

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 1284 OF 2024**

IN THE MATTER OF:

Mr. Tarun Kumar Jain & Ors.

...Applicants

Versus

Kanpur Development Authority & Ors.

...Respondents

**REJOINDER ON THE BEHALF OF THE APPLICANT TO
THE REPLY FILED BY THE RESPONDENT NO.
5/JAWAHAR VIDYA SAMITI**

MOST RESPECTFULLY SHOWETH:

At the outset, the Applicant denies all averments made in the Reply on behalf Of Respondent **No.5** to the original application to the extent which are contrary to or inconsistent with the contents of the plaint. Nothing contained in the present reply may be deemed to have been admitted, save as expressly admitted herein. The contents of reply filed by the Respondent **No.5** and the documents thereof are all referred hereto and part and parcel of the present Reply and which are not repeated here for the sake of brevity.

PRELIMINARY SUBMISSIONS/ OBJECTIONS:

1. That the applicants are the residents of the area in the Kanpur city where the illegal demolition of a park bearing Plot No. 70 block W-1, Kanpur city having the area of 5138.67 square metre and cutting of trees is being taken out by the Respondents, thereby by causing substantial damage to the environment and ecology of the city and its surrounding area which has less than 1% green cover i.e. much below the desired green cover for the city.

2. The Respondents 1-4 herein are the government authorities who have authorized the cutting of trees and demolition of park used by the residents from more than 20 years and maintained by the authorities and the people living in the vicinity. Respondent No. 5 herein is the School who is adamant on occupying the said park for construction purpose according to the order dated 19.01.1984 and lease dated 23.01.2021 that is between the Kanpur Development Authority (Respondent No.1 and the School (Respondent No.5).

3. That this disputed land was leased for 99 years to the Respondent No. 5, wherein the Respondent No. 5 submitted the amount of 1,10,481.40 on the 27.06.1984. Thereafter according to the lease deed the Respondent was supposed to submit the instalments for purchase of the disputed park. The respondent No.5 failed to comply with the terms and conditions of the said lease deed, consequently, another advertisement was made for the purchase of the said disputed park. The dispute pertaining to this plot was decided in favour of the Respondent No.5 by the District Consumer Forum on 19.12.2003 against which an appeal was preferred by the Respondent No.1 which was dismissed by the State Consumer Forum. Thereafter a revision petition was filed before the National

Consumer Forum which also stand dismissed and Respondent No.1 preferred a SLP bearing No. 24590/2020 before the Hon'ble Supreme Court of India 18 which was also dismissed. Resultantly, the lease deed was executed in favour of the Respondent No. 5 on 23.01.2021.

4. Thereafter, when the possession was about to be taken it was found that there is a park build on that property which has been functioning for the last more than 20 years and many trees have been planted with boundary walls and pathways. In the presence of the disputed park, the said possession was not possible and the Respondent authorities refused to grant possession to Respondent No.5. On enquiry, it was found that the said park was built under the Plan No. W-1, Saket Nagar, Juhi (Govind Nagar) W-1 and is transferred to the Municipal Council on 30.05.1978. It was further enquired and discovered that this Park is functioning for more than 40 years and has more than 25 plants and trees. The office noting/orders of R-1 dated 18.03.2021 also shows the acceptable position that the disputed land is a park.

5. That Municipal Council has declared the disputed land as a Park and vide letter dated 05/10/2021 bearing No. D/328/HORTICULTURE/2021-22, the Horticulture Superintend has declared the said plot as Park and is enlisted in the list of Parks published in the Uttar Pradesh Park, Playground and open Spaces (Regulation and Control Rules) 2005 under rule 4 on 13.01.2016. Respondent No.1 issued a communication to the Respondent School wherein 6 different options are provided as the current disputed land is a park. That the lush green track of fully grown trees which existed

shows said trees and greenery. The newspaper cutting bearing the name of the park in the list of the park is also substantiating the claim that this is the park. Hence, the said area is a park, which can't be given to respondent no 5 as it was already declared as public park way back in 1978.

Therefore, Respondent No. 5 has no ownership rights over the said area and has filed illegal applications with the intent to wrongfully acquire statutory rights over the same. The impugned applications filed by Respondent No. 5 seek the conversion of a green park zone into commercial and/or residential use and involve the felling of trees, in clear violation of environmental laws and regulations. These applications are fraudulent, devoid of merit, and deserve outright rejection.

Accordingly, the reply filed by Respondent No. 5 to the original application under Sections 14 and 15 of the National Green Tribunal Act is based on misrepresentation of facts, suppression of material information, and an incorrect interpretation of the law.

PARA- WISE REPLY

1. The contents of paragraph 1 of the reply filed the under the original application under Section 14 & 15 of the National Green Tribunal Act are of matter of records.
2. The contents of paragraph 2 wrong and denied. Whatever here been above referred to. Further, it is denied that the Mr. Sudhir Prakash Shukla is duly authorized to file the present reply on behalf of the Answering Respondent no 5, as alleged.

3. The contents of paragraph 3 & 4 wrong and denied. Whatever here been above referred to. It is denied that the present OA filed by the Applicants is wholly meritless, misconceived, an utter waste of precious judicial time and thus deserves to be dismissed in limine, as alleged. Further, the Applicant reiterated and reaffirmed the contents of OA and is not being reproduced herein for the sake of brevity. In addition, it is submitted that the Respondent no 5 should not be allowed to file additional detailed/para-wise reply for the same application as there is no merit on their part.

4. The contents of paragraph 5 wrong and denied. Whatever here been above referred to. Further it is denied that the application is not maintainable under the Principles Res Judicata and Violation of Judicial Propriety, as alleged.

The Applicants have filed the present Original Application to challenge the illegal and merciless cutting and felling of fully grown trees in the park, which constitutes the only green area in the locality. The said land is, in fact, a park and is clearly enlisted as such. The disputed plot was transferred to the Municipal Council on 30.05.1978 and was declared as a park, and it is included in the list of parks published under Rule 4 of the Uttar Pradesh Parks, Playgrounds and Open Spaces (Regulation and Control) Rules, 2005.

5. The contents of paragraph 6 to 10 under reply is wrong and denied. Whatever here been above referred to. Moreover, with reference to OA No. 494 of 2023 titled Manoj Kumar Pandey & Anr. v. State of Uttar Pradesh & Ors., it is submitted that the said case was dismissed on misconceived premises. The Applicant had duly submitted evidence clearly establishing that Plot No. 70, Block W-1,

Scheme Juhi, Kanpur, is earmarked as a park. Newspaper reports along with photographs unmistakably show that the said plot is a park containing several mature trees, including a temple, two Banyan trees, one Peepal tree, two Neem trees, and two Barflower trees, each approxi20 years old, which have been illegally cut down. Furthermore, a wall has been found constructed within the premises of the park, as also recorded in the inspection report of the Secretary of the Kanpur Development Authority dated 29.10.2021.

In reference to the present OA barred by the principle of Resjudicate, it is submitted that the present matter directly concerns public health and environment at large, as the said plot constitutes the only green area within the locality. Further, as held in **Raghavendra Rao v. State of Karnataka, (2009) 4 SCC 635,** the Hon'ble Supreme Court has clearly laid down three exceptions to the principle of *res judicata*, one of which applies when the matter involves a pure question of law.

The present OA raises the pure question of law relating to the fundamental right to a clean and healthy life under Article 21 of the Constitution of India. Accordingly, the OA is maintainable and has been filed in due conformity with the law and in furtherance of public interest. In addition, the legality of the matter concerning No. 494/2023 is already under adjudication in Civil Appeal No. 3476/25 before the Hon'ble Supreme Court.

7. The contents of paragraph 11 to 13 under reply is wrong and denied. Whatever here been above referred to. The Applicants have not suppressed any material facts from the Hon'ble Tribunal in any manner whatsoever. The entire matter was transparently presented before the Tribunal with sufficient documents and legal reasoning. It

was reported that on 25.05.2016, the concerned state government departments and officers had taken note of the information published in newspapers and took necessary action accordingly.

Hence, the contentions made by Respondent No. 5 are not based on facts, and is intended to distract the Hon'ble Tribunal from the main issue. The Applicants have filed the present petition on valid legal grounds under Sections 14 and 15 of the National Green Tribunal Act, 2010, with the objective of safeguarding the interests of the public at large, who rely on the park for their right to a clean and healthy life.

As mentioned above, the applicants have filed the present OA in order to put a stop on conversion of public space/park into a commercial space. The right to a clean and healthy environment is a matter of grave concern for the residents, one which Respondent No. 5 has failed to appreciate. The said park, existing for over 40 years, forms an integral part of the daily lives of the local community. Moreover, in reference to the applicants previous OA and present OA having exacts documents does not bar present matter to proceed further. The most important aspect is whether well decorated park may be used for commercial purposes.

7. The contents of paragraph 14 to 16 under reply is wrong and denied. Whatever here been above referred to. The Respondent no 5 in order to divert the Hon'ble tribunal has mentioning irrelevant details to divert from the main issue that the disputed land is a park and, as such, cannot be used for commercial purposes. The present matter is deals with pure question of law, hence, the principles of res

judicata and constructive res-judicata is not applicable in the present matter. The present matter involves the health of public at large.

Further, it is denied that the present OA is a flagrant violation of this cardinal principle and the Applicants, having failed to succeed in their earlier OA, are now seeking a second innings on the same issue by filing the present OA and such a practice, if allowed, would open the floodgates for endless litigation and would render the finality of judgments a mere illusion, as alleged.

8. The contents of paragraph 17 to 19 under reply is wrong and denied. Whatever here been above referred to. It is denied that the present OA is liable to be dismissed on the ground of estoppel by record and the findings recorded by this Hon'ble Tribunal in OA No. 494 of 2023 operate as an estoppel against the Applicants and they cannot be allowed to reagitate the same issue in the present OA and the Applicants are bound by the findings recorded in the earlier OA and cannot seek to avoid the same by filing a fresh OA on the same issue, as alleged. It is denied the litigant has not approached the court with clean hands, as alleged.

The Applicant has neither suppressed any material facts nor distorted any aspect of the case. In reference to OA No. 494/2023, it is submitted that the matter is already under adjudication before the Hon'ble Supreme Court in Civil Appeal No. 3476/2025.

The present matter raises a pure question of law. As held in ***Satyendra Kumar & Ors. v. Raj Nath Dubey***, AIR 2016 SC 2231, the Hon'ble Supreme Court has clearly held that an erroneous decision on a pure question of law does not operate as *res judicata* or

as an estoppel against the court deciding the question correctly in a subsequent proceeding between the same parties.

Accordingly, the present OA is maintainable and has been filed strictly in accordance with law, in order to protect the public interest and uphold the fundamental right to a clean and healthy environment.

Therefore, the entire contentions raised by the Respondent no 5 is false and misconceived denied in toto.

9. The contents of paragraph 20 under reply is wrong and denied. Whatever here been above referred to.

10. The contents of paragraph 21 to 23 under reply is wrong and denied. Whatever here been above referred to. It is further submitted that the present matter is not barred by the principle of sub judice. The present matter involves a pure question of law, as it directly concerns the risk to public health at large. With reference to SLP (C) No. 13906/2023, the applicants have furnished enough proofs that substantiate the claims of the applicants.

Furthermore, the Applicant has also filed Civil Appeal No. 3476/2025 challenging the orders passed in OA No. 494/2023. The subject plot is a park that has been in existence for the last 40 years and contains several mature trees, including specimens over 20 years old, which are vital to the ecological balance and public health of the locality.

11. The contents of paragraph 24 under reply is wrong and denied. Whatever here been above referred to. It is denied that in view of facts and circumstances that the present OA, involving an issue

similar to the one being sub-judice before the Hon'ble Supreme Court, may not be the appropriate remedy for the Applicants herein, as alleged.

12. The contents of paragraph 25 under reply is wrong and denied. Whatever here been above referred to. The applicant further reaffirms and reiterated the contents of OA and denies what is contrary and inconsistent therewith.

13. The contents of paragraph 26 & 27 under reply is wrong and denied. Whatever here been above referred to. The Respondent no 5 has distorted the facts of the case. The chronology of events are based on false and misconceived premises. The event of case are as follows;

Date	Event
19.01.1984	Vide the said order the land was leased to Respondent No.5 by Respondent No.1.
27.06.1984	Respondent No. 5 submitted the amount of 1,10,481.40 in pursuant of the understanding between R-1 and R-5.
19.12.2003	Judgement passed by the District Consumer Forum in favour of Respondent No.5 and against Respondent No.1 for providing the said land.
03.07.2015	Judgement of the State Consumer Forum filed by Respondent No.1 which the State Consumer Forum dismissed.

13.01.2016	It was discovered that the said land was transferred to the Municipal Council on 30.05.1978 and declared the said plot as the Park and is enlisted in the list of Parks published in the Uttar Pradesh Park, Playground and Open Spaces (Regulation and Control Rules) 2005 under rule 4.
28.11.2019.	Revision petition bearing no. 3201 of 2015 dismissed by the Hon'ble National Consumer Redressal Forum that was filed by the Respondent No.5
15.12.2020	The Hon'ble Supreme Court dismissed the SLP 24590/2020 on the grounds of delay.
23.01.2021	Resultantly, the lease deed was executed in favour of Respondent No. 5.
04.07.2022	Respondent No.1, has passed an order proposing to cancel the allotment and to return the deposited amount of Rs.9,13,485.40 with simple interest @ 9% per annum and filed a case before the competent authority for cancellation of the lease deed dated 23.01.2021.
22.12.2022	The order dated passed in Writ-C No.30250 of 2022
06.01.2023	An application before respondent No.1 praying to keep on hold the execution proceedings in view of the aforequoted order of the High Court dated 22.12.2022.

25.07.2023	The Applicants preferred the said OA no 494/2023 as the matter involves pure question of law.
17.08.2023	Respondent No.1 issued a communication to the Respondent School wherein 6 different options are provided as the current disputed land is a park. Moreover, various attempts by the authorities to chop down the trees and demolish the park and green cover in the park.
19.01.2024	<p>OA No. 494/2023 was disposed off by this Hon'ble Tribunal while holding that there is no evidence to show that the said plot of land is a park. However, the secondary issue pertaining to permission to cut tree was remanded back to the competent authority to decide the same afresh.</p> <p>The Applicant In The Said OA Presently Submitted The Evidences Enough That Needed To Substantiate The Said Plot To Park. From Photographs To Newspaper Cutting.</p>
22.10.2024	Hence, the present OA was preferred.

Hence, the residents of the locality in Kanpur city, where the Respondents are carrying out the illegal demolition of a park bearing Plot No. 70, Block W-1, admeasuring 5,138.67 square metres, along with the cutting of trees, are compelled to approach this Hon'ble Tribunal to challenge the patently illegal and merciless felling of fully grown trees in one of the city's few remaining parks.

In addition, Respondent No. 5 never came within the meaning of a “consumer,” as the Consumer Protection Act, 1986, was enacted much after the execution of the lease deed. Hence, the orders passed by the Consumer Forum were invalid from the earliest. Moreover, the Applicant in the said OA has submitted sufficient evidence to substantiate that the disputed plot is, in fact, a park including photographs, newspaper reports, and other supporting material.

13. The contents of paragraph 28 to 30 under reply is wrong and denied. Whatever here been above referred to. It is denied that the Respondent has a crystallized legal right over the subject plot of land, both in terms of the registered lease deed dated 23.01.2021 and also in terms of the various orders passed by the judicial forums directing the Respondent No. 1 to handover possession of the subject plot of land to the Answering Respondent, as alleged. It is denied that any attempt by the Applicants to reagitate the settled issue of the subject plot of land being a park is not only barred by the principles of res judicata, but also amounts to contempt of the orders passed by the various judicial forums, as alleged.

It is further submitted that the Respondent no 1 on 04.07.2022 has passed an order proposing to cancel the allotment and to return the deposited amount of Rs.9,13,485.40 with simple interest @ 9% per annum and filed a case before the competent authority for cancellation of the lease deed dated 23.01.2021 as during the inspection on 29.10.2021 by authorities and it was found that there exists a boundary wall, pathway, trees including banyan, peepal, and neem etc and more than 150 trees and a temple and the said park was

used for more than 20 years. The lease deed was executed due to the SLP 24590/2020 being dismissed on 15.12.2020 on the account of delay. That the said plot is indeed a public which can't be commercialized.

Moreover, the disputed land was leased to Respondent No. 5's on 19.01.1984, at that time, the Consumer Protection Act, 1986, had not yet come into force, as it became effective only from 24.12.1986. Accordingly, Respondent No. 5 does not fall within the definition of "consumer" under the said Act as the laws are not retrospective in nature, and the application submitted by him does not fulfill the requirements prescribed therein. Since Respondent No. 5 is not a "consumer" within the meaning of the Act as applicable from 24.12.1986, any application or claim for allotment by the Respondent no 5 false and is not legally sustainable.

14. The contents of paragraph 31 is matter of records.

15. The contents of paragraph 32 under reply is wrong and denied. Whatever here been above referred to. It is denied that the Applicants seeking a direction to the Kanpur Development Authority to not hand over possession of the said plot of land to the Answering Respondent is wholly untenable in law and contrary to the binding directions passed by the various judicial forums, including the Hon'ble Supreme Court of India, as alleged.

As mentioned above, the Respondent no 1 on 04.07.2022 has passed an order proposing to cancel the allotment and to return the deposited amount of Rs.9,13,485.40 with simple interest @ 9% per annum and filed a case before the competent authority for cancellation of the lease deed dated 23.01.2021 as on inspection it was found that there

exists a boundary wall, pathway, trees including banyan, peepal, and neem etc and more than 150 trees and a temple and the said park was used for more than 20 years. The lease deed in question was executed following the dismissal of SLP No. 24590/2020 on 15.12.2020 on ground of delay. Further, the Municipal Council has declared the disputed land as a park, and vide letter dated 05.10.2021, bearing No. D/328/HORTICULTURE/2021-22, the Horticulture Superintendent confirmed the same. The said plot is also listed in the official list of parks published under the Uttar Pradesh Park, Playground and Open Spaces (Regulation and Control) Rules, 2005, in accordance with Rule 4, on 13.01.2016.

Hence, the disputed plot is a declared park under the laws of the State of Uttar Pradesh, and the contention raised by Respondent No. 5 is baseless and devoid of merit.

16. The contents of paragraph 33 under reply is wrong and denied. Whatever here been above referred to. It is denied that the issue of whether the said plot of land is a park or not has already been conclusively decided against the Applicants by various judicial forums, including by this Hon'ble Tribunal in OA No. 494/2023 vide order dated 19.01.2024 and The Applicants' reliance on the Paper Publication dated 13.01.2016 and the Inspection Report dated 18.03.2021 to buttress their argument that the said plot of land is a park is wholly misplaced and untenable in law, as alleged.

The matter was dismissed due to a procedural defect and not on the substantive. Hence, the possession order was passed. The Applicant has also filed Civil Appeal No. 3476/2025 against the orders passed

in OA No. 494/2023. The subject plot is a park that has been in existence for the last 40 years and contains trees over 20 years old.

17. The contents of paragraph 34 & 35 under reply is wrong and denied. Whatever here been above referred to. Further, It is denied that the said plot of land was allotted to the Answering Respondent by the Kanpur Development Authority way back in the year 1984 and The Kanpur Development Authority, being the competent authority to prepare the Master Plan for the entire Kanpur City, has clearly demarcated the said plot of land as "Land for educational purposes" in the Master Plan, Layout Plan, and Site Plan, as alleged.

The said possession of disputed land was not possible and the Respondent authorities refused to grant possession to the Respondent No. 5 as on enquiry, it was found that the said park was built under the Plan No. W-1, Saket Nagar, Juhi (Govind Nagar) W-1 and is transferred to the Municipal Council on 30.05.1978. Moreover, Respondent No. 1 themselves offered six alternative plots to Respondent No. 5 in place of the disputed land and cancelled the said allotment. This clearly substantiates that the disputed plot is, in fact, a park.

In addition, the order passed by the Consumer Forum is not applicable, as the Consumer Protection Act, 1986 came into force much later than the relevant period. The lease in question came into effect in 1984; hence, Respondent No. 5 does not fall within the definition of a "consumer" under the said Act.

Further, in reference to the said plot of land has been demarcated as "Land for educational purposes" in the statutory plans prepared under the Uttar Pradesh Urban Planning and Development Act, 1973, the

same cannot be altered or modified by any subsequent notification or publication issued under any other legislation, unless the procedure prescribed under Section 13 of the Uttar Pradesh Urban Planning and Development Act, 1973 is not main table in the present case, as

17. The contents of paragraph 36 under reply is wrong and denied. Whatever here been above referred to. The present case involves the right to a clean and healthy environment as guaranteed under Article 21 of the Constitution of India. Hence, the contention raised by Respondent No. 5, that there exists no repealing clause in the said Act repealing the provisions of the Uttar Pradesh Urban Planning and Development Act, 1973, is baseless and illogical.

18. The contents of paragraph 37 to 39 under reply is wrong and denied. Whatever here been above referred to.

19. The contents of paragraph 40 under reply is wrong and denied. Whatever here been above referred to.

20. The contents of paragraph 41& 42 under reply is wrong and denied. Whatever here been above referred to. It is denied that the Inspection Report dated 18.03.2021 relied upon by the Applicants, the same is a mere internal noting of the Kanpur Development Authority, and cannot, in any manner, alter or modify the status of the said plot of land which has been duly notified for "educational

purposes" under the relevant statutory provision, as alleged. It is denied that the Inspection Report dated 18.03.2021 has already been considered and dealt with by this Hon'ble Tribunal in OA No. 494/2023, and has been found to be wholly insufficient to establish even a prima facie case in favor of the Applicants, as alleged. It is denied that the Applicants have miserably failed to establish that the said plot of land is a park and the reliance placed by the Applicants on the Paper Publication dated 13.01.2016 and the Inspection Report dated 18.03.2021 is wholly misplaced and untenable in law, as alleged. It is denied that the said plot of land has been duly allotted to the Answering Respondent and has been consistently shown as "Land for educational purposes" in all the statutory plans and documents, as alleged.

The applicant has also filed the Civil appeal No. 3476/25 against the orders of the OA no 494/2023. The subject plot is park that is existence since last 40 years which includes the 20 years old trees.

In addition, the contentions raised by the respondent no 5 are based on false and misconceived premises, who has already been found to be an unauthorized encroacher of a public park into a commercial space. The Respondent no 5 is an illegal occupier of the park land and who is carrying out unauthorized construction work without any legal documentation or verified evidence.

19. The contents of paragraph 43 under reply is wrong and denied. Whatever here been above referred to. It is denied that the in view of mentioned facts and circumstances the Applicants' contention regarding the said plot of land being a park is wholly unsubstantiated

and untenable in law, as alleged. It is denied that the said plot of land has been consistently shown as "Land for educational purposes" in all the statutory plans and documents, and has been validly allotted to the Answering Respondent by way of a registered lease deed, as alleged. It is denied that the subsequent notings/communications between the Respondent State Departments further confirm that the Kanpur Development Authority has no right or claim over the said plot of land, and that the same belongs to the Answering Respondent, as alleged. It is denied that in such circumstances, the only question that remains to be considered is whether there is any impediment in handing over possession of the said plot of land to the Answering Respondent in compliance with the orders passed by the competent judicial forums, as alleged.

The contention of the Respondent no 5 has not an iota of truth in the same. Hence, denied in toto.

20. The contents of paragraph 44 under reply is wrong and denied. Whatever here been above referred to.

21. The contents of paragraph 45 & 46 under reply is wrong and denied. Whatever here been above referred to. The contentions of the Respondent no 5 of not hand over possession of the subject plot of land would amount to overreaching the order of the Hon'ble Court, are entirely bereft of merit

The present case raises a pure question of law concerning the fundamental right to a clean and healthy environment under Article 21 of the Constitution, directly affecting the health and well-being of the residents. Moreover, the Applicants have already preferred Civil

Appeal No. 3476/2025 against the orders passed in OA No. 494/2023, to safeguard public interest.

Further, it is denied that prayer made by the Applicants seeking a direction to the Kanpur Development Authority to not hand over possession of the subject plot of land to the Answering Respondent is not only contrary to the settled position of law, but also amounts to an abuse of the process of law, and the present OA therefore deserves to be dismissed with exemplary costs on this ground alone, as alleged.

22. The contents of paragraph 47 under reply is wrong and denied. Whatever here been above referred to. The decree in favour of respondent no.5 by the consumer court is itself flawed as neither the respondent no.5 is executable for the simple reason when the decree was passed the matter was already disposed off. Hown come the decree be passed when the matter was disposed off.

23. The contents of paragraph 48 under reply is wrong and denied. Whatever here been above referred to. The Respondent No.5 and Kanpur Development Authority are in hand in gloves.

24. The contents of paragraph 49 under reply is wrong and denied. Whatever here been above referred to.

25. The contents of paragraph 50 under reply is wrong and denied. Whatever here been above referred to. It is denied that mentioned

facts clearly establish that the Kanpur Development Authority has repeatedly taken steps to comply with the directions passed by the competent judicial forums for handing over possession of the subject plot of land to the Answering Respondent, but the same has been unlawfully obstructed by the Applicants and other antisocial elements, as alleged. It is denied that Applicants in such circumstances is attempting to abuse the process of law by filing the present OA seeking wholly untenable and misconceived prayers which are contrary to the binding directions passed by the Hon'ble Supreme Court of India, as alleged.

The Applicant has undertaken no such act as alleged. It is the Respondent No. 5 who is concocting false and fabricated scenarios in an attempt to mislead this Hon'ble Tribunal from the core issue that the disputed plot is, in fact, a designated park.

26. The contents of paragraph 51 to 53 under reply is wrong and denied. Whatever here been above referred to. Pending proceedings are matter of record.

27. The contents of paragraph 54 under reply is wrong and denied. Whatever here been above referred to.

28. The contents of paragraph 55 under reply is wrong and denied. Whatever here been above referred to. It is denied that in the present OA is a clear abuse of the process of law and deserves to be dismissed with exemplary costs and the Applicants cannot be permitted to

engage in forum shopping and repeatedly file vexatious proceedings with the sole aim of obstructing the lawful possession of the subject plot of land by the Answering Respondent, as alleged. It is denied that such conduct on part of the Applicants is not only contrary to the settled principles of law but also undermines the sanctity of the orders passed by the competent judicial forums, including the Hon'ble Supreme Court of India, as alleged. It is denied that the present OA therefore deserves to be dismissed with exemplary costs, and the Applicants ought to be saddled with heavy costs for their mala fide and vexatious conduct, as alleged.

The claim of the Respondent no 5 is false, frivolous, misconceived and hence is denied.

29. The contents of paragraph 56 under reply is wrong and denied. Whatever here been above referred to. It is denied that the prayer made by the Applicants seeking a direction to restrain the Respondents from undertaking any action towards the felling of trees on the subject plot of land is wholly misconceived and untenable in light of the following facts and circumstances, as alleged

The claim of the Respondent no 5 is false, frivolous, misconceived and hence is denied.

30. The contents of paragraph 57 under reply is wrong and denied. Whatever here been above referred to. It is submitted that the felling of trees on the subject plot of land is wholly untenable in view of the facts and circumstances of the case. The disputed plot has been a park

for several decades. Respondent No. 5 holds no ownership rights over the said land, as the conditions of the lease deed were not duly complied with, leading to the re-advertisement of the park. Furthermore, the lease was executed in 1984, whereas the Consumer Protection Act came into force only in 1986; hence, Respondent No. 5 does not fall within the definition of “consumer” under the said Act. Hence, from the earliest the Respondent No. 5 never acquired any right over the said disputed land.

31. **The contents of paragraph 58 to 62 under reply is wrong and denied. Whatever here been above referred to. The contents pertain to matters within the jurisdiction of the Kanpur Development Authority and the Forest Department. Accordingly, the Applicant is not obliged to respond to these issues.**

32. The contents of paragraph 63 under reply is wrong and denied. Whatever here been above referred to. It is denied that the said factual matrix clearly establishes that the issue of felling of trees on the subject plot of land has been duly considered and decided by the competent authorities in accordance with the directions passed by this Hon'ble Tribunal in OA No. 494/and the procedure prescribed by law, as alleged.

Furthermore, the allegation that the Applicants are re-agitating the same issue to seek a restraint on the felling of trees is baseless. The present action is undertaken solely to safeguard public interest and does not constitute an abuse of the due process of law. The

Applicants have already preferred Civil Appeal No. 3476/2025 against the orders passed in OA No. 494/2023, in furtherance of protecting the rights and welfare of the residents.

33. The contents of paragraph 64 & 65 under reply is wrong and denied. Whatever here been above referred to. It is denied that the felling of trees on the subject plot of land is necessary for taking possession or for utilization in accordance with the lease deed.

The disputed land is a notified park under the Uttar Pradesh Park, Playground and Open Spaces (Regulation and Control) Rules, 2005, and has been in existence as such for several decades, with over 150 mature trees and a temple, serving as a vital green space for the local residents. The lease deed conditions were not duly complied with by the Respondent No. 5, and hence no enforceable right can be claimed thereunder.

Furthermore, the Consumer Protection Act, 1986 under which Respondent No. 5 seeks to derive benefit came into force after the lease date in 1984 and has no retrospective applicability. The alleged reliance on directions of the Hon'ble Supreme Court is misconceived, as no judicial forum can be construed to have directed the destruction of an established park or felling of trees in violation of constitutional guarantees under Article 21, which encompass the right to a clean and healthy environment. Any such action would not

only defeat public interest but also be contrary to the Public Trust Doctrine.

34. The contents of paragraph 66 under reply is wrong and denied. Whatever here been above referred to. It is denied that the last prayer made by the Applicants in the present OA is a permission from this Hon'ble Tribunal to raise all issues before the District Consumer Dispute Redressal Forum in the pending Execution Petition bearing No. 04/2020 is wholly misconceived, untenable, and deserves to be rejected by this Hon'ble Tribunal for the mentioned reasons, as alleged.

35. The contents of paragraph 67 under reply is wrong and denied. Whatever here been above referred to. It is denied that the this Hon'ble Tribunal is not the appropriate forum for the Applicants to seek such a prayer as doing so would be contrary to the well-settled principles of judicial propriety and would amount to overreaching the jurisdiction of the Executing Court., as alleged. Moreover, in reference to the settled principle of law that an Execution Proceeding is purely a proceeding between the Decree Holder, Judgment Debtor, and the Executing Court.

36. The contents of paragraph 68 under reply is wrong and denied. Whatever here been above referred to.

37. The contents of paragraph 69 under reply is wrong and denied. Whatever here been above referred to. It is denied that In view of the facts and circumstances, Hon'ble Tribunal ought not to pass any orders which are in contradiction to the orders already passed by the Executing as the prayer made by the Applicants seeking permission to raise arguments before the Executing Court is nothing but an attempt to overreach the jurisdiction of the Executing Court and to indirectly nullify the well-reasoned order passed by the Executing Court on 20.11.2024 and such a prayer, if granted, would be contrary to the well-settled principles of judicial discipline and would lead to a situation where orders passed by one court are being openly flouted by another court, as alleged.

The Hon'ble Tribunal, being vested with independent jurisdiction, is fully competent to adjudicate upon the issues raised before it, and the allegations regarding violation of judicial discipline are baseless and denied in toto. The Answering Respondent has concocted a vague and baseless version of the facts, which is untenable and devoid of merit.

38. The contents of paragraph 70 under reply is wrong and denied. Whatever here been above referred to. It is denied that the Applicants are essentially seeking to use this Hon'ble Tribunal as a tool to overreach the jurisdiction of the Executing Court and to indirectly interfere in the execution proceedings, which is impermissible in law and such conduct on part of the Applicants deserves to be strongly deprecated by this Hon'ble Tribunal, and the Applicants ought to be

saddled with exemplary costs for wasting the precious time of this Hon'ble Tribunal, as alleged.

The Applicant has undertaken no such act as alleged. It is the Respondent No. 5 who is concocting false and fabricated scenarios in an attempt to mislead this Hon'ble Tribunal from the core issue that the disputed plot is, in fact, a designated park.

39. The contents of paragraph 71 under reply is wrong and denied. Whatever here been above referred to. It is denied that in view of the mentioned reasons, the prayer made by the Applicants seeking permission to raise arguments before the Executing Court deserves to be rejected by this Hon'ble Tribunal with exemplary costs as the applicant have filed the present OA with malafide conduct, as alleged.

Moreover, in reference to the Respondent no 5 stern view of this Hon'ble Tribunal on mala fide conduct of the Applicants, it is submitted the contentions raised by the Respondents have no merit and is wholly based on false premises. The Answering Respondent has been indulging in felling of trees on the said land without holding any valid documents or authority, which clearly demonstrates the mala fide conduct on their part from the earliest.

40. The contents of paragraph 72 under reply is wrong and denied. Whatever here been above referred to. It is denied that in light of the submissions, the present Original Application is wholly devoid of merit, misconceived, and an abuse of the process of law, as alleged.

It is denied that the Applicants have miserably failed to establish any legal right or claim over the subject plot of land, which has been validly allotted to the Answering Respondent by way of a registered lease deed, as alleged. It is denied that the Applicants' attempt to reagitate the settled issue of the subject plot of land being a park is not only barred by the principles of res judicata but also amounts to contempt of the binding orders passed by the competent judicial forums, including the Hon'ble Supreme Court of India, as alleged. It is denied that the prayers sought by the Applicants are contrary to the settled position of law and seek to nullify the crystallized rights of the Answering Respondent over the subject plot of land, as alleged. It is denied that the conduct of the Applicants in filing the present Original Application is a brazen attempt to overreach the jurisdiction of the competent judicial forums and is a classic example of forum shopping and abuse of the process of law, as alleged. It is denied that in view of the facts, the present Original Application deserves to be dismissed in limine with exemplary costs and any other view would result in grave miscarriage of justice and would encourage unscrupulous litigants like the Applicants to abuse the process of law with impunity, as alleged.

It is further submitted that the plea of res judicata and overreaching jurisdiction is misplaced and untenable, as the issues raised herein are distinct and pertain to continuing violations affecting the environment and public interest at large.

41. That the contents of prayer of the respondent No.5 and the same be denied in toto

PRAYER

In view of the submissions made herein above, the applicant above named, most humbly prays that the OA filed by the Applicants may be allowed;

Or Pass any such other order and further order(s) which this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case.

It is prayed accordingly.



Applicant

Through



D. K. Yadav,
Piyush Dvivedi &
Himani (Advocates)
Counsel for the Applicants
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Aggarwal Tower, Netaji Subhash
Place, Pitampura, Delhi-110034.
advdk.yadav79@gmail.com
Mob. No. 9650508945

New Delhi

Dated this 21 day of January,
2026.

3. That the legal submissions are on advice and believed to be true on the basis of information received.



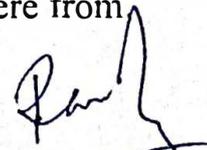
DEPONENT

VERIFICATION:

21 JAN 2026

Identify the document as signed by my client

affirmed at Delhi on this.....day of January, 2026, that the contents of the above affidavit are true and correct to my knowledge and believe and nothing material has been concealed there from



DEPONENT

The Seal of Court Commissioner
S.L. No. 51/2025
RAHUL KUMAR
App. By. Delhi High Court
Period-15/07/2025
to 14/07/2027
Tis Hazari Court, Delhi-110054
705
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affirmed THAT THE DEI
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W/o D/o
enitied by Shri/Smt.
as solemnly affirmed before me a
and on.....
at the Court's of which have
be read and explained to him are true and
his knowiwdge

21 JAN 2026

oath Commissioner



Ravi Kant Yadav <advocateravikantyadav@gmail.com>

Mr. Tarun Kumar Jain & Others vs Kanpur Development Authority & Others in O.A NO 1284 OF 2024

1 message

Ravi Kant Yadav <advocateravikantyadav@gmail.com>

Wed, Jan 21, 2026 at 10:25 PM

To: sthaviasthana@gmail.com, priyanka swami <advpriyankaswami@gmail.com>, office@awmlegal.in

Dear Sir/Ma'am

PLEASE FIND ATTACHED COPY OF REJOINDER ON THE BEHALF OF THE APPLICANT TO THE REPLY FILED BY THE DISTRICT MAGISTRATE, KANPUR NAGARUTTAR PRADESH RESPONDENT NO.3 AND 5 IN THE ABOVE CAPTIONED MATTER.

REGARDS

RAVI KANT YADAV ADV.

FOR D.K YADAV ADV.

2 attachments**Rejoinder respodent no 3.pdf**

2090K

**Rejoinder Respondent no 5.pdf**

1409K