

BEFORE THE NATIONAL GREEN TRIBUNAL AT PRINCIPAL BENCH, NEW
DELHI

EXECUTION APPLICATION NO 48/2023

IN
ORIGINAL APPLICATION NO 427/2023 (IA NO 873/2023)

IN THE MATTER OF

ASHOK CHANDRA GAUTAM

...DECREE HOLDER/APPLICANT

VERSUS

GOVERNING BODY MEMBERS OF PIYUSH HEIGHTS RESIDENTS WELFARE
ASSOCIATION & ORS

...JUDGMENT DEBTORS

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FILED BY:



DECREE HOLDER/APPLICANT

THROUGH



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PLACE: NEW DELHI

DATE: 6-5-2024

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REJOINDER ON BEHALF OF DECREE HOLDER/APPLICANT TO THE REPLY
FILED BY RESPONDENT NO.1 TO 16

MOST RESPECTFULLY SHOWETH:

1. That the present Rejoinder is being filed in response to the Reply filed by Respondent no 1 to 16, to the Execution Application preferred by the Applicant seeking Execution of assurances and commitments made by the District Town Planner, Faridabad and Judgment Debtor/Respondent No 18 in Join Factual and Action Taken Report (registered as M.A No 65/2023 in O.A No. 296/2023) based on which this Hon'ble Tribunal passed an Order dated 25.08.2023 thereby disposing both the O.A No 427/2023 and O.A 296/2023.
2. That the contents of the Execution Application shall be read as part and parcel of the present Rejoinder and the same are not reiterated herein for the sake of brevity. The present Rejoinder supplements the assertions made in the Execution Application and shall be read conjointly with the Execution Application and not to the contrary.

3. That it is most respectfully submitted that all the allegations and assertions made in the Reply by the Respondents are vehemently denied. The Applicant states that no statement made in the Reply is admitted, or should be deemed to be admitted, for the mere want of specific non-transverse.
4. That the Applicant also craves leave of this Hon'ble Tribunal to file further submission and/or documents as maybe necessary through the course of these proceedings.

PRELIMINARY OBJECTIONS

1. That the present Execution Application has been filed by the Applicant seeking execution of Joint Factual and Action Taken Report (registered as M.A No 65/2023 in O.A No. 296/2023) by the District Town Planner, Faridabad and Judgment Debtor/Respondent No. 18, based on which this Hon'ble Tribunal passed an Order dated 25.08.2023 thereby disposing both the O.A No 427/2023 and O.A 296/2023.
2. At the outset it is submitted that Mr. Bijender Singh who has signed the reply & affidavit on behalf of Respondent no.1 to 16 is without any authority. It is pertinent to mention that the day on which he signed the reply & affidavit on 24.2.2024 he was not president of Piyush heights Residents Welfare Association, Sector 89 Faridabad but he has knowingly represented himself as president of Piyush Heights Resident Welfare Association and therefore, he has sworn a false affidavit before this Hon'ble Tribunal. Accordingly, Hon'ble Tribunal may give direction to initiate appropriate action against Mr. Bijender Singh under Section 340 CrPC read with section 195 and under sections 191 to 193 of Indian Penal code may be initiated.
3. That the District Registrar of Society, Faridabad had appointed Administrator Mr. Satyavir on 20.2.2024 as the term of the governing body members of Piyush heights Residents welfare Association ended on 19.2.2024. A Copy of the Order dated 20.2.2024 of the District Registrar appointing the administrator for Respondent no.1 is attached herewith as **Annexure-A-1**.

4. That the said Administrator was Mr. Satyavir was also removed by the State Registrar of society Haryana from the post of Administrator for acting in collusion with the Ex - governing body members of Respondent no. 1. A Copy of the Order dated 21.3.2024 passed by the State Registrar of Society Haryana is attached herewith as **Annexure-A-2**.
5. That it is evidently clear that knowingly and deliberately Mr. Bijender Singh has falsely represented himself as the president of Piyush heights Residents welfare Association while signing the reply and Affidavit on 24.2.2024 on behalf of the Respondent no.1 despite end of his term as president on 19.2.2024. The action of Mr. Bijender Singh clearly shows his casual approach for indulgence in illegal activities. This is a fit case wherein proceedings against Bijender Singh should be initiated for signing false affidavit before this Hon'ble Tribunal.
6. The whole reply of the Respondents no. 1to 16 is to justify the construction of illegal structure in the green area on the basis of crowd support theory which is without any legal basis and against the principle of Rule of Law. The respondent no. 1to 16 need to understand that the country is run by the rule of law and provisions of the statute and not the interest of the crowd. Respondents no. 1 to 16 believe that if large number of persons indulge a crime/illegal activity it is justified because of sheer number of persons involved in the illegal activity. Going by this understanding large number of Tax evaders or traffic rules violators should not be penalized because it has been committed by large number of people. Involvement of large number of persons in illegal activity cannot legalize and illegal action.
7. That the Respondents no.1to 16 are trying to take shelter behind the crowd politics to get waiver from their illegal action which can set a dangerous trend for justifying any illegal action. Moreover, the list of persons shown as supporter of construction of illegal structure on the green area is unauthenticated and bogus. Large number of signatory show as supporters of illegal structure on the green areas is either non-members or tenants.
8. That the Respondents no. 1 to 16 have not presented a single legal basis on which can show that the Illegal structure on the green area of Piyush Heights is legal and

justified. The Respondents no.1 to 16 are taking a very casual approach towards the deliberate illegal action of encroachment and construction of illegal structure on the green area of the Piyush heights housing society.

9. That the Respondents no. 1 to 16 have failed to state in their reply that the project of Piyush heights sector 89 Faridabad is incomplete and is without completion certificate and therefore owner of the project is Builder (Piyush Buildwell). Accordingly Respondents no. 1 to 16 has no authority and power to construct any illegal structure on the green area of Piyush heights. Moreover the Respondents no.1 to 16 also does not have power to make any application before District Town Planner Enforcement Faridabad for modification of the master plan of Piyush heights residential project and thereby approve the illegal construction on the green area of Piyush heights by the Respondents no. 1 to 16.
10. That the Respondents no. 1 to 16 have clearly acted in clear breach of the order dated 10.5.2023 of District Town Planner, Enforcement, Faridabad regarding restoration of the Green area of Piyush heights. It may be noted that at that point and time (10.5.2023) the construction of the illegal structure was only as the very initial stage. Despite the said order dated 10.5.2023 the Respondents no.1 to 16 continued with the construction of the illegal structure and now they are requesting this Hon'ble tribunal and the District Town Planner to approve their illegal action. This evidently show the *malafide* mindset of respondent no.1-16 who are evidently trying to take benefit of their own mistake.
11. That if the illegal action of the Respondents no.1 to 16 goes unpunished it shall set a bad example and will further embolden the respondent no.1 to 16 to further indulge in similar illegal activities and later request for approval of the same on the basis of fictitious crowd support. It will give wrong idea to the other nearby residential societies to indulge in encroachment of the green area for one or the other reason. Therefore, this dangerous trend will dent the principle of Rule of Law and hence needs to be curbed immediately.

12. That the Respondents No. 1 to 8 were not authorized to give reply to the present Execution Application in their capacity. It is submitted that the Respondent No. 1(PWRA) was dissolved and the Administrator was appointed to represent the Respondent No.1 to 8.
13. That, after the order was passed, Respondents No. 1 to 16 had submitted the representation/ application for regularization of temple duly supported with the survey plans & area details and accordingly Respondent's Society Association re submitted the application dated 29.12.2023 to the Senior Town Planner which was marked as ANNEXURE R-2 @ Page No 6 of the Reply by District Town Planner.
14. That the documents submitted by the RWA, Piyush Heights were examined by the office of Senior Town Planner, Faridabad and subsequently the report along with representation of RWA were forwarded by Senior Town Planner, Faridabad to the Office of Director, Town & Country Planner Haryana Chandigarh with request for taking a decision for composition of the existing temple building in Piyush Heights, Sector 89- Faridabad vide office memo dated 08.01.2024 which was marked as ANNEXURE R-3 @ Page No 7 of the Reply by District Town Planner.
15. The Authorities despite taking actions to comply with the directions passed in Order dated 24.08.2023, kept delaying the process by imposing the work to another authority.
16. That this process of delaying further can be inferred from the fact that when this Hon'ble Tribunal passed the order dated 22.12.2023 whereby Notice was issued to the Respondents, the Deputy Commissioner had directed the Senior Town Planner Faridabad and Regional Office Faridabad to submit joint factual action Report dated 12.01.2024 which was marked as ANNEXURE R-1 in factual report filed by the Haryana State Pollution Board.
17. Consequently, the Deputy Commissioner, Faridabad has issued a letter dated 09.02.2024 to the District Town Planner, Enforcement, Faridabad and requested to

take necessary action on said matter as per the directions issued by the Hon'ble National Green Tribunal.

18. After the District Commissioner *vide* Letter dated 09.02.2024 addressed to the District Town Planner, Enforcement, Faridabad requested to take necessary action as per directions of Hon'ble Tribunal. The District Town Planner, ignorant of its duties, did not take any action to comply with the directions issued by this Hon'ble Tribunal.
19. That the Senior District Town Planner had intentionally failed to take actions. It is submitted that when the directions were issued by this Hon'ble Tribunal *vide* its Order dated 25.08.2023, the Senior Town Planner did not take any action despite the directions by this Hon'ble Tribunal and forward the report to the Director for the composition of the illegal structure. Thereafter, when the notice was issued to the Respondents in the present Execution Application, the Deputy Commissioner had directed the Senior Town Planner Faridabad and Regional Office Faridabad to submit a joint factual action Report dated 12.01.2024. Consequently, the Deputy Commissioner, Faridabad has issued a letter dated 09.02.2024 to the District Town Planner, Enforcement, Faridabad and requested to take necessary action on said matter as per the directions issued by the Hon'ble National Green Tribunal. Therefore, it can be inferred that the Senior Town Planner despite the directions issued by this Hon'ble Tribunal kept delaying the process and being ignorant of its duties kept moving around the documents.
20. It is submitted that it is the admitted position by the Respondents No. 1 to 16 that the temple constructed by the residents in the open area, measures around 136 sq. metres after full and final consideration, including alleged protrusion of 40 sq.m. into the green area, which is 0.12% of the total green area of the society. With respect to the area reserved for 'green belt/park', it has been repeatedly held by Hon'ble Supreme Court that such spaces cannot be changed to residential or commercial use.

21. That the Hon'ble National Green Tribunal, Special Bench in case titled as Girja Shankar Rai & Ors vs State of Uttar Pradesh & Ors, OA/165/2021 had made observations concerning the green belt/park in Paras 18 and 19:

18. *In Lal Bahadur v. State of UP & Others, (2018)15SCC407, change of master plan and converting green area into residential one was considered. The issue was, whether such conversion is conducive to protection of the environment or not. In the master plan of 1995 of Lucknow, area in dispute was reserved as green belt. In master plan 2021, the same area, shown earlier as green belt, was converted as residential. This part of master plan 2021 was challenged before Lucknow bench of Allahabad High Court. Writ petition was dismissed. The matter came in appeal before Supreme Court. Court held in para 12 of judgment that change of area from green belt to residential is in violation of Article 21, 48A and 51A(g) of the Constitution. Reliance was placed on Bangalore Medical Trust v B.S. Muddappa & Others, (1991)4SCC54, wherein Court had said that protection of environment, open spaces for recreation and fresh air, playground for children, promenade for the residents and other conveniences or amenities are matters of great public concern and a vital interest to be taken care of in a development scheme. Public interest in the reservation and preservation of open spaces for parks and playgrounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to some other use. Court also relied on an American Supreme Court Judgment Agins vs. City of Tiburon, [447 us 255 (1980)], wherein Court said: '... it is in the public interest to avoid unnecessary conversion of open space land to strictly urban uses, thereby protecting against the resultant adverse impacts, such as pollution, destruction of scenic beauty, disturbance of the ecology and the environment, hazards related geology, fire and flood, and other demonstrated consequences of urban sprawl'.*

19. *In para 15, Court said that, "This Court had clearly laid down that such spaces could not be changed from green belt to residential or commercial one. It is not permissible to the State Government to change the parks and playgrounds contrary to legislative intent having constitutional mandate, as that would be an abuse of statutory powers vested in the authorities. Court*

also observed, when master plan was prepared earlier and authorities found importance of such space, it was their bounden duty not to change its very purpose when they knew very well the importance of this place to be kept as open space. Court said,

"The importance of park is of universal recognition. It was against public interest, protection of the environment and such spaces reduce the ill effects of urbanisation, it was not permissible to change this area into urban area as the garden/ Greenbelt is essential for fresh air, thereby protecting against the resultant impacts of urbanization, such as pollution etc. The provision of the Act of 1973 and other enactments relating to environment could not be permitted to become statutory mockery by changing the purpose in the master plan from green belts to residential one. Authorities are enjoined with duty maintain them as such as per doctrine of public trust."

PARAWISE REPLY:

1. That the contents of the Para 1 of the Reply are false, vexatious and hence denied. It is submitted that a substantial question of law relating to the environment had been raised by the Applicant in OA/427/2023 concerning the construction of Temple in Green Belt area which is in violation of the Environmental law. It is settled law by the Apex Court that with respect to the area reserved for 'green belt/park', it has been repeatedly held by the Hon'ble Supreme Court that such spaces cannot be changed to residential or commercial use.
2. That the contents of the Para 2 are part of the formal pleadings and on merits needs no reply.
3. That the contents of the Para 3 of the Reply are false, and hence denied. It is submitted that the construction in any area reserved for Green Belt/ Park is in violation of the law. Further, it is noted that the Green Belt/Park in the society are for the people living in the Society. Henceforth, this issue in the Execution Application is of the Public Interest.

4. That the contents of the Para 4 to 7 are denied except the details of number of flats and area measurement which are matter of record and hence needs no reply.
5. The content of para 8 to 10 are without any legal basis and hence denied. The illegal structure on the green area cannot be compounded under the provisions of the non-applicable laws. The respondent no. 1 to 16 are trying to somehow delay the execution of the order dated 25.08.2023, by making application to the District Town Planner, Faridabad which is without any legal basis. Moreover, under no circumstances a support of large number of persons to a illegal activity can make it legal as it is contrary to the principle of Rule of Law. Moreover, the Signature shown in support of the temple is unauthenticated and bogus. Further bare perusal it reveals that that most of the signatory are either non-member or tenant.

It is also important to submit that the Piyush heights project is incomplete and the builder (Piyush Buildwell) is the owner of the project and therefore the Respondent no. 1 to 16 have no authority whatsoever to make any application before the District Town planner, Faridabad or other govt. authorities for modification of the master plan of Piyush heights or request for compounding the construction of illegals structure on the green area of Piyush Heights sector 89 Faridabad.

6. That the contents of the Para 11 are false, vexatious and hence denied. It is submitted by the Applicant that the said illegal structure has been deliberately constructed by the Judgment Debtors/Respondents No 1 to 16 in the Green area of Piyush Heights despite they were very well aware of the previous order dated 03.01.2020 passed in Appeal No 114/2019. Furthermore, in lieu of the same Order dated 03.01.2020 the demolition of earlier illegal construction of School on the same open space/green area was carried out in the presence of Judgment Debtors/Respondents No 1 to 16.
7. That the contents of the Para 12 are false, vexatious and hence denied. It is submitted that present execution application was filed in lieu of the order dated 24.08.2023 passed by this Hon'ble Tribunal in OA/427/2023 where certain assurances for the demolition of illegal structure submitted by the District Town Planner and Judgment Debtor/Respondent No. 18 in Joint Factual and Action Taken Report(registered as

MA/65/2023 in OA/296/2023) based on which Hon'ble Tribunal had passed an Order dated 25.08.2023 thereby disposing the OA/427/2023.

8. That in response to the prayer of the Respondents No 1 to 16, It is submitted that the prayer of the Respondents No 1 to 16 is vexatious, frivolous and hence should not be granted to the Respondents No 1 to 16.

PRAYER

It is most humbly prayed that this Hon'ble tribunal be graciously pleased to:

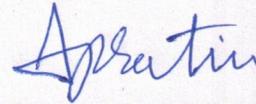
- a) Allow the present execution application of the Applicant/Decree Holder and take necessary actions against the Respondents for non-compliance of the directions of this Hon'ble Tribunal passed in Order dated 25.08.2023.
- b) Direction for appropriate action against Mr. Bijender Singh for signing the reply and affidavit on behalf of respondent no.1 to 16 and falsely representing himself as president of Respondent no.1 without any authority .
- c) Pass any other order / direction as deemed fit and proper in the given facts and circumstances.

FILED BY:



DECREE HOLDER/APPLICANT

THROUGH



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(Counsel for the Decree Holder)

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PLACE: NEW DELHI

DATE: 6-5-2024

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VERSUS

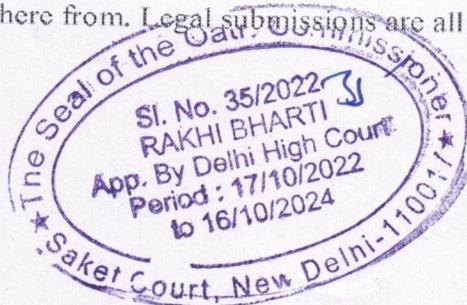
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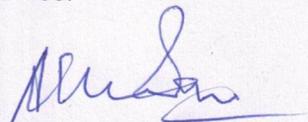
...JUDGMENT DEBTORS

AFFIDAVIT

I, Ashok Chandra Gautam aged 74 years, S/o Sh. Roop Ram, R/o L-913, Piyush Heights, Sector-89, Faridabad, Haryana-121002, presently at New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the Decree Holder in the captioned matter and as such I am fully conversant with facts of the present case and hence, I am competent to swear the present affidavit.
2. That the contents of the accompanying Rejoinder be read as part and parcel of the present affidavit and the same are not being reproduced here for the sake of the brevity and in order to avoid prolixity.
3. That the contents of the accompanying Rejoinder has been drafted under my instructions which are true and correct to the best of my knowledge and belief and the same are not reproduced herein for the sake of brevity and in order to avoid prolixity.
4. I state that I have pursued the accompanying Rejoinder and nothing material has been suppressed or concealed there from. Legal submissions are all based on Legal advice.




DEPONENT

VERIFICATION

I, the Deponent above named, do hereby verify that the contents of paras 1 to 4 of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.

06 MAY 2024

Verified at New Delhi on this the _____ day of May, 2024

[Handwritten Signature]

DEPONENT

I identify the deponent who has signed in my Presence

06 MAY 2024



Certified That the Deponent

Shri/Smt. *[Signature]*
S/o, W/o, D/o. Shri. *[Signature]*
R/o. *[Signature]*
Identified by Shri. *[Signature]*
has solemnly affirmed before me at New Delhi
On that The contents of this affidavit
which has been read over & explained to him are true
& correct to his knowledge.

Oath Commissioner, New Delhi



OFFICE OF THE
DISTRICT REGISTRAR OF SOCIETIES FARIDABAD
Office: - District Industries Centre, Neelam Chowk, NIT, Faridabad (PH. 2412199)

ORDER

Whereas it has come to the notice of this office that the election in the society Piyush Heights Residents Welfare Association, Sector-89, Faridabad was conducted on 20.02.2022 and as per Bye-Laws of the Association the tenure of the Governing Body of the Association is of 2 years. So, it is clear that the tenure of the Governing Body of the Association expired on 19.02.2024. Although, the election of the Governing Body of the Association is scheduled for 17.03.2024 and the undersigned office has already deputed Commander Satyavir Singh (Retd.) Indian Navy as the Returning Officer to conduct the Scheduled election Under Section 39(11) of the Haryana Registration and Regulation Act, 2012.

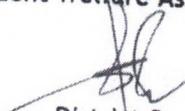
Hence, in exercise of powers conferred under Section- 39(10),(11) of the HRRS Act, 2012, I, hereby appoint Commander Satyavir Singh (Retd.) Indian Navy as Administrator-Cum- Returning Officer to manage the day to day affairs of the society till the completion of election of the Governing Body of the Association as per election schedule and to conduct the election of Governing Body of Piyush Heights Residents Welfare Association, Sector-89, Faridabad and to ensure the conduct of the election of the Association as per scheduled election process and as per HRRS Act, 2012.

Dated: 20.02.2024.
Endst.No.DRS/FBD/ 588

District Registrar of Societies
Faridabad
Dated:- 20/2/2024

A copy is forwarded to the following for information and necessary compliance:

1. The Commander Satyavir Singh (Retd.) Indian Navy, Administrator-Cum-Returning Officer Piyush Heights Resident Welfare Association, Sector-89, Faridabad.
The Governing Body, Piyush Heights Resident Welfare Association, Sector-89, Faridabad.


District Registrar of Societies,
Faridabad

(Issued by the orders of State Registrar of Societies, Haryana)

From Regd. Post/Email

State Registrar of Societies, Haryana,
Department of Industries & Commerce,
30 Bays Building, Sector-17, Chandigarh.

To

- 1. Rajesh Ranjan r/o Flat No.H114, Piyush Heights, Sector 89, Faridabad. **.....Appellant**
- 2. Sh. Apratim Animesh Thakur, Advocate, Counsel for appellant. Email: apratimanimesh@gmail.com

V/s

- 1. Piyush Heights Residents Welfare Association, Sector 89, Faridabad.
- 2. Satyavir Singh, Returning Officer, Returning Officer-cum-Administrator r/o A1/1503, Mapsko Casa Bella, Sector 82, Faridabad.
- 3. Bacha Chaubey, Assistant Returning Officer r/o D-1012, Piyush Heights, Sector 89, Faridabad.
- 4. District Registrar, Firms & Societies, Faridabad.
- 5. Sh. Vaibhav Narang, Advocate, Counsel for the applicants namely Bijender Singh & Brijesh Verma. (Filed application for impleading) **.....Respondents**

Memo No.SROS/Appeal case of Piyush Heights RWA/FBD/
Dated Chandigarh the

Subject:- Appeal No.25 of 2024, case of Piyush Heights RWA, Faridabad filed by Sh.Rajesh Ranjan u/s 79 of the HRRS Act, 2012.

I am directed to enclose herewith a copy of order dated 21.03.2024 passed by the State Registrar of Societies, Haryana for information and compliance.

Encl: As above.

for State Registrar of Societies, Haryana

Through E-mail/Regd.

Endst.No.SROS/ Appeal case of Piyush Heights RWA/FBD/ 2685-A Dated: 22/03/24

A copy is forwarded to the District Registrar, Firms & Societies, Faridabad, for information and immediate compliance by delivering this communication to the all concerned immediately.

Encl: As above.

for State Registrar of Societies, Haryana

BEFORE THE STATE REGISTRAR OF SOCIETIES, HARYANA,
30 BAYS BUILDING, SECTOR-17, CHANDIGARH

Appeal No.25 of 2024

Rajesh Ranjan r/o Flat No.H1114, Piyush Heights, Sector 89, Faridabad.

.....Appellant

Versus

Piyush heights Residents Welfare Association, Faridabad & Others.

.....Respondents

Present through Video Conferencing:-

Appellant:-

1. Sh. Apratim Animesh Thakur, Advocate, counsel for appellant.
2. Sh. Rajesh Ranjan, appellant in person.

Respondent:-

1. Sh. Satyavir Singh, Administrator, respondent no.1 & 2.
2. Sh. Bacha Chaubey respondent no.3.
3. Sh. Himanshu, Legal Assistant O/o District Registrar, Firms & Societies, Faridabad, for respondent no.4.
4. Sh. Vaibhav Narang, Advocate, Counsel for the applicants.

The present appeal has been filed by the appellant under section 79 of the Haryana Registration & Regulation of Societies Act, 2012 (HRRS Act, 2012) against the order dated 14.03.2024 passed by the District Registrar, Firms & Societies, Faridabad. The appellant has prayed to set-aside the impugned order dated 14.03.2024 passed by the District Registrar, Faridabad. The appellant has further

Piyush Heights Residents Welfare Association, Faridabad

Page 1



prayed to decide the voter list as per section 20(2) of the HRRS Act, 2012 and till then immediate stay the election schedule and remove the Administrator and Returning Officer as they are collusion with the Ex-Governing Body members has been clearly highlighted and his biasness is evident .

2. That aggrieved with the impugned order dated 14.03.2024 passed by the District Registrar, Faridabad, the appellant has filed the instant appeal on the various grounds/facts as mentioned in the appeal. The grounds/facts of the case mentioned in the appeal are taken on record.
3. That consequent upon the filing of appeal, the notice was issued to the parties to plead their case. The case was listed for hearing on 21.03.2024. At the time of hearing, the appellant and respondents were present and the detailed submissions made by the parties were heard.
4. That the Administrator-cum-Returning Officer has made the written reply in response to the appeal, the contents of which are taken on record.
5. That from perusal of the record/documents, contents of the appeal, impugned order, Reply and after hearing the submissions made by the appellants and respondents, the following observations are made:-
 - 5.1 That during the course of arguments, it is observed that the tenure of the Governing Body was going to an end, thus, the Governing Body in the GBM dated 03.12.2023 decided to conduct the election of the association on 18.02.2024. Accordingly, the outgoing Governing Body released the election schedule on 16.12.2023 and appointed Sh. BB Choubey as Returning Officer to



conduct the election and further extended the date for renewal and new membership applications till 25.12.2023.

- 5.2 That one Sh. Anil Kumar Singh filed a petition before the District Registrar against the Returning Officer appointed by the Governing Body. Subsequently, the said Returning Officer submitted his resignation and the District Registrar vide order dated 08.01.2024 appointed the Administrator to conduct the election of the Governing Body by modifying the election schedule so published by the then RO.
- 5.3 That thereafter Administrator published the list of 435 voters on 15.01.2024 which was received from the outgoing Governing Body, giving 15 days time to inviting objections, if any, on the list. The Administrator states that many grievances were received from the members including the petitioner, related to voter list and last date for clearing dues, which were heard on 31.01.2024 but none attended the hearing. The Administrator on the request of the members who were present in the hearing, extended the date for clearing the dues. Later on clearing the dues by the members, finally the list of members reached at 526 as stated by the Administrator and the Administrator again published the list schedule on 25.02.2024.
- 5.4 That it is pointed out that changing of election schedule from time to time by the Administrator is plain mockery of the HRRS Act, 2012 as there is no provision to change the election schedule time and again. From the record submitted by the Administrator, it is very much clear that the modified schedule, which was published on 15.02.2024 was faulty as it does not give a member sufficient time period for submitting any objection as specified under the Act. It transpires that



the Administrator could not perform his duties as per the provisions of the HRRS Act, 2012. During the course of hearing, the Administrator could not give any satisfactory reply as to when was the final voter list published.

- 5.5 That the District Registrar in his order dated 14.03.2024 has stated that the election schedule was published on 15.01.2024, however, he further stated that additional 15 days and 7 days were also given by the Administrator-cum-RO for receiving the objections. It is not understood that under what statute the said extensions were given.

In view of the above, the case is remanded back to the District Registrar, Faridabad with a direction to take action under section 39 (6) & (7) and enquire the matter related to voters list thoroughly by going through all the relevant record of the Society and determine the list of eligible members to vote, make it public and set election process in motion strictly as per section 39(8) of the HRRS Act, 2012.

Additionally, as the present Administrator has failed to perform the duties as observed above, the District Registrar is also directed to appoint another Administrator in place of present Administrator for conducting election strictly in accordance with the provisions of the HRRS Act, 2012.

The appeal along with pending application are also disposed off accordingly.

Orders be communicated to the concerned.

Place: Chandigarh
Date: 21.03.2024



(Manish Kumar Lohan)
State Registrar of Societies, Haryana

Piyush Heights Residents Welfare Association, Faridabad

BEFORE THE NATIONAL GREEN TRIBUNAL AT PRINCIPAL BENCH, NEW
DELHI

EXECUTION APPLICATION NO 48/2023

IN
ORIGINAL APPLICATION NO 427/2023 (IA NO 873/2023)

IN THE MATTER OF

ASHOK CHANDRA GAUTAM

...DECREE HOLDER/APPLICANT

VERSUS

GOVERNING BODY MEMBERS OF PIYUSH HEIGHTS RESIDENTS WELFARE
ASSOCIATION & ORS

...JUDGMENT DEBTORS

APPLICATION FOR CONDONATION OF 47 DAYS DELAY IN FILING THE
REJOINDER ALONG WITH AFFIDAVIT

MOST RESPECTFULLY SHOWETH:

1. That the Applicant/Decree Holder has filed the accompanying Rejoinder to the Reply by Respondents No 1 to 16. The contents of the accompanying Rejoinder may kindly be read as part of the instant application as well as the same are not being reproduced here for the sake of brevity.
2. That the present Application has been preferred by the Applicant seeking a condonation of delay in filing of the Rejoinder as there has been a delay of 47 number of days in filing of the Rejoinder before this Hon'ble Tribunal.
3. That the delay in filing of the Rejoinder has not been caused due to the wilful default of the Applicant/Decree Holder. The delay is attributable to the fact that the Applicant was not well. The Associate of the Applicant's Counsel met with an accident and had surgery in the left leg.

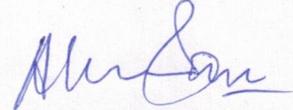
4. That the instant Application is being filed *bona fide* and in the interest of justice. It is submitted that grave prejudice and irreparable injury would be caused to the Applicant/Decree Holder if the relief prayed herein in the present Application is not granted. Further, the balance of convenience is in favour of the Applicant/Decree Holder and the Applicant/Decree Holder has a *prima facie* case.

PRAYER

UNDER the circumstances stated above it is, therefore in the interest of justice most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to:

1. Condone the delay of 47 days in filing of the Rejoinder by allowing the present Application; and
2. Grant such other or further relief which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case may also be granted to the Applicant/Decree Holder.

FILED BY



DECREE HOLDER/APPLICANT

THROUGH



APRATIM ANIMESH THAKUR

COUNSEL FOR DECREE HOLDER/APPLICANT

E-444, LOWER GROUND FLOOR, GREATER KAILASH -II

NEW DELHI-110048

MOB: +919810817397

EMAIL ID: apratimanimesh@gmail.com

PLACE: NEW DELHI

DATE: 6-5-2024

BEFORE THE NATIONAL GREEN TRIBUNAL AT PRINCIPAL BENCH, NEW
DELHI

EXECUTION APPLICATION NO 48/2023

IN

ORIGINAL APPLICATION NO 427/2023 (IA NO 873/2023)

IN THE MATTER OF

ASHOK CHANDRA GAUTAM

...DECREE HOLDER/APPLICANT

VERSUS

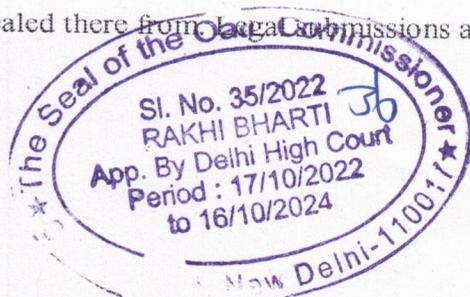
GOVERNING BODY MEMBERS OF PIYUSH HEIGHTS RESIDENTS WELFARE
ASSOCIATION & ORS

...JUDGMENT DEBTORS

AFFIDAVIT

I, Ashok Chandra Gautam aged 74 years, S/o Sh. Roop Ram, R/o L-913, Piyush Heights, Sector-89, Faridabad, Haryana-121002, presently at New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the Decree Holder in the captioned matter and as such I am fully conversant with facts of the present case and hence, I am competent to swear the present affidavit.
2. That the contents of the accompanying Application for condonation of 47 days delay be read as part and parcel of the present affidavit and the same are not being reproduced here for the sake of the brevity and in order to avoid prolixity.
3. That the contents of the accompanying Application has been drafted under my instructions which are true and correct to the best of my knowledge and belief and the same are not reproduced herein for the sake of brevity and in order to avoid prolixity.
4. I state that I have pursued the accompanying Application and nothing material has been suppressed or concealed there from. My Commissions are all based on Legal advice.




DEPONENT

VERIFICATION

I, the Deponent above named, do hereby verify that the contents of paras 1 to 4 of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.

06 MAY 2024

Verified at New Delhi on this the _____ day of May, 2024

[Signature]
DEPONENT

Identify the deponent
who has signed in my Presence

06 MAY 2024



Certified That the Deponent

Shri/Smt..... *Asheesh Choudhary*
S/o, W/o, D/o. Shri.....
R/o..... *Asheesh*
Identified by Shri.....
has solemnly affirmed before me at New Delhi
On..... that The contents of this affidavit
which has been read over & explained to him are true
& correct to his knowledge.

Oath Commissioner, New Delhi

[Signature]