

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL, WESTERN ZONE
BENCH, AT PUNE

Original Application No.02 of 2020 WZ.

Mr. Vaibhav Tapkir & Anr.

- - - } Applicants.

Vs

M/s Tanish Associates & Others.

- - - } Respondents.

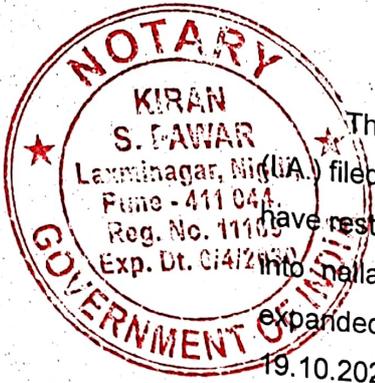
Rejoinder on behalf of the Respondent No.3 & 5 to the Counter Affidavit filed
on behalf of the Respondent No.6

MAY I PLEASE YOUR HONOUR-

The Rejoinder is filed on behalf of the Respondent No.3 & 5 to the Counter Affidavit
filed on behalf of the Respondent No.6 as under-

1. After going through the Original Application filed on behalf of the Applicant at Pages 1 to 10 of the Application, it is observed that the Original Application No.02 of 2020 (WZ) has been filed by the Applicant mainly substantial question relating to the environment pertaining to the construction of parking and temple done by the R.No.1 on the natural nalla situated at Gat No:498/1 at Village Charholi KH, Taluka- Khed, District-Pune for totally blockage of the nalla thereby obstructing the free flow of water and also construction of buildings on Gat No.498/2 and 498/3 letting out the untreated sewage into nalla, which is stated to be meeting the river. Nowhere, the constructions and E.C. were challenged (Grounds of Objections – II to XIII: Page 9 to 12).
2. This application (I.A.) has been filed by the applicants seeking impleadment of the Ministry of Environment, Forest and Climate Change (MoEF&CC), Union of India, the State Environment Impact Assessment Authority (SEIAA), State of Maharashtra and Tanish Shrushti Cooperative Housing Society (Tanish Shrushti CHS) as respondents in the Original Application on the ground that the demolition of the construction on the nalla which is found to be an encroachment would require Tanish Shrushti CHS to be impleaded and heard as the same would be necessary party.





Therefore, the Project Proponent, has rightly opposed the application filed by filing counter affidavit dated 18.10.2023 stating that the applicants have restricted their prayer only to two issues i.e. discharge of sewage effluent into nalla and encroachment on the nalla and now the reliefs are being expanded which are time barred as well. (Para 1 of the Order dated 19.10.2023).

3. Now, the R.No.6 has filed Counter Affidavit with regard to the policy laid down by it to check the device adopted by the builders to split one bigger Survey No. project into parts for raising constructions below 20,000 sq.mt in order to obviate the need of prior E.C. and submitted that the R.No.1 (M/s Tanish Associates) had constructed project having built up area of 10526 sq.mt and then expanded the same by 18750 sq.mt and then 19930.49 sq.mt on adjoining plots. It is concluded that all 3 buildings have been constructed by the same Project Proponent on the adjoining plots and the Project Proponent has crossed the threshold limit of 20000 sq.mt. In view of the findings above, this should be considered as a case of "Expansion" and thus be regulated as per the provisions of EIA Notification, 2006 as amended from time to time and therefore required prior E.C. in case of any subsequent addition/expansion to the building project as per the conclusion drawn by the MoEF & CC.

Hence, it is observed by the MoEF & CC that any new or expansion project crossing the threshold limit as given in the schedule to the EIA Notification, 2006 shall require prior Environment Clearance. However, there is no specific Office Memorandum or Clarification about how three different adjoining plots, which were having three different Gat Nos. for which two different Development Authorities (District Collector and PMRDA) have granted three different permissions at three different times can be clubbed together and treated as one plot for imposition of condition of prior E.C.

4. This Hon'ble Tribunal appointed initial Joint Committee consisting (i) District Collector, Pune, (ii) Pune Metropolitan Region Development Authority and (iii) Maharashtra Pollution Control Board (MPCB) and to direct them to submit a factual and action taken report within four weeks. MPCB will be the nodal agency for compliance.

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The committee has given its report dated 23.08.2021 with reference to the main contention raised by the Applicant in respect of construction done by the R.No.1 contending that due to construction on natural nalla, it has totally blocked and obstructed the natural flow of water. Therefore, except the allegation about encroachment on nalla and realignment of the same within the nalla as well as letting of untreated sewage effluent directly into nalla, no other allegations made in the Original Application No. 02 of 2020. Therefore, the scope of Application may not kindly be extended to the amalgamation of 3 Gat Nos. for which different authorities have given different permissions at different times. (Pages 63 to 65 of First Joint Committee Report)

5. Thereafter, the Joint Committee was again appointed by Hon'ble Tribunal to in its Report dated 21.04.2023 observed that the main gate, internal roads, approach roads, amenities are common for all the buildings in each of gates/plots as well as there is no demarcation/physical barrier in between the plots and common STP for sewage generated from the buildings from all 3 adjoining plots and therefore, it should be consider as a case of 'Expansion' and should be regulated as per EIA Notification, 2006 treating it as a one project. However, in a number of cases common or joint ETP/STP can be infrastructure for two or more independent industry having different plot numbers and adjoining each-others, which cannot be treated as a one project or amalgamated together. Therefore, the comments of the PMRDA on the Joint Committee Report are as under-

- 5.1) The Joint Committee has observed in its Report dated 21.04.2023 at Para 2.1 on Pages- 124-125 that, 3 plots bearing Gat Nos. 498/1(area 8434 sq.mt.), Gat No. 504 (Area 13600 sq.mt.) and Gat No.498/2+3 (area 13004 sq.mt.) developed for residential project as Tanish Shrushti with different layout sanctions, building permissions, plinth check certificates and completion certificates for each plots, which details are taken on record and shown with built up area in the Table- 01 (Gat No. 498/1, Buildings- A, B, and C), Table-02 (Gat No. 504, Buildings- D, E, F, G, and H), and Table-03 (Gat No.498/2+3, Buildings- I and J).

ERB

5.2) It appears that with reference to the observations made by this Hon'ble Tribunal in respect of the Order passed on 24.02.2022 in OA No. 34 of 2020 (WZ) filed by Sri. Tanaji Gambhire Vs. Union of India & Ors. about the issue of lack of proper sewage and management system which requires the concerned authorities to lay down standards for disposal of sewage effluent and existence of sewerage system for societies those not requiring E.C. to enforce water and air quality standards, and also with reference to Draft Notification dated 25.02.2022, the MoEF & CC, Gol in its Compliance-Affidavit dated 13.06.2025 has come to the conclusion that the PP split one bigger survey no./ project into parts for raising construction below 20,000 sq.mt. in order to avoid the need of prior EC.

However, how can these 3 Gat Nos. and Commencement Certificates be clubbed together merely because of the Completion Certificates for these 3 different projects have been granted on one date, i.e. 31st July 2017. The earlier Gat Nos. have been given by the then District Administration Authority, which cannot be clubbed together by the PMRDA after laps of a number of years for granting such Gat Nos. (Page No.230 of Sub-Para 3- PMRDA Affidavit dated 09.06.2023)

5.3) Joint Committee has raised another new objection to the 9 meters road and channelization of natural nalla using RCC pipes, which is said to be traversing within boundary wall along the north direction and further exit and traversed towards north direction. PMRDA has already reproduce Para No. B of clause 13.1 in respect of DCPR Rules referred by the earlier Joint Committee appointed by this Hon'ble Tribunal stating that no piece of land shall be used as a site for construction of building if the site is within a distance of 9 meter from the edge of water mark of a minor water course (like nalla) and 15 meter from the edge of water mark of measure water course (like river, water body) as shown on the Regional Plan. Provided that where minor water course passes through a low line land without any well-defined banks, the owner of the property may be permitted by the Metropolitan Commissioner in such marginal open spaces 4.50 meter from the edge of the DCPR-Rules (Page 231 of Affidavit dated 09.06.2023).

Therefore, this Application may kindly be decided on the basis of above facts and circumstances and previously submitted affidavit.

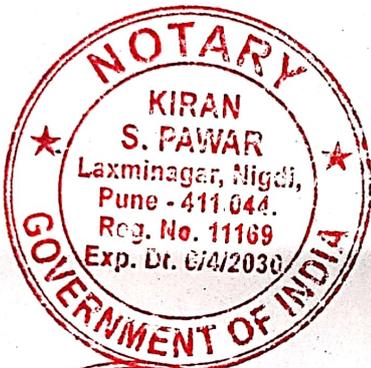
Dated this 4th of July 2025.

PRD

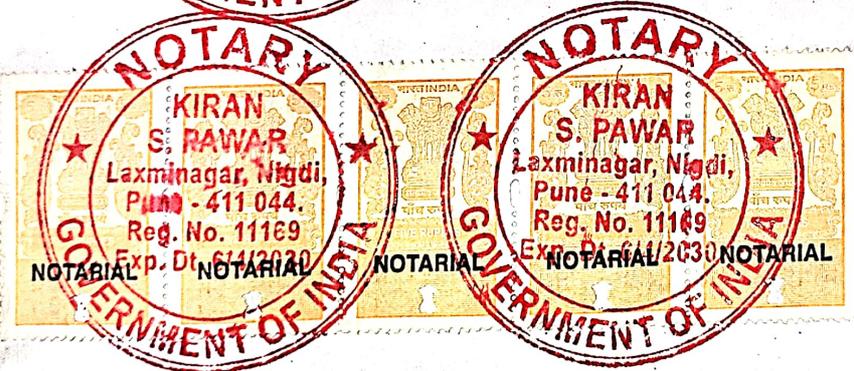
Verification

I, Mr. Avinash Bhalchandra Patil, Age- 57 Years, working as Director of Town Planning, Pune metropolitan region development authority, Pune on behalf of respondent No.5 do hereby state on solemn affirmation that whatever stated here in above is true to the best of my knowledge and based upon the information derived from the official records available to me.

8 AUG 2025
Date : - /08/2025



Avinash Patil
Pune metropolitan Region
Development Authority, Pune.
Through Director of Town Planning
(Development permission and planning)
Mr. Avinash Patil
On behalf of respondent No.5



BEFORE ME
Kiran S. Pawar
KIRAN S. PAWAR
ADVOCATE & NOTARY
GOVT. OF INDIA
Laxminagar, Nigdi Pune-411 044.

Noted & Registered at Serial Number - **334/2025**

8 AUG 2025

