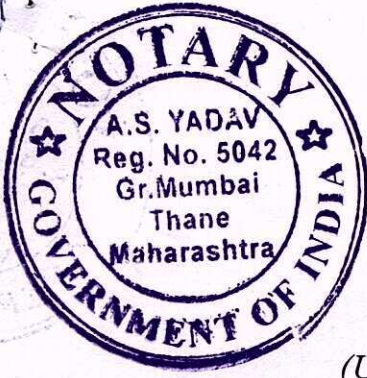


471



Regi. Sr. No.
6294/2024

BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, WESTERN ZONE BENCH, PUNE
Application No. 104 /2023(wz)

(Under section 15 of the National Green Tribunal Act, 2010)

Charan Bhatt

...Petitioner

-versus-

Environment Department of Maharashtra state and Anr.

...Respondents

Rejoinder/Affidavit in Reply by Respondent No. 9, submitting additional documents and reports regarding the existence of the pond and its subsequent filling

MOST RESPECTFULLY SUBMITTED:

1. I, Charan Bhatt, applicant of Original Application (OA) No. 104/2023 before the Hon'ble National Green Tribunal, Western Bench, seek the restoration of the water pond area 2903.36 sq mt on S.No. 47 Hiss no.5, 7A & B, and S.No 48 Hiss no.6,10,11 S.No.50 Hiss no. 3 (old) 47/5/7a B/48/ 6/10/11 50/3 (new) and appropriate action against the respondents for unauthorized earth filling on the said water body. The respondents, particularly Respondents 3, 4, 6, 9 and 12, are complicit in granting and receiving the development

permissions on the water pond through collusion, misuse of legal provisions, misrepresentation of facts, and dereliction of their official duties, illegal earth filling on water pond, in blatant violation of environmental laws. The said actions have resulted in severe environmental harm, including the destruction of the natural water ecosystem, loss of biodiversity, obstruction of groundwater recharge and overall ecological imbalance.

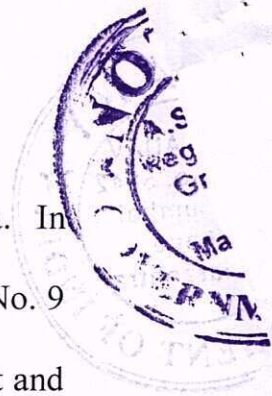
2. The statements made by Respondent No. 9 in the reply affidavit, asserting that there is no pond on the land in question, are false and misleading. Respondent No. 9, who holds a Power of Attorney for the land bearing Survey Nos. 47 (Hissa Nos. 5, 7A, and 7B), 48 (Hissa Nos. 6, 10, and 11), and 50 (Hissa No. 3) Old Survey Nos. 47/5/7A, 47/7B, 48/6/10/11, and 50/3 is acting on behalf of Respondent No. 8, who is the owner of the said land. It is pertinent to note that Respondent No. 8 has previously acknowledged the existence of a pond on the aforementioned land. Furthermore, the boundaries of the pond area were submitted by Respondent No. 8, and the District Collector Thane, obtained Non-Agricultural (NA) order explicitly prohibiting any development in the pond area. The existence of the pond is well-documented, as outlined below:





- a. Evidence from Development Plans existence of the pond is clearly depicted in the City and Industrial Development Corporation (CIDCO) VVSR city development plans for the years 1995, 1998, and 2007.
- b. Development permissions respondent No. 8, Mona Atul Patel, while seeking development permissions, submitted land details that included references to the pond area and its boundaries. Based on these submissions, Non-Agricultural (NA) and development permissions were obtained.
- c. District Collector of Thane, Revenue Department, issued a Non-Agricultural (NA) permission order dated 18th July 2005. This order explicitly acknowledges the presence of the pond and the pond area and categorically prohibits any construction on the said pond.
- d. Architectural layout plans Respondents No. 10 and 11, who designed the development layout for Respondent No. 8 land before year 2015 all documents mentioned about the pond, clearly indicated the presence of the pond, along with its area and boundaries, in the layout plans submitted for approval.
- e. Evidence from Satellite Images Google Earth images prior to the year 2017 clearly reveal the existence of the pond, with

A handwritten signature or mark in blue ink, consisting of a stylized 'S' shape with a horizontal line extending to the right.



visible water and vegetation surrounding the pond area. In light of the above, the assertions made by Respondent No. 9 denying the existence of the pond are factually incorrect and contradict documented evidence. The actions of the respondents are in direct violation of applicable laws and orders, including those issued by the District Collector.

3. The applicant submit the report of Circle officer report the **pond was illegally filled with 624 Brass of earth filling and 358 Brass of stone**, pond filling recorded in the report submitted by the Circle Officer to the Tahsildar on 17th January 2024 total **982 Brass of earth and stone used to fill the pond** this reports confirms there pond presence and pond filled up.

*The Mandal Adhikari report dated 17.01.2024 is annexed and marked as **Exhibit A**.*

4. The statements made by Respondent No. 9 in the reply affidavit are false and misleading, claiming the pond was mistakenly recorded. Respondent No. 8, Mona Atul Patel, is the rightful owner of Survey Nos. 47, 48, and 50, P.A holder. Collusion with the respondents no. 3, 4, 6, and 12, respondent no. 9 filled the pond with approximately 982 Brass of soil and stone (over 300 truckloads) and then applied for development permission. There is no pond flase reports were



submitted to the Urban Development Department by the commissioner respondent no.3, misusing power, position and law made false report stating that pond is drafting error in the DP plan tried to delete the pond from the vasai virar city Development Plan. Fabricated documents, including a fake panchnama, with the misuse revenue authority letter by the Tahsildar and Circle Officers. The conspiracy to fill the pond and obtain development permission for the personal gain damaged the natural water pond bodies. These coordinated actions resulted in environmental destruction and unauthorized development.


5. Respondents Nos. 3, 4, 6, and 9 claim that certain Form No. 14 documents have not yet been presented before the Hon'ble National Green Tribunal. However, the respondents are deliberately misrepresenting facts to mislead the Tribunal.
6. The Development Plan for the Vasai-Virar Sub-Region (VVSR) was prepared by CIDCO in collaboration with the National Remote Sensing Agency (NRSA), Hyderabad. As part of this process, an aerial survey was conducted on 05.12.1992 using aircraft to capture photographs of the entire sub-region, during which aerial photographs of the entire sub-region were captured. These photographs were subsequently interpreted and validated through

ground verification as of December 1993, in the year 1995, 1998 and final plan 2007 mentioned the presence of water pond on a area 2903.36 sq mt on S.No. 47 Hiss no.5, 7A & B, and S.No 48 Hiss no.6,10,11 S.No.50 Hiss no. 3 (old) 47/5/7a B/48/ 6/10/11 50/3 (new) in VVSR development plan marked in blue n green color.

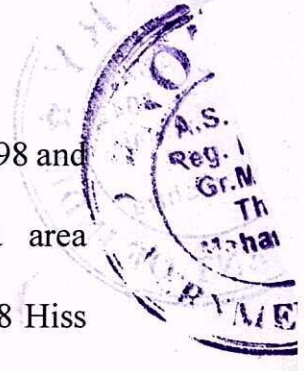
7. The Applicant seeks allow this rejoinder affidavit and prays that the Hon'ble National Green Tribunal take appropriate action against Respondent Nos. 3, 4, 6, 9, and 12, directing them to restore the pond to its original state.

Place : Nallasopara

Date : 18.12.2024


Charan Bhatt
Applicant-In-Person





VERIFICATION & AFFIDAVIT

I, Charan Bhatt, adult, do hereby state that I have verified the contents of the above submissions. I affirm that the facts stated therein are true and correct to the best of my knowledge and belief. This affidavit is filed on solemn affirmation and oath.

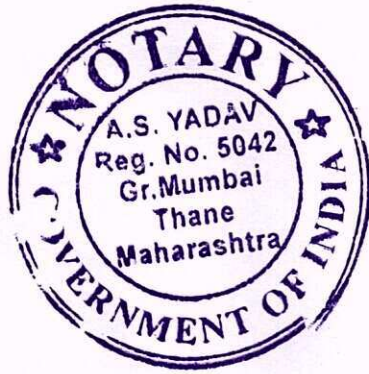
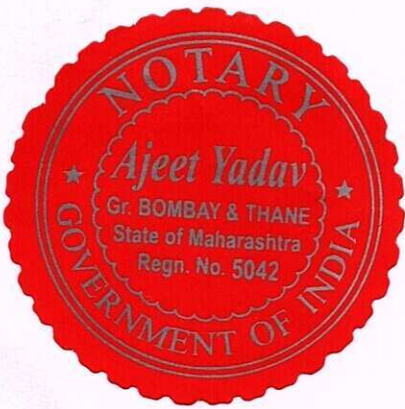
Place: Nallasopara

Date: 18.12.2024

Charan Bhatt

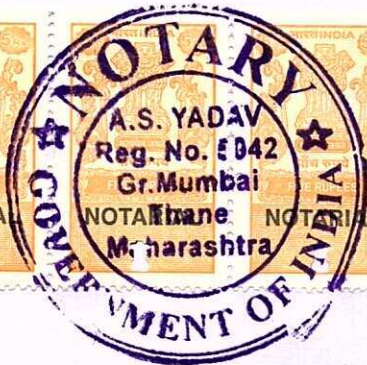
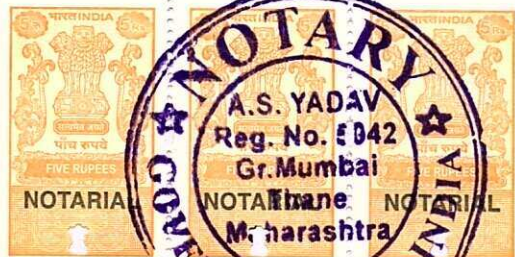
Charan Bhatt

Applicant In-person



BEFORE ME
Madao
AJEET S. YADAV
ADVOCATE & NOTARY
GOVT. OF INDIA
18-12-24

Regi. Sr. No.
6294/2024



478

Office of the Circle Officer, Pelhar

Address: Talathi Office Achole/Nilemore, Near Ganesh Temple, Achole Road,
Nalasopara (East), Taluka Vasai, District Palghar.

Outward Number/Waliv/Office Subject/200/2023

Date – 17/1/2024

To,

The Honorable Tehsildar, Vasai


Subject: Site Inspection Report Regarding the Land at Survey Numbers 47/5/7AB/48, 6/10/11/50/3,
Mauje - Waliv, Taluka Vasai, District Palghar.

Reference: Telephonic Message Dated 16.01.2024 from the Honorable District Collector, Palghar.

Sir,

With reference to the subject cited above, it is submitted that the land located at Mouje Waliw, Taluka Vasai, District Palghar, bearing Survey Numbers 47/5/7AB/48/6/10/11/50/3, having a total area of 268.10.00 Are Sq. Mtrs, is recorded in the 7/12 extract as follows: Area of 228.10.00 Are Sq. Mtrs is registered in the name of Mona Atul Patel. Area of 40.00.00 Are Sq. Mtrs is registered in the name of Abdul Hamid Mustafa Husain Shaikh and others, on behalf of Best Builders as partners. Additionally, as per the registered development agreement, other rights are recorded under Sagar Developers, represented by partner Mohammed Yusuf Abdul Latif Qureshi and others, for the non-agricultural area of 268.10.00 Are Sq. Mtrs.

On this day, 16.01.2024, during the site inspection conducted before the Talathi of Waliv, it was observed that regarding the two buildings under M/s Sagar Developers, represented by partner Mohammed Yusuf Abdul Latif Qureshi and others, prior permission for residential and commercial non-agricultural purposes was granted to Smt. Mona Atul Patel by the Honorable District Collector,





Thane, as per the order dated 18.07.2005. It is also noted in the said order that construction is not permissible in the area marked as pond land, with a specified area of 2903.36 Sq. Mtrs.

Subsequently, it is observed that Smt. Mona Atul Patel obtained construction permission from the CIDCO Authority as per the order dated 02.09.2008. In the said order, the pond area of 2903.36 Sq. Mtrs is also specified.

Subsequently, it is observed that Smt. Mona Atul Patel obtained construction permission from the Honorable Commissioner, Vasai Virar City Municipal Corporation, as per the order dated 01.11.2022. In the said order, the pond area is not specified.

However, subsequently, in the revised construction permission issued by the Honorable Commissioner, Vasai Virar City Municipal Corporation, dated 22.02.2023, the Area Under Pond (Shown in DP) with an area of 2903.36 Sq. Mtrs is specified.

In the approved construction plan dated 18.07.2005 issued by the Honorable District Collector, Thane, the pond area of 2903.36 Sq. Mtrs was specified. During the site inspection of the said location, it was observed that the area is vacant, and access to the site is available via the main road from Vasai Phata to Waliv, through the road near Shalimar Hotel. It was further observed that an old earth filling of 624 brass had been carried out at the location. Additionally, excavation from the adjoining area revealed new stone filling of 358 brass, which has been documented in a panchanama.

In this matter, the then Circle Officer, Mandvi, had previously submitted a site inspection report via letter dated 16.06.2022 (copy enclosed).

In the present matter, Mubarak Husain Mustafa Husain Shaikh, on behalf of M/s Best Builders as a partner, has filed a case (Regular Civil Suit No. 78/2023) against Mohammed Yusuf Abdul Latif Qureshi and others in the Honorable Civil Court, Senior Division, Vasai, on 25.10.2023. It appears that through this suit, a complaint has been made regarding the development permission and the pond related to the subject land. Additionally, regarding the subject land and the pond, Shri Charan Bhatt has filed Case No. 104/2023 (WZ) with the NGT (National Green Tribunal) against the Environment and Climate Change Department and others.

Therefore, the said report is respectfully submitted in this matter.

Enclosed are pages numbered 01 to 933.

<Stamp>

A copy of the document included in the office records/original file has been provided under the Right to Information Act.

Signed

Circle Officer, Palhar

Additional Circle, Palghar,

Taluka Vasai, District Palghar



मंडळ अधिकारी पेल्हार यांचे कार्यालय

पत्ता : तलाठी कार्यालय आचोळे/निळेमोर, गणेश मंदिर जवळ, आचोळे रोड,
नालासोपारा (पूर्व) ता.वसई जि.पालघर

जा. क्र./वालीव/कावि/२०१२०२३

दिनांक : १७/१/२०२४

प्रति,
मा.तहसिलदार वसई

विषय :- मौजे-वालीव ता.वसई जि.पालघर येथील सर्व्हे नंबर ४७/५/७अब/४८
६/१०/११/५०/३ या जमिनीबाबत स्थळ पाहणी अहवाल.

संदर्भ :- मा.जिल्हाधिकारी सा.पालघर यांचेकडील दिनांक १६.१.२०२४ रोजीचा
दुरध्वनी संदेश.

महोदय,

उपरोक्त संदर्भिय विषयान्वये सादर करणेत येते की, मौजे-वालीव ता.वसई जि.पालघर येथील सर्व्हे नंबर ४७/५/७अब/४८/६/१०/११/५०/३ क्षेत्र २६८.१०.०० आर चौ.मी. ही जमीन ७/१२ सदरी मोना अतुल पटेल यांचे नावे क्षेत्र २२८.१०.०० आर चौ.मी. व बेस्ट बिल्डर्स तर्फे भागीदार अब्दुल हमीद मुस्ताफा हुसेन शेख व इतर यांचे नावे क्षेत्र ४०.००.० आर.चौ.मी अशी दाखल असून, इतर हक्क सदरी मे. सागर डेव्हलपर्स तर्फे भागीदार मोहम्मद युसूफ अब्दुल लतीफ कुरेशी व इतर यांना नोंदणीकृत विकसन करारनाम्याप्रमाणे बिगरशेती क्षेत्र २६८.१०.०० आर चौ.मी. अशी नोंद आहे.

आज दिनांक १६.१.२०२४ रोजी तलाठी सजा वालीव यांचेसमक्ष जागेची स्थळ पाहणी केली असता, मे.सागर डेव्हलपर्स तर्फे भागिदार मो.युसूफ अब्दुल लतीफ कुरेशी व इतर यांचे दोन इमारीती संदर्भात यापूर्वी श्रीम.मोना अतुल पटेल यांना मा.जिल्हाधिकारी ठाणे यांचेकडील दिनांक १८.७.२००५ रोजीच्या आदेशानुसार रहिवास व वाणिज्य या विगरशेतकी प्रयोजनाकरीता परवानगी मिळाल्याचे दिसून येते. सदर आदेशामध्ये ज्या ठिकाणी बांधकाम अनुज्ञेय नाही यामध्ये पॉन्ड क्षेत्र २९०३.३६ चौ.मी. क्षेत्र नमुद केलेले दिसून येत आहे.

तद्नंतर श्रीम.मोना अतुल पटेल यांनी सिडको प्राधिकरण यांचेकडून दिनांक ०२.९.२००८ रोजीच्या आदेशान्वये बांधकाम परवानगी घेतलेची दिसून येते. सदर आदेशामध्ये पॉन्ड क्षेत्र २९०३.३६ चौ.मी. क्षेत्र नमुद केलेले दिसून येत आहे.

तद्नंतर श्रीम.मोना अतुल पटेल यांनी मा.आयुक्त, वसई विरार शहर महानगर पालिका यांचेकडील दिनांक ०१.११.२०२२ रोजीच्या आदेशान्वये बांधकाम परवानगी घेतलेची दिसून येते. सदर आदेशामध्ये पॉन्ड क्षेत्र क्षेत्र नमुद केलेले दिसून येत नाही.

कार्यालयीन अधिकार/मुळ संचिकेत
समाविष्ट ठाणे येथील वसई
प्रति तहसिलदार वसई
आली आहे.

तहसिलदार कार्यालय, वसई	
संकलन:-	-- VMD
23 JAN 2024	
अ.का.	नि.ना.तह. तहसिलदार

मात्र तदनंतर मा.आयुक्त वसई विरार शहर महानगर पालिका यांचेकडील दिनांक २२.२.२०२३ रोजीच्या सुधारीत बांधकाम परवानगीमध्ये Area Under Pond (Shown in DP) क्षेत्र २९०३.३६ चौ.मी. क्षेत्र नमुद केलेले दिसून येत आहे.

मा.जिल्हाधिकारी सा.ठाणे यांचेकडील दिनांक १८.७.२००५ रोजीच्या मंजूर बांधकाम नकाशात नमुद पॉन्ड क्षेत्र २९०३.३६ चौ.मी. या ठिकाणी जागेची पाहणी केली असता, सदर जागा मोकळी असून जागेवर जाणेसाठी वसई फटा ते वालीव या मुख्य रस्यावरून शालीमार हॉटेलच्या बाजूने जाणेसाठी रस्ता आहे. सदर ठिकाणी जुने ६२४ ब्रास माती भराव केलेला आढळून आला तसेच सदर जमिनीचे लगत असलेल्या जागेतून उत्खनन करून ३५८ ब्रास नविन दगडाचा भराव केलेला आढळून आला त्याबाबतचा पंचनामा सादर केलेला आहे.

प्रकरणी यापुर्वी तत्कालीन मंडळ अधिकारी मांडवी यांनी स्थळ पाहणी अहवाल दिनांक १६.६.२०२२ रोजीच्या पत्रान्वये सादर केलेला आहे प्रत (संलग्न)

प्रस्तुत प्रकरणी मुबारक हुसेन मुस्ताफा हुसेन शेख मे.बेस्ट बिल्डर्स तर्फे भागीदार यांनी मोहम्मद युसूफ अब्दुल लतीफ कुरेशी व इतर यांचेविरुद्ध मा.दिवाणी न्यायालय वरिष्ठ स्तर वर्सई यांचे न्यायालयात रे.मु.नं. ७८/२०२३ दि. २५.१०.२०२३ दाखल करण्यात आलेला असून, सदर दाव्याबदरे विषयांकीत जमिनीची विकास परवानगी व तलावाबाबत तक्रार केल्याचे दिसून येते. तसेच विषयांकीत जमिनीबाबत तलावाचे अनुषंगाने श्री. चरण भट यांनी Environment and climate change department and ors. यांचेविरुद्ध NGT (National Green Tribunal) यांचेकडे दावा क्र.१०४/२०२३ (WZ) दाखल केलेला आहे.

तरी प्रकरणी सदर अहवाल सविनय सादर करीत आहे.

सोबत पृष्ठ क्रमांक ०१ ते १३३

कार्यालयीन अभिलेखात/मुळ संचिकेत
समाविष्ट असलेल्या कागद पत्रांची
प्रत माहितीच्या अधिकारात पुरविणेत
आवली आहे.

Ashvagade
मंडळ अधिकारी पेंलहार
मंडळ साधिसई जि.पालघर
ता.वसई जि. पालघर