

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

1st floor, Opp. Council Hall, Pune – 411 001

ORIGINAL APPLICATION NO. 144 OF 2017

DISTRICT: MUMBAI

Umarshad Khan and Ors. Applicants

v/s

State of Maharashtra and Ors. Respondents

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PUNE

DATE : 06.05.2023



ADVOCATE FOR THE APPLICANTS

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**REJOINDER OF THE APPLICANTS TO REPORT DTD.
16.03.2023 SUBMITTED BY MOEF&C AND WRITTEN
SUBMISSION OF RESPONDENT NO.7 [PP].**

I, Shafikullah Hakikullah Choudhary, Applicant No. 11, hereinabove, do hereby state on solemn affirmation as under: -

1. I have been read over, explained and interpreted the contents of Written Submission dated 16.02.2023 and 11.04.2023 of PP and Report dated 16.03.2023 on behalf of MOEF&CC, being Applicant No. 11, I am competent to swear this Affidavit. I file this Rejoinder to counter by false, misleading claims made by the above Respondents and to place the correct facts on record which is essential for proper adjudication of this Application. Nothing contained in the Written Submission of PP and Report of MOEF&CC be deemed as admission by the Applicants until and unless the same is emphatically traversed and expressly admitted by me as under: -
 - a. The Written Submissions filed by the Respondent No. 7 [P.P.] is misleading and a blame is sought to be imposed on the present pending litigation for obtaining EC. The correct fact is that PP has not submitted the permissions issued by the Slum Rehabilitation Authority, who is the planning



authority, to the SEIAA and also not updated SEIAA about status of present litigation. The order of SEIAA is self-explanatory which is on page no. 10 of Reply dated 11.04.2023 of P.P.

b. The report of MOEF&CC that Respondent No. 7 [P.P.] is willingly making false statements on oath in the judicial proceeding before this Hon'ble Court e.g.: -

(i) As per condition no. (xxxix- 39), there is **no 2-wheeler and 4-wheeler parking space** allotted for parking in the Rehab buildings. So, Residents Park their vehicles in the open space left between 2 buildings. Parking facility is given for Sale building only that also within a separate boundary. True and correct photographs of the Rehab building showing parking in the pathway are attached hereto and marked as **EXHIBIT – A**.

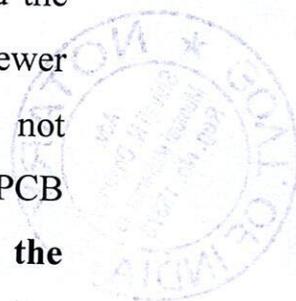
(ii) No plantation of trees, no greenery, no green layout is provided. The Project Proponent has misled the MOEF&CC officials and shown them the trees planted in the sale buildings and adjacent area but not in the Rehab buildings. There are no Organic Waste Commuters (OWC) installed in the Rehab and no green place for disposal of maneuver. The Applicants are residents of Rehab buildings and in that part of project there are only old trees, not planted by P.P.

(iii) Violation of Condition no. xxix – 29 of the prior - EC is only box of STP as show piece. The P.P. has falsely claimed that due to the complaint of the residents, the STP is not in operation. The fact is that the P.P. has only kept a dummy box of STP. So, no question arises



of its functioning or operation. Even that dummy STP is located obstructing the pathway near building No. A3 and A6 thus violating Fire Engine Plan. True and correct copy of the photographs of the dummy STP and OWC are attached hereto and marked as **EXHIBIT – B.** On (Pg 240 of the MOEF&CC report), it is recommended that PP should consider locating the STP well away from the buildings/pathway however, the plans approved by the SRA do not show any such designation.

- (iv) Pg 240 of the MOEF&CC report records that P.P. has not installed any STP for the sale building and the sewage is directly being discharged into the sewer line of BMC. Report suggests that P.P. is not complying with the consent condition, hence MPCB needs to take further action. **(Pg 249 of the MOEF&CC report).** Unfortunately, MPCB has failed to perform its statutory imperatives.
- (v) Violation of condition no. xxvi - 26 – there is no storm water drainage constructed in the Rehab Building of the project. The photographs attached are of the sale building which is locate opposite to the Rehab building and is separated, isolated by a 12 m wide road in between.
- (vi) There is water logging in the rehab buildings where the applicants reside as there is no storm water drainage provided. A true and correct copy of the photographs of the Rehab building premises showing drainage lines is hereto annexed and marked as **EXHIBIT – C.** (pg 248 of the MOEF&CC report).



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The P.P. has not connected any other pipeline connection for use of the rain water from storm water drainage or grey water for use as flush.

- (vii) The potable water tank is constructed underground and connected to the drainage/sewer line. Due to heavy rainfall in 2020, there was water logging, flooding all over the place/area and due to the leakage in the underground water tank, the potable water got mixed with the drainage water and was not usable. The residents could not use water for drinking as the underground water tank got polluted due to contamination of sewer with the potable water. There is no storm water drainage constructed by the P.P. for solving water logging in rehab buildings. (Pg 243 of the MOEF&CC report). The report states that this issue need to be seriously addressed by the PP. A compliance report in this regard shall be submitted to MPCB, SEIAA and this Office within two months. Any failure will attract action from SEIAA as per S.O 637 (E) dated 28.02.2014. However, despite lapse of two months period, the Authorities have failed to take any action.

- (viii) Similarly, pg 237 of the MOEF&CC report, it is stated that there are discrepancies in the built-up area, which the PP have not intimated the change to SEIAA as per the EC condition No. xlvi.

2. In these facts, circumstances, there is no monitoring office onsite for timely compliance of conditions and submitting six months reports to Regional Office.



3. The Applicants most respectfully pray before this Hon'ble Tribunal to kindly pass stricter order and to direct the MPCB to assess the damage and impose fine after calculating the damage the P.P. has caused to the environment by non-compliance of the mandatory conditions imposed on the PP by earlier EC dtd. 23.01.2012, to be done in a reasonable time bound manner of 15 day.
4. The Applicants also pray before Hon'ble NGT to direct the P.P. to suitable amend, modify the Plans for providing.
- (i) Storm water drains in Rehab building;
 - (ii) Proportionate Green layout in Rehab part;
 - (iii) Space designated for OWC in Rehab part;
 - (iv) Space designated for STP in Rehab part;
 - (v) Distinct pipe lines for drinking water and grey water;
 - (vi) Rain water harvesting;
 - (vii) Solar panels for lighting the common areas;
 - (viii) Fire Engine path of 9 mtr. clear width designated in the Plan;
 - (ix) Two-wheeler, 4-wheeler parking place approved in the Plan;
 - (x) Underground water storage tank to be adequately raised above the previous flood level.
5. The Applicants also pray before Hon'ble NGT to restrain the grant of any further permission by the Planning Authority / SRA / MCGM etc. in respect of the Project till the violations are duly complied, rectified and compensated.



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6. I say that the facts stated hereinabove are true to my knowledge and no material is concealed therefrom.

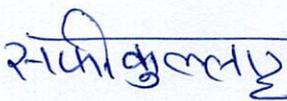
Solemnly affirmed,

Pune

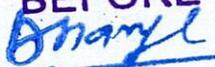
Date: 06.05.2023 06 MAY 2023

Identified, interpreted and explained by


Advocate for the Applicant


Deponent



BEFORE ME


Adv. Shivaji N. Dhange
Notary Govt. of India
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NOTED & REGISTERED

PageNo...187...Sr.No...22

Dated...06 MAY 2023

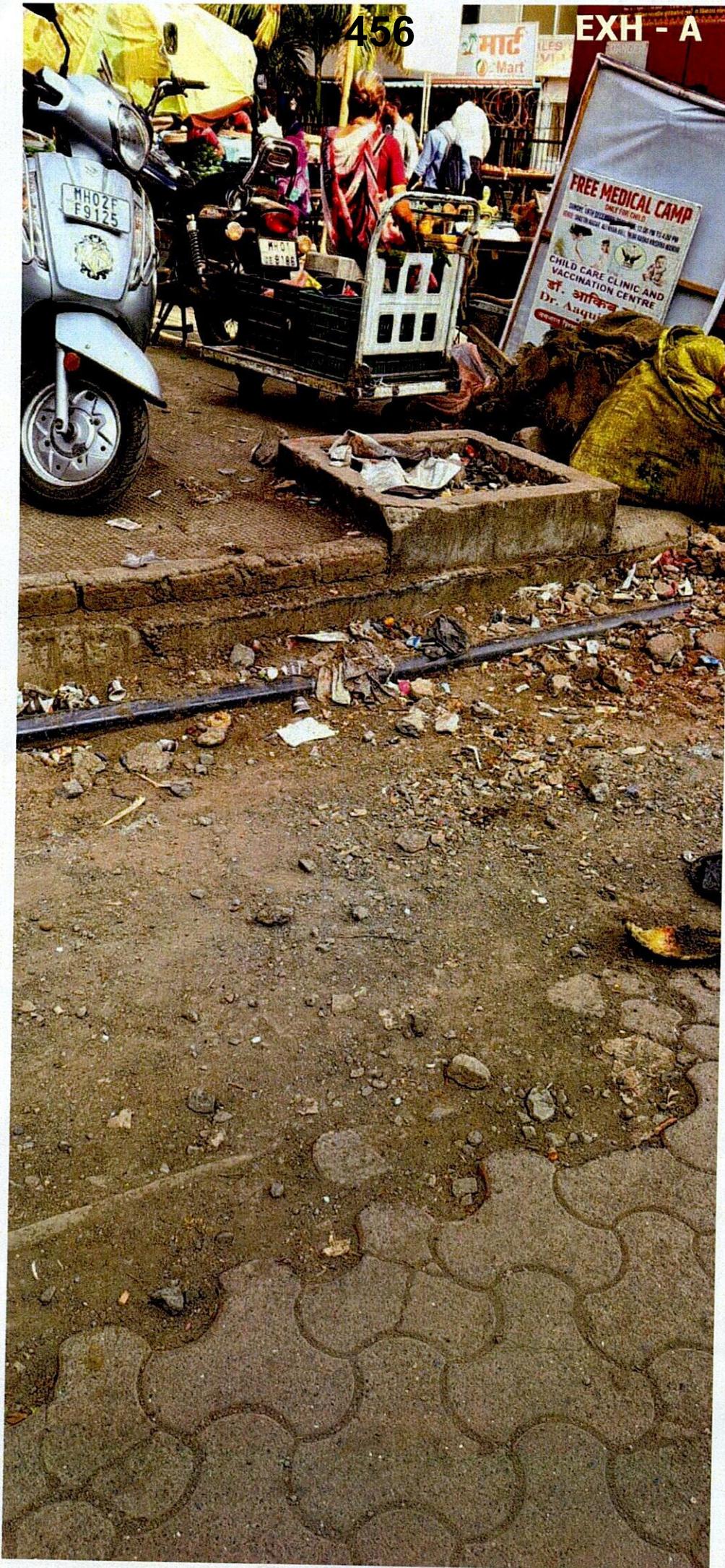


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EXH - A

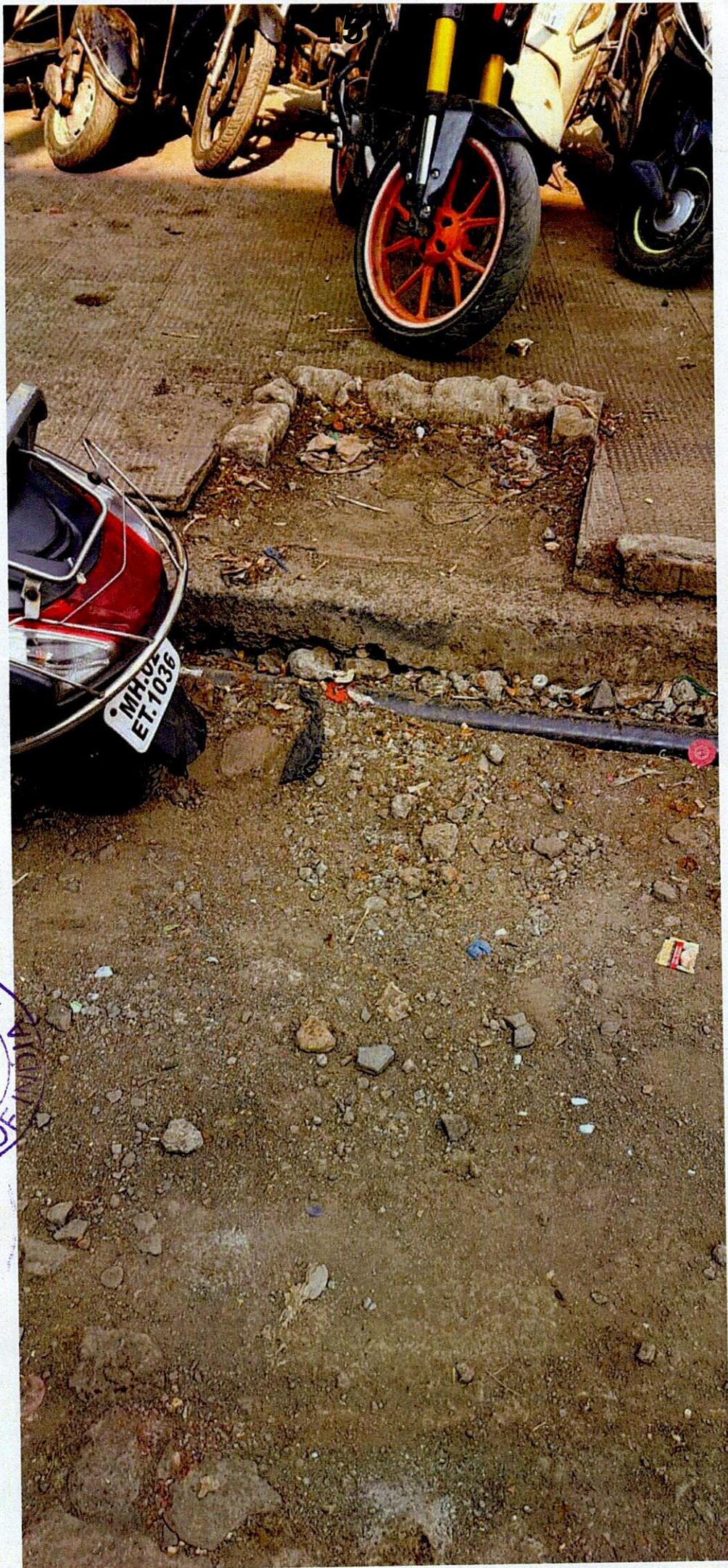
EXH-A

7



NOTARY
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8



NOTARY
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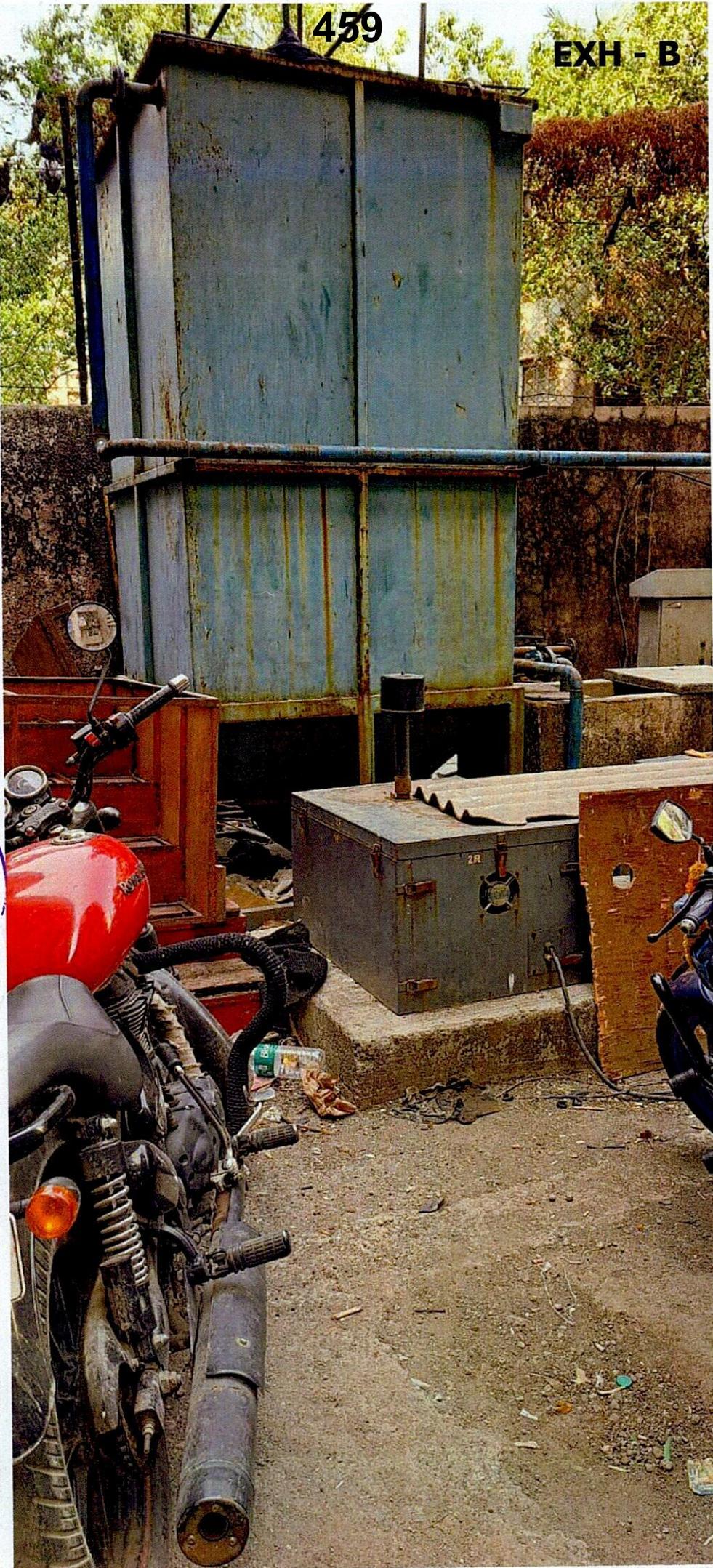
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EXH - B

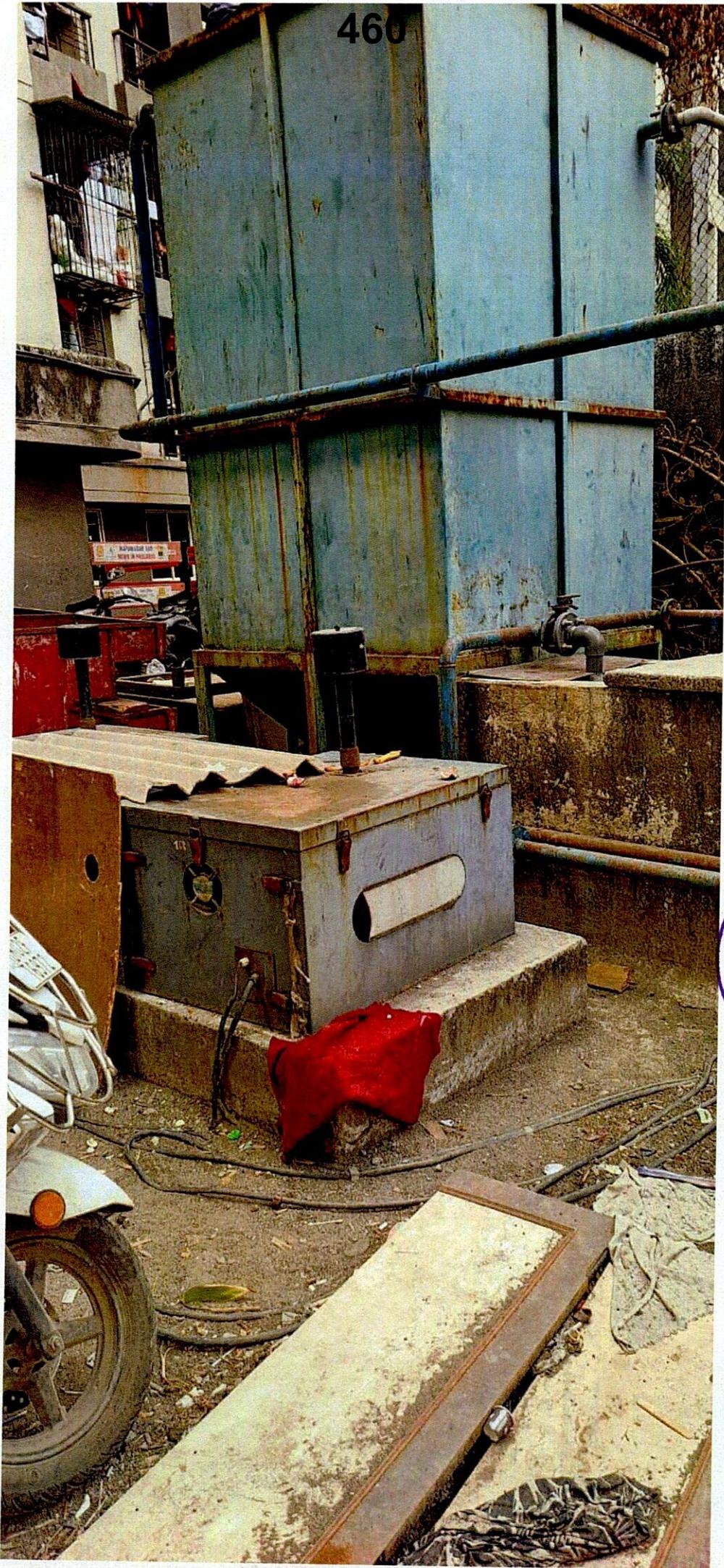
EXH-B

NOTARY
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12



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EXH - C

EXH-C

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★ GOVT OF INDIA
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Shiveji N. Dhanage
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Reg. No. 15376

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MOEF&C AND WRITTEN SUBMISSION
OF RESPONDENT NO.7 [PP]**

Dated this 06th day of May, 2023



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