

REJOINDER FILED BY THE APPLICANT

IN THE HON'BLE NATIONAL GREEN TRIBUNAL PRINCIPAL
BENCH) NEW DELHI

Original Application No. 1191/2024

IN THE MATTER OF :

NARENDRA KUMAR GOSWAMI

...PETITIONER

VERSUS

STATE OF UTTAR PRADESH & ORS.

...RESPONDENTS

PRELIMINARY SUBMISSIONS

1. **Jurisdictional Mandate:** This Tribunal, under Section 20 of the National Green Tribunal Act, 2010, is empowered to adjudicate matters involving substantial environmental harm and violations of judicial mandates. The instant case involves deliberate suppression of material facts, ecological degradation, and fraudulent transactions, necessitating urgent intervention to uphold environmental justice.
2. **Response to Respondent's Submissions:** The respondents' reply is evasive, failing to address the suppression of the NGT-constituted Committee's report, the ecological imperative of protecting regenerated trees, and the illegality of the property transaction. This rejoinder rebuts their claims and reinforces the applicant's prayers.

**I. SUPPRESSION OF NGT COMMITTEE REPORT: CONTEMPT &
FRAUD ON THE COURT**

A. Deliberate Concealment of Material Facts

- The NGT-constituted Committee’s recommendation to designate **Dalmia Bagh as "Green Land"** was deliberately withheld from this Tribunal and the Hon’ble Supreme Court, undermining judicial processes. This act:
 - Violates the principle of transparency mandated in environmental litigation.
 - Constitutes **criminal contempt** under Section 2(c)(iii) of the Contempt of Courts Act, 1971, by obstructing justice through suppression of critical evidence.
 - Amounts to **fraud on the court**, rendering any decision based on incomplete facts a nullity, as per *S.P. Chengalvaraya Naidu v. Jagannath* (1994) 1 SCC 1 (S.P. Chengalvaraya).
- The respondents’ claim that the report was “considered differently” is untenable, as no record of its submission or discussion exists in prior proceedings, evidencing willful suppression.

B. Legal Consequences

- The suppression frustrates the **Doctrine of Public Trust**, as enunciated in *M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388, which mandates protecting natural resources for public benefit (M.C. Mehta).
- Under Section 19(4)(b) of the NGT Act, 2010, the Tribunal can compel production of documents, and failure to disclose violates this statutory power.
- **Prayers:**
 - Initiate contempt proceedings against respondents for suppressing the Committee’s report.
 - Direct the Registry to place the report before this Tribunal and the Supreme Court for consideration.

II. PROTECTION OF REGENERATED TREES & CLARIFICATION OF "NEARBY"

A. Ecological Imperative for Regenerated Trees

- Approximately **100+ trees** have naturally regenerated at Dalmia Bagh due to partial felling with roots intact. Their protection is mandated by:
 - **Section 5 of the UP Protection of Trees Act, 1976**, which prohibits felling or harming trees, including those with regenerative capacity, without permission (UP Act).
 - **Precautionary Principle** under Section 20 of the NGT Act, 2010, requiring preventive measures against environmental harm.
 - **Sustainable Development**, as upheld in *T.N. Godavarman Thirumulpad v. Union of India* (2002) 10 SCC 606, emphasizing forest conservation (T.N. Godavarman).
- The respondents' failure to protect these trees exacerbates ecological damage, necessitating immediate action.

B. Purposive Interpretation of "Nearby"

- The Supreme Court's directive to plant **9,080 trees "nearby"** must be interpreted as **Dalmia Bagh itself**, as:
 - Environmental law prioritizes **site-specific restoration**, as held in *Vellore Citizens' Welfare Forum v. Union of India* (1996) 5 SCC 647, to mitigate damage at the source (Vellore Citizens).
 - Planting elsewhere violates the **Polluter Pays Principle**, rendering the directive ineffective, as reinforced in *Indian Council for Environmental Action v. Union of India* (1996) 3 SCC 212 (Indian Council).
- The respondents' suggestion of alternative sites is a dilatory tactic to evade responsibility, contrary to environmental jurisprudence.

Prayers:

- Direct the Forest Department to **fence, monitor, and submit bi-monthly reports** on the regenerated trees.
 - Clarify that “nearby” refers to **Dalmia Bagh** for compensatory afforestation.
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III. FRAUDULENT PROPERTY TRANSACTION: CRIMINAL CONSPIRACY & ILLEGAL POSSESSION

A. Void Agreement and Statutory Violations

- The purported transfer of a **₹300-crore property** via an unregistered agreement on a **₹100 non-e-stamp paper** is **void ab initio** due to:
 - **Section 17(1)(b) of the Registration Act, 1908**, mandating registration for immovable property transactions exceeding ₹100 (Registration Act).
 - **Section 35 of the Indian Stamp Act, 1899 (Stamp Act)**, which provides that instruments not duly stamped are inadmissible in evidence.
 - The principle in *Narandas Karsondas v. S.A. Kamtam* (1977) 3 SCC 247, that possession cannot transfer without a registered sale deed (Narandas).
- The respondents’ reliance on this agreement is a deliberate attempt to legitimize illegal possession.

B. Criminal Liability

- The transaction involves:

- **Forgery** under Section 463 of the Indian Penal Code, 1860, for fabricating an invalid document.
- **Criminal Conspiracy** under Section 120B, given the coordinated effort to defraud judicial processes.
- **Fraudulent misrepresentation** under Section 17 of the Indian Contract Act, 1872, to shield influential parties.
- These acts warrant investigation by specialized agencies like the CBI or ED.

C. Inadequate Penalty

- The penalty of **₹1 lakh per tree** is grossly inadequate, given:
 - The land's market value of **₹150,000/sq. yard**, indicating significant economic gain from violations.
 - The Supreme Court's ruling in *Common Cause v. Union of India* (2017) 9 SCC 499, mandating proportional penalties to deter environmental crimes (Common Cause).
- A penalty of **₹10 lakh per tree** aligns with the **Polluter Pays Principle** and reflects the ecological and economic gravity of the offense.

Prayers:

- Enhance penalties to **₹10 lakh per tree**, payable by violators.
- Direct the CBI/ED to investigate the fraudulent transaction and prosecute conspirators.

CONCLUSION

The respondents' actions—suppressing the NGT Committee Report, neglecting regenerated trees, and engaging in fraudulent transactions—constitute a grave assault on environmental justice and the Rule of Law. This Tribunal must:

- Uphold judicial integrity by punishing contempt and fraud.
- Ensure site-specific ecological restoration to mitigate harm.
- Impose exemplary penalties to deter future violations.

IV. FINAL PRAYERS

I. CONTEMPT PROCEEDINGS FOR SUPPRESSION OF MATERIAL FACTS

1. **Initiate Contempt Proceedings** against all respondents under **Section 2(c)(iii) of the Contempt of Courts Act, 1971**, read with **Article 129 of the Constitution**, for willfully suppressing the NGT Committee Report recommending the declaration of **Dalmia Bagh as "Green Land"**.
 - Reference: *S.P. Chengalvaraya Naidu v. Jagannath (1994) 1 SCC 1* (suppression of facts vitiates judicial process).

II. ECOLOGICAL RESTORATION AND PROTECTION

2. **Immediate Protection of Regenerated Trees:**
 - Direct the **Uttar Pradesh Forest Department** to:
 - **Fence and demarcate** the 100+ regenerated trees at Dalmia Bagh.
 - Submit **bi-monthly status reports** to this Tribunal.
 - Legal Basis: **Section 5 of the UP Protection of Trees Act, 1976**, and the **Precautionary Principle** under Section 20 of the NGT Act, 2010.
3. **Clarification of "Nearby" for Compensatory Afforestation:**

- Declare that the term "**nearby**" in the Supreme Court's directive (9,080 trees) **refers exclusively to Dalmia Bagh**, ensuring site-specific restoration.
- Legal Basis: *Vellore Citizens' Welfare Forum v. Union of India (1996) 5 SCC 647* (mitigation at damage source).

III. ENHANCED PENALTIES & POLLUTER PAYS PRINCIPLE

4. Enhance Penalty to ₹10 Lakh Per Tree:

- Impose a penalty of **₹10 lakh per tree** (total ₹45.4 crore for 454 trees) on violators, aligning with:
 - **Polluter Pays Principle** (*Indian Council for Enviro-Legal Action v. Union of India (1996) 3 SCC 212*).
 - Proportional deterrence as per *Common Cause v. Union of India (2017) 9 SCC 499*.

IV. CRIMINAL INVESTIGATION INTO FRAUDULENT TRANSACTIONS

5. CBI/ED Probe into ₹300-Crore Fraud:

- Direct the **Central Bureau of Investigation (CBI)** and **Enforcement Directorate (ED)** to:
 - Investigate the **unregistered agreement** executed on a **non-e-stamp paper (₹100)** for the transfer of ₹300-crore property.
 - Prosecute offenders under **Sections 120B (Criminal Conspiracy), 463 (Forgery) IPC**, and **Section 17 of the Indian Contract Act, 1872**.

- Legal Basis: *Narandas Karsondas v. S.A. Kamtam (1977) 3 SCC 247* (possession cannot transfer without registered deed).

V. COMPLIANCE AND MONITORING

6. Quarterly Compliance Reports:

- Direct the **TTZ Authority** and **State of Uttar Pradesh** to submit quarterly reports on:
 - Implementation of afforestation at Dalmia Bagh.
 - Progress in criminal investigations.
- Legal Basis: **Section 19(4)(b) of the NGT Act, 2010** (Tribunal's power to enforce compliance).

DATED: 02.05.2025

PLACE: New Delhi

SUBMITTED BY:



Narendra Kumar Goswami

Petitioner-In-Person

Enrolment No. UP 06653/2014

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AFFIDAVIT OF NARENDRA KUMAR GOSWAMI

I, Narendra Kumar Goswami, son of Shiv Hari Goswami, aged 39 years, resident of 3A/140 Krishna Vihar, Mathura, Uttar Pradesh - 281004, do hereby solemnly affirm and declare as under:

1. I am the applicant in Original Application No. 1191/2024 pending before this Hon'ble Tribunal and am fully conversant with the facts and circumstances of the case.
2. I have filed a rejoinder in the above matter, and this affidavit is in support of the said rejoinder.
3. I am aware that a committee was constituted by the National Green Tribunal to assess the environmental status of Dalmia Bagh, Mathura. The said committee submitted its report, which recommended that Dalmia Bagh be designated as "Green Land" due to its ecological significance.
4. To the best of my knowledge, this report was not presented or disclosed in the proceedings before the Hon'ble Supreme Court, thereby suppressing material facts essential for the just adjudication of the case.
5. At Dalmia Bagh, there are approximately 100 or more trees that have naturally regenerated following partial felling, with their roots remaining

intact. These trees are crucial for maintaining the ecological balance and biodiversity of the area.

6. Regarding the property transaction mentioned in the rejoinder, I am informed that there exists an agreement for the transfer of property valued at approximately ₹300 crore. This agreement is unregistered and was executed on a non-e-stamp paper of ₹100, rendering it void ab initio under Section 17(1)(b) of the Registration Act, 1908, and Section 35 of the Indian Stamp Act, 1899.
7. Based on my knowledge as a resident of Mathura for over 35 years and inquiries with local real estate experts, the market value of land in Dalmia Bagh is approximately ₹150,000 per square yard.
8. The penalty imposed of ₹1 lakh per tree is inadequate considering the high market value of the land and the significant ecological damage caused by the illegal felling of trees.
9. The facts stated in paragraphs 1 to 9 above are true to the best of my knowledge and belief, and nothing material has been concealed therefrom.



Deponent

Verification:

Verified at New Delhi on this 3rd day of May, 2025, that the contents of paragraphs 1 to 9 of this affidavit are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.



Deponent