

**BEFORE THE NATIONAL GREEN TRIBUNAL AT PUNE**

**MEMORANDUM OF APPLICATION**

**ORIGINAL APPLICATION NO. 166 OF 2024**

Nusli Neville Wadia ...Applicant

Versus

State of Maharashtra & Ors. ...Respondents

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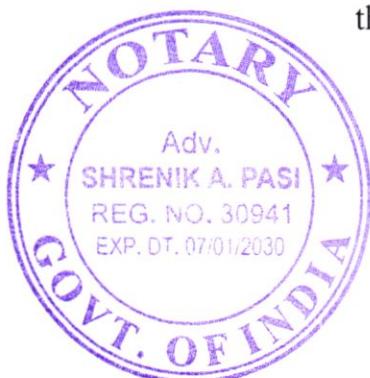
State of Maharashtra & Ors.

...Respondents

**Rejoinder Affidavit of the Applicant to Affidavit in Reply of Respondent No. 5 dated 29<sup>th</sup> January 2025 and Further Affidavit of Respondent No. 7 dated 5<sup>th</sup> February 2025:**

I, Shankar Kanhere, an adult, Indian Inhabitant, the Constituted Attorney of the Applicant in the captioned matter having my address at Neville House, J. N. Heredia Marg, Ballard Pier Estate, Fort, Mumbai – 400001, do hereby solemnly declare and state as under:-

1. I am the Constituted Attorney of the Applicant having my address as mentioned hereinabove. I have gone through the Affidavit in Reply of Respondent No. 5 dated 29<sup>th</sup> January 2025 and Further Affidavit of Respondent No. 7 dated 5<sup>th</sup> February 2025 and the documents filed along with the said Replies. I am familiar with the facts of the case from the office records, and I am competent to depose to the facts in this Affidavit in Rejoinder. I say that I am filing the present Affidavit for the purpose of rejoining to the Reply of Respondent No. 5 as well as the Further Affidavit filed by Respondent No. 7. I repeat and reiterate



*Shankar Kanhere*

the contents of the captioned Original Application filed by the present Applicant.

2. I vehemently deny all the averments, contentions and allegations made in the said Reply of Respondent No. 5 as well as the said Further Affidavit of Respondent No. 7 and are contrary to and/or inconsistent with what is stated herein and nothing stated therein shall be deemed to have been admitted due to want of specific traverse or a specific denial. I crave leave of this Hon'ble Tribunal to file a further affidavit or affidavits along with documents in support thereof, if the circumstance so warrants.

3. **Affidavit in Reply of Respondent No. 5 dated 29<sup>th</sup> January 2025:**

3.1 I say that it is evident that Respondent No. 5, a statutory authority, has preferred its Reply dated 29<sup>th</sup> January 2025 only to support the contentions of Feranis/Rahejas and it is quite evident that the same has been filed at the behest of Feranis/Rahejas.

3.2 I say that Respondent No. 5 has in its Reply alleged that development on the subject plot by Respondent No. 7 is purportedly not a prohibited activity and is as per the alleged permission dated 1<sup>st</sup> November 2018 granted by the Sanjay Gandhi National Park



*[Handwritten signature]*

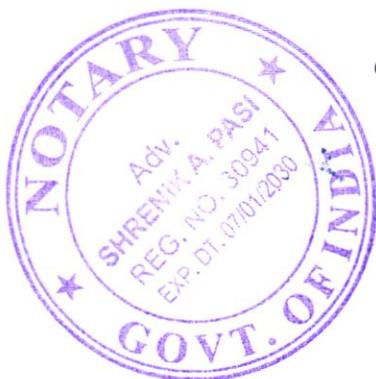
Eco Sensitive Zone (“SGNP ESZ”) Monitoring Committee to Respondent No. 7. It is submitted that Municipal Commissioner, MCGM is the Chairperson of the Monitoring Committee of SGNP ESZ.

3.3 It is submitted that the said permission was purportedly issued in accordance with the Notification dated 5<sup>th</sup> December 2016 (“said Notification”) issued by MoEF & CC notifying an area of 59.456 sq. km. to the extent of 100 mtrs. to 4 km. from the boundary of SGNP in the State of Maharashtra as SGNP ESZ. On a bare perusal of the said permission, it is evident that the same is illegal and not in accordance with law. I say that permission for commercial activities under the said Notification shall only be granted for activities as mentioned as per Paragraph 3 read with the relevant entries of regulated activities listed against Sr. Nos. 10, 16, 22, 32 and 35 in the table in Paragraph 4 of the said Notification. However, permission dated 1<sup>st</sup> November 2018 has been issued to Respondent No. 7 under the garb of being within the scope of regulated activities in Sr. No. 11 of the said Notification which enumerates construction activities permitted within ESZ and the same has to be in consonance with the approved Development Plan and other applicable rules and regulation under the MRTTP Act.



However, the said provision also expressly states that the said approved Development Plan has to be in conformity with the Zonal Master Plan taking into consideration all conservation aspects of the Eco Sensitive Zone. However, till date, the Zonal Master Plan has not been finalized and notified. The same has also been pointed out by the Joint Committee constituted in the present proceedings in its Report dated 21<sup>st</sup> August 2024 and Additional Report dated 30<sup>th</sup> November 2024. Therefore, no permissions can be granted on the basis of the said entry till the Zonal Master Plan is finalized. Therefore, it is submitted that the said permission dated 1<sup>st</sup> November 2018 is illegal, without any application of mind and is in direct contravention to the Notification dated 5<sup>th</sup> December 2016 and the provisions of the Environment (Protection) Act, 1986. Therefore, the contention of Respondent No. 5 that development on the subject plot by Feranis/Rahejas is not a prohibited activity is devoid of merit and ought to be dismissed.

3.4 I say that Respondent No. 5 has also alleged that hill cutting/ tree cutting and levelling of subject plot for the purpose of development of buildings, roads and infrastructure is permissible and the authority to substantiate its contention has relied on the permission dated 1<sup>st</sup> November 2018 issued to Respondent No. 7 which is an



illegal permission. It is submitted that several incidents concerning unlawful activities regarding destruction of trees on the said land including incidents of fires have taken place on the said land. The same have been noted by the Joint Committee constituted in the present proceedings. The latest of such fire incidents have been as recent as on 29<sup>th</sup> December 2024 that is still being investigated.

3.5 It is evident that the acts of Feranis/Rahejas under the garb of the illegal permission dated 1<sup>st</sup> November 2018 is causing rampant and repeated illegal destruction of trees by fire at the said land which is in violation of the provisions of the Maharashtra Trees (Urban Areas) Protection and Preservation of Trees Act, 1975. No action has been taken against the Feranis/Rahejas for the said illegal actions which is causing huge loss to the environment.

**4. Further Affidavit of Respondent No. 7 dated 5<sup>th</sup> February 2025:**

4.1 I say that Respondent No. 7 has filed a further affidavit essentially to support the contentions raised by Respondent No. 5 in its Reply dated 29<sup>th</sup> January 2025 which has been opposed more particularly hereinabove.

4.2 It is denied that the present Applicant is hand in gloves with the Applicant in Application No. 100 of 2024 and it is denied that the



*[Handwritten signature]*

present Applicant is intentionally attempting to stall the development which is being illegally carried out by Respondent No.

7. It is also denied that the present Applicant has filed the present Application with an intention to prejudice the mind of this Hon'ble Tribunal. It is submitted that the contentions raised by Respondent No. 7 are untenable, unsubstantiated and devoid of any merits.

5. The present Applicant is not dealing with the reply of Respondent No. 5 and further affidavit of Respondent No. 7 in seriatim more particularly since the entire bogey of allegations and contentions raised in the Replies have been dealt with and answered in terms of the aforesaid. However, the Applicant expressly craves leave to file an Additional Affidavit(s) in a paragraph-wise manner, if the circumstances so warrant.

6. In the aforesaid facts and circumstances, it is submitted that the contentions raised by Respondent No. 5 and Respondent No. 7 ought to be rejected *in toto* and the prayers made in the present Original Application be made absolute.

Date: 11<sup>th</sup> April 2025  
Place: Mumbai.



Advocates for the Applicant



Applicant



**VERIFICATION**

I, Shankar Kanhere, an adult, Indian Inhabitant, the Constituted Attorney of the Applicant in the captioned matter having my address at Neville House, J. N. Heredia Marg, Ballard Pier Estate, Fort, Mumbai 400001, do hereby state that I have submitted this Affidavit on solemn affirmation and oath. I have verified that the facts are true based on office records available with the Applicant. I have not suppressed any material fact known to me and relevant to this matter.

Dated this 11<sup>th</sup> day of April 2025.

Place: Mumbai.

*Shankar Kanhere*

Applicant

Before me



**BEFORE ME**  
*Shrenik A. Pasi*  
11/04/25  
**Adv. Shrenik A. Pasi**  
Advocate & Notary.  
GOVT. OF INDIA  
Plot No. 150B, Waras Lane,  
Worli Village, Mumbai-400 030.  
Reg. Sr. No. 30941

**NOTED & REGISTERED**  
Sr. No. 55 Page No. 08  
Date 11/04/2025