



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
M.A.No. 122/2024/PB
In
ORIGINAL APPLICATION NO. 258/2024/PB



In The Matter of:

Banibrata Mukherjee

... Applicant

Versus

State of West Bengal & Ors.

... Respondents

COMPLIANCE REPORT IN THE FORM OF AFFIDAVIT ON BEHALF
OF THE RESPONDENT NUMBER 02, KOLKATA MUNICIPAL
CORPORATION.

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07 JAN 2025

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Filed by

Sibojyoti Chakrabarti

SIBOJYOTI CHAKRABARTI

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For The Kolkata Municipal Corporation

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COMPLIANCE REPORT IN THE FORM OF AFFIDAVIT ON BEHALF OF
THE RESPONDENT NUMBER 02, KOLKATA MUNICIPAL
CORPORATION.

I, Sri Arup Sarkar, S/o Late Arabinda Sarkar, aged 50 years by
faith Hindu and by occupation-Service, presently posted as Executive
Engineer (Civil) Environment & Heritage Department, Kolkata
Municipal Corporation having office at 48, Market Street, Kolkata:
700087, do hereby solemnly affirm and submit as follows:-

1. That I am presently posted as the Executive Engineer (Civil)
Environment & Heritage department, Kolkata Municipal Corporation
having office at 48, Market Street, Kolkata: 700087, I am competent

Samir Bhattacharya
Notary Govt. of India
Regd. No. 940/97
City Civil Court, Calcutta

Solemnly Affirmed and
Declared before me U/S 139
CPC/U/S 297 (C) CRPC

7 JAN 2025

Notary



to swear and affirm this affidavit for and on behalf of myself and on behalf of the Kolkata Municipal Corporation.

2. That this Compliance Report in the form of Affidavit is being filed in compliance to the Solemn Order dated 29.11.2024 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi.

3. That in the said Solemn Order the Hon'ble Tribunal has been interalia pleased to direct the respondents to file the compliance report as per Solemn Judgment dated 16.05.2024, passed in O. A. No. 258/2024/PB by the Hon'ble Tribunal.

4. That in obedience and compliance to the above mentioned order it is submitted that the Environment & Heritage department and Building Department of the Kolkata Municipal Corporation respectively had submitted an Action Taken Report regarding restoration of waterbody which is situated at 139, Diamond Harbour Road near 321, Diamond Harbour Road, near to Behala Diamond Club, Ward Number 119, Borough Number XIII. That in the Action Taken Report submitted by the Environment & Heritage department, Kolkata Municipal Corporation the following observations have been made:

- (i) The site in question i.e 139, Diamond Harbour Road near 321, Diamond Harbour Road, near to Behala Diamond Club, Ward Number 119, Borough Number XIII was inspected on 09.07.2024 by the officials of the Environment & Heritage



Department, Building department of Borough-13, Kolkata Municipal Corporation, Municipal Commissioner, KMC and representative of the West Bengal Pollution Control Board.

- (ii) After receiving the complaint of illegal filling of the above mentioned waterbody this department inspected the site on 03.08.2021 and it was found that a portion of the water body filled up in comparison with NRSA (Aerial) map. As per the NRSA Aerial map the area of the water body is 850 Sqm out of which small portion in southern side has been filled up.
- (iii) Accordingly notice Under section 53 of the West Bengal Town and Country (Planning & Development) Act, 1979 was issued vide E & H/27/2021-22 dated 03.09.2021 and an F.I.R was lodged in Behala Police Station vide E&H/FIR/42/2021-22 dated 08.10.2021.
- (iv) Then as per Solemn Order passed by Hon'ble High Court, Calcutta in WPA (P) 230/2022 Smt Sumitra Mondal & Ors Versus Kolkata Municipal Corporation & Ors dated 28.11.2023 this department again issued notice for restoration of the water body at 139, Diamond Harbour Road, under section 53 of the of the West Bengal Town and Country (Planning & Development) Act, 1979
- (v) As the Owners namely Banibrata Mukherjee and Parthobrata Mukherjee did not restore the waterbody another F.I.R has been

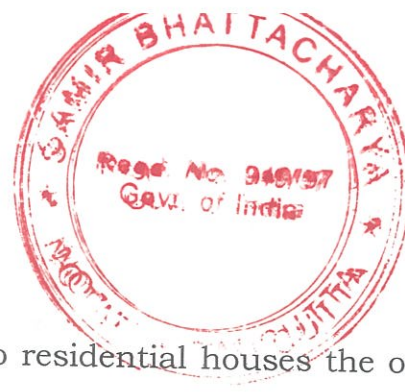


lodged by the E & H, Department, KMC vide E & H, FIR/66/2023-24 dated 21.03.2024 against its owners.

Photocopy of the Action Taken Report submitted by the Environment & Heritage department, Kolkata Municipal Corporation along with written complaints vide E&H/FIR/42/2021-22 dated 08.10.2021 and E&H/ FIR/66/2023-24 dated 21.03.2024 and Notices issued by the E & H, Department under section 53 of the West Bengal Town and Country (Planning & Development) Act, 1979 are collectively annexed herewith and marked with the letter 'R-1'.

5. That the Building department of the Kolkata Municipal Corporation has also inspected the site in question and has made the following observations :

- (i) During inspection it was observed that there exists a two storied residential building at the Eastern Side and another two storied residential building situated at the Southern Side of the pond near 321, Diamond Harbour Road, Ward number 119, Borough-XIII.
- (ii) That on the Southern Side of the pond in a small portion of a vacant land by the side of the road there is Behala Diamond Club in a ramshakled condition with 4 iron post in 4 corners and few rusted tins and already Building department of KMC has issued notice Under section 400(1) of KMC Act, 1980 against Behala Diamond Club.



(iii) That with regard to the other two residential houses the owner of the Southern side house submitted sanctioned building plan and the owner of the Eastern Side did not submit relevant documents and Building department issued letter to submit the same but it returned back and during inspection the occupants of the resident informed that the building was constructed approx. 20 years back.

Photocopies of the Sketch map and Inspection Report of the Building department are collectively annexed herewith and marked with the letter 'R-2'.

6. That recently as on 23.11.2024 photographs and sketch map have been submitted to the office of the District Magistrate, South (24) Parganas showing that the filled up portion of the pond in question has been removed the same has been restored by the Kolkata Municipal Corporation.

Coloured Photographs showing the condition of the pond before and after restoration are collectively annexed herewith and marked with the letter 'R-3'.

7. As the owner did not pay any heed to the Notice/FIR, the E&H Department restored the filled up portion (Hatched in Map) at its cost. Photographs before & after may be seen for reference. It is evident from the sketch that "Diamond Club Behala" is away from the waterbody. Moreover, at present Diamond Club has been dismantled.



8. That it is humbly submitted before this Hon'ble Tribunal may kindly be pleased to pass necessary Order/Orders as is deemed fit for the ends of justice and that the deponent has high regard to the Order/Orders passed by the Hon'ble Tribunal.

Arup Sarkar

Deponent



Identified by me

Sibojyoti Chakrabarti
Advocate
K.M.C. 07.01.2025



VERIFICATION:

I, the deponent within named, do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

Verified at Kolkata on the *7th* Day of January, 2024.

Arup Sarkar

Deponent



Identified by me

Sibojyoti Chakrabarti
Advocate
K.M.C. 07.01.2025

Samir Bhattacharya
Notary Govt. of India
Regd. No. 940/97
City Civil Court, Calcutta

7 JAN 2025

Solemnly Affirmed and
Declared before me U/S 137
CPC/U/S297 (C) CRPC

07.1.25 Notary

Re : Report regarding illegal filling of water body (Premises no. 139, Diamond Harbour Road near Premises no. 321, Diamond Harbour Road (Near Behala Diamond Club), Ward-119, Br.-XIII).

As per order of Hon'ble NGT dated 16/05/2024 (Original Application no. 258/2024) a joint inspection was held on 09/07/2024 in the above-mentioned site. The following officials were present at the time of joint inspection.

- 1) Municipal Commissioner
- 2) Representative of West Bengal Pollution Control Board.
- 3) Representatives of Building Dept. of KMC
- 4) Representative of Environment & Heritage Department of KMC

ATR of E&H Dept. of KMC

After receiving the complaint of illegal filling of above-mentioned waterbody, this dept. inspected the site on 03/08/2021 and it was found that a portion of the waterbody filled up in comparison with NRSA(Aerial) map. As per NRSA(Aerial) map, the area of the waterbody is 875.6399 Sqm. out of which approximately 5 Sqm in southern portion is filled up. Hence, a notice u/s 53 of WBTC(P&D) act 1979 was issued vide E&H/27/2021-22 dated 03/09/2021 and an FIR was lodged in Behala PS vide E&H/FIR/42/2021-22 dated 08/01/2022. Later on, as per order of Hon'ble High Court (WPA(P)/230/2022 SMT. SUMITRA MONDAL AND ORS.VS THE KOLKATA MUNICIPAL CORPORATION AND ORS) dated 28/11/2023 this dept. again issued a notice to restore the waterbody(139, Diamond Harbour Road) within 30 days u/s 53 of WBTC(P&D) act 1979 vide E&H/87/2023-24 dated 30/01/2024 against its owners(Banibrata Mukherjee and Parthobroto Mukherjee, s/o Late Debabrata Mukherjee of 321, Diamond Harbour Road). As the owner didn't restore the waterbody within stipulated time, an FIR was lodged in Behala PS vide E&H/FIR/66/2023-24 dated 21/03/2024 against its owners. Now if required, KMC may restore the waterbody by excavating the filled up portion (approx. 5 Sqm) and recover the cost from its owner.

Submitted please.

SAE
SAE/01/E24
27/11/2024

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Annexure R-1

Environment & Heritage Department
The Kolkata Municipal Corporation
48, Market Street, Kolkata: 700 087

Memo No.: E&H/FIR/42/2021-22

Dated: 08/10/2021

To,
The Officer-in-Charge,
Behala Police Station,
311, Diamond Harbour Road,
Choleshapur, Behala,
Kolkata: 700 034

Sub: FIR AGAINST ILLEGAL FILLING OF WATER BODY NEAR 321, DIAMOND
HARBOUR ROAD IN WARD NO. 119 UNDER BOROUGH XIV.

In reference to the complaint lodged before DG/E&H of KMC, this is to inform you that an illegal filling up of water body at the above mentioned premises is going on in violation of Section 53 of W.B. T & C (P&D) Act 1979 & 22 of West Bengal Inland Fisheries Act, 1993 (Amended).


Therefore, you are requested to take immediate action considering this as an FIR and provide us a Case Reference for further necessary action in this matter.


EE (C)/E&H

Exo Engg (C)
Environment & Heritage

Copy to: M.C.

1. Hon'ble Member Administrator (Environment) for kind information,
2. Dy. Director, Fisheries Department, 9A, Esplanade East, Kolkata - 700 069 - for information and necessary action please.
3. Executive Engineer (C)/Borough XIV - for information and necessary action please.
4. Addl. CP III, Kolkata Police Directorate, Lalbazar, Kolkata - 700 001 with a request to direct the local Police Station to take immediate measures as filling work is still going on.
5. DC, South-West Division, Tollygunge EF Lines, 555/557, D.P.S. Road, Kolkata-700033, with a request to direct the local Police Station to take immediate measures as filling work is still going on.


Exo Engg (C)
Environment & Heritage

Environment & Heritage Department
The Kolkata Municipal Corporation
48, Market Street, 3rd Floor,
Kolkata: 700 087

o/e



Memo No.: E&H/FIR/66/2023-24

Date: 21/03/2024

The Officer-in-Charge,
Behala Police Station,
311, Diamond Harbour Road,
Gholeshapur, Behala,
Kolkata: 700 034

Sub: FIR AGAINST ILLEGAL FILLING OF WATERBODY AT PREMISES NO. 139,
DIAMOND HARBOUR ROAD IN WARD NO. 119 UNDER BOROUGH XIII

In reference to the complaint lodged before DG/E&H of KMC, this is to inform you that an illegal filling up of water body at the above mentioned premises is going on in violation of Section 22 of West Bengal Inland Fisheries Act 1993 (Amended).

Therefore, you are requested to take immediate action considering this as an FIR and provide us a Case Reference for further necessary action in this matter.

Arup Sarkar
ARUP SARKAR
EE(C)/E&H
Exec. Engineer (C)
E & H Department
K.M.C.

Copy to:

1. PA to Hon'ble MIC (Environment & Bustee), KMC - for kind information please,
2. DC, South-West Division, Tollygunge EF Lines, 555/557, D.P.S. Road, Kolkata: 700 033 - for kind information please,
3. Addl. CP III, Kolkata Police Directorate, Lalbazar, Kolkata: 700 001 - for kind information please,
4. Dy. Director, Fisheries Department, 9A, Esplanade East, Kolkata: 700 069 - for kind information please,
5. DG/Environment & Heritage Department - for kind information please,
6. Dy. CE(C)/Environment & Heritage Department - for kind information please,
7. Executive Engineer (Building)/Borough XIII - for kind information and necessary action please,
8. Executive Engineer (C)/Borough XIII - for kind information and necessary action please.

Arup Sarkar
EE(C)/E&H
Exec. Engineer (C)
E & H Department
K.M.C.

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4
Anupam R-1

OFFICE OF THE ENVIRONMENT & HERITAGE DEPARTMENT
THE KOLKATA MUNICIPAL CORPORATION
48, MARKET STREET, KOLKATA: 700 087

Notice: E&H/27/2021-22
From: Executive Engineer (C)
Environment & Heritage Department

Date: 03/09/2021

To,
Person Responsible

Sir/Madam

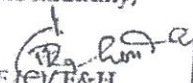
Sub: ILLEGAL FILLING OF WATERBODY NEAR 321, DIAMOND HARBOUR ROAD IN WARD NO. 119
UNDER BOROUGH XIII, IN CONTRAVENTION TO THE NOTIFICATION MADE UNDER THE
WEST BENGAL TOWN & COUNTRY (PLANNING & DEVELOPMENT) ACT, 1979.

It has come to the notice of the Kolkata Municipal Corporation that some development work has been undertaken by P/R or his/her agent including filling up of the wet land / Tank at aforesaid locality without obtaining permission from the Kolkata Municipal Corporation and in contravention of the provisions of the West Bengal Town & Country (Planning & Development) Act, 1979 and the notification issued there-under by Kolkata Metropolitan Development Authority.

Under the provision of the act, character of the existing land use should not be changed without obtaining permission from K.M.C. Under the circumstances, when he/she is filling a tank/low land at the above mentioned site, there is chance of violation the legal parameters enforced by the State Government and the local authorities and hence and have made himself / herself liable to be prosecuted under the provisions of the Act and notification issued by the Kolkata Metropolitan Development Authority under the West Bengal Town and Country (Planning & Development) Act, 1979.

Please, therefore, take notice under Section 53 of the said Act that unless he/she take action to restore the land to it's condition before the said development work took place within a period of seven days from the date of receipt thereof, proceedings in accordance with law will be taken against him/her without any further reference to him/her which please note.

Yours faithfully,


EE (C)/E&H
Exe Engr (C,
Environment & H
M C

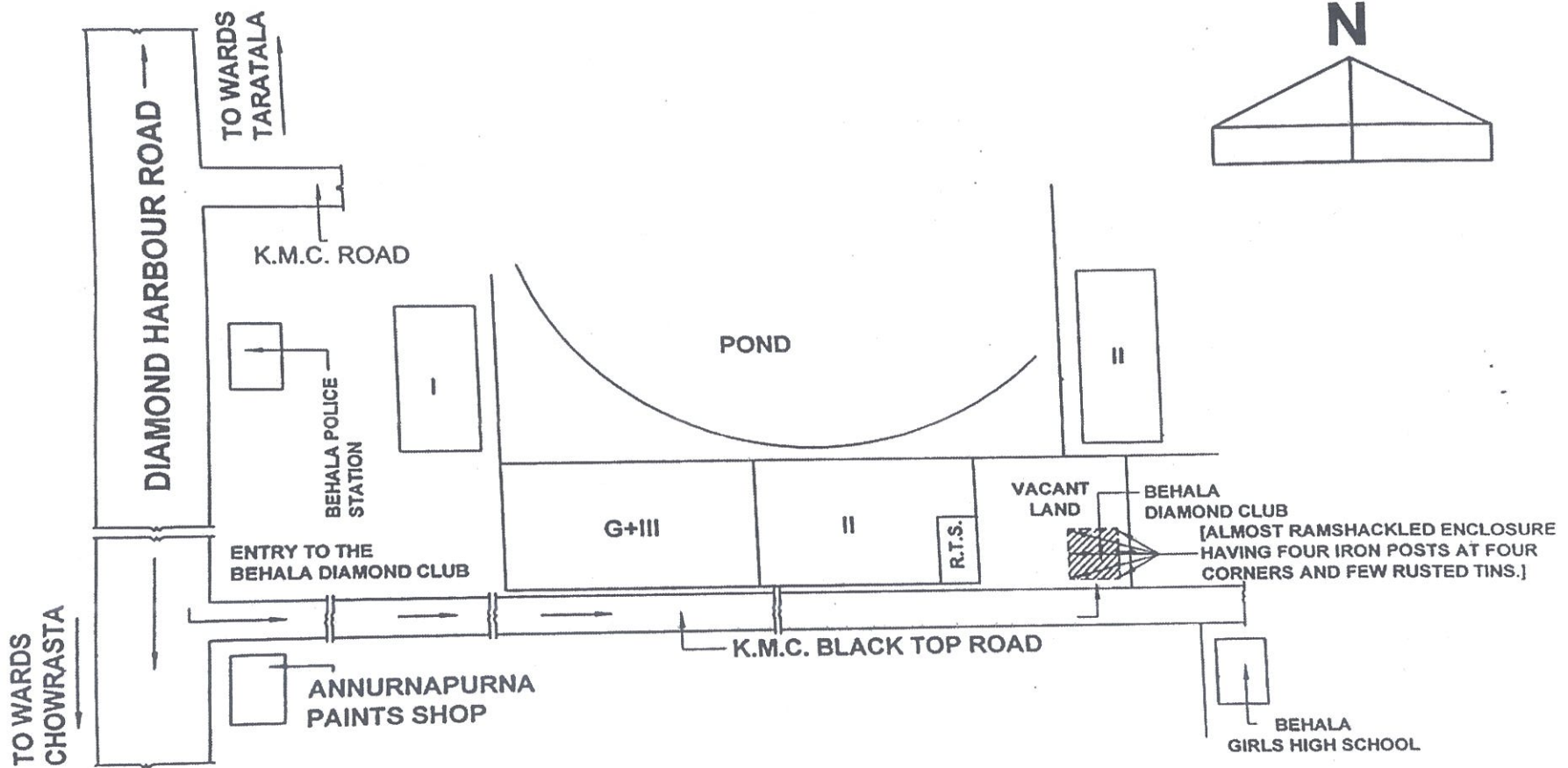
Copy forwarded to:

- i) PA to Chairperson, BOA, KMC,
- ii) P.A. to Mpl. Commissioner,
- iii) PA to Hon'ble Member Administrator (Environment),
- iv) DG (Building) for favour of information please,
- v) Executive Engineer (Br. XIII) for information and necessary action,
- vi) Chief Valuer & Surveyor, for information and necessary action,
- vii) Officer-in-Charge, Behala Police Station, Kolkata: 700 034, for information and necessary action,
- viii) DG/Environment & Heritage Department, for information and necessary action.

13-

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House - R-2



LOCATION PLAN SHOWING RELATIVE POSITION OF STRUCTURES/OBJECTS AROUND THE POND OBJECTS.
(NOT TO SCALE)

Re: Inspection report of Building Department carried out with other officials regarding illegal filling of water body at 321, Diamond Harbour Road (Near Behala Diamond Club), Ward-119, Br-XIII on 09/07/2024.

DG (E&H)

DG (B)

After receiving the copy of letter of Dy. Chief Engineer (Civil)/ E & H Department dated- 05/07/2024 duly forwarded by DG(B) (enclosed herewith), representatives of Building Department of Borough-XIII & XIV [EE(C), AE(C), SAEC] were present at the time of joint inspection at the captioned premises on 09/07/2024.

The other officials present at the time of joint inspection were-

- 1) Municipal Commissioner of K.M.C
- 2) Representative of Environment & Heritage Department of K.M.C
- 3) Representative of West Bengal Pollution Control Board.

During Inspection a reconnaissance was done of the entire location and as decided a location plan of the area (not to scale) is drawn showing the salient features around the pond. There exist a two storied residential building at the eastern side and another two storied residential building at the southern side of the pond.

On the southern side of the pond in a small portion of a vacant land by the side of the road there is Behala Diamond Club, which is in a ramshackled condition having four iron posts at its four corners and few rusted tins. It may be noted that Building Department has already initiated proceedings U/S 400(1) of K.M.C Act 1980 against this Behala Diamond Club.

As decided at the time of inspection Building Department enquired about the legality of the above mentioned two buildings which were constructed by the side of the pond. The owner of the southern side building has submitted the copy of a sanctioned building plan of a two storied building having B.P-2012130483, dt-08/12/12. But the owner of the eastern side building did not submit any relevant documents of the building, though building Department has issued letter to the owner to submit relevant documents, but the letter was returned back. At the time of joint inspection the owner/ occupier of this premises verbally informed that this building was constructed almost more than 20yrs back.

Now the report is placed for the perusal of higher authority.

Enclosure:

- 1) Intimation letter of Dy. CE/E&H Department for joint site inspection.
- 2) Location Plan showing relative position of structures/ objects around the pond.
- 3) Copy of sanctioned plan submitted by the owner of the southern side premises and Copy of the letter issued to the eastern side building which is returned back.

u. Farman
19/07/24.
Assistant Engineer(C)/B
Br- XIII & XIV

19/07/24
Executive Engineer(C)/B
Br- XIII & XIV

15

48 Amoy Lane - R-3

BEFORE



Time: 12-06-2024 12:45
File No. KMC-40013/5/2024-EN SECTION(KMC)-KMC (Computer No. 1080296)

Note: 321 diamond harbour

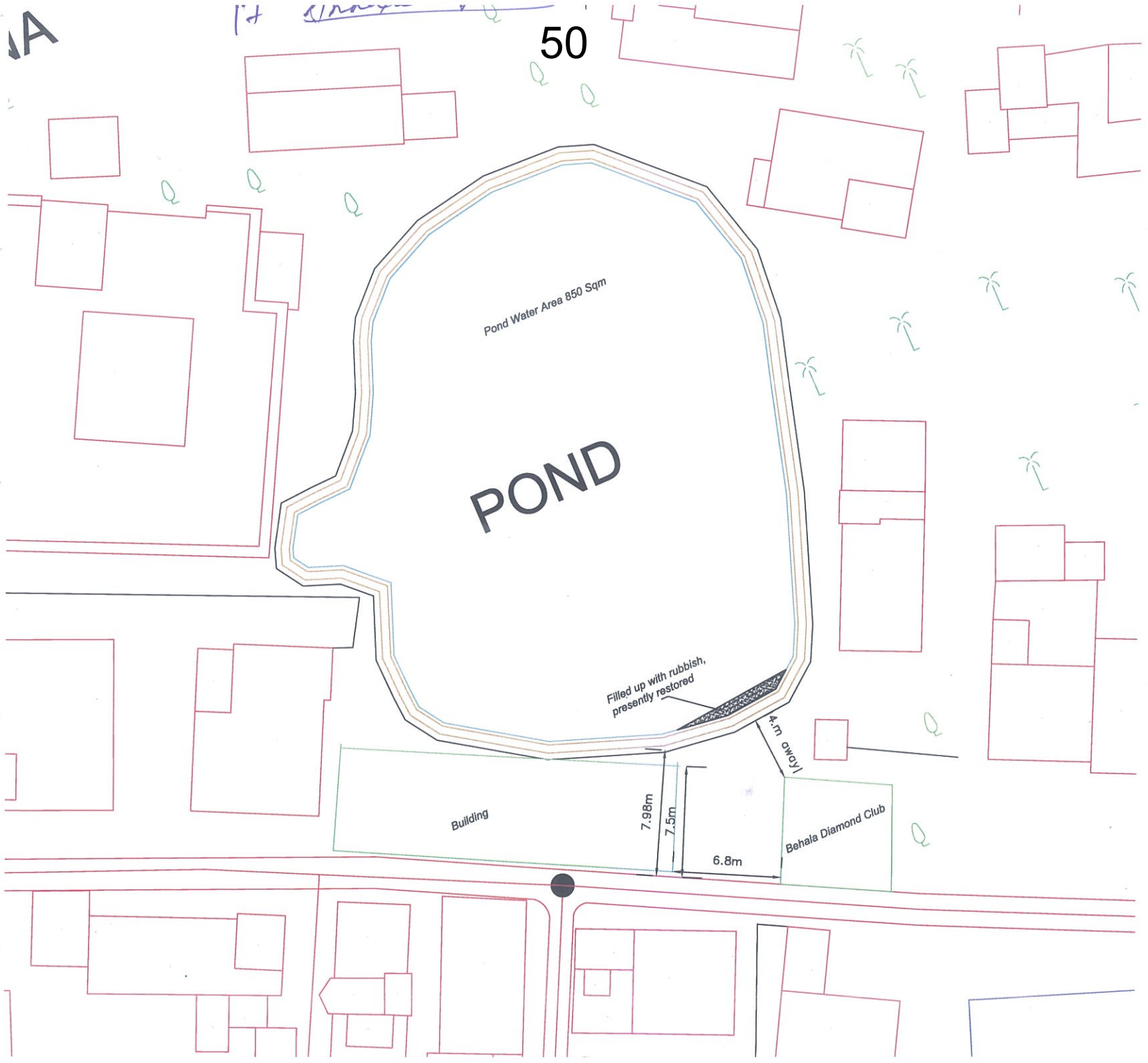
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Us-b