

BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 697 OF 2023

IN THE MATTER OF:

R.M. Asif

Versus

...Applicant

Rail Land Development Authority & Ors.

...Respondents

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THROUGH

  
APPLICANT

  
(B.S. BAGGA)  
ADVOCATE

Ch. No. 165, Lawyers Chamber,  
Block-I, Delhi High Court

Ph.9818717198

Email:[balvinderbagga@gmail.com](mailto:balvinderbagga@gmail.com)

Place: New Delhi

Date:14.12.2023

BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 697 OF 2023

**IN THE MATTER OF:**

R.M. Asif ...Applicant

Versus

Rail Land Development Authority & Ors. ...Respondents

**REJOINDER ON BEHALF OF THE APPLICANT TO THE  
“AFFIDAVIT FILED BY RESPONDENT NO. 1 RAIL LAND  
DEVELOPMENT AUTHORITY”**

**MOST RESPECTFULLY SHOWETH:**

1. The present Rejoinder is being filed by the Applicant to the Affidavit filed by the Respondent No. 1 Railway Land Development Authority (hereinafter referred to as “Affidavit”).
2. At the outset it is submitted that each and every averment, contentions and allegations made by the Respondent No. 1 in its affidavit are stated to be wrong and vehemently denied except those which are admitted expressly by the Applicant. It is submitted that the contents of the Original Application are reiterated and reaffirmed as being true and correct. It is submitted

that the contents of the Affidavit which are not admitted specifically hereinafter, may be deemed to have been denied by the Applicant.

3. Before proceeding with the Rejoinder to the Affidavit, it is submitted that there are certain preliminary submissions and objections that are necessary for the proper adjudication of the present Application. It is further submitted that the present Rejoinder is an addition to the contentions already raised by the Applicant in the Original Application the contents of which may be read as part and parcel of this Rejoinder and the contents of the captioned Original Application are not repeated here for the sake of brevity and to avoid repetition.

**PRELIMINARY SUBMISSIONS AND OBJECTIONS:**

1. The primary question that needs to be answered in the captioned Application is whether the 'State of NCT of Delhi' can bear the falling/cutting down of huge number of trees. The answer to the said question must be explored in the prevailing circumstances wherein the Air Quality Index of the National Capital is nothing less than a threat for living beings. Even the Respondent No. 1 has

affirmed that there are more than 1000 trees in the subject area. The entire affidavit of Respondent No. 1 is silent on this moot question.

2. The Respondent No. 1 has tried to justify its action of cutting down of more than 1000 trees in the garb of “alleged congestion” in Brijwasan Railway Station. It is an established position of law that the development has to be carried out on the principle of sustainable development. One does not need any special intellect to reject the fact that cutting down of more than 1000 trees can be justified under the garb of sustainable development. The said act will be direct threat to sustenance and therefore cannot be termed as sustainable development by any stretch of imagination.
3. The Respondent No. 1 has not come forward with the exact number of trees in the subject land and has in fact tried to mislead and prejudice this Hon’ble Tribunal by submitting half baked facts. The Respondent No. 1 has submitted that there are nearly 35 trees per acre in the subject land. However, the Respondent No. 1 has neither provided the supporting proof against the said submission nor has come clean with the exact number of trees.

4. The Respondent No. 1 has filed the objection under the untraceable terminology of “short affidavit”. It is submitted that the no law recognises any pleading with the said terminology. It is further submitted that no procedural law provides the liberty to any litigant to file pleadings in two invented parts i.e. ‘short reply’ and ‘detailed reply’. Accordingly, the Respondent No. 1 shall be restricted to the pleadings already filed.

**PARA WISE REPLY TO THE AFFIDAVIT:**

1. The contents of Para no. 1 of the Affidavit does not merit reply.
2. The contents of Para no. 2 of the Affidavit are false, wrong, baseless and hence denied and the corresponding submissions of the Application are reiterated and reaffirmed as true and correct. It is specifically and vehemently denied that the averments made in the Application are wrong. It is specifically and vehemently denied that the grounds in the Application are devoid of merits. It is submitted that the Affidavit have not even touched the grounds of the Application in the entire affidavit. It is submitted that the Affidavit is also silent as to how the environment can be possible compensated if more than 1100 trees are cut down.

3. In reply to the contents of Para No. 3 of the Affidavit it is submitted that the Respondent No. 1 has filed the objections/affidavit under the untraceable terminology of “short affidavit”. It is submitted that the no law recognises any pleading with the said terminology. It is further submitted that no procedural law provides the liberty to any litigant to file pleadings in two invented parts i.e. ‘short reply’ and ‘detailed reply’. Accordingly, the Respondent No. 1 shall be restricted to the pleadings already filed.
4. The contents of Para no. 4-5 of the Affidavit does not merit reply.
5. The contents of Para no. 6 of the Affidavit are false, wrong, baseless and hence denied and the corresponding submissions of the Application are reiterated and reaffirmed as true and correct. It is specifically and vehemently denied that the subject land is not a deemed forest. It is specifically and vehemently denied that the Original Application has been filed by a motivated or proxy litigant. It is specifically and vehemently denied that cutting down of 1100 trees will benefit the public at large. It is submitted that the Applicant does not have any personal interest in the present Application, the cause agitated by the Applicant is purely pro-bono

and for the benefit of environmental well-being. It is submitted that the Respondent No. 1 has tried to justify its action of cutting down of more than 1000 trees in the garb of "alleged congestion" in Brijwasan Railway Station. It is an established position of law that the development has to be carried out on the principle of sustainable development. One does not need any special intellect to reject the fact that cutting down of more than 1000 trees cannot be justified under the garb of sustainable development. The said act will be direct threat to sustenance and therefore cannot be termed as sustainable development by any stretch of imagination. Time and again this Hon'ble Tribunal and the Hon'ble Delhi High Court has passed orders to protect the trees and has further passed strict orders for the plantation of the trees. The subject Request for Proposal is in the teeth of the orders passed by this Hon'ble Tribunal and the Hon'ble Delhi High Court and is liable to be quashed.

6. That in reply to the contents of Para No. 7-8 of the affidavit it is submitted that in any case the subject land has approximately 1100 trees. It is an admitted fact that prevailing circumstances the Air Quality Index of the National Capital is nothing less than a threat

for human beings. The alleged Request for Proposal aims to heighten the said risk which very certainly cannot be anticipated by Google and the Google Earth Photograph relied upon by Respondent No. 1 does not have any significance.

7. The contents of Para no. 9 of the Affidavit does not merit reply.
8. That the contents of Para no. 10 of the Affidavit are admitted to the extent of record and rest of the contents are wrong, false, baseless and hence denied. It is specifically and vehemently denied that the subject area is not deemed forest. Even if the logical deduction of the Affidavit are considered to be true without adopting, there is a grey area as to *whether a subject land will be a deemed forest only if the entire patch consist of 100 trees per acre*. The said approach will be detrimental to the Environment and living beings the said conclusion has to be necessarily rejected.
9. That in reply to the contents of Para No. 11-13 of the Affidavit it is submitted that the Respondent No. 1 is relying on a clause of the Request for Proposal which is itself under challenge in the captioned Application. The moot question to be decided is whether the 'State of NCT of Delhi' can bear the falling/cutting down of

huge number of trees. The Respondent No. 1 has failed to justify the cutting down of trees and the only reason quoted is “alleged congestion”. It is submitted at the cost of repetition that the development has to be carried out on the principle of sustainable development. One does not need any special intellect to reject the fact that cutting down of more than 1000 trees cannot be justified under the garb of sustainable development. The said act will be direct threat to sustenance and therefore cannot be termed as sustainable development by any stretch of imagination.

10. That in reply to the contents of Para No. 14-15 of the Affidavit it is submitted that the said aspect can be investigated and affirmed by Respondent No. 2 and 3. It is respectfully submitted that taking the larger picture of “environment” in consideration the Respondent No. 2 and 3 shall be directed to verify the submissions raised by the Respondent no. 1 in the corresponding para of the Affidavit.

11. That the contents of Para No. 16 of the Affidavit are wrong, false, baseless and hence denied. It is specifically and vehemently denied that the alleged letter dated 10.03.2022 can bypass and supersede the ‘statutory obligation’ and ‘precedents’. It is submitted that as

per Section 2 of the FCA, no authority including the Respondent No. 1 can, without the prior approval of the Central Government, offer a forest land or a portion thereof to be used for any non-forest purpose. For this purpose a “prior approval” of the Central Government is necessary. In the facts of the present case, there is no prior approval of the Central Government for the use of subject land as mandated by Section 2 of the FCA. Therefore, the RFP issued by the Respondent no. 1 is directly in teeth of the judgment passed by Hon’ble Supreme Court of India in *Narinder Singh and others v. Divesh Bhutani and others reported 2022 SCC Online SC 899* and the Hon’ble High Court of Karnataka, affirmed by the Hon’ble Supreme Court of India in the case of *M/s Gateway Hotels And Gateway Resorts Limited, Bangalore v. Nagarahole Budakattu Hakku Sthapana Samiti, Virajpet Coorg District and other reported at 1997 SCC Online Kar 219*.

12. That the contents of Para no. 17 of the Affidavit are admitted to the extent of record and rest of the contents are wrong, false, baseless and hence denied. It is specifically and vehemently denied that the Affidavit filed by the Respondent No. 1 is based on true

facts. The Respondent No. 1 shall be put to the strict proof of the averments made herein.

It is submitted that contentions raised in Original Applications are reiterated and reaffirmed against corresponding submissions of the Affidavit, and are not repeated herein for the sake of brevity. It is submitted that the Respondent No. 1 shall be put to the strict proof of the averments made in the Affidavit. The contents of the prayer clause are specifically and categorically denied as wrong, incorrect and baseless.

#### PRAYER

It is therefore most respectfully prayed that having regards to the aforementioned facts and circumstances, this Hon'ble Tribunal may graciously be pleased to;

- (a) Hold that Request For Proposal No. RLDA/RFP/CD-85 of 2022 dated 19.12.2022 issued by the Respondent No. 1 for the combined plot MU4+MU5+MU6 Railway Land Parcel, admeasuring approximately 1,24,000 Sqm, situated along New Bijwasan Railway Station, Delhi under or any part of it

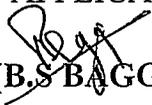
is forest land or deemed forest as violative of Section 2 of the Forest (Conservation) Act, 1980 and to further; and

(b) Quash the Request For Proposal No. RLDA/RFP/CD-85 of 2022 dated 19.12.2022 issued by the Respondent No. 1 and subsequent development/proceedings arising out of it as null and void.

(a) Pass any other appropriate order as this Hon'ble Court may deem fit.

THROUGH

  
APPLICANT

  
(B.S BAGGA)

ADVOCATE

Ch. No. 165, Lawyers Chamber,  
Block-I, Delhi High Court

Ph.9818717198

Email:[balvinderbagga@gmail.com](mailto:balvinderbagga@gmail.com)

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Rail Land Development Authority & Ors. ...Respondents

AFFIDAVIT

I, R.M. Asif s/o Raja Umar Khatab aged about 24 years r/o House no. 1547, Govindpuri, New Delhi 110029 do hereby solemnly affirm on oath and declare as under:

1. That I am the Applicant in the captioned Application and conversant with the facts and circumstances of the present case and hence I am competent to swear the present affidavit.
2. That the accompanying Rejoinder has been drafted under my instructions and is based on the records obtained from public domain and personal information of the Applicant. I have gone through and understood the contents therein.



3. The contents of the present Rejoinder may be read as part of this affidavit as the same are not being repeated herein for the sake of brevity.

*[Signature]*  
DEPONENT

**VERIFICATION:**

I, the abovenamed Deponent, do hereby solemnly affirm and declare that the contents of paragraphs 1 and 2 of the foregoing affidavit are true to and correct to my knowledge as derived from the information available in public domain and nothing material has been concealed there from.

22 DEC 2023

I identified the Deponent who has signed/thumb impression before me

verified at New Delhi on this 22 day of December, 2023.



CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS SEEMED PERFECTLY TO UNDERSTAND AFFAIRS. DEPOSED BEFORE ME AT NEW DELHI  
*[Signature]*  
DEPONENT  
B-S. Bagga  
IDENTIFY THE DEPONENT WHO HAS SIGNED IN MY PRESENCE  
VINOD KUMAR TIWARI, Advocate, Reg. No. 21416/2020  
NOTARY PUBLIC (NEW DELHI)

22 DEC 2023

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