVE-TITLED ORIGINAL APPLICATION SEEKING  
IMPLEADMENT**

**MOST RESPECTFULLY SHOWETH:**

1. That the above-titled I.A. No. 478 of 2024 has been filed by the Impleader/Applicant seeking Impleadment in the Original Application No. 710 of 2023.
2. That the Answering Respondent is the Original Applicant in the above-titled Original Application wherein the main grievance raised is that illegal constructions such as road/pathway, industrial drain and other structures were being undertaken on the park earmarked at Rajendra Nagar Industrial Colony on G.T. Road Mile 8/7, Sahibabad, Ghaziabad by the Ghaziabad Municipal Corporation. The present I.A. No. 478 of 2024 has been filed by the Impleader/Applicant raising the grievance that the right of way of the Impleader/Applicant is being hindered from the actions of the authorities in the present Original Application.

3. That at the outset, the Answering Respondent denies all the contentions and averments made in the above-titled I.A. No. 478 of 2024 unless expressly admitted or are a matter of record. The Answering Respondent further reiterates that all facts and submissions made in the Original Application to be true and correct and same may be read as part of the instant Reply and are not being repeated for the sake of brevity.

**REPLY OF THE ANSWERING RESPONDENT TO I.A. NO. 478 OF 2024:**

4. That the Impleader/Applicant claims that a 30 ft wide path exists on the 'park' land and it was being used by them since 2004. The Answering Respondent submits that as per the approved map of the Rajendra Nagar Industrial Colony on G.T. Road, there is no 30-foot wide path that has been marked on the said map. Such road is a fictional road, and has been informally and illegally used by the industries facing toward the park land including the Impleader/Applicant.
5. That further, the Impleader/Applicant claims that the 2004 sale deed mentioned in Para 8, and Annexure A/3 of the above-titled I.A., also refers to the alleged road as below:

*"South-Colony Park/Road 10 ft. wide ..... side 18 feet"*

However, it is pertinent to note that nowhere in the submissions and official documents presented by the authorities during the course of the hearing in the above-mentioned Original Application, mention any kind of '30 feet road' that is legally present on the park land. All the authorities indicate the same concern that the industries have constructed an illegal road for transport purposes.

6. That the Affidavit submitted by the Chief Secretary, State of Uttar Pradesh at Page No. 273-274 dated 30.09.2024 state that:

"15. That the above-mentioned committee comprising of the Special Secretary, Urban development department, District Magistrate, Ghaziabad, Development Authority Ghaziabad and Municipal Corporation, Ghaziabad Nigam did a comprehensive survey/inspection of the site 22<sup>nd</sup> August 2024.

**It is also submitted during the site-visit, that the history of the land, Lay-out Map and District Magistrate's report dated 18.07.2024 were taken into account and a comprehensive report was submitted with the conclusion that-**

**A. Adjacent Factory owners have constructed a road on the park land, which has an area of 864 sq. mt.** In the original layout map, plots numbers 79 and 80 have been subdivided into small industrial plots and factories re running on that site. The factories which have opened their gates towards the park, are using this road to go to the main road. Apart from the above-mentioned route, they do not have an exit on the road (except the corner plot)."

7. That further, as per the status report dated 18.07.2024 annexed in the Affidavit submitted by the Chief Secretary, State of Uttar Pradesh dated 30.09.2024 at Page 289 states that:

"... The encroachment free land shown in Annexure-2 is 9940.8 sq yard (8311.8 sq. m) and 1033.6 sq. yard (864.2 sq. m) is being illegally used as a road by factory operators. ..."

8. That from the above, it is clear that the approved layout map of the Rajendra Nagar Industrial Colony on G.T. Road does not have mentioning of any '30 feet wide path', and it is the factories that have illegally used the alleged road on park land. It is submitted that the Impleader/Applicant ought to have constructed an alternative pathway in the land owned by them when the Sale Deed was created in 2004, as the Impleader/Applicant was aware about the land being a park land, as clearly mentioned in the Sale Deed. Further, the precedent on requirement of preservation of parks and open spaces are quite clear, as mentioned in subsequent paragraphs below.
9. It is submitted that Hon'ble Supreme Court vide order dated 19.03.1991 in **Bangalore Medical Trust v. B.S Muddappa [(1991) 4 SCC 54]** had held that the public interest in the reservation and preservation of

open spaces for parks cannot be converted to some other use. The relevant portion is reproduced below:

***"Protection of the environment, open spaces for recreation and fresh air, play grounds for children, promenade for the residents, and other conveniences or amenities are matters of great public concern and of vital interest to be taken care of in a development scheme. It is that public interest which is sought to be promoted by the Act by establishing the BDA. The public interest in the reservation and preservation of open spaces for parks and play grounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to some other user. Any such act would be contrary to the legislative intent and inconsistent with the statutory requirements. Furthermore, it would be in direct conflict with the constitutional mandate to ensure that any State action is inspired by the basic values of individual freedom and dignity and addressed to the attainment of a quality of life which makes the guaranteed rights a reality for all the citizens."***

10. That further, as per the Hon'ble Tribunal's order in ***Residents Welfare Association v. State of Haryana [2019 SCC OnLine NGT 2797]*** wherein through order dated 14.08.2019, it was held that green belts and parks based on approved master plan cannot be used for other purpose. The relevant portion of the order is reproduced below:

***"4. Green belts and parks developed based on approved Master Plan cannot be diverted for use of other purposes."***

11. That therefore, in light of the above-mentioned submissions, the Answering Respondent submits that there is no merit in the prayers of the Impleader/Applicant and is liable to be dismissed.

12) Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

  
APPLICANT

THROUGH



**RITWICK DUTTA**



**RAHUL CHOUDHARY**  
**ADVOCATES**

Counsels for the Applicant

N-73, Lower Ground Floor, Greater Kailash-i,

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Mobile no: 9312407881

Email: dclaw160@gmail.com

**Place: New Delhi**

**Date:03.03.2025**

**VERIFICATION:**

Verified by Sushil Raghav, s/o Shri Ratan Singh, aged about 39 years, R/o 226, Karkar Model Post, Sahibabad, Site-4, Ghaziabad that the contents of Paragraphs 1 to 12 are true to my personal knowledge and nothing material has been concealed therefrom.

  
APPLICANT

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
 PRINCIPAL BENCH AT NEW DELHI  
 I.A. NO. 478 OF 2024  
 IN  
 ORIGINAL APPLICATION NO. 710 OF 2023**



**IN THE MATTER OF:**

SUSHIL RAGHAV

... APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS.

... RESPONDENTS

**AFFIDAVIT**

I, Sushil Raghav, s/o Shri Ratan Singh, aged about 38 years, R/o 226, Karkar Model Post, Sahibabad, Site-4, Ghaziabad, do hereby solemnly affirm and declare as under:

- 3. That I am the Applicant in the above titled Original Application and conversant with the facts and circumstances of the case and competent to swear this affidavit.
- 4. That the contents of the accompanying Reply are true and correct and nothing material has been concealed therefrom.



*Raghav*  
**DEPONENT**

**VERIFICATION**

Verified on this \_\_\_\_ day of \_\_\_\_\_, 2025 that the contents of the present affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

**ATTESTED** 04/3/25  
 No. 17 Dated  
 Certified that Documents Affidavite Shri. *Sushil Raghav*  
 Identified By Shri. *Sushil Raghav*

*Raghav*  
**DEPONENT**

*P.K. Sharma*  
 Notary Ghaziabad  
 GOVT. OF INDIA  
 04/3/25

420



Litigation . &lt;litigation@dclawchambers.com&gt;

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**Copy of Reply to IA No. 478 & 480 of 2024 on behalf of the Applicant in OA No. 710 of 2023 Sushil Raghav Vs. State of Uttar pradesh & Ors.**

1 message

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**Litigation .** <litigation@dclawchambers.com>

Tue, Mar 4, 2025 at 12:04 PM

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Dear Sir/madam,

Please find attached-Copy of Reply to IA No. 478 & 480 of 2024 on behalf of the Applicant in OA No. 710 of 2023 Sushil Raghav Vs. State of Uttar pradesh & Ors.

Thanks & Regards  
Counsel for the Applicant

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**2 attachments**

 **Reply to IA 478 on behalf of Applicant.pdf**  
578K

 **Reply to IA 480 on behalf of Applicant.pdf**  
553K