

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH AT NEW DELHI**

ORIGINAL APPLICATION NO

600 /2024

IN THE MATTER OF:-

BHUSHAN LAL PARIMOO & ROBIN RAM KRISHAN
VERSUS

PETITIONERS

STATE OF JAMMU AND KASHMIR & ORS

RESPONDENTS**INDEX**

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Date 19/08/25

APPLICANT
THROUGH
ADVOCATE

TSy
PRAKASH PANDEY
Mo N 7805008055

3. That Petitioner is filing present Rejoinder on Behalf of Applicant to the Reply filed by Respondent no 1,7 and Objection to the Affidavit filed by Respondent no 7

Preliminary Submission

4. That Petitioner Has filed Present Petition to Protect River Tawi Front Park , Respondent no 1 &7 has filed reply but nothing specified in reply that whether Tawi River Front Development Project required to destroy this park or not , State Authority is totally silent about why this project required to destroy Existing Park
5. That Respondent no 6 Jammu Smart City Filed Reply and admitted this fact that there are 712 no of Trees in the Tourism Park further is also admitted that only Approach Road shall intersect the park Constructed by the Tourism Department , however Approach Road only intersect the Parking area of Existing River Tawi Front Park, other than this nothing on record which show any requirement to destroying of park/Cutting Of Tree.
6. That Reply filed by Respondent no 1& 7 and Affidavit Filed By Respondent no 6 , it is clear that there is no bonafide requirement to destroy this park and nothing on record which show that if this park exist how this disturb the Tawi River Front Development Project hence it is clear that if Park exist then it would not affect Project Anymore. Map annexed by respondent no 6 itself showing that Existing Park not disturbing the Project
7. That the public interest in the reservation and preservation of open spaces for parks and playgrounds cannot be sacrificed for any purpose whatsoever. Any such act would be contrary to the legislative intent

and inconsistent with the statutory requirements. Furthermore, it would be in direct conflict with the constitutional mandate to ensure that any state action is inspired by the basic values of individual freedom and dignity and addressed to the attainment of a quality of life which makes the guaranteed rights a reality for all the citizens, as observed by the Supreme Court in Bangalore Medical Trust case . Absence of open space and public park, in present day when urbanisation is on increase, rural exodus is on large scale and congested areas are coming up rapidly, may give rise to health hazard. Therefore, in any case open space and parks cannot be allowed to be destroyed

8. That Recently in a Judgment of **(Arising out of SLP (C) No(s). 29048 / 2018) Municipal Corporation of Greater Mumbai & Ors. ...Versus Pankaj Babulal Kotecha & Ors.** Hon'ble Supreme Court set aside a 2018 Bombay High Court judgment directing the demolition of a recreational park built by the Municipal Corporation of Greater Mumbai, while setting aside judgment Hon'ble Supre Court Having Folowwing Observation

“15. As regards the current ecological value, the photographic evidence placed before us vividly illustrates the Subject Property as a verdant, well-maintained urban oasis replete with numerous mature trees and recreational facilities actively utilized by the community across all demographic segments. It bears particular emphasis that we are adjudicating this appeal in 2025, nearly fifteen years after the park became functional. During this extended temporal span, an entire generation of children has

grown up with this green space as an integral component of their daily existence, whilst the trees planted during the initial beautification have themselves matured into substantial specimens that now contribute significantly to the local ecosystem. The park serves as a vital recreational nucleus for children, offering safe spaces for play and physical activity; for senior citizens, providing dedicated areas for walking and social interaction; and for families, creating opportunities for community engagement and leisure.

16. The recreational park presently delivers substantial public benefits that cannot be overlooked. It provides an essential green space in an increasingly concretized urban environment, with trees and other foliage contributing significantly to oxygen generation, air purification, and microclimate regulation. The ornamental water features, such as the fountain, though admittedly not equivalent to a natural water body, nonetheless contribute to biodiversity. **(ANNEXURE A13 page 103-118)**

Objection to the Affidavit Filed by Respondent no 6 Jammu Smart City Ltd

9. That at the Outset it is submitted that the averments raised by the Affidavit filed by Jammu Smart City Ltd (Respondent no 6) dated 17/12/2024 are wholly untenable in law and are denied in their entirety, unless specifically admitted by the Applicant that the following is the contention wise response to the averments raised by Jammu Smart City Ltd.

10. That Point no 1 to 4 are matter of fact , hence Reply Not Required
11. That Point No 5, 6,7 are false hence denied it is wrong that there is only 2 no of Tree out of 712 no of Trees/Poles/Sapling , Photographs Annexed showing that there are many trees which are above 30 cms Diameter , **ANNEXURE A10 page 83-100** it is admitted that These Trees can not Translocated , so indirectly Respondent no 6 recommended for cutting of tree/destroying of park which is against the Principle of Public Trust doctrine and this Park Can not be destroyed because Plantation can be done at alternate Location under compensatory afforestation
12. That Point no 8(A) Reply not Required matter of fact
13. That Point no 8(B) (i)(a) I false hence denied that it is claimed that this Project having objective of creation of green recreationa spaces on area adjoining promenades , actually its is commercial Project and purpose is to commercialisation of Tawi River to earn profit , it is irony that this Project destroying the Existing Park for creation of recreational Space.
14. That 8(B) (i)(b) are False hence denied
15. That 8(B) (i)(c) it is vehemently denied that accepted that only Approach road to underpass shall intersect the park , truth is approach road is only insect the parking area of Existing Park , Photographs annexed As **Annexure A9 Page 80-82** showing that Existing park is not disturbing this project , only some of the area of Parking required by Project
16. That 8©(i) is accepted to the extent of 8798.52 sqm is allotted for park and 3036 sqm is designated for parking in addition to trees and shrubs the park includes a shop three gazebos a pathway running along the

entire park a play area, kids toy train swings and other facilities, it is false that these activities cover only 15 % of Area , actually entire park 100 % area having trees shrub and play area kinds area and all these area having greenery which is used by Public. Enumeration list annexed is not True more than 40 trees are above than 30 cms Diameter, which can be seen from **ANNEXURE A10 Page 90-100**

17. That 8©(ii) is false hence denied, land chosen for Compensatory afforestation is far away from Existing Park , distance is 16 Km , Google Map showing distance annexed as **ANNEXURE A12 page 102** Replacing a park with afforestation could negatively impact the existing ecosystem, potentially disrupting biodiversity and recreational opportunities. Parks are often valuable public spaces that serve diverse needs and their replacement with afforestation would not be in the public interest while compensatory afforestation is a measure to offset the loss of forest land, it cannot be used to replace a park. Parks have specific recreational and conservation purposes that are distinct from the goals of compensatory afforestation

18. That 8©(iii) is false hence denied

19. That content of the that 8©(iv) is misleading and False hence denied as respondent want to provide all this facility for Commercial purpose and if existing park having all these facility then why respondent no 6 want to destroy it and again develop it on right side , existing park is grown since last 10 years so no need to disturbing of this existing park and detail mentioned in table is only promise to do this

20. That contents of 8©(V) is false **hence denied**

21. That contents of 8©(VI) is false **hence denied**

22. That contents of 8©(VII) is false hence denied

23. That contents of 8©(VIII) is false hence denied , Respondent 7 misleading To Hon'ble Tribunal by way of proposed plantation data , Existing park developed trees grown in last 10 years , now respondent no 6 want to destroy existing park and proposing new park is unrealistic only eyewash reply
24. That contents of 8©(IX) is false , misleading , hence denied EC not taken , EIA Report Not Prepared by this project.

REJOINDER TO THE REPLY FILED BY RESPONDENT NO 1& 7

The state is considered a custodian of environmental protection. Article 48A of The Constitution mandates the state to protect and improve the environment, and to safeguard forests and wildlife. This obligation is further reinforced by Article 51A(g), which makes it a fundamental duty of every citizen to protect the natural environment

But in Present Case State Authority have not filed reply of Original Application filed by Petitioner , only Affidavit filed by state Authority , and Petitioner Contention not denied in affidavit hence it can be presume that State Authority is supporting Content of Original Application and State Authority also supporting the prayer Made by Petitioner

Parawise Response

25. That Contents of point no 1 to 3 are matter of fact
26. That Contents of point no 4 to are false and misleading fact hence denied, abovementioned para 11,13 15 may be read as objection to point no 4 for sake of brevity not repeating here.

ADDITIONAL SUBMISSION

The proposed road passes through the concrete parking area, not the green area of the park. (Please find attached the relevant drawing for reference, Page no 40 of the affidavit dated 31/ 08/ 2024)

2. No interference with RFD construction: The park has not hindered the construction of the RFD. In fact, the promenades and ghats adjacent to the park are already built, and formal functions have been held there including Tawi Arti and Baisakhi Mela on 13th April 2025 . There is no discernible reason to claim that the park is obstructing the RFD.

The RFD's adjacent areas are already constructed and functional.

park is the only shady area closest to the vast open concretised pavements of RFD , that has added to the urban heat island effect in the area hence indicating once again to the relevance of greenery and Shade in a public space.

(find attached the news article in Daily Excelsior dated 14th April 2025 **ANNXURE A11 Page 101**

3.The existing park serves as a valuable learning center for diverse age groups. (pics attached)

4.Members of the State Biodiversity Council have recognized its importance. Mr. OP Sharma Vidhyarthi, IFS , Retd PCCF , Sahitya Academy awardee , author of 52 books , member of state Biodiversity Council, has stated that many of the lesser known plants in this park are of biodiversity nature and are not found in the forests of Jammu. (Review attached)

4. "Given the park's significant contributions to public interest, once a dumping ground , which has been transformed into a thriving

Biodiversity park , with more than 180 species of plants , more than 700 plants , serving as a year round exploration spot for nature lovers, school and college students , a learning center for people of all ages, it's crucial to assess the proposed project's benefits. What criteria will authorities use to determine the new project's superiority?"

Therefore ,It is prayed that

- (A) Hon'ble NGT May kindly grant prayer in Original Application.& Reject respondent prayer for destroying of park cutting of tree.
- (B) Any Other Prayers in the interest of environmental justice.

Date 19/08/25

APPLICANT
THROUGH
ADVOCATE
PRAKASH PANDEY
Mo N 7805008055





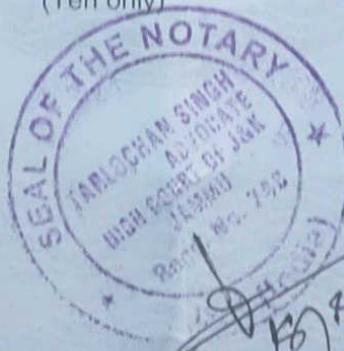
सत्त्वमेव जयते

INDIA NON JUDICIAL

Government of Jammu and Kashmir

e-Stamp

Certificate No. : IN-JK74969380649830X
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 (Zero)
 First Party : BHUSHAN LAL PARIMOO
 Second Party : Not Applicable
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 Stamp Duty Amount (Rs.) : 10
 (Ten only)



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Bhushan Lal Parimoo

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1. The authenticity of this Stamp certificate should be verified at www.echamstaind.com or using e-Stamp Mobile App of State Emblem of India Ministry in the details on this Certificate and as available on the website / Mobile App, wherever it is valid.
2. The onus of ensuring the legitimacy is on the users of the certificate.
3. In case of any discrepancy, please inform the Competent Authority.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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ORIGINAL APPLICATION NO

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BHUSHAN LAL PARIMOO & ROBIN RAM KRISHAN

PETITIONERS

VERSUS

STATE OF JAMMU AND KASHMIR & ORS.

RESPONDENTS

AFFIDAVIT

I **BHUSHAN LAL PARIMOO S/O MAHESHWER NATH, Aged 79 yrs R/O H No F521/A, UNO lane, Talab Tillo, Jammu City, Jammu and Kashmir-180002** do hereby solemnly affirm on oath as under

1. That, I am Petitioners in the instant case and fully conversant with the facts of the case and hence, competent to swear on this affidavit.
2. That, I am filing Rejoinder against the reply filed by Respondent no 1, 7 and objection against Affidavit filed by Jammu Smart City (respondent 6) Along with Annexure before the Hon'ble Tribunal the Contents from Para 1 to last have been drafted on my instruction and the same have been explained to me by my counsel.
3. That, we had read and understood the contents and based on the documents filed along with the application

B. Parimoo
DEPONENT

VERIFICATION

I, The above named deponent do hereby verify that the contents of the paras above are true and correct and no material fact has been concealed.

Signed and verified on this 18 Day of August 2025 at

B. Parimoo
DEPONENT



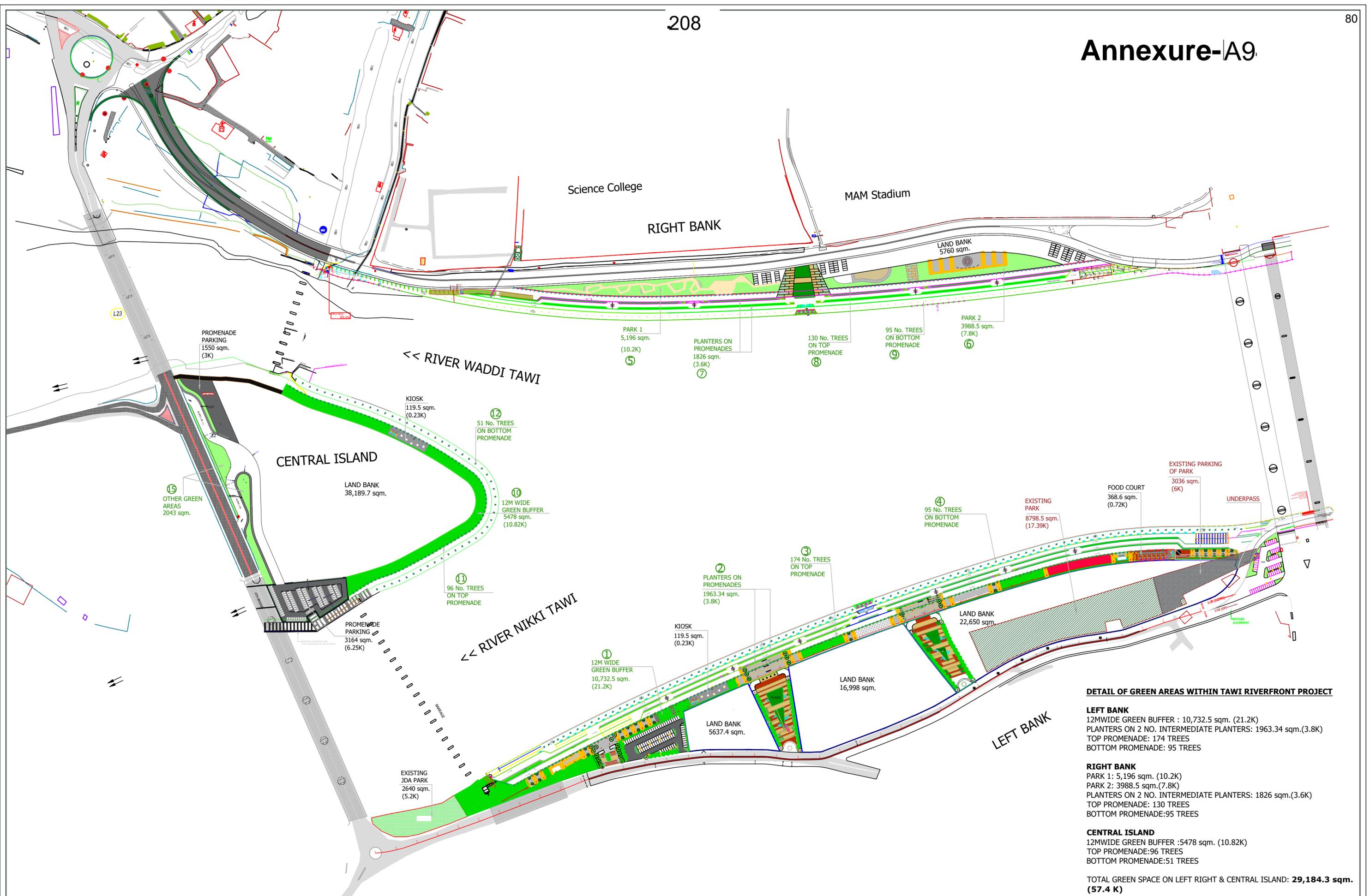
18/8/25

*Identified by
Richard Kumar
S/o. Bamars, Dary
A. B. M. - 728
Nad. Badi*

Contents Admitted Solemnly
Affirmed Hence Attested

[Signature]
Notary Public
Jammu City
18/8/25

Annexure-A9



DETAIL OF GREEN AREAS WITHIN TAWI RIVERFRONT PROJECT

LEFT BANK
 12MWIDE GREEN BUFFER : 10,732.5 sqm. (21.2K)
 PLANTERS ON 2 NO. INTERMEDIATE PLANTERS: 1963.34 sqm.(3.8K)
 TOP PROMENADE: 174 TREES
 BOTTOM PROMENADE: 95 TREES

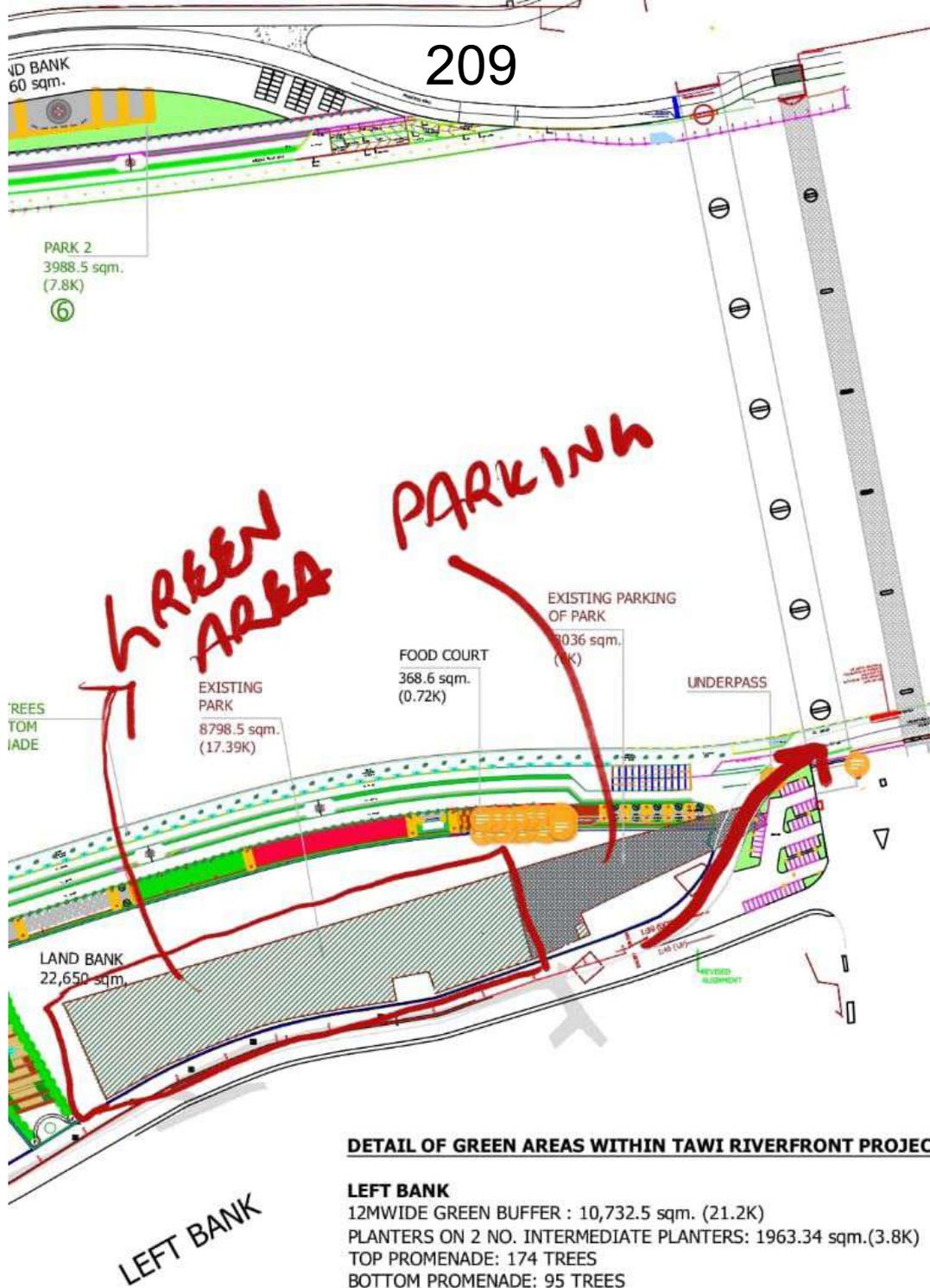
RIGHT BANK
 PARK 1: 5,196 sqm. (10.2K)
 PARK 2: 3988.5 sqm.(7.8K)
 PLANTERS ON 2 NO. INTERMEDIATE PLANTERS: 1826 sqm.(3.6K)
 TOP PROMENADE: 130 TREES
 BOTTOM PROMENADE:95 TREES

CENTRAL ISLAND
 12MWIDE GREEN BUFFER :5478 sqm. (10.82K)
 TOP PROMENADE:96 TREES
 BOTTOM PROMENADE:51 TREES

TOTAL GREEN SPACE ON LEFT RIGHT & CENTRAL ISLAND: **29,184.3 sqm. (57.4 K)**

SITE PLAN OF TAWI RIVERFRONT





DETAIL OF GREEN AREAS WITHIN TAWI RIVERFRONT PROJECT

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CENTRAL ISLAND

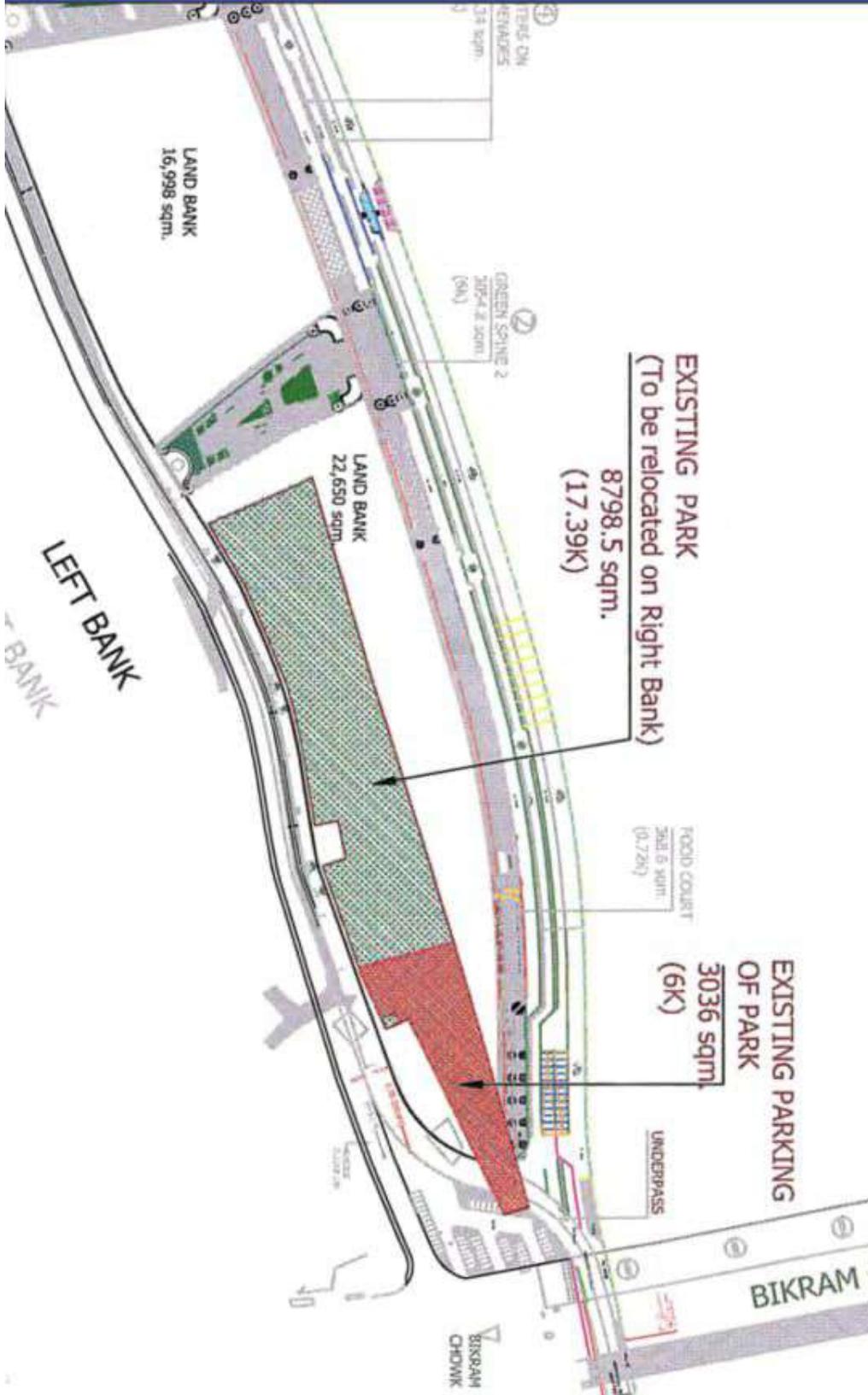
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| | | | |
|--|--|---|---|
| | | <p style="text-align: center;">Jammu Smart City Ltd.</p> |  |
|--|--|---|---|



Affidavit in OA 600 of 2024 3...



TREE TALK

JOIN US & BE A PART OF OUR
ENGAGING EDUCATIONAL SESSION

(EVENT DETAILS)

12.04.2025
09:00 AM

AT

TAWI BIODIVERSITY PARK
BEHIND WAREHOUSE, BIKRAM CHOWK JAMMU

BY

OM Prakash Vidyarthi

I.F.S.
AUTHOR OF 52 BOOKS
SAHITYA ACADEMY AWARDEE
EX PRINCIPAL CHIEF CONSERVATOR OF FORESTS, J & K, (RETD.)

*TREES ARE LIVING MONUMENTS OF OUR PAST
AND "LEGACIES FOR OUR FUTURE"*



SCAN TO LOCATE THE VENUE





GPS Map Camera



Jammu
Tawi Biodiversity Park, Bikram Chowk
Lat 32.717882° Long 74.856878°
12/04/25 11:23 AM GMT +05:30



 GPS Map Camera

Jammu
Tawi Biodiversity Park, Bikram Chowk
Lat 32.717882° Long 74.856878°
26/01/25 04:15 PM GMT +05:30





 GPS Map Camera



Jammu
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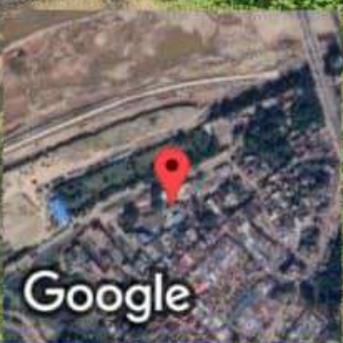
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Google



 **GPS Map Camera**

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Google



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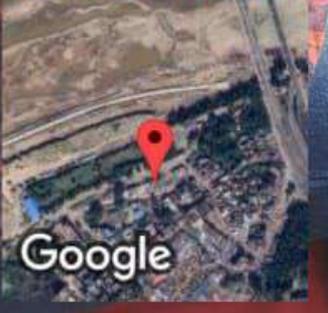
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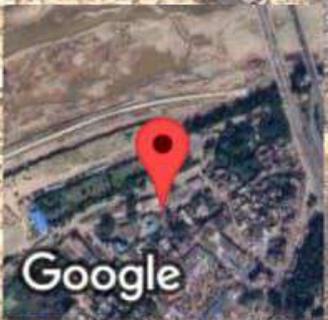
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Jammu
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GPS Map Camera



Jammu
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Google



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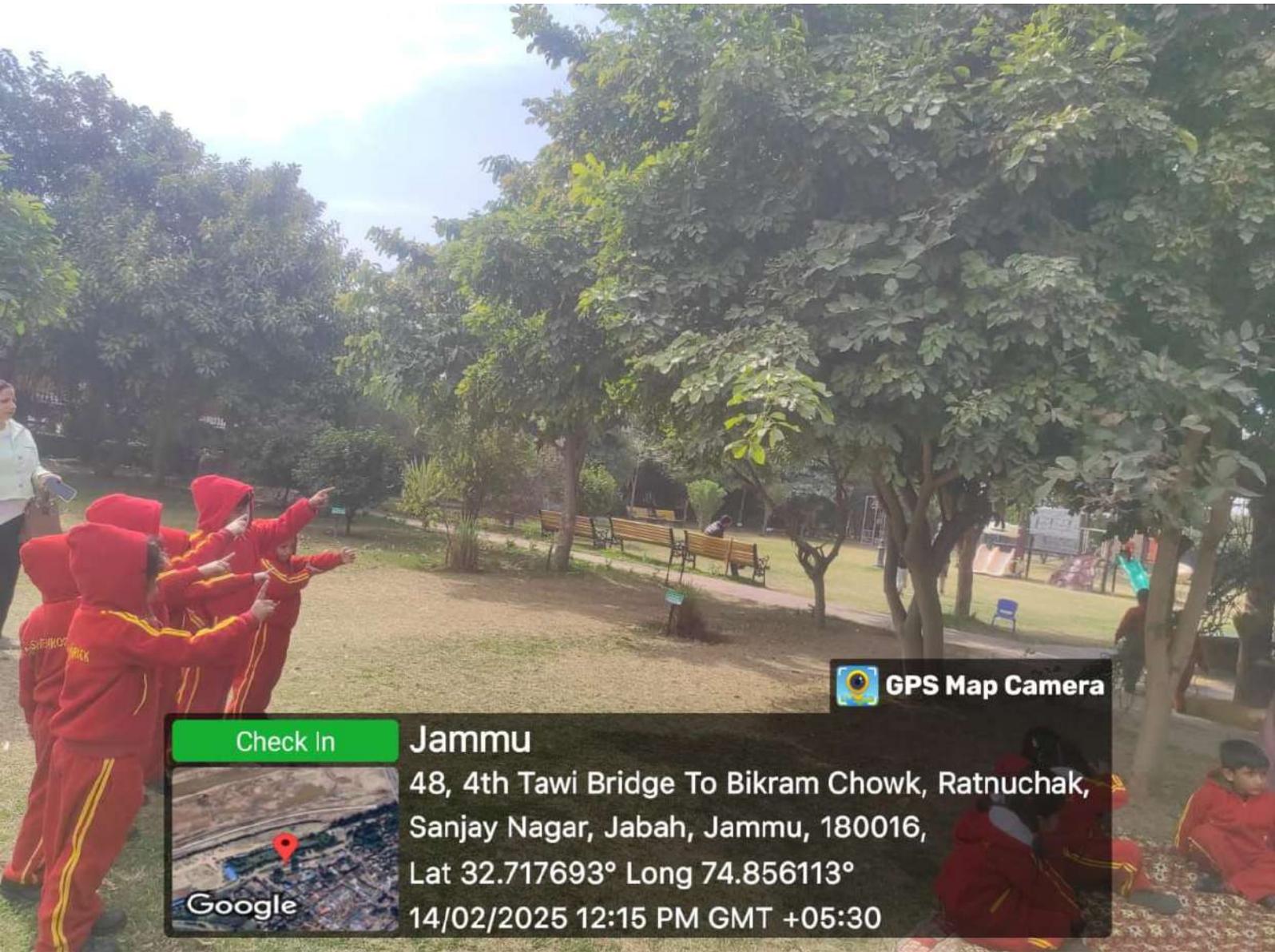
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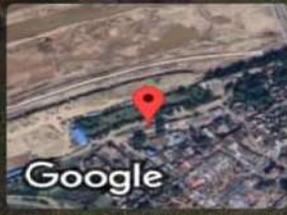
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Jammu

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Lat 32.717693° Long 74.856113°

14/02/2025 12:15 PM GMT +05:30





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Jammu
Tawi Biodiversity Park, Bikram Chowk
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GPS Map Camera

Jammu
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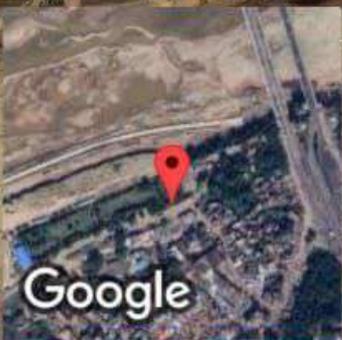
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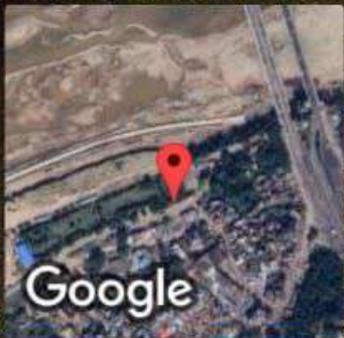
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Jammu
51, Sanjay Nagar, Jabah, Jammu, 180016
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28/12/24 03:40 PM GMT +05:30





 **GPS Map Camera**



Jammu
51, Sanjay Nagar, Jabah, Jammu, 180016
Lat 32.718094° Long 74.857043°
28/12/24 03:41 PM GMT +05:30

TREE TALK

JOIN US & BE A PART OF OUR
ENGAGING EDUCATIONAL SESSION

(EVENT DETAILS)

12.04.2025
09:00 AM

AT

TAWI BIODIVERSITY PARK
BEHIND WAREHOUSE, BIKRAM CHOWK JAMMU

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*TREES ARE LIVING MONUMENTS OF OUR PAST
AND "LEGACIES FOR OUR FUTURE"*



SCAN TO LOCATE THE VENUE



Tree Talk event held at Tawi Biodiversity Park

GJ REPORT

JAMMU, APR 12: In a unique initiative to promote biodiversity awareness and traditional forest food knowledge, a special session of Tree Talk was organized at the Tawi Biodiversity Park in the Warehouse area of Jammu. Once a dumping site, this hidden green space has now been transformed into a thriving biodiversity park with over 180 species and 750 plants, serving as a year-round learning and exploration spot for nature lovers, school, and college students.

Welcoming the guests, D Navjeev shared insights into the park's evolution and emphasized its role in connecting the community with nature. The event featured the 1608th Tree Talk session,



Participants posing for a group photograph at Tawi Biodiversity Park, Jammu.

led by Tree Talk founder and retired IFS officer O.P. Vidyarthi, who showcased forest-based traditional foods and explained their religious, mythological, medicinal, and nutritional significance.

He elaborated on trees like Pakad, Pilkhan, and Pakkhi (White Fig), highlighting Dogra culinary uses of their foliar buds. He also

spoke about Burans (Rhododendron arboreum), the state tree of Uttarakhand and national flower of Nepal, used in health beverages and snacks. Semal was presented as another versatile forest tree, whose flowers and gum (sold as Mochras) have multiple uses. Vidyarthi emphasized the economic and cultural relevance of lesser-known

trees like the Indian Butter Tree (Cheura) and the Sita Ashok tree, revered during religious festivals like Ashok Ashtami.

Herbal innovator Pooja Kapoor Suri presented healthy alternatives to junk food, including Amla laddus, Simbal da Ambal, and Beetroot laddus. Media personality Vivek Suri lauded Tree Talk's grassroots approach to connecting communities with local biodiversity, language, and cultural heritage.

Prominent attendees included environmentalist Bhushan Parimoo, Additional Director General GSI Shri Seva Dass, Deputy Director GSI Geologist Mohan Lal Hans, and others who praised the park's layout and stressed its preservation.



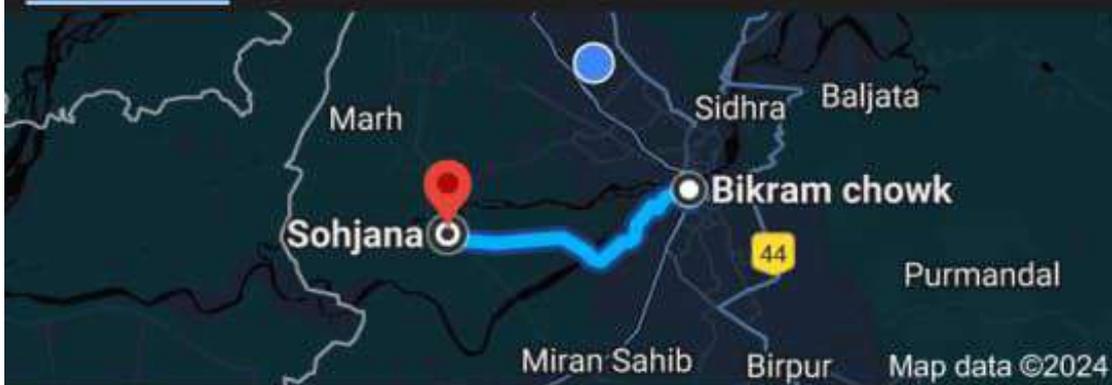
distance of sohanjana fro...

All Images Videos Maps News Shopping

Bikram chowk, 61, 4th Tawi Bridge to Bikran

Sohjana, 180003

33 min 29 min — — 2 hr 59 min



33 min (16.0 km)
via Mandal Phallian Rd


DIRECTIONS

41 min (19.4 km) via RS Pura Rd and Mandal Phallian ...

39 min (21.3 km) via NH 144A

People also ask

How many blocks are in Jammu?

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION****Civil Appeal No. _____ / 2025
(Arising out of SLP (C) No(s). 29048 / 2018)**

Municipal Corporation of Greater Mumbai & Ors. ...Appellants

versus

Pankaj Babulal Kotecha & Ors. ...Respondents

JUDGEMENT**SURYA KANT, J.**

Leave granted.

2. The fulcrum of the present controversy centres around the redevelopment of a theme park undertaken by the Municipal Corporation of Greater Mumbai (**MCGM**) on a plot bearing CTS No. 417, situated at Khajuria Tank Road, Kandivali (West), Mumbai (**Subject Property**). This redevelopment allegedly resulted in the obliteration of a lake that had existed at the premises for approximately 100 years.

3. This issue was assailed before the High Court of Bombay (**High Court**) *vide* a Writ Petition instituted in public interest, wherein by way of its judgement dated 03.08.2018, the High Court allowed the same and directed Respondent Nos. 2-8 herein (**State Government**) to assume possession of the Subject Property, demolish the construction in question and restore the lake claimed to have existed prior to the subject development (**Impugned Judgement**).

A. **FACTS**

4. In order to shed light on the circumstances leading up to the passing of the Impugned Judgement, we deem it appropriate to briefly set out the factual narration herewith:

4.1. A water body known as the Khajuria Lake used to be situated in the same vicinity as the Subject Property. This water body, which had existed for over 100 years, allegedly also served as a site for Ganesh idol immersion during festivals. As per the revenue record, the Subject Property was enlisted as belonging to the State Government through the Collector, Mumbai Suburban District.

4.2. It appears that in 2008, as part of a directive from the Additional Municipal Commissioner (City) to develop Theme Gardens in various wards within the city of Mumbai and other ancillary areas, MCGM selected the Subject Property for development. MCGM

claimed that the lake was in an unused and bad condition, so much so that it was treated as a garbage disposal area, thereby prompting it to be identified for beautification and conversion into a recreational space.

4.3. MCGM in furtherance of this objective, floated a tender on 08.02.2008 for the development and maintenance of gardens, recreation grounds, and other municipal plots. Following the tender process, M/s. Techno Trade Impex India Pvt. Ltd. was appointed as the contractor on 10.04.2008. The project thereafter received formal approval from the Standing Committee of MCGM *vide* SCR No. 729, for the execution of beautification work upon the Subject Property, on 24.08.2009.

4.4. Subsequently, MCGM appointed an architect to prepare detailed plans and estimates for the proposed beautification of the Subject Property. Accordingly, a budget of Rs. 5 crores came to be allocated by MCGM in the fiscal year of 2008-09.

4.5. However, as already observed, given that the Subject Property belonged to the Collector and not MCGM, the latter submitted an application for a No Objection Certificate to the Collector on 30.06.2009 seeking permission for the project. Notwithstanding the pendency of these requests, the beautification work proceeded, and the transformed recreational space comprising the planned green

cover, musical water fountain, and recreational amenities was completed and inaugurated for public use in December 2011. On 23.05.2012, MCGM sent another letter to the Collector for transfer of the property, which remained unanswered.

4.6. Thereafter, the publication of a news report in the Times of India daily newspaper on 06.09.2012 concerning the alleged filling up of Khajuria Lake spurred action in Respondent No. 1, who being a public-spirited individual, filed a Writ Petition before the High Court on 29.11.2012. The petition sought demolition of the construction undertaken by MCGM and restoration of the lake to its pristine condition, highlighting that this century-old water body served as a habitat for various types of rare fish and tortoises, attracted different types of birds, and was surrounded by mangroves—all of which were decimated during the development of the project.

4.7. Significantly, during the pendency of the petition, the Collector issued *post facto* sanction dated 10.02.2014 approving the project, *viz.* the beautification of Khajuria pond, and transferring the Subject Property to MCGM.

4.8. As already elucidated, the High Court, *vide* the Impugned Judgment dated 03.08.2018, allowed the Writ Petition. Being aggrieved, MCGM has preferred the instant appeal.

4.9. Notably, during the pendency of the instant appeal, this Court, *vide* order dated 16.11.2018, directed *status quo*, thereby staying the implementation of the Impugned Judgment. Consequently, the recreational park continues to exist and function in its present form.

B. CONTENTIONS ON BEHALF OF THE APPELLANTS

5. Mr. Dhruv Mehta, Learned Senior Counsel appearing for MCGM, vehemently contested the High Court's characterization of the Subject Property as a lake requiring restoration. He submitted that the Impugned Judgment fundamentally misapprehended the nature of the land by disregarding that the Subject Property was already reserved as Recreation Ground or 'R.G.' in the sanctioned Development Plan of 1991. It was urged that this reservation was made following due statutory process, including inviting public objections and suggestions through the Gazette Notification dated 13.04.1984, and no objections were ever raised by any party, including the Respondent. It was further emphasized that such 'R.G.' designation, read in conjunction with MCGM's statutory mandate to develop recreational spaces, provided sufficient legal foundation for the beautification initiative sought to be undertaken, which has resulted in the creation of substantial green cover at the Subject Property.

6. Additionally, our attention was drawn to the documented usage pattern of the Subject Property, highlighting that it had consistently hosted community events, including Ganesh festival celebrations with proper administrative permissions—circumstances incompatible with the existence of a natural lake as alleged by Respondent No. 1. It was detailed as to how MCGM had transformed what was formerly a degraded area used as a garbage dumping ground, into a beneficial public amenity featuring approximately 200 trees, a musical fountain, and recreational facilities, presently serving the local community without charge. He insisted that, far from constituting illegal construction, the project represents a responsible exercise of MCGM to enhance urban recreational infrastructure, thereby promoting rather than diminishing public welfare in accordance with the Subject Property’s designated purpose.

C. CONTENTIONS ON BEHALF OF RESPONDENT NO. 1

7. *Per contra*, Mr. Kunal Cheema, Learned Counsel for Respondent No. 1, strenuously opposed the appeal on multiple grounds. He commenced his submissions by challenging the very premise of the development, asserting that the documentary evidence overwhelmingly established the existence of a functional water body at the Subject Property. Relying on MCGM’s own

correspondence, particularly its letter dated 30.06.2009 seeking permission to convert the 'Khajuria Talao to that of a municipal garden', it was contended that such language constituted an unequivocal admission that negated any subsequent attempt to deny the lake's existence. It was further argued that the beautification project represented nothing short of ecological destruction, resulting in the obliteration of a century-old lake that supported various aquatic species and attracted diverse birdlife to its surrounding mangroves.

- 8.** On the aspect of *post facto* sanction of 2014, the Learned Counsel characterized it as a legally impermissible attempt to retrospectively legitimize an unauthorized act. It was assailed that this sanction, granted during the pendency of litigation and years after the construction's completion, suffered from inherent contradictions—purporting to approve beautification while simultaneously prohibiting the very change in land use that had already been effected. In conclusion, Learned Counsel submitted that the principles of environmental protection and the public trust doctrine mandated the restoration of the natural water body, as rightly held by the High Court.

D. ANALYSIS

9. Having heard learned counsels for the parties and after perusal of the material on record, we are of the considered view that the primary question in the instant appeal pertains to whether a recreational park developed on an alleged historical water body ought to be demolished and the water body restored or alternatively, whether the development warrants preservation given its current utility and the inexorable passage of time. More specifically, the question of achieving a judicious balance between environmental conservation and development for public welfare constitutes the primary issue before us. That being said, at the very outset, we deem it pertinent to delineate the reasoning that informed the High Court's determination in the matter.
10. Upon perusal of the Impugned Judgement, it becomes patently clear that the High Court's reasoning rested primarily on the public trust doctrine, whereby it held that the State could not permit the destruction of natural water bodies under any circumstances. Furthermore, it found the *post facto* sanction legally ineffective, as it attempted to retrospectively validate an unauthorized act while simultaneously prohibiting the very land use change that had already occurred. Consequently, invoking Articles 48A and 51A(g) of the Constitution, the High Court concluded that the preservation

of water bodies constitutes an absolute constitutional mandate that invariably supersedes developmental considerations or temporal factors.

- 11.** In this light, we must acknowledge that albeit the High Court's views were well-intentioned and *prima facie* the correct interpretation of settled notions such as the public trust doctrine, they nonetheless warrant reconsideration through the prism of practical realities and evolved ground conditions. This Court has consistently propounded that environmental jurisprudence must evolve contextually, taking into account both ecological imperatives and developmental exigencies. Indeed, there cannot be a simplistic binary choice between a park or a pond, as each serves distinct ecological and social functions contingent upon specific circumstances, geographical location, and evolving usage patterns.
- 12.** To put it simplistically, the public trust doctrine establishes that certain environmental resources are held in trust by the State for the unimpeded enjoyment of the public and for posterity. Although the doctrine imposes a legal obligation upon governmental authorities to protect these resources for public benefit and ecological sustainability, extending to public lands, parks, forests, water bodies, wetlands, and other areas acquired by the State, its application must necessarily be calibrated according to the factual

matrix and contemporary public needs. The doctrine, thus, does not operate in isolation but must be harmonized with the objectives of sustainable development and evolving public welfare priorities.

13. When juxtaposed with the facts at hand, the instant case presents a unique situation where one public amenity has been transformed into another that continues to serve the community unconditionally. Unlike scenarios involving the diversion of public resources for exclusive private benefit, we must examine whether this particular transformation necessarily violates the trust obligation, considering three critical factors: **(i)** the prior condition of the water body; **(ii)** the current ecological value of the park; and **(iii)** the feasibility of remedial measures.

14. With respect to the first factor, while the material on record acknowledges the historical existence of a water body at the Subject Property, it does not conclusively establish that this water body remained a functional pond by the relevant time. The affidavits filed by officials of MCGM categorically aver that when work for the project commenced in 2009, the Subject Property existed in an abandoned and dilapidated state, having deteriorated into a garbage dumping ground that had completely lost its original character as a water body. Pertinently, nothing has been pleaded or placed on record to demonstrate that the Subject Property was

ever a functional pond with significant water content, possessed any natural catchment area to draw fresh water, or performed meaningful ecological functions beyond occasional ceremonial usage, thereby raising fundamental questions about its viability as a sustainable aquatic ecosystem capable of supporting flora and fauna.

- 15.** As regards the current ecological value, the photographic evidence placed before us vividly illustrates the Subject Property as a verdant, well-maintained urban oasis replete with numerous mature trees and recreational facilities actively utilized by the community across all demographic segments. It bears particular emphasis that we are adjudicating this appeal in 2025, nearly fifteen years after the park became functional. During this extended temporal span, an entire generation of children has grown up with this green space as an integral component of their daily existence, whilst the trees planted during the initial beautification have themselves matured into substantial specimens that now contribute significantly to the local ecosystem. The park serves as a vital recreational nucleus for children, offering safe spaces for play and physical activity; for senior citizens, providing dedicated areas for walking and social interaction; and for families, creating opportunities for community engagement and leisure.

- 16.** The recreational park presently delivers substantial public benefits that cannot be overlooked. It provides an essential green space in an increasingly concretized urban environment, with trees and other foliage contributing significantly to oxygen generation, air purification, and microclimate regulation. The ornamental water features, such as the fountain, though admittedly not equivalent to a natural water body, nonetheless contribute to biodiversity.
- 17.** Be that as it may, the implementation of the High Court's direction at this juncture would engender consequences that contravene the very environmental principles it seeks to uphold. The demolition would necessitate the removal of numerous trees, causing immediate environmental degradation requiring decades to remediate. Additionally, the expenditure of approximately Rs. 5 crores of public funds would be rendered nugatory, with further substantial public expenditure required for the proposed restoration. Such an outcome would create a paradox wherein environmental restoration results in greater ecological harm than the original transformation—a classic case of counterproductive remedial intervention. Most importantly, given the absence of any natural catchment area as aforesaid, we are constrained to observe that even if a pond were to be recreated, its sustainability and maintenance would remain highly questionable, with the

distinct possibility of such stagnant water body becoming health hazards for the local populace, particularly during the monsoon seasons when such properties are prone to becoming breeding grounds for disease-carrying vectors.

- 18.** Beyond these substantive aspects, the Collector's *post facto* sanction of 2014 merits separate consideration. The High Court found this sanction to be procedurally deficient and contradictory—attempting to validate an unauthorized construction yet simultaneously prohibiting the very land use change that had occurred. In this specific context, we observe that the larger question for adjudication before us transcends the validity of this belated approval. Even assuming the sanction's invalidity, the fundamental issue remains whether restoration is feasible or desirable, given the passage of considerable time and the establishment of a functioning public amenity. The legal status of the 2014 sanction, therefore, though relevant to the question of initial authorization, cannot be determinative of the appropriate remedy at this stage. More significantly, even if there existed some irregularity or perceived illegality in the *post facto* sanction, such concerns have been reasonably addressed and balanced by the specific rider imposed therein restricting any change in land use. The sanction, as it stands, thus ensures that the Subject Property

shall remain dedicated exclusively to recreational purposes in perpetuity. This rider provides the necessary legal safeguard and permanency to guarantee that the land may not be diverted for any other purpose, commercial or otherwise.

- 19.** As a final consideration, the delay in seeking judicial intervention significantly undermines the foundation of the High Court's impugned decision. The beautification project commenced in 2008 and reached completion by 2011, with the park becoming fully operational for public use. However, the petition was instituted before the High Court towards the tail end of 2012—nearly five years after the project's commencement and well after its completion. It is well-settled that environmental grievances must be raised promptly when alleged violations commence, not after transformative changes have materialized and become entrenched. This considerable delay has created an irreversible *fait accompli* wherein substantial public resources have been expended, and a thriving recreational facility has become integral to community life. No public purpose, therefore, would be served by undoing what time and usage have legitimized through community acceptance and reliance.
- 20.** For the foregoing reasons, we are constrained to hold that the High Court's direction to restore the Subject Property to its original

condition as a pond, though made with laudable intentions, fails to account for the transformed reality and the substantial public benefit derived from the current recreational space.

E. CONCLUSION AND DIRECTIONS

21. In view thereof, we allow the instant appeal and set aside the Impugned Judgment passed by the High Court. Consequently, to ensure ecological balance within the larger urban ecosystem and preserve the existing park, we direct MCGM to:

- i.** Maintain and preserve the existing park in perpetuity as a green space exclusively for public use without any predominant commercial activity;
- ii.** Constitute an Expert Committee within three months to explore the feasibility of developing an alternative water body in nearby areas to compensate for the ecological functions of the original water body;
- iii.** Undertake comprehensive ecological restoration of deteriorated water bodies within the municipal jurisdiction within a period of twelve months; and
- iv.** File a compliance report before the High Court every six months for a period of three years. We request the High Court to see that the directions issued hereinabove are complied with in true letter and spirit.

22. The Government, being entrusted with the welfare of public spaces and environmental resources, bears the inherent responsibility to pursue sustainable urban development practices that balance infrastructural needs with ecological preservation. We thus clarify that this order shall not preclude the State Government from implementing any other additional measures for the overall improvement of environmental quality in the Navi Mumbai area in harmony with the directions issued hereinabove.

23. Ordered accordingly, Pending applications, if any, also stand disposed of in the above terms.

.....**J.**
(SURYA KANT)

.....**J.**
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
Dated: May 30, 2025