

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 147/2016

Tanaji Gambhire

... Appellant

v.

Principal Secretary,

Environment Department&Ors.

... Respondents

REPLY AFFIDAVIT BY RESPONDENT NO. 17,
GANGA ASHIYANA "H" CO-OP HOUSING SOCIETY

I, Mr.Kiran Dinesh More, the President of Ganga Ashiyana "H" Co-operative Housing Societydo hereby state on solemn affirmation as under –

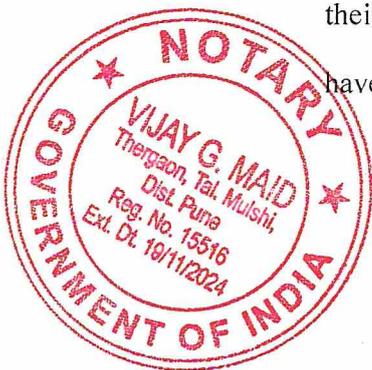
I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office.

1. The present application has been filed by the Applicant against the building construction project at Survey No. 33/4, 33/5, 33/6, 33/7, 33/8 and theirrespective CTS. No. 6298 to 6299, at village Thergaon, Tal. Mulshi, Dist.Pune undertaken by the Respondent No. 12. There are allegations that



the said project is affected by the Blue Flood Line of Pavanariver. Further, there are allegations that the said project doesn't have valid environment clearance and consent to establish and operate.

2. The Applicant is praying demolition of the buildings and there are other prayers like imposition of environment damage compensation, initiating enquiry against the concerned government authorities, cancellation of non agricultural permission.
3. Present respondent no. 17 is one the Co-operative Housing Society formed after completion of the project. Originally the present respondent was not party to the case when it was filed. During the pendency of the present case, MA No. 43 of 2018 was filed on behalf of the Respondent No. 12 thereby praying for impleadment of the present answering Respondent along with other co-operative societies. The said application was allowed by this Hon'ble Tribunal vide an order dated 28-11-2023 and the present answering respondent was accordingly impleaded.
4. At the outset it is submitted that that all the allegations and contentions made by the Applicant against this respondent are denied. None of the contentions and facts raised in the present case should be deemed to have been admitted by the answering Respondent unless specifically admitted herein for the reason of non traverse.
5. Members of this answering respondent have invested huge amounts from their life savings for buying apartments in the respondent society, hoping to have a peaceful life in their old age. Majority of the members are residing for



about last 10 years. Applicant staying very far away from the respondent society without any locus and with the intention of harassment of the residents has filed the present case. If any adverse order of demolition is passed in the present case against the members of the respondent society, they would be rendered homeless and forced to live on streets causing irreparable loss to the respondents.

6. When members of respondent society approached the Respondent no. 12 for purchasing their homes, Respondent no. 12 disclosed the approvals, permissions, certificates, revisions of layouts from the municipal and revenue authorities. However, they neither disclosed in the brochure nor in any other manner, to the members of the answering respondents, that the present project under challenge requires environment clearance and consent to establish / operate. Members of the answering respondent society were never aware that this residential project comes within the ambit of the EIA Notification, 2006 and the Consent regime. They were not even aware that the residential scheme is affected due to the blue flood line of river Pawana.
7. This answering respondent would like to bring the factual position at site on record. It is the contention of the answering respondents that the respondent no. 12 has developed and provided all the common amenities for both Plot B (Phase I)& C (Phase II) in Plot B (Phase I). At the time of purchase of the flats, respondent no. 12 assured the flat purchasers that they will have free access to all the amenities.
8. Common amenities for both the plots, like swimming pool, gym, indoor game room, amphitheatre ground water bore, DG set, are located and

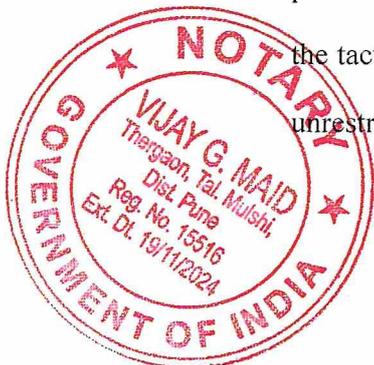


provided only in plot B (Phase I). Similarly 55 parking slots allotted to Plot C (Phase II) societies' occupants are in Plot B (Phase I).

9. At the time of giving possession of flats, that is around the year 2011-12, the respondent no. 12 divided the Plot B & C with tin sheets giving access to Plot C occupants, to the amenities in Plot B. Members of all the societies in Plot B & C were frustrated with a division between the two plots and by common understanding between them, they removed all the tin sheets. However, when the present case was initiated against the Respondent no. 12, he put a common concrete wall between both the plots and now members of answering respondent society as well as Society No. I, J, K in plot C are deprived of direct unrestricted access to all the common amenities located in plot B as well as 55 parking slots.

10. Regarding this issue, members of the present society as well as Societies No. I, J and K filed a complaint against the Respondent no. 12 and Societies No. D, E, F and G, with the Co-operative Societies Registrar. Similarly, they have filed a Civil Suit bearing number, Special Civil Suit No. 1927/2022 in the Court of Civil Judge Senior Division, Pune. Similarly, they have even filed a writ petition bearing no. Writ Petition No. 6224/2024 in the Hon'ble Bombay High Court for modification of the deemed conveyance orders passed by the Co-operative Societies Registrar.

11. All these years, members of the answering respondent society, rather than peacefully living in their own homes, have been put to great hardship due to the tactics played by respondent no. 12. They have been deprived of free and unrestricted access to the amenities and 55 parking slots which are located in



plot B. They have been forced to file cases against the respondent no. 12 and are being forced to defend this case as well. Due to the misdeeds of the respondent no. 12, members of the present answering respondent have been dragged in this case.

12. Members of the answering respondent society have not done any construction activity. They cannot be held responsible and they cannot suffer for whatever environmental non-compliances Respondent no. 12 has committed. If any demolition order is passed by the Hon'ble Tribunal then they will be rendered homeless and in such eventuality, Respondent no. 12 will be utterly responsible for such loss and he should provide alternate accommodation with full ownership rights to the members of the answering respondent. Similarly, if any order with respect to assessment of any environmental damage compensation is passed, that has to be recovered from Respondent no. 12 only, it cannot be levied on members of this answering respondent.

13. This respondent reserves the liberty to file any further additional affidavit or any such documents as and when required.

Pune

Date

21 MAY 2024

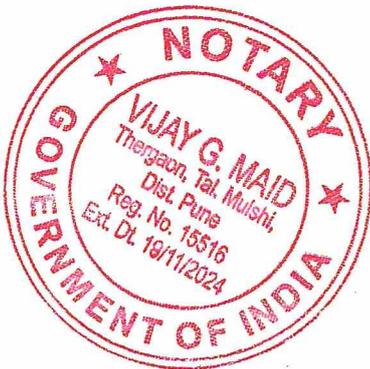
Deponent

Mr. Kiran Dinesh More

President

Ganga Ashiyana "H"

Co-operative Housing Society



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VERIFICATION

I, Mr. Kiran Dinesh More, the President of Ganga Ashiyana "H" Co-operative Housing Society do hereby verify and declare that the statements made in the aforesaid paras are true and correct to the best of my knowledge and information and I believe the same to be true and that no material is has been concealed therefrom.

21 MAY 2024

Solemnly affirmed on this _____ day of _____, 2024 at Pune.

Deponent

Mr. Kiran Dinesh More

President

Ganga Ashiyana "H"

Co-operative Housing Society



BEFORE ME

Vijay Gorakhnath Maid
ADVOCATE & NOTARY
GOVERNMENT OF INDIA
Thergaon, Tal. Mulshi, Pune Dis
Mob. : 9890673753

21 MAY 2024

NOTED AND REGISTERED AT
SERIAL NUMBER A-781/2024

