

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, AT NEW DELHI.

Original Application No.: 543/2023

IN THE MATTER OF:

ROHIT THAKRAN S/O LATE SH. AMARPREET THAKRAN, R/O NEW PLOT NO. 136-137,  
DEAR WOOD CHASE, NIRWANA, SECTOR-50, VILLAGE ADAMPUR, GRAM  
PANCHAYAT JHARSA, GURUGRAM-HARYANA.

.....APPLICANT

VERSUS

STATE OF HARYANA &amp; ORS.

.... RESPONDENTS

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PLACE: GURGAON

DATE: 03/JULY/2024

  
A.R.TAKKAR, SHRIYA TAKKAR, UNNATI ANAND, ASMITA DUGGAL,

  
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REPLY ON BEHALF OF THE APPLICANT TO THE  
ADDITIONAL AFFIDAVIT DATED 27.06.2024  
FILED BY RESPONDENT NO.2 I.E. HARYANA  
SHEHRI VIKAS PRADHIKARAN

**MOST RESPECTFULLY SHOWETH:**

1. That the present Original Application has been filed by the Applicant herein for directions to the Respondents to restore the water bodies which existed in Khasra No. 24 and 28 in village Adampur Gram Panchayat Jharsa, Gurgram, Haryana and to stop all construction activities in the land of said water bodies and to plant the trees in lieu of trees which have been illegally cut from the same. That the present matter is pending adjudication before this Hon'ble Tribunal and is now listed for final hearing on 04.07.2024.
2. That the matter was last listed before this Hon'ble Tribunal on 29.05.2024 when this Hon'ble Tribunal had directed the Respondent no.2 to file an additional affidavit in response to the rejoinder affidavit dated 23.05.2024 filed by the Applicant herein. That this Hon'ble Tribunal had also granted liberty to the Applicant herein to file its response to the additional affidavit to be filed by the Respondent no.2.

That in compliance of the order dated 29.05.2024, an additional affidavit has been filed by the Respondent No.2 and the present response thereafter is being filed by the Applicant herein.

3. At the very outset, the Applicant denies each and every statement, averment, submission and contention set forth in the Additional Affidavit filed by the Respondent No.2 to the extent the same are contrary to and/or are inconsistent with the true and complete facts of the case and/or the submissions made on behalf of the Applicant in the present Reply. The Applicant further humbly submits that the averments and contentions, as stated in the Additional Affidavit under reply, may not be taken to be deemed to have been admitted by the Applicant, save and except what are expressly and specifically admitted and the rest may be read as travesty of facts.

**RESPONSE TO THE LETTER DATED 06.06.2024 and 26.06.204 RELIED UPON BY THE RESPONDENT NO.2**

That the Respondent No.2 has placed reliance on a letter dated 06.06.2024 (Annexure R-1) and 26.06.2024 (Annexure R-4) issued by the Executive Engineer HSVP Division No.6 , Gurugram, which cannot be relied upon as they are documents of the department of the Respondent No.2 i.e. HSVP itself and hence cannot be relied upon for fair adjudication of the present matter. That the Respondent No.2 should be put to strict proof of the same.

**REPLY TO CONSTRUCTION OF ROADS IN KHASRA NO. 28 (IN FRONT OF PLOT NO. 54 TO 72P SECTOR 50, GURUGRAM.**

- i. That the Respondent No.2 has placed reliance on tender dated 05.12.2013 floated for construction of roads in Sector 50 Gurugram. That it is pertinent to mention herein that the said tender document mentions only Sector 50 Gurugram and nowhere states that roads were constructed in Khasra No.28 (in front of plot

no. 54 to 72P) as well and therefore in no manner proves the contention of the Respondent No.2 that the roads were constructed in the year 2013-2014. Further, similarly reliance of the Respondent No.2 on allotment of work order to M/s Jain Construction Co. vide letter dated 17.02.2014 and bills dated 02.07.2014 and 13.07.2015 is also highly misplaced since the same also nowhere mentions that roads were constructed in Khasra No.28 (in front of plot no. 54 to 72P). In any case issuance of tenders or bills alone cannot be a sufficient proof of roads actually having been constructed.

- ii. It is in the humble submission of the Applicant herein that no concrete road was made in Khasra No.28 (in front of plot no. 54 to 72P) in the year 2014-2015. That as already submitted by the Applicant herein that only a non-concrete, non-metallic road (Kachha-Pakka road) was made which was told to be a footpath similar to the one already existing in Khasra No. 24. That tender may have been floated and work order may have been awarded, but no concrete road was made in Khasra No.28 in the year 2014-2015. It is reiterated that proper concrete roads have been laid down in Khasra No. 28 only in the year 2022 (Photographs @ Page 784-787 of the Court File).

**REPLY TO RE-CARPETING OF ROADS IN KHASRA NO. 28 (IN FRONT OF PLOT NO. 54 TO 72P SECTOR 50, GURUGRAM.**

That the tender dated 07.06.202 and work order dated 05.07.2022 to M/s Ankit Construction Company state that "*Special repair of roads in pocket A,B and pocket deer wood chase in front of colonizer plot no. 135 and 136 in Nirvana Country Sector 50, Gurugram.*" That a perusal of the same would clearly show that the same nowhere mentions about re-carpeting of roads in front of plot no. 54 to 72P i.e. Khasra No.28. That in the year 2022, it was not re-carpeting of roads that took place in Khasra No. 28 but concrete road was for the first time laid in Khasra No.28 in the year 2022 itself.

**REPLY TO SEWERAGE LINE AND SHIFTING OF SEWERAGE LINE IN KHASRA NO. 28 IN FRONT OF PLOT NO. 54 TO 72P SECTOR 50, GURUGRAM.**

That the Respondent no.2 has placed reliance on tender dated 13.12.2013, work order allotment dated 4.03.2014 and bills dated 10.06.2014. That further reliance has been placed by Respondent No.2 on tender notice dated 26.04.2023, work order dated 16th June 2023 and bill dated 12.10.2023 with respect to shifting of the sewerage line, storm water drainage. That it is pertinent to mention herein that the said documents talk about Sector 50 Gurugram and nowhere specifically mention about sewerage lines being laid in the year 2014 and further about the sewerage lines being shifted in the year 2023 in khasra number 28 (in front of plot no. 54 to 72P). It is in the humble submission of the Applicant herein that there arises no question of shifting the sewerage line since the sewerage lines for the first time were laid down only in July 2023 and the photographs of the same have already been annexed @ Annexure-A/18 @ page 222 of the Original Application filed by the Applicant herein.

**ELECTRIFICATION WORK IN FRONT OF PLOT NO. 54 TO 72P SECTOR 50, GURUGRAM**

That the contention of the Respondent No.2 that the tender for electrification work was invited in the year 2014 and the work order was allotted on 13.08.2014 is completely baseless and hence cannot be relied upon. It is submitted that the Respondent No.2 has not placed on record any proof to establish that the electrification work was completed in the year 2014. It is submitted that the contention of the Respondent No.2 that the Applicant for his mobile tower took electricity from the electric lines laid down by HSPV in the year 2014, is completely false and vehemently denied by the Applicant herein. It is submitted that for the purpose of the mobile tower, the Applicant had to get a separate transformer installed by making appropriate payments towards it to get electricity from a separate source as these electric lines as claimed by the Respondent No.2 in the

additional affidavit were never there on site. The Applicant herein carves liberty from this Hon'ble Tribunal to produce and rely upon the bill at the time of arguments as he is in the process of tracing the same. That the electricity work has been carried out by HSVP in Khasra No. 28 only in the year 2022.

4. That the aforementioned submissions on behalf of the Applicant herein would clearly establish the fact that the Respondent No.2 just in order to protect the wrong doing i.e. encroachment and destruction of water body that existed in Khasra No.28, is just trying to place reliance on some or the other document so as to establish its point qua the matter being barred by limitation. It is in the humble submission of the Applicant herein that the Respondent No.2 should be put to strict proof of the documents relied upon by it. Further, if for the sake of arguments it is considered (though not accepted) that tender for road construction, sewerage line and electricity work were floated in the year 2013-2014 and the work order for the same was also awarded, then it is a matter of further enquiry as to where did the money of the public go since the road was constructed, sewerage lines were laid down and electricity work was carried out only in the year 2022.
5. **The Application involves 'substantial question, relating to environment' and first 'cause of action' challenging illegality of destroying the water bodies in Khasra No. 24 and 28, first arose when legality of such construction work came to the notice of the Applicant. It is in the wake of such 'subsequent event' that the Applicant raked up the dispute in question. Obviously, the cause of action 'first arose' for such a dispute when knowledge of excessive destruction was gained by the Applicant in the year 2021. That this Hon'ble Tribunal with respect, ought not to overlook the material fact that 'first cause of action' in respect of present dispute arose when the auction notice was noticed by the Applicant and he made complaint to the concerned Authority.**

6. That however, keeping aside the hyper technicalities involved, the main issue is qua environmental degradation caused by the Respondents by destroying two water bodies existing in Khasra No.24 and 28. **That in the present matter, the Respondents have admitted before this Hon'ble Tribunal that there existed water bodies in Khasra No. 24 and 28. That when the Respondents themselves have admitted to the existence of the water bodies, this Hon'ble Tribunal cannot turn its back towards the cause of environment i.e. destruction of water bodies, only on the hyper technicalities of limitation. That this Hon'ble Tribunal has always come down heavily qua destruction of any naturally existing water body and the same is required to be done in the present matter as well.**
7. The Hon'ble Supreme Court in the Civil Appeal titled as **Tapas Guha & Ors. vs. Union of India & Ors. (CA-4603/4604/2024)** has held that:

*"There was a complete abdication of adjudicatory duties by the NGT to verify the authenticity of the grievance of the appellants. As an expert body which has been formed under a statute enacted by the Parliament, in the interest of the preservation of the environment, it was first and foremost the duty of the Tribunal to verify the authenticity of the grievance of the appellants.*

*The Tribunal, however, simply dismissed the OA having come to the conclusion that no Environmental Clearance had been issued. If the Tribunal were to enquire into the matter even on a prima facie assessment, the facts which have emerged before this Court would have come on the record. The perfunctory dismissal of the case*

*by the NGT not only reflects a lack of due diligence but also demonstrates a disregard for the gravity of the environmental concerns raised by the appellants. This casual, if not callous, approach to adjudication not only undermines the integrity of the judicial process but also compromises the very purpose for which the NGT was established – to safeguard the environment, ensure sustainable development and facilitate the effective and expeditious disposal of cases related to the protection and conservation of the environment, forests, and other natural resources. Such negligence on the part of the Tribunal sets a concerning precedent, eroding public trust in the efficacy of environmental governance mechanisms."*

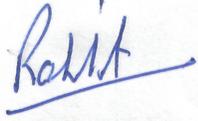
That in the light of the aforementioned judgment passed by the Hon'ble Supreme Court of India, it is submitted that the Hon'ble National Green Tribunal in the virtue of it being a special body to deal with and protect the environment, ought to take into consideration the grievance of the Applicant and not simply dismiss the same on ground of limitation.

#### **PRAYER**

In light of the facts and circumstances mentioned herein above, it is prayed that this Hon'ble Tribunal may be graciously pleased to:-

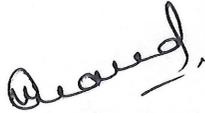
- i. Take the present Reply on record;

- ii.) Pass any such and further orders as deemed fit and proper in the peculiar facts and circumstances in favour of the applicant in the interest of justice and fair play.



APPLICANT/PETITIONER

THROUGH



A.R.TAKKAR, SHRIYA TAKKAR, UNNATI ANAND, ASMITA DUGGAL, KAPIL BAKSHI,



BAHARGAVA RAVI KUMAR, MANAN TAKKAR & PRINCE SHARMA

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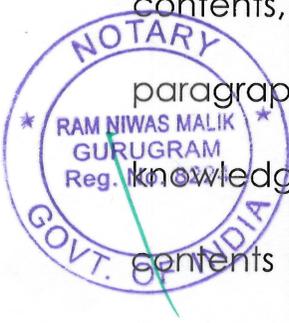
AFFIDAVIT

I, Rohit Thakran S/o Late Sh. Amarpreet Thakran, aged about 35 Years R/o New Plot No. 136-137, Dear Wood Chase, Nirwana, Sector-50, Village Adampur, Gram Panchayat Jharsa, Gurugram-Haryana.

I the above named deponent do hereby solemnly affirm and declare as under:-

1. That the above titled *Reply* has been drafted under the authority and instructions of the deponent and after perusing its contents, the deponent has duly signed it, and the contents of paragraph Nos. 1 to **7** thereof are true and correct to the knowledge of the deponent, and the same may be read as contents of this affidavit also, which are not being reproduced for the sake of brevity. No part of it is false and nothing material has been kept concealed therefrom.

2. That the contents of paragraphs no. 1 to **7** of above titled *Reply* are true and correct to my knowledge, no part of that is false and nothing has been kept concealed therefrom.



3. That the Annexures attached with the *Reply* are true copies of their respective originals.

DEPONENT

**VERIFICATION**

Verified that the contents of paragraphs no. 1 to 3 of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been concealed therein.

DEPONENT



*Handwritten signature in green ink*  
**ATTESTED**

RAM NIWAS MALIK, ADVOCATE  
NOTARY, GURUGRAM (HR.) INDIA

**03 JUL 2024**

reply on behalf of applicant to the additional affidavit dated 27.06.2024.

Prince <prince@artlo.in>

Wed 7/3/2024 10:57 AM

To:lokeshsinhalassoc@gmail.com <lokeshsinhalassoc@gmail.com>;noopur4@gmail.com <noopur4@gmail.com>;  
legalrajan@gmail.com <legalrajan@gmail.com>;rkhuranalegal@gmail.com <rkhuranalegal@gmail.com>;  
adv.adityasingh@gmail.com <adv.adityasingh@gmail.com>;dhawansajal@gmail.com <dhawansajal@gmail.com>  
Cc:Unnati <Unnati@artlo.in>;Bhargava Ravi Kumar <Bhargava@artlo.in>

 1 attachments (14 MB)

ROHIT THAKRAN REPLY.pdf;

Dear sir,

Please find attached herewith scanned copy of reply on behalf of Applicant to the additional affidavit dated 27.06.2024 filed by respondent no 2 i.e. Haryana Shehri vikas pradhikaran.