

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH AT PUNE,**

(Under Section 18 (1) read with Sections 14, 15, 16 and 17 of the National Green  
Tribunal Act, 2010)

**AMENDED APPLICATION NO. 31 OF 2015**

**Chetak Co-operative Housing Society Ltd                      ...Applicant**

V/s.

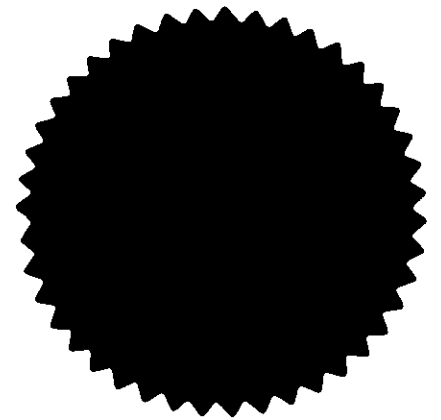
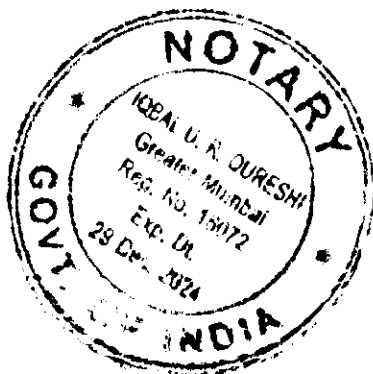
**State of Maharashtra, & Ors.    ...Respondents**

**AFFIDAVIT IN REJOINDER OF THE APPLICANT TO THE**

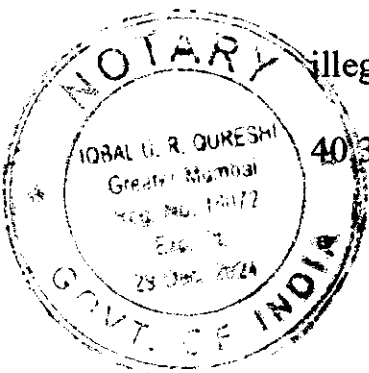
**AFFIDAVIT IN REPLY OF THE RESPONDENT NO. 12 BMC:**

I, **Shyam Karnani**, the authorized member of the Managing Committee of the Applicant abovenamed, having my office at 35, Pali Hill, Bandra, Mumbai 400 050, do hereby solemnly affirm and state as under :-

1. I say that, I have read and perused a copy of the Affidavit in Reply dated 15<sup>th</sup> April, 2024, of the Respondent No. 12 Corporation (hereinafter referred to as 'said Reply'). As I am aware of the facts and circumstances of the present Application and duly authorized by the Applicant to depose the same, I am filing the present Affidavit in Rejoinder on behalf of the Applicant to the aforesaid Reply filed by the Respondent No.12 BMC Corporation.



2. I categorically deny each and every statement and contention in the said Reply of Respondent No. 12 as the same are absolutely false, baseless, ambiguous and completely misleading and the same are deliberately made to cover-up the admitted illegalities done by Respondent Nos. 8 to 11. I am advised not to deal paragraphwise into the averments in the said Reply and ought not to be deemed to have admitted any of the averments therein on the ground that the same has not been specifically traversed herein. I further state and submit that the Applicant reserves its right to file a further and/ or Additional Affidavit, if required in the above matter. I repeat, reiterate and confirm what is stated in the present Amended Application as well as the Compilation of documents filed by the Applicant herein as if the same were, set out herein verbatim.
3. At the outset, I say that Respondent Nos. 8 to 11, being the Developer, in breach of Development rules, have got approved Development plans and have illegally obtained a Part Occupancy Certificate dated 9<sup>th</sup> October 2018 from Respondent No. 12, for the construction of the said property and they have admittedly and illegally got approved the FSI for construction of an area about 40317.33 Sq. mtrs whereas the actual area of the said subject



property is only 12,599 sq. mtrs. For challenging the aforesaid illegality and the issuance of the Part Occupancy Certificate by Respondent No. 12 herein without following due process of law, the Applicant have already filed Writ Petition being Writ Petition No. 155 of 2018 and the same is pending adjudication before the Hon'ble Bombay High Court. The entire proceedings of the aforesaid Writ Petition alongwith the Reply filed by Respondent Nos. 8 to 11 have been submitted by the Applicant before this Hon'ble Authority as directed by this Hon'ble Authority for its records and reference. I crave leave to refer to and rely upon the papers and proceedings of the aforesaid Writ Petition as and when produced.

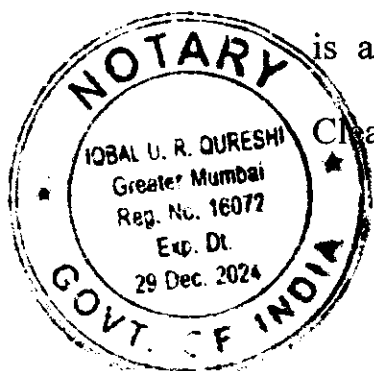
4. Admittedly, Respondent Nos. 8 to 11 commenced construction of the building in the year 2006 after obtaining IOD and CC and thereafter somewhere around 2011-2012 the construction was completed. However admittedly at the time of the construction of the aforesaid subject building, Respondent Nos. 8 to 11 had not obtained the prior mandatory NOC / MOEF /EC permission before starting the aforesaid construction. This is clearly evident from the fact that Respondent Nos. 8 to 11 by their letter / Application dated



20<sup>th</sup> May, 2017, addressed to the State Environment Impact Assessment Authority (SEIAA) for obtaining the Environment Clearance (E.C.) [*Post-facto*] for the subject project on the subject Property is titled ‘...*Environmental Clearance (For Violation) For Group Housing Project...*’ [at Exhibit ‘Y’ on Pg. 282 of Amended Content Paper Book of Applicant]. Therefore it is crystal clear and an admitted fact that Respondent No. 8 has constructed an area admeasuring about 40,317.33 sq. mtrs which is more than 20,000 sq. mtrs without obtaining the mandatory prior NOC of MOEF / Environmental Clearance for construction of the aforesaid area which is clearly in breach and in violation of the guidelines and Circulars issued by the Environment Authorities. Therefore, the entire construction carried out by Respondent No. 8 being illegal and unauthorized is required to be removed and / or demolished by passing necessary Orders / Directions by this Hon’ble Tribunal.

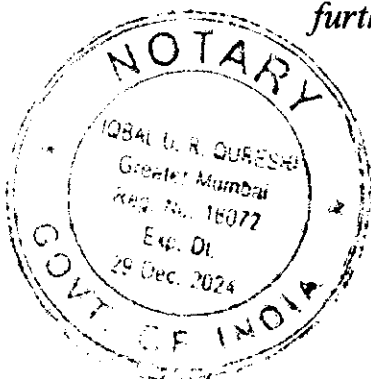
5. I further say and submit that there is no evidence to show that Respondent Nos. 8 to 11 have applied for or obtained prior Environmental Clearance from the concerned authority, nor there is any document to prove that till date a valid Environmental

Clearance has been issued to Respondent Nos. 8 to 11 in respect of



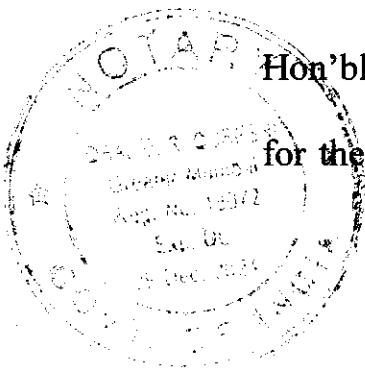
the subject project. Therefore the blanket statements made by Respondent No. 12 for supporting the aforesaid illegal act of Respondent Nos. 8 to 11 are completely misleading and inappropriate. As a responsible State Authority, Respondent No. 12 has an obligation to inform the Hon'ble Tribunal about the actual facts and records which clearly Respondent No. 12 has failed and neglected to do. Thus the said Reply filed by the Respondent No. 12 is required to be rejected by this Hon'ble Tribunal.

6. I say and submit that, the State Level Environment Impact Assessment Authority, i.e. Respondent No. 5 herein, has filed their Reply dated 21<sup>st</sup> April, 2023, in an Original application No. 54 of 2017 before this Hon'ble Authority itself, which is in respect of the same subject property / project as in the present Application i.e. 'Sandhu Palace'. In para 6 of the said Affidavit it is clearly recorded that *"...After deliberation, committee observed that expansion of the project undertaken without prior EC is violation of the provisions of the EIA Notification. Therefore, the Committee decided to refer the matter of alleged violation to SEIAA for further necessary action....."* which clearly proves that as on 21<sup>st</sup>



April, 2023, there is no permission on record which is granted in favor of Respondent Nos. 8 to 11 for showing they have obtained mandatory prior Environmental Clearance for the subject project. Annexed hereto and marked as **Exhibit "A"** is a copy of the aforesaid Reply filed by Respondent No. 5 herein.

7. I further say and submit that, Respondent No. 12 in its aforesaid Reply has made several incorrect and misleading averments and statements, which are required to be seriously taken note of by this Hon'ble Authority. I say that the Respondent No.12 has in para 20 of the said Affidavit stated, inter alia that "*...the office of the present Respondent No. 12 has requested concerned Architect vide Building Completion Certificate (B.C.C.) refusal letter dated 21.04.2016 to submit NOC from MOEF for environment clearance.....*" and have mentioned that the said BCC refusal letter was annexed and marked as Exhibit "F". However the same is not annexed by Respondent No. 12 for reasons best known to them. I further say and submit that Respondent No. 12 in their said Reply have mentioned about the concession which was approved by the Hon'ble MC on 9<sup>th</sup> August, 2018, for relaxing the MOEF clearance for the project being BUA less than 20,000 sq. mtrs but have not



mentioned for which project and / or for which property and that they have not even annexed the alleged concession as mentioned therein. Thus the same is completely misleading and baseless and the same is required to be disregarded by this Hon'ble Tribunal.

8. I further say that in para 23, Respondent No. 12 have made an incorrect statement that on submission of the environment clearance certificate dated 15<sup>th</sup> November, 2017, a part OC was issued on 9<sup>th</sup> October, 2018. Indeed the letter does not mention that the Environment Clearance certificate has been granted in favor of Respondent Nos. 8 to 11 and/ or in respect of the subject project on the said property.

9. In view of what is set out hereinabove it is respectfully submitted that this Hon'ble Tribunal may be pleased to make the above amended application absolute with costs.

Solemnly affirmed at Mumbai )

this 27<sup>th</sup> day of August, 2024 )

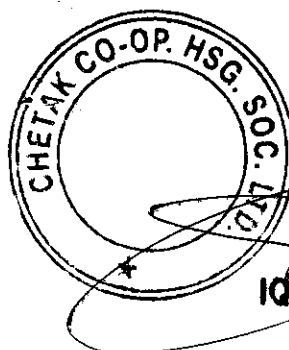
*[Handwritten Signature]*

Before me

for S. K. Legal Associates LLP

*[Handwritten Signature]*

Advocates and Solicitor for the Applicant



BEFORE ME

IQBAL U. R. QURESHI  
NOTARY  
Government of India  
Greater Mumbai Maharashtra

27 AUG 2024

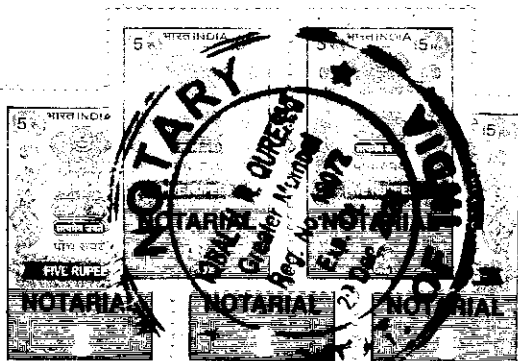
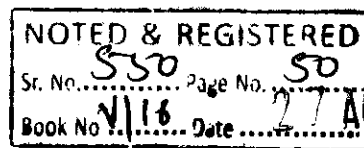
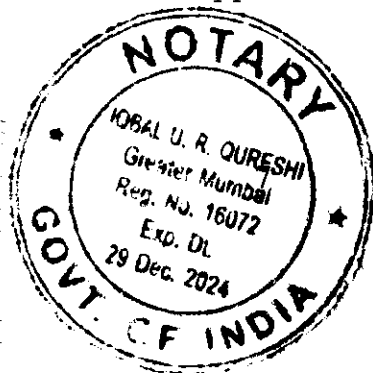
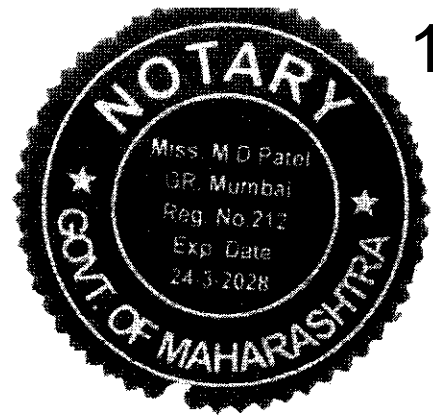


EXHIBIT - "A"

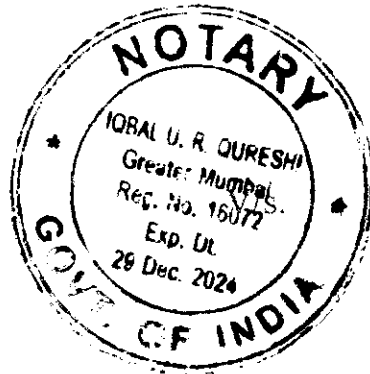


BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 54/2017

Pratap Lal Teli



... Applicant

SEIAA &amp; Ors.

... Respondents

REPLY AFFIDAVIT BY RESPONDENT NO. 1,

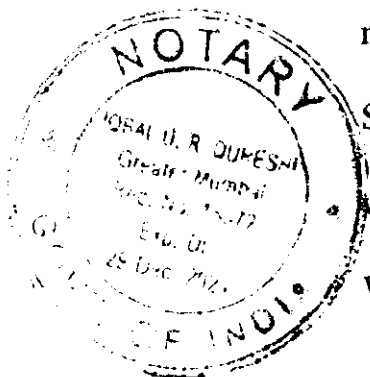
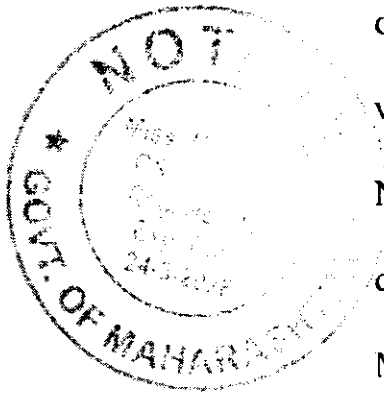
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT

AUTHORITY

I, Dattatray Suryakant Bhalerao, working as Scientist II & Under Secretary, Environment and Climate Change Department, Government of Maharashtra do hereby state on solemn affirmation as under --

I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office.

1. The present Application has been filed against the Respondent No. 3 PP for initiating the construction of their project named and styled as Sandhu Palace at CTS No 1381, 1382/C. 1378/A, 1629 A/1-10 of village Bandra (West), Pali Hill, Mumbai-400 050 without obtaining prior Environmental Clearance.
2. SEAC – II considered the application of the PP in their 52<sup>nd</sup> Meeting dated 21<sup>st</sup> April, 2017. SEAC observed that the total constructed work (FSI + Non FSI): Building prior to EIA notification 2004 is 9222.04 Sq.mt. The work initiated after the notification dated 14.09.2006 is 40,317.33 Sq.mt.
3. IOD / Plans were approved on 24/02/2006 and CC upto top of basement was issued on 22/06/2006. The IOD / Plan /CC was granted much before the 14th September, 2006 Notification of MOEF and the complete construction was carried out as per MCGM sanctions, without insisting of MOEF clearance by MCGM at any stage.
4. According to the PP's application, total plot area is 13,592 m2. FSI area 13,178.65 Sq.mt., Non FSI area is 27,138.68 Sq.mt. and total proposed BUA area is 40,317.33 Sq.mt. It was reported by the PP that building plans for wing A and Wing B were approved by MCGM on 24th February, 2006



*Handwritten signature*

and Commencement Certificate was issued on 22/06/2006.

The original plan approved was for BUA of 14013.72 m2.

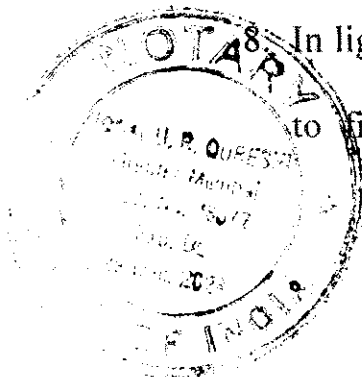
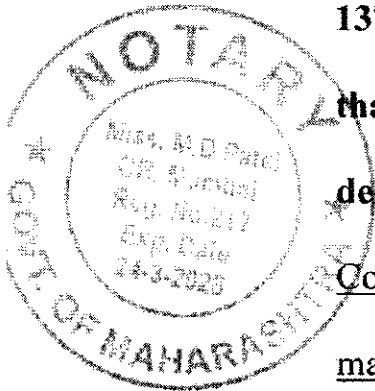
5. The plans were subsequently amended in October 2008, May 2010 and 11th May 2011 with addition of BUA 35910.09, 40710.19, and 40317.33 m2 respectively without obtaining EC.
6. **After deliberation, Committee observed that expansion of the project undertaken without prior EC is violation of the provisions of EIA Notification. Therefore, the Committee decided to refer the matter of alleged violation to SEIAA for further necessary action.**

Copy of SEAC 52<sup>nd</sup> Meeting dated 21<sup>st</sup> April, 2017 is marked and annexed as Annexure 1.

7. **SEIAA considered the recommendation of SEAC in their 137<sup>th</sup> Meeting dated 24<sup>th</sup> August, 2018. SEIAA observed that PP was absent during the meeting and therefore decided to defer the proposal.**

Copy of SEIAA 137<sup>th</sup> MoM dated 24<sup>th</sup> August, 2018 is marked and annexed as Annexure 2.

In light of the above averments, this respondent craves leave to file any additional reply as and when required. It is



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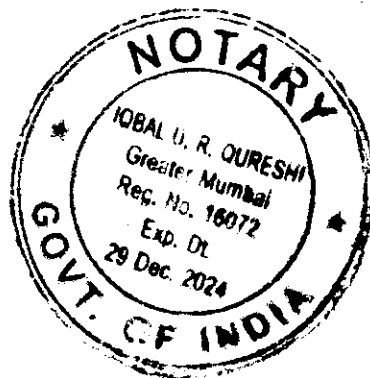
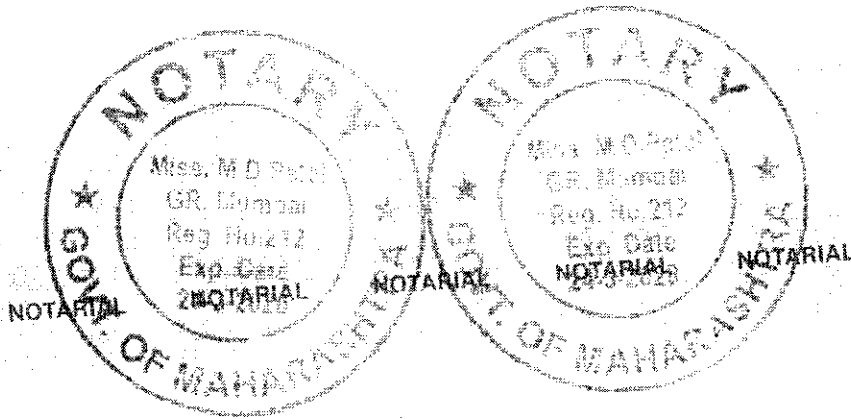
respectfully prayed that Environment Department shall abide  
by any orders and directions issued by the Hon'ble Tribunal.

Whatever is stated above is true and correct to the best of my  
knowledge, ability and belief and I affirm it to be true.

(Dattatray Suryakant Bhalerao)  
Scientist II & Under Secretary,  
Environment & CC Department,  
Government of Maharashtra


Place: Mumbai

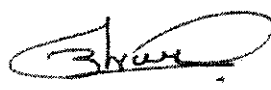
AD. Date: 21/04/2023




VERIFICATION

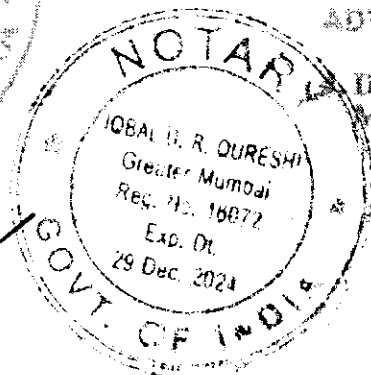
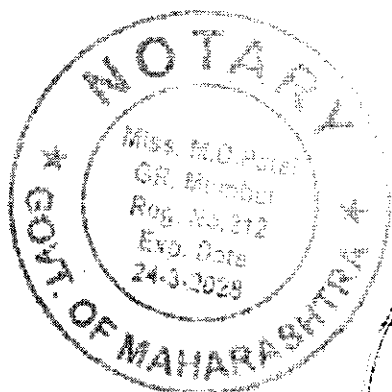
I, Dattatray Suryakant Bhalerao, Age- 39, working as Scientist II & Under Secretary, Environment and Climate Change Department, Government of Maharashtra, having my office address at 15<sup>th</sup> floor, New Administrative Building, Mantralaya, Mumbai-400 032, do hereby verify and declare that the statements made in the aforesaid Para's are true and correct to the best of my knowledge and information and I believe the same to be true and that nothing material has been concealed therefrom.

Solemnly affirmed on this 21<sup>st</sup> day of the April, 2023 at  Mumbai.

  
(Dattatray Suryakant Bhalerao)  
Scientist II & Under Secretary,  
Environment & CC Department,  
Government of Maharashtra

Identified by me

  
(Sanjay Baliram  
Sandan Shiv)  
Under Secretary  
Environment &  
C.C. Dept.



BEFORE ME

M. D. Patel  
21-4-2023  
Sr. No. 223  
Bk No. 2

MR. M. D. PATEL  
ADVOCATE & NOTARY  
Kotkar House,  
Dhuswadi, Dhobitalao,  
MUMBAI - 400 002.

# CHETAK CO-OPERATIVE HOUSING SOCIETY LTD.

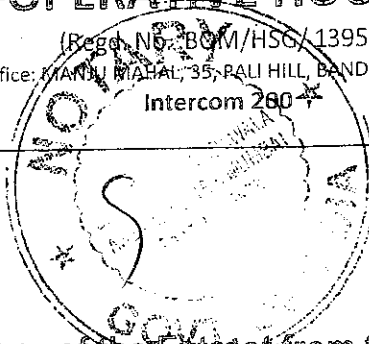
(Regd. No. BOM/HSG/1395 of 1967)

Regd. Office: MANDI BHAHAL, 35, BALI HILL, BANDRA(W), MUMBAI 400 050.

Tel: 2604 2446

Intercom 260

E-Mail: chetakcoop@gmail.com



Date: 31/10/2022

A Certified true copy of the Extract from the minutes of the Managing Committee meeting of the society held on 7<sup>th</sup> Aug, 2022, at Society's office.

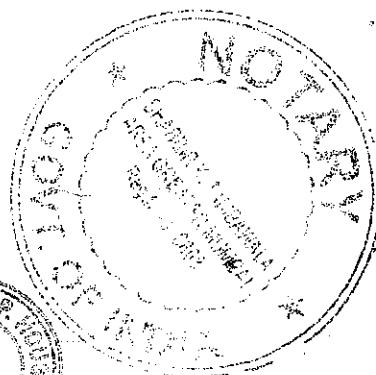
Point No 3. To appoint MC member to sign vakalatnama & Legal Documents on behalf of Chetak Co-op Housing Society Ltd.,

"It is hereby Resolved that Mr. Shyam D. Karnani (Hon. Treasurer) appointed for signing Vakalatnam and any other legal documents

Proposed by Mr. Cyriac Mathew

Seconded by: Mr. Madan Hemdev

For Chetak Co-operative Housing Society Ltd.



*Sanjeev Bhat*

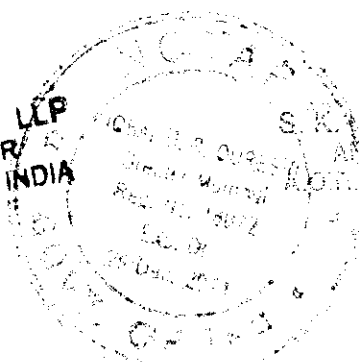
Hon. Secretary

*R. S. Sahgal*

Hon. Chairperson

**TRUE COPY**

**S. K. LEGAL ASSOCIATES LLP**  
ATTORNEYS & SOLICITORS  
APPOINTED BY THE SUPREME COURT OF INDIA



**TRUE COPY**

**S. K. LEGAL ASSOCIATES LLP**  
ATTORNEYS & SOLICITORS  
APPOINTED BY THE SUPREME COURT OF INDIA

**BEFORE THE NATIONAL GREEN  
TRIBUNAL  
(W Z) BENCH AT PUNE,  
AMENDED APPLICATION NO. 31 OF 2015**

**Chetak Co-operative Housing Society  
Ltd ...Applicant**

V/s.

**State of Maharashtra, & Ors.  
...Respondents**

**AFFIDAVIT IN REJOINDER OF  
THE APPLICANT TO THE  
AFFIDAVIT IN REPLY OF THE  
RESPONDENT NO. 12 BMC:-**

**(Dated this 27<sup>th</sup> August, 2024)**

**S. K. LEGAL ASSOCIATES  
LLP**

Advocates for the Applicant,  
201-B, M. B. House, 2<sup>nd</sup> Flr,  
77/79, Janmabhoomi Marg,  
Fort, Mumbai – 400 001.

Email:-

sklegal@sklegalassociates.com

