

IN THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 492 OF 2022

IN THE MATTER OF :

GREEN WOOD CITY VILLA JAN WELFARE SOCIETY & ANR.

... APPLICANTS

VERSUS

GODWIN CONSTRUCTION COMPANY PVT. LTD. & ORS.

... RESPONDENTS

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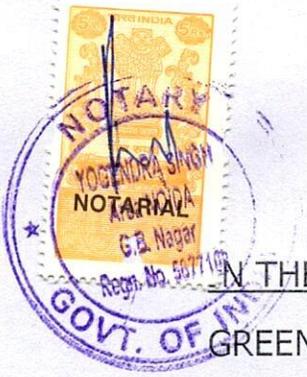
NEW DELHI  
FILED ON: 06.01.2022

Filed by:



RACHIT MITTAL  
Advocate for Respondent No. 2  
RM Law Chambers,  
MZ-24 & 25, Ansal Fortune Arcade,  
Sector -18, Noida, U.P.  
Email: office@rmlawchambers.in  
Office Phone: 0120- 4998794  
Mob.: 9873997047

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... RESPONDENTS

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2-  
MEERUT DEVELOPMENT AUTHORITY**

I, Vijay Singh S/o Shri Kharag Singh aged about 50 years working as Town Planner, Meerut Development Authority, Meerut, U.P., presently at Noida do hereby solemnly affirm and declare as under:-

1. That I, in the aforesaid capacity is well conversant with the facts and circumstances of the case derived on information from the record. Hence I am competent to swear this affidavit.
2. That I have gone through the application so preferred by the Applicant and have understood the contents thereof.
3. That at the outset I deny each and every averment contained in the application, except those which are admitted herein expressly.



*Vijay*

4. That the aforementioned application has been filed by the applicants seeking action against the Respondents in order to remove the difficulties faced by the applicants as mentioned in the application.
5. That the aforementioned matter was listed before this Hon'ble Tribunal on 08.07.2022, wherein this Hon'ble Tribunal was pleased to constitute a Joint Committee comprising of Vice Chairman, Meerut Development Authority, Commissioner, Municipal Corporation, Meerut, State PCB and District Magistrate, Meerut to furnish the factual and action taken report. A true copy of the order dated 08.07.2022 passed by this Hon'ble Tribunal is annexed and marked as "**ANNEXURE-R-2/1**".
6. That the joint committee furnished a report dated 23.11.2022 in compliance of the order dated 08.07.2022 enunciating all factual aspects. A true copy of the report of the joint committee dated 23.11.2022 is annexed and marked as "**ANNEXURE-R-2/2**".
7. That the following facts and actions taken by the answering Respondent are necessary for the adjudication of the present application:
  - (i) The layout plan of Green Wood City Colony, Meerut was approved by the answering respondent vide Map No. 28/2006. As per the said layout, the area



*Yyayl*

under residential use was sanctioned as 91,770 sq. mtrs., the area under commercial use was sanctioned as 7,608 sq. mtrs., area under educational use was sanctioned as 3,500 sq. mtrs. and rest of the area was to be used for roads/ parks and open spaces. There were certain conditions as well which were required to be fulfilled by the developer.

- (ii) As per the terms of the said layout plan, an amount of Rs. 6,57,14,000/- was to be deposited on account of External Development Charges. The developer deposited an amount of Rs. 2,62,85,600/- with the answering Respondent and for balance amount of Rs. 3,94,28,420/-, the developer sought the payment to be made in instalments. At the request, the answering Respondent divided the balance amount into three instalments, which are as under:

Date	Instalment Amount (In Rs.)
25.01.2008	1,54,95,541/-
25.05.2008	1,62,66,826/-
25.09.2008	1,55,08,504/-

- (iii) That the Developer instead of depositing the said instalments, preferred a Writ Petition being Writ Petition (M/B) No. 7787 of 2008 before the Hon'ble High Court of Judicature at Allahabad, Lucknow



*Yogendra Singh*

Bench. The Hon'ble High Court vide order dated 24.10.2008 was pleased to pass the following order, the relevant portion is reproduced hereunder:

*"Shri Prashant Chandra, Senior Advocate assisted by Shri Ram Raj as submitted that the Meerut Development Authority has erected 33 KV Electric Sub-Station which has been energized and it is also doing all types of external development and as soon as the petitioner shall make internal developments, the sewer line will be connected.*

...

*In the meantime, petitioner shall deposit Rs. 50,00,000/- on or before 15<sup>th</sup> November, 2008 and another installment of Rs. 50,00,000/- on or before 30<sup>th</sup> November, 2008. The deposits made by the petitioner shall be subject to further orders of the Court and the opposite parties shall not take any coercive action against the petitioner.*

..."

A true copy of the order dated 24.10.2008 passed by the Hon'ble High Court is annexed and marked as **"ANNEXURE-R-2/3"**.

- (iv) That the amount as per the directions aforementioned was deposited by the developer on 18.11.2008 and 10.12.2008 i.e. total Rs. 1,00,00,000/-.
- (v) That the answering Respondent vide letter dated 05.05.2018 requested the developer to deposit the balance amount of Rs. 2,94,28,420/- along with



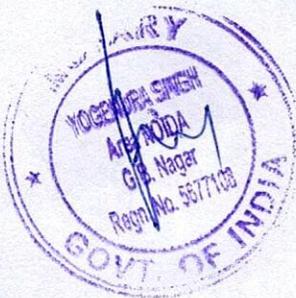
*Yogendra Singh*

interest till 14.05.2018, but the developer failed to deposit the same in the account of the answering Respondent. A true copy of the letter dated 05.05.2018 is annexed and marked as **"ANNEXURE-R-2/4"**.

(vi) That the answering Respondent vide letter dated 27.08.2018 issued a reminder to the developer to deposit the balance amount of Rs. 2,94,28,420/- along with interest till 14.05.2018, but the developer failed to deposit the same in the account of the answering Respondent. A true copy of the letter dated 27.08.2018 is annexed and marked as **"ANNEXURE-R-2/5"**.

(vii) That the answering Respondent vide letter dated 17.10.2018 directed the developer to carry out the pending internal development works and apply for completion certificate and thereafter handover the same to the Municipal Corporation, Meerut. A true copy of the letter dated 17.10.2018 is annexed and marked as **"ANNEXURE-R-2/6"**.

(viii) That on 16.11.2018, the answering Respondent directed the developer to deposit the defaulted amount, which was Rs. 17,87,02,070/- (including



*[Handwritten signature]*

interest). A true copy of the letter dated 16.11.2018 is annexed and marked as **"ANNEXURE-R-2/7"**.

- (ix) That the Writ Petition (M/B) No. 7787 of 2008 was dismissed vide detailed judgment dated 07.08.2020. A true copy of the judgment dated 07.08.2020 passed by the Hon'ble High Court in Writ Petition (M/B) No. 7787 of 2008 is annexed and marked as **"ANNEXURE-R-2/8"**.
- (x) That the answering Respondent after dismissal of the Writ Petition again issued a reminder letter dated 07.09.2020 requiring the developer to deposit defaulted amount along with interest. A true copy of the letter dated 07.09.2020 is annexed and marked as **"ANNEXURE-R-2/9"**.
- (xi) That the answering Respondent issued a final reminder letter dated 19.09.2020 requiring the developer to deposit defaulted amount along with interest. A true copy of the letter dated 19.09.2020 is annexed and marked as **"ANNEXURE-R-2/10"**.
- (xii) That the answering Respondent vide its letter dated 28.12.2021 requested the District Magistrate, Meerut, to recover the outstanding amount from the developer. A true copy of letter dated 28.12.2021 issued by the answering Respondent to the District



*Yogendra Singh*

Magistrate is annexed and marked as "**ANNEXURE-R-2/11**".

(xiii) Since there was a typographical error in the subject line of letter dated 28.12.2021, the answering Respondent vide its letter dated 18.02.2022 requested the District Magistrate, Meerut clarified the amount to be recovered from the developer and requested to recover the outstanding amount from the developer. A true copy of letter dated 18.02.2022 issued by the answering Respondent to the District Magistrate is annexed and marked as "**ANNEXURE-R-2/12**".

8. It is submitted that the answering respondent has always been vigilant in exercising its duties and fulfilling its responsibilities with due care and consciousness at all times and also has been complying with the orders/directions passed by this Hon'ble Tribunal from time to time. In the present case, the default is on the part of the developer. The answering Respondent assures this Hon'ble Tribunal that as soon as the developer fulfills all the requisite formalities as per the norms of the answering Respondent, the necessary actions would be taken by the answering Respondent on prompt and immediate basis.



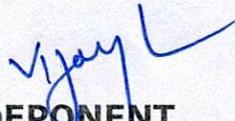
*Yogendra Singh*

*Yogendra Singh*  
DERONENT

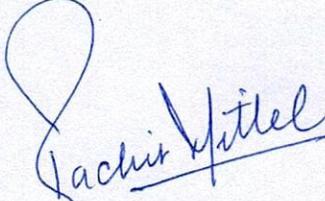
**VERIFICATION:-**

The contents of the above reply affidavit from paragraph 1 to 8 are true and correct as per the official records. Nothing is wrong therein and nothing material has been concealed there from.

Verified at Noida today on this 06<sup>th</sup> day of January, 2023

  
**DEPONENT**

Through

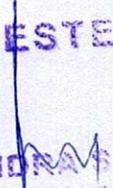


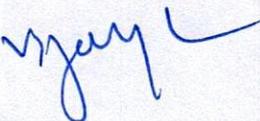
**(RACHIT MITTAL)**

Advocate for Respondent No. 2  
Meerut Development Authority  
MZ-24 & 25, Ansal Fortune Arcade,  
Sector 18, Noida- 201 301  
Uttar Pradesh  
Mob.: +91 9873997047  
Email: office@rmlawchambers.in



**ATTESTED**

  
**YOGENDRA SINGH  
NOTARY NOIDA  
G.B. Nagar (U.P.) INDIA**



**06 JAN. 2023**

**ANNEXURE-R-2/1**

Item No.4

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH**Original Application No. 492/2022  
(By Video Conferencing)Green Wood City Villa Jan Welfare  
Society & Anr

Applicant

Versus

Godwin Construction Company  
Pvt. Ltd. & Ors.

Respondent

Date of hearing: 08.07.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER****ORDER**

1. The Green Wood City Villa Jan Welfare Society and Green Wood City Residents Welfare Society have filed the present application complaining that the Project Proponent-M/s Godwin Construction Company Pvt. Ltd., Meerut constructed about 1200 units of multi 10 storied duplex, 2BHK, 3BHK and about 87 villas. As per the construction plan dated 22.09.2007 passed by Meerut Development Authority (MDA), the Project Proponent was directed to carry out internal development within three years and to hand over the colony to the Municipal Corporation, Meerut and to make arrangement for sewerage, street lights, water supply, drainage, solid waste and to obtain completion certificate from MDA. The Project Proponent has raised construction in violation of lay out plan and did not complete internal works as directed. The Project Proponent is not connecting sewer line to the sewerage pipeline near Green Wood City laid by MDA. The sewerage

is being collected in pond and is being disposed of in open nala. Pits/mainholes of sewer line are overflowing. No drainage has been constructed in the colony. Roads are not maintained properly and patch work is done after rains every year. There is water logging at 5-6 places and on roads also. The solid waste is being collected in open space of premises of Green Wood City Colony which emits foul smell and pollutes the environment causing risk of infectious diseases dangerous to life. The Project Proponent has encroached upon 60 feet wide road meant for residents of the Society and has also closed the main entrance from Bagpath road by dumping the solid and other waste of his Godwin hotel and the residents are thereby compelled to enter into the colony through exit gate by commuting on wrong side of the road. MDA, Meerut had imposed developmental charges amounting to Rs. 2,61,84,771/- on the Project Proponent who filed Writ Petition, Misc Bench No. 7787 of 2008 titled as M/s. Godwin Construction Pvt. Ltd. V.s. State of U.P before the Hon'ble High Court of Allahabad. Initially the recovery was stayed but vide order dated 07.08.2022 Writ Petition was dismissed and interim stay order was vacated. The Project Proponent is not discharging his obligations under environmental laws of completing sewage system and solid waste management.

2. In view of the serious allegations made in the present application, it would be appropriate to have a factual and action taken report in the matter. Accordingly, we constitute a Joint Committee comprising of Vice Chairman, Meerut Development Authority, Commissioner, Municipal Corporation, Meerut, State PCB and District Magistrate, Meerut. The State PCB will be the Nodal agency for coordination and compliance.

3. The Joint Committee may meet within four weeks, undertake site visits, look into the grievances of the applicants, verify the facts and take remedial action by following due process of law for ensuring compliance of environmental norms for urban development and compliance of Solid Waste Management Rules 2016 for solid waste management. Factual and action taken report may be furnished within two months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.
4. Notices be also issued to the respondents no 1 to 4 requiring them to file replies specifically responding to all material averments made in the application within two months.
5. The applicant is directed to take requisite steps for service of notices on the respondents and file affidavit regarding the same by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) within seven days.
6. List the matter for further consideration on 26.09.2022.
7. A copy of this order, along with a copy of the application, be forwarded to Vice Chairman, Meerut Development Authority, Commissioner, Municipal Corporation, Meerut, State PCB and District Magistrate, Meerut the by e-mail for compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

July 8, 2022  
Original Application No. 492/2022  
AG

**OA NO 492/2022 TITLED BY GREEN WOOD CITY VILLA JAN WELFARE SOCIETY & ANR VERSUS  
GODWIN CONSTRUCTION COMPANY PVT. LTD. & ORS**

To,  
The Registrar(General),  
National Green Tribunal  
Principal bench  
New Delhi

No. 1271/OA-492/2022

Date 23/11/22

Subject : **In compliance of order dated 08-07-2022 passed by NGT on OA No 492/2022 titled  
by Green Wood City Villa Jan Welfare Society & Anr Versus Godwin Construction Company  
Pvt. Ltd. & Ors.**

Sir,

In the above noted case Hon'ble Tribunal has directed that

".....2. In view of the serious allegations made in the present application, it would be appropriate to have a factual and action taken report in the matter. Accordingly, we constitute a Joint Committee comprising of Vice Chairman, Meerut Development Authority, Commissioner, Municipal Corporation, Meerut, State PCB and District Magistrate, Meerut. The State PCB will be the Nodal agency for coordination and compliance.

3. The Joint Committee may meet within four weeks, undertake site visits, look into the grievances of the applicants, verify the facts and take remedial action by following due process of law for ensuring compliance of environmental norms for urban development and compliance of Solid Waste Management Rules 2016 for solid waste management. Factual and action taken report may be furnished within two months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

4. Notices be also issued to the respondents no 1 to 4 requiring them to file replies specifically responding to all material averments made in the application within two months....."

In compliance of the above order, the following officials from the offices of District Magistrate, Meerut, Meerut Development Authority, Meerut, Municipal Corporation, Meerut and UP Pollution Control Board, Meerut inspected the place mentioned in the order on dated 08-07-2022.

- |                      |   |  |
|----------------------|---|--|
| 1. Suraj Patel       | - | SDM, Meerut  |
| 2. Satendra Kumar    | - | Revenue Inspector Tehsil, Meerut                     |
| 3. Arun Kumar Sharma | - | Executive Engineer, MDA, Meerut                      |
| 4. Vijay Kumar Singh | - | Town Planer, MDA, Meerut                             |
| 5. Inder Vijay       | - | Assistant Commissioner Municipal Corporation, Meerut |
| 6. Prakhar Kumar     | - | AEE, UP Pollution Control Board, Meerut              |

The Joint committee inspected the alleged Township site on dated 08-08-2022. The observations of joint committee is as below:-

1. The work of sewer line and manhole has been done. It was informed by the representatives of the developer and the residents of the colony at the site that earlier the disposal of sewerage was being done in a pit near the plot number P-15 located under the approved plan map and was being done in a drain outside the colony. Which has not been closed by plugging and at present sewer was found collected in the pit. While the service plan presented at the time of approval of the map shows the disposal of sewerage by constructing two common septic tanks. At present, the disposal of sewerage is being done by connecting to the trunk sewer line built by the authority through a pressure pipe of 4 inch dia, which does not seem to be technically suitable, due to which the sewer line and main hole were found full.
2. Construction/development work of drain and drainage system has not been done.
3. The internal roads at the site are damaged, out of which repair/patchwork work has been done on some of the roads.

**OA NO 492/2022 TITLED BY GREEN WOOD CITY VILLA JAN WELFARE SOCIETY & ANR VERSUS  
GODWIN CONSTRUCTION COMPANY PVT. LTD. & ORS**

4. The solid waste/waste is being collected at the site, which is covered with tin shed. Collection of Garbage of Private Colony is not being done by Municipal Corporation, Due to non-regular collection of garbage of private colonies, it is not possible for the Municipal Corporation to pick up the garbage regularly.
5. In the sanctioned map, the approach road for the colony has been shown from two sides, in which one main 24 m wide approach road is shown from 76m wide bypass road and the other 18 m wide approach road is shown from 76m wide Baghpat road. The 18 m wide approach road from Baghpat Road at the site is closed by gate. This gate is situated at back side of Godwin Hotel.

As per record submitted by MDA, Meerut that Talpat Map No.-28/06 dated 26.09.2007 of Green Wood City Colony by the developer Godwin Construction Company Pvt. In which 91770.00 square meters for residential use and 7608.00 square meters for commercial and 3500.00 square meters for educational use, the remaining area for roads / parks and open areas are approved.

According to the terms of map approval, the developer was to complete all the internal development work of the colony within three years and after obtaining the completion certificate from the authority, the colony was to be transferred to the Municipal Corporation, Meerut, until the colony was transferred by the developer to the Municipal Corporation, Meerut. is not done, Till then, the responsibility of the internal development works/maintenance of the infrastructure facilities has been mentioned on the condition of the developer himself (**photocopy attached, Annexure-1**) and the agreement has also been executed by the developer with the authority regarding the above. (**Photocopy attached, Annexure-2**).

But till now the developer Completion certificate has not been obtained from the Authority after completing all the internal development work of the colony, nor has the colony been transferred to Municipal Corporation, Meerut.

Inspection report of Joint committee is being **annexed as annexure-3**. Photographs at the time of inspection are **annexed as Annexure-4**.

As per the above site inspection reports are presented for perusal and necessary action.

With regards,

Enclosure : Joint committee Report attached.

Your's faithfully,



(Vijay)  
Regional Officer,  
Meerut

Copy : District magistrate, Meerut for information and necessary action.

  
Regional Officer

**OA NO 492/2022 TITLED BY GREEN WOOD CITY VILLA JAN WELFARE SOCIETY & ANR VERSUS  
GODWIN CONSTRUCTION COMPANY PVT. LTD. & ORS**

नियमों के अन्तर्गत नगरीय विकास एवं सोलिड वेस्ट मैनेजमेंट रूल्स 2016 के प्राविधानों अनुसार कार्यवाही पूर्ण कर दो माह के अन्दर वास्तविक कार्यवाही रिपोर्ट प्रस्तुत किये जाने व निर्देश दिये गये हैं।

आवेदनकर्ता द्वारा उल्लेखित बिन्दुओं के सम्बन्ध में संयुक्त समिति द्वारा ग्रीन वुड सिटी विला जन वेलफेयर सोसाईटी के प्रतिनिधियों के साथ स्थल पर गहनता से परीक्षण/निरीक्षण दिनांक 08.08.2022 को किया गया, जिसका विवरण निम्नवत है:-

- सीवर लाईन व मेन हॉल का कार्य किया गया है। स्थल पर विकासकर्ता के प्रतिनिधियों एवं कालोनी के निवासियों द्वारा अवगत कराया गया कि पूर्व में सीवरेज का डिस्पोजल स्वीकृत तलपट मानचित्र के अन्तर्गत स्थित भूखण्ड संख्या-पी-15 के निकट एक गडढे में एकत्रित कर कालोनी के बाहर नाले में किया जा रहा था, जिसे प्लग कर बन्द नहीं किया गया है तथा वर्तमान में भी गडढे में सीवर एकत्रित पाया गया। जबकि मानचित्र स्वीकृति के समय प्रस्तुत सर्विस प्लान में सीवरेज का डिस्पोजल दो कॉमन सैप्टिक टैंक का निर्माण कर किया जाना दर्शाया गया है। वर्तमान में सीवरेज का डिस्पोजल प्राधिकरण द्वारा निर्मित ट्रंक सीवर लाईन में 4 इंच डायामेटर के प्रेशर पाईप के माध्यम से कनेक्ट करते हुए किया जा रहा है, जोकि तकनीकी रूप से उपयुक्त प्रतीत नहीं होता है, जिसके कारण सीवर लाईन व मेन हॉल पूरे भरे हुए पाये गये।
- ड्रेन व ड्रेनेज सिस्टम का निर्माण/विकास कार्य नहीं किया गया है।
- स्थल पर आन्तरिक सड़के क्षतिग्रस्त हैं, जिनमें से कुछ सड़कों पर मरम्मत/पेचवर्क का कार्य कराया गया है। सड़क, ओपन स्पेस में वर्षा ऋतु के जल का भराव कुछ जगहों पर पाया गया है।
- स्थल पर सोलिड वेस्ट/कूड़ा ओपन एरिया में एकत्रित किया जा रहा है, जिसे टीन शैड के माध्यम से कवर किया गया है। कालोनी का कूड़ा नगर-निगम, मेरठ द्वारा प्राइवेट कालोनी का कूड़ा नियमतः न उठाये जाने के कारण नगर-निगम द्वारा कूड़े का उठान किया जाना सम्भव नहीं है।
- स्वीकृत मानचित्र में कालोनी हेतु पहुँच मार्ग दो ओर से दर्शायी गयी है, जिसमें एक मुख्य 24 मी० पहुँच मार्ग 76 मी० चौड़े बाईपास रोड एवं दूसरी 18 मी० चौड़ी पहुँच मार्ग 76 मी० चौड़े बागपत रोड से दर्शाया गया है। स्थल पर बागपत रोड से 18 मी० चौड़े पहुँच मार्ग को गेट लगाकर बन्द किया गया है, जोकि गोडविन होटल के पीछे की ओर है।
- निरीक्षण के समय के फोटोग्राफ्स संलग्न हैं। (संलग्नक-1)

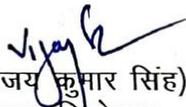
विकासकर्ता गोडविन कंसट्रक्शन कम्पनी प्रा०लि० द्वारा ग्रीन वुड सिटी कालोनी का तलपट मानचित्र संख्या-28/06 दिनांक 26.09.2007 (कुल क्षेत्रफल 19.36 हैक्टेयर जिसमें ग्रीन बैल्ट 26000.00 वर्ग मी० मास्टर प्लान सड़क चौड़ीकरण 3375.00 वर्ग मी० को घटाते हुए अवशेष नेट क्षेत्रफल 16.42 हैक्टेयर है, जिसमें आवासीय उपयोग हेतु 91770.00 वर्ग मी० एवं व्यवसायिक हेतु 7608.00 वर्ग मी० एवं शैक्षिक उपयोग हेतु 3500.00 वर्ग मी० अवशेष क्षेत्र सड़कों/पार्कों एवं खुले क्षेत्र हेतु स्वीकृत है।

मानचित्र स्वीकृति की शर्तों के अनुसार विकासकर्ता को कालोनी के समस्त आन्तरिक विकास कार्य तीन वर्ष के अन्दर पूर्ण कर प्राधिकरण से पूर्णता प्रमाण पत्र प्राप्त करते हुए कालोनी नगर निगम, मेरठ को हस्तांतरित की जानी थी, जब तक विकासकर्ता द्वारा कालोनी नगर निगम, मेरठ को हस्तांतरित नहीं की जाती, तब तक आन्तरिक विकास कार्यों/अवस्थापना सुविधाओं के रख-रखाव का उत्तरदायित्व स्वयं विकासकर्ता का होने की शर्त अंकित की गयी है (छायाप्रति संलग्न, संलग्नक-2) तथा विकासकर्ता द्वारा उक्त के सम्बन्ध में प्राधिकरण से अनुबन्ध भी निष्पादित किया गया है। (छायाप्रति संलग्न, संलग्नक-3) किन्तु अभी तक विकासकर्ता द्वारा

**OA NO 492/2022 TITLED BY GREEN WOOD CITY VILLA JAN WELFARE SOCIETY & ANR VERSUS  
GODWIN CONSTRUCTION COMPANY PVT. LTD. & ORS**

कालोनी के समस्त आन्तरिक विकास कार्य पूर्ण कर प्राधिकरण से पूर्णता प्रमाण पत्र प्राप्त नहीं किया गया है तथा न ही कालोनी नगर निगम, मेरठ को हस्तांतरित की गयी है।

उपरोक्तानुसार स्थल निरीक्षण आख्या अवलोकनार्थ एवं आवश्यक कार्यवाही हेतु प्रस्तुत हैं।

  
(विजय कुमार सिंह)  
नगर नियोजक,  
मेरठ विकास प्राधिकरण,  
मेरठ

  
(अरुण कुमार शर्मा)  
अधिशाली अभियन्ता  
मेरठ विकास प्राधिकरण,  
मेरठ

  
(सतेन्द्र कुमार)  
प्रभारी राजस्व निरीक्षक,  
तहसील मेरठ

  
(प्रखर कुमार)  
सहायक पर्यावरण अभियन्ता  
उ०प्र० प्रदूषण नियंत्रण बोर्ड  
मेरठ

  
(इन्द्र विजय)  
सहायक नगर आयुक्त  
नगर-निगम  
मेरठ

  
(सूरज पटेल)  
उप जिलाधिकारी / ज्वाइंट मजिस्ट्रेट  
मेरठ

T-2008 19:07

P. 01

Case No. 7787/08 (A/B)  
M/S Godwin Cons. Pvt. Ltd.  
State of VS - U.P. & Ors

Hon'ble U.K. Dhaon  
Hon'ble Dr. Satish Chandra

Supplementary counter-affidavit filed on behalf of opposite parties no. 2 and 3 is taken on record.

Sri Prashant Chandra, Senior Advocate, assisted by Sri Rami Raj has submitted that the Meerut Development Authority has erected 33 KV Electric Sub-Station which has been energised and it is also doing all types of external development and as soon as the petitioner shall make internal developments, the sewer line will be connected.

Learned counsel for the petitioner prays for and is granted two weeks' time to file supplementary rejoinder-affidavit.

List this petition on 4<sup>th</sup> December, 2008

In the meantime, the petitioner shall deposit Rs. 50,00,000/- on or before 15<sup>th</sup> November, 2008 and another instalment of Rs. 50,00,000/- on or before 30<sup>th</sup> November, 2008. The deposits made by the petitioner shall be subject to further orders of the Court and the opposite-parties shall not take any coercive action against the petitioner.

The opposite-parties no. 1 to 3 shall file a detailed parwise counter-affidavit to the writ petition.

24.10.2008

VB/

WP 7787(MB)/2008

TRUE COPY

*[Signature]*  
25/10/08  
Section Officer  
Copying Department  
(Pending)  
High Court Lucknow Bench  
Lucknow

Sd/- U.K. Dhaon  
Sd/- Dr. Satish Chandra  
Dt- 24.10.08

*[Handwritten notes]*  
25.10.08  
(K. Chandra)

*[Handwritten notes]*  
25/10/08

मेरठ विकास प्राधिकरण, मेरठ।

पत्रांक: 1042/18 / मा0 अनु0 को0 18 दिनांक : 05/5/18

सेवा में,

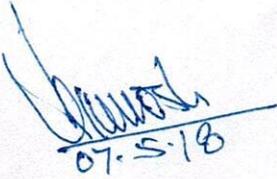
मै0 गॉडविन कन्स0 प्रा0 लि0,  
मु0क0-सीएमसी, 38, छिपी टेंक,  
मेरठ-250001

विषय :- स्वीकृत तलपट मानचित्र संख्या-28/06 के सापेक्ष वाह्य विकास शुल्क के मद में अवशेष धनराशि ब्याज सहित जमा कराने के सम्बन्ध में।

महोदय,

उपरोक्त विषयक तलपट मानचित्र संख्या-28/06 के सम्बन्ध में अवगत कराना है कि आपको वाह्य विकास शुल्क के मद में रू0-3,94,28,420.00 जमा कराने थे, किन्तु आपके द्वारा मात्र रू0-1,00,00,000.00 (रू0-50,00,000.00 दिनांक 18.11.2008 व रू0-50,00,000.00 दिनांक 10.12.08) जमा कराये गये है।

अतः अवशेष धनराशि रू0-2,94,28,420.00 देय दण्ड ब्याज के साथ दिनांक 14.05.2018 तक प्राधिकरण कोष में जमा कराने का कष्ट करें।

  
07.5.18

Gkawahis  
05/05/18

प्रभारी मानचित्र,  
मेरठ विकास प्राधिकरण,  
OIC मेरठ।  


मेरठ

विकास

प्राधिकरण,

मेरठ।

पत्रांक: 60/18 / मान0अनु0जोनसी 18

दिनांक : 27/8/18

5/3

सेवा में,

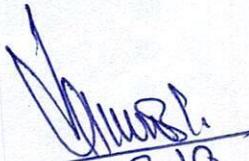
मै0 गॉडविन कन्स0 प्रा0 लि0,  
मु0क0-सीएमसी, 38, छिपी टेंक,  
मेरठ-250001

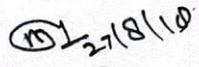
विषय :- स्वीकृत तलपट मानचित्र संख्या-28/06 के सापेक्ष वाह्य विकास शुल्क के मद में अवशेष धनराशि ब्याज सहित जमा कराने के सम्बन्ध में।

महोदय,

उपर्युक्त विषयक तलपट मानचित्र संख्या-28/06 के सम्बन्ध में अवगत कराना है कि आपको वाह्य विकास शुल्क के मद में रू0-3,94,28,420.00 जमा कराने थे, किन्तु आपके द्वारा मात्र रू0-1,00,00,000.00 (रू0-50,00,000.00 दिनांक 18.11.2008 व रू0-50,00,000.00 दिनांक 10.12.08) जमा कराये गये है, जिसके सम्बन्ध में आपको पत्रांक 1042/18/मान0अनु0/जोन सी/18 दिनांक 05.05.2018 के माध्यम से भी सूचित किया जा चुका है।

अतः अवशेष धनराशि रू0-2,94,28,420.00 देय दण्ड ब्याज के साथ दिनांक 10/9/18 तक प्राधिकरण कोष में जमा कराने का कष्ट करें, अन्यथा भू-राजस्व के रूप में वसूली की कार्यवाही की जायेगी।

  
27.8.18

  
प्रभारी मानचित्र,  
मेरठ विकास प्राधिकरण,  
मेरठ 2/18

मेरठ विकास प्राधिकरण, मेरठ।

पत्रांक: 504/18/मानवसु/जोन सी/18

दिनांक: 17/10/18

सेवा में,

मै0 गॉडविन कन्स0 प्रा0 लि0,  
मुख्य कार्यालय-सीएमसी-38, छिपी टैंक,  
मेरठ।

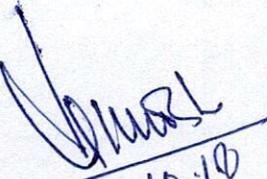
विषय :- आन्तरिक विकास कार्यों के अवशेष कार्य पूर्ण किये जाने एवं पूर्णता प्रमाण पत्र प्राप्त किये जाने के सम्बन्ध में।

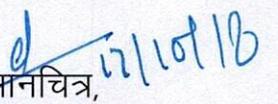
महोदय,

कृपया आपके द्वारा स्वीकृत करायी गयी एवं विकसित की जा रही कालोनी ग्रीन बुड सिटी (स्वीकृत तलपट मानचित्र संख्या-28/06) के आन्तरिक विकास कार्यों के सम्बन्ध में शिकायत प्राप्त हुयी है कि कालोनी में आन्तरिक विकास कार्य पूर्ण नहीं किये गये है, एस.टी.पी. का निर्माण नहीं किया गया है, कालोनी का सीवरेज सीधे नाले में गिराया जा रहा है तथा आपके द्वारा पूर्णता प्रमाण पत्र भी प्राप्त नहीं किया गया है। इस सम्बन्ध में पूर्व में भी पत्रांक 28/06/मान0अनु0/जोन सी/18 दि0-18.05.2018 के माध्यम से सूचित किया गया था। किन्तु आपके द्वारा इस सम्बन्ध में कोई कार्य नहीं कराया गया और न ही पूर्णता प्रमाण पत्र प्राप्त किया गया।

उपरोक्त के दृष्टिगत आपको निर्देशित किया जाता है कि स्वीकृत मानचित्र तथा आवंटियों एवं निवासियों को दिये गये आश्वासन के अनुरूप समस्त विकास कार्यों को पूर्ण रूप से विकसित सुदृढीकरण कराते हुए पूर्णता प्रमाण पत्र प्राप्त करने हेतु कार्यवाही करें एवं कालोनी को नगर निगम को भी हस्तांतरित करें।

अतः उपरोक्तानुसार आदेश पर उदासीनता न बरती जाये तथा आदेश का कडाई से अनुपालन कराना सुनिश्चित करें। आदेश का अनुपालन न होने की दशा में समस्त उत्तरदायित्व आपका होगा।

  
17-10-18

प्रभारी मानचित्र,  
मेरठ विकास प्राधिकरण,  
मेरठ।  
  
17/10/18

मेरठ विकास प्राधिकरण, मेरठ।

पत्रांक: 680/18 / मठ अग्रणी योजना 18 दिनांक : 16/11/18

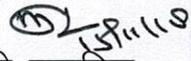
सेवा में,

मै० गॉडविन कन्स० प्रा० लि०,  
सीएमएस, 38, छिपी टैंक,  
मेरठ।

विषय :- स्वीकृत तलपट मानचित्र संख्या-28/06 के सापेक्ष वाह्य विकास शुल्क के मद में अवशेष धनराशि ब्याज सहित जमा कराने के सम्बन्ध में।

महोदय,

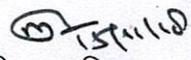
कृपया उपरोक्त विषयक तलपट मानचित्र पत्रावली संख्या-28/06 ग्रीनवुड सिटी के सम्बन्ध में अवगत कराना है कि अवशेष वाह्य विकास शुल्क के मद में आंगणित ब्याज सहित कुल धनराशि रू०-17,87,02,070.00 प्राधिकरण कोष में दिनांक 05.12.2018 तक जमा करने का कष्ट करें। अन्यथा उक्त धनराशि भू-राजस्व के बकाये के रूप में वसूल की जायेगी, जिसकी समस्त जिम्मेदारी आपकी होगी।

  
प्रभारी मानचित्र,  
मेरठ विकास प्राधिकरण,  
मेरठ।

प्रतिलिपि :-

1. उपाध्यक्ष महोदय को सादर अवलोकनार्थ।
2. सचिव महोदय को सादर अवलोकनार्थ।

16/11/18  
भा/म  
डा. 16/11/18

  
प्रभारी मानचित्र,  
मेरठ विकास प्राधिकरण,  
मेरठ।

**ANNEXURE-R-2/8****AFR****Reserved On:- 05.02.2020****Pronounced On:- 07.08.2020****Court No.-15****Case :- MISC. BENCH No.-7787 of 2008****Petitioner :- M/S Godwin Construction Pvt. Ltd. Thru M.D.****{Civil}****Respondent :- State Of U.P. Thru Prin. Secy. Housing & 2 Ors.****Counsel for Petitioner :- Dipak Seth, I.P. Singh****Counsel for Respondent :- C.S.C., Ram Raj****Hon'ble Ved Prakash Vaish, J.****Hon'ble Narendra Kumar Johari, J.****(Delivered by Hon'ble Ved Prakash Vaish, J.)**

1. By way of the present petition, the petitioner seeks quashing of the impugned order of recovery dated 19<sup>th</sup> July, 2008 passed by respondent No.2, whereby the respondent No.2 directed the petitioner to deposit external development charges amounting to Rs.2,61,84,771.00/- till 31<sup>st</sup> July, 2008 at the rate of Rs.400/- per square meter. The petitioner also seeks quashing of the order dated 30<sup>th</sup> September, 2007 and Resolution dated 3<sup>rd</sup> June, 2006; and for a direction to the respondents to approve the project Talpat Manchitra of Greenwood City ignoring the Resolution dated 3<sup>rd</sup> June, 2006.

2. Briefly, the facts as stated in the petition are that the petitioner preferred an application under Section 14 of the Uttar Pradesh Urban

Planning and Development Act, 1973 (hereinafter referred to as 'the said Act') regarding approval of their project, namely, Talpat Manchitra of Greenwood City situated at By-pass Chauraha, Bagpat Road, Meerut. The respondent No.2 informed the petitioner that Talpat Manchitra/ Maps relating to the plots of Greenwood City had been approved with certain conditions as mentioned in their letter dated 26<sup>th</sup> September, 2007.

3. It is stated that before 1997, there was no provision under the said Act for the imposition of any development fee and only provision for collection and levy cess under the said Act was Section 33, under which the Authority has to provide an amenity and carry out development, and thereafter to recover the cost of the same from the owner. It is also stated that Section 35 of the said Act provides that if under the opinion of the Authority as a consequence to any development scheme having been executed by the Authority in any development area, the value of any property in that area, which has been benefited by the development has increased or will increase, the Authority was entitled to levy upon the owner of the property a betterment charge in respect of increase of the value of the property resulting from the execution of the development.

4. It is further stated that in the year 1997 vide U.P. Act No.3 of 1997, the said Act, was amended by inserting new Section as 2 (ggg), 15 (2A) and proviso 3 to Section 15 (3). Section 2 (ggg) defines the term 'Development fee'. While referring to Section 15 (2A) of the said Act which has been inserted by U.P. Act No.3 of 1997, as Section 3, providing that the Authority shall be entitled to levy development fees, mutation charges, staking fees, and water fees in such manner and at such rates as may be prescribed, it is stated that in the absence of any prescribed Rules, Regulations or bye laws the Authority cannot impose any development fees. Since no Rules, Regulations or bye laws have been framed by the State Government or the Meerut Development Authority, Meerut (hereinafter referred to as 'MDA') till date, therefore, the levy of development fees is illegal.

5. It is further stated that the State Government exercises the power of supervision and control over the Authority under the provisions of Section 41 of the said Act, 1973. Therefore, the power to prescribe development fees can only be exercised by the State Government through its rule making power and not by the Development Authority by its Regulation of bye laws making power and if the above interpretation is not agreed to them it will result in a serious abuse and misuse of powers and perpetuation of fraud on statute.

6. Relying on the decision of the Division Bench of this Court in the case of '**Virendra Kumar Tyagi vs. GDA**', reported in 2006 (62) A.L.R. 106, wherein while interpreting the provisions of Section 15 (2A), Section 41, Section 57 of the Uttar Pradesh Urban Planning and Development Act read with Section 4 (33a) of the U.P. General Clauses Act, 1904, this Court has come to the conclusion that the word 'Prescribed' means prescribed by the rules under the Act and if no such rules have been framed no charge under Section 15(2A) can be levied, learned counsel for the petitioner contended that in the present case also since no rules have been framed for charging development fees; therefore, any charge and development fees by respondent No.2, i.e., the MDA is illegal.

7. It is also stated that Section 2(ggg) of the said Act, 1973 clearly shows that the development fees can only be imposed by the construction of five things i.e., (i) road, (ii) drainage, (iii) sewer line, (iv) electric supply and (v) water supply lines. It is contended that exercising the powers under Section 41(1) of the said Act, 1973, the State Government vide Government Order No.3157/9-Aa-1-1998 dated 19<sup>th</sup> August, 1998 directed all the Development Authorities that fee received from the lay out plan shall be used for the development to be done in the same colony for the services like drainage, road, sewer line, electric and water supply for the development area outside the scheme of Development Authority.

8. It is further stated that a perusal of the aforesaid Government Order No.3157/9-Aa-1-1998 dated 19<sup>th</sup> August, 1998 clearly shows that the development fees can be recovered only for the purpose of the colony for which the development fees has been recovered and not for any other colony or any other place. It is contended that the development charges can be claimed only as a fees for the services rendered and not as a tax, and therefore, for the said development charges the Development Authority is bound to provide services to the same colony or the plot for which the development charges are being taken and if the said colony or the plot alone is not benefited by the said development charges received from them then it shall become a tax which is not permissible under the eyes of law.

9. It is also stated that up to the month of June, 2006, the respondent No.2, was charging development fees at a flat rate of Rs.125/- per square meter of the plotted area of a particular colony which was also arbitrary in as much as the fee cannot be charged on ad valorem basis. On 03<sup>rd</sup> June, 2006, the Vice Chairman of MDA wrote a note to the Chairman, MDA/ Commissioner Meerut Divison, Meerut informing him that the development fees of Rs.125/- per square meter for residential plots and Rs.150/- per square meter for commercial plots, which was fixed by the MDA in its meeting dated 26<sup>th</sup> March, 2003 vide Resolution No.7 was not sufficient. According to the Vice Chairman in the 74<sup>th</sup> meeting of the MDA in item No.4 it was proposed that the development fees be taken at the rate of Rs.400/- per square meter for whole area of the land, but the proceedings of the said minutes are not available and, therefore, sought approval to impose Rs.400/- per square meter for whole of the plan area as the external development charges. On the same day, the Chairman, MDA signed the proposal and since then the MDA has illegally and in an unauthorized manner started claiming external development charges on the whole land area of the colony at the rate of Rs.400/- per square meter.

**10.** It is further stated by the petitioner that whenever a development submits a lay out plan for approval of the colony then almost 50 percent area of the land on which he intends to develop a colony, is utilized for the purpose of road, parks, community service areas and other amenities and only 50 percent of the land area is used for the purpose of plotting or construction of the houses. As such the effect of the said noting of the Vice Chairman and its approval by respondent No.3 means to almost 6½ time increase in the extra development charges since the extra development charges of the colony if calculated at the rate of Rs.400/- per square meter for whole area of the land shall come out to be almost Rs.800/- per square meter of the plotted area.

**11.** The petitioner further stated that the aforesaid proposal was kept in the board meeting dated 29<sup>th</sup> June, 2006 of the MDA as item No.13 but the same was not approved by the MDA. Therefore, the increase in the extra development charges could not be given effect in any manner. As per Section 2 (dd) of the said Act, the Chairman and Vice Chairman of the Development Authority are only the officers of the Development Authority, while the Development Authority has been defined under Section 4 of the said Act, 1973. Section 4(1) of the said Act, 1973 provides that the State Government may, by notification in the gazette, constitute for the purposes of the said Act and Authority to be called the 'Development Authority' for any development area. Section 4(2) of the said Act, 1973 provides that the said Development Authority shall be body corporate by the name having perpetual succession and common seal with power to acquire, hold and dispose of property, and to contract and shall by the said name sue and sued. As per Section 4(3) of the said Act, 1973 the Development Authority consists of 15 members including Chairman and Vice Chairman of the Development Authority concerned.

**12.** It is also stated on behalf of the petitioner that Section 4 of the said Act, 1973 clearly shows that the Chairman and Vice Chairman of the Development Authority have no right or Authority to impose any such

fees, such as development fees or to change the rate of development fees without the approval of the Development Authority and that to on a rational basis. The basis of said Rs.400/- per square meter of the plotted area has been taken from a letter dated 29<sup>th</sup> December, 2005 wherein the State Government has informed all the Development Authorities that for the purpose of issuing licences to the developers, and allotment of land, after its acquisition by the Development Authority to the developers and for the development of the said land by the Development Authority, the development fees can be levied at the rate of Rs.385/- per square meter of the land area which has to be rounded as Rs.400/- per square meter of the land area, which had been calculated on the basis of data of Lucknow and has to be amended by the individual Development Authorities as per then dates. The said letter dated 29<sup>th</sup> December, 2005 applies where the development of the roads, drainage, electric supply and water supply is undertaken by the Development Authority itself, after its acquisition by the Development Authority and not by the builder and the builder has only to carve out the colony and to sell off the plots or houses of the said colony to the intending buyers..

**13.** The petitioner further stated that in the case of the private developers who are not taking any land from the Development Authority and who have their own land and/ or purchasing the land from the existing land holders then all the development in the colony, including roads, drainage, electric supply and water supply lines are undertaken by the developers itself and not by the Development Authority and only on this condition that all these amenities and development shall be provided by the developer, the plan of the developer is passed.

**14.** Vide letter dated 22<sup>nd</sup> September, 2007, respondent No.2 directed the petitioner to deposit an amount of Rs.6,57,14,000.00/- as external development charge at the rate of Rs.400/- per square meter for the Talpat Area measuring 1,64,285/- square meter. It is stated that respondent No.2, has not provided the land after its acquisition and development. Therefore,

no order based on letter dated 29<sup>th</sup> December, 2005 could be passed by the respondents.

**15.** The petitioner further stated that at the earlier existing rates of the external development charges i.e., Rs.125/- per square meter, it has deposited an amount of Rs.75,00,000.00/- on 31.01.2008. However, vide impugned order dated 19<sup>th</sup> July, 2008, respondent No.2 directed to deposit the external development charges amounting to Rs.2,61,84,771.00/- till 31.07.2008 at the rate of Rs.400/- per square meter otherwise respondent No.2 will proceed for further action.

**16.** It is argued on behalf of the petitioner that as per Government Order dated 19<sup>th</sup> August, 1998, no amount has been spent for the development of said colony from the external development charges collected by the MDA and whole of the said amount is surplus amount with the MDA. The counsel for the petitioner, therefore, submitted that the external development fees of Rs.400/- per square meter as imposed by respondent No.2 is absolutely illegal and against the provisions of the said Act. Therefore, the same is liable to be struck down to meet the ends of justice.

**17.** It is further argued on behalf of the petitioner that respondents No.2 and 3, in an illegal, arbitrary, irrational and whimsical manner passed the impugned Resolution dated 03<sup>rd</sup> June, 2006, whereby they raised the amount of external development fees from Rs.125/- per square meter to Rs.400/- per square meter against the provisions of law, which is based on extraneous considerations, and bereft of the material on record. Moreover, said Resolution dated 03<sup>rd</sup> June, 2006 had not been approved by the Development Authority itself, but they are adamant to impose an amount of amount of Rs.400/- per square meter as external development fees against petitioner. Therefore, the said Resolution dated 03<sup>rd</sup> June, 2006 passed by respondents No.2 and 3 is liable to be set aside.

18. Learned counsel for the petitioner contended that the act of the opposite parties are out rightly illegal, arbitrary and unlawful and same is not tenable in the eye of law and justice. The impugned action of the respondents fails the test of judiciousness and does not avoid arbitrary and capricious actions and the impugned acts of the opposite parties cannot be allowed to operate.

19. It is further argued that the action on the part of opposite parties are hitting the statutory provisions, arbitrary, unreasonable and illegal, and in violation of Articles 14 and 19(1)(g) of the Constitution of India, hence the impugned Resolution dated 03.06.2006, and order dated 19<sup>th</sup> July, 2008 passed by respondents No.2 and 3 are liable to be set aside.

20. Learned counsel for the petitioner argued that a fee is levied essentially for services rendered and as such there is an element of quid-pro-quo between a person to pay fee and the public authority which imposes it. However, in the instant case, the MDA, in fact, provided no services. There is no bye laws, rule and regulation or law under the provision of the said Act, 1973 for imposition or realizing any development fee/betterment fee on ad valorem basis. It is further contended that the imposition of development fee/betterment fee amounts to tax for which no rules or regulations have been framed so far.

21. Learned counsel for the petitioner further contended that while prescribing fee the respondents have levied fees on ad valorem basis which is a circumstance to show that the impugned levy is in the nature of tax and not in the nature of fee. Moreover, the quantum of levy indicates that it is is a tax and not a fee. Further, the quantum of fee is disproportionate to the so called services which is one more circumstance showing arbitrariness in the levy of such imposition. Hence, the levy of fee is irrational, arbitrary, and discriminatory as the classification is not based on intelligible differentia and the differentia has no reasonable nexus with the object of legislation.

22. It is argued on behalf of the petitioner that the respondents were charging development charges at the rate of Rs.125/- prior to 30.09.2007 which has not been denied by the respondent/MDA. However, through the impugned order dated 19.07.2008 the respondent/MDA is trying to charge Rs.400/- per square meter as development fee whereas the Government Order dated 30.09.2007 prescribes the external development fee of Rs.288/- per square meter is chargeable. It is further contended that the MDA has tried to impress that the rate of external development charges is Rs.400/- where as the said Government Order dated 29.12.2005 is for integrated township wherein the minimum area of the land should not be less than 50 acres i.e., 2,02,343/- square meters. Whereas the land of the petitioner for development is only 1,64,285/- square meter.

23. It is further argued on behalf of the petitioner that the Government Order dated 30.09.2007 prescribing development fee of Rs.288/- came almost two years after Government Order/integrated township policy dated 29.12.2005, hence even if rate of Rs.125/- is unacceptable, it cannot be more than Rs.288/- as external development charge and there arises no question of Rs.400/- as the external development charge.

24. Learned counsel further stated that the concept of quid-pro-quo is fully acceptable in the present case which means that the fee paid by the petitioner should only be utilized against the services rendered by the respondent/MDA and once the fee was deposited it was MDA's obligation to have developed the external area for the purpose of the petitioner colony as prescribed under Section 2(ggg) of the said Act. Reliance is placed by the petitioner heavily on the judgment in the case of '**Calcutta Municipal Corporation vs. Shrey Mercantile**', (2005) 4 SCC 245.

25. The petition is strongly opposed by the respondents. It is stated that the petitioner has concealed material facts and played a fraud in approaching this Court; consequently, the petitioner is not entitled for grant of any equitable relief under Article 226 of the Constitution of India.

26. It is stated by the respondents that it is a fundamental principle of law that a person invoking the extraordinary jurisdiction of this Court must come with clean hands and must make a full and complete disclosure of facts to this Court. The petitioner has suppressed the foundational facts from this Court which are required to be pleaded enabling this Court to scrutinize the nature and the content of the right alleged to have been violated by the respondents.

27. It is further stated that the petitioner with *mala fide* intentions and with ulterior motives, suppressed the material facts from this Court that prior to filing of the aforesaid writ petition, the petitioner had agreed to pay development charges at the rate of Rs.400/- per square meter. A material fact of execution of the agreement deed dated 25.09.2007 has also been suppressed from this Hon'ble Court. The petitioner also suppressed the material fact that on 26.09.2007 at the time of issuing the sanctioned plan submitted by the petitioner under Section 15 of the said Act, the petitioner had paid 40 percent of the total development charges, at the rate of Rs.400/- per square meter, to the answering respondents.

28. The petitioner further did not disclose the fact that after it had deposited Rs.2,62,85,600.00/-, that is, 40 percent of the development charges at the rate of Rs.400/- per square meter, the rest 60 percent of the development charges were required to be deposited by the petitioner as per the letter dated 31.10.2007 that too in three installments. However, the petitioner did not comply the aforementioned letter dated 31.10.2007 and did not deposit the agreed and admitted development charges at the rate of Rs.400/- per square meter. It is stated that on 31.01.2008 the petitioner deposited only Rs.75,00,000.00/- (Rupees Seventy Five Lacs only), and thereafter, did not deposit any amount and has approached this Court by filing the aforesaid writ petition, suppressing the material facts which are imperative for the purposes of the aforesaid writ petition. The writ jurisdiction has been invoked by the petitioner after it had committed default. The petitioner in order to overcome his own shortcoming has filed

the aforesaid writ petition, in effect seeking amendment of a concluded contract.

29. While relying on the judgment of the Supreme Court in the case of '**K.D. Sharma vs. Steel Authority of India and others**', reported in (2008) 12 SCC 481 wherein it was held that if there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim, learned counsel for the respondents contended that the petitioner has not only played fraud upon this Hon'ble Court by suppressing material facts from the Court but has also tried to mislead this Court.

30. It is further stated that 'Development Fee' means the fee levied upon a person or body under Section 15 of the Act for construction of road, drain, sewer line, electric supply and water supply lines in the development area by the Development Authority. The 'Development Area' means any area declared to be development area under Section 3 of the Act. It is therefore, clear that the development of the area is not confined to the particular place or area but development as a whole of the development area.

31. It is pointed out by learned counsel for the respondents that the Vice Chairman, MDA had sent a letter dated 30.06.2006 to the State Government requesting therein that levy of Rs.400/- per square meter towards development charges may be approved. In fact Rs.434/- per square meter was calculated on the basis of Meerut database. The State Government vide its order dated 17.07.2006 had approved the development charges, as requested. It is further stated that the Government Order dated 19.08.1998 is nothing but a clarification of para-5 Kha of the office order dated 15.01.1998. The said Government Order is applicable to the urban area outside the scheme area of the development

area. The said Government Order is, therefore, not applicable and available to the case of the petitioner.

**32.** Learned counsel for the respondents contended that the proposal to increase development charges from Rs.125/- per square meter to Rs.400/- per square meter was made in accordance with said Act and the same was kept in the MDA Board's meeting dated 04.08.2007. The Board had taken decision to increase the development charges and the same was accordingly resolved as per Resolution No.11.

**33.** Parameters for charging development fee have been laid down by the State Government and the various heads under which the amount is calculated has also been determined by the State Government. In general, costing of the development charges, the State Government had after adding the expenditure incurred in laying of roads, sewer, electricity, flyovers and other amenities, laid down Rs.400/- per square meter as development charges even while the respondents under the same headings incur expenditure of Rs.434/- per square meter, sanction of the same was not given by the State Government and the answering respondents have been directed to charge Rs.400/- only per square meter which not only the petitioner be it an individual body or firm is paying to the Development Authority. The decision taken by the State Government to charge Rs.400/- per square meter towards development charges and adopted by the answering respondents is a policy decision and is not amenable to writ jurisdiction under Article 226 of the Constitution of India. It is further stated that the estimated project cost of the development area which was duly advertised at the time of inviting applications for development of lands and which includes flyovers, bus terminal, metro rail and the like.

**34.** The respondents further stated that they are required to develop entire development area as covered under Section 3 of the Act and the insistence of the petitioner to develop around and adjoining the petitioner's land is *per se*, untenable and does not merit consideration. By filing of the

writ petition under Article 226 of the Constitution of India the petitioner cannot seek amendment in the terms of the agreement entered into between the petitioner and the answering respondents.

**35.** It was also pointed out by the respondents that Ghaziabad Development Authority, Ghaziabad is charging Rs.1,947/- per square meter towards development charges. Similarly, Lucknow Development Authority, Lucknow is charging Rs.830/- per square meter towards development charges. Moradabad Development Authority, Moradabad is charging Rs.400/- per square meter towards development charges. Kanpur Development Authority, Kanpur is charging Rs.746/- per square meter towards development charges. It is further stated that none of the ground taken by the petitioner are tenable in the eyes of law and the writ petition deserves dismissal.

**36.** We have heard Sri Dipak Seth, learned counsel for the petitioner along with Sri Ratnesh Chandra, Advocate and Sri V.P. Nag, learned Standing Counsel for respondent No.1 as well as Sri Ram Raj, learned counsel for respondent No.3 and perused the pleadings and the documents on record.

**37.** The grievance of the petitioner is with regard to the charging of external development charges at the enhanced rate of Rs.400/- per square meter by the Meerut Development Authority without there being any rules framed with the approval of the State Government. The petitioner has challenged the said external charges as unlawful, arbitrary being contrary to the Government Order dated 19<sup>th</sup> August, 1998 as well as the Uttar Pradesh Urban Planning and Development Act, 1973.

**38.** The Meerut Development Authority (MDA) has been constituted by the State Government under Section 4 of the said Act. It has been enjoined to undertake the development of the development area including providing amenities or carrying out engineering operations or providing

means of access as envisaged under the Act or other amenities that may be specified by a notification issued by the State Government as part of development plans undertaken under the Act.

39. Before we proceed to deal with the matter, it is appropriate to refer to and extract some of the relevant provisions of the Uttar Pradesh Planning and Development Act, 1973. Section 2(ggg) of the said Act talks about development fee. The said Section reads as under:-

*"2(ggg): 'development fee' means the fee levied upon a person or body under Section 15 for construction of road, drain, sewer line, electric supply, and water supply lines in the development area by the Development Authority"*

40. Section 15(2A) of the said Act provides for levy of development fee etc. by the Authority. The said Section is reproduced as under:-

*"15 (2A) The Authority shall be entitled to levy development fees, mutation charges, stacking fees, and water fees in such manner and at such rates as may be prescribed."*

41. The proviso 3 to the Section 15(3) of the Act provides that before granting permission, referred to in Section 14, the Vice Chairman may get the fees and charges levied under Sub-Section 2A deposited.

42. Under the provisions of Section 35 of the Act, the State Government is empowered to make rules for carrying out the purposes of the aforesaid Act, for all or any of the following matters:-

- (a) The levy of fee on a memorandum of appeal under Sub-Section (5) of Section 15 or under Sub-Section (2) of Section 27.
- (b) The procedure to be followed by the Chairman in determination of betterment charges, and the powers that it shall have for the purpose.
- (c) Any other matter which has to be or may be prescribed by the rules.

43. Sections 56 and 57 of the Act empower an Authority to make regulation and bye-laws for the administration of the affairs of the authority, with the previous approval of the State Government. The general power is available under Section 56 for the Authority to make regulations for the administration of the affairs of the Authority.

44. The word 'Prescribed' under Section 15 (2A) of the Act only refers to prescribe by rules. This is also clear from Section 4 (33A) of the U.P. General Clauses Act, 1904, which states as under:-

*"Prescribed' shall mean prescribed by rules under the Act in which the work occur."*

The word 'Prescribed' under Section 15 (2A) of the Act only refers to prescribe by rules. It is also clear from the interpretation of Section 55 (2) of the Act which prescribes that even the fee to be levied on the memorandum of appeal, as well as procedure to be followed by the Chairman in determination of betterment charges, and the powers that it shall have for the purpose shall be prescribed by rules only, which will be framed by the State Government.

45. In terms of Section 14 of the Act, after the declaration of any area as development area under Section 3, no development of land shall be undertaken or carried out constituted in the area by any person or body unless permission for such development has been obtained in writing from the concerned Development Authority in accordance with the provisions of the Act. Therefore, before any person or a body undertakes development in accordance with the plan, he is enjoined to obtain in writing from the Vice Chairman sanction for development in accordance with the provisions of the Act.

46. Section 15 of the Act provides provision for application for permission to develop the area. Sub-Section 2-A of Section 15 of the Act provides that the Development Authority shall be entitled to levy development fees, mutation charges, staking fees and water fees in such

manner and at such rate as may be prescribed. The proviso to Sub-Section 3 of Section 15 of the Act provides that before granting permission to develop, referred in Section 14 of the Act, the Vice Chairman may get the fees and the charges levied under Sub-Section 2-A deposited.

47. Section 41 of the Act provides control by State Government and the said Section is reproduced hereunder:-

**"41. Control by State Government:-**

*(1) The (Authority), the Chairman or the (Vice Chairman) shall carry out such directions as may be issued to it from time to time by the State Government for the efficient administration of this Act....."*

48. The petitioner duly accepted the terms sent by the Authority vide letter dated 22.09.2007 thereafter the Authority sanctioned the Talpat Manchitra project of the petitioner on 26.09.2007.

49. Section 38-A of the Act provides for levy of development charges on private developer. The said Section reads as under:-

**"38-A. Power of Authority to levy and use conversion charges and city development charge:-**

*(1) .....*

*(2) Where in any development area a licence has been granted to private developer for assembly and development of land, the Authority shall be entitled to levy city development charge on the private developer of such land and in such manner and at such rates as may be prescribed."*

50. The State Government on 21.05.2005 directed the development authorities to follow the Government Order dated 29.12.2005 in respect of realization of development charges wherein policy of realization of development charge/fee was categorically mentioned as Rs.400/- per square meter. A letter dated 30.06.2006 was sent by the Authority to the State Government seeking direction for realizing external development charges at the rate of Rs.400/- per square meter. The said letter was

replied to the Authority by the State Government on 17.07.2006 informing that the development charges be realized as per Government Policy dated 29.12.2005. It is further noticed that a large number of developers/institutions situated in the petitioner's vicinity were paying regularly development charges at the rate of Rs.400/- per square meter.

**51.** It is also not disputed by the petitioner that it has deposited 40 percent of the total external development charges with the MDA at the rate of Rs.400/- per square meter. The petitioner thereafter questioned the rate of development charges and also the power of the Authority to charge such development charges.

**52.** The Supreme Court in the matter of '**State of U.P. and others vs. Malti Kaul (Smt.) and another**', reported as (1996) 10 SCC 425 has held that Development Authority as a condition for sanction of plan for a development area can levy development charges/fee. The Supreme Court in this case while considering the various provisions of the Act has held as under:-

*"11. A reading of these provisions would clearly indicate that in a development area when an owner or body or a department of the government undertakes to develop the land, two options are open to the development authority, namely, either it may itself undertake to provide amenities or other means of access, engineering corporations as provided under the Act or as a condition to grant sanction, it can call upon the person who undertakes development or the body of the developers who undertake development to deposit the amount required for such development or providing amenities etc.*

*12. In the light of direction (vii) of the directions issued in the regulations the owner or the body or the developer is enjoined either to deposit the amount demanded or give bank guarantee or mortgage the property in favour of the development authority so that it could secure sufficient security in advance for overseeing the development including providing amenities as a scheme of the development as per the sanction. It is settled law that levy of fee is a compulsory exaction for services rendered as*

*quid Pro quo. It is seen that the development authority is enjoined under the Act to undertake planned development of the development area in accordance with the provisions of the Act. When it undertakes such a development it carries out the development as per the plan either itself or through any person or body which undertakes to develop the land in accordance with the sanction plan in which case necessary conditions to safeguard providing the amenities are required to be secured.*

*13. Thus considered, we hold that the Act specifically gives such a power. It is true that under Article 265 of the Constitution no tax can be levied without any authority of law. There is no quarrel on the proposition of law. In this case, from a reading of the aforesaid provisions it clear that the statute, instead of prescribing the rate of developmental charges itself, has given power to the rule-making authority to regulate the collection of and payment for development fee. It is seen that under the direction which is not inconsistent with the provisions of the Act, it indicate the method and the manner in which the collection is to be secured so as to see that the area is developed in a planned manner as per the sanctions given by the competent authority. The High Court, therefore, was clearly in error in holding that there is no provision under the Act or the Rules to levy the development fee."*

**53.** The aforesaid decision of the Supreme court was also relied upon by a Division Bench of this Court in the case of '**Smt. Nisha Kumari vs. State of U.P. and others**', reported as 2014 (6) ADJ 20 (DB).

**54.** We have perused the judgment relied upon by the petitioner in the case of **Calcutta Municipal Corporation's case (supra)**, and we are of the view that this judgment is of no help to the petitioner and is not applicable to the facts and circumstances of the present case. In that case the issue before the Supreme Court was whether the imposition for the process of change of the name of the owner in the assessment of the Corporation was in the nature of "a fee" or "tax". While dismissing the petition of the Municipal Corporation, the Supreme Court held that the entire Part IV of the Calcutta Municipal Corporation Act deals not only with the levy of taxes, it also deals with assessments, valuation, collection and recovery of taxes. The entire machinery for filing of returns,

objections and inspection of records and properties comes under the part which deals with the taxation. The maintenance of assessment books, annual report, valuation reports, etc. all come under the part which deals with taxation. Section 183 which deals with notice of transfer also comes under the same part. It is true that under Section 183 (5), fees are payable for mutation as may be prescribed under the regulations, still the primary object of such a charge is to augment the revenue and the levy of such a charge cannot be treated to be a part of the regulatory measure. The Supreme Court further held that under the Regulations, the Corporation while prescribing fees has levied fees on ad valorem basis which is one more circumstance to show that the impugned levy is in the nature of tax and not in the nature of a fee. Moreover, the quantum of levy indicates that it is a tax and not a fee. The analysis of the various provisions of the Act and the impugned Regulations shows that the impugned levy is in exercise of power of taxation under the said Act to augment the revenues primarily and not as a part of regulatory measure. However, in the case in hand the petitioner is a developer who had submitted an application under Section 14 of the Uttar Pradesh Urban Planning and Development Act, 1973 regarding approval of their project, namely, Talpat Manchitra of Greenwood City situated at By-pass Chauraha, Baghpat Road, Meerut. Vide letter dated 26<sup>th</sup> September, 2007, the petitioner was informed by the Authority (MDA) that Talpat Manchitra/Maps relating to the plots of Greenwood City had been approved with certain conditions as mentioned in the said letter. The Supreme Court in the case of **Malti Kaul's case (supra)** has clearly held that the development fee can be levied by the Development Authority as a condition for sanction of plan in a development area when an owner or body or a department of Government undertakes to develop the area. Levy of such fee is a compulsory exaction for services rendered as quid pro quo for which Authority of Law provided under the Act. It was further held that though express mention is not made either in Section 33 or Section 41; but when Section 14 and Section 56 (2) are read together, it gives right and power to the

sanctioning authority to impose a condition to the grant of sanction for execution of the plan in a development area by imposing the condition of either payment in advance towards the cost of the amenities or means of access etc. or give bank guarantee or mortgage the plot which is to be developed etc.

**55.** A Division Bench of this Court in the case of **Smt. Nisha Kumari (supra)** has, *inter alia*, considered the following issues:-

*"(i) Whether for levying the development fee and other fees as provided for in Section 15 (2-A) of 1973 Act, the rules are required to be framed by the State Government under Section 55 of the Act and without there being rules framed, no fee as mentioned in Section 15 (2-A) can be levied?"*

*(ii) Whether the Development Authorities can charge development fee under the direction issued under U.P. (Regulation of Building Operation) Act, 1958 as held by Apex Court in State of U.P. v. Malti Kaul 1996 (10) SCC 425?"*

*(iii) Whether for levying development fee, the development authorities have to carry out the development as contemplated under Section 2(ggg) of 1973 Act before hand."*

**56.** While deciding the above issues, the Division Bench of this Court considered the relevant provisions of the Act and held as under:-

*"30. The first issue is as to whether the Development Authorities are entitled to charge development fee without framing Rules under Section 55 of 1973 Act. The submission, which has been emphasized by the learned counsel for the petitioners, is that no development charge can be levied in an area, which is already developed, or in an area where development authority is not carrying out any development activity.*

*31. For appreciating the above issue, it is necessary to note the relevant legislation governing the field. Prior to the enforcement of Uttar Pradesh Urban Planning and Development Act, 1973 (hereinafter referred to as the 1973 Act), there was another enactment, namely, the U.P. (Regulations of Building Operations) Act, 1958*

*(hereinafter referred to as the 1958 Act), which Act was enacted to provide for the regulation of building operations in Uttar Pradesh. Section 2 of 1958 Act contains various definitions. It is relevant to note that the definition of development as now under 1973 Act is the same as was in 1958 Act. Section 2(e) of 1958 Act was as follows:-*

*"2(e). 'development' with its grammatical variations and cognate expression, means the carrying out of building, engineering, mining or other operations, in, on, over or under land or the making or any material change in any building or land;"*

**32.** *Under Section 3 of 1958 Act, the State Government was authorized to declare an area as regulated area with a view to prevent bad laying out of land, haphazard erection of buildings or growth of sub-standard colonies or with a view to carry out development and expansion of that area according to the proper planning. Section 4 defined the Controlling Authority. Section 5 provided for power to the State Government to issue directions in respect of regulated area by notification in Official Gazette. Section 5 (a) provided for master plan for the regulated area and Section 6 provided that no person shall undertake or carry out the development on any site in any regulated area except in accordance with the permission of the Prescribed Authority which provision is akin to Section 14 of 1973 Act. Section 7 provided for application for permission which provision is akin to Section 15 of 1973 Act. Section 19 provided for the power of the State Government to make Rules to carry out the purpose of the Act. In exercise of power under Section 14 of 1958 Act, the Government has issued directions for all regulated area, namely, the U.P. (Regulation of Building Operation) Directions, 1960. Direction no. 8 related to sanctioning of plans and statement. Direction no. 8 (vii) is relevant for the present case which reads as follows:-*

*"The applicant has entered into an agreement with the local body concerned for the development of the land and for provision of other amenities and has either deposited the full estimated cost of the development and provision of other amenities with that local body in advance or has given*

*to it a bank guarantee equivalent to such cost; or has entered into an agreement with that local body, providing that the full cost thereof may be realised by it out of the sale-proceeds of the plots that may be sold by the applicant:"*

33. *From the provision as noted above, it is clear that the Prescribed Authority before sanctioning the plan could have directed the applicant to deposit full estimated cost of development or give a bank guarantee equivalent to such cost. Thus, the power to deposit the cost for carrying out development could have been taken from the applicant praying for sanction of the plan as per the statutory scheme of 1958.*

34. *U.P. Urban Planning and Development Act, 1973 as enacted provided for development of certain area of land of Uttar Pradesh according to plan and for matters ancillary thereto. The definition clause in Section 2 has already been noted. Section 15 (2) provides that every application as provided in Section 15 (1) shall be accompanied by such fee as may be prescribed by such rules.*

35. *By the Uttar Pradesh Urban Planning and Development (Amendment) Act, 1997 (U.P. Act No. 3 of 1997) after clause (gg), clause (ggg) has been inserted defining development fee. In section 15, after sub-section (2), sub-section (2-A) has been inserted providing that the Authority shall be entitled to levy development fees, mutation charges, stacking fees and water fees in such manner and at such rate as may be prescribed. In sub-section (3), a proviso was added to the following effect:*

*"Provided also that before granting permission, referred to in Section 14 the Vice-Chairman may get the fees and the charges levied under Sub-section (2-A) deposited."*

*Thus, prior to U.P. Act No. 3 of 1997 the Act did not contain any provision for a development fee, the mutation charges, stacking fees and water fees. No rules were framed by the State providing for charging of development fee etc.*

36. *The writ petitions were filed in this Court challenging the levy of development fee, malva fee, water charges by Development Authorities constituted under the 1973 Act. Before the Division bench of this Court, in Malti Kaul and another v. Allahabad Development Authority and another, 1996 All LJ 1, it was contended that the Development Authorities are not entitled to charge development fee and other fees. The Government Order dated 12.8.1986 by which Government authorised to charge of development fee was also under challenge. The Division Bench of this Court after considering Sections 14, 15, 33, 35 & 41 held that the Development Authority could not charge any development fee. For protecting the Government Order dated 12.8.1986, learned counsel for the petitioners in the said case relied on Section 41 which argument was repelled by the Division Bench by following observations in paragraph 7-A and 8 which are quoted below.*

*"7A. Learned counsel for the Development Authorities have, however, tried to justify the levy of development fee on the basis of the Government order dated 12.8.1986, copy of which has been filed as Annexure I to the supplementary-affidavit filed on behalf of the respondents. Although there is no provision under the Act, authorising the Government to direct the Development Authorities to impose such a fee; but the order has been defended by the learned counsel on two grounds, namely, (i) executive power of the State; and (ii) Section 41(1) of the Act. These contentions cannot be accepted. Although, executive power of the State is coextensive with its legislative powers; but Article 265 of the Constitution prohibits the levy of tax, which includes the fee, except by authority of law. Law means legislative enactment and subordinate legislation. The State in exercise of its executive power cannot impose any tax or fee in the absence of specific statutory provision authorising such a charge. In this connection, reference may be made to Harivansh Lal Mehra v. State of Maharashtra, AIR*

*1971 SC 1130, Bimal Chandra Banerjee Ahmedabad Urban Development Authority v. Sharadkumar Jayantikumar Pasawalla, AIR 1992 SC 2038 (supra).*

8. Section 41 of the Act does not confer any such power on the Government to issue direction to the Development Authorities for imposing development fee. Under this Section Government can issue direction "for the efficient administration of this Act" and such directions are to be carried out by the Development Authority, its Chairman and Vice-Chairman. By this section the Government is authorised to issue directions of administrative nature to the Development Authorities. The Government cannot derive any power from Section 41 for directing the Authorities to levy the development fee. Supreme Court in Ahmedabad Urban Development Authority v. Sharadkumar Jayantikumar Pasawalla, AIR 1992 SC 2038 (supra), wherein the levy of development fee was challenged has laid down that in the absence of any express statutory provision, it is not open to any authority to impose any such fee. The plea of implied power to levy such a charge was also rejected. The imposition of development fee as such is without authority of law and, therefore, cannot be sustained."

37. The writ petitions were allowed by the Division Bench of this Court. The levy of development fee and Government Order dated 12.8.1986, so far it has authorised the Development Authority to impose and collect development fee were quashed. Paragraph 13 of the Judgement of the Division Bench is reproduced hereunder:-

"These writ petitions are partly allowed. The levy of development fee and the Government order dated 12-8-1986, so far as it has authorised the Development Authority to impose and collect development fee are quashed. The levy

*of Malva fee and water charges are also quashed. The respondents, Development Authorities are directed to determine the imposition of Malva fee and water charges afresh after giving a reasonable opportunity of being heard to the petitioners. As regards the composition fee, the writ petitions are dismissed. In view of the facts and circumstances of the case, there shall be no order as to costs."*

**38.** *State of U.P. And Development Authority filed special leave petition in Apex Court challenging the aforesaid Judgment of the Division Bench dated 21.4.1995 in Malti Kaul's case (supra). The Apex Court, vide its Judgment 21.8.1996 in State of U.P. And others v. Malti Kaul (Smt) and another, 1996 (10) SCC 425, had allowed the said appeal. The Apex Court held that the Authority granting sanction of execution of plan in a developed area may impose a condition for payment towards the cost of amenities. After noticing the scheme of 1973 Act and Section 59 of 1973 Act and 1958 Act the Apex Court held that the Development Authority can demand amount for carrying out development and view taken by the High Court was not correct. It is useful to quote paragraph 10, 11, 12 and 13, which are as under:-*

*"10. By operation of Section 59, any orders issued under the predecessor Acts which are not inconsistent with the provisions of the Act shall continue to be in operation. Under Section 14 of the Uttar Pradesh (Regulation of Building Operations) Act, 1958 (predecessor Act) which is pari materia with Section 14 of the Act, regulations have been made which are not inconsistent with that of Section 8 and in that behalf provides for sanction of plans and statements. Direction (vii) provides that the applicant has entered into an agreement with the local body concerned for the development of the land and for provision of other amenities and has either deposited the full estimated cost of the development and provision of other amenities with that local body in*

*advance or has given to it a bank guarantee equivalent to such cost, or has entered into an agreement with the local body, providing that the full cost thereof may be realised by it out of the sale proceeds of the plots that may be sold by the applicant; provided that any such agreement between the applicant and the local body may provide for any part of the development and provision of other amenities being carried out by the applicant himself; however, that in respect of any such part he shall give adequate security to the local body to secure that he shall carry out such part of the development and provide other amenities in accordance with the approved standards and specifications to the satisfaction of the controlling authority. Under the second proviso also, power has been given to secure mortgage of the entire land to be developed in favour of the local authority as a condition for granting sanction with an agreement for providing the amenities and if the plots are to be released for sale by the mortgagor then the amount has to be paid as prescribed thereunder, the details of which are not material for the purpose of this case.*

*11. A reading of these provisions would clearly indicate that in a development area when an owner or body or a department of the Government undertakes to develop the land, two options are open to the development authority, namely, either it may itself undertake to provide amenities or other means of access, engineering corporations as provided under the Act or as a condition to grant sanction, it can call upon the person who undertakes development or the body of the developers who undertake development to deposit the amount*

*required for such development or providing amenities etc.*

12. *In the light of direction (vii) of the directions issued in the regulations the owner or the body or the developer is enjoined either to deposit the amount demanded or give bank guarantee or mortgage the property in favour of the development authority so that it could secure sufficient security in advance for overseeing the development including providing amenities as a scheme of the development as per the sanction. It is settled law that levy of fee is a compulsory exaction for services rendered as quid pro quo. It is seen that the development authority is enjoined under the Act to undertake planned development of the development area in accordance with the provisions of the Act. When it undertakes such a development it carries out the development as per the plan either itself or through any person or body which undertakes to develop the land in accordance with the sanction plan in which case necessary conditions to safeguard providing the amenities are required to be secured.*

13. *Thus considered, we hold that the Act specifically gives such a power. It is true that under Article 265 of the Constitution no tax can be levied without any authority of law. There is no quarrel on the proposition of law. In this case, from a reading of the aforesaid provisions it is clear that the statute, instead of prescribing the rate of developmental charges itself, has given power to the rule-making authority to regulate the collection of and payment of development fee. It is seen that under the direction which is not inconsistent with the provisions of the Act, it indicates the method and the manner in which the collection is to be secured so*

*as to see that the area is developed in a planned manner as per the sanctions given by the competent authority. The High Court, therefore, was clearly in error in holding that there is no provision under the Act or the Rules to levy the development fee."*

*Thus, in view of the pronouncement of the Apex Court in State of U.P. And Malti Kaul (supra,) the Development Authority was entitled to levy the development fee.*

*The Apex Court has noted Section 59 of the 1973 Act, which is relevant for the present case Section 59 (1) (c) is quoted as under:*

*"59(1)(c). without prejudice to the generality of the provisions of clauses (a) and (b), and bye laws, directions or regulations under the U.P. Municipalities Act, 1916 or the Uttar Pradesh (Regulation of Building Operations) Act, 1958 or the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959, as the case may be, and in force on the date immediately before the date of commencement of this Act, shall in so far as they are not inconsistent with the provisions of this Act, continue in force, until altered, repealed or amended by any competent authority under this Act."*

**39.** *In view of Section 59(1)(c) the provisions of 1958, which was in force on the date immediately before the commencement 1973 Act, insofar as they are not in consistent with the provisions of 1973 Act, shall continue in force until altered, repealed or amended by any competent authority under this Act. The provisions of 1958 Act are thus to continue, which are not inconsistent with the provision of Act 1973 till they are altered repealed or amended.*

**40.** *As noted above, the amendment in 1973 Act was made by U.P. Act No. 3 of 1997 by which Section 2(ggg) defining development fee and Section 15(2-A) was inserted. Two Division Bench Judgments have been cited before us in which this Court, after noticing Section 15(2-A), has held that till Rules are not framed under Section*

55 as per Section 15(2-A), development fee cannot be charged. In *Virendra Kumar Tyagi v. Ghaziabad Development Authority (supra)*, the Division Bench of this Court held that since Section 15 (2-A) provides that the Authority shall be entitled to levy development fee, mutation charges, stacking fees and water fees in such manner and at such rate as may be prescribed, and word 'prescribed' having been defined in Section 4(33-A) of U.P. General Clauses Act, 1904, which provides that the word 'prescribed', shall mean prescribed by Rules made under the Act in which the word occurs, the development fee cannot be charged unless the same is prescribed by Rules.

41. Learned counsel for the petitioner has further placed reliance upon a Judgment rendered in the case of *Dr. Umesh Chandra Maheshwari v. Mathura Vrindavan Development Authority, 2010(4) ADJ 368*, in which case also the Division Bench referring to Section 15(2-A) held that till rules are framed by the State under Section 55, the development fee cannot be realised. In the said case, on an application submitted by the petitioners for sanction of plan, demand was made of betterment charges. Following was laid down in paragraph 16 of the Division Bench Judgment:

"Even under Section 57 of the Act the authority has power to make bye-laws. Therefore, it is crystal clear that either in the case of development fees or in the case of betterment charges the Rules, Regulations and Bye-laws have to be framed to attract the same. A decision by the Board without sanction of the authority to claim the external development charge is without any sanction of law. More particularly, there are no words available in the Act by the name of external development charges. The words external development charges are either synonyms or as far as closer to betterment fees since it relates to the area external to the building concerned, which has been developed on the basis of the sanctioned plan upon payment of charges, being development charges amongst others. If such betterment charge is being claimed then

*the authority has to satisfy that there is a betterment of the locality in compliance with Sections 35 and 36 of the Act. But if no such development is done to claim the betterment charges and no rules, no regulations and no bye-laws are framed to that extent, obviously the claim in the name of external development happens to be external to the law and a claim to enrich the authority unjustly, therefore, such claim cannot be held to be sustainable. Hence, the notices/orders impugned in this writ petition are liable to be quashed and are quashed. Thus, the writ petition is allowed, however, without imposing any cost."*

*42. It is noticed that in the said Division Bench, the Judgement of the Apex Court in State of U.P. v. Malti Kaul (Smt.) and another (supra) was noticed but in the discussions, the said case escaped notice of the Court. Whereas the Judgement in Virendra Kumar Tyagi (supra) was delivered by the Division Bench of this Court prior to pronouncement of Supreme Court in State of U.P. v. Malti Kaul (supra).*

*43. Learned counsel for Development Authorities have submitted that against Division Bench Judgement in Dr. Umesh Chandra Maheshwari (supra), a Special Leave to Appeal (Civil) No. 16615 of 2010 has been filed by Development Authority in the Apex Court in which the Apex Court on 12.11.2010 has issued notices.*

*44. Special leave petition filed against the Division Bench Judgment in Virendra Kumar Tyagi has been dismissed.*

*45. Learned counsel for the petitioners have also brought to the notice of the Court that State has published draft rules namely Uttar Pradesh Urban Planning and Development Authority (Assessment of Levy and Collection of Development Fees), Rules, 2013, which are in process of finalisation.*

*46. The statutory scheme as delineated by Section 15(2-A) and the view taken in the aforesaid two Judgments by Division Bench in Virendra Kumar Tyagi and Umesh Chandra Maheshwari that rules are required*

*to be framed under Section 55, need no quarrel. However, the statutory provisions under 1958 Act, which were in force on the date of enforcement of 1973 Act, were entitled to continue by virtue of Section 59, sub-section (1) (c) of 1973 Act. In the aforesaid Judgments, there is no discussion or any finding that provisions of 1958 Act including 1960 directions are inconsistent with any provision of 1973 Act. As noted above, the Judgment of the Apex Court in State of U.P. v. Malti Kaul (supra) has held that the Development authorities are entitled to charge development fee on strength of 1958 Act and the direction issued therein by virtue of Section 59 of 1973 Act. The view of the Division Bench Judgment of this Court in Malti Kaul v. State of U.P. (supra) was disapproved where the High Court held that the Development Authorities has no right to charge any development fee. Normally, we had to have made a reference to the Larger Bench for reconsideration of the Division Bench Judgment in Virendra Kumar Tyagi and Dr. Umesh Maheshwari but in view of the binding Judgment of the Apex Court under Article 141 of the Constitution of India in State of U.P. and others v. Malti Kaul (Smt.) and another, 1996 (10) SCC 425, we feel ourselves bound to follow the Judgment of the Supreme Court by which Judgement the Apex Court has held that Development Authorities are entitled to charge development fee.*

*47. One more submission, which has been pressed by the learned counsel for the petitioner is that in developed localities when an application is submitted for sanction of plan, the Development Authority is not entitled to charge any development fee since the area has already been developed. It is further submitted that Development Authorities are obliged to carry on development in developed area but no development is being carried out by it although huge development fee is demanded by the Development Authorities.*

*48. Section 2(ggg) as quoted above defines development fee as the fee which is levied upon a person for construction of road, drainage, sewer-line, electric supply and water supply lines in the developed area by the Development Authority. Construction of road, drainage, sewer-line, electric supply and water supply is a continuous process requiring huge funds. The definition of development fee as above cannot be read to mean that development fee can be charged only when Development*

*Authority has already constructed the road, drain, sewer-line, electric supply and water supply. The development fee is charged for carrying out the above development activities by the development authority which it is obliged to do.*

*49. In supplementary counter-affidavit filed by Allahabad Development Authority dated 1.8.2011 sworn by Baij Nath, Joint Secretary, Allahabad Development Authority wherein details of certain work, which has been carried out and incurred expenses have been given. The scope of this writ petition is not to scrutinize the works carried out by the Development Authority towards development in the developed area of Allahabad or in developed area of other cities nor to scrutinize as to whether the fund realised by the Development Authorities are being utilized for carrying out the development activities or not. The issue which has come up for consideration is as to whether the development authority has any jurisdiction to charge development fee or not.*

*50. Even after amendment in 1973 Act by U.P. Act No. 3 of 1997, we do not find anything inconsistent in 1973 Act with the Directions 1960 as relied by the Apex Court in State of U.P. v. Malti Kaul (supra) so as to make the said direction authorizing the Development Authority to ask the applicant to deposit the development cost inoperative. As noted above, the process of framing of the Draft Rules 2013 has begun by the State Government and, of course, when the Rules are framed under Section 55 providing for rate, manner and mechanism for realising the development fee, the directions as contained in 1958 Act shall automatically come to an end but till the Rules are framed, it cannot be said that development authorities are having no statutory power to demand development fee from a applicant, who has applied for sanction of plant."*

*51. Learned counsel for the petitioners have also placed reliance on Judgment of the Apex Court in Consumer Online Foundation and others v. Union of India and others, 2011 (5) SCC 360. In the said case, the Apex Court had the occasion to consider various provisions of Airport Authority of India Act, 1994. Section 12A thereof provided that Airport Authority may make a lease of premises of an airport to carry out some of its functions under Section 12 as the Airport Authority may deem fit. Section 22-A of 1994 Act provides that with the approval of the Central Government, the Airport authority may levy and collect from the embarking passengers at a*

*airport the development fee at the rate as may be prescribed. Section 22-A of 1994 Act was amended by the Airport Regulating Authority of India Act, 2008. Relevant facts have been noted in paragraphs 4, 5 and 6 of the Judgment, which are quoted as below:*

*"4. Section 22-A of the 1994 Act was amended by the Airports Economic Regulatory Authority of India Act, 2008 (for short "the 2008 Act") and the amended Section 22-A provided for determination of the rate of development fees for the major airports under clause (b) of sub-section (1) of Section 13 of the 2008 Act by the Airports Economic Regulatory Authority (for short "the Regulatory Authority"). The amended Section 22-A was to take effect on and from the date of the establishment of the Regulatory Authority.*

*5. The Government of India, Ministry of Civil Aviation, sent a Letter dated 9-2-2009 to DIAL conveying the approval of the Central Government under Section 22-A of the 1994 Act for levy of development fees by DIAL at the Delhi Airport at the rate of Rs.200 per departing domestic passenger and at the rate of Rs.1300 per departing international passenger inclusive of all applicable taxes, purely on ad hoc basis, for a period of 36 months with effect from 1-3-2009. Similarly, the Government of India, Ministry of Civil Aviation, sent another Letter dated 27-2-2009 to MIAL conveying the approval of the Central Government under Section 22-A of the 1994 Act for levy of development fees by MIAL at the Mumbai Airport at the rate of Rs. 100 per departing domestic passenger and at the rate of Rs.600 per departing international passenger inclusive of all applicable taxes, purely on ad hoc basis, for a period of 48 months with effect from 1-4-2009.*

6. *The levy of development fees by DIAL as the lessee of the Delhi Airport was challenged in Writ Petition No. 8918 of 2009 by the Resources of Aviation Redressal Association. The levy of development fees by DIAL and MIAL as lessees of the Delhi and Mumbai Airports were challenged in Writ Petition No.9316 of 2009 and Writ Petition No. 9307 of 2009 by Consumer Online Foundation. The writ petitioners contended inter alia that such levy of development fees under Section 22-A of the 1994 Act can only be made by the Airports Authority and not by the lessee and that until the rate of such levy is either prescribed by the Rules made under the 1994 Act or determined by the Regulatory Authority under the 2008 Act as provided in Section 22-A of the Act before and after its amendment by the 2008 Act, the levy and collection of development fees are ultra vires the 1994 Act. The Division Bench of the High Court, after hearing, held that there was no illegality attached to the imposition of development fees by the two lessees with the prior approval of the Central Government and dismissed the writ petitions by the impugned Judgment and order."*

52. *The High Court held that lessee was also entitled to levy and collect development fee. the matter was taken to the Apex Court and after considering the rival submissions, the Apex Court held that lessee is not entitled for charging development fee. Following was laid down in paragraph 16 and 24 of the said Judgment:*

*"16. To enable the Airports Authority to perform its statutory function of establishing a new airport or to assist in the establishment of private airports, the legislature has thought it fit to empower the Airports Authority to levy and collect development fees as will be clear from clauses (b) and (c) of Section 22-A of the 1994 Act. Such development fees levied and collected under Section 22-A*

*can also be utilised for funding and financing the costs of upgradation, expansion and development of an existing airport at which the fees is collected as provided in clause (a) of Section 22-A of the Act and in case the lease of the premises of an existing airport (including buildings and structures thereon and appertaining thereto) has been made to a lessee under Section 12-A of the Act, the Airports Authority may meet the costs of upgradation expansion and development of such leased-out airport to a lessee, but this can be done only if the rules provide for such payment to the lessee of an airport because Section 22-A says that the development fees are to be regulated and utilised in the manner prescribed by the rules.*

*24. As observed by this Court in Ahmedabad Urban Development Authority v. Sharadkumar Jayantikumar Pasawalla, it has been consistently held by this Court that whenever there is compulsory exaction of money, there should be specific provision for the same and there is no room for intendment and nothing is to be read or nothing is to be implied and one should look fairly to the language used. Looking strictly at the plain language of Section 22-A of the 1994 Act before its amendment by the 2008 Act, the development fees were to be levied on and collected from the embarking passengers "at the rate as may be prescribed". Since the rules have not prescribed the rate at which the development fees could be levied and collected from the embarking passengers, levy and collection of development fees from the embarking passengers was without the authority of law."*

**53.** *There cannot be any quarrel to the propositions of law as laid down by the Apex Court in the aforesaid case.*

*Section 22-A before its amendment in 2008 provided that development fee were to be levied and collected from the embarking passengers 'at the rate as may be prescribed' and since Rules were not framed, collection and levy was held to be without any authority.*

*54. As observed above, there cannot be any exception taken to the new legislative scheme as indicated and delineated by inserting Section 15(2-A) of 1973 Act. The manner and rate of development fee is to be prescribed by the Rules but, in the event, no rules have been framed Development Authorities can rightfully utilise Section 59 (1)(c) of the 1958 Act for locating their power for demanding development fee. As soon as the Rules as contemplated 15(2-A) are framed, the earlier statutory provisions of 1958 Act shall come to an end. Since manner and rate or relevant fees has not been prescribed by the Rules framed under Section 55 of the 1973 Act, to hold that the authority shall be denuded with its power to demand development fee, would not advance the object and purpose of the Act. The object and purpose of the Act is to entrust the Development Authority to carry out various development work.*

*55. In view of the foregoing discussion, we following the Judgment of the Apex Court in State of U.P. v. Malti Kaul (supra), hold that the Development Authorities have still the power to demand development charges as per law declared by the Apex Court in State of U.P. v. Malti Kaul till the statutory scheme governing the filed at present is replaced by the Rules framed by the State under Section 55 of 1973 Act.*

*56. For the above reasons, we answer issue nos. 1, 2 and 3 in following manner.*

*(I) The rules are required to frame by State Government under Section 55 as contemplated by Section 15(2)(A) of 1973 Act, however, even without there being rules framed the development fee can be demanded by the development authority as per the directions issued under 1958 Act by virtue of Section 59 (1) (c) of 1973 Act.*

*(II) Issue no. 2 is answered in affirmative.*

*(iii) Issue No. 3 is answered in negative."*

**57.** Thus, it has been held by this Court as well as by the Supreme Court that the rules are required to frame by State Government under Section 55 as contemplated by Section 15(2)(A) of 1973 Act, however,

even without there being rules framed the development fee can be demanded by the Development Authority as per the directions issued under 1958 Act by virtue of Section 59(1)(c) of 1973 Act.

**58.** According to the petitioner, the respondents have not carried out any development and, therefore, they are not entitled to charge extra development charges. The respondents in their supplementary counter affidavit filed on record in paras 3, 4 and 5 have specifically stated as under:-

*"3. That the answering opposite parties submit that the external development of the land, which is the subject matter of the aforesaid writ petition, is complete as per the present requirement. On the front side of the plot there is 76 meter wide Master Plan Road. The north side of the plot is being serviced by 76 meter wide Zonal Road. The Fly Overs, Railway Over Bridges and Bridges are elevated roads and are therefore covered under the general term of "Roads". There are ten locations of fly overs in Meerut City. The answering opposite parties are already bearing proportionate cost/share in the constructions. A photocopy of the master plan of the location is being filed as ANNEXURE NO.A to this counter affidavit.*

*4. That the area where the land is situated is well electrified with street light poles. The Meerut Development Authority, Meerut/opposite party no.2 has constructed 33 KV electric sub station. The said electric sub-station is functional and electricity feeders are available for the petitioner and other developers/institutions.*

*5. That the trunk sewer line has been laid and is available and functional for the connectivity to the petitioner's land. As soon as the petitioner shall complete its internal sewerage system and provide Invert Level, the truck sewer line, which is across the road, shall be connected. For the purpose of the sewerage disposal, land for sewerage treatment plant has been identified and earmarked in the Ved Vyas Puri Scheme of the answering opposite parties, which is on the other side of the 76 meter wide master plan road. The said land for sewerage treatment plan has been even acquired by the answering opposite parties and compensation thereof has also been*

*disbursed and the possession of the land is with the answering opposite parties. The said sewerage treatment plants shall be constructed progressively, depending upon the inflow of sewerage."*

59. Further, the petitioner is also guilty for concealing and withholding the fact that it had already deposited 40 percent of the external development charges at the enhanced rate of Rs.400/- per sq. ft. The Supreme Court in the case of '**K.D. Sharma vs. Steel Authority of India Limited and others**', reported as (2008) 12 SCC 481, while dealing with the concealment of material facts and misleading the Court, has held as under:-

*"34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.*

xxxxx                      xxxxx                      xxxxx                      xxxxx

*38. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because "the court knows law but not facts"."*

60. The Supreme Court in the case of '**Bhaskar Laxman Jadhav and others vs. Karamveer Kakasaheb Wagh Education Society and others**', reported as (2013) 11 Supreme Court Cases 531 held that it is the duty of the litigant to disclose all material facts and a litigant cannot decide which facts are material and which are not. He must come to court with clean hands and disclose all material facts relating to his case. The Supreme court further held as under:-

***"Suppression of fact***

42. *While dealing with the conduct of the parties, we may also notice the submission of the learned counsel for Respondent 1 to the effect that the petitioners are guilty of suppression of a material fact from this Court, namely, the rejection on 2-5-2003 of the first application for extension of time filed by the trustees and the finality attached to it. These facts have not been clearly disclosed to this Court by the petitioners. It was submitted that in view of the suppression, special leave to appeal should not be granted to the petitioners.*

43. *Learned counsel for the petitioners submitted that no material facts have been withheld from this Court. It was submitted that while the order dated 2-5-2003 was undoubtedly not filed, its existence was not material in view of subsequent developments that had taken place. We cannot agree.*

44. *It is not for a litigant to decide what fact is material for adjudicating a case and what is not material. It is the obligation of a litigant to disclose all the facts of a case and leave the decision-making to the court. True, there is a mention of the order dated 2-5-2003 in the order dated 24-7-2006 passed by the JCC, but that is not enough disclosure. The petitioners have not clearly disclosed the facts and circumstances in which the order dated 2-5-2003 was passed or that it has attained finality.*

45. *We may only refer to two cases on this subject. In Hari Narain v. Badri Das, AIR 1963 SC 1558 stress was laid on litigants eschewing inaccurate, untrue or misleading statements, otherwise leave granted to an appellant may be revoked. It was observed as follows: (AIR p.1560, para 9)*

“9. ....It is of utmost importance that in making material statements and setting forth grounds in applications for special leave care must be taken not to make any statements which are inaccurate, untrue or misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. That is why we have come to the conclusion that in the present case, special leave granted to the appellant ought to be revoked. Accordingly, special leave is revoked and the appeal is dismissed. The appellant will pay the costs of the respondent.”

46. More recently, in *Ramjas Foundation v. Union of India*, (2010) 14 SCC 38 the case law on the subject was discussed. It was held that if a litigant does not come to the Court with clean hands, he is not entitled to be heard and indeed, such a person is not entitled to any relief from any judicial forum. It was said: (SCC p.51, para 21)

“21. The principle that a person who does not come to the court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the principle is that every court is not only entitled but is duty-bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case.”

*47. A mere reference to the order dated 2-5-2003, en passant, in the order dated 24-7-2006 does not serve the requirement of disclosure. It is not for the court to look into every word of the pleadings, documents and annexures to fish out a fact. It is for the litigant to come upfront and clean with all material facts and then, on the basis of the submissions made by learned counsel, leave it to the court to determine whether or not a particular fact is relevant for arriving at a decision. Unfortunately, the petitioners have not done this and must suffer the consequence thereof."*

**61.** Moreover, the MDA sent a letter dated 30<sup>th</sup> June 2006 to the State Government seeking approval of levy of Rs.400/- per square meter towards development charges and the State Government approved the same vide letter dated 17<sup>th</sup> June 2006 (annexure SCA-3 of counter affidavit). The same has not been disclosed by the petitioner.

**62.** Thus, a litigant, who approaches the Court is bound to state all the relevant facts and produce all the documents which are relevant to the litigation without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes to disclose and to suppress or not to disclose other facts.

**63.** In view of the foregoing discussion and drawing support from the judgment of the Supreme Court in the case of '**State of U.P. and others vs. Malti Kaul (supra)**', we do not find any merit in the petition. The same is, accordingly, **dismissed**. No order as to costs.

**(Narendra Kumar Johari)**  
**Judge**

**(Ved Prakash Vaish)**  
**Judge**

**Order Date :-** 07<sup>th</sup> Aug. 2020  
cks/-



# मेरठ विकास प्राधिकरण, मेरठ।

पत्रांक : 772/प्र.अ.ड.0/20 जोन-८

दिनांक : 07-09-2020

सेवा में,

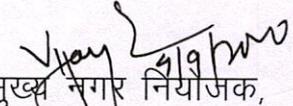
मै० गॉडविन कन्स० प्रा० लि०,  
सीएमएस, 38, छिपी टैंक,  
मेरठ।

विषय:- स्वीकृत तलपट मानचित्र संख्या-28/06 की देय धनराशि जमा कराये जाने के संबंध में।

महोदय,

कृपया उपर्युक्त विषयक प्राधिकरण द्वारा आपको प्रेषित पत्रांक 680/18/मान० अनु०/जोन-सी/18 दिनांक 16.11.2018 का संदर्भ ग्रहण करने का कष्ट करें, जिसके माध्यम से बाह्य विकास शुल्क के मद में अवशेष धनराशि रू०-17,87,02,070.00 प्राधिकरण कोष में जमा कराये जाने हेतु आपको निर्देशित किया गया था, परन्तु आपके द्वारा उक्त धनराशि प्राधिकरण कोष में अद्यतन जमा नहीं करायी गयी है।

अतः आपको निर्देशित किया जाता है कि बाह्य विकास शुल्क की धनराशि रू०-17,87,02,070.00 (ब्याज अतिरिक्त) प्राधिकरण कोष में पत्र प्राप्ति के एक सप्ताह के अन्दर जमा कराना सुनिश्चित करें।

  
मुख्य नगर नियोजक,  
मेरठ विकास प्राधिकरण,  
मेरठ।

मि.प्रो.

मेरठ

विकास

प्राधिकरण,

मेरठ।

पत्रांक : 68/ए.पि./2020

दिनांक : 19-9-2020

सेवा में,

मै० गॉडविन कन्स० प्रा० लि०,  
सीएमएस, 38, छिपी टैंक,  
मेरठ।

अन्तिम अनुस्मारक-पत्र

विषय:- स्वीकृत तलपट मानचित्र संख्या-28/06 की देय धनराशि जमा कराये जाने के संबंध में।

महोदय,

कृपया उपर्युक्त विषयक प्राधिकरण द्वारा आपको प्रेषित पत्रांक 772/मान० अनु०/जोन-सी/20 दिनांक 07.09.2020 का संदर्भ ग्रहण करने का कष्ट करें, जिसके माध्यम से बाह्य विकास शुल्क के मद में अवशेष धनराशि रू०-17,87,02,070.00 (ब्याज अतिरिक्त) प्राधिकरण कोष में जमा कराये जाने हेतु आपको निर्देशित किया गया था, परन्तु आपके द्वारा उक्त धनराशि प्राधिकरण कोष में अद्यतन तक जमा नहीं करायी गयी है। मा० उच्च न्यायालय में आप द्वारा दायर की गई मिस बैच न०-7787/08 दिनांक 07.08.2020 मा० न्यायालय द्वारा निरस्त की दी गयी।

अतः आपको अन्तिम बार निर्देशित किया जाता है कि बाह्य विकास शुल्क की धनराशि रू०-17,87,02,070.00 (ब्याज अतिरिक्त) प्राधिकरण कोष में पत्र प्राप्ति के एक सप्ताह के अन्दर जमा कराना सुनिश्चित करें। अन्यथा भू-राजस्व के बकाये के रूप में वसूली कराने हेतु जिलाधिकारी, मेरठ को प्रस्तावित कर दिया जायेगा, जिसकी समस्त जिम्मेदारी आपकी होगी।

19/9/20

मुख्य नगर नियोजक,  
मेरठ विकास प्राधिकरण,  
मेरठ।

शक  
19  
09



# मेरठ विकास प्राधिकरण, मेरठ।

पत्रांक : 908/4102-E/2021

दिनांक : 28.XII.2021

प्रेषक,

सचिव,  
मेरठ विकास प्राधिकरण,  
मेरठ।

सेवा में,

जिलाधिकारी,  
मेरठ।

विषय : तलपट मानचित्र सं0-28/06 में वाह्य विकास शुल्क के सापेक्ष धनराशि  
रु0-228074255.00 की वसूली किये जाने के सम्बन्ध में।

महोदय,

मा0 उच्च न्यायालय इलाहाबाद खण्डपीठ लखनऊ में योजित वाद विविध नं0-7787/08 में पारित आदेश दिनांक 07.08.2020 के सम्बन्ध में अवगत कराना है, कि मै0 गोडविन कन्सट्रक्शन प्रा0लि0 द्वारा स्वीकृत तलपट मानचित्र सं0-28/06 स्वीकृति दिनांक 26.09.07, ग्रीन बुड सिटी नाम से तलपट मानचित्र स्वीकृत कराया गया था। स्वीकृति की शर्तों के अनुसार विकासकर्ता द्वारा वाह्य विकास शुल्क धनराशि रु0-6,57,14000.00 जमा कराये जाने थे। जिस हेतु आवेदक द्वारा 40 प्रतिशत धनराशि रु0-2,62,85600.00 प्राधिकरण कोष में जमा कराते हुए अवशेष वाह्य विकास शुल्क रु0-3,94,28,420.00 की धनराशि को नियमानुसार किश्त किये जाने का अनुरोध किया गया था। जिस क्रम में आवेदक को प्रथम किश्त दिनांक 25.01.08 को धनांक रु0-1,54,95,541.00/दूसरी किश्त दिनांक 25.05.08 धनांक रु0-1,62,66,826.00 तथा तीसरी किश्त दिनांक 25.09.08 धनांक रु0-1,55,08,504.00 जमा किये जाने हेतु सूचित किया गया था। आवेदक द्वारा अवशेष धनराशि न जमा कराते हुए मा0 उच्च न्यायालय में रिट याचिका सं0-7787/08 दायर की गयी, जिसमें मा0 उच्च न्यायालय द्वारा प्राधिकरण को निर्देशित किया गया, कि बाह्य विकास शुल्क के मद में जो सुविधाएँ विकासकर्ता को दी जानी है। उन्हे तत्काल उपलब्ध करायी जायें तथा विपक्षी को दिनांक 15.11.08 तक रु0-1,00,00,000.00 प्राधिकरण कोष में जमा कराये। उक्त के क्रम में प्राधिकरण द्वारा मा0 उच्च न्यायालय के आदेश के क्रम में वांछित कार्य पूर्ण करा दिये गये थे एवं याची द्वारा धनराशि रु0-1,00,00,000.00 प्राधिकरण में दिनांक 18.11.08 व दिनांक 10.12.08 को जमा करा दिये गये थे। प्रश्नगत कॉलोनी के समस्त वाह्य विकास कार्य पूर्ण कराने के उपरान्त भी आवेदक द्वारा अद्यतन् तक अवशेष वाह्य विकास शुल्क की धनराशि प्राधिकरण कोष में जमा नहीं करायी गयी थी। अवशेष धनराशि रु0-2,94,28,420.00 देय दण्ड ब्याज के साथ प्राधिकरण कोष में जमा कराये जाने हेतु प्राधिकरण द्वारा पत्रांक 1042/18/मा0अनु0/जोन-सी/18 दिनांक 05.05.18 प्रेषित किया गया। तत्समय विकासकर्ता द्वारा मा0 उच्च न्यायालय, लखनऊ खण्डपीठ द्वारा स्थगन आदेश जारी होना बताया गया था। विकासकर्ता को अवशेष धनराशि रु0-2,94,28,420.00 देय दण्ड ब्याज के साथ जमा कराने हेतु पत्रांक सं0-60/18/मा0अनु0/जोन-सी/18 दिनांक 27.08.2018 के माध्यम से सूचित किया गया था, परन्तु विकासकर्ता द्वारा पत्र का संज्ञान नहीं लिया गया अपितु पूर्व नियोजित वाद में स्वतः संज्ञान लेकर वाद को पूनर्जीवित रेस्ट्रुेशन के आवेदन का उल्लेख करते हुए कार्यवाही लम्बित रखने के लिए प्रार्थना की गयी। वर्तमान में मा0 उच्च न्यायालय में योजित रिट याचिका सं0-7787/08 का मा0 उच्च न्यायालय द्वारा दिनांक 07.08.2020 में निरस्त कर दी गयी है।

मा० उच्च न्यायालय के आदेश के अनुपालन में विकासकर्ता को दिनांक 07.09.2020 व दिनांक 19.09.2020 को अवशेष बाह्य विकास शुल्क दण्ड ब्याज सहित जमा कराने हेतु पत्र प्रेषित किये गये थे। उसके उपरान्त भी विकासकर्ता द्वारा बकाया धनराशि प्राधिकरण कोष में जमा नहीं करायी गयी है। तलपट मानचित्र सं०-28/06 में वह्य शुल्क के रूप में दिनांक 25.12.2021 तक दण्ड ब्याज सहित रू०-22,80,74,255.00 आंकलित है।

अतः तलपट मानचित्र सं०-28/06 में बाह्य विकास शुल्क के रूप में अंकन रू०-27,39,25,261.00 (दण्ड ब्याज दिनांक 25.12.2021 तक) एवं अन्य देयता मै० गोडविन इन्सट्रक्शन प्रा० लि० श्री जितेन्द्र सिंह वाजवा निवासी-डी-151, डिफेन्स एन्कलेव, मेरठ से भू-राजस्व के बकाये के रूप में वसूल कर मेरठ विकास प्राधिकरण, मेरठ को बैंक ड्राफ्ट के माध्यम से वसूली पत्र के साथ भिजवाने हेतु सम्बन्धित को निर्देशित करने का कष्ट करें।

(9)

सह  
28/12/21

सचिव

मेरठ विकास प्राधिकरण,  
मेरठ।

प्रतिलिपि:-मैसर्स गॉडविन कन्सट्रक्शन प्रा० लि० श्री जितेन्द्र सिंह वाजवा निवासी-डी-151, डिफेन्स एन्कलेव, मेरठ को सूचनार्थ प्रेषित।  
कालोनी,

सचिव

मेरठ विकास प्राधिकरण,  
मेरठ।



# मेरठ विकास प्राधिकरण, मेरठ।

पत्रांक : 82/4102-ए/22

दिनांक : 18.02.2022

प्रेषक,

सचिव,  
मेरठ विकास प्राधिकरण,  
मेरठ।

सेवा में,

जिलाधिकारी,  
मेरठ।

**विषय : तलपट मानचित्र सं०-28/06 में वाह्य विकास शुल्क के सापेक्ष धनराशि  
रु०-27,39,25,261.00 की वसूली किये जाने के सम्बन्ध में।**

महोदय,

कृपया इस कार्यालय के पत्र संख्या-908/मान० जोन-सी/2021 दिनांक 28.12.2021 का संदर्भ ग्रहण करने का कष्ट करें, जिसमें टंकन की त्रुटि के कारण आर०सी० के माध्यम से वसूली की जाने वाली धनराशि दो स्थानों पर रु० 27,39,25,261.00 के स्थान पर रु० 22,80,74,255.00 अंकित कर दी गयी थी। वास्तव में वाह्य विकास शुल्क के रूप में अवशेष देय धनराशि दिनांक 25.09.2020 तक रु० 22,80,74,255.00 थी, जोकि विकासकर्ता द्वारा जमा नहीं कराये जाने के कारण दिनांक 25.12.2021 तक (ब्याज सहित) रु० 27,39,25,261.00 हो गयी है। प्राधिकरण द्वारा प्रेषित पत्र दिनांक 28.12.2021 में दिनांक 25.12.2021 तक की उक्त मद में अवशेष देय धनराशि रु० 27,39,25,261.00 का स्पष्ट उल्लेख है। तद्नुसार पुनः सम्पूर्ण प्रकरण का विवरण निम्नवत है:-

मा० उच्च न्यायालय इलाहाबाद खण्डपीठ लखनऊ में योजित वाद विविध नं०-7787/08 में पारित आदेश दिनांक 07.08.2020 के सम्बन्ध में अवगत कराना है, कि मै० गोडविन कन्सट्रक्शन प्रा०लि० द्वारा स्वीकृत तलपट मानचित्र सं०-28/06 स्वीकृति दिनांक 26.09.07, ग्रीन बुड सिटी नाम से तलपट मानचित्र स्वीकृत कराया गया था। स्वीकृति की शर्तों के अनुसार विकासकर्ता द्वारा वाह्य विकास शुल्क धनराशि रु०-6,57,14,000.00 जमा कराये जाने थे। जिस हेतु आवेदक द्वारा 40 प्रतिशत धनराशि रु०-2,62,85,600.00 प्राधिकरण कोष में जमा कराते हुए अवशेष वाह्य विकास शुल्क रु०-3,94,28,420.00 की धनराशि को नियमानुसार किश्त किये जाने का अनुरोध किया गया था। जिस क्रम में आवेदक को प्रथम किश्त दिनांक 25.01.08 को धनांक रु०-1,54,95,541.00/दूसरी किश्त दिनांक 25.05.08 धनांक रु०-1,62,66,826.00 तथा तीसरी किश्त दिनांक 25.09.08 धनांक रु०-1,55,08,504.00 जमा किये जाने हेतु सूचित किया गया था। आवेदक द्वारा अवशेष धनराशि न जमा कराते हुए मा० उच्च न्यायालय में रिट याचिका सं०-7787/08 दायर की गयी, जिसमें मा० उच्च न्यायालय द्वारा प्राधिकरण को निर्देशित किया गया, कि बाह्य विकास शुल्क के मद में जो सुविधाएँ विकासकर्ता को दी जानी है। उन्हें तत्काल उपलब्ध करायी जायें तथा विपक्षी को दिनांक 15.11.08 तक रु०-1,00,00,000.00 प्राधिकरण कोष में जमा कराये। उक्त के क्रम में प्राधिकरण द्वारा मा० उच्च न्यायालय के आदेश के क्रम में वांछित कार्य पूर्ण करा दिये गये थे एवं याची द्वारा धनराशि रु०-1,00,00,000.00 प्राधिकरण में दिनांक 18.11.08 व दिनांक 10.12.08 को जमा करा दिये गये थे। प्रश्नगत कॉलोनी के समस्त वाह्य विकास कार्य पूर्ण कराने के उपरान्त भी आवेदक द्वारा अद्यतन तक अवशेष वाह्य विकास शुल्क की धनराशि प्राधिकरण कोष में जमा नहीं करायी गयी थी। अवशेष धनराशि रु०-2,94,28,420.00 देय दण्ड ब्याज के साथ

प्राधिकरण कोष में जमा कराये जाने हेतु प्राधिकरण द्वारा पत्रांक 1042/18/मा0अनु0/जोन-सी/18 दिनांक 05.05.18 प्रेषित किया गया। तत्समय विकासकर्ता द्वारा मा0 उच्च न्यायालय, लखनऊ खण्डपीठ द्वारा स्थगन आदेश जारी होना बताया गया था। विकासकर्ता को अवशेष धनराशि रू0-2,94,28,420.00 देय दण्ड ब्याज के साथ जमा कराने हेतु पत्रांक सं0-60/18/मा0अनु0/जोन-सी/18 दिनांक 27.08.2018 के माध्यम से सूचित किया गया था, परन्तु विकासकर्ता द्वारा पत्र का संज्ञान नहीं लिया गया अपितु पूर्व नियोजित वाद में स्वतः संज्ञान लेकर वाद को पूनर्जीवित रेस्टुरेशन के आवदेन का उल्लेख करते हुए कार्यवाही लम्बित रखने के लिए प्रार्थना की गयी। वर्तमान में मा0 उच्च न्यायालय में योजित रिट याचिका सं0-7787/08 का मा0 उच्च न्यायालय द्वारा दिनांक 07.08.2020 में निरस्त कर दी गयी है। मा0 उच्च न्यायालय के आदेश के अनुपालन में विकासकर्ता को दिनांक 07.09.2020 व दिनांक 19.09.2020 को अवशेष बाह्य विकास शुल्क दण्ड ब्याज सहित जमा कराने हेतु पत्र प्रेषित किये गये थे। उसके उपरान्त भी विकासकर्ता द्वारा बकाया धनराशि प्राधिकरण कोष में जमा नहीं करायी गयी है। तलपट मानचित्र सं0-28/06 में बाह्य शुल्क के रूप में दिनांक 25.12.2021 तक दण्ड ब्याज सहित रू0-27,39,25,261.00 आंकलित है।

अतः तलपट मानचित्र सं0-28/06 में बाह्य विकास शुल्क के रूप में अंकन रू0-27,39,25,261.00 (दण्ड ब्याज दिनांक 25.12.2021 तक) एवं अन्य देयता मै0 गोडविन इन्सट्रक्शन प्रा0 लि0 श्री जितेन्द्र सिंह वाजवा निवासी-डी-151, डिफेन्स एन्कलेव, मेरठ से भू-राजस्व के बकाये के रूप में वसूल कर मेरठ विकास प्राधिकरण, मेरठ को बैंक ड्राफ्ट के माध्यम से वसूली पत्र के साथ भिजवाने हेतु सम्बन्धित को निर्देशित करने का कष्ट करें।

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18/12/21  
श्री जितेन्द्र सिंह  
वाजवा (सि.प.)  
कालोनी (मेरठ)

सचिव  
मेरठ विकास प्राधिकरण,  
मेरठ।

प्रतिलिपि:- मैसर्स गॉडविन कन्सट्रक्शन प्रा0 लि0 श्री जितेन्द्र सिंह वाजवा निवासी-डी-151, डिफेन्स कालोनी, मवाना रोड, मेरठ को सूचनार्थ प्रेषित।

सचिव  
मेरठ विकास प्राधिकरण,  
मेरठ।