

**IN THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.  
ORIGINAL APPLICATION NO. 425 OF 2022**

**IN THE MATTER OF :**

**M.C. DWIVEDI**

**....APPLICANT**

**VERSUS**

**STATE OF UTTAR PRADESH AND OTHERS.**

**...RESPONDENTS**

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**FILED BY**

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**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO.425 OF 2022**

**IN THE MATTER OF:**

M.C DWIVEDI

...APPLICANT

VERSUS

STATE OF U.P. & ORS

...RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO 7, ABDUL KHALIK , PARTNER  
IN M/S**

1. I, Abdul Khalik S/o Abdul Latif, Aged about\_\_ years, R/O Village Sujavalpur, Kasganj, Uttar Pradesh- 207242, do hereby solemnly affirm and declare as under :
2. That I, in the capacity of owner of M/s Famous Bricks, am fully conversant with the facts of the case and competent to swear this affidavit.

**PRELIMINARY SUBMISSIONS:**

3. It is submitted that the Respondent No 7 is owner of the M/s Famous Bricks kiln and such is well acquainted with the facts of the complaint letter. As the issues pertains to the M/s Famous Bricks Kiln which is located Village Sujavalpur, Kasganj and Applicant's Mango Orchid located in Ramchiton village, Garhka Tehsil, kasaganj, Manyavar Kanshiram Nagar.
4. At the outset, it is submitted that present complaint is a motivated one and the letter petition has been filed by the M.C Dwivedi, located

at D-1/1203, Vasant Kunj, New Delhi-110070. The Applicant in his complaint alleged that pollution is being caused by the Brick kiln on his Mango Orchard spread over 6 acres of land adjacent to the village.

5. The applicant held that pollution of air and water, and disposal of hazardous waste has reduced the yield and quality of mangoes growing in his Mango Orchard adjacent to the village.
6. The applicant further alleged that the Brick kiln is running without any permission and operating without the consent from the Uttar Pradesh Pollution Control Board.
7. It is submitted that the Respondent no. 7 received no closure order as the other Brick Kilns received them.
8. It is submitted that the Respondent no. 7 had installed Climbing kiln, Platform and Porthole, etc to mitigate the Flue gases releasing from Chimney of the Kiln. These are pre-requisite that are fulfilled by the Respondent no. 7.
9. It is submitted that green belt development activities that have been undertaken in the area surrounding Brick Kiln of Respondent no. 7.
10. That as per The Uttar Pradesh Brick Kilns(Siting Criteria For Establishment ) 2012, Rule 2(vii) as under:-

*“brick kiln should not be allowed to install in the ‘Buffer zone’ of a notified fruit belt area as defined in ‘The Uttar Pradesh Promotion and Protection of Fruit Trees(Regulation of Harmful Establishments and Housing Schemes) Act,1985’ and the restriction made*

*by competent authority concerned or decision of court on case to case basis, if any.*

*Distance from sides of mango orchard/Mixed fruits (mango and other) orchard (having at least 100 fruiting trees) joint nursery from brick kiln shall not be less than 800 meters in each direction. The mentioned distances are applicable irrespective of the variety/type of fruit area individually or collectively should not be less than 2.5 acre.*

*Distance will be measured form the chimney of the brick kiln to the first/ nearest row of the tree of mango/fruit orchard towards the kiln.*

The Respondent no. 7 submits that the Brick Kiln is located about 800 meters than from the Mango Orchard. That the Respondent no 7 had not violated any law and the Applicant has moved the Application with ulterior motives and malafide intent. Copy of the

#### ON MERITS

#### PARAWISE COMMENTS

1. That in reply to the para 1 are denied for want of knowledge as the Respondent no. 7 is unaware of the orchids owned by the Applicant, and that the Applicant should be put to strict proof of the same.

2. That in reply to the para 2 are denied for want of knowledge as the Respondent no. 7 is unaware of the orchids owned by the Applicant, and that the Applicant should be put to strict proof of the same.
3. That in reply to para 3, it is submitted that Applicant has made wrong contention that due to Brick kiln, the yield and quality of the mangoes are reduced without any proof. It is submitted that not a single waste is directly disposed off to or near the Mango Orchard as the wastage is ash and the same is disposed as per the guidelines of UPPCB.
4. That the contents of para 4, being false, wrong and hence denied by the Respondent no. 7. The Respondent no. 7 vehemently denies the contention of the Applicant.
5. That the content of the para 5 is denied for being false and misconstrued as the Applicant had no proof that the Respondent no. 7 do not follow the guidelines issued by the UPPCB and Hon'ble Supreme Court of India.
6. That the content of para 6 is denied for want of knowledge by the Respondent no. 7 the contents of the para 6 are not repeated herein for the sake of brevity. It is submitted that these allegations are made without any basis and with ulterior motives.

PRAYER

- a). It is therefore most respectfully prayed by the Respondent no. 7 may kindly dismiss the present Original Application filed by the Petitioner;
- b). any other order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may be passed.

New Delhi

Dated : 16/4/2023

Respondent no. 7

through

*Shireen Khan*  
**(Ali Muzaffar & Shireen F Khan)**  
 Advocate for Respondent no. 3  
 40/121, LGF, Pocket 40  
 C.R. Park, New Delhi-110019  
 Mobile- 9599715315  
 Email:advocateshireenkhan@gmail.com

New Delhi

Date: 16/4/2023

VERIFICATION

Verified at Delhi on this 16<sup>th</sup> Day of April, 2023 that the statement of facts contained in the petition are true and correct to our knowledge and the statements of law contained therein are true upon legal information received and believed to be true, No part of it is incorrect and nothing material has been kept concealed therefrom.

DEPONENT

*अब्दुल खान*

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO.425 OF 2022



IN THE MATTER OF:

M.C DWIVEDI

... APPLICANT

VERSUS

STATE OF U.P. & ORS

... RESPONDENTS

**AFFIDAVIT**

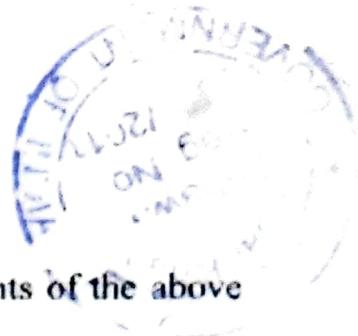
I, Abdul Khalik S/o Sh. Abdul Latif, Aged about \_\_\_ years, R/O Village sujawalpur, Kasganj, Gunjundwara, Uttar Pradesh- 207242, do hereby solemnly affirm and declare as under :

1. That I am the Respondent no. 7 in the abovementioned case and am well conversant with the facts and circumstances of the case. I am also otherwise competent to swear this affidavit.
2. That the statement of facts contained in Paras 1 to \_\_\_ of the Reply to the Original Application are true and correct to my knowledge and the statements of law contained therein are true upon legal information received and believed to be true.

*Afsar Khan*  
Advocate Notary  
Dist. No. 8004/2011

Deponent

अबुदुल खलिक



Verification

Verified at Delhi on this 16<sup>th</sup> Day of April 2023, that the contents of the above affidavit are true and correct to my knowledge, no part of it is incorrect and nothing material has been kept concealed therefrom.

Deponent

अरविन्द कुमार शर्मा

*Afsar*  
Advocate Notary  
Seharwar Reg. No. 8534/2011

17/04/2023  
3/8/23  
17/04/2023

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01/025/2002

IN THE MATTER OF  
M.C. DWIVEDI

STATE OF U.P. & ORS. VERSUS

KNOW ALL to whom these presents shall come that  
I/We Abdul Khalik, Partner M/S Famous Beekles  
the above named do hereby appoint

ALI MUZAFFAR, Shireen Khan  
Advocate Advocate

(herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him

To act, appear and plead in the above noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us

To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court.

I/We hereby agree that once the fee is paid, I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 4<sup>th</sup> day of Oct. 2023

Accepted subject to the terms of fees.

Shireen Khan  
Advocate

अब्दुल खालिक