

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 444 of 2023

Paryavaran Vikash Sangh

...Applicant

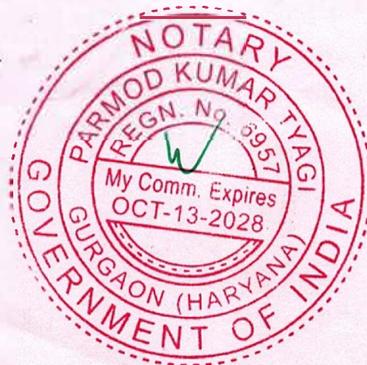
vs.

State of Haryana & Ors.

...Respondents

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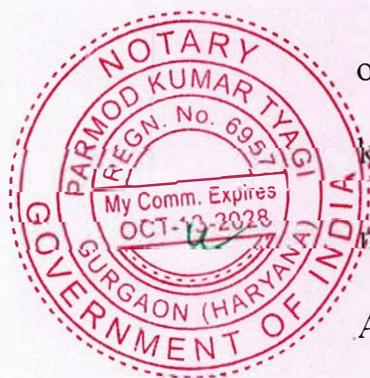
vs.

State of Haryana & Ors. ...Respondents

AFFIDAVIT IN REPLY ON BEHALF OF THE RESPONDENT**NO. 6**

I, Mr. Lucky Jaiswal, an adult, Indian inhabitant, the authorised representative of Respondent No. 6 abovenamed, having my office at Sector 102, Gurugram - do hereby solemnly affirm and state as under -

1. I am the authorized representative of Respondent No. 6 abovenamed. I am aware of the facts involved in the present case on the basis of the records maintained by Respondent No. 6 in the ordinary course of business and on the basis of my personal knowledge. I am, therefore, competent to depose to the statements made in the present Affidavit. I have perused the present Original Application filed by the Applicant and I am filing the present Affidavit in reply thereto, on behalf of Respondent No.6 (**“the answering Respondent”**). I have been authorized by the answering Respondent to file the present Affidavit on its behalf.



2. At the outset, I deny each and every statement, averment, allegation and/or contention contained in the present Original Application that is contrary to or inconsistent with what is set out hereinafter in the present Affidavit. Nothing contained in the present Original Application shall be deemed to be admitted by the answering Respondent or me for want of specific traverse.

3. At the further outset, it is submitted that the present Application is, *ex facie*, barred by limitation. This is evident from the following –

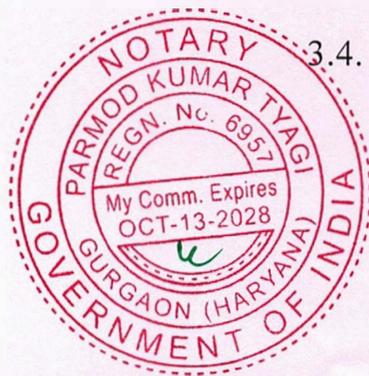
3.1. Under Section 14 of the National Green Tribunal Act, 2010 (“**the said Act**”), the period of limitation prescribed for filing an application under Section 14 thereof is 6 months of the date on which cause of action accrues. It is well settled that limitation for filing in application under Section 14 of the said Act does not accrue only when the Applicant gets knowledge of the same, but when the purported cause of action accrues.

3.2. It is submitted that the answering Respondent is undertaking the construction of a residential group housing project at Sector 102, Gurugram Haryana, known as Joyville Gurugram (“**the said Project**”). The said Project



has one basement as per approved site plan to accommodate parking requirements and services for the residents. The said Project is being constructed in three Phases. Phase-I of the said Project has already been completed and residents are in possession of their flats since March 2023. Construction of Phase I was started pursuant to issuance of Building Sanction Plan dated 9th August 2018, post which construction was started in February 2019. The construction of Phase I was completed on 16th January 2023, when Occupation Certificate was issued. Pursuant thereto, the owners have taken possession of their respective units and are currently residing therein.

3.3. Phase-II of the said Project is at an advanced stage of finishing works. Construction of basement works for Phase-III was commenced in May 2023.



3.4. The Petitioner claims to be a non-governmental organization based in Gurugram. The construction activities, which are being carried out by the answering Respondent since February 2019, are to the knowledge of the public at large.

3.5. In the present case, contending without conceding that the Applicant has any cause of action, the same would accrue

when construction activities commenced at the said Project site, as far back as in the year February 2019. Thus, the present Original Application is barred by limitation.

3.6. Without prejudice to aforesaid, it is submitted that Respondent No. 4 issued Consent to Establish for the said Project on 30th October 2018 for the said Project under the provisions of the Water (Prevention and Control of Pollution) Act 1974 (“**the Water Act**”). The said Consent is in the public domain and published on the website of Respondent No. 3. Thus, the purported cause of action accrues, at the latest, from the date of issuance of Consent to Establish and on that ground alone, the present Original Application is barred by limitation.

3.7. Without prejudice to the aforesaid and in any event, the purported cause of action for filing the present Original Application seeking reliefs as prayed for in the present Original Application accrued to the Applicant on 12th December 2018, when Respondent No.2 notified the Guidelines to regulate groundwater over-exploitation and to conserve the ground water resources in the country (“**the 2018 Guidelines**”).



3.8. Without prejudice to the aforesaid and in any event, the purported cause of action for filing the present Original Application seeking reliefs as prayed for in the present Application arose on 24th September 2020 when Respondent No. 2 notified the Guidelines for regulation and control of ground water extraction in the country (“**the 2020 Guidelines**”).

3.9. Thus, looked at from any angle, the reliefs prayed for in the present Original Application are, *ex facie*, barred by limitation as prescribed under the said Act and are liable to be rejected on this ground alone.

4. At the further outset and without prejudice to the aforesaid, it is submitted that under the provisions of Rule 14 of the National Green Tribunal (Practice and Procedure) Rules, 2011 (“**the said Rules**”), an application seeking plural remedies is barred. In the present case, the Applicant has sought reliefs under Sections 14 and 15 of the said Act and accordingly, the said Application as framed and filed is not maintainable and is liable to be dismissed on this ground alone.

5. It is further submitted that the present Original Application does not disclose any cause of action against the answering Respondent



and is liable to be dismissed on that ground alone. In this regard, it is submitted that -

5.1. The present Original Application is based on the false premise that the answering Respondent is carrying out dewatering activity at the said Project site. The answering Respondent states that, at present, the answering Respondent is not carrying out any dewatering, either for construction or for use in construction activities at the said Project site.

5.2. The Applicant has relied upon – (i) photographs at pages 27 to 32 of the present Original Application to contend that the answering Respondent is carrying out dewatering activities; and (ii) the purported Report of Respondent No. 5 at Annexure A-2 to the present Original Application.

5.3. In respect of the photographs relied upon by the Original Applicant at pages 27 to 32 of the present Original Application, it is submitted that – (i) the said photographs at pages 27 to 31 are not of the said Project site; and (ii) the photograph at page 32 is not of the said Project site. However, the constructed buildings seen in the said photograph are of the said Project, but the green pipes seen



therein is not on the said Project's site. The aforesaid is substantiated by Google Earth image, on which the answering Respondent has plotted the coordinates of the said photographs found at pages 27 to 32 of the present Original Application. Hereto annexed and marked as **Exhibit "A"** is a copy of the said Google Earth image showing the plotting of the location of the said photographs at pages 27 to 32 and the location of the said Project.

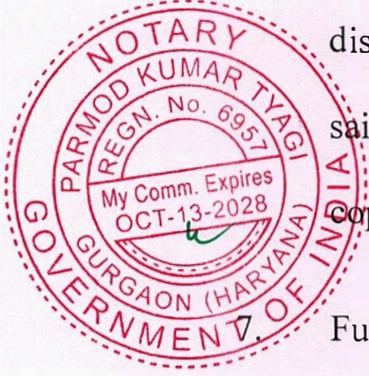
- 5.4. With respect to the said purported Report at Annexure A-2, it is submitted that – (i) the purported Report does not contain the signature of any authorised representative of the answering Respondent and/or of the concerned officers of Respondent No. 5 who purportedly prepared the same; (ii) the said purported Report, therefore, has no authenticity or veracity and is liable to be ignored; (iii) the reference to one Mr. Narender Saini in the said purported Report is misconceived as—(a) Mr. Narender Saini is not authorised to represent the answering Respondent for any purpose or before any authority or make any statements on behalf of the answering Respondent; (b) the said Mr. Narender Saini is only an Assistant Manager and his principal job responsibility is site administration including staff



attendance, admin related bill processing, looking after company guest house and accommodation, facilitating head office visits, etc.; and (c) the said Mr. Narender Saini does not have the responsibility or authority or the knowledge of any legal compliances including permissions / NOCs etc.

5.5. In view thereof, it is evident that no material whatsoever has been produced to substantiate the false, baseless and bald allegations against the answering Respondent. Thus, no cause of action is disclosed against the answering Respondent and the same is liable to be dismissed.

6. It is further submitted that the said Project is situated beyond the 500 meters periphery of the Basai Wetland. This is evident from the Google Earth image of the said Project site indicating the distance between the Basai Wetland and the plot boundaries of the said Project site. Hereto annexed and marked as **Exhibit "B"** is a copy of the said Google Earth image demonstrating the aforesaid.

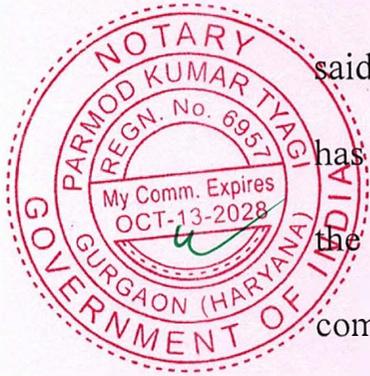


Further, at present, no ground water abstraction is being carried out by the answering Respondent at the said Project site. In view thereof, the provisions of the 2020 Guidelines are not attracted to the said Project. However, since June 2023, during the process of excavation for basement of Phase III, sub-soil water is coming

[Handwritten signature]

onto the surface. Accordingly, in order to carry out dewatering for the purposes of construction, the answering Respondent has filed Application No. HWRA/INF/N/2023/580 before the Haryana Water Resources Authority i.e. Respondent No. 5 herein for issuance of NOC for dewatering. The said Application is pending decision before Respondent No.5. The answering Respondent craves leave to refer to and rely upon the said Application and its annexures, when produced.

8. The answering Respondent submits that the Order dated 26th July 2023 passed by this Hon'ble Tribunal has been passed without any notice and without any opportunity to the answering Respondent to be heard. Thus, the said Order has been passed in violation of the principles of the natural justice, the provisions of Section 19(1) of the said Act and the provisions of Rule 15 of the said Rules. The answering Respondent, as a law-abiding entity, has cooperated with and facilitated the inspection and site visit by the Joint Committee appointed by this Hon'ble Tribunal in compliance with the said Order. Without prejudice to the contention of the answering Respondent stated hereinabove, the answering Respondent reserves its right to file an appropriate response to the factual and action taken report of the Joint



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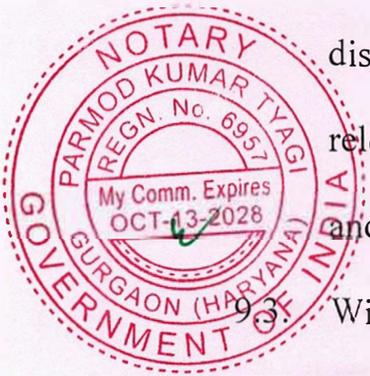
Committee directed to be filed under paragraph 6 of the said Order.

9. The rest of the contents of the present Affidavit are without prejudice to the aforesaid contentions. The answering Respondent shall now deal with the contents of the present Original Application to the extent that the same concern the answering Respondent, paragraph-wise as under -

9.1. With reference to paragraph 1, the answering Respondent is not aware and therefore does not admit that the Applicant is a non-government organisation and/or that the Applicant is working for the protection of environment or taking any steps for saving of natural resources, as alleged or at all.

9.2. With reference to paragraph 2, it is submitted that Respondent Nos. 2 to 5 are authorities charged with discharging statutory duties under the provisions of the relevant laws and are bound to follow the provisions thereof and exercise authority accordingly.

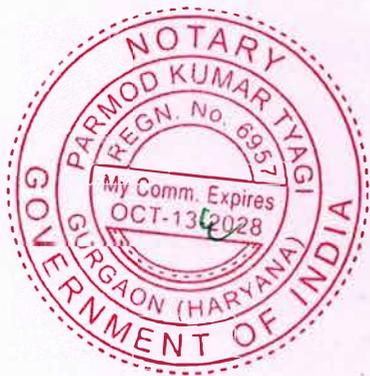
9.3. With reference to paragraph 3, it is denied that the answering Respondent is carrying out any illegal dewatering activity, as alleged or at all. It is denied that the answering Respondent is abstracting fresh water from any



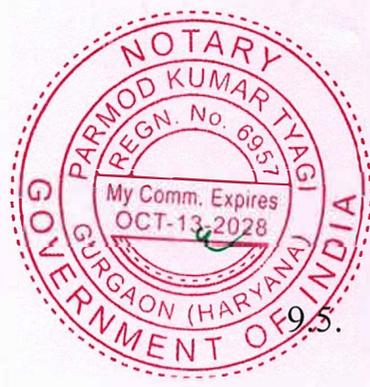
[Handwritten signature]

borewell and/or discharging any water into the nallah and/or any open area, as alleged or at all. It is correct to state that the said Project of the answering Respondent is located at Sector 102, Gurugram, Haryana. However, it is denied that any illegal activity is being carried out at the said Project site.

- 9.4. With reference to paragraph 4, the answering Respondent is not aware and therefore does not admit that the Applicant has raised any issue before the Chief Minister's Office as alleged or at all. The answering Respondent has not received any such complaint and the same has been furnished to the answering Respondent for the first time as an annexure to the present Original Application. In any event, the answering Respondent denies the contents of the said Compliant at Annexure A-1 insofar as the allegations contained therein in respect of the answering Respondent or the said Project are concerned. The answering Respondent further denies the purported Report annexed at Annexure 'A-2' to the present Original Application insofar as it relates to the said Project of the answering Respondent. It is pertinent to note that the said Report does not contain the signature of any authorised representative of the answering



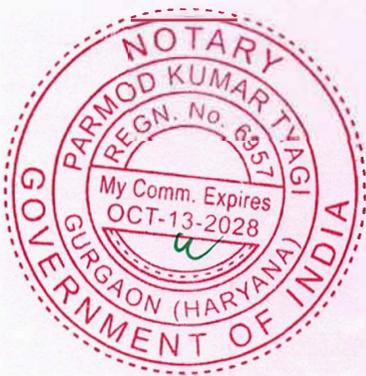
Respondent and/or of the concerned officers of Respondent No. 5 who purportedly prepared the said purported Report. Thus, the said purported Report has no authenticity or veracity and is liable to be ignored. Further, the reference to one Mr.Narender Saini in the said purported Report is misconceived as – (a) Mr.Narender Saini is not authorised to represent the answering Respondent for any purpose or before any authority or make any statements on behalf of the answering Respondent; (b) the said Mr.Narender Saini is only an Assistant Manager and his principal job responsibility is site administration including staff attendance, admin related bill processing, looking after company guest house and accommodation, facilitating head office visits, etc.; and (c) the said Mr. Narender Saini does not have the responsibility or authority or the knowledge of any legal compliances including permissions / NOCs etc.



5. With reference to paragraph 6, the answering Respondent is not aware and therefore does not admit the contents of the paragraph under reply. It is submitted that newspaper reports cannot be the basis or the foundation of any cause of action or any legal proceedings.

9.6. With reference to paragraph 7, it is denied that the answering Respondent is using any borewell for abstraction of ground water as alleged or at all. It is further denied that fresh drinking water is being discharged by the answering Respondent in open areas as alleged or at all. The contentions in respect of the said photographs at pages 27 to 32, as set out hereinabove, are repeated and reiterated

9.7. With reference to paragraph 8, it is submitted that the contents of the paragraph under reply are misleading. The 2020 Guidelines prescribe that appropriate permissions are required from the concerned Wetland Authority only if the project is situated within 500 metres of such Wetland and dewatering / ground water abstraction is being carried out. It is submitted that, as more particularly stated hereinabove, the said Project is situated more than 500 metres away from the periphery of the Basai Wetland and thus, the provisions of Clause 8 of the 2020 Guidelines are not attracted to the said Project. In any event and as more particularly set out hereinabove, no dewatering activity is carried out at the said Project presently.



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9.8. With reference to paragraph 9, as no ground water abstraction or dewatering activity is being carried out

presently, there is no question of not having taken any permission as alleged or at all. As stated hereinabove, the Applicant has made the necessary Application to Respondent No. 5.

9.9. With reference to paragraph 10, it is denied that the answering Respondent is discharging wastewater into unknown land as alleged. The water that accumulates in excavated portion including rainwater from the nearby areas is being discharged into the storm water drain set up by GMDA. This is essential in order to keep residents' parking area dry and avoid the risk of flooding. Further, it is also essential to keep the workers safe, during construction activities. The answering Respondent has taken the necessary permissions from Gurugram Metropolitan Development Authority ("GMDA") for the purpose of connection of storm water drainage system to the said Project and is continuing to pay the necessary charges for discharge of storm water therein. No activity of ground water abstraction is being carried at the said Project site, as alleged or at all. The answering Respondent craves leave to refer to and rely upon the permissions issued by GMDA



and the Bills raised by GMDA and the proof of payment by the answering Respondent, when produced.

9.10. With reference to paragraph 11, the requirement of installation of a flow meter would be part of the NOC conditions, if issued by Respondent No. 5 pursuant to the said Application. At present, since no ground water abstraction is being undertaken, there is no question of installation of flow metre as alleged or at all.

9.11. With reference to paragraph 12, the answering Respondent craves leave to refer to and rely upon the provisions of Article 48A of the Constitution of India for its true meaning and correct interpretation.

9.12. With reference to paragraph 13, it is denied that any act of the answering Respondent is against the health or interests of the residents of the locality as alleged or at all. It is denied that any act of the answering Respondent is against the natural resources as alleged or at all. It is denied that any act of the answering Respondent leads to any environmental hazard or has any adverse impact on the ecology and/or environment as alleged or at all.

9.13. With reference to paragraph 14, for the reasons set out in the present Affidavit, the Applicant has failed to make out



any case for grant of any relief from this Hon'ble Tribunal as prayed for or even otherwise. It is denied that the answering Respondent has caused any damage to the environment as alleged or at all.

9.14. With reference to Grounds 1 and 2, it is denied that any act of the answering Respondent is against the 2020 Guidelines as alleged or at all. The answering Respondent craves leave to refer to and rely upon the 2020 Guidelines for its true meaning and correct interpretation and denies the interpretation sought to be advanced in respect thereof by the Applicant. As no dewatering activity is being undertaken by the answering Respondent, the issue of NOC does not arise at this stage. In any event, as stated hereinabove, the Applicant has applied for NOC, vide the said Application, as set out hereinabove.

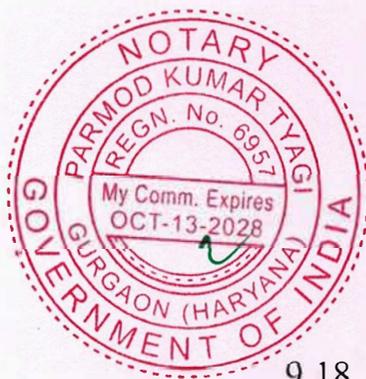


9.15. With reference to Ground 3, it is denied that the provisions of Clause 8 of the 2020 Guidelines are applicable to the said Project as alleged or at all. As set out hereinabove, the Basai Wetland is more than 500 metres away from the subject Project, as is evidence from the Google Earth image at Exhibit "B" hereto.

9.16. With reference to Ground 4, it is denied that the answering Respondent is using any water for construction purposes as alleged or at all. It is further denied that the answering Respondent has violated any provisions of the Water (Prevention and Control of Pollution) Act, 1974 as alleged or at all. The answering Respondent craves leave to refer to and rely upon Section 25 of the Water Act, for its true meaning and correct interpretation and denies the interpretation sought to be advanced in respect thereof by the Applicant.

9.17. With reference to Ground 5, it is denied that there are any borewells at the subject Project site and/or that any water is being extracted from the ground and dumped into the nallah and/or open lands nearby as alleged or at all. It is submitted that the purported report at Annexure A-2 is not authentic and of doubtful veracity, *inter alia*, as the same has not even been signed by the officers of Respondent No. 5.

9.18. With reference to the paragraph on limitation, it is denied that the cause of action arose on 15th March 2023 as alleged or at all. It is denied that fresh water is abstracted for dewatering purposes or for any other purpose from borewell and/or that water is flushed into the nallah and



open areas, as alleged or at all. It is denied that the purported cause of action In the present Application is continuing in nature, as alleged or at all. It is denied that the present Original Application has been filed within the period of limitation prescribed under the said Act, as alleged or at all.

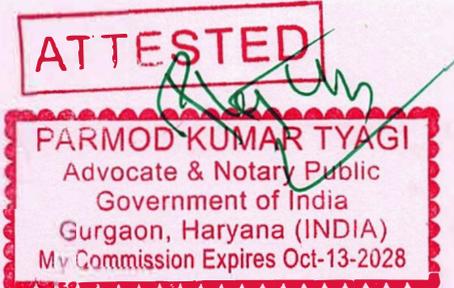
9.19. With reference to the prayers, for the reasons set out hereinabove, it is submitted that the Applicant is not entitled to any relief either as prayed for or even otherwise.

10. In the aforesaid circumstances, it is evident that the present Application is not maintainable, is based on false and misleading statements and misconceived premises and is, in any event, devoid of any merits. Thus, it is submitted that the present Original Application is liable to be dismissed with compensatory costs.

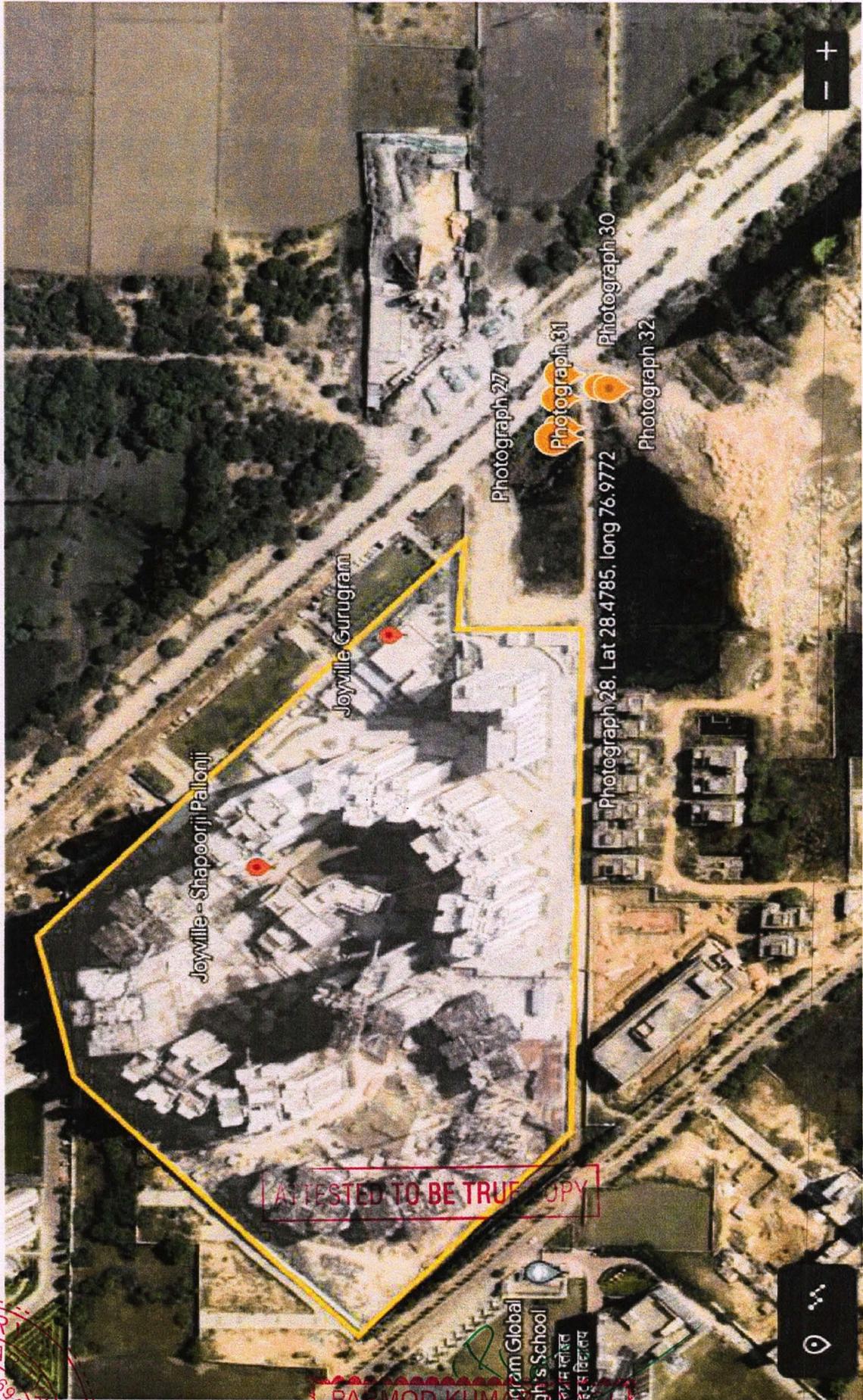
Solemnly affirmed at _____)
this day of October 2023.)

Deponent

Advocates for answering Respondents



26 OCT 2023



PHOTOGRAPH LOCATIONS TAKEN BY PETITIONER

NOTARY PUBLIC
 PARMOD KUMAR
 REGN. NO. 6957
 GURGAON (HARYANA)
 GOVERNMENT OF INDIA
 My Comm. Expires
 OCT-13-2028

PARMOD KUMAR, ADV. & NOTARY PUBLIC
 Advocate & Notary Public
 Government of India
 Gurgaon, Haryana (INDIA)
 My Commission Expires Oct-13-2028

26 OCT 2023

PHOTOGRAPH LOCATIONS TAKEN BY PETITIONER



Joyville - Shapoorji Pallonji

Photograph 28: Lat:28.4785, long 76.9772

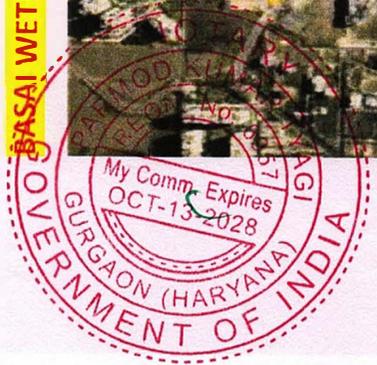
TESTED TO BE TRUE COPY



PARMOD KUMAR TYAGI
 Advocate & Notary Public
 Government of India
 Gurgaon, Haryana (INDIA)
 My Commission Expires Oct-13-2028

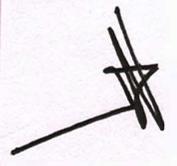
26 OCT 2023

BASAI WETLAND is more than 500 meters from the project site.



PARMOD KUMAR TYAGI
 Advocate & Notary Public
 Government of India
 Gurgaon, Haryana (INDIA)
 My Commission Expires Oct-13-2028

26 OCT 2023



Joyville

by Shapoorji Pallonji

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF JOYVILLE SHAPOORJI HOUSING PRIVATE LIMITED ("THE COMPANY") AT THEIR MEETING HELD ON MONDAY, NOVEMBER 7, 2022.

To grant authority for statutory related matters for Gurugram Project of the Company:

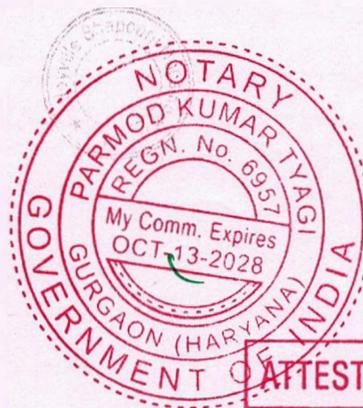
"RESOLVED THAT in supersession of earlier resolutions passed by the Board of Directors of the Company in this regard, Mr. Venkatesh Gopalakrishnan, Mr. Sriram Mahadevan - Directors of the Company, Mr. Himanshu Jani – CFO, Mr. Rana Gupta, Mr. Gourav Bhutani, Mr. Vineet Saluja, Mr. Jitesh Bonde, Mr. Sudipto Saha, Mr. Tapas Kumar Nandy, Mr. Rohan Mukherjee, and Mr. Lucky Jaiswal (hereinafter collectively referred to as "Authorized Representatives of the Company") be and are hereby severally authorized to make necessary applications, obtain any licenses, co-ordinate with all the statutory or local authorities and consultants concerned and to represent the Company before the concerned statutory or local authorities, to sign and submit necessary documents, building plans, statements, papers, etc. and do all such acts, deeds, and things as may be necessary and expedient w.r.t development of Company's property being land bearing various survey numbers, situated at Sector 102, Gurugram, Haryana.

RESOLVED FURTHER THAT the aforesaid powers granted to the Authorized Representatives of the Company shall be valid and effective unless revoked earlier by the Board and shall be exercised by them only so long as they are in association with the Company.

RESOLVED FURTHER THAT Mr. Venkatesh Gopalakrishnan and/ or Mr. Sriram Mahadevan, Directors of the Company and/ or the Chief Financial Officer or the Company Secretary of the Company, be and are hereby severally authorized to issue a certified copy of this resolution to the parties concerned or interested in the matter."

For Joyville Shapoorji Housing Private Limited

Siddhant Agarwal
Siddhant Agarwal
Company Secretary
M. No. A41137



ATTESTED TO BE TRUE COPY

Parmod Kumar Tyagi
PARMOD KUMAR TYAGI
Advocate & Notary Public
Government of India
Gurgaon, Haryana (INDIA)
My Commission Expires Oct-13-2028

Joyville Shapoorji Housing Pvt. Ltd.,

CIN U70109MH2007PTC166942

Corporate Office: Godrej Coliseum, Office No. 1201, 12th Floor, "B" Wing,

Off K. J. Somaiya Hospital Road, Everard Nagar, Sion, Mumbai - 400 022

Head Office: SP Center, 41/44, Minoo Desai Marg, Colaba, Mumbai - 400 005

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26 OCT 2023

live to grow

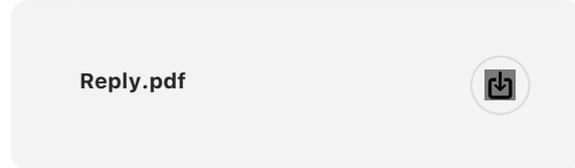


From: Pravat Pathak connect@pravartak.com 
Subject: Service of Affidavit in Reply on behalf of Respondent No.6 in OA No.444 of 2023 PARYAVARAN VIKASH SANGH Vs. STATE OF HARYANA & ORS
Date: 31 October 2023 at 10:07 AM
To: advprakashpande@gmail.com
Cc: Nilesh Gala law.in.square@gmail.com, Pravat Pathak pravartak@gmail.com

Dear Mr Prakash Pande,
Advocate for the Applicant

Greetings! We have been instructed to appear and file a reply on behalf of Respondent No.6 in the subject matter. Accordingly, I am serving upon you a copy of the Reply in the OA No.444 of 2023 pending before the Principal Bench of the Hon'ble National Green Tribunal, New Delhi. Please find the copy of the Reply attached herewith.

Thank you.



Regards,
Pravat Pathak
Advocate-on-Record,
Supreme Court of India

Delhi Office:

273, Tower 4, Supreme Enclave,
Mayur Vihar Phase -1, East Delhi,
110091

Mobile:+91 9930501343
Phone:+91 11-22794061
connect@pravartak.com

Visit Us: www.pravartakpathak.com

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