

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

O.A. NO. 419 /2021

IN THE MATTER OF:-

M/s 108 Super Complex R.W.A.

Applicant

Versus

Uttar Pradesh State Pollution Control Board & Ors.

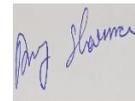
Respondents

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Respondent No. 5



Through Counsel

Place: New Delhi

ANUJ KUMAR SHARMA

Advocate

Date: 26.7.2022

C.A.T. (PB) Bar Room No. 4

New Delhi

M.: 8076629401

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**REPLY TO O.A. ON BEHALF OF RESPONDENT
NO. 5 / NARENDER BHARDWAJ**

MOST RESPECTFULLY SHOWETH

PRELIMINARY SUBMISSIONS

1. That the present O.A. is a misuse of the process of the law since the applicant has declared the plot of land as a park and has sought to declare the temple built upon it as illegal for having been built by cutting trees in the process. It is most respectfully submitted that as per **Annexure A-1** map of the vicinity and **Annexure A-3**/ google map images, annexed with the present reply obtained from Google Earth Images it would be clear that the park is on the one side of the road and the temple is

built on the other side. Therefore, there is no relationship between the park and the temple as is being sought to be established by the applicant. Therefore, it is most respectfully submitted that this Hon'ble Court would not have the jurisdiction in the present matter since neither the applicant nor the report submitted by the Additional District Magistrate (city) Ghaziabad is able to show that a single tree has been cut in the process of developing the temple in question, which itself was developed decades ago.

2. That it is also most respectfully submitted that the contention of the applicant that there is a *barat ghar* and shops made at the site have also be negated by the report submitted by ADM (City) Ghaziabad. It is submitted that the presence of neither the baratghar nor the presence of shops has been accepted by the report of ADM(City), Ghaziabad.
3. That it is most respectfully submitted that the respondent No. 5 i.e. Narender Bhardwaj is involved in many religious and charitable activities in his locality and the temple in question was built by his ancestors and people from his village Prahladgarhi over 50 years back and therefore to say that the said temple

has been built upon a park and has resulted in large scale degradation of the ecology is wrong.

4. That even as per **Annexure A-1** Map it would be clear that the said temple has come-up on a land which is itself shown as a mandir in the Map by the U.P. Awas Evam Vikas itself. Therefore, it is submitted that it is wrong on the part of the ADM (City) Ghaziabad to now claim it to be an open space. It is also submitted that as per DM Report dated 08.4.2022 itself the said area also has a Mother Dairy Booth apart from the temple in question. Moreover, as per the report itself there are three roads crossing the area on different sides. Hence if the area was actually earmarked as an open space, then the mother dairy booth too could not have come up at the said location.
5. That even the Committee constituted after the order of this Hon'ble Court never issued any notice nor sought any response from the answering respondents regarding the affairs of the site in question. It is therefore submitted that the respondent No. 5 could never submit his side of the story before the official respondent and was not provided the opportunity to submit his version of facts. It is therefore submitted that the report submitted

in compliance of the order of this Hon'ble Court is one sided without taking into account the version of Respondent No. 5.

6. That it is also most respectfully submitted that as per the report submitted by ADM (City) Ghaziabad they have nowhere alleged any kind of wrong doing on the part of the answering respondent No. 5 nor declared the respondent No. 5 as an encroacher nor has alleged any kind of illegality on the part of the answering respondent No. 5.
7. That it is again most respectfully submitted that the temple in question had come up on the site more than 50 years ago with the efforts of the ancestors of the applicant and other villagers. It is therefore, submitted that the said temple has a lot of emotional and religious sentiments attached to it of the local community.
8. That even the so-called new construction of 2016 is concerned, it is submitted that in fact there was a tin shade / *kacha* structure which was acting as a make shift satsang hall, which over the years had become dilapidated and required a lot of maintenance due to which it was decided by the samiti to reconstruct it for religious purposes of the community. Copy of

the dilapidated tin shade is annexed as **Annexure A-2**. Copy of Google Earth Image of the locality is annexed as **Annexure A-3**.

9. That it is most respectfully submitted that the only reason that the local authorities have never interfered in the working of the said temple and its operation is since it has existed over the decades and had been built by the villagers themselves and has been working for the welfare of the local population by holding langers and other religious events.

PARAWISE REPLY

Reply to Written Synopsis and Date of Events

1. That the present petition has been cleverly drafted in order to bring the jurisdiction of this Hon'ble Court where none exist. It is most respectfully submitted that the primary contention of the applicant that "*there exists an illegally occupied small portion of park and got constructed a temple*" and also "*that recently the respondent No. 5 has illegally constructed a Barat Ghar and Shops in the park by removing number of trees and plants without any permission and authority*" has been **found to be false even by the Committee constituted upon orders of this Hon'ble Court.**

In fact the R.5/Narendra Bhardwaj and his family have spent huge sums of money over the years, for the building and maintainance of the said temple, purely out of their religious sentiments.

2. That it most respectfully submitted that neither at the said location any park existed nor is there any barat ghar running at the said location.

PARAWISE REPLY

Reply to Brief Facts

Para 1: That the contents of the said para are false hence denied except those that are matter of records. It is submitted that there never existed any tree at the said location nor any trees were cut initially when the said temple was constructed nor at the time of its repair.

Para 2: That the contents of the said para are false hence denied except those that are matter of records. It is submitted that even as per UP Awas Vikas Map of 2002 the said area was shown as a Mandir and not as a open space. Since, the answering Respondent No. 5 was never presented with an opportunity to make submissions before the Committee constituted as per orders of this Hon'ble Court the said fact could not be presented before it.

Para 3: That the contents of the said para are false hence denied except those that are matter of records. It is denied that respondent No. 5 is involved in any kind of illegal construction of barat ghar.

Para 4: That the contents of the said para are false hence denied except those that are matter of records.

Para 5: That the contents of the said para are false hence denied except those that are matter of records. It is submitted that the said temple is not encroaching any park or green area.

Para 6: That the contents of the said para are false hence denied except those that are matter of records. It is denied that the residents have at any point of time opposed the temple or its running.

Para 7: That the contents of the said para are false hence denied except those that are matter of records.

Preliminary submissions must be read in reply to the said para. It is vehemently denied that 15 to 20 trees have been cut in fact there existed no trees at the said site, either before 2016 or after 2016. It is most respectfully submitted that a Peppal tree which existed has not been damaged in any manner and has been properly protected.

Para 8: That the contents of the said para are false hence denied except those that are matter of records. It is most respectfully submitted that at no point of time the local administration ever interfered in the working of the said temple since it is being run for the welfare of all persons in the said locality.

Para 9: That the contents of the said para are false hence denied except those that are matter of records. It is most respectfully submitted that at no point of time the local administration ever interfered in the working of the said temple since it is being run for the welfare of all persons in the said locality.

Para 10: That the contents of the said para are false hence denied except those that are matter of records. It is most respectfully submitted that at no point of time the local administration ever interfered in the working of the said temple since it is being run for the welfare of all persons in the said locality.

Para 11: That the contents of the said para are false hence denied except those that are matter of records. It is most respectfully submitted that at no point of time the local administration ever interfered in the working of the said temple since it is being run for the welfare of all persons in the said locality.

Para 12: That the contents of the said para are false hence denied except those that are matter of records.

Para 13: That the contents of the said para are false hence denied except those that are matter of records. It is vehemently denied that any trees have been cut during the life time of the temple.

Para 14: That the contents of the said para are false hence denied except those that are matter of records.

REPLY TO GROUNDS

Para (i): That the contents of the said para are false hence denied except those that are matter of records. It is vehemently denied that any question of degradation of environment has been made out by the applicant it is therefore submitted that this Hon'ble Court does not have the jurisdiction in the present matter since there has been no degradation nor any kind of pollution as a result of the functioning of the said temple.

Para (ii): That the contents of the said para are false hence denied except those that are matter of records.

Para (iii): That the contents of the said para are false hence denied except those that are matter of records.

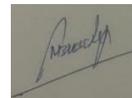
Para (iv): That the contents of the said para are false hence denied except those that are matter of records.

Para (v): That the contents of the said para are false hence denied except those that are matter of records.

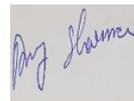
Para 15: That the contents of the said para are false hence denied except those that are matter of records.

Para 16: That the contents of the said para are false hence denied except those that are matter of records.

Para 17: That with regard to limitation it is most respectfully submitted that the said temple had been constructed over 50 years ago hence, the present matter is also beyond the period of limitation of this Hon'ble Court, hence, the cognizance of this O.A. is barred as per law.



Respondent No. 5



Through Counsel

Place: New Delhi

Date: 26.7.2022

ANUJ KUMAR SHARMA

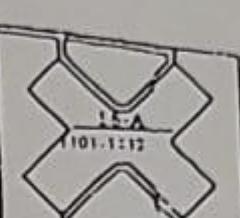
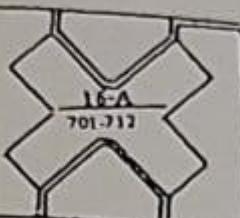
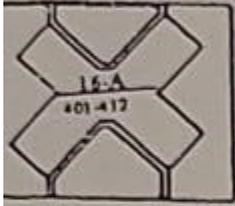
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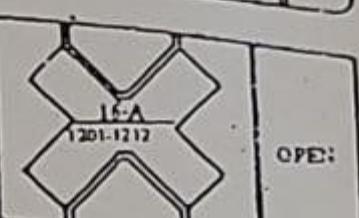
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MOTHER DAIRY MILK BOOTH



16-SH/1 COM. SHOPS

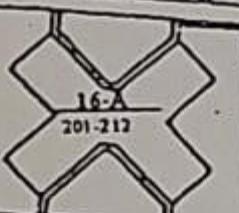
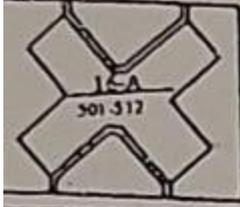
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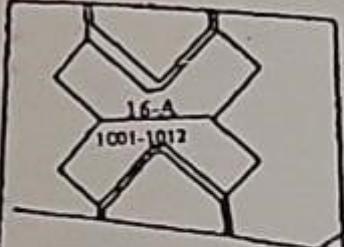
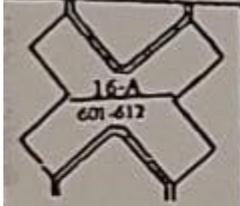
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18.00 M WIDE ROAD



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131	132	133	134	135	136	137	138	139	140
141	142	143	144	145	146	147	148	149	150

9.00 M WIDE ROAD



LAND FOR FUTURE USE

2167	2168
2169	2170

WIDE ROAD

RY SCHOOL 18.00 M

VILLAGE PRAHLAD GAR

