

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION 920 OF 2022

IN THE MATTER OF:

KESAR SINGH

... APPLICANT

VERSUS

STATE OF UTTARAKHAND & ORS.

... RESPONDENTS

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THROUGH



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PLACE: NEW DELHI

DATE:- 11-07-2023

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**RESPONSE TO THE REPORT OF THE DISTRICT MAGISTRATE,
DEHRADUN (RESPONDENT NO. 6) BY WAY OF AFFIDAVIT DATED
03.07.2023 ON BEHALF OF THE APPLICANT**

MOST RESPECTFULLY SHOWETH:

1. That at the outset it is submitted that the Report dated 03.07.2023 filed by the District Magistrate is not complying with the directions contained in order dated 30.05.2023 by this Hon'ble Tribunal.
2. That the above titled application was filed raising the issue of construction of residential houses on the active flood plain and the river bed of River Baldi at Khasra No.171, Dhanaula village, Dehradun, Uttarakhand by Respondent No. 10, Mr Virender Singh Arora. The geographical location of Khasra No.171 is such that it lies at the confluence of Song River and Baldi River at Dhanaula village, Dehradun, Uttarakhand. The River Baldi, Uttarakhand, an important tributary of the Song River which is a major tributary to river Ganga has been experiencing severe anthropocentric pressures on its flood plains, resulting in threatening the existence of the river. The Applicant had further submitted that the plotting and construction activities undertaken on the part of the Baldi river, is not only a part of the floodplain but in the land record also it is recorded as 'river' as the nature of the land. The action of Respondent of plotting and construction is not only in

violation of law and directions passed by this Hon'ble Tribunal but also will impact the flow of the river and river hydrology.

3. That via order dated 05.01.2023, the Hon'ble Tribunal admitted the matter and constituted a joint committee comprising of State Pollution Control Board and District Magistrate, Dehradun to visit the site and collect relevant information and submit factual and action taken report. As per the said order dated 05.01.2023, the report was submitted before this Hon'ble Tribunal on 29.05.2023. Further, the Applicant had submitted its response to the Joint Committee Report with the following objections:
 - i. The report is silent on whether the construction activities are undertaken in the flood plain or not.
 - ii. The committee has failed to look into the Ganga notification, 2016 which prohibits any kind of construction activity or the river bed.
 - iii. The District Magistrate, Dehradun was not made part of the inspection
 - iv. The construction activities in the Khasra no.171 at Dhanaula, Village is still continuing
4. That thereafter, the matter was heard on 30.05.2023 wherein this Hon'ble Tribunal passed the following directions:

"8. As requested, list this matter on 12th July, 2023, by which time the District Magistrate, Dehradun shall file an action taken report to show compliance of the statement made at the bar today.

9. District Magistrate will also place on record a positive statement that besides the encroachment allegedly made by Sh. Virendra Singh, there is no other encroachment by anyone else in the area in question that is along the flood plain zone of the river Song and Baldi. It is also made clear that if there is any such other encroachment also, effective action shall be taken for removal thereof and in the next action taken report such facts shall be disclosed."

5. That the District Magistrate, Dehradun submitted its report by way of Affidavit dated 03.07.2023 in compliance of this Hon'ble Tribunal's direction. The Applicant is making following submissions to the Report dated 03.07.2023 of District Magistrate.

I. Status of Construction

The District Magistrate has stated in the Affidavit that concrete wall and structure has been removed. However, it is not clear from the Affidavit that the small boundary walls constructed for plotting of the Khasra No. 171 at Village Dhanaula has also been removed, and the floodplain is restored to its original position. The Applicant visited the site on 11.07.2023 and found that the structure in Khasra No. 171 along with the boundary wall on the floodplain is still not removed. The photographs showing the structure and boundary wall on the floodplain of Khasra No. 171 is annexed herewith as **ANNEXURE A-1.**

II. Status of Debris removed or not at the cost of Respondent No. 10

That the District Magistrate in the Affidavit has also not clarified about the removal of debris after demolishing the structure from the floodplain. The Report has also not clarified with respect to cost of demolishing the structures and removal of debris, if any, recovered from the Respondent No. 10 or not. The Applicant visited the site on 11.07.2023 and found out that the debris of demolition of some of structure is still lying on the floodplain. It is submitted that the District Magistrate or the other concerned authorities not only should have recovered the cost of demolition of the structures and restoring the area to its original position but also should have imposed environmental compensation. The photographs taken showing debris from demolition of some of the structures is still present at the site is annexed herewith as **ANNEXURE A-2.**

III. No information on other encroachment on the floodplain zone of River Song and Baldi

That this Hon'ble Tribunal by order dated 30.05.2023 directed the District Magistrate to place on record details of structures on the floodplain zone of River Song and Baldi other than that of Respondent No. 10 herein. The Hon'ble Tribunal also directed that if any such structure is found then

effective action shall be taken for removal thereof. The relevant part of the order is reproduced here for reference:

"9. District Magistrate will also place on record a positive statement that besides the encroachment allegedly made by Sh. Virendra Singh, there is no other encroachment by anyone else in the area in question that is along the flood plain zone of the river Song and Baldi. It is also made clear that if there is any such other encroachment also, effective action shall be taken for removal thereof and in the next action taken report such facts shall be disclosed."

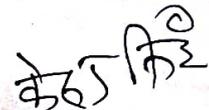
However, the Report dated 03.07.2023 is completely silent on this aspect and has not given any detail whatsoever on the encroachment on the floodplains of river Song and Baldi. The Applicant could not verify due to heavy rain the present situation and seeks two weeks' time to make submission about the situation on the ground on the issue of encroachments and constructions in the floodplain river Song and Baldi.

IV. No statement on demarcation of floodplain of River Song and Baldi as per Uttarakhand Floodplain Zoning Act, 2012

That the Applicant in the Original Application had prayed for the State of Uttarakhand to identify the floodplains of Baldi River as per the Uttarakhand Flood Plain Zoning Act, 2012 and to demarcate them with the aim of stopping the illegal encroachment and constructions of similar nature to that of Respondent No. 10 across the River Baldi. However, there is no information or statement made either in the Report dated 17.03.2023 or 03.07.2023 about any step taken for demarcation of floodplain.^{7.}

6. That therefore, the Hon'ble Tribunal, in the interest of justice may consider the above submissions and objections on behalf of the Applicant for further adjudication of the matter and grant two weeks' time to make further submissions.

7. Pass any such order deemed fit by this Hon'ble Tribuna' in the facts and circumstances of the case.


APPLICANT

THROUGH



RITWICK DUTTA



RAHUL CHOUDHARY

COUNSELS FOR THE APPLICANT

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Greater Kailash – 1

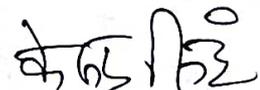
New Delhi – 110048

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Email: dclaw160@gmail.com

VERIFICATION

Verified on this 11 day of July, 2023 by Kesar Singh, aged about 48 years, s/o Late Shri Bechu Singh, r/o Minakshi Amman House, ShivGanga Sadan, HN 1, Kailash Marg Lane No. B3, ShivGanga Enclave, Sahastradhara Rd, P.O. Gujarada, DandaLakhond, Dehradun, Uttarakhand-248001, that the contents of Paragraphs 1 to 7 are true to my personal knowledge and belief and nothing material has been concealed therefrom.


APPLICANT

Place:- Delhi
 Dated:- 11.07.2023



4025/27
 This affidavit is sworn before me by
 Shri. Kesar Singh
 who is identified by Shri.
 at Dehradun on.....


 (Rajender Singh (Adv.))
 Advocate & Notary, Dehradun



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AFFIDAVIT

I, Kesar Singh, aged about 48 years, s/o Late Shri Bechu Singh, r/o Minakshi Amman House, ShivGanga Sadan, HN 1, Kailash Marg Lane No. B3, ShivGanga Enclave, Sahastradhara Rd, P.O. Gujarada, DandaLakhond, Dehradun, Uttarakhand-248001, presently at Dehradun do hereby solemnly affirm and state as under:

1. That I am the Applicant in the above titled Original Application and am conversant with the facts and circumstances described in the present case and as such, I am competent to swear this affidavit.
2. That the contents of the accompanying Application are true and correct and nothing material has been concealed therefrom.

(Handwritten Signature)

DEPONENT

VERIFICATION

Verified on this 11 day of July, 2023 that the contents of the above mentioned affidavit are true and correct and nothing material has been concealed therefrom.



Serial No - 4025
 This affidavit is sworn before me by
 Shri.....
 who is identified by Shri.....
 at Dehradun on.....

(Handwritten Signature)
DEPONENT

(Handwritten Signature)
 (Rajender Singh Negi)
 Advocate & Notary, Dehradun

ANNEXURE A-1

Photographs showing the structure and boundary wall on the floodplain of Khasra No. 171:





ANNEXURE A-2

Photographs showing debris from the demolition site not removed:

