

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**WESTERN ZONE BENCH, PUNE**  
**ORIGINAL APPLICATION NO. 115 OF 2022 (WZ)**  
**WITH**  
**I.A. NO. 205/2022 (WZ)**

Santosh Kumar T. Pandey

... Applicant

Versus

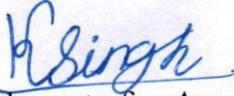
Highland Builders & Developers & Ors

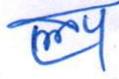
... Respondents

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Dated this 16<sup>th</sup> day of August, 2023

  
Advocate for Applicant

  
Applicant



<b>NOTARY</b>
NOTED & REGISTERED at Serial No. <u>1356</u>
Date:- <u>16/08/2023</u>
THIS DOCUMENT Contains <u>7</u> Pages.

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Highland Builders & Developers & Ors

... Respondents

**AFFIDAVIT IN REJOINDER ON BEHALF  
OF PETITIONER TO THE REPLY OF THE  
RESPONDENT NO. 1 & 2.**

I, Mr. Santoshkumar T. Pandey, the applicant above named, an adult, Indian Inhabitant of Nashik, having address as set out in the cause title do hereby state and declare on solemn affirmation as under:

1. I say that I have received the copy of affidavit in reply on behalf of Respondent No. 01 and 02 and to counter the same I am filing the Affidavit-in-Rejoinder.
2. I deny all the allegations made in the said affidavit in reply and further say that nothing contained in the said reply shall be deemed to have been admitted on account of non-traverse thereof.
3. I say that the Respondent no. 1 have failed to comply with the procedure and regulations set by the authorities, as Respondent No.1 had applied for consent to Establish on 16.03.2022 but

without it having been granted, started construction activities. Because of that, a show cause notice was issued by MPCB for refusal of consent on 21.07.2022 with condition that

*“.....if Respondent No. 1 failed to reply to the said notice within a period of 7 days from the receipt of communication, board will have no option than to refuse the Consent to establish....”*

Instead of following the procedure and replying to the concerned authority, the Respondent No. 1 purposely avoided the said show cause notice and lately replied on 31.01.2023, that too only because of intervention of this Hon'ble tribunal i.e. after the Order passed on 10.01.2023.

4. I say that, there was delay in replying and negligence on the part of Respondent No. 1 as they had started with construction work without approval of “consent to establish” by concerned authority hence, Penal fees of Rs. 15,00,000/- was imposed by the Joint Director (WPC) of Maharashtra Pollution Control Board, Mumbai against Respondent No. 01.
5. I say that the reply filed by Respondent No. 02 i.e. Nashik Municipal Corporation (NMC), clearly shows that the Respondent no. 1 had dumped the excavated soil in blue flood line of Godavari River and C&D waste at survey no. 59(p), which was found to be located in blue line of river Godavari as per the information given by NMC.



6. I further say that, the excavated soil about 10,333 m<sup>3</sup> was refilled in Survey No 57, Hissa no. 1, 5 and 7 (in the Red Flood line of Godavari River) it was also observed by NMC that the Respondent no. 1 had dumped stockpiles of excavated soil in the blue flood line of Godavari River but after intervention of this Tribunal the Respondent No. 2 issued a letter dated 12.01.2023 to the Respondent No. 01 stating that,

*“the above subject land area is partially affecting the Godavari river Floodplain area(In Redline). It is being informed that in the construction Excavation started by you, the soil, stones are found dumped in the Godavari river bank Red line and Blue line as well as Blue line of Godavari right side bank. This will create a hazard in the flood prone area of Godavari River. Thus regarding the disclosure in this regard and the said soil & stones should be removed from the said place outside the Godavari River Floodplain area otherwise, the construction permission given to you will be cancelled”.*

Above directions were issued by NMC to the Respondent No. 1 subsequently, they removed the same and refilled it in survey no 57, Hissa no. 1, 5 and 7 (in red flood line of Godavari River) without prior permission of NMC as the said survey no. 57, Hissa no 1,5 & 7 is in possession of NMC i.e. Respondent No. 2.

7. I say that, the reply filed by the Respondent No. 1 & Respondent No. 2 did not deny the allegation of the Applicant that there is dumping of Excavated soil, stones and C&D waste in flood plain area of Godavari river (in the Red & blue line of Godavari river).



8. It is not denied by the Respondent no. 1 that they were not dumping in the flood plain area of Godavari River without permission and in consequences it has badly affected the red flood line and Blue flood line of Godavari River.
9. I humbly submit that only because of intervention of this Hon'ble Tribunal the concerned Respondents have taken action and removed the dumping from the flood plain area of Godavari River which was not possible without intervention of this Tribunal. It is pertinent to note that, it is not only the Respondent no. 1 but there are many other construction activities are being carried out near the Godavari River, which is badly affecting the Godavari River and endangering the life of nearby residents. Hence, it is humbly prayed that this Hon'ble tribunal may consider the prayer made by the Applicant in Interim Application's Clause "I to K" i.e.
- I. Respondent No. 1 be directed to stop the work of landfilling in the floodplain area.
  - J. Respondent no 2 & 3 be directed to survey and prepare the list of development work being carried out within a distance of 500 meters on both the side from bank of Godavari river with remark about the land filing being done by such developers and submit the report to the Hon'ble Tribunal within a period of 1 month from the date of Order passed by the Hon'ble Tribunal.
  - K. After going through the report submitted by the Respondent no 2 & 3 appropriate Order may be passed by



this Hon'ble Tribunal to ensure that the floodplain of river Godavari is not being damaged.

10. I specifically deny the allegation made by the Respondent No. 1 in para No. 16 of affidavit in reply, as the Applicant has filed present Application for seeking direction of this Hon'ble Tribunal to issue direction and guidelines to protect the Floodplain area of Godavari River which is being damaged by dumping excavated soil, stones and C&D waste by the Respondent No 1 and other Developers.
11. In view of the aforesaid the Applicant submit that if reliefs as prayed for, by the Applicant is not granted then it would cause grave injustice, irreparable loss, long term damage, harm and prejudice not only to the Applicant but also to the Godavari River.
12. I say that in paragraph 23 of the Affidavit dated 22<sup>nd</sup> May, 2023, the Respondent number 2 has stated that one Shri Shivaji Sakharam Bendkule has stored waste material on survey no.59/2/1 and he has been issued notice. Thereafter in the said paragraph one line is added by hand which states that "*At present waste material has been removed.*" However the waste material has not been removed. In fact more land filling has been done on Survey Number 59/2/1 and because of monsoon, grass has grown. Even then the waste material/ land filing is visible in the photograph taken on 8<sup>th</sup> August, 2023. The said photograph has been taken

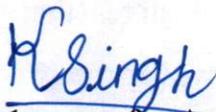


from the Flat of the Petitioner. Hereto annexed and marked as **EXHIBIT- "A"** collectively are the copy of two photographs.

13. Considering the report of the committee appointed by this Hon'ble Tribunal and also considering the Photographs at Exhibit-A it becomes clear that the Nashik Municipal Corporation has failed to check the damage being cause by the developers and the plot owners to the Flood Plain area.
14. It is humbly submitted that the case of present Applicant has been supported by the Reports of NMC & Committees as there was land filing being carried out in the floodplain area of Godavari River. Hence, relief in terms of settled directions and guidelines to protect the natural resource i.e. the floodplain area of Godavari River, maybe granted as prayed by the Petitioner and the Nashik Municipal Corporation be directed to issue stop work notice to all the Developers carrying out Development work within 500 metres from the Bank of the Godavari River.

Solemnly affirmed at )

Dated this 16<sup>th</sup> day of August, 2023)

  
Advocate for Applicant

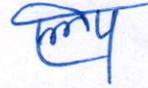
  
Applicant



## VERIFICATION

I, Santoshkumar .T. Pandey , the applicant herein, aged about 47 years resident of Flat No.1004, 11<sup>th</sup> Floor, Rushiraj Habitat, Ganagapur Road, Nashik-422013 do hereby verify that the contents of the paragraph 1 to 14 are true to my personal knowledge and believed to be true on legal advice and that I have not suppressed any material fact.

Date : 16 / 08 /2023



Santoshkumar .T. Pandey

Place : Nashik

APPLICANT



Solemnly affirmed & Sign. before  
me by Santoshkumar T. Pandey  
identified by me  
whom I know personally.



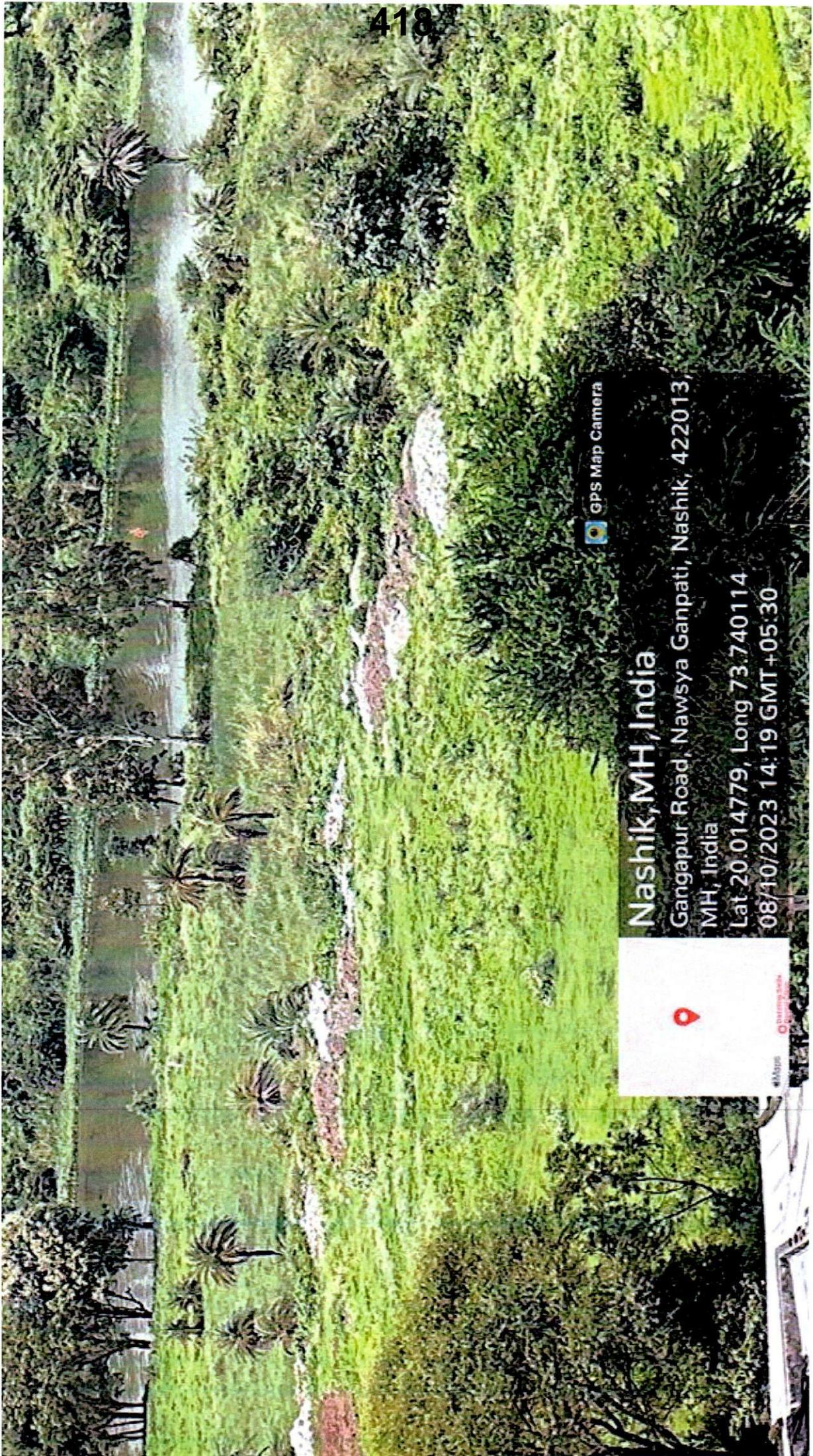
7

Handwritten mark or signature

Columnly affirmed & sign before  
me by Mr. Kurkute  
identified by Mr. ...  
which I have witnessed

BEFORE ME  
MILIND M. KURKUTE  
Advocate & Notary, Govt. of India  
Add: 12, Manni Chambers  
District Court, CBS, Basara, S.





GPS Map Camera

**Nashik, MH, India**

Gangapur Road, Nawsya Ganpati, Nashik, 422013,  
MH, India

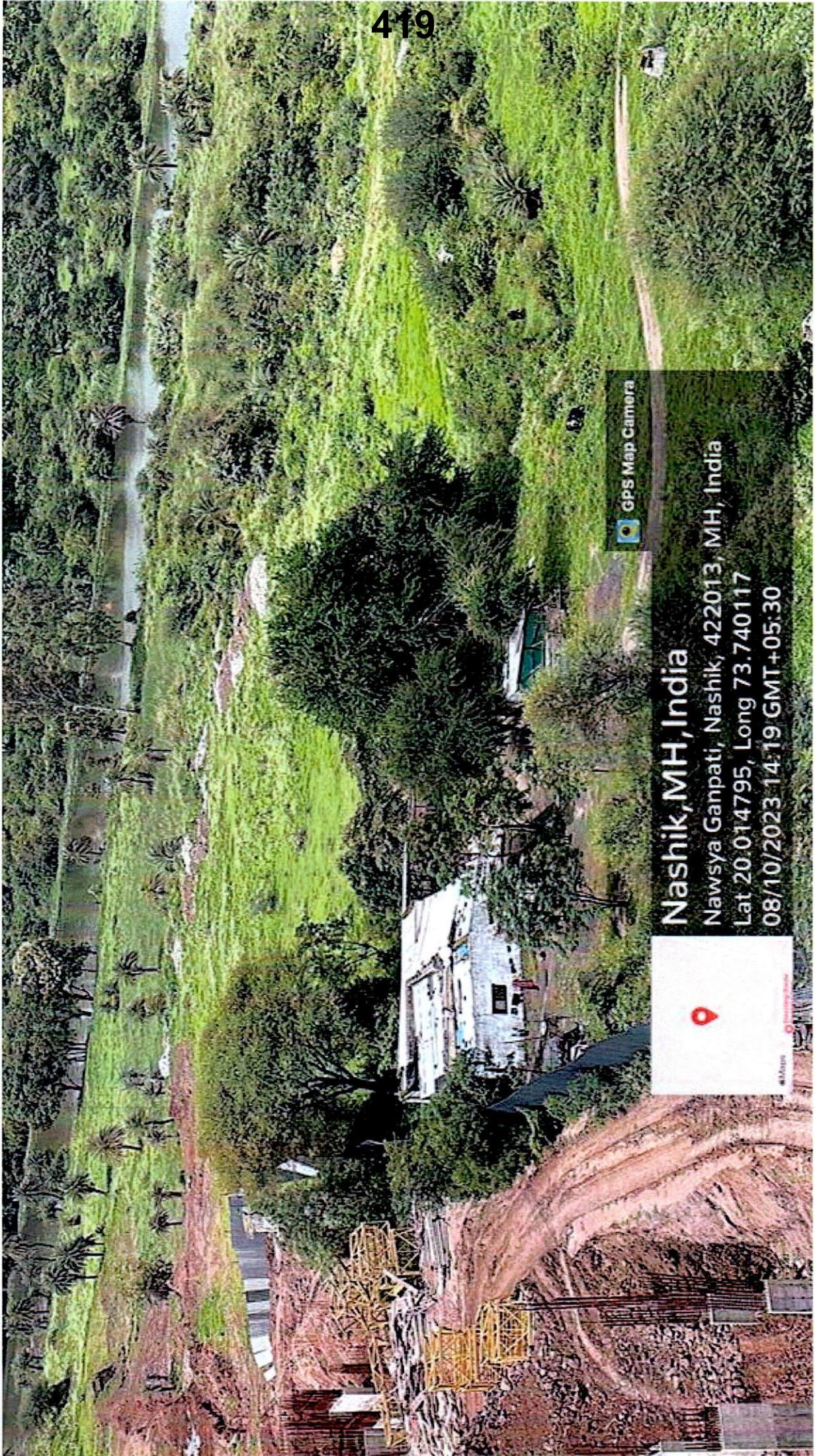
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Maps

Charanya Sankar



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