

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH, NEW DELHI****ORIGINAL APPLICATION NO. 04 OF 2025****IN THE MATTER OF:-**

SUSHIL RAGHAV

...APPLICANT

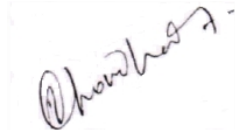
VERSUS

STATE OF UTTAR PRADESH & ORS.

...RESPONDENTS

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Email:- Litigation@dclawchambers.com**PLACE: NEW DELHI****DATE: 14.05.2026**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH, NEW DELHI****ORIGINAL APPLICATION NO. 04 OF 2025****IN THE MATTER OF:-**

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**REJOINER ON BEHALF OF THE APPLICANT TO RESPONSE
AFFIDAVIT DATED 12.02.2026 FILED BY RESPONDENT NO. 5****MOST RESPECTFULLY SHOWETH:**

1. That the above titled Original Application has been raising issue about illegal construction activities undertaken and inaction by different authorities and local residents on multiple lands earmarked as 'Park' in the layout map of Site IV, Sahibabad, Ghaziabad prepared by Uttar Pradesh State Industrial Development Authority (UPSIDA).
2. That at the outset, the Applicant denies all the contentions and averments made in the Response Affidavit dated 12.02.2026 by Respondent No. 5 unless expressly admitted or are a part of matter of record. The Applicant further reiterates that all facts and submissions made in the Original Application and Response to Report by the Applicant dated 27.05.2025, are true and correct and same may be read as part of the instant Rejoinder and are not being repeated for the sake of brevity.
 - a. **Response to the contention that only one identified spot by the Joint Committee is a park and rest are open spaces:**
3. That the Respondent No. 5 in Para 4 of their Response Affidavit is relying on the findings of the Joint Committee regarding their reliance on the

UPSIDA map of 1976 which is incorrect. This is because the map of 1976 being the original map was later revised in the year 2003. The Applicant in the reply to the Joint Committee Report has already pointed out that its incorrect to rely on the 1976 map as it stands amended by 2003 map.

4. It is submitted that the map annexed by the Joint Committee which Respondent no. 5 is relying upon does not give a complete picture of all the 8 parks/open spaces mentioned by the Applicant based on the revised UPSIDA layout map of 2003. Following is the table showing the finding of the Joint Committee regarding status of land earmarked in the UPSIDA layout map of 1976 and the 2003 revised map showing the status of such land:

S.No.	Park land mentioned in the Original Application	Status of land as per the Joint Committee relying upon UPSIDA layout map of 1976	Status of land as per the Applicant relying upon the revised UPSIDA layout map of 2003
a	Land earmarked as 'Park' situated at 'A' block, right side of plot No. A-46, north side of Central Electronic Limited (CEL), behind plot No. C-18, D-16/1, D-16, D-17, D-18, D-19, D-20 and near Jhandapur village at Site IV industrial area Sahibabad, Ghaziabad bearing khasra numbers 77, 92, 94, 95, 96, 97, 98, 99, 101,102 and 103 admeasuring 5.845 acres. This park is commonly known as 'Jhandapur Park' or 'CEL Park'	Open Space	Park
b	Land earmarked as 'Park' situated at Site IV industrial area just opposite to Karkarmodel village bearing Khasra No.270, 271 260, 261, 263, 259, 255, 771 and 772 of Karkarmodel area surrounded by industries at plot No. 18/43, 44, 45, E-1, 2, 3, 4, 5, 6, 7 and	Open Space	Park

	opposite to Atlas Cycles Pvt Ltd on Solar Road admeasuring 2.787 acres		
c	Land earmarked as 'Park' near Bharat Electronics Ltd. on the right, and 'village abadi' on the left, near Plot No. M5-6 bearing Khasra number 391, 392, 393, 394, 401, 402, 403, 519 and 522 of Maharajpur village admeasuring 1.236 acres	Open Space	Park
d	Land earmarked as 'Park' located near 24 Electric Sub-Station, adjacent to Shed No. 19 and opposite to Maharapur Gravyard bearing Khasra No.71, 70, 59, 69 of village Makanpur	Not mentioned by the Joint Committee	Nothing mentioned
e	Land earmarked as 'Park' surrounded by Plot No.s 1-A, 4A/12 to 4A/14 and Plot Nos. 7,8,9,10 and 12 13 14 bearing khasra number 821, 823, and 820 of Karkarmodel village area admeasuring approximately 3000 square meters	Park	Nothing mentioned
f	Land earmarked as 'Park' adjacent to Plot No. 29B and 30B, and surrounded by 'Old Abadi' opposite to Sahibabad village bearing khasra No.532, 401	Open Space	Park
g	Land earmarked as 'Park' adjacent to Plot No. 24A to 26A bearing Khasra No.s 436, 440, and 441 of Sahibabad village and commonly known as Sahibabad village park	Open Space	Nothing mentioned
h	Land earmarked as 'Park' near Plot No. 3A/3 and surrounded by 'Abadi' and the plot No. 59/2/1	Not mentioned in layout map	Nothing mentioned
i	Plot No. 59/2/1 surrounded by Abadi	Open Space	<i>(The Joint Committee wrongly considered both the lands as separate whereas Applicant has stated both to be on one land only)</i>

5. That it is pertinent to point out that no construction and encroachment is allowed (except 5% of total area) in park or open spaces and authorities cannot allow any activity on both spaces. However, to create proper distinction, under the UP Parks, Playgrounds and Open Spaces Act, 1975 following has been mentioned:

(a) "open space" means any land (whether enclosed or not), belonging to the State Government or any local authority, on which there are no buildings or of which not more than one-twentieth part is covered with buildings, and whole or the remainder of which is used for purposes or recreation, air or light;

(b) "park" means a piece of land on which there are no buildings or of which not more than one-twentieth part is covered with buildings, and the whole or the remainder of which is laid out as a garden with trees plants or flower-beds or as a lawn or as a meadow and maintained as a place for the resort of the public for recreation, air or light;

6. That regardless of the area being designated as a park or open space, it is required by the law that no construction is undertaken on such areas. The Hon'ble Supreme Court vide order dated 19.03.1991 in ***Bangalore Medical Trust v. B.S Muddappa [(1991) 4 SCC 54]*** had held that the public interest in the reservation and preservation of open spaces for parks cannot be converted to some other use. The relevant portion is reproduced below:

"Protection of the environment, open spaces for recreation and fresh air, play grounds for children, promenade for the residents, and other conveniences or amenities are matters of great public concern and of vital interest to be taken care of in a development scheme. It is that public interest which is sought to be promoted by the Act by establishing the BDA. The public interest in the reservation and preservation of open spaces for parks and play grounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to some other user. 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."

7. That the Hon'ble Supreme Court in **Anjuman E Shiate Ali & Anr. v. Gulmohar Area Societies Welfare Group & Ors. [(2020) 20 SCC 698]** vide order dated 17.04.2020 had held that:

"25. It is also to be noticed that the open spaces are required to be left for an approval of layout or for the purpose of creating lung space for the owners of other plots where constructions are permitted. The 4 plots bearing Nos. 1, 3, 5 and 6, were sub-divided at the instance of the appellant Society in its entirety and approval was taken for dividing such land into 61 plots. It is not open to claim for construction in the two plots which are reserved for open spaces/garden spaces also. **It is fairly well-settled that in an approved layout, the open spaces which are left, are to be continued in that manner alone and no construction can be permitted in such open spaces.** The Development Plan which was submitted in the year 1999, as per the 1991 DCR, will not divest the utility of certain plots which are reserved for open spaces in the approved layout. The appellants cannot plead that such a layout was only temporary and as a stopgap arrangement, the said two plots were shown as open spaces/garden and now they be permitted to use for construction."

8. That further, the Hon'ble High Court of Allahabad in **Ram Bhajan Singh v. State of Uttar Pradesh & Ors., W.P. No. 15691 of 2020 [2020 SCC OnLine All 2634]** vide order dated 14.10.2020 had held that:

"21. Public interest requires some areas to be preserved by means of open spaces of parks and play grounds, and that there cannot be any change or action contrary to legislative intent, as that would be an abuse of statutory powers vested in the authorities. **Once the area had been reserved, authorities are bound to take steps to preserve it in that method and manner only. These spaces are meant for the common man, and there is a duty cast**

upon the authorities to preserve such spaces. Such matters are of great public concern and need to be taken care off in the development scheme. The public interest requires not only reservation but also preservation of such parks and open spaces. In our opinion, such spaces cannot be permitted, by an action or inaction or otherwise, to be converted for some other purpose, and no development contrary to plan can be permitted."

b. Response to the contention that the encroachment on the park area as part of public utility:

9. It is submitted that at the outset, the Respondent No. 5 has admitted to undertaking constructions in the parks as mentioned by the Applicant in the Original Application. However, the Respondent No. 5 has not shown that such constructions were undertaken with permission from the Respondent No. 2- UPSIDA.
10. That further in Table Sr. No. 1 under Para 5 and Para 6, the Respondent No. 5 has justified the constructions undertaken in Park-1 near Jhandapur village. There it has been implied that the construction of the Secondary Collection Centre has been undertaken to ensure waste management in the area, and other constructions. However, nowhere have they shown that any permission has been taken from the UPSIDA which makes it clear that such constructions are illegal and in violation of the Hon'ble Supreme Court judgement in ***Bangalore Medical Trust v. B.S Muddappa [(1991) 4 SCC 54]***, and this Hon'ble Tribunal in ***Residents Welfare Association v. State of Haryana [2019 SCC OnLine NGT 2797]*** which prohibit construction and encroachment on parks.
11. That similarly, in Table Sr. No. 2 and 3 under Para 5, the Respondent No. 5 has stated that the constructions have been undertaken as part of public utility. However, the Respondent No. 5 has failed to show any permission. Further, it is quite important to observe that work related to public utility must be undertaken on areas not marked as park/open spaces as per the above-mentioned judgements.

12. That it is pertinent to note that the Respondent No. 2 in its Reply dated 27.05.2025 in Para 5 has stated that the said Respondent had sent multiple letters to the Respondent No. 5 to take necessary steps to end the encroachment in industrial area of Site IV, Ghaziabad. The relevant portion is reproduced below:

"5. That it is submitted that the encroachments on the said area took place while it had been transferred to the Ghaziabad Nagar Nigam for the purposes of upkeep and maintenance. The constructions in the 'park' and 'open space' land were made by the Ghaziabad Nagar Nigam or with its consent and the responsibility for the same lies with the Ghaziabad Nagar Nigam. That the Respondent No. 2 vide letters dated 30.09.2022, 11.01.2023 and 26.01.2023 (Annexure A5) as well as letter dated 30.01.2023 (Annexure A6) had asked the Ghaziabad Nagar Nigam to take necessary steps to end the encroachment in Industrial Area, Site IV, Sahibabad, Ghaziabad."

13. That the above-mentioned Reply by Respondent No. 2 shows non-compliance of orders of this Hon'ble Tribunal as mentioned below, by the Respondent No. 5 who have yet not removed any encroachment on the park/open space area (as reiterated from Para 9 to 10 of the Original Application):

- a) A similar issue of encroachment and illegal constructions in park at Maharajpur village and park near Karkarmodel village was raised before this Hon'ble Tribunal in **O.A No. 253 of 2015** titled ***Janab Mangisuddin v. State of UP & Ors.*** Vide order dated 22.12.2017, this Hon'ble Tribunal passed the direction to remove all encroachment made in the concerned park by the UPSIDC. The Municipal Corporation was further directed to maintain the park, and take all such measures for removal of encroachments in lands which were handed over to them by the UPSIDC. The relevant portion of the order is reproduced below:

"It is not disputed that the lands earmarked as a park/green areas referred to particularly with regard to

*Khasra Numbers have been encroached upon. **We therefore do not see any reason as to why these areas should not be made free from encroachment by the concerned respondents in accordance with law.** ... Considering these facts and circumstances we pass the following directions:-*

1. That the Respondent No. 2 – UPSIDC shall take every measures and remove encroachments made in the park and green areas at Khasra Nos. 393, 394, 401, 402 and 522 of Village Maharajpur and Khasra Nos. 270, 260, 261, 263, 259, 255, 770, 771 and 772 of Village Karkar Model in accordance with law.

2. We direct the Respondent No. 3 – Municipal Corporation, Ghaziabad to whom Respondent No. 2 has handed over certain areas amongst the said lands for the purpose of maintenance to cooperate and take all such measures necessary for removal of the encroachments in the said land in accordance with law."

- b) Further, another case was filed before this Hon'ble Tribunal regarding encroachment of parks and open spaces at Site IV, Sahibabad including park situated in 'A' block or near CEL through **O.A. No. 233 of 2022** titled ***Sher Khan v. State of U.P. & Ors.*** Vide order dated 13.04.2022, this Hon'ble Tribunal held that there can be no dispute that maintaining parks and open areas is necessary for environment. The relevant portion of the order is reproduced below:

"3. Even though the Application is defective as above and cannot be entertained, there can be no dispute that maintaining parks and open areas is necessary for environment which matter can be looked into and action taken by the statutory Authorities - Ghaziabad Development Authority and Ghaziabad Municipal Corporation following due process, if particulars are ascertained."

14. That the above cases clearly show that the Respondent No. 5 has not taken any measures to remove the encroachments but has added more to the same which is not permissible according to the law.
15. That therefore, this Hon'ble Tribunal may consider the above-mentioned submissions on behalf of the Applicant for further adjudication of the matter.

16. Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

Raghu
APPLICANT

THROUGH

Chambers

Shree

RAHUL CHOUDHARY SHREEPURNA DASGUPTA
ADVOCATES

COUNSELS FOR THE APPLICANT
N-73, LOWER GROUND FLOOR,
GREATER KAILASH-I,
NEW DELHI-110048
MOBILE NO: 9312407881



Email: litigation@dclawchambers.com

Place: New Delhi

Date: 14.05.2026

VERIFICATION:

Verified by Sushil Raghav, aged about 39 years, S/o Shri Ratan Singh, R/o 226, Karkar Model Post, Sahibabad, Site-4, Ghaziabad that the contents of Paragraphs 1 to 16 are true to my personal knowledge and nothing material has been concealed therefrom.

ATTESTED 13/05/2026
No. 40 Date: 13/05/2026
Certified that Documents Advocate Shri. Sushil Raghav.
Identified By Shri. *[Signature]*

P.K. SHARMA
Notary Public
(GOVT. OF INDIA)

13/05/2026

Raghu
APPLICANT

490
BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION NO. 04 OF 2025

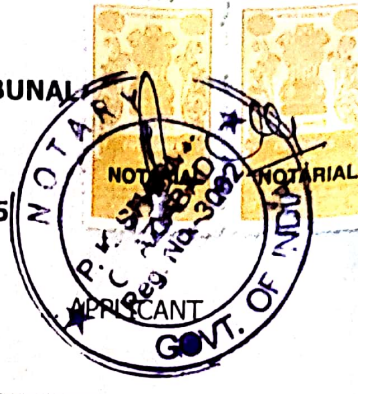
IN THE MATTER OF:

SUSHIL RAGHAV

VERSUS

STATE OF UTTAR PRADESH & ORS.

... RESPONDENTS



AFFIDAVIT

I, Sushil Raghav, aged about 39 years, S/o Shri Ratan Singh, R/o 226, Karkar Model Post, Sahibabad, Site-4, Ghaziabad do hereby solemnly affirm and declare as under:

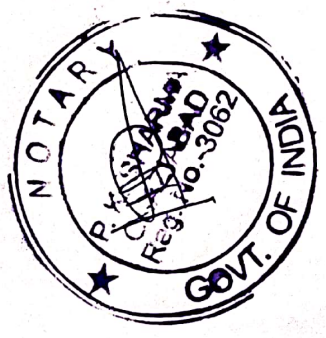
1. That I am the Applicant in the above titled Application and I am conversant with the facts and circumstances of the case and competent to swear this affidavit.


2. That the contents of the accompanying Rejoinder are true and correct and nothing material has been concealed therefrom.


DEPONENT

VERIFICATION

Verified on this ____ day of _____ 2026 that the contents of the present Affidavit are true and correct to my knowledge and belief and nothing material is concealed therefrom.




DEPONENT

Rejoinder on behalf of the Applicant in OA No. 04 of 2025 Sushil Raghav Versus State of Uttar Pradesh & Ors.

1 message

Litigation . <litigation@dclawchambers.com>

Thu, May 14, 2026 at 11:59 AM


To: bhanwar jadon <bhanwar09jadon@gmail.com>, malak@malakbhatt.com, sthaviasthana@gmail.com, agarwal_legal@yahoo.co.in

Cc: Shreepurna Dasgupta <shreepurnadasgupta@proton.me>

Dear Sir/madam,

Please find attached- Rejoinder on behalf of the Applicant in OA No. 04 of 2025 Sushil Raghav Versus State of Uttar Pradesh & Ors.

Thanks & Regards
Counsel for the Applicant

 **Rejoinder to R-5 on behalf of the Applicant.pdf**
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