

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH

ORIGINAL APPLICATION NO. 9 OF 2023

IN THE MATTER OF

BHARAT SEHRAWAT

...APPLICANT

VERSUS

DR. UMESH VERMA & ORS.

... RESPONDENTS

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S. Valurama

MS. SUDHA VERMA

H. NO. 4050, SECTOR-C, POCKET-4,

VASANT KUNJ, NEW DELHI-110070

RESPONDENT NO.2

DELHI

DATED: 15.02.2023

THROUGH

Muddassir Daiyyan
(Adv)

MUDDASSIR DAIYYAN

ADVOCATE

CH. NO. P-33, POST OFFICE LANE,

TIS HAZARI COURTS, DELHI-54

MOB. NO. 9818712378

E-MAIL: muddassir.daiyyan@gmail.com

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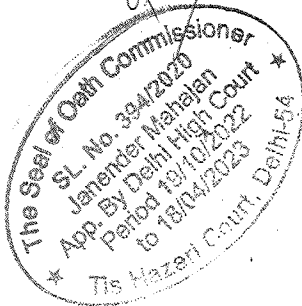
DR. UMESH VERMA & ORS.

... RESPONDENTS

**COUNTER AFFIDAVIT/REPLY ON BEHALF
OF RESPONDENT NO.2**

I, Sudha Varma D/o Late Prakash Narain Varma aged about 80 R/o H. No. 4050, Sector-C, Pocket-4, Vasant Kunj, New Delhi-110070, do hereby solemnly affirm and sincerely state on oath as follows:

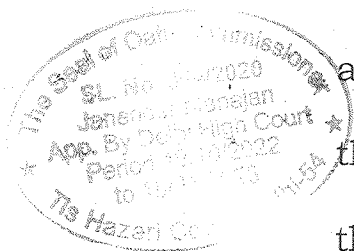
1. That the deponent is the respondent no. 2 in the above noted case and well conversant with the facts and circumstances mentioned in the present affidavit. The deponent have read and understood the contents of the copy of the above Petition and I have perused the documents annexed therewith, and as I am conversant with the facts and circumstances



of the present case, and I am competent to file the present Counter Affidavit.

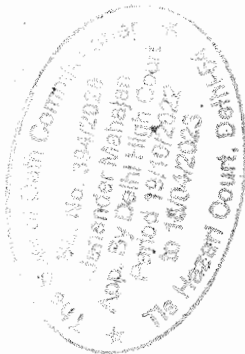
2. That the respondent no. 1 shall be arrayed from the complaint as he has nothing to do from the present complaint and the respondent no. 1 never reside in the suit property and presently residing at USA for past 10-12 years and is suffering from heart disease and other various ailments and he has gone through many surgeries therefore he can not travel to India and being falsely implicated in the present complaint just to harass the respondent no. 2 and her sister, who are residing alone in the suit property.

3. That I am residing at the above mentioned address alongwith my younger sister aged about 78 years, the DDA allocated the flat to the respondent no. 2 in the year 1992 to Ms. Sudha Varma and respondent no. 2 shifted the to above mentioned flat in the year 2000 after the gap of eight years and since then the



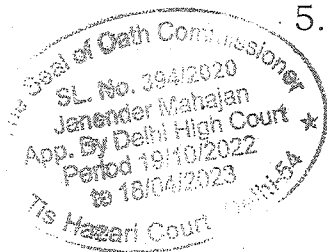
deponent and her sister is residing in the suit property and being senior citizen and physically disabled and walk through walker and also suffering from many ailments, the applicant filed the false and frivolous complaint before this Hon'ble Tribunal just to harass the old aged deponent and her sister.

4. That the deponent had filed the complaint against the applicant before MCD for unauthorized construction in DDA Flat No. C-4/4052, Sector-C, Pocket-4, Vasant Kunj, New Delhi-110070. The applicant was carrying out the unauthorized construction of one floor above the first floor, which is not permissible/allowed in the area due to the proximity to IGI Airport comes under Air Funnel through which Aircrafts land and take off, hence to prevent air mishaps, there is restriction of height by the DDA. The applicant/owner ignored the risk of air mishaps and carried out unauthorized construction of another floor above her first floor. It is submitted

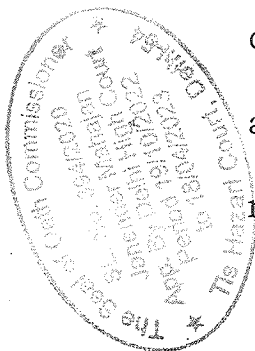


that the respondent no. 2 also filed the complaint against the applicant for carrying out the unauthorized construction to the Vice Chairman, Delhi Development Authority, Lieutenant Governor but no action has been taken till date then the applicant filed the false and frivolous complaint against the respondent no. 1 & 2, which is the counter blast of the complaint given by the deponent. The photocopy of the complaint alongwith receipts and a photograph of illegal and unauthorized construction are annexed herewith for the kind perusal of this tribunal and the same is annexed as **ANNEXURE-A (COLLY)**.

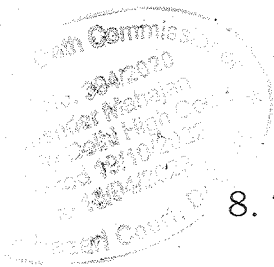
5. That the applicant's wife is serving as Deputy Commissioner MCD at Narela Zone, Delhi and she is misusing her position/power and pressurizing officials not to take any action on the complaint filed by the respondent no.2 against the unauthorized construction and encroachment at MCD on DDA space, and filed false, concocted and frivolous



complaint before the Hon'ble Tribunal and suppressed the material facts from this Hon'ble Tribunal by filing the same against the respondent no. 1 & 2. The applicant wants to grab the roof of the respondent no. 1 & 2 by constructing another floor and putting the lives of respondent no. 1 & 2 in danger by constructing another floor on the first floor of the flat No. C-4/4052 as the said flats are double story flats and the foundation of the flats is very old and can not carry the weight for two stories on it. But the applicant by constructing another floor over the first floor put an additional weight by constructing the second floor and the foundation of the flat is according to the DDA layout plan is not in position to bare the weight of second floor and after constructing the second floor the foundation may collapse at any time due to this additional weightage. The applicant misleads this Hon'ble Tribunal by not bringing the actual facts.

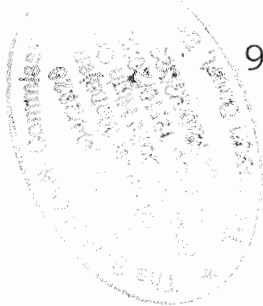


6. That the DDA allocated the said flat bearing no. 4050, Sector-C, Pocket-4, Vasant Kunj, New Delhi-110070 to the respondent no. 2 in the year 1992 and the respondent no. 2 shifted after the gap of eight years and in mean time the respondent no. 2 have no idea about any planter was there at the time the respondent no. 2 shifted and the flat is in the same condition which was allocated at that time.
7. That the applicant registered the false and concocted complaint for removal of tree/plants and encroachment of green area-Planter against the respondent no. 1 & 2. It is submitted that the respondent no. 1 never reside in the suit property and residing at USA for more than 12 years. The respondent no. 1 has wrongly impleaded in the complaint, who has nothing to do with the same.
8. That the respondent no. 2 never remove the planter from the said flat and is in the original condition when allocated to the respondent no. 2 in the year



1992 and the said flat lied vacant for more than 8 years. The respondent no. 2 never extended or constructed the boundary wall, the respondent no. 2 only fixed the grill on the boundary wall for security reason as the respondent no. 2 and her sister, who are senior citizens and are residing alone in the flat, the passer-by used to peep through the windows and sometimes used to drop the dirty things like cigarette butts from the window as the window does not close properly due to made of iron rods. The security has been increased due to grill installed/ fixed upon the boundary walls by the respondent no. 2 as no passer-by can easily jump up in the balcony and entered into the flat. The security of the applicant has also been increased by installing/ fixing the grill upon the boundary wall.

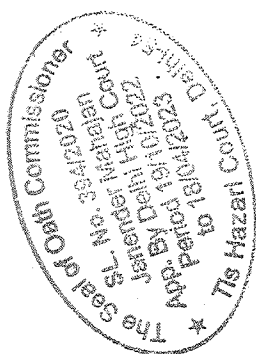
9. That the applicant is not having locus standi to file the present complaint and mislead the Hon'ble Tribunal by filing the false, concocted and frivolous



story. The only problem started alongwith the wife of the applicant who is serving as Deputy Commissioner and purchase the flat bearing no. C-4/4052, Sector-C, Pocket-4, Vasant Kunj, New Delhi-110070 in December 2022 and they started constructing additional second floor on the common roof area of both the flats bearing no. C-4/4050, Ground Floor, Sector-C, Pocket-4, Vasant Kunj, New Delhi-110070 and C-4/4052, First Floor, Sector-C, Pocket-4, Vasant Kunj, New Delhi-110070 and as per DDA rules no construction is allowed after first floor since the respondent no. 2 objected the unauthorized construction and informed them that the structure can not bear the additional burden/weight upon the foundation of the said flat is not in good shape and can not bare burden from that day they started harassing the respondent no. 2 and hence filed false, baseless complaint before this Hon'ble Tribunal. It is the applicant, who himself

without taking permission from the concerned authorities constructing the second floor and wants to grab the portion of the roof, which is of the respondent no. 2, the applicant could not take the advantage of his own wrongs and filed the present complaint, which is liable to be dismissed with heavy cost.

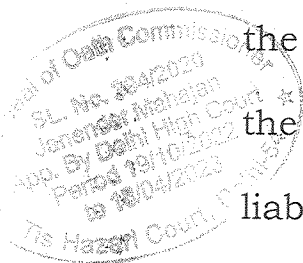
10. That the deponent and respondent no. 1 are environmental friendly and taking care of their flat and also planted the tree in front of their flat, the photo of the same is annexed herewith as **ANNEXURE-B**, the flat is in same conditions since it is allocated to the deponent and they have never changed the layout plan and residing peacefully, it is the applicant who purchased the property in December 2022 bearing no. C-4/4052, Sector-C, Pocket-4, Vasant Kunj, New Delhi-110070 and started unauthorized construction on the first floor as the deponent reported against the encroachment,



grabbing and unauthorized construction to Vice - Chairman, DDA and Commissioner MCD. The copies of complaints are already annexed as annexure-A thereafter applicant made this false, frivolous and concocted complaint to the National Green Tribunal and tried to misuse the Hon'ble Tribunal.

11. That the allegation made in the complaint of serious threat to the privacy and personal safety of the applicant is false and frivolous. The deponent only fixed the grill over the wall for the safety of the flat and had not encroached any area, the allegation of easy access to any anti-social element to climb on to the balcony is false and frivolous and concocted on the part of the applicant, hence the complaint is liable to be dismissed.

12. That the then some other persons purchase the suit property i.e. C-4/4052, Sector-C, Pocket-4, Vasant Kunj, New Delhi-110070 had done the illegal and



That in view of the facts indicated in earlier paras it is respectfully prayed that necessary directions be passed against the applicant and dismiss the complaint as the applicant filed the present complaint on false ground and have not appeared before this Hon'ble Tribunal with clean hands.



Any other order or direction, passed by this Hon'ble Tribunal in favour of the deponent and the respondent no. 1 and against the applicant.

Jaiyan
 Identified by *Jaiyan* who
 has Signed in presence
VERIFICATION

S. Varma
DEPONENT

I, the above named deponent do hereby verify that the contents of my above affidavit are true to my knowledge and belief. No part of it is false and material has been concealed therein.

Verified at Delhi on this **15 FEB 2023** day of February, 2023.

CERTIFIED THAT THE DEPONENT
 Name *Sudhakar*
 No. *20/1/1/2023*
 Filed by *M. D. Singh*
 I solemnly declare before me that the Content of the affidavit which is filed & exhibited is true.
15 FEB 2023
Jaiyan

S. Varma
DEPONENT

To,
The Commissioner
Municipal Corporation of Delhi

Sub: - Unauthorized Construction in Flat No. C - 4/4052 Sector C , Pocket 4, Vasant Kunj , New Delhi.

Sir ,

This is to bring to your kind notice that the owner of Flat No.- C -4/4052 , Sector C , Pocket 4 is carrying out unauthorized construction on the roof top of the first floor flat by way of construction of one room ,kitchen and bathroom after obtaining the permission of AE (South / Building) MCD.

I, may bring it to your kind notice that the entire C - 4 Pocket has only ground and First floor flats as the Pocket C -4 falls under AirFunnel through which aircrafts land and take off and therefore no construction by the DDA is allowed above First floor for smooth landing and takeoff of the aircrafts and to avoid any mishap during landing and takeoff.of the aircrafts.

In such a situation it is not understood as to how the MCD

Suo - moto has given permission to construct an entire floor above first floor taking risk of air mishaps .

In the year 2008, the owner of the flat Number C 4/4052 obtained the permission from AE (South/ building) MCD by misleading him but when the matter was brought to the notice of the then Hon'ble LG, the unauthorized construction was stopped at once on The orders of Hon"ble L G . as the construction was not permitted there above first floor level . Orders of Hon'ble. LG are enclosed herewith for ready reference.

In view of the above you are requested to issue instructions to immediately stop the construction and withdraw the permission given for unauthorized construction .

Thanking you,

Yours sincerely

S. Vam

(Sudha Varma)

C-4/4050 Vasant Kunj N. Delhi-110070

COPY to Vice-Chairman D.D.A

Encl Hon'ble LG orders

To , The Hon'ble L. G. Of Delhi
Rajniwas
Rajniwas Marg , Delhi

Sub :- Unauthorized construction in DDA Flat No. C - 4 / 4052 in Sector C , Pocket- 4 , Vasant Kunj. New Delhi

Sir ,

The owner of the flat No. C-4 /4052,
Sector C , pocket- 4, Vasant Kunj

New Delhi is carrying out unauthorized construction of one floor above her first floor flat although the construction beyond first floor is not allowed in this area as the Sector C.

Pocket- 4, Vasant Kunj, due to its proximity to IGI

Airport , Comes under Air Funnel through which Aircrafts land and take off and hence to prevent air mishaps, this restriction in height by the DDA

Inspite of this the owner used her influence ignoring the risk of Air-mishaps and carried out unauthorized construction of another floor above her first floor flat. (The photographs are attached)

In the year 2008 the then owner of the flat similarly tried to carry out unauthorized construction but when the matter was brought to the notice of the then Hon'ble LG , the unauthorized construction was stopped at once on the orders of Hon'ble L G as the construction was not permitted there above first floor.

Copy of Hon'ble LG are enclosed for the ready reference

In view of the above you are requested to issue orders to immediately stop the unauthorized construction, demolish the unauthorized construction already done and withdraw the the permission if given under influence and pressure .

Sir, I have to further pray that we are two sisters, senior citizens of 80 and 78 years of age living alone in our home. We want to spend our last few years in our home in Sunlight and natural air . We may be allowed to live that way and not compelled to go with people carrying out unauthorized construction.

Thanking You,

Yours Sincerely,


SUDHA VARMA

C- 4/ 4050. Vasant Kunj
New Delhi - 10070



ED235571445IN IVR:6968235571445
 SP VASANT KUMJ SO <110070>
 Counter No:2,12/12/2022,11:03
 To:THE COMMISSIONER,NEHRU MARG
 PIN:110002, Indraprastha HD
 From:SUDHA VARMA,C-4/4050
 Wt:26gms
 Amt:17.70(Cash)Tax:2.70
 <Track on www.indiapost.gov.in>
 <Dial 19002666868> <Wear Masks, Stay Safe>



ED235571437IN IVR:6968235571437
 SP VASANT KUMJ SO <110070>
 Counter No:2,12/12/2022,11:03
 To:DEPUTY COMMISSIONER,H644
 PIN:110016, Hauz Khas SO
 From:SUDHA VARMA,C-4/4050
 Wt:30gms
 Amt:17.70(Cash)Tax:2.70
 <Track on www.indiapost.gov.in>
 <Dial 19002666868> <Wear Masks, Stay Safe>







C.C. No.

FIR No.

U/S

P.S.

IN THE COURT OF Hon'ble National Green Tribunal, Principal Bench
 Original Appl. No. 09 JURISDICTION OF 2023
 Suit / Appeal No.

In re :-

Bharat Sehrawat

Plaintiff(s) Or Petitioner(s)
 Appellant(s) Complainant(s)

VERSUS

Dr. Umesh Verma & Ors.

Defendant(s) / Respondent(s) / Accused

KNOW ALL to whom these present shall come that I/ We Ms. Sudhe Varma D/o. Late Prakash Narain Varma R/o: H.NO: 4050, Sector - C, Pocket - 4 Vasant Kunj New Delhi - 110076
 The above named Respondent No: 2. do hereby appoint

Muddassir Daiyyan

Advocate

En. No. : D/74/2011, M-1337/DBA
 Ch. No. P-33, Nr. Post Office, Tis Hazari Courts
 Delhi-110054 Mob. 9818712378



(herein after called the advocate/s to be my/our Advocate in the a

To act, appear and plead in the above-noted case in this court or in any other court in which the same may be tried or heard and also in the appellate court including High court subject to payment of fees separately for each court by me/us.

To sign file, verify and present pleadings, appeals cross-objections or petitions for executions review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subject to payment of fees for each stage.

To file and take back documents, to admit and/or deny the documents or opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings on paying separate fee.

To deposit, draw and receive money, cheques, case and grant receipts hereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution on the said case.

To appoint and instruct any other Legal Practitioner authorizing him to exercise the power conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.

And I/ We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own facts, as if done by me/us to all intents and purpose.

And I/We undertake that I/ We or my/our duly authorised agent would appear in court and all hearings and will inform the Advocate for appearance when the case is called.

And I/We undersigned do hereby agree not to hold the advocate of his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the court shall be of the Advocate which he shall receive and retain for himself.

And I/We undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settle is only for the above case and above Court. I/We hereby agree that once the fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us

IN WITNESS WHERE OF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 15 day of February 2023
 Accepted subject to the terms of the fees

Advocate Muddassir Daiyyan
 Advocate

Client S. Varma Client

I Identify the Signature/Thumb Impression of the Below Mentioned Person,
 Who Has been Signed in my presence. The Client.