

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL PRINCIPAL  
BENCH, NEW DELHI  
Miscellaneous Application No. 12 of 2025  
IN  
Original Application No. 327 of 2024

Hubtown Limited

Applicant

Versus

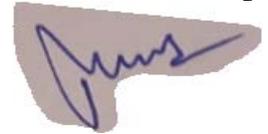
The Union of India & Ors.

Respondents

I N D E X

S.No.	Particulars	Pages
1.	Reply on behalf of the Respondent (MCZMA)	

Filed by



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New Delhi  
Dated: 28.05.2025



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

Memorandum of Application

Under section 25, 26 and 28 of The National Green Tribunal  
Act, 2010

Miscellaneous Application No. 12 of 2025  
In Original Application No.327 of 2024

Hubtown Limited

...Applicant

Versus

The Union of India & Ors.

...Respondents

**REPLY ON BEHALF OF RESPONDENT NO. (MCZMA)**

**MOST RESPECTFULLY SHOWETH:**

1. That the above misc. application has been filed by the applicant Hubtown limited against the respondent Union of India and others impleading the answering respondents to be party respondents in the above application seeking from this Hon'ble Tribunal to exercise its powers under section 25 of NGT Act to execute the NGT order passed in original application No.327 of 2024 and M.A. No.106/2024 directing the registrar, NGT in the name and place of respondent No.4 to 12 to recommend the applicant's proposal for SEIAA approval. The applicant has further prayed from this Hon'ble Tribunal to exercise

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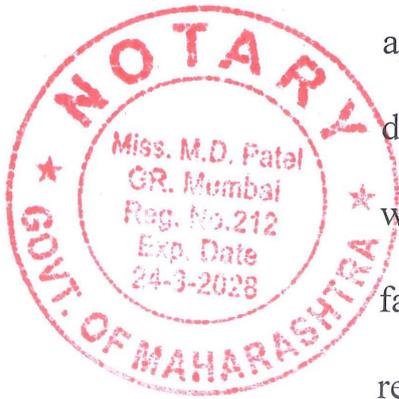
its powers under section 26 and 28 of NGT Act, 2010 and penalize the respondent no.5 to 12 with imprisonment for a term extending to three years and/or imposing fine extending to Rs.10,00,00,000/- (rupees ten crore) as this Hon'ble Tribunal deems fit. The applicant further prayed that pending hearing and final disposal of the present application this Hon'ble Tribunal be pleased to direct the respondents, their officers or any person acting under their instructions, to withdraw the recommendation of rejection forwarded to SEIAA in furtherance of the decision taken by the respondent No.4 to 12 in the 180<sup>th</sup> Meeting on 11<sup>th</sup> December, 2023 with respect to the subject property.

**Reply to the Misc. application**

1. At the outset the present misc. application filed by the applicant is not sustainable and same is liable to be dismissed with exemplary costs as the same is based on wrong and concocted facts whereas, it is clear from the facts and circumstances of the case that the answering respondents have not abstained or disobeyed the order of this Hon'ble Tribunal in anyway rather the answering respondents in compliance with the directions given by this Hon'ble Tribunal vide order dated 24<sup>th</sup> October, 2024

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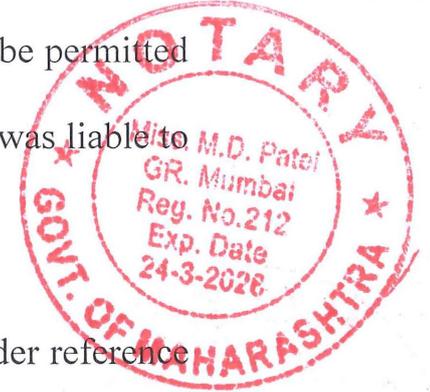
answering respondents have passed its decision/resolution which was liable to be challenged by filing fresh appeal and same cannot be challenged or assailed before this Hon'ble Tribunal again by filing fresh misc. application.

2. It is further submitted that since para 10.3 of CRZ notification 2019 is applicable to the subject land/proposal on account of garden reservation and in such land residential and commercial development is not allowed. Considering the applicability of the para 10.3 of above notification 2019, the subject proposal of SRA scheme comprising residential development could not be permitted on the subject land and hence, the application was liable to be rejected.

3. It is further submitted that the subject land under reference is under reservation of Garden as per the old DP existed as on 19.2.1991 and as per the current prevalent DP of the Municipal Corporation of Greater Mumbai sanctioned under the Maharashtra Regional Town Planning (MRTP) Act, 1966. Hence, by the virtue of the said reservation of Garden, the subject land falls in No Development Zone

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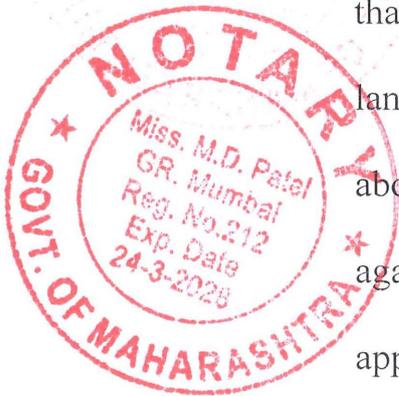
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for taking steps on the applicant's slum rehabilitation proposal in accordance with its previous order dated 17.10.2012, had held its meeting on 11<sup>th</sup> December, 2024 and after due deliberation and discussion in the said meeting had reached to the conclusion that the view taken by this Hon'ble Tribunal that land cannot be treated as Garden due to slums presence on the land would be in contravention to para 10.3 of the CRZ Notification, 2019 and thus, it is erroneous. The direction given by this Hon'ble Tribunal to consider the subject SRA proposal under para 5.2 (i) (ii) of the CRZ Notification 2019, was also not sustainable because of same not being in line with legal provisions of CRZ notification 2019 for the reasons that the said para 5.2 (i), (ii) and (iii) is not applicable to lands under Garden reservation. After such resolution in above meeting, the applicants had to file fresh appeal against the said decision of the MCMZA under the appropriate provisions of the NGT Act instead of filing above misc. application whereas it is clear that the said meeting was held by the answering respondents only in compliance with the directions given by this Hon'ble tribunal and after due deliberation and discussion, the

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(NDZ) within CRZ II CRZ limit from the Arabian Sea, in accordance provisions of CRZ Notification, 2019.

Moreover, the CZMP of the Greater Mumbai has been approved by the MoEF&CC, New Delhi on 29.9.2021 wherein the subject land is shown as Garden, hence it falls within CRZ II (NDZ) area.

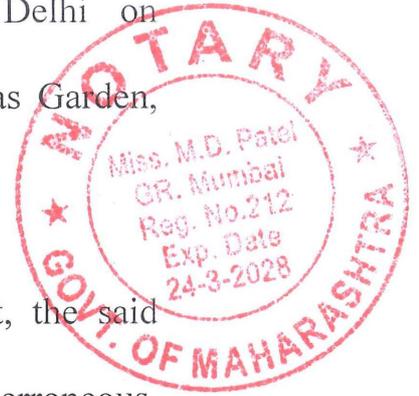
The views of this Hon'ble tribunal that, the said indication of the land as Garden in CZMP is erroneous. However, the Authority observes that, the said view / position of this Hon'ble tribunal is not in accordance with the provisions of the CRZ Notification, 2019. Indication of the Garden reservation on the approved CZMP is sourced from the approved DP of State Govt, in accordance with the para 10.3 (i) of the CRZ Notification, 2019.

The para 10.3(i) of the CRZ Notification, 2019 specifies as follows:

*"In order to protect and preserve the 'green lung' of the Greater Mumbai area, all open spaces, parks, gardens, playgrounds indicated in development plans within CRZ-II shall be categorised as No Development Zone and a Floor Space Index up to 15% shall be allowed only for*

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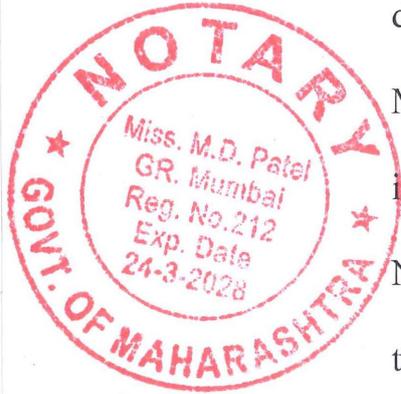
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*construction of civic amenities, stadium and gymnasium meant for recreational or sports related activities and the residential or commercial use of such open spaces shall not be permissible”*

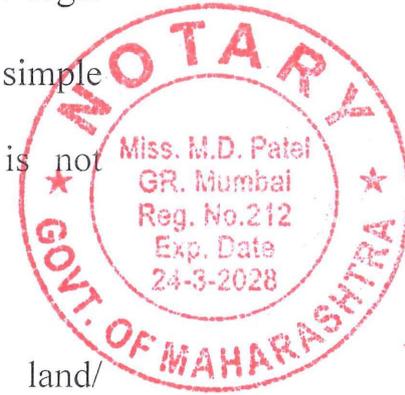
Following the above provision, the CZMP has been prepared and all open spaces, parks, gardens, playgrounds indicated in development plans approved by the State Govt within CRZ-II has been categorized as No Development Zone by the Central Govt. Authorized agency. CZMP has depicted the gardens, playgrounds as shown in the DP of MCGM has been shown in the CZMP as NDZ area, irrespective of the present land use. The reservation of the NDZ in the CZMP is totally based on the reservations in the DP of the MCGM. The CZMP has followed what DP of the MCGM showed, in accordance with the para 10.3 of CRZ, 2019. Hence, showing the NDZ in the CZMP is completely in compliance with the above said provision of 10.3(i) of the CRZ Notification, 2019. The said para 10.3 is applicable irrespective of the fact where there is slum or not on the site. Only requirement under the said para is to follow & recognize the DP reservations which is Garden, in the instant case.

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Hence, the view of this Hon'ble Tribunal that land cannot be treated as Garden due to slums presence on the land, is in contravention to para 10.3 of the CRZ Notification, 2019 and hence the same is not sustainable.

Furthermore, this Hon'ble Tribunal had directed to consider the subject SRA proposal under para 5.2(i), (ii) and (iii) of CRZ Notification, 2019. These directions of this Hon'ble tribunal was also not in line with legal provisions of CRZ Notification, 2019, for the simple reason that, the said paras 5.2(i), (ii) & (iii) is not applicable to lands under Garden reservation.



Whereas, the para applicable to subject land/ proposal is above stated 10.3 of CRZ Notification, 2019, on account of Garden reservation, whereby, the residential and commercial development is not allowed. Considering the applicability of the para 10.3, the subject proposal of SRA scheme comprising residential development could not be permitted, on the subject land.

The MCZMA is aware of the fact that there is existence of slum on the subject site; whereas, contrary to ground realities, in DP of the MCGM, there is reservation

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of Garden, which is merely a fictional existence on paper. Hence, the Authority observed that matter could be explored for alteration in DP to bring it in consistence & sync with the ground reality. Till the time, there is alteration in the DP and consequent revision in CZMP following due process, the said proposal of the SRA scheme on subject land could not be permitted under para 5.2(i), (ii) and (iii) of CRZ Notification, 2019.

The MCZMA could not recommend the proposal until:

Planning Authority i.e. MCGM modifies the Development Plan of the subject land by deleting the Garden reservation

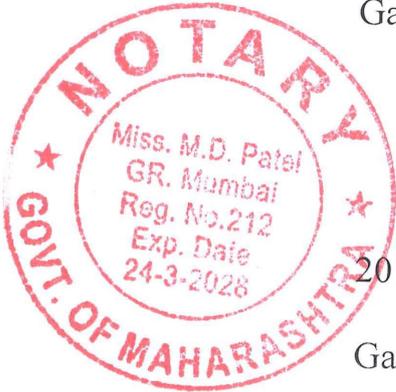
OR

MoEF&CC brings amendment in CRZ notification, 2019 at para 10.3 for permitting the SRA scheme on Garden reservation lands.

Till the time, either of the above said possibility come to effect, the instant proposal of SRA scheme could not be allowed from CRZ point of view.

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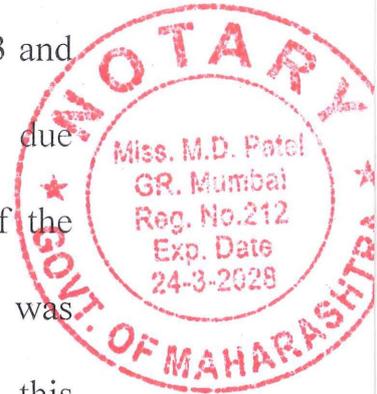


4. That it is further submitted that the applicant has filed present application by impleading the members of MCZMA to be parties by their name which is also not sustainable because the members of the MCZMA cannot be impleaded parties by their name rather they were acting in discharge of their official capacity during 180<sup>th</sup> meeting held on 11<sup>th</sup> December, 2024 in which the applicants proposal of slum rehabilitation scheme of the subject property was taken up for consideration as item No.23 and The Authority, as a collective decision, after due deliberation and discussion rejected the proposal of the applicant. It is submitted that said 180<sup>th</sup> Meeting was called only in compliance with the direction of this Hon'ble Tribunal and if the proposal of applicant has been rejected, the applicant cannot file such an application for execution of order of this Hon'ble Tribunal (which has already been complied with) rather it should have availed appropriate remedy available in law on subsequent rejection of proposal of applicant by the MCZMA in its 180<sup>th</sup> meeting on 11 December 2024.

5. It is further submitted that this Hon'ble tribunal by order dated 24.10.2024 has disposed of the OA of the applicant

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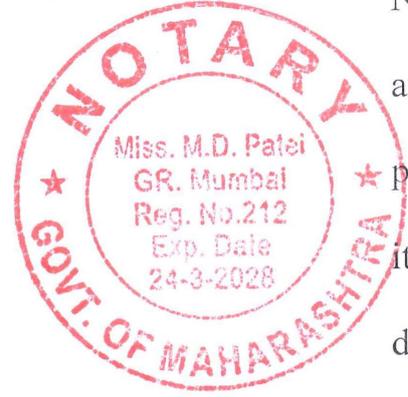
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directing the MCZMA to take steps on proposal of the applicant within two months in accordance with the order of the tribunal dated 17.10.2012 passed in appeal No.14/2012 and observations made in the impugned order and ignoring the contrary reflection about the subject property in CZMP 2019 whereas, this Hon'ble tribunal in its earlier order dated 17.10.2012 had issued a limited direction that the stand of MCZMA since beginning was that it has considered the issue in its meeting held on 18.05.2023 and has referred the matter to the MoEF&CC for guidance and necessary decision at NCZMA level. It is submitted that the CRZ notification 2019 has been issued by the Ministry of Environment forest and Climate Change under the Environment (Protection) Act 1986. The MoEF&CC being the parent apex body with respect to CRZ notification, 2019 and hence the MCZMA felt required to seek guidance from it in order to reach to certain logical conclusion with respect to permissibility of the subject proposal as per provisions of CRZ notification 2019 in the backdrop of its previous history and approval granted by the concern planning authority. Hence the MCZMA considering the scheme to be ongoing scheme

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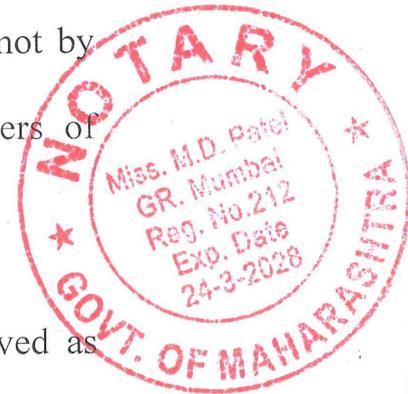


the matter was referred to the MoEF&CC Delhi for guidance on whether the subject ongoing SRA scheme could be allowed on land having reservation of Garden and for taking necessary decision at NCZMA level. It is further submitted that subsequent meeting dated 11<sup>th</sup> December, 2024 was held by the MCZMA in compliance with the direction of this Hon'ble Tribunal and after due deliberation and discussion in such meeting, the proposal of applicant was rejected which is just and proper and in accordance with CRZ notification, 2019 and such resolution of rejection/approval of proposal of applicant can be challenged only by filing fresh appeal and not by filing misc. application by impleading the members of MCZMA to be parties by name.

6. It is further submitted that since the land is reserved as garden in the development plan of Mumbai and as per 10.3 of CRZ notification 2019 only civic amenities are allowed in Garden Reservation (NDZ) area. As per clause no. 10.3 of the said CRZ notification dated 18/01/2019 for CRZ areas falling within municipal limits of Greater Mumbai which states as "(1) In order to protect and preserve the 'green lung' of the Greater Mumbai area, all open spaces,

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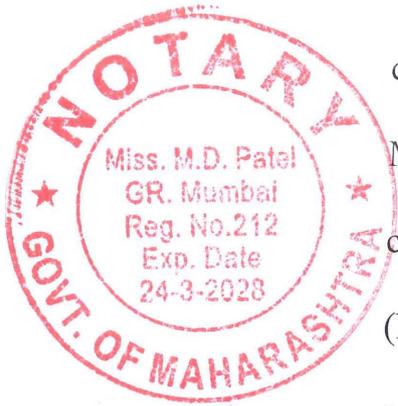


parks, gardens, playgrounds indicated in development plans within CRZ-II shall be categorized as No Development Zone and a Floor Space Index up to 15% shall be allowed only for construction of civic amenities, stadium and gymnasium meant for recreational or sports related activities and the residential or commercial use of such open spaces shall not be permissible. The land in question is reserved as a garden in the development plan of Mumbai and as per para 10.3 CRZ notification 2019 only civic amenities are allowed in the Garden reservation (NDZ) area. Hence, the authority/answering respondent after detailed discussion/ deliberation decided to recommend the subject proposal to SEIAA for rejection, in accordance with the provisions of CRZ notification 2019 and request BMC for modification in DP 2034 and GoI MoEF&CC for amendment in CRZ notification, 2019.

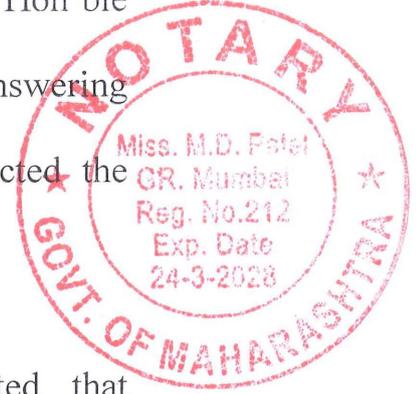
7. That the contention of the applicant that the answering respondents in anyway have caused disobedience and contempt of orders of this Hon'ble Tribunal is also baseless and without having any substance and same is liable to be rejected. The answering respondents rather in compliance of directions of this Hon'ble tribunal vide

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order dated 24.10.2024 had held its 180<sup>th</sup> Meeting on 11.12.2024 and the proposal of applicant was well considered in the light of directions given by this Hon'ble tribunal hence, it cannot be stated that answering respondents in anyway have disobeyed/disrespected the orders/ directions of this Hon'ble tribunal.



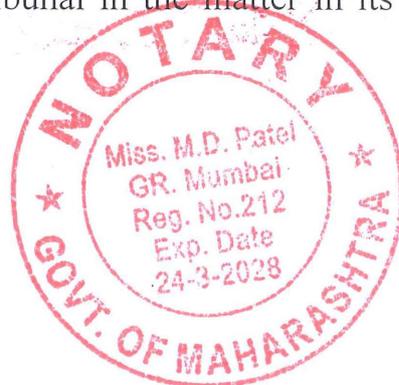
8. That the applicant has further wrongly stated that respondent no.4 to 12 have disrespected this Hon'ble Tribunal willfully refusing to comply with the NGT order whereas, the answering respondents have never refused from complying with the directions of this Hon'ble Tribunal rather above 180<sup>th</sup> Meeting dated 11.12.2024 was held only in compliance of directions of this Hon'ble Tribunal. Though in such meeting the proposal of applicant was rejected considering that the land is reserved as garden in the development plan of Mumbai and as per 10.3 of CRZ notification 2019 and only civic amenities are allowed in Garden Reservation (NDZ) area. As para No.10.3 no residential and commercial construction is allowed.

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9. That in view of above submissions it is humbly submitted that the answering respondents have not disobeyed or caused contempt of this Hon'ble tribunal in anyway rather the directions given by this Hon'ble Tribunal has been complied with. The applicant cannot be permitted to file such applications again and again and raise similar issue repeatedly before this Hon'ble Tribunal, which has already been considered and finally decided. Hence the present application is liable to be dismissed with heavy costs.
10. It is further humbly submitted that the decision taken by the answering respondents in its meeting dated 11<sup>th</sup> December, 2024 was in discharge of their official duty and such decision was not taken individually or in individual capacity. Hence, it would be inappropriate and unsustainable to implead each member as individual respondent in their individual capacity. It is humbly submitted that the Authority in its collective capacity is duty bound to follow/comply with all further directions issued by this Hon'ble Tribunal in the matter in its letter and spirit.

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11. That the facts stated in the above reply are based on the information derived from official record as such they true and correct as per personal knowledge and belief of the deponent. No part of same is false and nothing material has been concealed therefrom.



Place: Mumbai

(Abhay Madhukar Pimparkar)

Deponent

Director, Env&CC Department and

Member Secretary, MCZMA

Date: 21-5-2025

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## VERIFICATION

I, Abhay Madhukar Pimparkar, Age 49 years, Director, Environment and Member Secretary of the Maharashtra Coastal Zone Management Authority, having my office address at 15<sup>th</sup> Floor, New Administrative Building, Mantralaya Mumbai, do hereby verify & declare that statements made in the aforesaid Paras are true and correct to the best of my knowledge and information and I believe the same to be true and that nothing material has been concealed therefrom.

Verified at Mumbai on this 21<sup>st</sup> day of May, 2025

*M. D. Patel*

*Abhay Madhukar Pimparkar*

(Abhay Madhukar Pimparkar)

Director, Environment & CC

and MS, MCZMA

Deponent

*Vishal Madave*

(Vishal Madave)  
Under Secretary, Environment dept.

Identified by

**BEFORE ME**

*M. D. Patel*

*21-5-2025*

*Sr. No. 255*

*Bk. No. 2*

**MISS M. D. PATEL**

**ADVOCATE & NOTARY**

**Kohiar House,**

**4, Dhuswadi, Dhobitalao,**

**MUMBAI - 400 002.**

