



महाराष्ट्र MAHARASHTRA

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अनु.क्र. 17426 दि. 2 MAY 2023 मु.शु.रकम. 500

दस्ताचा प्रकार प्रतिज्ञापत्र
दस्त नोंदणी करणार आहेत का ? होय/नाही.

मिळकतीचे वर्णन

मुद्रांक विकत घेणाऱ्याचे नांव सुनील सुंदलिक हि

पत्ता शांती ल्हान

दुसऱ्या पक्षकाराचे नांव

हस्तो व्यवस्थीचे नांव व पत्ता शिबुम मुंडस पिचवई

विकरण देवराज लडकत

परवाना क्र. २२०११२५
४३९, लोभवार् पेठ, पुणे-११

विकत घेणाऱ्याची सही
साराठी ज्यांनी मुद्रांक खरेदी केला, त्यांनी त्याच कारणासाठी मुद्रांक
पुनर्पासून ६ महिन्यात थापरणे बंधनकारक आहे.

BEFORE THE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

O.A. NO. 17 OF 2021 (WZ)

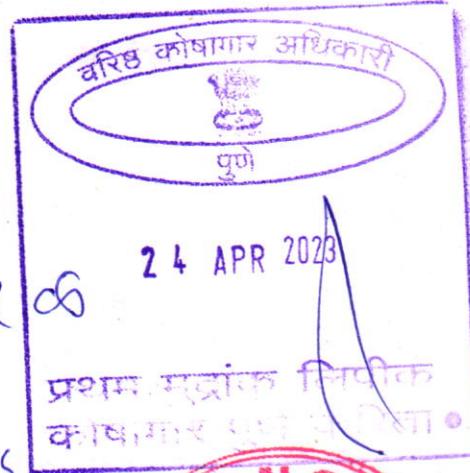
Mr. Tanaji Gambhire

.....Applicant

Versus

Union of India Ors

.....Respondents



(Handwritten signature)



MOST RESPECTFULLY SHEWETH

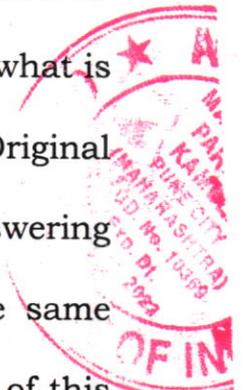
I, Sunil P. Marale, Age 53 years, Metropolitan Planner, PMRDA, do hereby states on solemn affirmation as under,

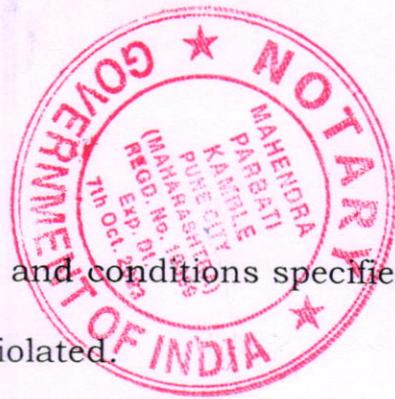
1. I am working as Metropolitan Planner in Pune Metropolitan Region Development Authority, (Henceforth has been referred as PMRDA for the sake of brevity) and I am authorized to file the Affidavit before this Hon'ble Tribunal on behalf of PMRDA, R-10.

2. At the outset I deny all the contentions and/or statements and/or allegation contained in present Original Application to the extent those are contrary to and/or inconsistent with what is stated in the present Affidavit. Nothing contained in the Original Application should deem to be admitted by the answering Respondent for the want of specific traverse unless the same would be specifically admitted herein below. I crave leave of this Hon'ble Tribunal to file an additional Affidavit as and when the occasion so arises.

3. It is submitted that the present Original Application is filed relating to a building project namely, "River Front" located at S.No. 1 (P), 3 (P), village: Bebadohol, Taluka Maval, Dist: Pune. The present OA is filed seeking the demolition, compensation,

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damages and further alleging that terms and conditions specified under Environment Clearance (EC) are violated.

4. It is submitted that that Section 14 of the National Green Tribunal Act, 2010 provides limitation for 6 months from the date when the cause of action first arose with in which the OA (Original Application) ought to have filed. It is submitted that vide PMA/NA/SR/521/2012 dated 20/04/2013, "River Front" project was sanctioned. Therefore u/sec 14 of NGT Act, limitation period for filing the present OA expired on 20/10/2013.
5. It is submitted that Sections 15 of the National Green Tribunal Act, 2010, provides limitation for a period of 05 years from the date of cause of action arose, which too would expire in the year 2018, while the present OA is filed on 14/02/2021.
6. Hence as per Sec. 14 and 15 NGT Act, Limitation period, to raise dispute relating to the said project, already expired so the present matter is hopelessly barred on the ground of Limitation.
7. Pune Metropolitan Region Development Authority (PMRDA) came in to existence on 31th March 2015. PMRDA is presently a planning authority relating to the project in question.
8. **PROJECT IN QUESTION "RIVERFRONT PROJECT"**

"Riverfront", is a building project developed on the land S. No 01, Bebadohol, Taluka Maval, District: Pune. Vide first

PMA/NA/SR/256/2012 dated 20/04/2013 the said project is originally sanctioned by the Pune District Collector, Pune.

All the sanctions granted to the project in question are as below,

Sr No	Sanctions/Date	Granting Authority	Plot Area (In sq meter)
1.	PMA/NA/SR/256/2012 20/04/2013	Pune District Collector, Pune	26,100.00
2.	PMA/NA/SR/521/2012 14/01/2015	Pune District Collector, Pune	26,415.00
3.	DP/BMA/village Bebadohol/ Gat No. 1(p) & 3(p)/CR 534/ 18-19. 15/12/2018	PMRDA	26,415.00



9. As stated above after 31st March 2015 the answering Respondent came in to an existence, as a Special Planning Authority appointed under section 40 of the Maharashtra Regional and

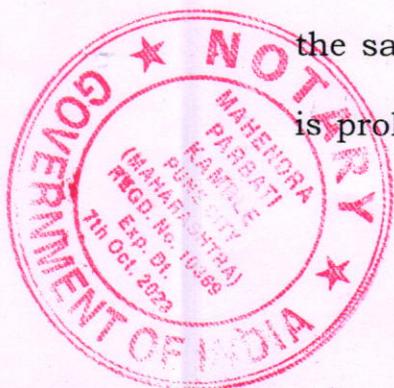
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Town Planning Act, 1966. It is submitted that after following the due procedure, PMRDA has granted revised permission for building vide no. DP/BMA/village Bebadohol/ Gat No. 1(p) & 3(p)/CR 534/ 18-19, 15/12/2018.

10. It is submitted that, both the blue line and red line, as received by the applicant from Irrigation department's vide letter no. 4588/2012 dated 5th July 2012, were shown by the applicant on the proposed building plan and submitted it to the collector (the then sanctioning authority under section 18 of Maharashtra Regional and Town Planning Act, 1966 for sanction. And accordingly all the buildings proposed were shown in the area not affected by the blue line.

It is submitted that, PMRDA had permitted buildings only on the lands which were not affected by blue line. No any structure or building was granted on the land affected by blue line.

11. It is submitted that as above said, the blue line and red line marked on the sanctioned plan, is according to the letter and map (showing Blue line and Red line relating to the site in question) issued by the irrigation department to the applicant vide letter no. 4588/2012 dated 05/07/2012. It is submitted that the said letter provided that construction between the blue lines is prohibited. It is further provided that for construction outside

Blue flood line, plinth level shall be 0.50 meter high above the level of Red line.

12. It is submitted that Development Control and Promotion Regulations for Regional Plan Areas in Maharashtra were applicable to the site in question at the relevant time.

Quote

11.3 Construction within blue and red flood line - The construction within blue and red flood line along the river side may be permitted at a height of 0.50 m. above the red flood line.

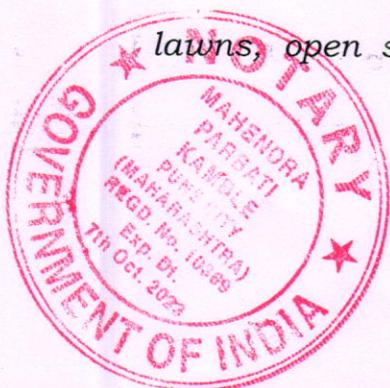
Unquote

It is submitted that from 11/12/2018 Development Control and Promotion Regulations for Pune Metropolitan Region Development Authority (DCPR-2018) introduced. It is submitted that the said DCPR-2018 are presently applicable for PMRDA. The relevant portion of DCPR-2018 is reproduced as below,

Quote

13.3 CONSTRUCTION WITHIN FLOOD LINE:

- i) Area between the river bank and blue flood line (Flood line towards the river bank) shall be prohibited zone for any construction except parking, open vegetable market, garden, lawns, open space, cremation and burial ground, or like uses



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without any form of construction or any form of earthwork with external dumping, provided the land is feasible for such utilization.

ii) Area between blue flood line and red flood line shall be restrictive zone for the purposes of construction. The construction in the area may be permitted at a height of 0.45 m.

above the red flood line.

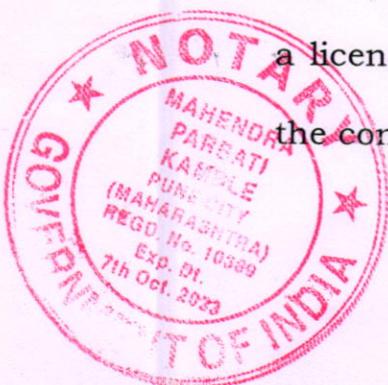
iii) If the area between the river bank and blue flood line or red flood line forms the part of the entire plot in developable zone i.e. residential, commercial, public-semi-public, industrial, then, FSI of this part of land may be allowed to be utilised on remaining land.

iv) The blue and red flood line shall be as marked by the Irrigation Department or any other Government institutions dealing with the subject.

Unquote

Hereto Colly annexed and marked as Annexure R-1 is copies of Irrigation letter dated 05/07/2012 alongwith a map showing Blue line and Red line.

13. It is submitted that plans are sanctioned on proposal/application made under Sec. 44 of Maharashtra Regional and Town Planning Act, 1966 (MRTP Act, 1966) through a licensed Architect and thereafter u/sec 45 of MRTP Act, 1966 the concerned Planning Authority will sanction the said proposal.



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14. Section 44 and 45 of MRTTP Act, 1966 are reproduced herein as below,

Quote

44. 1[(1)] *Except as otherwise provided by rules made in this behalf, any person not being Central or State Government or local authority intending to carry out any development on any land shall make an application in writing to the Planning Authority for permission in such form and containing such particulars and accompanied by such documents, as may be prescribed :*

2[*Provided that, save as otherwise provided in any law, or any rules, regulations or by-laws made under any law for the time being in force, no such permission shall be necessary for demolition of an existing structure, erection or building or part thereof, in compliance of a statutory notice from a Planning Authority or a Housing and Area Development Board, the Bombay Repairs and Reconstruction Board or the Bombay Slum Improvement Board established under the Maharashtra Housing and Area Development Act, 1976.*]

1[(2)] *Without prejudice to the provisions of sub-section (1) or any other provisions of this Act, any person intending to execute 3[an Integrated Township Project] on any land, may make an application to the State Government, and on receipt of such application the State Government may, after*

making such inquiry as it may deem fit in that behalf, grant such permission and declare such project to be 1[an Integrated Township Project] by notification in the Official Gazette or, reject the application.]

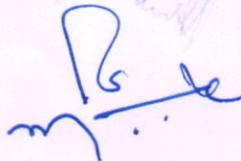
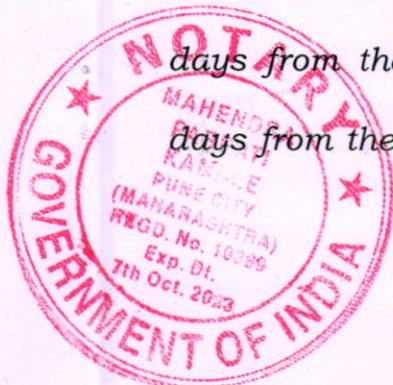
45. (1) On receipt of an application under section 44 the Planning Authority may, subject to the provisions of this Act, by order in writing— (i) grant the permission, unconditionally; (ii) grant the permission, subject to such general or special conditions as it may impose with the previous approval of the State Government; or (iii) refuse the permission.

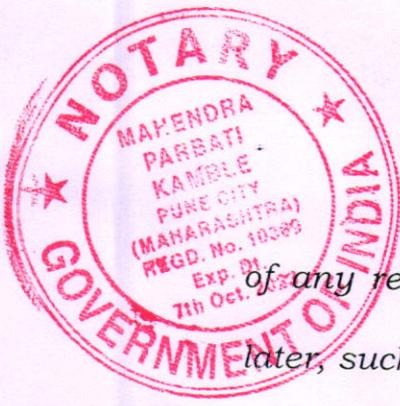
(2) Any permission granted under sub-section (1) with or without conditions shall be contained in a commencement certificate in the prescribed form.

(3) Every order granting permission subject to conditions, or refusing permission shall state the grounds for imposing such conditions or for such refusal.

(4) Every order under sub-section (1) shall be communicated to the applicant in the manner prescribed by regulations.

(5) If the Planning Authority does not communicate its decision whether to grant or refuse permission to the applicant within sixty days from the date of receipt of his application, or within sixty days from the date of receipt of reply from the applicant in respect



of any requisition made by the Planning Authority, whichever is later, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of sixty days : 2[Provided that, the development proposal, for which the permission was applied for, is strictly in conformity with the requirements of all the relevant Development Control Regulations framed under this Act or bye-laws or regulations framed in this behalf under any law for the time being in force and the same in no way violates either the provisions of any draft or final plan or proposals published by means of notice, submitted for sanction under this Act : Provided further that, any development carried out in pursuance of such deemed permission which is in contravention of the provisions of the first proviso, shall be deemed to be an unauthorised development for the purposes of sections 52 to 57.]

1[(6) The Planning Authority shall, within one month from the date of issue of commencement certificate, forward duly authenticated copies of such certificate and the sanctioned building or development plans to the Collector concerned.]

Unquote

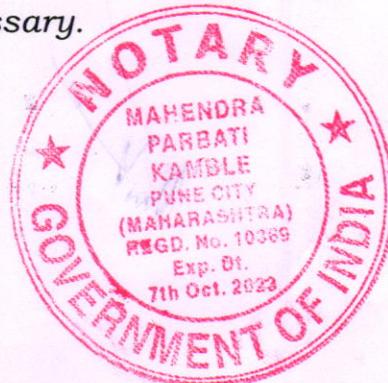
15. On receipt of Completion Certificates from the Licensed Architect u/Rule 7.4 of Development Control and Promotion Regulations for Pune Metropolitan Region Development Authority

(DCPR-2018), PMRDA has granted Occupation Certificates. Which are as follows, i) Part Occupancy Certificate no.1: DP/BMA/Village Bebadohol/G.no 1(P) & 3(P)/CR 1226/17-18 dt. 05/12/2017. ii)Part Occupancy Certificate no.2: DP/BMA/Village Bebadohol/G.no 1(P) & 3(P)/CR 534/18-19 dt. 20/02/2019. iii)Part Occupancy Certificate no.3: DP/BMA/Village Bebadohol/G.no 1(P) & 3(P)/CR 1226/17-18 dt. 16/12/2019. iv)Occupancy Certificate no.1.: DP/BMA/Village Bebadohol/G.no 1(P) & 3(P)/CR 534/18-19 dt. 12/06/2020.

16. The relevant part of DCPR-2018 is reproduced as below,

Quote

7.4 Completion Certificate - The owner through his licensed surveyor / engineer / structural engineer / supervisor or his architect, as the case may be, who has supervised the construction, shall furnish a building completion certificate to the Authority in the form in Appendix 'H'. This certificate shall be accompanied by three sets of plans of the completed development, the certificate about the operation of the lift from consultant and certificate of structural stability / compliance issued by R.C.C. consultant, wherever necessary.





In case of special buildings, the completion certificate shall also be accompanied with the NOC along with completion plans from Chief Fire Officer of PMRDA.

7.5 Occupancy certificate - The Metropolitan Commissioner after inspection of the work and after satisfying himself that there is no deviation from the sanctioned plans, issue an occupancy certificate in the form in Appendix- I or refuse to sanction the occupancy certificate in Appendix -J within 21 days from the date of receipt of the said completion certificate, failing which the work shall be deemed to have been approved for occupation, provided the construction conforms to the sanctioned plans. One set of plans, certified by the Metropolitan Commissioner, shall be returned to the owner along with the occupancy certificate. Where the occupancy certificate is refused or rejected, the reasons for refusal or rejection shall be given in intimation of the rejection or the refusal.

The applicant may request for deemed occupancy certificate if eligible as above. Metropolitan Commissioner shall issue the deemed occupancy certificate within 15 days of the application.

7.6 Part occupancy certificate:- When requested by the holder of the development permission, the Authority may issue a part occupancy certificate for a building or part thereof, before

completion of the entire work, as per development permission, provided sufficient precautionary measures are taken by the holder to ensure public safety and health. The occupancy certificate shall be subject to the owners indemnifying the Authority in the form in Appendix 'K'.

Unquote

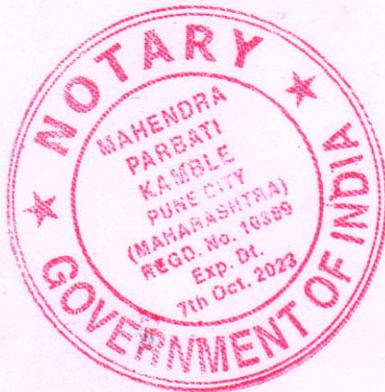
17. PMRDA has revised the plans and have granted Occupancy Certificate as per provisions of MRTP Act, 1966 abiding with the DCPR-2018.

Dated this 2nd day of May, 2023 at Pune.

For & On behalf Respondent No.10



Authorized Signatory.



VERIFICATION

I, Sunil P. Marale, Age 53 years, Metropolitan Planner, PMRDA, the authorized signatory for PMRDA do hereby state on solemn affirmation that what is stated in foregoing paras is true and correct to the best of my knowledge and belief.

Solemnly affirmed at Pune)

This 2nd day of May, 2023)

Explained & Interpreted by me)

Respondent No.10

(Sunil Marale)

Before me

Advocate for the Deponent

Identified by me



BEFORE ME

MAHENDRA PARBATI KAMBLE
NOTARY, GOVT. OF INDIA
PUNE CITY (MAHARASHTRA)
REGD. No.10369

02 MAY 2023



जा.क्र.खपावि/प्रशा.३/पवना-पूररेषा/ / सन २०१२

खडकवासला पाटबंधारे विभाग, पुणे-११

दिनांक :-

5 JUL 2012

प्रति,

✓ श्री योगेश नारायण निकम,
एस.व्ही.अभ्यंकर व इतर ३ तर्फे,
लिली फ्लोरिकल्चर प्रा.लि.
बेबेडोहळ ता.मावळ जि.पुणे

विषय - मौजे बेबेडोहळ ता.मावळ जि.पुणे येथील गट क्र. १ वर पवना नदीच्या निषेधक व नियंत्रक पूररेषेचे रेखांकन करून मिळणे बाबत.

संदर्भ :- १/- आपला दि.१८.५.२०१२ चा विनंती अर्ज.

२/- उपविभागाचे पत्र क्र पवना/प्रशा./पूररेषा / दि.४.७.२०१२

३/- शासन निर्णय क्र. एफडी डब्ल्यु १०८९/२४३/८९ सि.व्य.(कामे)
दि.२१.९.१९८९

उपरोक्त विषयी आपण मौजे बेबेडोहळ ता.मावळ येथील शेतजमीन गट क्र.१ वर पवना नदीच्या निषेधक (BLUE LINE) व नियंत्रक पूररेषेचे (RED LINE) रेखांकीत नकाशे मिळणे बाबत मागणी संदर्भ पत्र क्र.१ अन्वये केलेली आहे.

संदर्भ पत्र क्र.२ अन्वये प्राप्त उपविभागाचे अहवालानुसार पवना नदी पूररेषा आखणीसाठी केलेले सर्वेक्षण व काटछेद नकाशे अभ्यासून छाननी व पडताळणी करून मौजे बेबेडोहळ ता.मावळ येथील गट क्र.१ क्षेत्रामधील पवना नदीच्या निषेधक पूररेषा (BLUE LINE) व नियंत्रक पूररेषा (RED LINE) तलांक दर्शविणारा रेखांकीत नकाशा आपले विनंती अर्जानुसार सोबत देण्यात येत आहे. तसेच भविष्यात संदर्भ क्र.३ नुसार पवना नदीच्या निळया रेषेच्या (निषेधक) आत बांधकामा करता येणार नाही व निळया रेषेच्या बाहेर बांधकामाची जोतापातळी ही नियंत्रक पूररेषा (RED LINE) तलांका पेशा ०.५० मी. ऊंचीवर ठेवणे बंधनकारक राहिल.

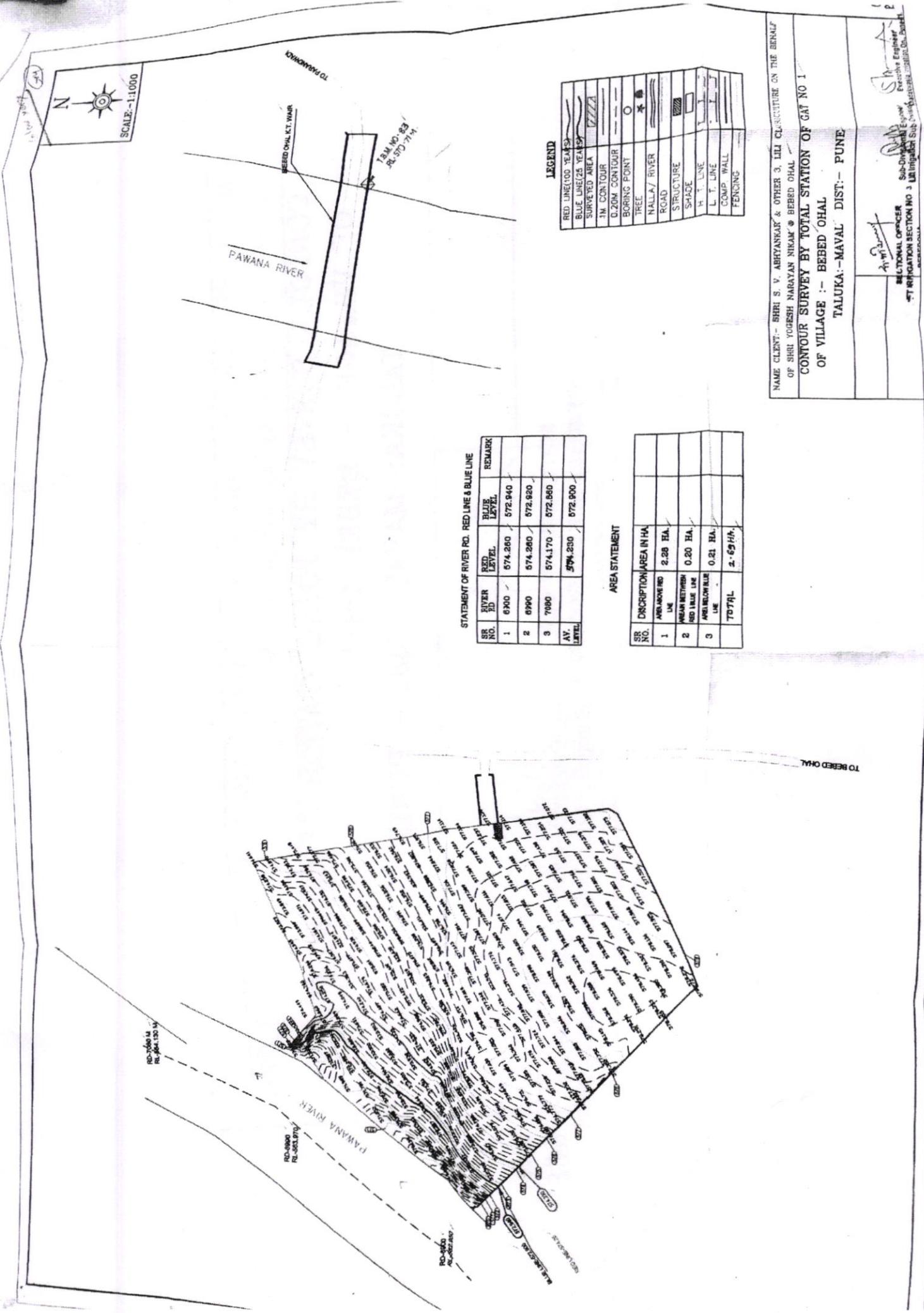
सोबत :- नकाशा १ प्रत.

स्थ.प्र.का.अ.यांना मान्य.

उपकार्यकारी अभियंता,
खडकवासला पाटबंधारे विभाग,
पुणे.११.

प्रत :- उपविभागीय अभियंता, उपसा जलसिंचन उपविभाग, पवनानगर यांना संदर्भ पत्र क्र.२ अन्वये माहितीसाठी रवाना.

सोबत :- नकाशा १ प्रत.



STATEMENT OF RIVER RD. RED LINE & BLUE LINE

SR NO.	RIVER ID	RED LEVEL	BLUE LEVEL	REMARK
1	6900	574.260	572.940	
2	6990	574.260	572.920	
3	7080	574.170	572.860	
AV.		574.230	572.900	

AREA STATEMENT

SR NO.	DESCRIPTION	AREA IN HA
1	AREA ABOVE RED LINE	2.28 HA.
2	AREA BETWEEN RED BLUE LINE	0.20 HA.
3	AREA BELOW BLUE LINE	0.21 HA.
	TOTAL	2.69 HA.

LEGEND

RED LINE (100 YEARS)	---
BLUE LINE (25 YEARS)	---
SURVEYED AREA	
1M CONTOUR	---
0.20M CONTOUR	---
BORING POINT	○
TREE	⊕
NALLA/ RIVER	~~~~~
ROAD	==
STRUCTURE	▭
SHADE	▨
H. T. LINE	---
L. T. LINE	---
COMP. WALL	---
FENCING	---

NAME CLIENT:- SHRI S. V. ABHYANKAR & OTHER 3, LILI CLARIFICATION ON THE BEHALF OF SHRI YOGESH NARAYAN NIKAM @ BEBED OHAL

CONTOUR SURVEY BY TOTAL STATION OF CAT NO 1 OF VILLAGE :- BEBED OHAL

TALUKA:-MAVAL DIST:- PUNE

REGIONAL OFFICER
Sub-Regional Engineer
Irrigation Section No. 2, Maharashtra State Water Resources Institute, Solapur.

NAME CLIENT - SHRI S. V. ABHYANKAR & OTHER 3, LILL CLARICULTURE ON THE BEHALF
OF SHRI YOGESH NARAYAN NIKAM @ BEBED OHAL

CONTOUR SURVEY BY TOTAL STATION OF GAT NO 1
OF VILLAGE :- BEBED OHAL

TALUKA:-MAVAL DIST:- PUNE

		
SECTIONAL OFFICER IRRIGATION SECTION NO 3	Sub-Divisional Engineer Irrigation Sub-Division	Executive Engineer Thadakwasla Irrigation Div. Pune-11

(Signature)
Red/E