

**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL**

PRINCIPAL BENCH AT NEW DELHI

I.A. NO.748 OF 2023

IN

ORIGINAL APPLICATION NO.392 OF 2022

IN THE MATTER OF:

PRASOON PANT & ANR.

... APPLICANT

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

I N D E X

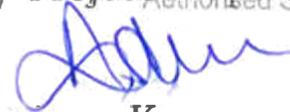
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For Solitaire Infrahome Pvt. Ltd.

Answering Applicant / Project Proponent
Through Authorized Signatory

Delhi
Dated: 06.12.2023
Shukla


Arun Kumar

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**REJOINDER ON BEHALF OF RESPONDENT NO.36
TO THE REPLY OF I.A. NO.748 OF 2023 FILED BY
THE APPLICANTS.**

RESPECTFULLY SHOWETH: -

1. That the contents of para no.1 of the reply is matter of records, needs no reply.
2. That the contents of para no.2 of the reply is matter of records, needs no reply.
3. That the contents of para no.3 of the reply is matter of records, needs no reply.

4. That the contents of para no.4 of the reply is matter of records, needs no reply.
5. That the contents of para no.5 of the reply is matter of records, needs no reply.
6. That the contents of para no.6 are wrong and denied. However, it is specifically submitted that GNIDA is responsible for providing connection of water supply and also to supply sufficient water as per need and requirement of the residence residing in the society. The answering applicant has already submitted a request letter to GNIDA for installation of water connections, however, GNIDA has not taken any action on the request letter of the answering applicant.
7. That the contents of para no.7 of the reply is matter of records, needs no reply.
8. That the contents of para no.8 of the reply is matter of records, needs no reply.
9. That as per requirement the answering applicant is under obligation to get piezometer installed and

process of the same has already been started. The answering applicant has already applied for permission from CGWA for ground water extraction which pushed the answering applicant towards SGWA. The answering applicant has applied for permission / no objection for abstraction of water for drinking purpose in the year 2017 but no concrete response was obtained from GNIDA but since the project was completed as per necessary permissions and requirements of government of GNIDA and the persons started living there since 2019, so it was also legal duty of the answering applicant to provide them drinking water and due to said reason two borewells were installed as the drinking water is basic necessity of a human being for survival. The answering applicant also applied for NOC and specific letter /circular was issued by the concerned authority wherein it was specifically and categorically stated that all the connections

applied for NOC were deemed to be granted till that date.

10-11 That the contents of para no.10 & 11 of the reply.

It is respectfully submitted that the project was completed with all due permissions and NOCs required for said purpose and thereafter dwelling units were allotted / handed over to the persons concerned to started living in their respective houses but due to inactiveness of the GNIDA authority, the permission/ NOC was delayed which was applied in the year 2017, so in the compelling circumstances, the answering applicant get started to borewells for the purpose of drinking water and moreover necessary permission was also been granted by the concerned authorities on 19.06.2023.

The government is providing the drinking water and all other civic amenities even in the cluster areas, so it is also a matter of right of the person who is residing in their respective houses

/ flats and the government is also providing water in the whole country through (water through tap) as welfare scheme. So it is mere allegations that the project proponent / answering applicant has violated the consent condition of the CTE, so granted on 15.07.2019 & 31.12.2019 while installing tubewells within the premises of the project proponent and obstruction of ground water, prior to the NOC so granted. Moreover, the answering applicant also applied for NOC and specific letter /circular was issued by the concerned authority wherein it was specifically and categorically stated that all the connections applied for NOC were deemed to be granted till that date.

12-13. That the contents of para no.12 & 13 of the reply are matter of records. However, it was duty of District Collector / concerned authority to provide NOC as per requirements, as far as approval for NOCs concerned the answering

applicant took all necessary steps time to time to comply the guidelines of the government and also for compliance of the orders of the Hon'ble Courts in this regard.

14. That the contents of para no.14 of the reply are denied to the extent that the interim compensation on the project proponent was correctly imposed by the UPPCB. Rest contents of the para under reply are not denied being presentation / repetition of the citation of the Hon'ble Supreme Court of India. However, it is specifically submitted that drinking water is fundamental right of every human being, so if in any circumstances person cannot be deprived from the drinking water.

15. That the contents of para no.15. There were 2 borewells and eight rain water harvesting system at the project, answering applicant wrote to GNIDA time and again on 08.04.2022 and to DM on 28.12.2022 regarding water supply, letter

dated 22.10.2022 was reply to letter dated 01.10.2022 of UPPCB. Moreover, the concerned authority cannot take advantage of its own inaction.

- 16 That the contents of para no.16 of the reply is matter of records, needs no reply. However, it is specifically submitted that the answering applicant applied for NOC much prior to 19.09.2022 as wrongly stated by the respondent.
17. That the contents of para no.17 of the reply are wrong and denied on the face of record as inaction on the part of the concerned authority to grant NOC cannot be termed as illegally operative borewells and recovery of compensation on the alleged ground cannot be justified. Hence, the contents as stated in the para under reply are denied in toto and the alleged cost of 0.5% of the project cost is not applicable in the case of the applicant as the project of the answering applicant was completed way back and residence

were using water for drinking purposes. Hence the same could not be levied and is liable to be withdrawn.

18. That the contents of para no.18 of the reply are wrong and denied to the extent that the answering applicant / project proponent was granted time vide letter dated 05.12.2022 to comply with the directions issued vide letter dated 01.10.2022. It is respectfully submitted that the letter was not served to the answering applicant due to said reason the letter could not be complied.
19. That the contents of para no.19 of the reply are denied in toto. However, it is specifically denied that ample time to comply with the directions of this Hon'ble Tribunal as well as the letters issued by the UPPCB. It is submitted that the project proponent vide letter dated 30.01.2023 (as annexed in Annexure A-58 of the I.A.) had intimated the UPPCB that they had applied for

the NOC from UPGWD as previously mentioned, and had also annexed a copy of the application. However, the compensation imposed on the Project Proponent was based on past violations done by them, i.e. installation of borewell while the NOC application was pending leading to violation of conditions of consent of establish dated 15.07.2019 and 31.12.2019. It is respectfully denied that the interim compensation of Rs.1.85 Cr has been illegally imposed on 12.05.2023 by the UPPCB based on 0.5% of the project cost and the situation arose only because of inaction of authorities and the order of levying compensation may be declared illegal and it should be ordered to be quashed as, it is submitted that the answering applicant / project proponent has taken all possible measures to get the drinking water made available to the residents of the project as per moral, ethical and legal duty of the developer of the project but due

to one reason or another, the matter was delayed intentionally and baseless allegations are being levied by the applicant in spite of the fact that he can also realize that how can a person live even single day without drinking water once the person has purchased a dwelling unit from his hard earned money in the project which has been developed by the answering applicant / project proponent by obtaining all required permissions and NOCs from the concerned departments. Moreover, making availability of the water to the residents for drinking purpose can also be taken into consideration by the competent authorities as welfare scheme of the Govt. of India as well as so many other institutions and other organizations.

20. That the contents of para no.20 of the reply is matter of records, needs no reply. However, it is submitted that the allegations made in the Original Application are based on the false,

frivolous and baseless grounds. It is also submitted that all the concerned authorities including UPPCB & GNIDA cannot take advantage of its own wrongs and inaction on their own part.

21. That the contents of para no.21 of the reply are wrong and denied. It is specifically denied that there is any ground to dismiss the I.A. no.748 of 2023 as alleged by the petitioner malafidely.
22. That the contents of para no.22 of the reply. It is respectfully submitted that the applications filed by the answering applicant / project proponent may kindly be allowed and the alleged order for imposing the penalty is liable to be quashed which has been allegedly imposed by the authorities as an afterthought and they cannot be allowed to take advantage of their own wrongs and inaction on the part of UPPCB & GNIDA and other concerned authorities/ Government of Uttar Pradesh.

It is therefore, respectfully prayed that in view of the submissions made in the foregoing paras, application of the answering applicant be allowed in the interest of justice.

For Solitaire Infrahome Pvt. Ltd.

Answering Applicant / Project Proponent

Through



Arun Kumar

Delhi
Dated: 06.12.2023
Shukla

Advocate
SNS Legal
Office: 111-112, New Delhi House,
27 Barakhamba Road, New Delhi-110001
Mob. No.9312400295, 011-41315678
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AFFIDAVIT

I, Bhageshwar Tyagi S/o Sh. Sunder Lal Tyagi,
aged about 40 years, R/o
11/5, Maulvi Road, Indrapuram, Shjprach city,
Ghaziabad, UP-201014, presently at New Delhi,

do hereby solemnly affirm and state as under: -

1. That being authorized officer, the deponent is well conversant to the facts of the matter and competent to swear this affidavit.



2. That the rejoinder to the reply filed by the petitioner has been drafted by my counsel under my instructions same has been read over and understood by me. Contents of the same are not being repeated herein for the sake of brevity.
3. That it is my true and correct statement.


DEPONENT

VERIFICATION: -

I, Bhagshwar Tyagi S/o
Sh. Sunderlal Tyagi, aged about 40 years, R/o
1/5, Maulvizi Road, Indrapuram, Shiroa Society,
Gurgaon, G.P.-201014, presently at New
Delhi, do hereby verify declare that the contents
of above mentioned para(s) of above affidavit are
true to my personal knowledge and that I have
not suppressed any material facts.

Verified at New Delhi on this 6 day of DEC 2023

December, 2023.


DEPONENT



ATTESTED

OATH COMMISSIONER
N DELHI

6 DEC 2023

I Identify Indra
Name Manjushree
Address Karimnagar
Contra