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**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Earlier **O. A. NO. 06 OF 2018** *New O.A. No. 139/2019*
(M.A. No. 566 of 2018)

(Under Section 14 read with Section 15 and 18(1) of the National
Green Tribunal Act, 2010)

IN THE MATTER OF:

MAHAGUNPURAM APARTMENT OWNERS ASSOCIATION

...APPLICANT

VERSUS

GHAZIABAD DEVELOPMENT AUTHORITY AND ORS.

... RESPONDENTS

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FILED BY:


(SANJEEV KUMAR SINGH & SHIGHRA KUMAR)

ADVOCATES FOR THE APPLICANT

I-5, GROUND FLOOR,
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NEW DELHI

DATED: 01.03.2019

12.

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Earlier **O. A. NO. 060F 2018** *New O.A No. 139/19*
(M.A. No. 566 of 2018)

(Under Section 14 read with Section 15 and 18(1) of the National
Green Tribunal Act, 2010)

IN THE MATTER OF:

MAHAGUNPURAM APARTMENT OWNERS ASSOCIATION,

THROUGH ITS AUTHORISED REPRESENTATIVE,

Mr. Brij Mohan,

914, Vidhi Apartment,

Mahagunpuram,

NH-24, Mehrauli,

Ghaziabad,

Uttar Pradesh- 201002.

...APPLICANT

VERSUS

1. GHAZIABAD DEVELOPMENT AUTHORITY,

THROUGH ITS VICE-CHAIRMAN,

Vikas Path, Ghaziabad,

Uttar Pradesh- 201001.

2. MAHAGUN REAL ESTATE PRIVATE LIMITED,

THROUGH ITS DIRECTOR

B-66, 1st Floor, Vivek Vihar,

Delhi- 110095.

3. DHIRAJ JAIN,

Director of Mahagun Real Estate Private Limited,

B-66, 1st Floor, Vivek Vihar,

Delhi- 110095.

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4. AMIT JAIN,

Director of Mahagun Real Estate Private Limited,
B-66, 1st Floor, Vivek Vihar,
Delhi- 110095.

... RESPONDENTS

**REPLY ON BEHALF OF THE APPLICANT TO THE
COMPLIANCE REPORT DATED 24.01.2019
SUBMITTED/FILED BY RESPONDENT NO. 1/
GHAZIABAD DEVELOPMENT AUTHORITY (GDA).**

MOST RESPECTFULLY SHEWETH:

PRELIMINARY SUBMISSIONS:

1. At the very outset it is most respectfully submitted that the Compliance Report dated 24.01.2019 filed by the Respondent No. 1 is a complete eye wash and is not in the letter and spirit of the order of this Hon'ble Tribunal dated 20.08.2018 passed in O.A. No. 06 of 2018. It is humbly submitted that the Respondents have not complied with the Orders of this Hon'ble Tribunal and has tried to portray compliance in an attempt to mislead this Hon'ble tribunal against the strict and clear observations of this Hon'ble Tribunal. It is further submitted that the Respondent No. 1 is working hand in glove with the Respondent No. 2 to 4 and is trying to overreach the directions of this Hon'ble Tribunal.
2. It is most respectfully submitted that the instant Compliance report filed by GDA was to be registered separately by the Respondent No. 1/ GDA before this Hon'ble Tribunal and was

to be listed for hearing. However, the Respondent No.1 has mischievously filed the instant Compliance Report in O.A. No. 6 of 2018 which has already been disposed-off vide order dated 20.08.2018 and has escaped its responsibility of getting the same listed before this Hon'ble Tribunal, which is contrary to the Order dated 20.08.2018 passed in O.A. No. 06 of 2018 of this Hon'ble Tribunal (Annexure A-1). The relevant portion of the Order dated 20.08.2018 is as under:

".....The compliance report shall be sent by Ghaziabad Development Authority to the Tribunal which shall be listed before the court, sooner it is received, after being registered separately..."

PARA WISE REPLY:

1. That the contents of Para no. 1 of the Compliance Report dated 24.01.2019 are self-explanatory hence needs no reply.
2. That the contents of Para no. 2 are wrong and denied. The original order of Dated 20.08.18 passed by this Hon'ble Tribunal has not been extracted herein. The correct operative part of the Judgment of this Hon'ble Tribunal is as under:

*"Consequently, Ghaziabad development Authority is directed to comply with the specific condition no. 10 of the Environment Clearance. **In other words, the respondent no. 2, 3, and 4 are required to keep***

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15% of the area as green belt out of the total plot area of 54630 sq. meters. *The Development Authority shall ensure that the said requisite area is left out for the green belt. In case of non-compliance, the Development Authority would be free to take action against the Respondents, within a period of two month."*

It is humbly submitted that GDA/ Respondent No. 1 has intentionally and deliberately misquoted the judgment in its Compliance Report and left the Underlined portion of the order passed by this Hon'ble Tribunal and has tried to mislead this Hon'ble Tribunal.

3. That the contents of Para no. 3 are wrong hence denied. It is most respectfully submitted that as per the order of this Hon'ble Tribunal neither any inspection was ever conducted nor any information was given to the applicants in terms of any such inspection as described by the Respondent no. 1/GDA. Further, it is also denied that 15% mandatory green space has been left vacant. It is also submitted that as per the order of Hon'ble Tribunal green area must be calculate on Total plot area i.e. 54630 Sqm, and 15% green area as per calculation must be 8194.5 Sqm. Thus, it is ex-facie clear that Defendant no. 1, 2, 3 and 4 are working hand in gloves and are trying to mislead this Hon'ble Tribunal.

4. That the contents of Para no. 4 are admitted to the extent that the Respondent No. 1 has itself accepted that *"that the total plot area of the sanctioned project Measures 54630 Sq. Mts."* And the remaining portion of the instant para needs no reply as the same are matter of record.
5. That the contents of Para no. 5 are matter of record and needs no reply. However, it would be pertinent to note here that the instant table which demonstrates the Scheme of the Plot area and is the same chart which was under challenge in the instant O.A. No. 06 of 2018 and the same was duly considered and refuted by this Hon'ble tribunal in O.A. No. 06 of 2018 vide order dated 20.08.2018 and in Review Application No. 40 of 2018 vide order dated 03.10.2018. A copy of the order dated 03.10.2018 passed in Review Application No. 40 of 2018 by this Hon'ble Tribunal is annexed hereto and marked as **ANNEXURE A-2.**
6. That the contents of Para No. 6 are wrong and denied. It is most respectfully submitted that the Respondent No. 1/GDA has surprisingly given the same explanation as that of the Respondent No. 2 to 4 and has reiterated ***"....the 15% mandatory green area of the net plot area as per the sanction map (38767.22 sqm) is 5815.08 sqm"*** which is directly in teeth with the observations made in the Judgment

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and Order dated 20.08.2018 of this Hon'ble Tribunal passed in O.A. No. 06 of 2018 which are as under:

*"Consequently, Ghaziabad development Authority is directed to comply with the specific condition no. 10 of the Environment Clearance. **In other words, the respondent no. 2, 3, and 4 are required to keep 15% of the area as green belt out of the total plot area of 54630 sq. meters.** The Development Authority shall ensure that the said requisite area is left out for the green belt. In case of non-compliance, the Development Authority would be free to take action against the Respondents, within a period of two month."*

It is humbly submitted that an area of 8194.50 sq. meters is supposed to be left for the Green area out of the *total plot area of 54630 sq. meters.* However, the Respondent No. 1/GDA has tried to mislead this Hon'ble court vide the instant compliance report which is ex-facie contrary to the observations and direction made by this Hon'ble Tribunal in Judgment and Order dated 20.08.2018 passed in O.A. No. 06 of 2018.

7. That the contents of Para no. 7 of the Compliance report is wrong explanation of the order of the Hon'ble Tribunal, and is also against the Affidavit filed by the Respondent no.1 and the same amounts to contempt of court.

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8. That the contents of Para no. 8 and 9 are self-explanatory and para is 10 is prayer clause and hence no needs to reply.
9. In view of the above facts and circumstances, it is humbly prayed that this Hon'ble Tribunal may reject the Compliance report filed by the Respondent No. 1/ GDA and initiate contempt proceeding against all the Respondents No. 1 to 4 in O.A. no. 06 of 2018 for non-compliance of its order.

AND FOR THIS ACT OF KINDNESS AND JUSTICE, THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.


APPLICANT

THROUGH:




(SANJEEV KUMAR SINGH & SHIGHRA KUMAR)

ADVOCATES FOR THE APPLICANT

I-5, GROUND FLOOR,

JANGPURA EXTENSION,

NEW DELHI -110014

PH: 011-43580335

MOB: 9810148367

NEW DELHI

DATED: 01.03.2019

19th

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**O. A. NO. 06 OF 2018
(M.A. No. 566 of 2018)**

(Under Section 14 read with Section 15 and 18(1) of the National
Green Tribunal Act, 2010)

IN THE MATTER OF:

MAHAGUNPURAM APARTMENT OWNERS ASSOCIATION

... APPLICANT

VERSUS

GHAZIABAD DEVELOPMENT AUTHORITY AND ORS.

... RESPONDENTS

AFFIDAVIT

I, Brij Mohan, S/o Lt. Sh. Ram Chander Thapliyal, aged about 46 years, R/o- 914, Vidhi Apartment, Mahagunpuram, Ghaziabad-201002, U.P., presently at New Delhi, do hereby solemnly affirm and state as under:

1. That I am the authorized representative of the applicant Resident Welfare Association/Apartment Owners Association and I have been duly authorized to file the present affidavit.
2. That being the applicant in the Original Application No. 06 of 2018, I am well conversant with the facts and records of the case and therefore, competent to swear this reply to the Compliance Report filed by GDA.
3. I have read and understood the contents of the reply to the Compliance Report filed by GDA which has been drafted as



201.

per my instructions and state that the contents thereof are true as per the verification.

Brij Mohan
DEPONENT

VERIFICATION:

I, Brij Mohan, do hereby verify declare that the contents of paras 1 to 3 of above affidavit are true to my personal knowledge and that I have not suppressed any material facts.

Verified at New Delhi on this 1st day of March, 2019.

IDENTIFIED BY
[Signature]



Brij Mohan
DEPONENT

ATTESTED
Notary Public, Delhi
(As Presented)

01/03/19

<p>Item No. 30</p> <p>August 20, 2018</p>	<p>Environmental Clearance. In other words, the Respondent Nos. 2,3 and 4 are required to keep 15 % of the area as green belt out of the total plot area of 54630 sq. metres. The Development Authority shall ensure that the said requisites area is left out for the green belt. In case of non-compliance, the Development Authority would be free to take action against the Respondents, within a period of two months.</p> <p>The compliance report shall be sent by Ghaziabad Development Authority to the Tribunal, which shall be listed before the Court, sooner it is received, after being registered separately.</p> <p>Consequently, Original Application No. 06 of 2018 stands disposed of, without any order as to cost.</p> <p><u>M.A. No. 566 of 2018</u></p> <p>This Application does not survive for consideration as the main Application itself stands disposed of.</p> <p>M.A. No. 566 of 2018 is dismissed accordingly.</p> <p>.....,JM (Raghuvendra S. Rathore)</p> <p>.....,EM (Dr. Satyawan Singh Garbyal)</p>
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BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Review Application No. 40 of 2018
In
O. A. No. 06 of 2018

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In the matter of :-

Mahagunpuram Apartment Owners Association
Vs.
Ghaziabad Development Authority & Ors.

CORAM : HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER

Present: Applicant: Mr. Atul Nigam, Adv.

	Date and Remarks	Orders of the Tribunal
	In Chambers by circulation Item No. 01 October 03, 2018	<p>This Review Application has been filed on behalf of Respondent Nos. 2,3 and 4 for modification in the order dated 20th August, 2018. The said modification has been sought in respect of 15% green area which is to be maintained by the Respondents.</p> <p>As per the Environment Clearance Certificate dated 22nd March, 2017, the total plot area is 54630 sq. mtrs. Condition No. 10 of Environment Clearance categorically states that <u>15% of the total plot area</u> shall be compulsorily made available for Green Belt Development. Therefore, Respondent Nos. 2,3 and 4 are required to keep 15% area as green belt out of the total plot area of 54630 sq. mtrs.</p> <p>In other words, the said condition requiring availability for green belt development is not of the net plot area (after certain deduction as proposed by the Applicant) but is in respect of the total plot area of 54630 sq. mtrs.</p> <p>Order dated 20th August, 2018 is very clear and in accordance to the Environment Clearance given to the Respondents and does not call for any review of the same.</p> <p>In the facts of the case and the order passed by us, there is no error apparent on the face of record.</p>

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<p>In Chambers by circulation Item No. 01 October 03, 2018</p>	<p>Consequently, there is no substance in the Review Application nor it falls within the purview and scope of provisions of review under Section 19 (4) of the NGT Act, 2010 read with Rule 22 of the NGT (Practice and Procedure) Rules, 2011.</p>
	<p>Accordingly, review application no. 40 of 2018 stands dismissed, with no order as to cost.</p>
	<p>.....JM (Raghuvendra S. Rathore)</p>
	<p>.....EM (Dr. Satyawan Singh Garbyal)</p>

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