

**BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI**

Original Application No. 423/2023

IN THE MATTER OF:-

Shyam Bihari Lal Saxena

..Plaintiff

Versus

State of U.P.

..Respondents

NDOH-11.01.2024

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New Delhi
Dated:-

Through


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REPLY/ OBJECTIONS ON BEHALF OF THE RESPONDENT NO. 4 M/S
M.S. INT UDYOG

PRELIMINARY OBJECTIONS/REPLY:-

1. That the present original application has not filed on the true and actual facts and the same has been file by exaggerating the allegations and also with the malafide and revengeful intentions to settle some old disputes with the replying respondent as well as to pave the way to the other brick kiln situated opposite to the replying respondent place in the same area. The other brick kiln either belongs to some known persons of the applicant or the applicant having gloves in hand with the owners of said brick kiln. The allegations as stated in the application are denied.
2. That the replying respondent brick kiln was inspected on 20.08.2022 without given any notice to him by some persons claimed to be from UPPCB office. However neither any direction was passed by them for the closure of the brick kiln nor they issued any show cause notice why the brick kiln should not be closed? The closure order against the replying respondent brick kiln was passed later on by the concerned authority and was delivered on 11.10.2022 but that too not to the replying respondent. As soon as the same came into the knowledge of replying respondent then the replying respondent immediately visited the authority office for the inquiries of the said directions but the concerned officials of the authority were not available due to their other urgent official works and the replying respondent unable to meet with the responsible person in concerned authority in respect to the notice dated 30.09.2022 and thus the replying respondent visited number of

times. It is submitted that the replying respondent always ready to make the compliance of the directions and never intentionally or deliberately try to violate the same but the replying respondent being an illiterate person and was not having any knowledge about the directions and hence visited the office of UPPCB to know about the way out to run the brick kiln but in any case the allegations are absurd in nature and motivated and the application is liable to be dismissed.

3. That the replying respondent being the poor person invested all his life savings in the construction and the establishment of the brick kiln and the said brick kiln is the only bread earner for the replying respondent family. However the replying respondent without any fail always ready to make the compliance and accordingly also closed the brick kiln without any if and buts and the same is not in operation.
4. That it is surprised to note that the complainant/applicant has not given the details of further brick kiln which are still in operation and running without obtaining any respective license or permission and it has not been stated in the application either initially filed with the UPPCB or to this Hon'ble Tribunal and this is sufficient to show that the application is motivated. The actions taken by the UPPCB is as per pick and choose and without issuing any notice/warning and no sufficient time was granted to the replying respondent to take the necessary steps. It is submitted that there are number of other brick kiln within the surroundings of the 500 meters of the replying respondent brick kiln illegally and unlawfully including one M/s MKG Bhatta, Dhomri Sidhpura Road, Salpura, Distt Kasganj, UP etc., but why no complaints have been made against those brick kiln by the applicant and this is sufficient to show that the applicant is only interested for the closure of the replying respondent brick kiln whereas the replying respondent has already stopped the brick kiln long back and also paid the environmental compensation of Rs. 1,75,000/- and the bank details are annexed as **Annexure R-1**.
5. That the present application has been filed with the ulterior motive by exaggerating the issue whereas the replying respondent is a law

abiding citizen and has a great regard for the same but being an illiterate person the replying respondent is not well off with the rules for obtaining the license and permissions from UPPCB and other concerned authorities. The replying respondent has started brick kiln with the sole intentions to support the family and to provide the bread and other day to day necessary items but in any case the applicant in compliance of the orders has paid the environmental compensation Rs.1,75,000/- to UPPCB and closed down the brick kiln and hence the present application has no meaning in the wye of law and liable to be dismissed.

6. That the replying respondent after receiving the knowledge for the closure of the brick kiln visited the concerned authorities to know about the said orders dated 30.09.2022 and came into the knowledge of replying respondent later on and tried to know the way out but when no way out was find out by him from the authorities except to close the brick kiln then the replying respondent make the compliance. The environmental compensation was quite exorbitant and for this reason the replying respondent also tried to get some relaxation or waiver but he was not successful to get the waiver and has suffered double loss of closing of brick kiln and the payment of environmental compensation.
7. That the replying respondent has no source of income except of this brick klin and that too has also been closed by the concerned authorities and being the poor person and having a burden of large family it is very difficult for him to pay the exorbitant amount of environmental compensation. However the replying respondent arranged the money from his friend and relatives and some known persons and paid Rs. 1,75,000/- in favour of UPPCB and ready to make the compliance for further directions as and when passed by the concerned authorities/Tribunal. The replying respondent seeks the sympathetic view of this Hon'ble Tribunal by waiving of Rs.9,87,500/- or allow some concession to deposit in some parts. The copy of the payment receipt has already annexed with this reply.

PRAYER

It is therefore prayed to this Hon'ble Court under the above facts and circumstances kindly:-

- a) Dismiss the present application/appeal pending before this Hon'ble Tribunal.
- b) And allow the respondent to deposit compensation in this Hon'ble Tribunal.

Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favor of respondent and against the applicant.

सुरेश-काकर

RESPONDENT NO.4
(M/S M.S. INT UDYOG)

New Delhi

Dated:-

Through



RAKESH KAKAR

ADVOCATE

C-1/D, GROUND FLOOR

GREEN PARK EXTENSION

NEW DELHI-110016

9810383620

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NEW DELHI

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..Plaintiff

Versus

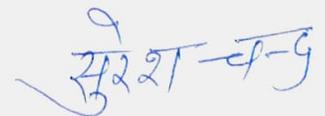
State of U.P.

..Respondents

AFFIDAVIT

I, Suresh Chandra S/o Sh. Raghuvar Dayal aged about 55 years office Vill-Post Dhundhra, Dhundhara, Kasganj, Uttar Pradesh-207246, do hereby solemnly affirm and declare as under:-

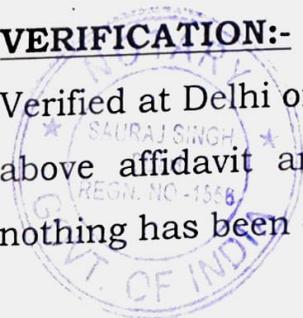
1. That the deponent is respondent no.4 in the abovesaid case and the same is pending for adjudication before this Hon'ble Court.
2. That the accompanying reply has been drafted by my counsel under my instructions and I say that the contents of the same are true and correct and has been explained to me in a vernacular language and the same are understood by me which are true and correct.
3. That the contents of the accompanying reply be read as part and parcel of this affidavit as the same have not been repeated herein for the sake of brevity.



DEPONENT

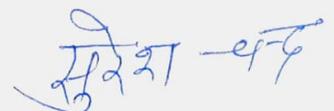
VERIFICATION:-

Verified at Delhi on this day of November, 2023 that the contents of the above affidavit are true and correct to the best my knowledge and nothing has been concealed therefrom.



ATTESTED

NOTARY PUBLIC DELHI



DEPONENT

1 NOV 2023

दिनांक: 18-11-2023

ग्राहक पावती

हम एनईएफटी/आरटीजीएस अनुदेश संदर्भ संख्या P322230281181688 को पावती देते हैं। अनुरोध

शाखा Sidhpura शाखा प्राधिकारी का नाम और हस्ताक्षर



STATEMENT OF ACCOUNT

Annexure - R-1

CANARA BANK
Account Branch
IFSC
MICR293-SIDHPURA 207246
CNRB0000293
207015156

DATE: 18-11-23 10:36:45 AM

Account No
Product Name
Customer ID
Customer Name
Address120000598803
CURRENT ACCOUNT- GENERAL
307876682
MS ENT UDHYOG
SUNAHARA
BHUIJPURA PATIYALI
SIDHPURA
KANSHIRAMNAGAR
UTTAR PRADESH
IN
207246Nominee Reference num:
Nominee Name
Account Title
Joint Holder's/Authorised
Person's NameMS ENT UDHYOG
SURESH CHANDRAPeriod:
Name Currency:
Swift code:18-11-2023 To 18-11-2023
INDIAN RUPEES
CNRBINBBBFD

TRANS DATE	VALUE DATE	BRANCH	REF/CHQ.NO	DESCRIPTION	WITHDRAWS	DEPOSIT	BALANCE
18-NOV-23	18-NOV-23	0		B/F ...	0.00	186,366.00	186,366.00
18-NOV-23	18-NOV-23	293	000445554727	NEFT DR- P322230281181688- UBIN0570150-UTTAR PRADESH POLLUTION CONTROL BOARD ALIGARH-	175,000.00	0.00	11,366.00
18-NOV-23	18-NOV-23	293		NEFT SC	18.00	0.00	11,348.00

Statement Summary :

Opening Balance	Total Debit Amount	Total Credit Amount	Debit Count	Credit Count	Closing Balance	Unclear Balance	Sweep-in Balance as on 18-11-23 10:36:45 AM
186,366.00	175,018.00	0.00	2	0	11,348.00	0.00	0.00

UNLESS THE CONSTITUENT BRINGS TO THE NOTICE OF THE BANK ANY DISCREPANCIES / OMISSION/ ERRORS/ UNAUTHORISED DEBITS IMMEDIATELY.
THE ENTRIES IN SUCH PASS SHEET SHALL BE DEEMED AS CORRECT AND SHALL BIND THE CONSTITUENT FOR ALL PURPOSE AND INTENTS.
BEWARE OF PHISHING ATTACKS THROUGH EMAILS AND FAKE WEBSITES.

IMB FACILITY USERS ARE REQUESTED TO NOTE THAT CANARA BANK DOES NOT SEEK ANY INFORMATION THROUGH EMAIL. DO NOT CLICK ON ANY LINK WHICH HAS COME THROUGH EMAIL FROM UNEXPECTED SOURCES. IT MAY CONTAIN MALICIOUS CODE OR COULD BE AN ATTEMPT TO "PHISH".
ALWAYS LOGIN THROUGH WWW.CANARABANK.IN. PLEASE BEWARE OF PHISHING.
CHANGE IN THE ADDRESS OF ACCOUNT HOLDER/PA HOLDER, IF ANY, MAY PLEASE BE INFORMED TO THE BRANCH ALONG WITH ADDRESS PROOF.

"DO NOT SHARE ATM PIN NUMBER, ACCOUNT DETAILS, OTP TO OUTSIDERS, EMAILS ETC"