

2029

**BEFORE THE NATIONAL GREEN TRIBUNAL,**

**WESTERN ZONE BENCH, PUNE**

**O.A.NO.33 OF 2019 (WZ)**



Mr. Tanaji Gambhire

.....Applicant

Versus

Union of India &Ors

.....Respondents

**MOST RESPECTFULLY SHEWETH**

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

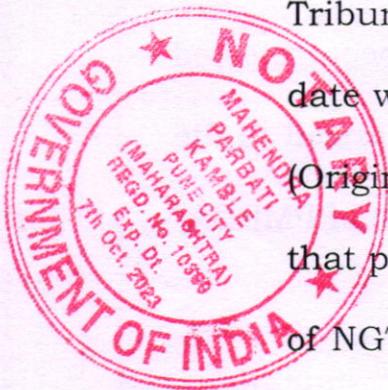
1. I am working as Metropolitan Planner in Pune Metropolitan Region Development Authority, (Henceforth has been referred as PMRDA for the sake of brevity) and I am authorized to file the Affidavit before this Hon'ble Tribunal on behalf of PMRDA, R-13.
2. At the outset I deny all the contentions and/or 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 project namely, "Xrbia Hinjewadi Township" /Megacity Hinjewadi" /"Silicon City" located at S.No. 36, 38/2, 38/3, 39, 40/1d, 42, 56, 57 village: Kasarsai, Taluka- Mulshi, Dist: Pune. The present OA is filed seeking the demolition, compensation, 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 been filed. It is submitted that project was sanction on 20/01/2006. Therefore u/sec 14 of NGT Act, limitation period for filing the present OA expired on 20/07/2006.

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 2011, while the present OA is filed on 02/03/2019.



6. Hence as per Sec. 14 and 15 The NGT Act, Limitation period, to raise dispute relating to the said project has already expired so the present matter is hopelessly time barred on the ground of Limitation.

7. Pune Metropolitan Region Development Authority (PMRDA) came in to existence on 16<sup>th</sup> March 2015. PMRDA is presently a planning authority relating to the project in question.

### 8. PROJECT IN QUESTION

A building project was developed on the land S.No. 36, 38/2, 38/3, 39, 40/1d, 42, 56, 57 village: Kasarsai, Taluka-Mulshi, Dist:-Pune. The project in question was originally sanctioned by the Pune District Collector, Pune in the year 2006, Before existence of PMRDA, U/S 18 of M.R.T.P Act 1966.

As per record available the sanctions granted to the project in question by the Pune District Collector, Pune are as below,

Sr No	Sanctions/Date	Granting Authority	Built-Up Area (In sq meter)/Units etc
1.	Original sanction 20/01/2006	Pune District Collector, Pune	Plot Area 159000 Sq.mt
2.	N.A Order for township	Pune District Collector,	Plot Area- 242388.81 Sq.mt

	07/09/2010	Pune	
3.	Revised N.A Order 31/03/2012	Pune District Collector, Pune	Plot Area-- 584335.00 Sq.mt
4.	Building Permission 10/09/2012	Pune District Collector, Pune	Plot Area-- 108009.24 Sq.mt
5.	Revised Building Permission 08/11/2013	Pune District Collector, Pune	Plot Area-- 38123.43 Sq.mt Built-Up Area - 68030.60 Sq.mt
6.	For Sector R-22 to R-28 Revised building Plan 05/06/2015	Pune District Collector, Pune	Built-Up Area - 77148.31 Sq.mt
7.	29/12/2015 Revised Layout	Pune District Collector, Pune	Plot Area-584300 Sq.mt.

9. As stated above after 31<sup>st</sup> March 2015 the answering Respondent i.e PMRDA came in to an existence, as a special Planning Authority u/s 40 of the M.R.T.P Act 1966, for the region in which the project in question located. It is submitted that after following the due procedure PMRDA has granted sanctions relating to the Project in question, which are as below,

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Sr No.	Sanction/date	Planning Authority	Built-Up Area in sq meter
1.	30/09/2016	PMRDA	Built-Up Area -75,211.66 (1552 units)
2.	20/10/2016	PMRDA	Built-Up Area -68,030.60 Sq.mt (1568 units)

10. It is submitted that as per the provisions of the MRTP Act 1966, the concerned applicant through Licensed Architect submits proposal under Sec. 44 of Maharashtra Regional and Town Planning Act, 1966 (MRTP Act, 1966) to the concerned planning Authority. Concerned planning Authority after due verification gives decision on his application u/s section 45 of the said Act.

11. Section 44 and 45 of MRTP Act, 1966 are reproduced herein as below,

Quote

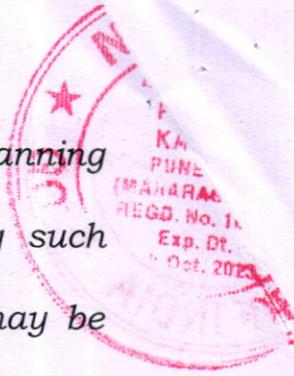
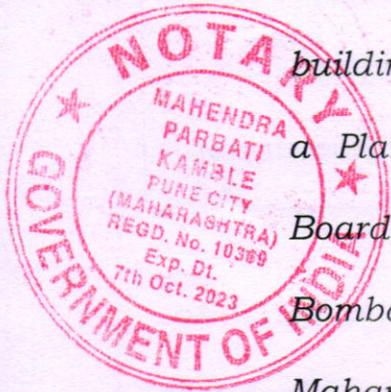
44. 1[(1)] Except as otherwise provided by rules made in this behalf, any person not being Central or State Government or local authority intending to carry out any development on any

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)



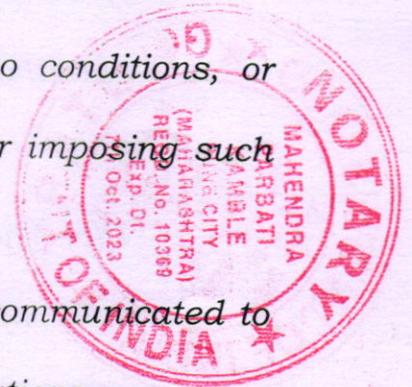
grant the permission, subject to such general or special conditions as it may impose with the previous approval of the State Government; or (iii) refuse the permission.

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

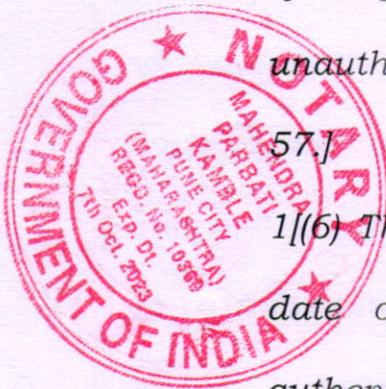
(3) Every order granting permission subject to conditions, or refusing permission shall state the grounds for imposing such conditions or for such refusal.

(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 unauthorized 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

12. As per recored it show that, Pune District Collector, Pune granted Occupation Certificate on 29/01/2016 and the same was amended by subsequent order dated on 01/02/2017
13. On receipt of Completion Certificates u/Rule 7.5 of the prevailing Standardized Development Control and Promotion Regulation for Regional Plans in Maharashtra, 2013 from the Licensed Architect, PMRDA has granted Occupation Certificates, which are as below,

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Sr No.	Date of Occupation Certificate	Units	Built-Up Area in sq m
1.	07/11/2016	1552	Built-Up Area - 76452.48 Sq.mt
2.	27/01/2017	384	Built-Up Area - 15,357.56 Sq.mt

14. The Relevant part of then prevailing Standardized Development Control and Promotion Regulation for Regional Plans in Maharashtra, 2013 is reproduced herein as below,

*Quote*

*7.5 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/Collector in the form in Appendix 'H'. This certificate shall be accompanied by three sets of plans of the completed development.*

*7.6 Occupancy certificate:- The Authority/Collector 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 Authority/Collector, 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.

7.7 Part occupancy certificate:- When requested by the holder of the development permission, the Authority/Collector 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/Collector in the form in Appendix 'K'.

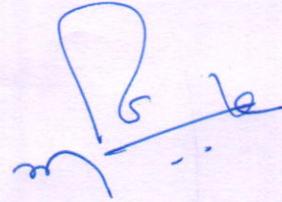
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15. PMRDA has revised the plans and granted Occupation Certificate as per the provisions of MRTP Act, 1966 and then

*R*

prevailing Standardized Development Control and Promotion  
Regulation for Regional Plans in Maharashtra, 2013.

Pune



Dated : 18/5/2023

Respondent No.13



**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 )

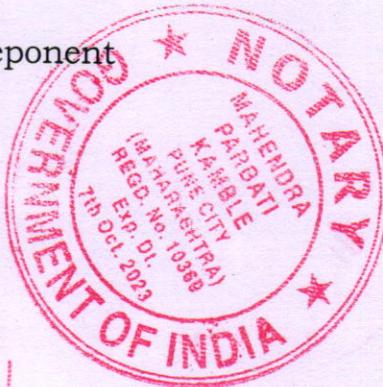
This day of May, 2023 )

Explained & Interpreted by me )

Respondent No.13

Before me

Advocate for the Deponent



NOTED & REGISTERED AT SERIAL NUMBER 994/2023

8 MAY 2023



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