

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

I.A. No. 5 OF 2023 IN

ORIGINAL APPLICATION No. 557 OF 2022

IN THE MATTER OF:

GAUR ATULYAM APARTMENT OWNERS'

ASSOCIATION

.... APPLICANT

VERSUS

GREATER NOIDA INDUSTRIAL DEVELOPMENT

AUTHORITY & ORS.

.... RESPONDENT

REPLY TO APPLICATION SEEKING TO PLACE ON RECORD THE ORDER OF THE HON'BLE HIGH COURT OF DELHI DATED 09.12.2022 IN CM(M) NO. 1380 OF 2022 TITLED M/S INDUS TOWERS LTD. v. GAUTAM NAGAR RESIDENTS ASSOCIATION (REGD.) & ORS. AND PRAYING FOR APPROPRIATE DIRECTIONS IN THE PRESENT MATTER.

Most Respectfully Showeth: -

1. That the present reply is being filed on behalf of the Applicant, Gaur Atulyam Apartment Owners' Association to the application filed by Respondent No. 2- M/s Indus Towers Ltd. seeking to place on record the order of the Hon'ble High Court of Delhi dated 09.12.2022 in CM(M) No. 1380 of 2022 titled *M/s Indus Towers Ltd v. Gautam Nagar Residents Association Regd. & Ors.*
2. That the Hon'ble High Court of Delhi *vide* the above captioned order has had issued directions with respect to taking into consideration over the issues of installation of mobile towers in the park, apprehension of ill-effects on the

health of human lives as well as the larger issue as to whether the Tribunal had any jurisdiction to pass any such order, as the impugned one.

3. **That** the Respondent No. 2 has made a misinterpreted submissions and which led to an entirely wrong and misguided interpretation of the order of Hon'ble High Court of Delhi further leading to the application arising out of the directions. The order so subjected to be placed on record bears no relevance to the present facts and circumstances and is a mere outcome of incorrect interpretation.
4. **That** the Respondent No. 2 has miserably failed to draw out the basic conclusion which corresponds from the directions issued by the Hon'ble High Court of Delhi wherein the tower was installed at Sadbhavwna Park, Opp. Gulmohar Enclave Gate No. 4, Gautam Nagar, Ward No. 62/S, New Delhi. Pursuant to the order of the Hon'ble National Green Tribunal in O.A. 232/2022 and Review Application No. 27/2022 whereby the Tribunal had directed the Commissioner, Municipal Corporation of Delhi and the DPCC to take action in accordance with the directions passed in the matter to ensure that the park is not used for any other non-conforming purposes.
5. **That** the present subject into consideration for the issue of installation of mobile tower is a lush green belt wherein plantation activities and regular maintenance of trees is undertaken by the residents of the Applicant. Furthermore, in the instant matter the usage of a Green Belt, arbitrary uprooting of trees is into consideration and other ancillary concerns of health hazards are also raised in the original application.
6. **That** a bare reading of the order issued by Hon'ble High Court of Delhi provides a clear view that the directions so issued are case specific wherein commercial usage of a park is into consideration. The reliefs sought and directions so issued bear no relevance whatsoever from the present facts and circumstances.
7. **That** the present Application filed by the Respondent No. 2 is a part of tactics adopted to delay justiciable means and mislead the proceedings of this Hon'ble Tribunal. The present Original Application in all views conforms to

the Section 14 of the National Green Tribunal Act, 2010 and the Hon'ble Tribunal holds appropriate jurisdiction to adjudication upon the present subject matter.

8. **That** in such circumstances, the serious concerns of depletion of Green Belt, Arbitrary uprooting of trees cannot be overlooked and the present interim application is liable to be dismissed with exemplary costs.

PRAYER

In light of the abovementioned facts and circumstances, the Hon'ble Tribunal be pleased to:

- i. Dismiss the present Interim Application with exemplary costs
- ii. Pass any other order or direction(s) which the Hon'ble Tribunal may deem fit.

Filed By:



VAIBHAV SHAHI
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