

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

ORIGINAL APPLICATION No. 793 OF 2022

IN THE MATTER OF:

COUNCIL OF ENGINEERS & ORS

...APPLICANT

VERSUS

STATE OF PUNJAB & ORS

...RESPONDENT

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Filed Through



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REPLY ON BEHALF OF RESPONDENT No. 1 & 3

IT IS MOST RESPECTFULLY SHOWETH:

1. That undersigned is currently working as Commissioner, Municipal Corporation, Ludhiana and is well conversant with the facts and circumstances of the present case and duly authorized & competent to swear this affidavit in my official capacity filing the reply on behalf of Respondent No. 1 & 3.
2. That this Hon'ble Tribunal vide order dated 07.11.2022 had directed:

"In view of the serious nature of the allegations made in the application and in view of the provisions of the Code of Civil Procedure, 1908 empowering the Court to ex-parte appoint a Local Commission to make local investigation for the purpose of elucidating any matter in dispute, we also consider it appropriate that a Joint Committee be constituted to verify the factual position. Accordingly, we constitute a Joint Committee comprising of Regional Officer, MoEF & CC, Chandigarh, Commissioner, Municipal Corporation, Ludhiana, State PCB and the Deputy Commissioner, Ludhiana and direct the same to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position and



submit its report within 15 days by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF."

3. That the joint committee constituted as above filed its report vide email dated 08.01.2023, relevant portion of the said report is reproduced herein as:

"Committee deliberated upon the recent changes made in unified Zoning regulation and Development control which have been notified U/S 70(5) of the Punjab Regional & Town Planning & Development Act, 1995 wide notification no. 6515-41/CTP(Pb)/SP-135 dated 18-10-2018. Subsequently this notification deemed to adjust change of land use which have been already been permitted by competent authorities/Government before the final notification of master plan. In the given case sacred heart school and lodhi club were part of the scheme namely Bhai Randhir Singh Nagar, (550 Acre) under PTI Act 1922 U/S 42 (1) and same was approved by the Government vide its Notification No. 153-USLG-(1)-76/41858 dated 06.12.1976. Further Old GT road was handed over to Municipal Corporation Ludhiana in 1995, and these parking sites were developed in 1999. The committee understood that even though sites are not in compliance of master plan, but they are adjusted as per notification/ regulation notified by government at various point of time.

1. *The area along both sides of the road, adjoining Lodhi club, Sacred Heart convent school, BRS nagar is part of the Right Of Way (ROW) which was notified in 1976 by improvement in its notification. Hence committee is of opinion that this is not a green belt as claimed by applicant.*

2. *The area along both sides of the on Old GT Road is part of the Right Of Way (ROW) which was handed over to MCL in 1995 and since then it is maintained by*



MCL. Hence committee is of opinion that this is not a green belt as claimed by applicant.

3. With respect to construction of library building in green belt/park near manju cinema, it is to be noted that a COCP no. 165 of 2022 is pending in Hon'ble High Court regarding the same matter. Hence no action can be proposed by committee at this stage."

PRELIMINARY SUBMISSIONS

1. It is submitted that the master plan for Ludhiana was notified in 2008.

As per the notified master plan (2007-31), it has also been mentioned that unified Zoning regulations and Development control have been notified U/S 70(5) of the Punjab Regional & Town Planning & Development Act, 1995 vide notification bearing no. 6515-41/CTP(Pb)/SP-135 dated 18.10.2018, these zoning regulations and development controls are applicable on all master plan already notified or to be notified in the provision of "The Punjab regional and town planning and development act 1995". The nature of land use and control of development within each master plan shall be regulated through these regulations. The para 2.7 of the notification is reproduced as below:

"The site on which various projects have been approved or whose change of landuse has already been permitted by competent authority/



Govt. inform the final notification of the master plan such sites shall be deemed to be adjusted as sanctioned/ permitted.

In case of land belonging to the Development authorities / Improvement trusts/ Local bodies/ Semi Government agencies working under Government departments, its use shall be as determined by such agencies subject to prior approval of the Department of Housing and Urban development notwithstanding the provisions of master plan."

2. It is also submitted that a scheme namely Bhai Randhir Singh Nagar, (550 Acre) under PTI Act 1922 U/S 42 (1)) was approved by the Government vide its Notification No. 153-USLG-(1) 76/41858 dated 06.12.1976 and drawing of the same bearing No. 3/LIT/80 dated 01.02.1990 was prepared and sanctioned wherein as per the Scheme one site was reserved for Higher Senior Secondary School and another site for Water Work Site and later for Aviation Club, which is now developed as Lodhi Club. That as per the aforementioned drawing of the said scheme, it shows that in front of School as well as the Water Works site/ Aviation Club site, there exists 300 feet wide Southern Ring Road and there was no mention of any green belt. It is also pertinent to mention herein that the area along both sides of the road, adjoining Lodhi club and Sacred Heart convent school, BRS Nagar is part of the Right of Way (ROW) as is clear from the detailed scheme



plan of the area & is not a notified green belt as alleged by the applicant. It is also pertinent to mention herein that the road on the back side of Sacred Heart Convent School, as claimed by the applicant, is a 30 feet road and routing heavy traffic through this road could cause traffic congestion and even accidents which put the safety of students at risk during peak hours.

3. It is submitted that the old GT road connecting Amritsar to Delhi was then handed over to Municipal Corporation, Ludhiana in 1995 by Public Works Department. The stretch of road from Sherpur Chowk to Jagraon Bridge falls on this old GT road. As per section 224/225 of the Punjab Municipal Corporation Act, 1976, all the public streets within the Municipal area vests with the Municipal Corporation and the Municipal Corporation can widen, extend or otherwise improve any such roads. Also, under section 226 of the Municipal Corporation Act, 1976, the Municipal Corporation can even dispose of the land becoming available on permanent closure of total or part of any street.
4. It is submitted that on construction of the Ludhiana Bypass by NHAI, the traffic volume on old GT road reduced considerably. It is also pertinent to mention herein that as per the demand, some part of the ROW at that time, on both sides of the road was developed as park by Municipal Corporation, Ludhiana in 1999. Later a library & Statue



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was built in a corner of the park by Municipal Corporation, Ludhiana in 2021. It is also pertinent to mention herein that a COCP no. 165 of 2022 is pending adjudication in Hon'ble High Court with regard to the same. The matter being subjudice, any decision as given by Hon'ble High Court or this Hon'ble Tribunal shall be complied with.

5. The Municipal Corporation of Ludhiana is committed to saving the environment. Over the last five years, the Corporation has planted more than 150,000 plants and shrubs. Additionally, the Municipal Corporation of Ludhiana maintains 892 parks and green belts, and in the last year alone, approximately 20 acres of new green belts and parks have been developed. Municipal Corporation Ludhiana is committed to the process of developing new parks/ green belts, even outside the notified areas, as per the site availability and requirement of the city.
6. That with the development and urbanization, it is the duty of Municipal Corporation Ludhiana as per Punjab Municipal Corporation Act to provide suitable parking places for the increasing number of vehicles on the road for smooth management of traffic and proper convenience.
7. That Municipal Corporation, Ludhiana has always been diligent and is acting as per notification/regulation notified by government at various



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point of time which has also been observed by the report of Joint Committee submitted before this Hon'ble Tribunal. It is also submitted that Municipal Corporation, Ludhiana has always been compliant to the orders and directions issued by the Hon'ble Court and the Hon'ble Tribunal.

PARA-WISE REPLY

1. It is submitted that as per the report of Ludhiana Improvement Trust (LIT) (which had developed the scheme BRS Nagar in 1976) the said area is part of 300 feet wide Southern Bypass & is not a part of notified Green Belt. Further as per the record of PWD pertaining to OldGT road, the alleged land used for parking of vehicles, is part of Right of Way (ROW) & is not a notified Green belt. This is also mentioned in the Joint Committee Report. Relevant portion of the said report is being reproduced herein as:

"Ludhiana Improvement Trust has submitted that it has developed a scheme namely Bhai Randhir Singh Nagar, (550 Acre) under PTI Act 1922 U/S 42 (1) and same was approved by the Government vide its Notification No.153-USLG-(1)- 76/41858 dated 06.12.1976. Copy of the said notification dated 06.12.1976 is annexed herewith as ANNEXURE A3. The Drawing No. 3/LIT/80 dated 01.02.1990 was prepared and sanctioned wherein as per the Scheme one site is reserved for Higher Senior Secondary School and another site is reserved for Water Work Site. The copy of the drawing dated 01.02.1990 is annexed as ANNEXURE A4. That at present the school is known as Sacred Heart Convent School and the Water Work site is developed as Lodhi Club. After going through the drawing as per the said scheme it shows that in front of School as well as the Water Works site there exists 300 feet wide Southern Ring Road and there was no mention of any green belt in the existence which falsify the contentions of the applicants.



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The area along both sides of the road, adjoining Lodhi club, Sacred Heart convent school, BRS nagar is part of the Right Of Way (ROW) as is clear from the detailed scheme plan of the area, hence it is humbly submitted that claim of encroachment on green belt is falsified since this is ROW and not a green belt.

As for road along jagraon bridge to shepur chowk :

As per the record, this is part of old GT Roads which connects Amritsar to Delhi, this road was handed over to Municipal Corporation Ludhiana in 1995 by Public Works Department (ANNEXURE 6).

As per record, prior to the construction of Ludhiana bye pass by the National Highway Authority of India from Sherpur bye pass chowk to Jalandhar bye pass road, the road connecting the Jalandhar bye pass and Sherpur chowk was passing through within the city area was known as GT Road. The width of the said road except the portion of road passing through within the core area of the city varied in between 200 feet to 225 feet. However, on the construction of Ludhiana Bypass from Jalandhar Bye pass to Sherpur Chowk via Basti Jodhewal Chowk and Samrala Chowk by the National Highway Authority of India, the traffic volume on the old GT Road considerably reduced. Resultantly, squatters & hawkers started unauthorized use of the unmetalled portion of the road width by placing their wooden Takhats and kiosks for sale of articles. Apart shanties were also erected on katcha portion of the road. In these circumstances, to check the unauthorised use of the public road, the Municipal Corporation vide its resolution no 3207/3 dated 22.10.1999 sanctioned a sum of Rs 49.38 Lacs for development of green spaces and parks on both the sides of the road except on the road portion passing through within the core area of the city as the width of the road was lesser and was touching the building line.

It is relevant to mention here that as per section 224/225 of the Punjab Municipal Corporation Act, 1976, all the public streets within the Municipal area vests with the Municipal Corporation and the Municipal Corporation can widen, extend or otherwise improve any such roads. Still further, under section 226 of the MC Act 1976, the Municipal Corporation can even dispose of the land becoming available on permanently closure of total or part of any street. In this regard, the legal proposition already stands settled by a Division bench of this the Hon'ble High Court on 23.01.2014 while deciding the Civil writ petition filed by Citizen Welfare Society (Regd) versus State of Punjab. The area along both sides of the on Old GT Road is part of the Right Of Way (ROW) as is clear from the detailed scheme plan of the area, hence it is humbly submitted that claim of encroachment on green belt is falsified since this is ROW and not a green belt."

Thus, the question of encroachment on green belt does not arise, and hence this para is denied.

2. That the contents of this corresponding paragraph does not pertain to the answering respondent & thus require no comment, being matter of record.



3. That the locality BRS Nagar, Ludhiana has been developed by Ludhiana Development Trust and then handed over to Municipal Corporation Ludhiana. That as per the report of LIT, the said area is part of 300 feet Southern Bypass Road & is not a part of notified green belt. Further, it is submitted that club & school are constructed as per the allotted sites as per the layout plan of the BRS Nagar developed by LIT. Further, since these buildings are institutional/ commercial and not residential, they need access through main roads and not internal roads for better traffic management. Further, it is submitted that two entry and exit gates are shown on both sides of the Sacred Heart School (as per the layout plan) of BRS Nagar. Thus, there arises no question of any encroachment of green belt & hence this para is denied. Copy of the said plan is annexed herewith as **ANNEXURE A**.
4. That the claims of the applicant in this paragraph are entirely based on speculations & have no documentary evidence. Hence, this para is denied for want of evidence.
5. It is submitted that as per the records, this is part of old GT Roads which connects Amritsar to Delhi which was handed over to Municipal Corporation Ludhiana in 1995 by Public Works Department. That prior to the construction of Ludhiana bye pass by the National Highway Authority of India from Sherpur bye pass



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chowk to Jalandhar bye pass road, the road connecting the Jalandhar bye pass and Sherpur chowk was passing through within the city area was known as GT Road. The width of the said road except the portion of road passing through within the core area of the city varied in between 200 feet to 225 feet. However, on the construction of Ludhiana Bypass from Jalandhar Bye pass to Sherpur Chowk via Basti Jodhewal Chowk and Samrala Chowk by the National Highway Authority of India, the traffic volume on the old GT Road considerably reduced. Resultantly, squatters & hawkers started unauthorized use of the unmetalled portion of the road width by placing their wooden Takhats and kiosks for sale of articles. Apart from this, shanties were also erected on katcha portion of the road. In these circumstances, to check the unauthorized use of the public road, the Municipal Corporation vide its resolution no 3207/3 dated 22.10.1999 sanctioned a sum of Rs 49.38 Lacs for development of green spaces and parks on both the sides of the road except on the road portion passing through within the core area of the city as the width of the road was lesser and was touching the building line. As the traffic volume increased, there was increased demand of parking spaces in the city & Municipal Corporation Ludhiana has endeavored to provide suitable parking spaces as per the need from time to time. It



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is also pertinent to mention herein that as per section 224/225 of the Punjab Municipal Corporation Act, 1976, all the public streets within the Municipal area vests with the Municipal Corporation and the Municipal Corporation can widen, extend or otherwise improve any such roads. Also, under section 226 of the MC Act 1976, the Municipal Corporation can even dispose of the land becoming available on permanent closure of total or part of any street. The area along both sides of the on Old GT Road is part of the Right of Way (ROW) as is clear from the detailed scheme plan of the area, hence it is humbly submitted that claim of encroachment on green belt does not arise since this is ROW and not a notified green belt. The same is also evident from the report of Joint Committee.

That the applicant herein has also raised issues with regard to the constructed Library building near the Manju Cinema, Ludhiana. It is submitted that the library in question is built on the area of approximately 650 sq. feet as per the record of Village Taraf Saidan, Jamabandi for the year 2007-2008, Khewat No.2550/2818, Khasra no.1528 (25 Bigha, Biswa, 4 Biswansian) on Gairmumkin road, reflecting the ownership of Provincial Government. In the Cultivation Column, the name of the Public Work Department (PWD) is entered and later on the same was handed over to Municipal Corporation,



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Ludhiana in 1995. The old GT road was transferred to Municipal Corporation, Ludhiana in 1995. Municipal Corporation, Ludhiana has been maintaining the entire area since then. Further, some part of the ROW, on both sides of the road, was developed as park by Municipal Corporation, Ludhiana in 1999. Later on, a library & Statue was built in a corner of the park/green belt by Municipal Corporation, Ludhiana in 2021. It is to be noted that a COCP no. 165 of 2022 is pending in Hon'ble High Court regarding the same matter. The matter being subjudice, any decision as given by Hon'ble High Court or this Hon'ble Tribunal shall be complied with.

6. That the contents of the corresponding paragraph are matter of record & need no comments. It is submitted that the answering respondents has been following the rules and regulations laid down in this regard.
7. That the contents of the corresponding paragraph are matter of record & need no comments. It is submitted that the answering respondents has been following the rules and regulations laid down in this regard.
8. That the case mentioned here pertains to a different issue & all instructions of Hon'ble NGT regarding that have been duly complied with.



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9. That as per the paras above, it is submitted that the area in question is not a green belt & hence there is no question of encroachment. Hence, this para is denied.
10. That the contents of the corresponding paragraph are matter of record & need no comments. It is submitted that the answering respondents has been following the rules and regulations laid down in this regard.
11. That the contents of the corresponding paragraph are matter of record & need no comments. It is submitted that the answering respondents has been following the rules and regulations laid down in this regard.
12. It is submitted that the joint committee report had filed its reply regarding this matter after giving due hearing to applicant on merit. It is submitted that these may be construed as reply to the legal notices sent by the petitioner.

**DEPONENT****VERIFICATION**

Verified at _____ of the _____ day of _____, 2023 that the contents of the above reply in so far as they relate to factual position are true upon the information derived from the official record and in so far as they relate to the legal submissions are true upon the advice received and



believed by me to be true. Rest is by way of submissions before this Hon'ble Tribunal.

Certified that the affidavit SPA/GPA has been read over & explained to the deponent/accutant who seemed correctly to understand the same at the time marking above there of.

[Signature]
DEPONENT

[Signature]
I identify that I know the deponent personally & the same has signed/made thumb Impression in my presence.

DATE: 27/3/23
PLACE: LUDHIANA

ATTESTED AS IDENTIFIED

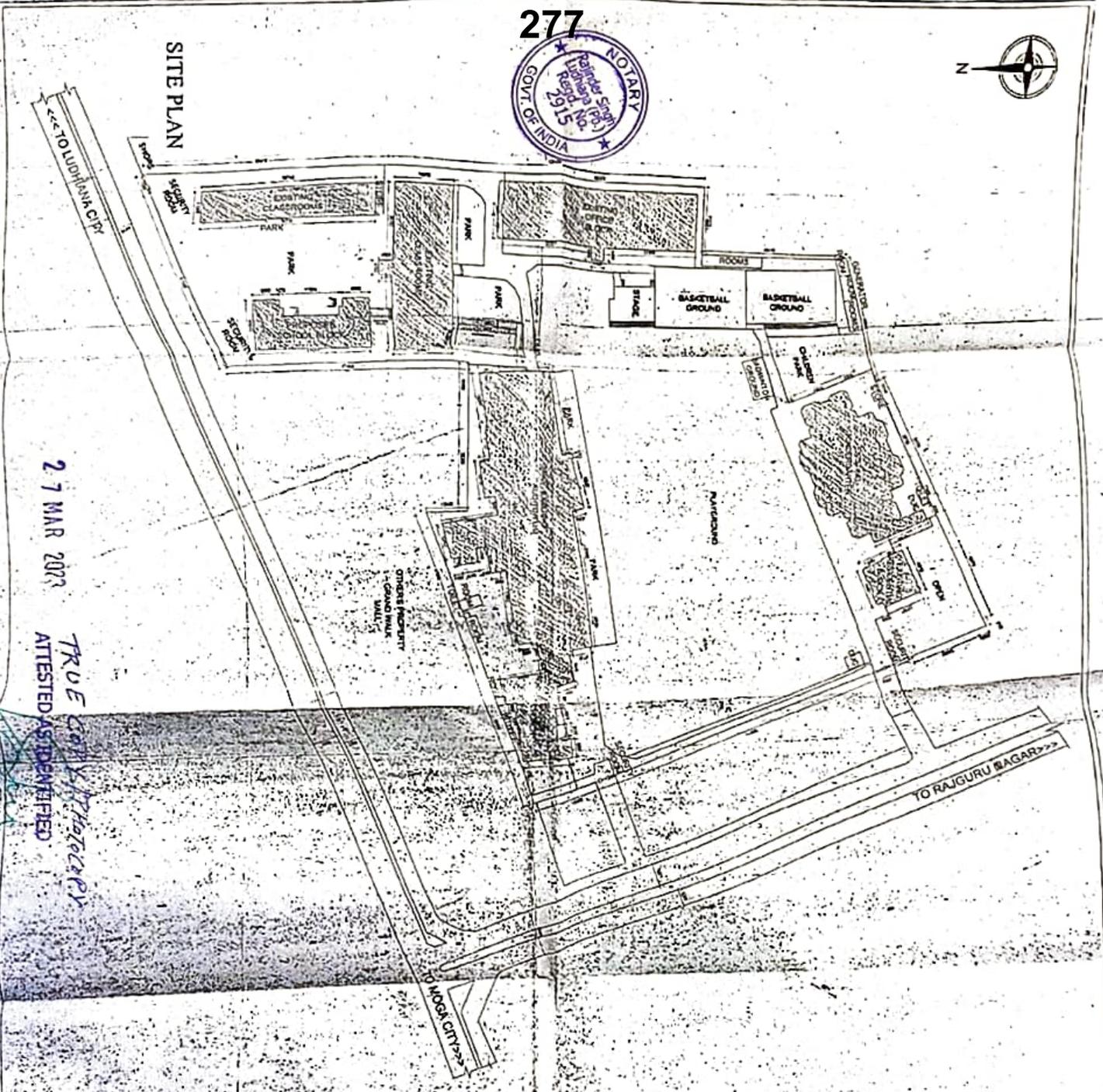
[Signature]
NOTARY PUBLIC
LUDHIANA (PUNJAB)

27 MAR 2023





SITE PLAN



27 MAR 2023

TRUE COPY
ATTESTED AS IDENTIFIED

NOTARY PUBLIC
LUDHIANA (PUNJAB)

PROPOSED NEW SCHOOL BUILDING BLOCK OF SACRED HEART SENIOR SCHOOL, AT B/26, NAGAR LUDHIANA.

NAME OF PROJECT: NEW SCHOOL BUILDING BLOCK OF SACRED HEART SENIOR SCHOOL, NAGAR, LUDHIANA

DATE: 27 MAR 2023

AREA STATEMENT CHART

1	TOTAL PLOT AREA = 588218 SQ. MT.	
2	GROUND COVERABLE ALLOWED = 49% OF TOTAL PLOT AREA = 288228 SQ. MT.	
3	PROPOSED GROUND COVERABLE = 178221 SQ. MT. = 31.3%	
4	TOTAL GROUND COVERABLE ALLOWED = 1104067 SQ. MT. = 1.77%	
5	MAINTENANCE AREA ALLOWED (1.10% OF 1104067) = 121447 SQ. MT. = 20.8%	
6	PROPOSED MAINTENANCE AREA = 28000 SQ. MT. = 4.9%	
7	TOTAL MAINTENANCE AREA ALLOWED = 149447 SQ. MT. = 25.7%	
8	TOTAL PROPOSED MAINTENANCE AREA = 27127 SQ. MT. = 4.7%	
AREA CALCULATION CHART		
FLOOR		
1	GROUND FLOOR	F.A.COVERED AREA IN SQ. MT.
2	FIRST FLOOR	618.67
3	SECOND FLOOR	618.67
4	THIRD FLOOR	618.29
5	TERACE FLOOR	618.29
6	ROOF AREA AT DIFF. LEVEL	198.87
7	TOTAL AREA	3712.7

ATTESTED AS IDENTIFIED

NOTARY PUBLIC
LUDHIANA (PUNJAB)

27 MAR 2023

NOTARY Seal: Notary Public, Ludhiana (Punjab), Regd. No. 2915, Govt. of India

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