

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI

[Under Sections 18(1) read with section 14 & 15 of the  
National Green Tribunal Act, 2010]

ORIGINAL APPLICATION NO. 329 OF 2024

IN THE MATTER OF:

RAJENDRA TYAGI

..... APPLICANT

VERSUS

UNION OF INDIA & ORS.

.....RESPONDENTS

INDEX

S.NO.	PARTICULARS	PAGE NO.
1.	REPLY FILED ON BEHALF OF RESPONDENT NO. 13, BHAGWATI DEVELOPERS ALONG WITH AFFIDAVIT	3-24
2.	APPLICATION FOR CONDONATION OF DELAY ALONG WITH THE AFFIDAVIT	25-29

3.	VAKALATNAMA ON RECORD	
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DATE 29/02/25

212-9 212

RESPONDENT

DELHI

THROUGH



ADV. A.K. GOSWAMI

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**RAJENDRA TYAGI ..... APPLICANT**

**VERSUS**

**UNION OF INDIA & ORS. ....RESPONDENTS**

**REPLY OF THE PLAINT ON BEHALF OF RESPONDENT  
NO. 13, i.e. BHAGWATI DEVELOPERS**

BRIEF BACKGROUND OF RESPONDENT NO. 13 i.e. Bhagwati Developers, the Respondent operates as a property dealer in the area in question like many others in that area and the answering respondent's primary business is limited to assisting buyers and sellers in legally transferring properties. It is submitted her that the Respondent No. 13 does not engage in the large-scale construction of residential or commercial projects, nor does it possess or develop large parcels of land in the area in question. The Answering Respondent maintains a clean record of operations,

adhering to the principles of transparency, legality, and sustainability.

### PRELIMINARY OBJECTIONS

1. **Maintainability of the Application:** The allegations made against Respondent No. 13 (Bhagwati Developers) are vague, baseless, and without any substantial evidence. Respondent No. 13 is a local property dealer and not a builder or colonizer as alleged by the Applicant. There is no huge construction activity being undertaken by the Respondent in Greater Noida, Noida, or any other area (Disputed Area). There is no single iota of evidence (Documentary or verbal) has been filed against the answering respondent in this plaint and no cause of action raise against the answering respondent.

*“Litigation must be bona fide and not intended to vex or harass the opposite party. Vague and generalized accusations cannot substitute a legitimate cause of action.”*

*The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties.*

The present application is devoid of specific allegations and is, therefore, liable to be dismissed.

2. **Generalized Allegations:** The Applicant has made sweeping allegations against “private builders/colonizers/real estate agents/dealers,” grouping multiple entities without distinguishing specific actions by Respondent No. 13. Such generalized allegations cannot form the basis for legal action against the Respondent.
3. **Absence of Ownership or Involvement in Large-Scale Construction:** Respondent No. 13 does not own or possess any large parcels of land or engage in large scale unauthorized construction activities as alleged. The business activities of the Respondent are restricted to property dealing, which involves facilitating transactions between buyers and sellers within the legal framework.
4. **Misjoinder of Parties:** The Applicant has improperly joined Respondent No. 13 in this application without any evidence linking it to the alleged violations. The Hon’ble Supreme Court in many cases held that

*“Misjoinder of parties without any specific cause of action against them amounts to harassment and abuse of process of law.”*

*This Court, in the case of Mumbai International Airport Private Limited (supra), has observed thus:*

*A “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court.*

5. **Lack of Evidence:** The Hon’ble Supreme Court in many cases, emphasized that allegations must be substantiated by evidence. It was held:

*“Mere allegations cannot be a substitute for proof in judicial proceedings. Any party alleging wrongful conduct must present substantial evidence.”*

In the present case, the Applicant has failed to produce any credible evidence directly implicating Respondent No. 13.

6. **Adherence to Legal Framework:** Respondent No. 13 operates strictly within the legal framework governing property dealings.

*“Entities adhering to statutory compliances cannot be penalized merely based on unfounded allegations without any factual basis.”*

7. **Principle of Natural Justice:** The Hon’ble Supreme Court in A.K. Kraipak v. Union of India, (1969) 2 SCC 262, emphasized the importance of natural justice. Dragging Respondent No. 13 into this matter without any factual basis violates this principle, as no opportunity was given to clarify its role before inclusion.

8. **Reliance on Supreme Court Judgments:** The Applicant’s reliance on judgments like M.I. Builders Pvt. Ltd. V. Radhey

Shyam Sahu and M.C. Mehta v. Kamal Nath is misplaced, as the facts of these cases are entirely different and do not apply to the Respondent's operations.

9. **Requirement of Causal Link and Burden of Proof in Environmental Violations:** The Hon'ble Supreme Court in Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647, emphasized that environmental violations must be directly attributable to the alleged violator, necessitating clear evidence of causation. It was held that in the absence of a demonstrable causal link, no liability can be imposed on any party. Further, in A.P. Pollution Control Board v. Prof. M.V. Nayudu, (1999) 2 SCC 718, the Hon'ble Supreme Court unequivocally established that the burden of proof in environmental matters lies on the party making the allegations. The onus to demonstrate environmental violations and establish a direct nexus between the alleged actions and the environmental damage is integral and cannot be presumed.

*“No party can be held guilty of environmental violations merely by association or presumption. Substantial proof of involvement is mandatory.”*  
*Therefore, in the absence of direct evidence establishing the liability of Respondent No. 13 in the alleged violations, no presumption of guilt can be drawn, and*

*the Applicant's failure to discharge the burden of proof absolves Respondent No. 13 from any allegations.*

**PARA-WISE REPLY OF FACTS IN BRIEF:**

1. **Para 1:** The contents of Para no. 1, pertaining to the applicant's credentials as a five-time municipal corporator, a member of the Bhartiya Janata Party, and his history of filing public interest litigations, are a matter of record and do not concern Bhagwati Developers directly. While the applicant's contributions to public welfare are acknowledged, it is humbly submitted that the present application unfairly implicates Bhagwati Developers, who are merely property dealers in the area and have no role in unauthorized constructions or environmental violations. Bhagwati Developers have consistently conducted their operations in compliance with applicable laws and have not engaged in any activities that adversely impact the environment.
2. **Para 2:** The contents of Para 2 are matter of record and it is submitted here that the Respondent No. 13 has not undertaken any large-scale construction in Greater Noida, Noida. The allegations regarding involvement in unauthorized construction are denied. Bhagwati Developers does not own or develop land in Greater Noida, Noida, or any other area as alleged. It is further submitted that the Respondent's role is limited to acting as a property dealer, assisting individuals in

finding legal and authorized properties. As property dealers, Bhagwati Developers only facilitate transactions between landowners and buyers; they neither own large parcels of land nor engage in construction or development projects. The broad and unsubstantiated allegations unfairly malign the reputation of Bhagwati Developers, who are law-abiding entities.

3. **Para 3:** The Respondent denies the allegations that it is constructing or developing any illegal and unauthorized villas, colonies, and creating pollution by doing any such activities of large-scale construction and all. Respondent No. 13 is not responsible for any such activities. It is submitted here that the answering respondent is neither the owner of large-scale land in these areas nor involved in any large scale unauthorized or illegal construction.
4. **Para 4:** The claim that the Respondent is engaged in the development of colonies like Dwarka City Colony, Samtel Enclave, or Sahara Enclave/City is categorically false. The Answering respondent has no connection in development of these projects and also it is pertinent to mention here that the respondent no. 13 is not owner of these colonies and he is just a property dealer in that area. The Applicant has failed to provide specific evidence against the Respondent.

5. That the content of para no. 5 is matter of record and it is submitted here that the respondent no. 13 i.e. Bhagwati Developers has nothing to do with construction or development of such illegal colonies. These are separate entities, and Bhagwati Developers should not be held accountable for activities carried out by other developers or builders. The applicant has failed to provide any evidence linking Bhagwati Developers to such activities.
6. **Para 6:** The newspaper report dated 28.02.2024, as referred to in Paragraph 6, is a matter of record. However, the allegations of Bhagwati Developers' involvement in illegal construction lack any factual or legal basis. It is submitted that the applicant's reliance on general media reports without specific evidence against Bhagwati Developers is insufficient to substantiate the claims.
7. The contents of Para no. 7, relating to the alleged involvement of the Noida Power Company Limited in facilitating unauthorized constructions, are not within the knowledge or purview of Bhagwati Developers. The Respondent has no control or influence over such infrastructure development and denies any allegations of collusion or wrongdoing.
8. **Para 8:** The allegations in Para no. 8, regarding the discharge of sewage and effluents by unauthorized constructions, are not attributable to Bhagwati Developers. The Respondent denies

all allegations of discharging sewage, waste, or effluents. The Respondent is not engaged in any construction activities that could contribute to environmental pollution or violate Section 24(1) of the Water (Prevention and Control of Pollution) Act, 1974. Bhagwati Developers strongly advocate for environmental protection and conduct their business in adherence to environmental laws. As a property dealer, the Respondent is not involved in any construction or related activities.

9. **Para 9:** The claims in Para no. 9, regarding non-compliance with Section 25 of the Water (Prevention and Control of Pollution) Act, 1974, are denied. Bhagwati Developers are not builders or developers and have no obligation to obtain such consents. These allegations are unfounded and appear to be aimed at unnecessarily dragging Bhagwati Developers into the dispute. The respondent's activities do not require consents to establish under Section 25 of the Water Act, 1974, as it does not engage in construction or development activities.

10. The contents of para no. 10, referring to the violation of Section 21 of the Air (Prevention and Control of Pollution) Act, 1981, is denied as far as it relates to Bhagwati Developers. The Respondent has no involvement in any construction activities that would necessitate compliance with

the said provision. The allegations of construction without mandatory consents under Section 21 of the Air Act, 1981, do not apply to respondent no. 13 as they are not owner of these land

11. The contents of para 11 are matter of record. As the Bhagwati Developers is not constructing these colonies and the respondent has no role in any commercial groundwater extraction or other activities requiring compliance with environmental regulations.
12. The contents of para 12, alleging failure by the UPPCB to inspect sewage discharge, are irrelevant to Bhagwati Developers, which has no involvement in construction or sewage generation. The allegations in Paragraph 12, regarding the UPPCB's failure to inspect and control sewage discharge, are not relevant to Bhagwati Developers. The Respondent has no connection to any such discharge or related environmental violations.
13. The claims in Paragraph 13, regarding non-compliance with the Uttar Pradesh Ground Water (Management and Regulation) Act, 2019, are denied as far as they pertain to Bhagwati Developers. As the respondent is not owner of these colonies in question and the Respondent is not involved in extracting groundwater and operates strictly within the framework of the law.

14. The contents of para 14 are noted, but the assertions in this para, regarding the creation of slums and high air pollution levels, are general and unsubstantiated. Bhagwati Developers have no role in these issues, as they do not engage in construction or development activities and even not the owner of colonies in question or any other large-scale construction in the areas in question.
15. The contents of para 15 regarding illegal mining of topsoil, which can result in deep, catastrophic, pits and also giving rise to vicious cycle is denied on respondent no. 13's part. Bhagwati Developers categorically deny any involvement in illegal mining of the top soil or activities contributing to environmental degradation. However, the allegations of environmental degradation have no connection with Bhagwati Developers' activities.
16. The contents of para 16, citing the definition of "environment" are noted. The respondent reiterates that it conducts no activities causing damage to the environment.
17. The contents of para no. 17 are denied. The reliance on Section 80 of the Uttar Pradesh Revenue Code, 2006, in this para is misplaced. Respondent No. 13 has not carried out any activity that would require a declaration under Section 80 of the Uttar Pradesh Revenue Code, 2006, as Respondent No. 13 does not

own or use land for industrial, commercial, or residential purposes.

18. The contents of para 18 are denied on the part of respondent no. 13 i.e. Bhagwati Developers. Bhagwati Developers does not violate the GNIDA Master Plan 2021, nor does it cause public nuisance. The allegations made in this para regarding the involvement of Respondent No. 13 in unauthorized constructions are baseless, false, and malicious. Respondent No. 13 neither owns any land in the area nor has undertaken any development or construction activity. The petition appears to be an attempt to implicate Respondent No. 13 without any factual basis. It is submitted that Respondent No. 13 has been unnecessarily dragged into this litigation. The petitioner has failed to provide any specific evidence to substantiate the allegations against Respondent No. 13. Merely being a property dealer in the area does not establish any wrongdoing on the part of Respondent No. 13.

As the section 80 of the Uttar Pradesh Revenue Code, 2006 reproduced as under:

**Section 80 in U.P. Revenue Code, 2006 :** Use of holding for Industrial, Commercial or Residential purposes.

*(1) Where a bhumidhar with transferable rights uses his holding or part thereof, for industrial, commercial or*

*residential purposes, the Sub Divisional Officer may, suo motu or on an application moved by such bhumidhar, after making such enquiry as may be prescribed, either make a declaration that the land is being used for the purpose not connected with agriculture or reject the application. The Sub-Divisional Officer shall state the reasons in writing of such declaration or rejection and inform the applicant of his decision within forty-five working days from the date of receipt of the application. Provided that no such declaration under this section shall be made merely on the ground that the holding or part thereof is surrounded by boundary wall or is Parti on the spot;*

*Provided further that no application for the declaration under this subsection moved by any co-bhumidhar having undivided interest in Bhumidhari land shall be maintainable, unless application is moved by all the cobhumidhars of such bhumidhari land or their interests therein are divided in accordance with provisions of law.*

*(2) the application for declaration under sub-section (1) shall contain such particulars and shall be made in such manner as may be prescribed.*

*(3) where the application under sub-section (1) is made in respect of a part of the holding, the sub-divisional officer may;*

*in the manner prescribed, demarcate such part for purposes of such declaration.*

*(4) No declaration under this section shall be made by the Sub-Divisional Officer; if he is satisfied that the land is to be used for a purpose which is likely to cause a public nuisance or to affect adversely public order, public health, safety or convenience or against uses proposed in the master plan.*

*(5) The State Government may fix the scale of fees for declaration under this section and different fees may be fixed for different purposes: Provided that if the applicant uses the holding or part thereof for his own residential purpose, no fee shall be charged for the declaration under this section.*

This section is clearly defined here as what bhumidaar can do and as bhumidaar is owner of land but here respondent no. 13 is not owner of these land areas. it is respectfully submitted that Respondent No. 13, Bhagwati Developers, is a local property dealer facilitating lawful real estate transactions and has no involvement in the alleged illegal or unauthorized constructions in Greater Noida and Noida as claimed in the petition. Bhagwati Developers neither own nor possess any large parcels of land in the area and do not engage in construction, colonizing, or land development activities. The allegations made in Paragraph 18 of the petition are baseless, devoid of evidence, and appear to have been made with the

intent to unnecessarily implicate Respondent No. 13. As clarified in *M.C. Mehta v. Union of India* [(1997) 11 SCC 312], liability for illegal constructions can only be attributed to those actively participating in such activities, which is not the case here. Any alleged violations of the Master Plan are solely attributable to the landowners or developers directly involved, as also affirmed in *Municipal Corporation of Greater Mumbai v. Kohinoor CTNL Infrastructure Co. (P) Ltd.* [(2014) 4 SCC 538]. Bhagwati Developers are being unnecessarily harassed by local authorities, police, and other government bodies due to the pendency of this petition before the Hon'ble National Green Tribunal (NGT). This harassment is unjustified and contravenes the principle of natural justice, as emphasized that innocent parties cannot be subjected to baseless allegations or undue interference. The invocation of Section 80 of the Uttar Pradesh Revenue Code, 2006, is wholly irrelevant as Bhagwati Developers neither own nor utilize any land for non-agricultural purposes. The provision pertains to landowners, and its misapplication against Bhagwati Developers, who are merely facilitators in property transactions, is legally untenable. In *State of Punjab v. Davinder Pal Singh Bhullar* [(2011) 14 SCC 770], the Court held that legal provisions must be interpreted in their proper context and not stretched to target innocent parties.

There is no evidence to substantiate the claims of public nuisance or adverse effects on public health due to any activity by Bhagwati Developers, as required by the principle established in *Vellore Citizens' Welfare Forum v. Union of India* [(1996) 5 SCC 647], which places the burden of proving environmental harm on the party making such allegations. Therefore, it is evident that Respondent No. 13 has no role in any illegal or unauthorized construction, and the allegations against them are unfounded. It is respectfully prayed that the Hon'ble Tribunal dismiss the baseless allegations made against Respondent No. 13 and direct the local authorities and other government bodies to cease any harassment arising out of this petition. Respondent No. 13 reserves their right to seek appropriate legal remedies to protect their reputation and business from unwarranted accusations.

19. The contents of para 19 are denied. The principles of sustainable development, precautionary principle, and inter-generational equity are not violated by Respondent No. 13, as it is not involved in any construction activity. The petitioner's reliance on these principles in relation to Respondent No. 13 is misconceived.

20. The contents of para 20, referring to M.I. Builders Pvt. Ltd. v Radhey Shyam Sahu & Ors., are noted. It is respectfully submitted that the allegations against Respondent No. 13,

Bhagwati Developers, are entirely baseless and unsupported by any evidence. Respondent No. 13 is merely a local property dealer facilitating lawful property transactions and is neither engaged in construction activities nor the owner of any significant land in the area. The attempt to link Respondent No. 13 to unauthorized constructions in Greater Noida and Noida is legally and factually incorrect. The reliance on *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu* [(1999) 6 SCC 464] is misplaced as Respondent No. 13 has no involvement in unauthorized constructions, unlike the builder in the cited case. Further, as held in *Meghmala v. G. Narasimha Reddy* [(2010) 8 SCC 383], baseless allegations cannot justify implicating innocent parties. There is no evidence connecting Respondent No. 13 to any violations under the GNIDA Master Plan 2021 or the Uttar Pradesh Revenue Code, 2006. It is emphasized that Respondent No. 13 is being unnecessarily harassed by authorities due to the pendency of this petition, which violates their rights under Article 21 of the Constitution, as upheld in *Shanti Sports Club v. Union of India* [(2009) 15 SCC 705].

21. The contents of para 21, citing *M.C. Mehta vs. Union of India & Ors.*, are noted. The respondent reiterates that it has no role in illegal construction activities requiring demolition or other corrective measures. Respondent No. 13, Bhagwati Developers, respectfully submits that the allegations against

it are baseless and unwarranted. The Respondent is not engaged in any construction activity, unauthorized or otherwise, in the areas mentioned in the petition. Bhagwati Developers operates solely as a local property dealer, facilitating lawful property transactions, and neither owns significant land nor is involved in large-scale projects or unauthorized developments. The reliance on the judgment in *M.C. Mehta vs. Union of India & Ors.* [W.P. (Civil) No. 4677/1985], which pertains to stringent actions against builders, contractors, and architects involved in unauthorized construction, is misplaced as it is not applicable to the Respondent, who has no role in the alleged activities. Despite this, Bhagwati Developers is facing undue harassment by local authorities, police, and other government bodies due to its inclusion in this petition, infringing upon its fundamental rights under Articles 14 and 21 of the Constitution. It is submitted that legal actions must be based on credible evidence, as held by the Hon'ble Supreme Court in *Kishan Lal Goyal vs. State of Rajasthan* [(2008) 14 SCC 151], which emphasized that mere allegations without proof cannot be the basis for legal action.

22. Respondent No. 13, Bhagwati Developers, submits that the allegations are baseless as it is not involved in any construction activity or ownership of large land parcels. Bhagwati Developers is merely a local property dealer

facilitating lawful transactions and has no role in planning, regulating, or executing construction. The petitioner's claims under Section 6 of the Uttar Pradesh Industrial Area Development Act, 1976, are irrelevant to the Respondent. The Hon'ble Supreme Court in *Kusum Ingots & Alloys Ltd. vs. Union of India & Ors.* [(2004) 6 SCC 254] has held that mere pendency of a petition cannot justify arbitrary actions. Respondent No. 13 prays for dismissal of claims against it and requests that authorities refrain from undue harassment.

23. That the content of para no. 23 is matter of record. Hence no need to reply

24. That the content of para no. 24 is matter of record. Hence no need to reply

25. That the content of para no. 25 is matter of record. Hence no need to reply

26. That the content of para no. 26 is matter of record. Hence no need to reply.

### **PRAYER**

In light of the above, Respondent No. 13 most respectfully prays that this Hon'ble Tribunal may be pleased to:

1. Pass an order in favour of respondent no. 13 against the applicant and exonerate the name of respondent no. 13 from application in the lack of evidence and merit and no cause of action;
2. Direct the applicant to stop harassing the respondent through the local authorities such as police;
3. Direct the Applicant to pay costs for unnecessarily dragging the Respondent into this matter;
4. Grant any other relief as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

DATE 19/02/2024

RESPONDENT

DELHI

THROUGH

ADV. A.K. GOSWAMI

Ch. No. 11, old civil supply building,

Tis Hazari court Delhi.

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**RAJENDRA TYAGI**

**..... APPLICANT**

**VERSUS**

**UNION OF INDIA & ORS.**

**.....RESPONDENTS**

**AFFIDAVIT**

**I, Satendra Singh S/O Ajab Singh age about 45 years R/o H.No. 26,  
Chipyana Chipyana Bujurg, G.B. Nagar, U.P.. do hereby solemnly  
affirm and declare as under:-**

1. That I am the respondent in the present plaint and filing reply and well conversant with the facts there of and competent to swear this affidavit.
2. That the facts contained in the accompanying reply has been read over to me and drafted by my counsel under my instructions in the vernacular language.
3. That the hereby undertake that this is the correct statement.

**Verification:**



**DEPONENT**

*Satendra Singh*

**Verification:**

I identify the deponent who has signed in my presence

19 FEB 2025

Verified at Delhi on this \_\_\_ day of February, 2025 that the contents of my above affidavit are true and correct to my knowledge and nothing material has been concealed there.

*[Handwritten signature]*

**DEPONENT**



CERTIFIED THAT THE DEPONENT  
Name: *Sukanya* Age: .....  
Sex: .....  
Occupation: .....  
Address: .....  
has read and signed the affidavit Nos. ....  
and that the contents of the affidavit are true & correct to his/her best knowledge & belief.

*[Signature]*  
Oath Commissioner Delhi

19 FEB 2025



3. That there has been a delay of 45 days in filing the reply, which is neither intentional nor deliberate but due to circumstances beyond the control of the respondent.
4. That the financial condition of the respondent was not stable, and he was facing financial constraints, making it difficult for him to bear the expenses of litigation and file the reply within the stipulated time.
5. That after that, the undersigned counsel had some serious health issues in his family and he was also not well, due to which the counsel was preoccupied and unable to prepare and file the reply within the prescribed period.
6. That the delay in filing the reply is bona fide and unintentional. If the delay is not condoned, the respondent will suffer irreparable loss and injury, whereas no prejudice will be caused to the petitioner if the delay is condoned.
7. That this application is being filed in the interest of justice, equity, and fair play.

**PRAYER:**

In view of the foregoing submissions, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to:

- a) Condone the delay of 45 days in filing the reply in the interest of justice.

b) Pass any other or further order(s) as may be deemed fit and proper in the facts and circumstances of the case.

DATE 19/02/2015

APPLICANT

DELHI

THROUGH

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Tis Hazari court Delhi.  
8800204030  
akshaygoswami0512@gmail.com

**BEFORE THE NATIONAL GREEN TRIBUNAL  
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**[Under Sections 18(1) read with section 14 & 15 of the  
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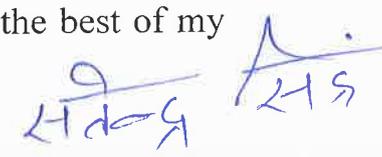
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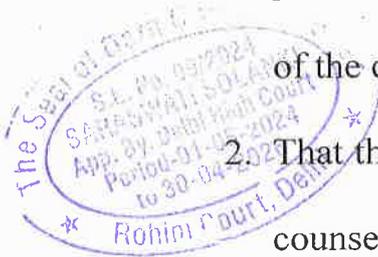
**.....RESPONDENTS**

I Satender, S/O Ajab Singh aged about 45 years, residing at 26, Chipyana, Chipyana Bujurg, G.B. Nagar, U.P., do hereby solemnly affirm and declare as under: -

1. That the deponent is the respondent in the above-mentioned  
plaint and is well conversant with the facts and circumstances  
of the case as such competent to swear this affidavit.

2. That the above-mentioned application has been drafted by my  
counsel and read over to me in the vernacular language and the  
contents of the petition are true and correct in the best of my  
knowledge.

  
**DEPONENT**



VERIFICATION: -

24 FEB 2025

Verified at Delhi on this \_\_\_ day of February 2025 that the contents of above affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed therefrom.

I Identified the Deponent who has signed in my presence



Handwritten signature of the deponent.

DEPONENT

I CERTIFIED THAT THE DEPONENT...  
Shri/Smt./Km. Sabharwal  
S/o W/o D/o...  
R/o...  
Identified by Arifraiz Khan  
has solemnly sworn to me at  
Delhi on...  
that the Contents of the Affidavit which have  
been read and explained to him are true and  
correct to his knowledge

24 FEB 2025

Oath Commissioner Delhi