

IN THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

Original Application No. 1246/2024

Uday Bhan ... Applicant

Versus

State of Uttar Pradesh & Ors. ... Respondents

Rejoinder Affidavit on Behalf of the Applicant to the Counter Affidavit Filed by Respondents No. 7 and 8

I, Uday Bhan, aged about 45 years, son of Shri Mohan Shyam, resident of G-115, Punjabi Colony, Narela, North West Delhi-110040, do hereby solemnly affirm and state as follows:

1. That I am the applicant in the above-mentioned Original Application and am fully conversant with the facts and circumstances of the case, competent to swear this affidavit.
2. That I have perused the Counter Affidavit filed by Respondents No. 7 (Dr. Satya Narayana Dasa) and No. 8 (Vishnu Dasa) and deny all averments made therein, except those specifically admitted hereinafter. The said Counter Affidavit is replete with baseless assertions, misconceived legal arguments, and attempts to obfuscate the grave environmental violations committed in the ecologically sensitive Taj Trapezium Zone (TTZ).

3. Re: Denial of Tree Felling

- It is submitted that the respondents' categorical denial of felling approximately 50 trees in Tikari Garden, Vrindavan, is untenable and contrary to the cogent evidence adduced by the applicant. Annexure A2 of the Original Application includes news reports from reputed publications such as *Dainik Jagran*, *Amar Ujala*, and *Hindustan*, published on 09.10.2024, which unequivocally report the illegal felling of numerous trees. Additionally, a video circulated on social media, accessible at <https://youtu.be/Ei21k2JskbQ>, further corroborates the incident.
- The respondents' reliance on their spiritual beliefs as Sanyasis of the Gaudiya Sampradaya, while respectable, is irrelevant to the factual determination of tree felling. The Honble Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India* (1997) 2 SCC 267 emphasized that environmental protection is paramount, and unauthorized tree felling violates the Forest (Conservation) Act, 1980, irrespective of the actor's personal beliefs.
- The FIR No. 0475/2024, dated 08.10.2024, annexed as Annexure A1, though reporting only 8 trees and 26 shrubs, is likely an underestimation, possibly due to negligence or complicity of local authorities, as alleged in the Original Application. The Honble Tribunal is respectfully urged to direct an independent investigation by a Joint Committee, as was ordered in Original Application No. 1191/2024, to ascertain the true extent of the ecological damage.

4. Re: Allegations of Conspiracy

- The respondents' assertion that the Original Application is a product of a conspiracy orchestrated by vested interests is wholly unsubstantiated and intended to mislead this Honble Tribunal. The sequence of events—filing of FIR on 08.10.2024, publication of news reports on 09.10.2024, and filing of the Original Application on the

same day reflects the applicants prompt and diligent response to a grave environmental violation, not a premeditated scheme.

- The respondents have failed to adduce any evidence to support their allegations of conspiracy. In *State of Karnataka v. L. Muniswamy* (1977) 2 SCC 699, the Honble Supreme Court held that allegations of mala fide intent must be substantiated with concrete evidence, failing which they are liable to be dismissed.
- The applicants actions are driven solely by a commitment to protect the environment and preserve the ecological and cultural heritage of Vrindavan, as enshrined under Article 21 of the Constitution of India, which guarantees the right to a healthy environment (*Subhash Kumar v. State of Bihar*, AIR 1991 SC 420).

5. Re: Locus Standi

- The respondents objection to the applicants locus standi is misconceived and contrary to settled law. Section 18 of the National Green Tribunal Act, 2010, permits any person with sufficient interest in environmental protection to file an application before this Honble Tribunal.
- The Honble Supreme Court, in *S.P. Gupta v. Union of India* (1981) Supp SCC 87, liberalized the concept of locus standi in public interest litigation, allowing concerned citizens to approach courts for the enforcement of public rights. Similarly, in *M.C. Mehta v. Union of India* (1987) 1 SCC 395, the court permitted a public-spirited individual to file a petition for the protection of the environment, particularly in the context of the TTZ.
- The NGT itself, in *Wilfred J. v. Ministry of Environment and Forests* (2014), held that any person interested in environmental protection has the standing to file an application. Given the ecological sensitivity of the TTZ and Vrindavans cultural significance, the applicant, as a concerned citizen, is well within his rights to seek judicial intervention.

6. Re: Title Dispute

- The respondents reference to a title dispute pending before the Allahabad High Court is irrelevant to the environmental violations alleged herein. The unauthorized felling of trees, irrespective of land ownership, constitutes a breach of the Forest (Conservation) Act, 1980, and the Environment (Protection) Act, 1986.
- Moreover, the land in question is subject to a stay order dated 09.09.1994 in Writ Petition No. C.M.M. 6150/1981, which prohibits any unauthorized activity, including alteration of land use or construction work (Annexure A3). The tree felling is a clear violation of this order, further aggravating the respondents liability.
- This Honble Tribunals jurisdiction under Sections 14 and 15 of the NGT Act, 2010, is confined to environmental matters and is not impeded by parallel civil litigation concerning land title.

7. Re: Double Jeopardy

- The respondents invocation of Article 20(2) of the Constitution, which prohibits double jeopardy, is wholly misplaced. Article 20(2) applies exclusively to criminal

prosecutions, preventing a person from being prosecuted and punished twice for the same offense.

- The proceedings before this Honble Tribunal are civil in nature, aimed at environmental restoration, compensation, and compliance with environmental laws, distinct from any criminal trial pending in Mathura. The Honble Supreme Court in *Maqbool Hussain v. State of Bombay* (1953) AIR SC 325 clarified that double jeopardy does not bar civil proceedings arising from the same act.
- Furthermore, in *State of Bihar v. Murad Ali Khan* (1989) 1 SCC 81, the court held that civil and criminal proceedings can coexist when they serve different purposes. Thus, the respondents objection is legally unsustainable.

8. **Re: FIR Discrepancy**

- The respondents reliance on the FIRs mention of only 8 trees and 26 shrubs is an attempt to downplay the severity of the violation. The applicant has adduced substantial evidence through media reports and social media videos (Annexure A2) indicating that approximately 50 trees were felled.
- The underreporting in the FIR may be attributable to errors, oversight, or potential complicity of local authorities, as alleged in the Original Application. The Honble Tribunal is respectfully requested to consider the totality of evidence and direct an independent assessment to resolve this discrepancy.

9. **Re: Defamation and Harassment**

- The respondents allegations of defamation and harassment are extraneous to the environmental issues before this Honble Tribunal and ought to be pursued in the appropriate civil or criminal forum.
- The applicant has filed this application in good faith, driven by a legitimate concern for the environment and the cultural heritage of Vrindavan. The Honble Supreme Court in *Indian Council for Enviro-Legal Action v. Union of India* (1996) 3 SCC 212 upheld the right of citizens to seek judicial intervention for environmental protection without fear of retaliatory claims.
- The respondents prayer for costs is premature and unwarranted, as the application raises substantial questions of environmental law and public interest.

10. **Re: Violation of High Court Stay Order**

- It is reiterated that the unauthorized felling of trees violates the stay order dated 09.09.1994, which prohibits any unauthorized activity on the land. This Honble Tribunal may take judicial notice of this breach, as it exacerbates the environmental harm caused.
- The Honble Supreme Court in *M.C. Mehta v. Union of India* (1996) 4 SCC 750 issued stringent directions for the protection of the TTZ, emphasizing zero tolerance for activities that degrade its ecological integrity. The respondents actions contravene these directives.

11. That the contents of the Original Application, including the allegations of violations of the Forest (Conservation) Act, 1980, Environment (Protection) Act, 1986, and the Public

Trust Doctrine, are reiterated and relied upon herein.

12. That the applicant craves leave to add, alter, or amend any grounds in this rejoinder as and when necessary.

Prayer:

In view of the foregoing submissions, it is most respectfully prayed that this Honble Tribunal may be pleased to:

- a. Reject the Counter Affidavit filed by Respondents No. 7 and 8 as being devoid of merit.
- b. Proceed with the adjudication of Original Application No. 1246/2024 and grant the reliefs sought therein, including an immediate halt to illegal activities, investigation, and restoration of the affected area.
- c. Direct an independent investigation by a Joint Committee to ascertain the extent of tree felling and environmental damage in Tikari Garden, Vrindavan.
- d. Pass such other order(s) as this Honble Tribunal may deem fit and proper in the facts and circumstances of the case.

And for this act of kindness, the applicant shall ever pray.

Verification:

I, Uday Bhan, the applicant herein, do hereby verify that the contents of paragraphs 1 to 12 of this rejoinder affidavit are true to the best of my knowledge and belief, based on information received and records available, and nothing material has been concealed therefrom.

Verified at New Delhi on this 18th day of May, 2025.

Filed By:



Narendra Kumar Goswami Advocate
Enrolment No. UP06653/2014
3A/140 Krishna Vihar,
Mathura (UP) 281004
Mob. 8954777199
Email: thendca@gmail.com



UdayBhan
Applicant

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Dear Sir,

I hope this email finds you well.

I am writing in my capacity as the counsel for the applicant in Ori National Green Tribunal, Principal Bench, New Delhi.

I am in the process of filing the Rejoinder Affidavit on behalf of th accordance with the practice of advance service, I am providing

Kindly acknowledge receipt of this email and the attached docum

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Thank you for your attention to this matter.

Yours sincerely,

Narendra Kumar Goswami Advocate for the Applicant

Mob.8954777199

Attachment: Rejoinder Affidavit - OA No. 1246/2024.pdf

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