

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO.61 OF 2023(WZ)**

IN THE MATTER OF:

FIRDOS CAMBATTA

...APPLICANT

VERSUS

STATE OF GUJRAT

...RESPONDENT

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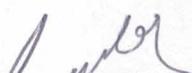
REJOINDER TO AFFIDAVIT IN REPLY BY RESPONDENT NO.4

1. The Applicant abovenamed respectfully submits that the instant rejoinder is being filed in response to the reply by Collector-cum-District Magistrate, Ahmedabad i.e. Respondent No.4.
2. At the outset, it is respectfully submitted that nothing in the Reply filed by Respondent No.4 should be deemed to have been accepted by the Applicant unless the same is specifically admitted/ accepted herein.
3. At the further outset, it is submitted that the Applicant is a highly respected and credible environmentalist and is the founder and current operator of a charitable organization known as "The Serenity Trust." In 1974, the Applicant undertook a significant environmental initiative by planting approximately 4,000 trees on Plot Nos. 313, 322, and 323 in Hansol Village, Ahmedabad. The Applicant further submits that in 1973, during the floods in the Sabarmati River, the water level rose to 29 feet, submerging Plots 313, 322, and 323. Upon the recession of the river, 50%

of these plots were eroded, reducing them to riverbed level, with no trees remaining. This initiative of the Applicant of planting trees aimed to mitigate soil erosion, protect guachar lands from flood risks, and enhance the area's greenery. These efforts have significantly contributed to oxygen exchange, thereby benefiting the residents in the vicinity and Ahmedabad city. Additionally, this initiative has fostered an ecosystem of indigenous flora and fauna, supporting species that are classified under Schedule I and listed as threatened by the IUCN. Over the past five decades, this project has also supported local communities by providing them with sustainable resources such as animal fodder and fuel wood, thereby enhancing their livelihoods. The tree species planted included Neem, Sitaphal, Mango, Jambun, Yellow Cassia, Laburnum, Gulmohur, among others. Due to the absence of fencing, local farmers allowed their camels, goats, cattle, and buffalo to graze in the area, resulting in the consumption of most edible trees, while the *Prosopis Juliflora* species flourished. Over the past 51 years, these trees have grown to a height of 30 to 35 feet, forming a green cover that has effectively prevented further erosion and fostered the development of a thriving urban woodland ecosystem. This ecosystem supports Schedule I avifaunal species and mammals, including Nilgai (*Boselaphus tragocamelus*), Wild Boar (*Sus scrofa*), Grey Mongoose (*Herpestes edwardsii*), and Indian Crested Porcupine (*Hystrix indica*), as well as

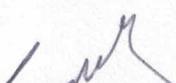


Northern Plains Langur (*Semnopithecus entellus*), Northern Palm Squirrel (*Funambulus pennantii*), and Indian Flying Fox (*Pteropus giganteus*).

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4. That it is further submitted that the dead wood from the *Prosopis Juliflora* continues to serve as a valuable resource for village women, who collect 250 to 300 kilograms daily for firewood and for sale, thereby supplementing their income. Over the past 51 years, the environmental and economic benefits derived from this initiative have been significant. In the absence of these trees, the remaining 30,000 square meters of land would have been lost during the floods of 1979 and 1984. The Applicant's actions have been instrumental in preserving the land and providing enduring benefits to the surrounding community of Village Hansol.
 5. That the Present Original Application was registered before this Hon'ble Tribunal on the basis of a letter petition wherein the Applicant had stated that the Applicant had created a green cover by plantation in 1974 of about 4000 trees on plot no. 313, 322 and 323 in Hansol village which was included in the municipal limits of Ahmedabad Municipal Corporation in 1987, which were being cut down.
 6. Further, the Applicant has previously brought to this Hon'ble Tribunal's attention instances of unauthorized tree cutting, initially notifying the
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Hon'ble Tribunal vide letter dated 25.04.2022. Despite the Hon'ble Tribunal taking cognizance of the matter, tree-cutting activities continued unabated, with further instances recorded as recently as November 2023. Following this, the Applicant has filed multiple affidavits, supplemented with photographic evidence and corroborative newspaper reports, all of which substantiate the ongoing unauthorized tree cutting. These materials collectively demonstrate that the harmful activities persist despite the Hon'ble Tribunal's involvement.

7. It is respectfully submitted that under the provisions of the Saurashtra Felling of Trees (Infliction of Punishment) Act, 1951, prior permission is required for the felling of any trees. Unauthorized tree cutting is expressly prohibited by this Act, and such permission must be obtained from the Ahmedabad Municipal Corporation. However, in the present case, tree cutting and felling have been carried out without the necessary authorization.
 8. Furthermore, the Hon'ble Supreme Court of India vide its judgement in *M.C. Mehta Kamal Nath and others (1997)1 SCC 388* has recognised the Public Trust Doctrine, which affirms that certain natural resources— including rivers, forests, and other ecologically sensitive assets—are held in trust by the State for the benefit of the public and future generations. This principle imposes a duty on public authorities to
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protect and preserve these resources from irreversible harm. The relevant portion of the judgement is reproduced below:

"25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the Public Trust Doctrine imposes the following restrictions on governmental authority:

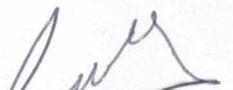
"Three types of restrictions on governmental authority are often thought to be imposed by the public trust : first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third the property must be maintained for particular types of uses."

9. It is submitted that the answering Respondent asserts that the lands were designated as government lands in 1986. It is pertinent to note that the answering Respondent makes reference to an alleged encroachment on Plot No. 329, in which the Applicant has no involvement whatsoever. In addition to this, according to the submissions made by the answering Respondent, from 1986 to 2014 for a span of 28 years, the plots in question remained designated as gauchar lands and were used for grazing by the surrounding village community, leading to the development of a thriving urban woodland ecosystem. Pursuant to the

order dated 14/07/2014, these lands were allocated for the construction of residential quarters for Class 1 and Class 2 officers. However, these quarters were never constructed, and Plots 313, 322, and 323 continue to form part of the Sabarmati River floodplain ecosystem. As is evidently clear from Annexure A of the Reply by the answering Respondent, Plots 312, 322, and 323 are part of the Sabarmati River basin and are described as a river gorge. Thus, from perusal of Annexure A it is clear that these plots of land remain open, form part of the river gorge, and contain trees.

10. It is pertinent to note that, as per the order of the Hon'ble Supreme Court of India, gauchar land (grazing land) may only be utilized for purposes expressly permitted under the applicable legal provisions. Order of the Hon'ble Apex Court dated 6.9.2021 in case of *Rameshbhai Virabhai Chaudhari v. The State of Gujarat & Ors*, especially the following observation:

"It is trite to say that gauchar land can be used only for purpose for which it is permitted to be used. If there is a user contrary to the permissible user, whether by the State or by any third party, the same cannot go on. Rehabilitation of persons is really not required in the present case as only three persons are entitled to an alternative site as per rules. There is ofcourse some dispute whether the encroachers have made permanent structures or kuchha construction for keeping cattle but be that as it may, the user cannot be contrary to what is being permitted for gauchar land, which is a grazing land."



11. Further it has been held in *State of Jharkhand and Others v. Pakur Jagran Manch and Others*, reported in (2011) 2 SCC 591, wherein Para-23, 24 and 25 read as under:

"We should however note that such de-reservation of any government land reserved as gochar, should only be in exceptional circumstances and for valid reasons, having regard to the importance of gochar in every village. Any attempt by either the villagers or others to encroach upon or illegally convert the gochar to house plots or other non- grazing use should be resisted and firmly dealt with. Any requirement of land for any public purpose should be met from available waste or unutilized land in the village and not gochar.

Whenever it becomes inevitable or necessary to de- reserve any gochar for any public purpose (which as stated above should be as a last resort), the following procedure contemplated in Regulations 24 and 25 and section 38(2) should be strictly followed :

(a) *The jurisdictional Deputy Commissioner shall prepare a note/report giving the reasons why the gochar had been identified for any non- grazing public purpose and record the non-availability of other suitable land for such public purpose. Deputy Commissioner shall send the said proposal for de-reservation to the State government for its previous sanction.*

(b) *The state government should consider the request for sanction keeping in view the object of gochar and the need for maintaining a minimum of five percent of village area as gochar, and call for suggestions/objections from the villagers before granting sanction.*

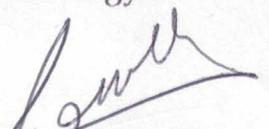


(c) If the state Government grants the sanction, the Deputy Commissioner should proceed to make an order de-reserving, the gochar by making appropriate entries in the record-of-rights and re-classifying the same for the purpose for which it was de-reserved.

(d) Whenever the gochar in a village is de-reserved and diverted to non-grazing use, simultaneously or at least immediately thereafter the State should make available alternative land as gochar, in a manner and to an extent that the gochar continues to be not less than 5% of the total extent of the village as provided under section 38(2) of the Tenancy Act.

12. That it is further submitted that even Respondent No. 4 has stated that for purpose of cutting and felling of tress permission from Ahmedabad Municipal Corporation is required. However, the answering Respondent has not been able to place on record any such permission that may have been obtained in the present matter.

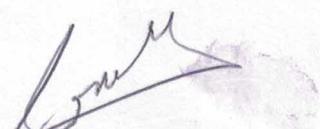
13. That it is further submitted that even as per reports, the Hansol area of Ahmedabad represents an urban woodland transition zone located on the floodplains of the Sabarmati River. Among them were there are resident birds, Schedule 1 of the Wildlife (Protection) Act 1972: protected avifaunal species which are found in the whole floodplain area such as the Black Kite (*Milvus migrans*), Shikra (*Accipiter badius*) and Indian Pea Fowl . The Near Threatened Category of the IUCN Red list of Threatened species: Black Headed Ibis, River Tern and Alexandrine Parakeet. Within the Prosopis dominant patch in the river floodplains the study also found 50 other plant species. It was found in the Biodiversity Study conducted by the Gujarat Institute of Desert Ecology



that although in the fringe of the urban complex of Ahmedabad city, the area holds a good floral assemblage that supports a good number of birds and mammal species common in urban woodland ecotone. It is pertinent to note that Ahmedabad has lost the most tree cover among the major cities in India. The Forest Survey of India's (FSI) 2021 report revealed that Ahmedabad's forest cover decreased by 48% from 2011 to 2021. (<https://timesofindia.indiatimes.com/city/ahmedabad/green-cover-abad-biggest-loser-among-mega-cities/articleshow/88886503.cms>)

14. That it is further pertinent to note that as per report by the Gujarat Technological University documenting the city's changing landscape shows Ahmedabad has registered a depletion of 30.26 sq km of vegetation cover. As reported by the Times of India on 05/01/2023, the city reported a rise of 87.39 sq km of built up area set to affect temperatures adversely. The TOI report specifically mentions how the Hansol area may see a temperature rise of 45 degrees and above during summer. (<https://timesofindia.indiatimes.com/city/ahmedabad/study-ahmedabads-green-cover-denuded-because-of-fast-expansion/articleshow/96751788.cms>)

15. It is submitted that construction of helipad would completely devastate the biodiversity that is thriving in this urban woodland area since the



last 50 years and functions as a lung not only for the inhabitants of Hansol but also for all of Ahmedabad city.

16. That the Applicant respectfully states that, as a concerned citizen and environmentalist, his sole concern is the unlawful felling of trees, the destruction of green cover, and the resulting loss of biodiversity. The Applicant's commitment to protecting the environment and preserving natural resources remains paramount.

17. That the Applicant reserves the right to raise further points with the prior permission of the Hon'ble Tribunal.

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APPLICANT



THROUGH

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Ms. RANU PUROHIT
ADVOCATE FOR THE APPLICANT



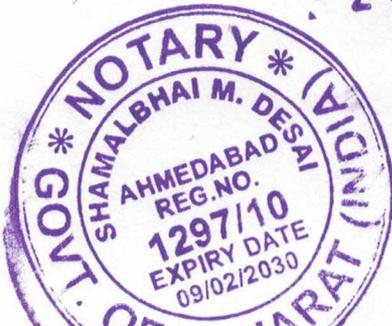
DATE: 2 JUN 2025 2025

PLACE: NEW DELHI

SR. No. 2577 /2025

[Handwritten Signature]
SHAMALBHAI M. DESAI
NOTARY
GOVT. OF GUJARAT

2 JUN 2025



SOLEMNLY AFFIRMED
BEFORE ME

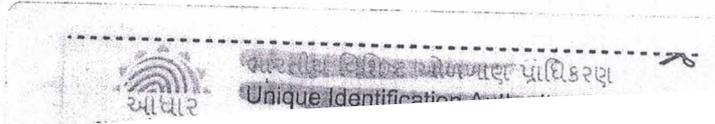
[Handwritten Signature]
SHAMALBHAI M. DESAI
NOTARY





आधार - सामान्य माहसना अधिकार

Handwritten signature





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Ranu Purohit <office.ranupurohit@gmail.com>

REJOINDERS TO AFFIDAVIT IN REPLY BY RESPONDENT NO. 4, 5 AND 7 IN THE MATTER OF FIRDOS S CAMBATTA VS STATE OF GUJARAT THROUGH THE COLLECTOR AHMEDABAD O.A No. 61 of 2023(Western Zone)

1 message

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Mon, Jun 2, 2025 at 3:31 PM

To: maulik@nanavatico.com, simranjit@ghvirk.com, office@bhattandco.in, punengtwzb@gmail.com

Dear Sir/Madam,

Please find attached Rejoinders in the above captioned matter. Kindly consider it as a service.

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Kind regards,

Ranu Purohit

Advocate-on-Record

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(M) +91-9560457997**Please spare a thought for the environment. Print this mail only if necessary.****CONFIDENTIALITY NOTE**

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