

**BEFORE THE NATIONAL GREEN TRIBUNAL
PUNE
MEMORANDUM OF APPLICATION
INTERIM APPLICATION NO. 143 OF 2023
IN
APPLICATION NO. 43 OF 2023**

IN MATTER OF

Jiya Pravin Nindrojiya & ors

Applicant/Intervenor**BETWEEN:**

Sagar Kantilal Devre

... Applicant**VERSUS**

State Of Maharashtra & Ors

... Respondents**-: INDEX :-**

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MUMBAI.

DATE :- 03.08.2023



BEFORE THE NATIONAL GREEN TRIBUNAL
PUNE

MEMORANDUM OF APPLICATION
INTERIM APPLICATION NO. 143 OF 2023

IN
APPLICATION NO. 43 OF 2023



IN MATTER OF

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Applicant/Intervenor

BETWEEN:

Sagar Kantilal Devre

... Applicant

VERSUS

State Of Maharashtra & Ors

... Respondents

**“REPLY CUM OBJECTION TO INTERIM APPLICATION
NO. 143 of 2023 FILED ON 07.07.2023 BY THE
INTERVENOR IN ORIGINAL APPLICATION NO 43 OF
2023.”**

I, Sagar Kantilal Devre, Age: 36 years, Occ:- Advocate, Applicant in above Original Application, do hereby state on solemn affirmation as under:-



1. I say that I am the Applicant abovenamed in the Original Application No. 43 of 2023, as such well conversant with the facts of this case. I file this Reply Cum Objection Affidavit to the Interim Application No. 147 of 2023 filed by Intervenor as per the order of this Hon'ble Tribunal Dated 17.07.2023. The Interim Application was filed on 07.07.2023.
2. I respectfully state that, the Interim Application has been filed by Applicant No. 1 to 10 claiming themselves as street

vendors carrying out street vending at alleged plot bearing CTS No. 1320 C and 1320(pt) since around 2008. The statement of the Applicants is totally false and misleading as the applicant had not annexed any relevant documents supporting their claims.

3. I respectfully state that, the claim of the Applicants in para no. 11 that the Applicants are Street Vendors under the Street Vendors (Protection Of Livelihood And Regulation Of Street Vending) Act, 2014 is totally irrational as the applicants are illegal encroachers on the government plot reserved for the RG and not the street vendors carrying out street vending on any street and in para 1 the Applicants themselves admitted that they are carrying out the business on the alleged open plot.
4. I respectfully state that, the claim of the applicants in the para no. 7 of the Interim Application, applicants claim that there is no organization by the name of "*Chindi Bazar Vyapari Sang*" exists and they are not the members of this organization is false and misleading. "*Chindi Bazar Vyapari Sangh*" is unregistered association of second hand cloth vendors doing business of second hand cloths on the alleged plot who was impleaded as Respondent No. 10 in Original Application No. 43 of 2023. As per the letter of Deputy Collector (Encroachment/Removal), Mulund, letter No. DeputyCollector/Ench/Rem/Mulund/T-1/Off/178/2023 Outward No.87 dated 07.02.2023, "*Chindi Bazar Vyapari Sangh*" was carrying out illegal business of Retail Cloth Bazar(Chindi Bazar). A true and correct copy of Deputy Collector (Encroachment/Removal), Mulund, letter No. DeputyCollector/Ench/Rem/Mulund/T-



1/Off/178/2023 Outward No.87 dated 07.02.2023 is **EXHIBIT – A**. The English translation of the letter dated 07.02.2023 is **EXHIBIT – A – 1**.

5. I respectfully state that, the claim of the Applicants in the para no. 8 is mischievous, baseless, malafide and misleading. As per the Applicants, the present premises has been used as a site by the Applicants and various other persons involved in the resale of old clothes since 2008, and in fact the Respondent BMC and MHADA have constructed various temporary structures to facilitate the same. That as recent as 2015 permission was granted by MHADA to build an extra shed at the suit premises. In this regards the Applicants has annexed and marked a copy of the work order issued on 30.11.2015 by MHADA for construction of a shed on the premises in dispute. The annexed work order is issued by the Executive Engineer (E), Mumbai Slum Improvement Board. It is nowhere stated in the work order that the shed is constructed to facilitate the old cloth market. A true and correct copy of the work order issued by the Executive Engineer (E), Mumbai Slum Improvement Board on 30.11.2015 is **EXHIBIT – B**. Whereas, the English Translation of the work order is **EXHIBIT – B – 1**.

6. I respectfully state that, Deputy collector(encroachment/removal), Mulund along with M.C.G.M T Ward has already taken action on these encroachers carrying out cloth vending and removed them from the alleged plot.

7. I respectfully state that, M.C.G.M, T ward and local MLA Shri Mihiri Kotecha has relocated this cloth market to the nearby area (Octroi Naka, Mulund East) on 27.07.2023. A



4

screenshot of the social media post shared on the official page of MLA Shri Mihir Kotecha regarding the relocation of the market is EXHIBIT – C.

8. I say that, I have filed this application to save the Recreational Grounds/open space, particularly, in current situation when the urbanisation is on increase, rural exodus is on large scale and congested areas are coming up rapidly, giving rise to various serious health hazards including but not limited to *Corona* disease. My attempt and Application are bonafide to protect the environment and open spaces, to reduce the ill-effects of urbanisation.



Therefore, I respectfully pray that the Hon'ble tribunal may be pleased to dismiss Interim Application of the applicants in the interest of environment protection.

Solemnly declared,

MUMBAI.

[Sagar Kantilal Devre]

DATE :- 03.08.2023.

DEPONENT



BEFORE ME

VINAY G. PATIL
Advocate & Notary

R. No. 3, Shree Ganesh Niwas, Shripad Chawl,
Opp. Mulund Court, J. S. D. Road,
Opp. Mulund (West), Mumbai- 400 060.

NOTED & REGISTERED
Sr. No. 2872 Page No. 186
Date. 03/8/2023

"EXHIBIT-A"



महाराष्ट्र शासन
गृहनिर्माण विभाग

उपजिल्हाधिकारी (अति/निष्का) मुलुंड यांचे कार्यालय

टोपीवाला कॉलेज इमारत, तळमजला, डॉ. सरोजिनी नायडू रोड, मुलुंड (प.) मुंबई-४०० ०८०

दुरध्वनी क्र.-२५६०२६११

Email ID: deputycollemulund55@gmail.com

क्र.उपजि/अति/निष्का/मुलुंड/टे-१/कावि-

१५६ /२०२३

दिनांक - ७ /०३/२०२३

संमरण पत्र - १

प्रति

मा. जिल्हा नियोजन अधिकारी
जिल्हा नियोजन समिती,
जिल्हाधिकारी कार्यालय,
मुंबई उपनगर जिल्हा

विषय:- न.भु.क्र.१३२०अ/१ व १३२०क/१ या शासकिय मिळकतीवर संरक्षक भित्त अथवा लोखंडी गेट घालण्याबाबत

संदर्भ:- १) वरिष्ठ पोलीस निरीक्षक, नवघर पोलीस ठाणे यांचेकडील पत्र क्र. जावक क्र.१५९४/२०२१ दि. २२/०३/२०२२

२) वरिष्ठ पोलीस निरीक्षक, नवघर पोलीस ठाणे यांचेकडील पत्र क्र. जावक क्र. ३०९३/२०२२ दि. ०६/०६/२०२२

३) या कार्यालयाकडून बजावण्यात आलेले दि.१६/०१/२०२३ रोजीचा आदेश

विषयाकित प्रकरणी संदर्भाय पत्र या कार्यालयास प्राप्त झालेले आहेत. प्राप्त पत्राचे अनुषंगाने वरिष्ठ पोलीस निरीक्षक, नवघर पोलीस ठाणे यांनी अग्निशमन केंद्रासमोरील न.भु.क्र.१३२०अ/१ या शासकिय जागेवर चिंधी बाजार व्यापार संघ यांनी अनधिकृत कपडा/चिंधी बाजार तसेच सदर ठिकाणी अनधिकृत गॅरेज चालवित असून त्याचा तेथील रहिवाशी, ज्येष्ठ नागरिक व महिला वर्गास खूप त्रास होत आहे. तसेच सदर जागेवर असलेल्या कापडी गाठोड्यांना आग लागणे व अपघात होण्याचे प्रकार होत असून त्याचा तेथील ये-जा करणाऱ्या नागरिकांना त्रास होत असल्याने सदर चिंधी बाजार कायमस्वरुपी बंद करून सदर शासकिय मिळकत बंदिस्त करून सदर ठिकाणी सुरक्षा रक्षक नेमणेकामी या कार्यालयास विनंती केलेली आहे.

प्रकरणी अग्निशमन केंद्रासमोरील, मुलुंड(पूर्व) येथील न.भु.क्र.१३२०अ/१ व न.भु.क्र. १३२०क/१ या शासकिय मिळकतीवरील अनधिकृत बांधकामांचे या कार्यालयाकडून दि. १०/१२/२०२१ रोजी निष्कासन करणेत आलेले होते. तसेच चिंधी बाजाराचे या कार्यालयाकडून दि. २१/११/२०२२ रोजी पुन्हा निष्कासन करणेत आले होते. परंतु या कार्यालयाकडून निष्कासन कार्यवाही झाल्यानंतरही सदर दोन्ही ठिकाणी शासकिय मिळकतीच्या संरक्षणात्मक कोणतीही उपाययोजना न झाल्याने सदर दोन्ही मिळकतीवर नव्याने अनधिकृत बांधकामे होण्याची शक्यता नाकारता येत नाही. प्रकरणी सदरच्या दोन्ही शासकिय मिळकतीच्या संरक्षणाकरीता खालीलप्रमाणे प्रस्ताव सादर करणेत येत आहे.

१) न.भु.क्र.१३२०अ/१ या शासकिय मिळकतीवर चिंधी बाजार व्यापारी संघ यांचे मार्फत चिंध्यांचा अनधिकृत व्यापार व अनधिकृत बांधकाम करण्यापासून संरक्षण करणेकामी सोबत सादर केलेल्या हस्त नकाशा प्रमाणे चिंधी बाजाराच्या उत्तर

बाजूस असलेल्या नाल्याची संरक्षक भिंत जमिनीलगत असुन सदर नाल्याच्या भिंती लगत अंदाजे २५० मीटर लांबीची व ७ फुट उंचीची संरक्षक भिंत बांधणे गरजेचे आहे. तसेच चिंधी बाजाराच्या मुख्य प्रवेश द्वारे नकाशात दर्शविल्याप्रमाणे अंदाजे १७.५० मीटर लांबीची व ७ फुट उंचीची संरक्षण भिंत अथवा लोखंडी गेट बांधल्यास सदरची संपुर्ण मिळकत संरक्षित होईल.

२) न.भु.क्र.१३२०क/१ या शासकिय मिळकतीवर आपले कार्यालयामार्फत यापूर्वीच संरक्षण भिंत बांधून दिलेले होते. परंतु सदर मिळकतीच्या मुख्य प्रवेश द्वाराचे लोखंडी गेट मोडलेले असलेने, सदर मिळकतीवर बाजाराची एक मोडकळीस आलेले मनुष्य विरीहीत लोखंडी पत्र्याच्या सहाय्याने बनविणेत आलेले झोपडे दिसून आलेले आहे. तसेच तीन ते चार बंद अवस्थेत असलेली वाहने व एक मंदिर दिसुन आलेले आहे. तसेच सदर मिळकतीवर या पूर्वी अमरमला नोटीस बोर्ड दि. १७/०१/२०२२ रोजी अस्तित्वात नसल्याचे दिसुन आलेले आहे. प्रकरणी सदर लोखंडी गेटची डागाडुजी करुन सदचे गेट कायम स्वरुपी बंद केल्यास न.भु.क्र.१३२०क/१ या मिळकतीवर होणारी अतिक्रमणे रोखता येतील. वरील प्रमाणे मौजे- मुलुंड(पु) येथील न.भु.क्र.१२३०अ/१ व न.भु.क्र.१३२०क/१ या शासकिय मिळकतीवर संरक्षणात्मक उपाययोजना करणेकामी आपलेकडुन तात्काळ निधी उपलब्ध करुन, सदरच्या मिळकती संरक्षित कराव्यात ही विनंती.

हृत: श्री. बसगादेवटे यांल प्राप्ती खांबे

(जलसिपा वळवी)
उपजिल्हाधिकारी (अति/निष्का)
मुलुंड

०७/०२/२२

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"EXHIBIT - A - 1"

7

GOVERNMENT OF MAHARASHTRA

Department of Housing,

DEPUTY COLLECTOR (ENC./REM.)

(Mulund) Office

Topiwala College Building, Ground Floor, Dr. Sarojini

Naidu Road, Mulund (W), Mumbai – 400 080

Phone No. -25602611

Email ID: deputycollemulund55@gmail.com

No. DyCo/Enc/Rem/Mulund/Te-1/KaVi-178/2023

Outward No. 87

Date: 07/02/2023

To,

Hon'ble District Planning Officer
District Planning Committee,
Collector's Office,
Mumbai Suburban District.

Subject: CTS No. 1320A/1 and 1320A/1 regarding the installation
of protective wall or iron gate on government property.

Reference: -

- 1) Letter No. Outward No. 1594/2021 dated 22/03/2022 from
Senior Police Inspector, Navghar Police Station.
- 2) Letter No. Outward No. 3093/2022 dated 06/06/2022 from
Senior Police Inspector, Navghar Police Station.
- 3) Order dated 16/01/2023 issued by this office.

Reference letters have been received by this office regarding the matter. According to the letter received by the Senior Police Inspector, Navghar Police Station, CTS No. 1320A/1 in front of the Fire Station, the Chindhi Bazar Trade Union is running an unauthorized cloth/rag market and an unauthorized garage at that place and it is causing a lot of trouble to the residents, senior citizens and women. Also, as there are cases of fires and accidents occurring in the cloth bales at the said place and it is causing trouble to the people coming and going there, it has been requested to this office to close the said rag market permanently and close the said government income and appoint a security guard at that place.

In the case, CTS No. 1320A/1 and CTS No. 1320A/1 at Mulund (East) in front of fire station, unauthorized constructions on government property were evicted from this office on 10/12/2021. Also, the rag market was re-evicted from this office on 21/11/2022. However, even after the eviction proceedings from this office, since no measures have been taken to protect the government property in both the said places, the possibility of new unauthorized constructions on both the said properties cannot be ruled out. The following proposal is being submitted for the protection of both the government income in the matter.

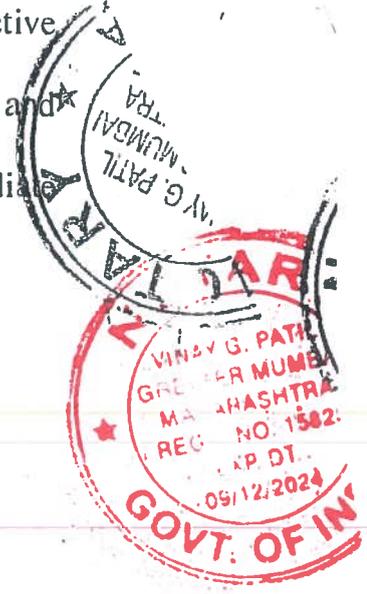


- 
- 1) According to the hand map submitted along with the hand map submitted along with the protection of rags from unauthorized trade and unauthorized construction through the Chindhi Bazar Traders Association on the government revenue CTS No. 1320A/1, the protective wall of the drain on the north side of the Chindi Bazar is close to the ground and the wall of the said drain is approximately 250 meters long and 7 feet. It is necessary to build a high protective wall. Also, if a protective wall or iron gate of approximately 17.50 meters length and 7 feet height is placed near the main entrance of the rag market, as shown in the hand map, the entire income will be protected.
 - 2) CTS No. 1320A/1 is seen to have already built a protection wall through your office on the government revenue. But as the iron gate of the main entrance of the said property has been broken, today a dilapidated man-made hut made of iron sheets is visible on the said property. Also, three to four closed vehicles and a temple have been seen. It is also seen that the earlier notice board on the said income did not exist on 17/01/2022. In the case, if the iron gate is repaired and the gate is closed permanently, encroachment on the property CTS No. 1320A/1 can be prevented.

400

10

A. above, you are requested to take protective measures on the government assets CTS No. 1230A/1 and CTS No. 1320A/1 at Mulund (E) by providing immediate funds and protecting the said assets.



Copy to: Adv. Sagar Devre for information.

Sd/-

(Jalsingh Valvi)

Deputy Collector (Enc./Rem.)

Mulund

11

2015-Mhada-67454-23

Tender Work Order

21



No. 117 (PMS) 4902
Office of the Executive Engineer (I),
Mumbai Slum Improvement Board,
Mumbai - 400 051.
Ph No. 022-4649251
Date - 30-11-15

To,
M/s. Prajwal Enterprises
103- Rajawade Co-op. Hsg. Soc. Ltd.
Kotahewadi, Kalyan (East) Thane.

Subj: Const. of Open Shed near Swami Samarth Garden, Gavanpada,
Mulund (E).

Ref: This office letter No 447 dated 06-11-15

Since you have entered into B-I Agreement after completing necessary forms etc. required before starting the work, you are hereby requested to start the aforesaid work strictly as per the terms and conditions of the agreement.

(2.0) Details of work

- 1) Estimated cost put in tender :-Rs. 748954/-
- 2) Tendered Premium :-36.52% below
- 3) Accepted Tendered Amount :-Rs. 483132/- (Rupees Four Lacs Eighty Eight Thousand One Hundred Thirty Two Only)
- 4) Stipulated date of start :- 30-11-15
- 5) Stipulated date of Completion :- 29-08-16
- 6) Time limit for completion of work as mentioned in the agreement :- Nine Months

(3.0) The date of starting the work shall be reckoned from this date of work order i.e. (30-11-15) and therefore you are requested to mobilise all your resources for starting the aforesaid work and start the work immediately. You will have to take out necessary insurance policy to provide adequate insurance cover immediately at your cost.

(4.0) The removal of debris timely is your responsibility, filing which the same will be removed at your risk and cost.

(5.0) You will have to use river sand only in the work.

(6.0) The agency shall submit within 15 days CPM/PERT programme and Bar chart for completing various items of works including networks for all preliminary arrangements for mobilization of resources such as manpower, plant and machinery. No B.A. Bill shall be paid without satisfactory submission and acceptance of work completion schedule for the procurement of material for completion of quantity of items of contract.

(7.0) The work shall be executed under the supervision of Deputy Engineer of Sub Div - I. Please intimate the exact date on which you have started the work. Please quote your B-I Agreement No. 362, of 2013-16 henceforth for further correspondence with this office.

(8.0) A board, showing the details of work i.e. Name of work & Contractors, time limit & amount of the work along with the name of fund & its year, shall be displayed on the site & photographs of the same should be submitted for confirmation & record.

(9.0) After completion of work satisfactorily, response letters from local residents in this regard should be sought & submitted along with the bill.

Yours faithfully,

Executive Engineer (I),
Mumbai Slum Improvement Board

For information of Deputy Engineer (I), Sub Div - I, for your information please.

For information of Deputy Engineer (I), Sub Div - I, for your information please.

For information of Deputy Engineer (I), Sub Div - I, for your information please.

For information of Deputy Engineer (I), Sub Div - I, for your information please.

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For information of Deputy Engineer (I), Sub Div - I, for your information please.



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2015- MHADA_67454.23
Tender Work Order
MHADA

No. (FYMSI 4902/ 15.
Office of the Executive
Engineer Mumbai 400 051.
Ph. No. 022-66405251
Date: 30-11-15

To,
M/s Prajwal Enterprises
103- Rajmudra Co-op. Hsg. Soc. Ltd
Kolsewadi, Kalyan (East) Thane.



Sub: Const. of Open Shed near Swami Samarth Garden. Gavanpada.
Mulund (E).

Ref:- This office letter No.4647 dated 06-11-15

Sir,

Since you have entered into B-1 Agreement after completing necessary formalities required before starting the work, you are hereby requested to start the aforesaid work strictly, as per the terms and conditions of the agreement

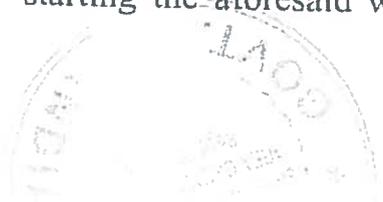
(2.0) Details of work

1. Estimated cost putt to tender :- Rs. 768954/
2. e tendered Premium :-36.52% below
3. Accepted Tendered Amount:- Rs. 488132/- (Rupees Four Lakhs Eighty Eight Thousand

One Hundred Thirty Two Only)

4. Stipulated date of start:- 30-11-15
5. Stipulated date of Completion:-29- 08 - 16
6. Time limit for completion of work as mentioned in the agreement, - Nine Months

3.0.The date of starting the work shall be reckoned from this date of work order is. (35-11-15 land therefore you are requested to mobilise all your resources for starting the aforesaid work and start the work immediately. You will have to



take out necessary insurance policy to provide adequate insurance cover immediately at your cost.

4.0. The removal of debris timely is your responsibility, failing which the same will be removed at your risk and cost.

5.0. You will have to use river sand only in the work

6.0. The agency shall submit within 15 days CPM/PERT programme and bar chart for completing various items of works including networks for all preliminary arrangement for mobilization of resources such as manpower, plant and machinery, No. H.A. bill shall be paid without satisfactory submission and acceptance of work completion schedule for the procurement of material (B) completion of quantity of items of contract

7.0. The work shall be executed under the supervision of Deputy Engineer of Sub Div -1. Please intimate the exact date on which you we started the work Please quote you B-1 Agreement no.

362 of 2015-16 henceforth for further correspondence with this office

8.0. A board showing the details of work i.e. Name of work & Contractors, time limit & amount of the work along with the name of fund & it's year, shall be displayed on the site & photographs of the same should be submitted for confirmation & record

9.0. After completion of work satisfactorily, response letters from the local residents in this regard should be sought & submitted alongwith the bill.

Yours faithfully,

Executive Engineer (E)
Mumbai Slum Improvement Board





Mihir Kotecha • Follow

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“जुना कपडा बाजार” व्यापाऱ्यांच्या जागेची समस्या सोडविण्यासाठी मुलुंड येथील पूर्व द्रुतगती मार्ग, जकात नाका येथे स्थलांतरित करण्यात आला.

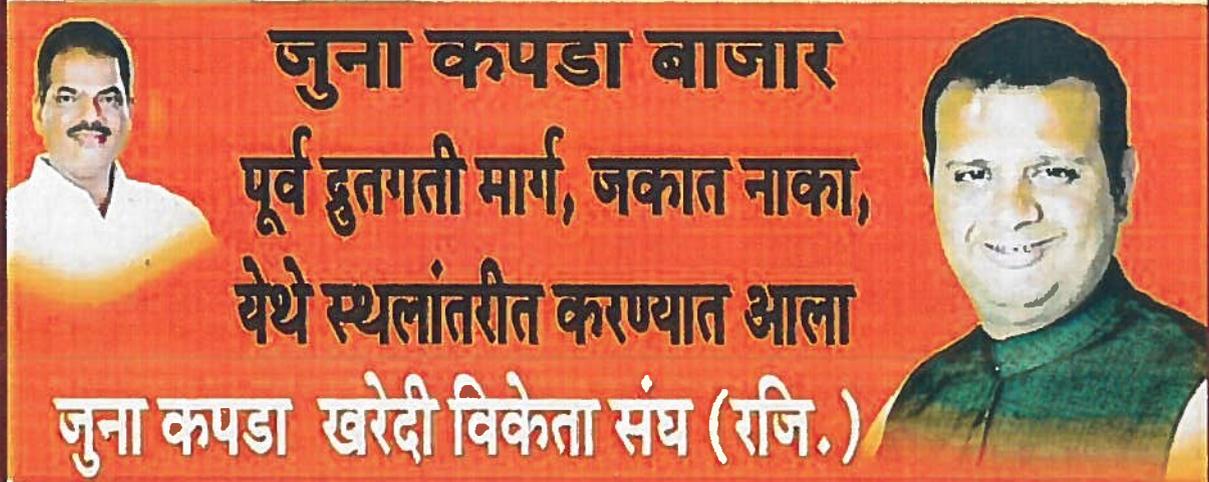
आज दिनांक 27 जुलै रोजी शुभारंभ करून त्यांना शुभेच्छा दिल्या.

Devendra Fadnavis

Bharatiya Janata Party (BJP)

BJP Maharashtra

BJP Mumbai



भारतीय जनता पार्टी



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**BEFORE THE NATIONAL GREEN
TRIBUNAL, PUNE
MEMORANDUM OF APPLICATION
INTERIM APPLICATION NO. 143 OF 2023
IN
APPLICATION NO. 43 OF 2023**

IN MATTER OF

Jiya Pravin Nindrojiya & ors ...
Applicant/Intervenor

BETWEEN:

Sagar Kantilal Devre
... Applicant

VERSUS

State Of Maharashtra & Ors
... Respondents

**REPLY CUM OBJECTION TO
INTERIM APPLICATION**

Mumbai, this 3rd day of August, 2023

SAGAR K. DEVRE

Advocate, Bombay High Court,
4, TARA DARSHAN, OPP.UNION BANK,
HUTATMA CHAFEKAR BANDHU MARG,
MULUND (EAST), MUMBAI – 400 082
Mobile: 9819996048
Email ID.:meesagardevre@gmail.com