

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE, BENCH AT PUNE.**

I.A. No. 35/ 2026

IN Original Application No. 27/2025

NAGESH VINAYAK DHAMALE

... Applicant

VERSUS

MOEF & CC AND ORS.

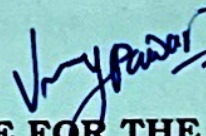
... Respondents

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PUNE

Dated: 22/06/2026


ADVOCATE FOR THE APPLICANT

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**REPLY / COUNTER AFFIDAVIT ON BEHALF OF THE
APPLICANT TO THE INTERLOCUTORY APPLICATION
35/2026 FOR RAISING PRELIMINARY OBJECTIONS
FILED BY RESPONDENT NO. 9**

MOST RESPECTFULLY SHOWETH:

1. That the present Reply is being filed by the Original Applicant in response to the Interlocutory Application filed by Respondent No. 9 (M/s Aditya Constructions) seeking dismissal of the Original Application on preliminary grounds. The contents of the I.A. no. 35/2026 are denied in toto except those specifically admitted hereinafter. The I.A. is misconceived, devoid of merit, and liable to be dismissed with costs.
2. That the Original Application raises a **substantial question relating to the environment** under **Section 2(m) read with Section 14 of the National Green Tribunal Act, 2010**, involving violations of the Environment (Protection) Act, 1986, the EIA Notification,

2006, and related environmental norms in the ongoing/expanded real estate project. The issues pertain to environmental damage, non-compliance with clearance conditions, potential impacts on ecology, and public health, which squarely fall within the Tribunal's jurisdiction.

3. It is submitted that the Hon'ble Tribunal has ample jurisdiction. A "substantial question relating to environment" includes direct violation of statutory environmental obligations or environmental consequences relating to a specific activity/point source of pollution affecting the community. The project involves construction activities that have caused or are likely to cause significant environmental harm, including issues related to Environmental Clearance (EC) compliance, which the Tribunal routinely entertains in construction and real estate matters.
4. The Applicant in the I.A. has wrongly contended that the matter is barred by delay and laches. The cause of action is **continuing** in nature due to the **ongoing nature of the project**, continued occupation, potential ongoing environmental impacts, and recent developments including the 2024 application and EC dated 23.12.2025.
 - a) In environmental matters, particularly those involving construction projects and violations of EIA/EC regimes, the NGT has consistently held that **continuing violations give rise to a continuing cause of action**. The limitation under Section 14(3) of the NGT Act (6 months, extendable by another 6 months) does not

strictly bar cases where the environmental injury is ongoing or where new facts, such as fresh ECs or expansions arise.

- b) The project has seen phased development, multiple ECs including the latest in December 2025, and alleged non-compliance over years. The environmental consequences e.g., impact on local ecology, drainage, pollution, persist and are not a one-time event from 2004-2008. The Original Applicant became aware of material violations recently, and the filing is well within the extended limitation considering the continuing nature.
 - c) Mere passage of time does not validate illegal or non-compliant construction, especially when ex-post facto clearances or violations are involved. The Hon'ble Supreme Court and NGT have emphasized that environmental violations cannot be regularized lightly, and ongoing projects remain amenable to scrutiny.
5. The allegation of suppression is false. The Original Application highlights the environmental concerns arising from the project's implementation, including any recent applications. The grant of EC on 23.12.2025 does not extinguish the cause of action if violations occurred prior or if conditions are not complied with. The Tribunal can examine compliance, past violations under the "Polluter Pays" principle, and direct remedial measures.
 6. The Original Applicant has the requisite locus standi. Under the NGT Act, any person can approach the

Tribunal for enforcement of environmental rights, especially where public interest and community harm are involved. Relaxed locus standi is a hallmark of environmental jurisprudence in India. The Applicant is directly aggrieved as a concerned citizen affected by the environmental fallout of the project.

7. That the flat holders are not necessary parties in every case before the NGT, particularly where the primary relief sought is against the project proponent and authorities for environmental violations and regulatory non-compliance. The Tribunal can grant effective relief without impleading all individual flat owners, as the project proponent bears primary responsibility. Joinder is not mandatory where complete adjudication is possible between existing parties. The I.A.'s reliance on CPC provisions is misplaced, as NGT proceedings are guided by principles of natural justice and the Act itself, not strictly by CPC.
8. The claim of no activity for 10 years is a matter of evidence to be examined at the merits stage. Even if true, it does not bar the present proceedings, as subsequent activities, expansions, and the latest EC bring the matter within scrutiny. Past quiescence does not legitimize violations or ongoing impacts.
9. Execution of sale deeds does not preclude environmental scrutiny. Purchasers cannot be presumed to waive environmental protections, and the project proponent remains liable for violations during development.

10. The Applicant prays before this Hon'ble National Green Tribunal as follows:

- A. Reject the Interlocutory Application No. 35/2026 filed by Respondent No. 9 in its entirety with cost;
- B. Hold that the Original Application is maintainable, within jurisdiction, and not barred by limitation due to continuing cause of action;
- C. Proceed with the hearing of the Original Application on merits; and
- D. Pass any other orders as this Hon'ble Tribunal deems fit in the interest of justice, equity, and environmental protection.

PUNE

Dated: 22/06/2026



[Signature]

MR. NAGESH VINAYAK DHAMALE
APPLICANT

[Signature]

ADVOCATE FOR THE APPLICANT

BEFORE ME

[Signature]
ADV. ANAND HANUMANTRAO JAWALKAR
NOTARY GOVT. OF INDIA
DIST. PUNE
REG.NO. 10403

22 JUN 2026

