

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
O.A. NO. 420 OF 2022**

IN THE MATTER OF:

Surendra Kumar

.... APPELLANT**Versus**

State of UP & Ors.

...RESPONDENTS**INDEX**

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DATE: 01.07.2023

PLACE: New Delhi



FILED BY:

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BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL
BENCH, NEW DELHI



ORIGINAL APPLICATION NO. 420 OF 2022

IN THE MATTER OF:

SURENDRA KUMAR

.... APPLICANT

VERSUS

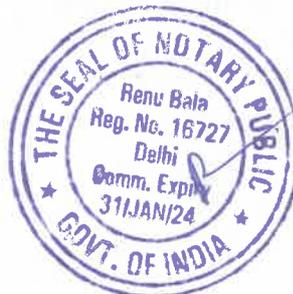
STATE OF U.P. & ORS.

....RESPONDENTS

REPLY ON BEHALF OF RESPONDENT, GURU SWEETS

I, Nishi Kant Tiwari, S/o. late Shri Chhotey Lal Tiwari, aged about 55 years, R/o. Mohalla Ther, Sambhal, Uttar Pradesh. at present at New Delhi do hereby solemnly affirm and declare as under:

1. That I am impleaded one of the Respondents in the aforesaid case, hence being well conversant with the facts and records of the present case, am competent to swear this affidavit.



2. That I have read the letter sent by the alleged Applicant which is registered as aforesaid Original Application and have understood the same fully.
3. That at the outset the facts stated in the aforesaid letter petition is base on malicious intention and the same are without any substance. It is important to mention that the alleged application has been in the name of the Applicant, who has expired on 16.04.2004 almost 19 years ago and therefore the alleged letter is based on malicious and ulterior motive so as to cause irreparable loss, injury to the answering Respondent. The photocopy of the death certificate issued by Nagar Palika Parishad, Sambhal certifying the death of Shri Surendra Kumar is being enclosed herewith and marked as **Annexure-1**.
4. That the abovesaid letter is allegedly on behalf of the bank staff of Punjab National Bank, Bank of India also and other neighbouring residents, however, their particulars regarding their names, addresses including the signatures are not on the complaint which proves that Complaint is not malafide and has been filed with an intention to achieve ulterior goal.
5. That on the basis of that alleged complaint the U.P. Pollution Control Board has issued showcause notice dated 02.09.2022 which was duly replied by the answering Respondent on 15.10.2022. Alongwith the aforesaid reply the answering Respondent has filed an affidavit of the neighbourer of Shri Surendra Kumar who stated the said Surendra Kumar has died in the month of April, 2007. True



copy of the affidavit of Shri Gaurav Kumar is being enclosed herewith and marked as **Annexure-2**.

6. That the alleged complaint is bad and based on incorrect facts. As a matter of fact the area in which the answering Respondent was operating his small sweet shop is a mixed land use consisting of various banks, factories, shops, showrooms etc. It is important to mention that the answering Respondent has been assessed by the Nagar Palika Parishad on the basis of commercial user of the property. A copy of the receipt issued by Nagar Palika Parishad, Sambhal is being marked herewith and marked as **Annexure-3**.
7. That the perusal of the Complaint itself refers to the inter college and Junior High School and approximately six numbers of bank on the road in question and one hospital which proves the fact that the area in question is a mixed land use having commercial activities in and around the same.
8. That despite giving reply to the showcause notice and explaining all the relevant fact for kind consideration of the Board, the Regional Office has imposed Environmental Compensation on the answering Respondent to the tune of Rs. 1,75,000/- for operation of the sweet shop which is highly excessive and ought not to be imposed in the facts and circumstances narrated herein above. It is humbly submitted that a direction to the effect that the imposition of aforesaid costs be directed to be revoked by the U.P.



Pollution Control Board in the facts and circumstances of the present case and in the interest of justice. True copy of the reply dated 15.10.2022 is being enclosed herewith and marked as Annexure-4.

9. That it is submitted that the complaint has been filed by a dead person and the same has been filed by anonymous taking advantage of the fact that this Hon'ble Tribunal would prejudice by bringing false and fabricated facts with relation to alleged pollution and made suffer the answering Respondent. Due to the complaint on behalf of a dead person, the answering Respondent had to suffer huge financial loss and as a consequence thereof the entire family of the answering Respondent is suffering immensely. Therefore, the complaint filed frivolously in the name of alleged person be dismissed with costs.
10. That it is pertinent to mention here that the concerned authorities in discharge of their duties have repaired and cleaned the Nala and problem of water stagnation is no longer in existence. Even the municipality is in discharge of its function regularly cleaning the entire drain and removing the garbage from the drain on regular basis.
11. That the district Sambhal has its total population of 4 lacks and the answering Respondent has been running his small sweet shop from the premises in question. There are total 4 families of the answering Respondent which are dependent on the shop and are earning their livelihood.



In view of aforesaid facts and circumstances, the petition under reply is liable to be dismissed with costs.

निशि कान्त तिवारी
DEPONENT

VERIFICATION:

I, the abovenamed deponent do hereby verify that the contents of above affidavit are true to my knowledge. No part of the same is false and nothing has been concealed therefrom.

VERIFIED ON THIS THE 24TH DAY OF JUNE, 2023 AT NEW DELHI.

निशि कान्त तिवारी
DEPONENT



ATTESTED

RENU BALA REG No. 16727
NOTARY DELHI
GOVERNMENT OF INDIA

24 JUN 2023

5



बुक संख्या
Book No.

उत्तर प्रदेश सरकार
Government of Uttar Pradesh

क्रम संख्या :
S.No. :

(जन्म मृत्यु रजिस्ट्रीकरण अधिनियम 1969 की धारा 12/17 एवं उत्तर प्रदेश जन्म मृत्यु रजिस्ट्रीकरण नियमावली 2003 के नियम 8 के अधीन जारी)

मृत्यु प्रमाण - पत्र
(Death Certificate)

प्रमाणित किया जाता है कि निम्नलिखित सूचना मृत्यु के मूल अभिलेख से ली गई है जो (स्थानीय क्षेत्र)

ग्राम/मोहल्ला... कोट पूर्वी... तहसील/वार्ड... रामलाल... जनपद... मुरादाबाद

राज्य उत्तर प्रदेश के रजिस्टर में अंकित है :-

नाम

Name

श्री सुरेन्द्र कुमार

पिता/पति का नाम

Name of Father

श्री रामलाल

लिंग

Sex

पुरुष

मृत्यु का दिनांक

Date of Death

16.4.2004

मृत्यु का स्थान

Place of Death

कोट पूर्वी

रजिस्ट्रेशन संख्या

Registration No.

267

रजिस्ट्रेशन का दिनांक

Date of Registration

29/9/2004

दिनांक :

Date :

29/9/04

स्थान :

Place :

रजिस्ट्रार जन्म-मृत्यु

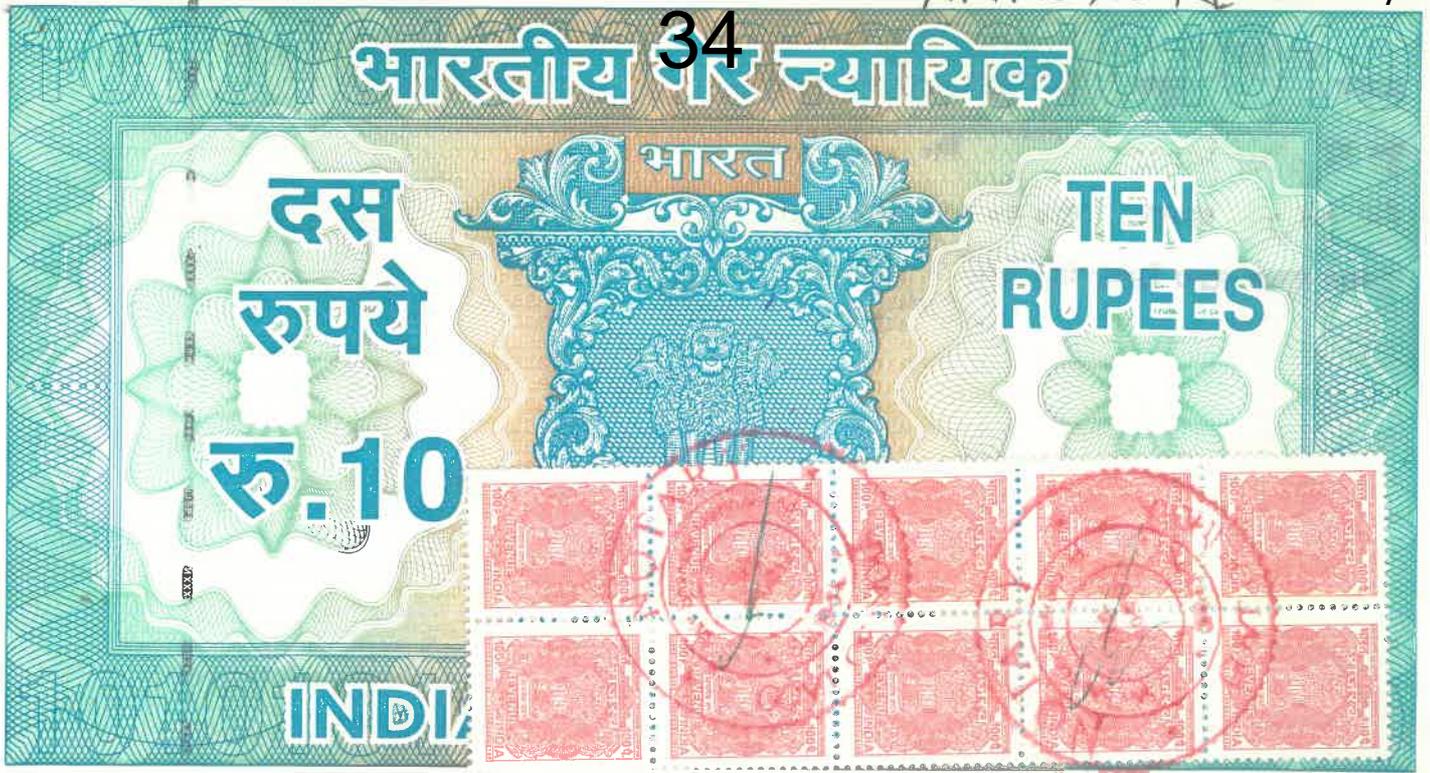
Registrar Birth & Death

मुरादाबाद

मुरादाबाद

मुहर

(Seal)



उत्तर प्रदेश UTTAR PRADESH

62AE 254914



उत्तर प्रदेश प्रदूषण नियन्त्रण बोर्ड

गोमती नगर, लखनऊ

शपथ पत्र द्वारा गौरव कुमार पुत्र ओम प्रकाश निवासी मौ0 ठेर, आर्य समाज रोड, सम्भल
शपथकर्ता शपथ निम्न कथन करता है।

1. यह कि शपथकर्ता उपरोक्त नाम व पते का स्थाई निवासी है एवं निम्न तथ्यों से भलि भॉति परिचित है।
2. यह कि सुरेन्द्र कुमार जौ मेरे पडोसी थी की मृत्यु अप्रैल 2007 को हो चुकी है और उनका परिवार सम्भल छोडकर बाहर कई वर्ष पूर्व चला गया है।
3. यह कि श्री गुरु दूध भण्डार की आर्य समाज रोड सम्भल स्थित इकाई के आसपस सुरेन्द्र नाम का और कोई व्यक्ति नहीं रहता है।
4. यह कि शपथ पत्र के समस्त पैरा शपथकर्ता के निजी ज्ञान एवं विश्वास में सच व सही है। कुछ झूठ नहीं है ना ही कुछ छिपाया गया है। ईश्वर मेरी मदद करें।

श्री गुरु शर्मा
शपथकर्ता

श्री जय कुमार
शपथकर्ता

Gaurav Kumar
शपथकर्ता

Shri Jay Kumar
शपथकर्ता

Shri Gaurav Kumar
शपथकर्ता

7

29/09/22

10

गौख उवाँ

औम हकाश

नं० 142 खानन ला० न० 135 सम्भल

दुलधप कृषाग स्टाप विक्रेता वि०

(Handwritten signature)



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समक्ष उत्तर प्रदेश प्रदूषण नियन्त्रण बोर्ड

गोमती नगर, लखनऊ

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संदर्भ सं० 1180626/सी-7/44/का०व०नो०/22 दिनांक 02.09.2022स्पष्टीकरण विरुद्ध नोटिस दिनांक 02.09.2022

महोदय

प्रार्थी निम्न निवेदन करता है:-

1. यह कि मैं गुरु स्वीट्स का जितनी मात्रा में कारोबार आपके उक्त नोटिस में दर्शाया है वह गलत है और प्रार्थी का कारोबार एक कम्पनी की परिभाषा में हरगिज नहीं आता है।
2. यह कि एक्सिस बैंक तथा पी०एन०बी० बैंक आर्य समाज रोड सम्भल, उ०प्र० के पीछे प्रार्थी का छोटी सी दूध व मिठाई की इकाई है। प्रार्थी का मुख्य व्यवसाय दूध बेचने का है जो मैसर्स गुरु दूध भण्डार के नाम से पंजीकृत है। इसके अतिरिक्त थोड़ी मात्रा में मिठाई भी तैयार की जाती है और उक्त इकाई में कुल चार कारीगर प्रतिदिन कार्य करते हैं।
3. यह कि उक्त इकाई में थोड़ी मात्रा में पानी बर्तनों आदि की सफाई में काम आता है जो इकाई के बाहर नगर पालिका परिषद सम्भल के नाले में चला जाता है। यह सरकारी नाला, कभी कभी सफाई न होने पर चोक हो जाता है। समय-समय पर नगर पालिका साफ कराती रहती है। कोई कैमिकल प्रार्थी के कारोबार में इस्तेमाल नहीं होता और दूध के बर्तनों की सफाई में विषैला पदार्थ नहीं निकलता है।

क्रमशः.....

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4. यह कि प्रार्थी की उक्त इकाई में कामर्शियल एल0जी0पी0 गैस की फर्नेस के इस्तेमाल से कोई वायु प्रदूषण नहीं होता। पहले बुड फर्नेस का इस्तेमाल किया जाता था जिसे आपके विभाग द्वारा मना करने पर बन्द करा दिया गया था।
5. यह कि उक्त आधारों पर प्रार्थी की उक्त इकाई में ऐसा कोई कार्य/कारोबार या गतिविधियां संचालित नहीं है जिसके कारण इसे बन्द किया जाए अथवा बिजली पानी आदि की सुविधायें रोकी जाए।

अतः उक्त आधारों पर उपरोक्त नोटिस वापिस लिये जाने योग्य है।

प्रार्थी

दिनांक

निशीकान्त तिवारी पुत्र छोटेलाल
नि0 मौ0 ठेर, आर्य समाज रोड
सम्भल-244 302

संलग्नक

1. रजिस्ट्रेशन मैसर्स गुरु दूध भण्डार, की छाया प्रति।
2. खाद्य करोबारी का लाईसेन्स
3. आस-पास की इकाइयों की अनापत्ति का शपथ पत्र
4. कथित शिकायतकर्ता सुरेन्द्र कुमार पूर्व में मृतक होने का शपथ पत्र।

नोट: प्रतिलिपि सूचना एवं आवश्यक कार्यवाही हेतु मुरादाबाद स्थित इकाई को प्रेषित।

RO Gm
15/11/22
क्षेत्रीय कार्यालय
उ.प्र. प्रदूषण नियंत्रण बोर्ड
1-N/1.N.S1 आवास विकास
बुद्धि विहार, मुरादाबाद

11

THE COURT OF National Green Tribunal New Delhi - 12

Suit /Appeal No./CWP OA 39 of 420 of 2022

In re: Suresh Kumar Plaintiff /Appellants/
Petitioner/ Complainant

State of UP VERSUS
Defendant/Respondent/
Accused

KNOW ALL to whom these present shall come that I/We _____
above named Mukh Kant Tiwari do hereby appoint _____ the

(herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him :

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us.

To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this 30 day of 06 2022

Identified and Accepted subject to the terms of fees.

निशिकान्त तिवारी

Advocate

Client

Client

