

BEFORE THE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

OA NO. 01 OF 2022 (WZ)

Shashikant Kamble

Applicant

Versus

Ministry of Environment Forest &

Climate Control & Ors.

Respondents

MOST RESPECTFULLY SHEWETH:

I, Shrikant Sudam Vayadande, Age:55, Executive Engineer, Pune Municipal Corporation, Authorized Signatory on behalf of Respondent

No. 12, 13 & 14 hereinafter referred to as "PMC" do state on solemn affirmation on behalf of PMC as under:

1. I am Shrikant Sudam Vayadande, Executive Engineer, Pune

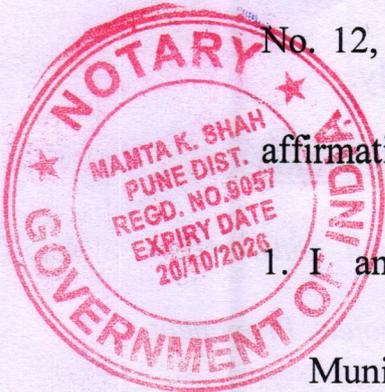
Municipal Corporation and Authorized Signatory on behalf of PMC. I

have read the Original Application and I am acquainted with the facts

hence filing the present Reply Affidavit on behalf of PMC herein,

2. At the outset, I denied all the contentions and/or statements and/or

allegations contained in the present Original Application to the extent



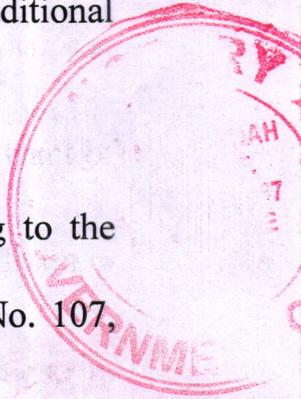
those are contrary to and/or inconstant with what is stated in the present Affidavit in Reply. Nothing contained in the Original Application, should be deemed to be admitted by the PMC for want of specific traverse unless the same has been specifically admitted herein below. The present Affidavit in Reply is filing to the purpose to oppose the contentions raised in the Original Application against the PMC. I crave leave of this Hon'ble Tribunal to file Additional affidavits as and when the occasion so arises.

3. It is submitted that Applicant has filed present OA relating to the residential land commercial project namely, "Emirus" at S No. 107, Village-Baner, Taluka-Haveli, District-Pune respectively.

Prayers sought under the present Original Application.

(a) that kindly direction for stopping of the illegal construction which is still continued and carried by the Project Proponent (Respondent No.15) in contravention to the Environment Clearance Permission and the Respondent No.15 shall not be granted any permission till the disposal of this case of the dispute before this Hon'ble National Green Tribunal.

(b) that kindly directions be provided for demolishing the illegal construction be given to the appropriate government authorities



after perusal and of the factual report and analysis made by the committee which will be constituted and appointed for the inspection in this present matter and direct to constitute the same.

(c) that kindly directions be provided to the government authorities and committee to make plan for the restitution of the environment.

(d) that kindly impose heavy environment compensation on the Respondent No. 15.

(e) that kindly directions be provided for constituting an eligible and responsible third-party committee for inspection and examination of the illegal construction and the environment damage caused by the Respondent No. 12 and detailed factual report and analysis submitted before this Hon'ble National Green Tribunal.

(f) that kindly directions be provided to all the Respondents to submit the entire record and proceeding retained by them with regards to the said project.

(g) that kindly directions be provided to the appropriate government authority that no third-party transactions like selling or buying of properties in the said project of the Respondent No.15 shall be allowed and to stop with immediate effect and shall not be granted till the disposal of this case before this National Green Tribunal.



(h) that Applicant with the prior permission of the Hon'ble National Green Tribunal, be allowed and permitted to amend its application upon knowledge of the illegal acts or new acts or new crucial fact, if any, are found by the Applicant after filing of this Original Application and which are necessary to be brought on record.

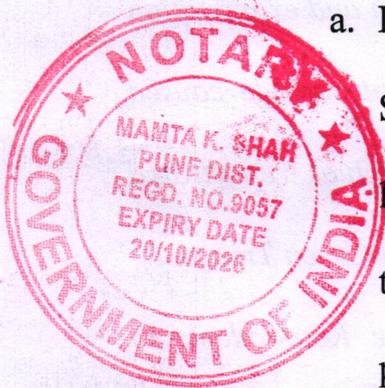
(i) any other just and equitable order be passed in the interest of justice as may deem fit and proper.

4. It is submitted that the vide CC/0919/2011 dated 10/06/2011, the construction of the project in present OA is started.

a. It is submitted that for filing OA (Original Application) under Sec.14 of NGT Act, 2010 (National Green Tribunal Act, 2010) limitation period is 06 months from the date of cause of action, therefore as per Sec. 14, limitation period for filing of the present OA, was expired on 09/12/2011.

b. It is submitted that for filing of OA under Sec.15 of NGT Act, Limitation period is 5 years from the date of cause of action, therefore as per Sec. 15 of NGT ACT, limitation period for filing of the present OA, was expired on 09/06/2016.

The present OA is filed on 31/12/2021, therefore, the same is barred on the ground of Limitation.



5. It is submitted that PMC is a planning authority and the said project is within a limit of PMC, therefore abiding the Development Control Rules and provisions under the Maharashtra Regional Town Planning Act, 1966 (MRTP Act, 1966), PMC has granted the sanctions/building permissions to the said project.

6. **“EMIRUS” a residential & Commercial project.**

It is submitted that a commercial and residential project, namely Emirus is located at S No. 107, Baner, Pune-411 045. Vide CC/0919/2011 dated 10/06/2011 PMC has granted sanction to the said project. Time to time by number revisions of plans/sanctions the construction of the said project proceeded.

Hereto annexed and marked as an Annexure R-1 is a chart of permissions granted by the PMC.

7. Occupancy Certificate were granted on 03/06/2015 & 14/12/2015 and that too for the Total Built Up Area of less than 20,000 sq m. It is only after Environment Clearance was granted to the Project further Occupancy Certificates were granted by the Answering Respondent.

8. It is submitted that PP has been granted Environment Clearance (EC) by SEIAA, Maharashtra vide letter No. SEAC-2013/CR-287/TC-2, dated 03/12/2016 for construction of a residential & commercial project named “EMIRUS” for Total Built UP Area of 47,459.02 sq m (FSI: 21,846.87 sq m & Non-FSI 25,612 sq m) based on layout

sanctioned plan vide No. CC/303/15 dated 30/04/2015 for residential building No. A: P+8, B: G+1, C: G+1, D: G+1, G: B+G+20, H: B+G+20 and commercial building No. E: LG + G + 8, F: LG + G + 8 and club house respectively.

9. It is submitted that further PP has been granted EC by SEIAA, Maharashtra vide No. SIA/MH/MIS/241332/2021, dated 31/03/2022 for Total Built Up Area of 48,325.13sq.m. (FSI: 23,825.01sq.mtrs. and Non - FSI 24,500.12 sq.mtrs) based on layout sanctioned plan for E.C. purpose vide no. CC/0038/20, dated 03/06/2020 for building A: P+8, B: G+1, C: G+1, D: G+1, E: LG+G+8, F: LG+G+P+10, G: B+G+P+19, H: B+G+P+19 and club house: G+1 respectively.

10. Therefore, it is submitted that Pune Municipal Corporation has granted permissions as per the provisions of MRTP and DC Rule and not violated any provision under law on the contrary, PMC has always followed the due procedure, functioned in accordance with law hence it is requested that no adverse order may be passed against the PMC.

Pune

Date 21/02/2023

RESPONDENT NO. 12, 13 & 14

कार्यकारी अधिकारी
बांधकाम विकास विभाग
झोन क्र. ३, पुणे नगरपालिका

VERIFICATION

I, Shrikant Sudam Vayadande, Age: 55, Executive Engineer, Pune Municipal Corporation, Pune, do hereby verify that the contents of running paragraphs are true to my knowledge/based on records of the maintained in the ordinary course of business.

Solemnly Affirmed

Pune

Date 21 day of February, 2023.

Ragaa

Advocate for Affiant.

Vayadande

Affiant (For Respondent No. 12, 13 & 14)

कार्यकारी अभियंता
बांधकाम विकास विभाग
झोन क्र. ३. पुणे महानगरपालिका



NOTED AND REGISTERED

AT SR. NO. 2940/2023

DATE 21 FEB 2023

BEFORE ME

Mesha

MAMTA K. SHAH
NOTARY
GOVT. OF INDIA
PUNE DISTRICT



ANNEXURE - 1													
Sanctioned Plan Details For Baner S.no. 107													
Sr. No.	Layout/Building Permission sanctioned and date	Gross Plot Area (Sq.Mtrs)	Deduction of FSI (Sq.Mtrs)	Net Plot Area (Sq.Mtrs)	Name of Building	No. of Floors	Height of Building (Mtrs)	FSI (Sq.Mtrs)	Total FSI (Sq.Mtrs)	Parking (Sq.Mtrs)	Total Non FSI (Sq.Mtrs)	Total Built Up area (Sq.Mtrs)	Remarks
1	Layout CC/0919/11/1545 dated 10/6/2011	20500	Open Space 1935.71 Amenity Space 2903.84 18.0 mtr. D.P Road 1146.35	13432.47	A	P+7	23.35	3290.79	14477.41	6011.00	8261.77	28750.18	124 Tenements
					B	G+1	6.80	450.23					
					C	G+1	6.80	558.05					
					D	G+1	6.80	497.09					
					E	LG+G+5	22.00	949.80					
					F	LG+G+5	22.00	1264.55					
					G	P1+P2+P3+P4 +12	48.90	4667.95					
					H	P1+P2+P3+P4 +7	33.90	2588.95					
2	Building Permission CC/0919/11 dated 10/6/2011	20500	Open Space 1935.71 Amenity Space 2903.84 18.0 mtr. D.P Road 1146.35	13432.47	A	P+7	23.35	3290.79	14477.41	6011.00	8261.77	28750.18	124 Tenements
					B	G+1	6.80	450.23					
					C	G+1	6.80	558.05					
					D	G+1	6.80	497.09					
					E	LG+G+5	22.00	949.80					
					F	LG+G+5	22.00	1264.55					
					G	P1+P2+P3+P4 +12	48.90	4667.95					
					H	P1+P2+P3+P4 +7	33.90	2588.95					
3	Building Permission CC/3038/12 dated 2/1/2013	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	14440.85	7229.4	9135.93	30806.18	119 Tenements
					B	G+1	7.00	569.61					
					C	G+1	7.00	601.80					
					D	G+1	7.00	569.61					
					E	LG+G+8	35.75	946.98					
					F	LG+G+P+1	10.55	238.26					
					G	B+G+4	18.70	1238.72					
					H	B+G+20	69.90	6331.95					

Sr. No.	Layout/Building Permission sanctioned and date	Gross Plot Area (Sq.Mtrs)	Deduction of FSI (Sq.Mtrs)	Net Plot Area (Sq.Mtrs)	Name of Building	No. of Floors	Height of Building (Mtrs)	FSI (Sq.Mtrs)	Total FSI (Sq.Mtrs)	Parking (Sq.Mtrs)	Total Non FSI (Sq.Mtrs)	Total Built Up area (Sq.Mtrs)	Remarks
4	Layout CC/0303/15 dated 30/4/2015	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	21846.87	0	0.00	21846.87	165 Tenements
					B	G+1	7.00	615.92					
					C	G+1	7.00	644.40					
					D	G+1	7.00	615.92					
					E	LG+G+8	35.90	946.98					
					F	LG+G+P+8	35.90	1679.90					
					G	B+G+20	69.90	6984.08					
					H	B+G+20	69.90	6415.75					
5	Building Permission CC/1506/15 dated 14/08/2015	1735.36		1735.36	Club House	G+1	6.55	244.99	244.99	0	36.52	281.51	Club House
6	Building Permission CC/0303/15 dated 30/4/2015	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	18531.61	7323.88	11175.11	37030.60	151 Tenements
					B	G+1	7.00	615.92					
					C	G+1	7.00	644.40					
					D	G+1	7.00	615.92					
					E	LG+G+8	35.90	941.60					
					F	LG+G+2P	12.45	281.04					
					G	B+G+15	54.00	5069.37					
					H	B+G+20	69.90	6419.44					

Sr. No.	Layout/Building Permission sanctioned and date	Gross Plot Area (Sq.Mtrs)	Deduction of FSI (Sq.Mtrs)	Net Plot Area (Sq.Mtrs)	Name of Building	No. of Floors	Height of Building (Mtrs)	FSI (Sq.Mtrs)	Total FSI (Sq.Mtrs)	Parking (Sq.Mtrs)	Total Non FSI (Sq.Mtrs)	Total Built Up area (Sq.Mtrs)	Remarks
7	Building Permission CC/2681/15 dated 21/11/2015 (Revalidation)	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	18531.61	7323.88	11175.11	37030.60	151 Tenements
					B	G+1	7.00	615.92					
					C	G+1	7.00	644.40					
					D	G+1	7.00	615.92					
					E	LG+G+8	35.90	941.60					
					F	LG+G+2P	12.45	281.04					
					G	B+G+15	54.00	5069.37					
					H	B+G+20	69.90	6419.44					
8	Building Permission CC/0188/17 dated 26/4/2017	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	18561.79	7323.88	11438.66	37324.33	147 Tenements
					B	G+1	7.00	615.92					
					C	G+1	7.00	644.40					
					D	G+1	7.00	615.92					
					E	LG+G+8	35.90	941.60					
					F	LG+G+2P	12.45	281.04					
					G	B+G+12	44.30	4692.21					
					H	B+G+20	69.90	6826.78					
9	Building Permission CC/3716/18 dated 27/2/2019	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	22026.01	7323.88	13279.60	42629.49	171 Tenements
					B	G+1	7.00	615.92					
					C	G+1	7.00	644.40					
					D	G+1	7.00	615.92					
					E	LG+G+8	35.90	941.60					
					F	LG+G+2P	12.45	281.04					
					G	B+G+20	69.90	8156.43					
					H	B+G+20	69.90	6826.78					

Sr. No.	Layout/Building Permission sanctioned and date	Gross Plot Area (Sq.Mtrs)	Deduction of FSI (Sq.Mtrs)	Net Plot Area (Sq.Mtrs)	Name of Building	No. of Floors	Height of Building (Mtrs)	FSI (Sq.Mtrs)	Total FSI (Sq.Mtrs)	Parking (Sq.Mtrs)	Total Non FSI (Sq.Mtrs)	Total Built Up area (Sq.Mtrs)	Remarks
10	Layout CC/0038/20 dated 3/6/2020	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	23825.01	0	24500.12	48325.13	171 Tenements
					B	G+1	7.00	615.92					
					C	G+1	7.00	644.40					
					D	G+1	7.00	615.92					
					E	LG+G+8	35.90	941.60					
					F	LG+G+P+10	35.90	2080.04					
					G	B+G+20	69.90	8156.43					
					H	B+G+20	69.90	6826.78					
11	Layout CC/4226/21 dated 31/3/2022 (E.C. Purpose)	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	26639.81	9450.72	13703.51	49794.04	171 Tenements
					B	G+1	7.00	615.92					
					C	G+1	7.00	644.40					
					D	G+1	7.00	615.92					
					E	LG+G+8	35.90	941.60					
					F	LG+G+2P+14	50.55	4894.84					
					G	B+G+20	69.90	8156.43					
					H	B+G+20	69.90	6826.78					
12	Building Permission CC/4226/21 dated 31/3/2022	20500	Open Space 1935.36 Amenity Space 2903.05 18.0 mtr. D.P Road 1146.35	13497.61	A	P+8	25.95	3943.92	25561.32	6526.00	12659.12	44746.44	171 Tenements
					B	G+1	7.00	615.92					
					C	G+1	7.00	644.40					
					D	G+1	7.00	615.92					
					E	LG+G+8	35.90	941.60					
					F	LG+G+2P+11	42.15	3816.35					
					G	B+G+20	69.90	8156.43					
					H	B+G+20	69.90	6826.78					