

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
I.A. NO. 36 OF 2025
IN
ORIGINAL APPLICATION NO. 710 OF 2023**

IN THE MATTER OF:

SUSHIL RAGHAV ...APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS. ...RESPONDENTS

AND IN THE MATTER OF:

SHRI BRIJ RAJ SINGH ...APPLICANT

INDEX

S. NO.	PARTICULARS	PAGE NO.
1	REPLY ON BEHALF OF THE ORIGINAL APPLICANT IN THE ABOVE-TITLED I.A. SEEKING DIRECTIONS TO MAINTAIN STATUS QUO	1-8

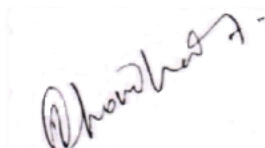
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PLACE:- DELHI

DATED:- 26.03.2025

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**REPLY ON BEHALF OF THE ORIGINAL APPLICANT IN THE
ABOVE-TITLED I.A. SEEKING DIRECTIONS TO MAINTAIN
STATUS QUO**

MOST RESPECTFULLY SHOWETH:

1. That the above-titled I.A. No. 36 of 2025 has been filed by the Impleader/Applicant seeking directions in the Original Application No. 710 of 2023 to maintain status quo w.r.t. 30 feet wide road on the southern side of plot no. 80-K and stay on the operation of the show cause notice dated 30.12.2024 by the Ghaziabad Development Authority till final adjudication.
2. That the Answering Respondent is the Original Applicant in the above-titled Original Application wherein the main grievance raised is that illegal constructions such as road/pathway, industrial drain and other structures were being undertaken on the park earmarked at Rajendra Nagar Industrial Colony on G.T. Road Mile 8/7, Sahibabad, Ghaziabad by the Ghaziabad Municipal Corporation. The present I.A. No. 36 of 2025 has been filed by the Impleader/Applicant seeking status quo and raising the grievance that the right of way of the Impleader/Applicant is being hindered from the actions of the authorities in the present Original Application.

3. That at the outset, the Answering Respondent denies all the contentions and averments made in the above-titled I.A. No. 36 of 2025 unless expressly admitted or are a matter of record. The Answering Respondent further reiterates that all facts and submissions made in the Original Application, Reply to the I.A. No. 478 of 2024 and Reply to the I.A. No. 480 of 2024 in the above-titled Original Application dated 4.03.2025 to be true and correct and same may be read as part of the instant Reply and are not being repeated for the sake of brevity.

REPLY OF THE ANSWERING RESPONDENT TO I.A. NO. 36 OF 2025:

4. It is submitted that as per the approved map of the Rajendra Nagar Industrial Colony on G.T. Road, there is no 30-foot wide path that has been marked on the said map. Such road is a fictional road, and has been informally and illegally used by the private persons facing toward the park land including the Impleader/Applicant.
5. That the Affidavit submitted by the Chief Secretary, State of Uttar Pradesh at Page No. 273-274 dated 30.09.2024 state that:

"15. That the above-mentioned committee comprising of the Special Secretary, Urban development department, District Magistrate, Ghaziabad, Development Authority Ghaziabad and Municipal Corporation, Ghaziabad Nigam did a comprehensive survey/inspection of the site 22nd August 2024.

It is also submitted during the site-visit, that the history of the land, Lay-out Map and District Magistrate's report dated 18.07.2024 were taken into account and a comprehensive report was submitted with the conclusion that-

- A. Adjacent Factory owners have constructed a road on the park land, which has an area of 864 sq. mt. In the original layout map, plots numbers 79 and 80 have been subdivided into small industrial plots and factories re running on that site. The factories which have opened their gates towards the park, are using this road to go to the main road. Apart from the above-mentioned route, they do not have an exit on the road (except the corner plot)."***

6. That further, as per the status report dated 18.07.2024 annexed in the Affidavit submitted by the Chief Secretary, State of Uttar Pradesh dated 30.09.2024 at Page 289 states that:

"... The encroachment free land shown in Annexure-2 is 9940.8 sq yard (8311.8 sq. m) and 1033.6 sq. yard (864.2 sq. m) is being illegally used as a road by factory operators. ..."

7. It is submitted that as per the above submissions, no relief can be granted to the Applicant in the I.A., since its clear from the record that the said Applicant has illegally encroached upon the park.
8. That further, during the oral arguments in the hearing of the above-titled matter on 5.03.2025, the Impleader/Applicant had mentioned that the park was not listed under the Uttar Pradesh Parks, Playgrounds and Open Spaces (Preservation and Regulation) Act, 1975. In response to that, the Answering Respondent submits that as per Section 2 of the said Act, the prescribed authority is required to prepare a list, with plans and maps of all parks, playground and open spaces in an area. The said list shall be then approved and published by the prescribed authority. The relevant provision is reproduced below:

"2. Preparation and submission of lists of parks, playgrounds and open spaces.- (1) After the commencement of this Act in any areas. a list, with plans and maps, of all parks. playgrounds and open spaces in, such area, shall be prepared, and published by such authority within such time and in such manner as may be prescribed.

(2) Any person interested may, within three months of the date of publication of the list under sub-section (1), submit his objections and suggestions in writing in respect of anything contained in or relating to such list to the prescribed authority.

(3) The prescribed authority may, after considering the objections and suggestions, if any, received under sub-section (2) and after making such further enquiry, if any, as it thinks fit, approve the list with or without modification.

(4) The list, approved by the prescribed authority under sub-section (3) shall be in such form and contain such particulars and shall be published in such manner as may be prescribed.

(5) Any plan. map or document forming part of or referred to in any list published under subsection (1) or sub-section (4), as the case may be, shall be available to the public for inspection at such place and such time as may be prescribed."

9. That the park was marked in the layout map of Rajendra Nagar Industrial Colony and accepted by the Affidavit of the Chief Secretary dated 30.09.2024 as mentioned above. Hence, it is submitted that irrespective of the list being prepared or not under Sec 2 of the above-mentioned Act, this park is protected, and no construction can be undertaken on it.
10. It is submitted that the Rajendra Nagar Industrial area was established in 1962 and the said Act was introduced in 1975. The industrial area was developed by the Ghaziabad Improvement Trust (now Ghaziabad Development Authority) as per the approved layout plan of 1962 itself. It is submitted that as per the above-mentioned provision, the Answering Respondent is unaware if any list has been prepared or approved by the Ghaziabad Development Authority (GDA).
11. That however, it is pertinent to note that if show cause notice has been sent by the GDA to the Impleader/Applicant and other encroachers, then it is an approved park site of GDA whose maintenance and upkeep is undertaken by Municipal Corporation, Ghaziabad. Further, the Section 13 of the UP Park and Open Spaces Act, 1975, states that:
- "13. Interim preservation of parks etc - Until the preparation and publication of a list of parks, playgrounds and open spaces under this Act, (which shall be completed within a period of two years from the commencement of this Act) no land which is an open space or is used as a park or playground immediately preceding the date of commencement of this Act shall be used or dealt with for any purpose except as such park or playground save with the prior permission in writing of the prescribed authority."*
- As per the said provision, the concerned park was considered as a park according to the layout plan, hence, such land could not be used for any other purpose.
12. That it is an admitted position of the Respondent authorities that the land in question in the Original Application, is indeed a park as per the layout

map of Rajendra Nagar Industrial Area, and no construction can be undertaken on such parks.

13. That the Hon'ble Supreme Court in ***Anjuman E Shiate Ali & Anr. v. Gulmohar Area Societies Welfare Group & Ors.*** [(2020) 20 SCC 698] vide order dated 17.04.2020 had held that:

*"25. It is also to be noticed that the open spaces are required to be left for an approval of layout or for the purpose of creating lung space for the owners of other plots where constructions are permitted. The 4 plots bearing Nos. 1, 3, 5 and 6, were sub-divided at the instance of the appellant Society in its entirety and approval was taken for dividing such land into 61 plots. It is not open to claim for construction in the two plots which are reserved for open spaces/garden spaces also. **It is fairly well-settled that in an approved layout, the open spaces which are left, are to be continued in that manner alone and no construction can be permitted in such open spaces.** The Development Plan which was submitted in the year 1999, as per the 1991 DCR, will not divest the utility of certain plots which are reserved for open spaces in the approved layout. The appellants cannot plead that such a layout was only temporary and as a stopgap arrangement, the said two plots were shown as open spaces/garden and now they be permitted to use for construction."*

14. That the Hon'ble High Court of Andhra Pradesh in the case of ***T. Damodhar Rao & Ors. v. The Special Officer, Municipal Corporation of Hyderabad & Ors.*** [AIR 1987 AP 17] had held that, where the land was reserved under the approved development plan for the purpose of recreational park, a portion of it could not be used by the person for construction of residential houses. Relevant paragraphs judgment is quoted herein below:

*25. It, therefore, becomes the legitimate duty of the Courts as the enforcing organs of Constitutional objectives to forbid all action of the State and the citizen from upsetting the environmental balance. In this case the very purpose of preparing and publishing the developmental plan is to maintain such an environmental balance. **The object of reserving certain area as a recreational zone would be utterly defeated if private owners of the land in that area are permitted to build residential houses.** It must, therefore, be held that the attempt of the Life Insurance Corporation of India and the Income tax Department to build houses in this area is contrary to law and also contrary to Art. 21 of the Constitution."*

15. That further, the Hon'ble High Court of Allahabad in ***Ram Bhajan Singh v. State of Uttar Pradesh & Ors., W.P. No. 15691 of 2020*** [2020 SCC OnLine All 2634] vide order dated 14.10.2020 had held that:

*"21. Public interest requires some areas to be preserved by means of open spaces of parks and play grounds, and that there cannot be any change or action contrary to legislative intent, as that would be an abuse of statutory powers vested in the authorities. **Once the area had been reserved, authorities are bound to take steps to preserve it in that method and manner only. These spaces are meant for the common man, and there is a duty cast upon the authorities to preserve such spaces.** Such matters are of great public concern and need to be taken care off in the development scheme. The public interest requires not only reservation but also preservation of such parks and open spaces. **In our opinion, such spaces cannot be permitted, by an action or inaction or otherwise, to be converted for some other purpose, and no development contrary to plan can be permitted.***

22. The importance of open spaces for parks and play grounds is of universal recognition, and reservation for such places in development scheme is a legitimate exercise of statutory power, with the rationale of protection of the environment and of reducing ill effects of urbanization. It is in the public interest to avoid unnecessary conversion of 'open space land' to strictly urban uses, as gardens provide fresh air, thereby protecting against the resultant impacts of urbanization, such as pollution etc. Once such a scheme had been prepared in accordance with the provisions of the Act, by inaction, legislative intent could not be permitted to become a statutory mockery. Government authorities and officers are bound to preserve it and to take all steps envisaged for protection."

16. That considering the above-mentioned submissions, the prayer for maintaining status quo must not be allowed as irreparable harm shall be caused to the environment. Further, the Impleader/Applicant ought to have constructed an alternative pathway in the land owned by them when the Sale Deed was created in 2004, as the Impleader/Applicant was aware about the land being a park land, as clearly mentioned in the Sale Deed.

17. That therefore, in light of the above-mentioned submissions, the Answering Respondent submits that there is no merit in the prayers of the Impleader/Applicant and is liable to be dismissed.

- 18) Pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the instant case.

Raghar
APPLICANT

THROUGH

Ritwick Dutta

Rahul Choudhary

Shreepurna Dasgupta

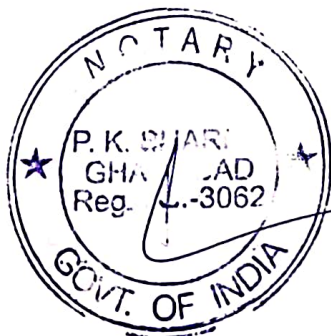
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PLACE:- DELHI

DATED:- 26.03.2025

VERIFICATION:

Verified by Sushil Raghav, s/o Shri Ratan Singh, aged about 39 years, R/o 226, Karkar Model Post, Sahibabad, Site-4, Ghaziabad that the contents of Paragraphs 1 to 18 are true to my personal knowledge and nothing material has been concealed therefrom.



Raghar
APPLICANT

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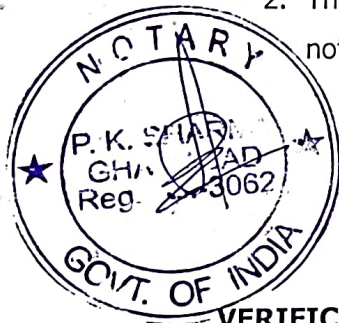
SHRI BRIJ RAJ SINGH

...APPLICANT

AFFIDAVIT

I, Sushil Raghav, s/o Shri Ratan Singh, aged about 38 years, R/o 226, Karkar Model Post, Sahibabad, Site-4, Ghaziabad, do hereby solemnly affirm and declare as under:

1. That I am the Applicant in the above titled Original Application and conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Reply are true and correct and nothing material has been concealed therefrom.



Raghav

DEPONENT

VERIFICATION

Verified on this ____ day of _____, 2025 that the contents of the present affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.

ATTESTED 26/03/25
No. _____ Dated _____
Certified that Documents Affidavite Shri. *Sushil Raghav*
Notified By Shri. _____

Raghav

DEPONENT

P.K. Ghaziabad
Advocate
Notary Ghaziabad
(GOVT. OF INDIA) 26/03/25

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Litigation . <litigation@dclawchambers.com>

Copy of Reply to IA No. 36 of 2025 on behalf of Applicant in Sushil Raghav Versus. State of Uttar Pradesh & Ors.

1 message

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Wed, Mar 26, 2025 at 5:03 PM

To: "contact@bharatchugh.in" <contact@bharatchugh.in>, "contact@advocatemayank.in" <contact@advocatemayank.in>, bhanwar jadon <bhanwar09jadon@gmail.com>, "akriti@dylawchambers.com" <akriti@dylawchambers.com>, csup@nic.in, "iidcup.84@gmail.com" <iidcup.84@gmail.com>, pseup.urbandev@nic.in, md@upsidec.om, commmee@nic.in, dmgha@nic.in, "gdagzb@gmail.com" <gdagzb@gmail.com>, ncrpb-ad@nic.in, gzb.nagar.nigam@gmail.com, pradeepmisra@yahoo.com, daleepdhayani@yahoo.co.in

Dear Sir/madam,

Please find attached-Copy of Reply to IA No. 36 of 2025 on behalf of Applicant in Sushil Raghav Versus. State of Uttar Pradesh & Ors.

Thanks & Regards
Counsel for the Applicant

**Reply to IA No. 36 of 2025 by applicant.pdf**

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