

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BANCH, NEW DELHI**

ORIGINAL APPLICATION NO. 905 OF 2024

IN THE MATTER OF:

VARUN TODI

...APPLICANT

VERSUS

MUNICIPAL CORPORATION OF DELHI & ORS.

...RESPONDENTS

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NDOH-27.01.2026

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UDDHAV KHANNA & DHRUVA VIG,

Advocates For the Applicant

R-572, New Rajinder Nagar, New Delhi – 110060

Mob: 987138742 | Email: dhruvavig@gmail.com

Place:- New Delhi

Date:- 23.12.2025

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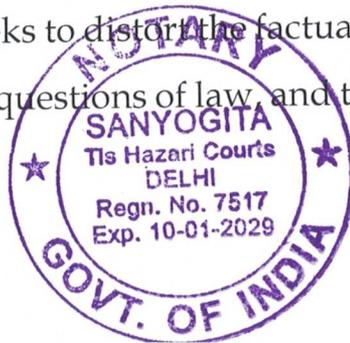
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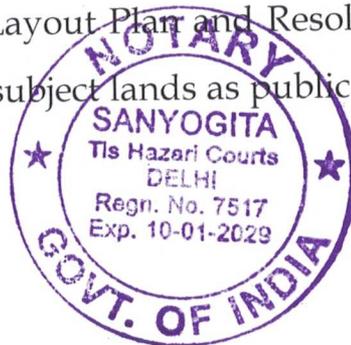
REJOINDER ON BEHALF OF THE APPLICANT TO THE REPLY TO
CAPTIONED ORIGINAL APPLICATION FILED BY RESPONDENT NO. 2

MOST RESPECTFULLY SHOWETH:

1. That the present Rejoinder is being filed in response to the Reply dated 28.10.2025 ("Reply") preferred by Respondent No.2, and all statements, submissions, allegations or averments contained therein that are contrary to, inconsistent with, or not expressly admitted in the Original Application or herein are specifically denied in *toto*. That nothing stated in the Reply shall be deemed to have been admitted merely for want of specific traversal, and the Applicant craves leave to rely upon all submissions, pleadings and documents already placed on record.
2. At the very outset, the Applicant most respectfully submits that the Reply filed by Respondent No.2 is wholly misconceived, evasive, and contrary to record. The said Reply seeks to distort the factual position, mislead this Hon'ble Tribunal on settled questions of law, and to divert attention from

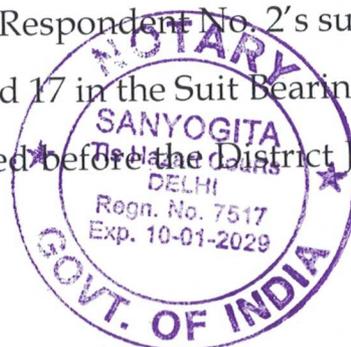


- the admitted encroachment over land reserved as a public park, designated as Lawn A & B in the Approval of Layout ("**Layout Plan**") (*annexed as Annexure-P3 in the captioned Application*) Kaushalya Park, Hauz Khas, New Delhi ("**Subject Land**"), and being an open space in terms of the Standing Committee Resolution No. 954 dated 11.02.1972 ("**Committee Resolution**") (*annexed as Annexure-P2 to the Application*).
3. That the Reply filed by Respondent No. 2 is also delayed, having been filed belatedly in terms of liberty granted *vide* Order dated 02.09.2025 for Respondent No. 2 to file its reply, thereby reflecting the Respondent's deliberate disregard of the directions of this Hon'ble Tribunal and the intent to delay the present proceedings.
 4. That the Reply filed by Respondent No.2 contains sweeping allegations against the Applicant which are wholly baseless, scandalous, and devoid of any basis. It is denied that the Applicant has approached this Hon'ble Tribunal with unclean hands or suppressed any material fact. The captioned Original Application ("**OA**") has been filed *bona fide*, strictly in furtherance of the public interest and environmental protection, also to secure enforcement of the statutory duties of Respondent No. 1 - Municipal Corporation of Delhi ("**MCD**") as well as preservation of subject land which is a public park space.
 5. That the contents of Paras 1-4 of Reply are vehemently denied that the Applicant has failed to provide or has mis-described the address of Respondent No.2, or concealed any material particulars. The OA contains sufficient details, including the reference to Lawns A and B as it stands identified in the approved Layout Plan and Resolution No.954, both of which clearly designate the subject lands as public parks handed over to



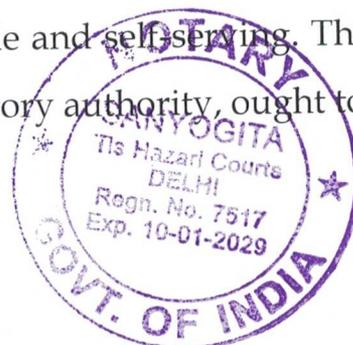
MCD. That even otherwise, any alleged omission as being alleged by the answering Respondent, if any, is wholly immaterial, particularly in view of the Respondent No. 1-MCD's Status Report dated 20.02.2025 ("**Status Report**") which itself confirms the Applicant's case and identifies the said land parcels as being under encroachment.

6. The bald and baseless allegation of the answering Respondent that the Applicant is an "extortionist" is wholly false, defamatory, and made with ulterior motive to prejudice the proceedings. The Applicant is a *bona fide* concerned resident and environmentalist who has approached this Hon'ble Tribunal under Sections 14 and 18 of the National Green Tribunal Act, 2010 ("**Act**"), to address continuing environmental violations and illegal occupation of land statutorily designated as park and open space.
7. That the Respondent No.2's core contention that the entire 1070 sq. yds. is private property owned by him is *ex facie* false and contrary to documentary record. The Committee Resolution, and the approved Layout Plan, both clearly record that "**3. An area of 1070 sq. yds. reserved for the purpose of park and open space is a portion of the colony is handed over to MCD free of cost.**" This very noting on the Layout Plan constitutes an express relinquishment/handover of the land being given away for public use to Respondent No. 1-MCD. That any subsequent occupation by Respondent No. 2 or any other is therefore unlawful and constitutes encroachment on public trust property. It may not be out of place to state, without prejudice and notwithstanding the submissions above, that, the lay-out plan does not even refer to Plot No. 16 and 17 Kaushalya Park, New Delhi. In view of this, the Respondent No. 2's submissions that he is in occupation of Plot No. 16 and 17 in the Suit Bearing No. 2526/2000 as well as the amended Plaint filed before the District Judge, Tis Hazari in



Suit No. 9540 of 2016 (basis which the Ld. Division Bench has afforded the protection / status quo in FAO No. 82/2004), is completely wrong.

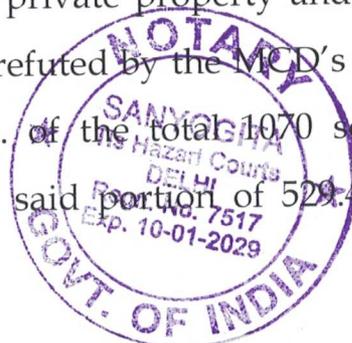
8. The contents of Paras 5-6 of Reply are denied in *toto*. The Respondent's reliance on the order dated 30.07.2004 passed in FAO No.82/2004 titled *Shan Mohammad v. MCD & Ors.* is also misplaced. The said order merely directed the parties to maintain *status quo* till the disposal of Civil Suit No.115/2003 (renumbered as 337/2017) and the same is specifically limited its scope in respect to premises bearing Nos. 16/17, Kaushalya Park, and not the entire land. The Hon'ble High Court order, most respectfully, has not extinguished the obligation of Respondent No. 1 to carry out its public law duties which also includes maintaining of the parks, nor does it curtail the jurisdiction of this Hon'ble Tribunal to pass protective directions concerning the environment and public trust lands.
9. That the pendency of the civil suit before the Ld. Tis Hazari Courts concerning the alleged private rights qua Plot Nos. 16/17 of Kaushalya Park, does not bar this Hon'ble Tribunal from exercising jurisdiction under Sections 14 and 18 of the NGT Act, 2010. The scope of the present OA pertains to environmental governance, preservation of green spaces, and enforcement of statutory obligations upon the MCD under the Delhi Municipal Corporation Act, 1957 ("**DMC Act**"), which are matters distinct from adjudication of title or ownership.
10. That the assertions made under Paras 7-13 of the Reply wholly false and vehemently rejected, as the Respondent's attempt to allege that MCD's Status Report is "*false*" for having recorded that the encroachment over 529.47 sq. yds., is wholly untenable and self-serving. The Status Report, making up of the record of a statutory authority, ought to carry a certain



presumptive evidentiary value and cannot be casually dismissed by a mere bald and unsubstantiated denial. Significantly, the Respondent No.2 has failed to produce any such title document, conveyance, or any mutation record to substantiate his alleged ownership claim. That the averments of Respondent No. 2 rest solely on assertions which are unsupported by evidence.

11. That the claim of Respondent No.2 that he is in "lawful possession" of property bearing municipal numbers 16-17, Kaushalya Park, is denied. The MCD's own Layout Plan, relied upon by both the Applicant and the Respondent No. 1, does not recognize any private title in respect of the land reserved as public park/open space. Even assuming for the sake of argument that the Respondent No.2 is in possession, even then, such possession cannot transform into ownership over a public trust land and is, in any case, contrary to the law laid down by the Hon'ble Supreme Court in *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu* [(1999) 6 SCC 464] and *Friends Colony Development Committee v. State of Orissa* [(2004) 8 SCC 733], which prohibit any construction or private occupation over land which has been reserved for public purposes. Even the Hon'ble High Court of Delhi recently in *Mohd Arslan v. the Government of NCT of Delhi and Others (W.P.(C) 5986/2022)* was pleased to put emphasis that authorities are liable to take stringent action against illegal encroachment of public spaces and preservation of parks.

12. That the Respondent's contention that the entire property (Lawn A & B admeasuring 1070 sq. yds.) is a private property and is not subject to having any public rights stands refuted by the MCD's report which has stated that only 529.47 sq. yds. of the total 1070 sq. yds. has been encroached upon, and only the said portion of 529.47 sq. yds. Being



encroached is under challenge, and not the entire subject land. Thus, this submission by the MCD runs contrary to the answering Respondent's claim for having an absolute ownership over the entire 1070 sq. yds. The MCD's Status Report dated 20.02.2025 states that-

"10. That it is also pointed out that in this total land admeasuring 1070 Sq. Yards which is reserved for purposes of park and open space as shown as 'A' in the Lay-Out Plan, a portion of land admeasuring 529.47 Sq. Yards has been encroached and is in illegal occupation of one Sh. Shan Mohammad and rest of the portion is maintained as park by the Respondent - MCD.

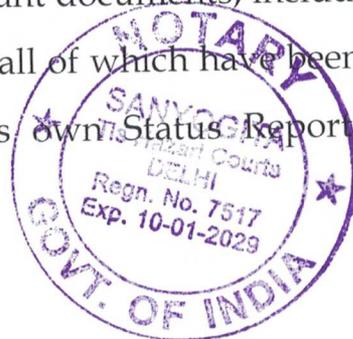
10. That as per record, this is the portion of land in question i.e. admeasuring 529.47 sq. yard out of total 1070 Sq. Yards falling in portion 'A' shown in Lay-Out Plan and marked as Blue for kind reference of this Hon'ble Tribunal is in fact the land in question as alleged in the instant OA Petition.

11. That regarding this portion of land admeasuring 529.47 sq. yard out of 1070 Sq. Yards, an old Civil Suit for declaration and permanent injunction, is pending disposal before District Court, Tis Hazari, Delhi. The old No. assigned to the said Civil Suit was 115/2003 and presently the suit Number as assigned is 337/2017 (ID No. 609540/2016) titled as "Shan Mohammad VS MCD & Ors.". The next date fixed in the said Civil Suit is now 11/03/2025."

(emphasis supplied)

13. That the allegations in Paras 14 to 28 of the Reply are vehemently denied.

It is reiterated that the Applicant has neither concealed any material fact nor misused the process of this Hon'ble Tribunal. On the contrary, the Applicant has produced all relevant documents, including photographs, Layout Plan, Resolution No.954, all of which have been corroborated by Respondent No. 1- MCD in its own Status Report. The answering



Respondent's insinuation that the residence of the Applicant is "*more than couple of kilo-metres away from his residence*" as from the where the Subject Land, is wholly irrelevant and illogical, as the environmental violations and breach of public trust are actionable acts, irrespective of distance, and *locus* under the NGT Act is wide enough to encompass the Applicant herein who is an aggrieved as well as a concerned citizen, and also having the territorial jurisdiction.

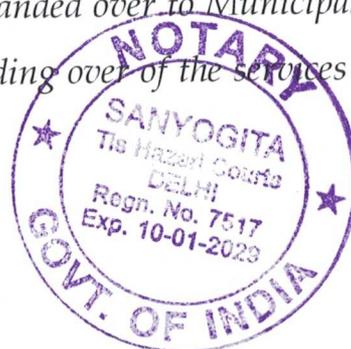
14. That the contention that findings of the proceedings which are pending before civil court are binding upon this Hon'ble Tribunal is wholly misconceived. It is pertinent to mention that this Hon'ble Tribunal exercises its own independent statutory jurisdiction to so as to enforce the environmental and public trust duties.
15. That it is submitted that this Hon'ble Tribunal is not subordinate to any civil court and is fully empowered to issue preventive, restorative and compensatory orders in terms of the NGT Act. Under Section 19 of the Act, this Hon'ble Tribunal is vested with the same powers as a civil court, including the powers of summoning, discovery, production of documents, issuance of commissions, interim injunctions, etc. Further, that Section 25 provides that every order of this Hon'ble Tribunal is executable as a decree of a civil court. Most significantly, that Section 29 bars the jurisdiction of all civil courts in respect of matters falling within the Hon'ble Tribunal's domain, and it also prohibits any injunction against proceedings which are pending before this Hon'ble Tribunal.
16. Accordingly, this Hon'ble Tribunal has complete and exclusive authority to adjudicate environmental disputes, to protect public parks and open



spaces, and to issue all consequential directions irrespective of any pending civil proceedings.

17. That even otherwise, without prejudice to the foregoing submissions, that the proceedings which are pending adjudication before the civil court, read along with the order of *status quo* dated 30.07.2004 was passed in FAO No. 82/2004, the same would only apply/operate only *qua* the encroached portion admeasuring 529.47 sq. yds. and not in respect of the entire land admeasuring 1070 sq. yds. which is reserved for park and open space, as corroborated by the MCD's own Status Report.
18. The remaining portion of the subject land, which has been described as a public park by Respondent No.1, is therefore, not the subject matter of any civil dispute or not covered under the *status quo* order. This Hon'ble Tribunal is therefore fully empowered and duty bound to safeguard, protect and issue appropriate directions to prevent any further illegal occupation, encroachment or degradation of the remaining un-encroached portion of the public park, as the same is wholly independent and unaffected by the pendency of any civil proceedings as being limited only to the encroached area.
19. That there is ample evidence to show that the Subject Land, as being alleged to be the private land of the answering respondent herein, was handed over to the MCD from the Resolution Plan dated 11.02,1972, where at Pg. 42 of the OA, at Annexure-P2, it has been provided that:-

"An area of 1070 sq. yds. is reserved for the purpose of park and open space in the portion of the colony and is handed over to Municipal Corporation of Delhi free of cost at the time of handing over of the services of the colony to Municipal Corporation of Delhi."

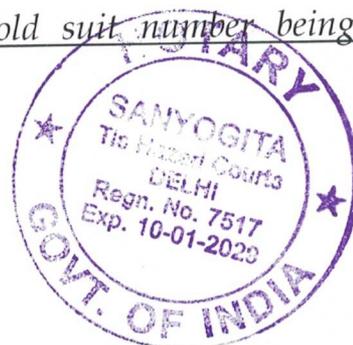


20. It has also been recorded in Resolution Plan at Pg.44-45 that:-

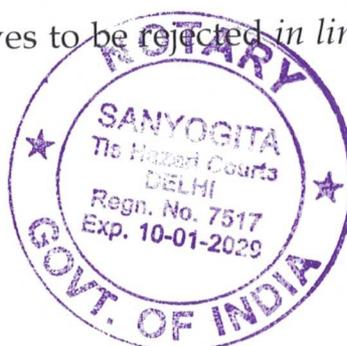
"(ii) I agree to leave aside an area of 1070 sq. yds. for purposes of park and open spaces. To achieve this end, Plots No. 16 and 17 will be set apart and converted into open space. Besides, area of Plot Nos. 13, 14 and 15 will also be proportionately adjusted.

(iii) In the matter of laying of the services, if any deficiencies are found, I shall remove and rectify the same. I shall deposit with the Corporation the amount of deficiencies worked out by the Corporation as soon as this compromise formula is approved by the Standing Committee. This amount will remain in deposit with the Corporation by way of security for the due performance of my undertaking in this behalf and refundable to me as soon as the aforesaid deficiencies have been removed and rectified."

21. It is further submitted that the Respondent No.2's Reply is conspicuously silent on critical and material facts. The answering Respondent has deliberately annexed only the purported plaint to the Civil Suit was 115/2003 as its Annexure R-1 to the Reply, without placing on record the complete pleadings, orders, reports, affidavits, or documents which may have been filed by the answering Respondent itself or the other contesting parties in the pending civil suit. Further, the same appears to be an undated "**Amended Plaint**" bearing "**Suit No. ___ of 2000**" which runs contrary to the date and year of institution of the said civil proceedings, which happened only much later in the year 2003 onwards to be registered with case number Civil Suit No. 115/2003, as admitted by the answering respondent *vide* its own Reply in Para 5 stating "*The suit has been numbered as CS DJ 9540/2016 (old suit number being Civil Suit 115/2003).*"



22. That even the annexed plaint is unaccompanied by any annexures and only contains merely bare, unsubstantiated assertions, which are unsupported by any documentary evidence. Thus, the selective filing of only the plaint, while withholding the written statement of MCD, replications, applications, orders, reports and other material on record, as the case may be, only demonstrates the suppression of material facts and thereby renders the answering Respondent's reliance on the said civil suit as being fundamentally flawed, misleading, *mala fide* and incomplete.
23. That Respondent No.2's denial of the existence or validity of Resolution No.954 and the approved Layout Plan is wholly untenable. The said documents are official municipal records, which are duly authenticated and have been relied upon by MCD itself, who is a statutory authority, in its Status Report dated 20.02.2025. The Respondent No.2 cannot now question the validity of said documents which emanate from the very public authority which has been statutorily empowered to sanction and regulate layout plans under the Delhi Municipal Corporation Act, 1957.
24. That the Applicant reiterates that Respondent No.2's illegal occupation of the Subject Land, that too being confined to Lawn A, squarely amounts to a continuing environmental wrong and also a violation of the public trust doctrine, and this Hon'ble Tribunal, being vested with wide remedial powers under Sections 14, 15, and 18 of the NGT Act, 2010, is fully competent to direct the Respondents by issuing appropriate directions in terms of the prayers of present OA.
25. That in light of the above, the Applicant humbly submits that the Reply filed by Respondent No.2 deserves to be rejected *in limine* as an attempt



to frustrate the environmental jurisdiction of this Hon'ble Tribunal, and to suppress material facts, and to encroach over the public space.

PRAYER

In view of the foregoing, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to allow the prayers as sought by the Applicant in the captioned Application and reject the Reply dated 28.10.2025 filed by Respondent No.2 as being untenable, evasive, and contrary to record.


APPLICANT

Through

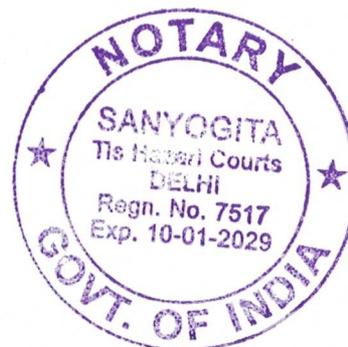


Uddhav Khanna & Dhruva Vig

Advocates for the Applicant

R-572, New Rajinder Nagar, New Delhi - 110060

Mob: 98713 87425 | Email: dhruvavig@gmail.com



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...RESPONDENTS

AFFIDAVIT

I, Varun Todi, the Original Applicant, S/o Pawan Kumar Todi, R/o, K- 12, 2nd Floor, Hauz Khas Enclave, Hauz Khas, Near IIT Flyover, New Delhi- 110016, do hereby solemnly affirm and state as under:

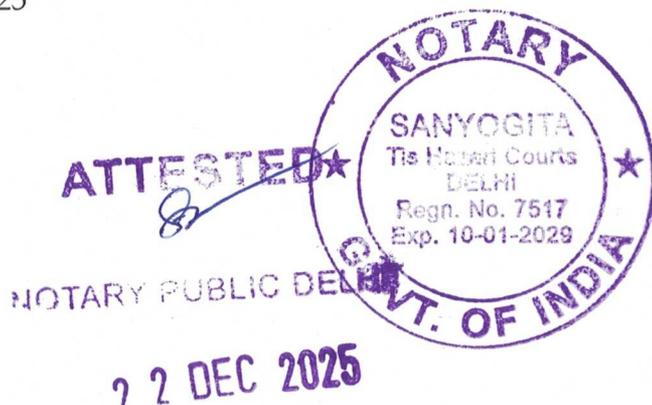
That I am the Applicant in the accompanying Original Application and as such I am fully acquainted with the facts and circumstances of the instant case and thus competent to swear this Affidavit.

That the contents of the accompanying Rejoinder are all true to my knowledge. The same has been read over to me and understood by me to be true.


DEPONENT

VERIFICATION

I, the deponent above named, do hereby verify and state that the contents of the foregoing paragraphs of the above affidavit are true and correct to the best of my knowledge and belief and that no part of it is false and nothing material has been concealed therefrom. Verified by me at New Delhi on this 22 DEC of 2025,
2025




DEPONENT

Service of Pleadings in Varun Todi vs MCD & Ors. [OA-905-2024]

Dhruva Vig <dhruvavig@gmail.com>

23 December 2025 at 14:09

To: Rajiv Dalal <rajiv@dslawoffices.in>

Cc: Bani Dikshit <banidikshit.advocate@gmail.com>, Uddhav Khanna <uddhavkhanna.advocate@gmail.com>, Deepak mehra <mehradeep1997@gmail.com>

Dear Sir,

Please find attached the Rejoinder on behalf of the Applicant to the Reply of the Respondent No. 2, in the above captioned case.

Regards

Uddhav Khanna | Dhruva Vig

Advocates

On behalf of Applicant / Mr. Varun Todi

D-1061, LGF, New Friends Colony, New Delhi – 110025

M: +91 98713 87425

E: dhruvavig@gmail.com

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**Rejoinder to R2 on behalf of Applicant OA-905-2024.pdf**

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