

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

SUPPLEMENTARY AFFIDAVIT
On behalf of Respondent No. 7
IN
Original Application NO. 463 OF 2022

Vipin Nayyar

..... Applicant

VERSUS

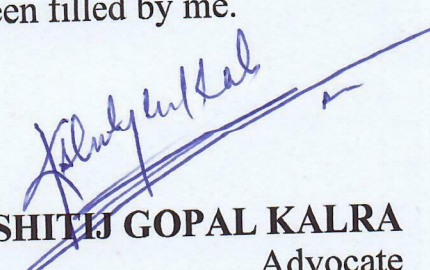
Union of India and others

..... Respondents

Sl. Nos.	Description of Papers	Page Nos.
1.	Index	(A) 1-7
2.	Supplementary Affidavit	
3.	<u>Annexure No. 1</u> - E-true copy of the order dated 29-07-2024 passed by the Hon'ble High Court of Uttarakhand in Nainital, in WPMS 2028 of 2024.	8-10
4.	<u>Annexure No. 2</u> - True and exact copy of the said Joint inspection report dated 21-08-2024.	11
5.	<u>Annexure No. 3</u> - True and exact copy of the Map OR/0406/24-25/RE2 and the sanction letter dated 04-11-2024.	12-14

Entries from serial nos. 1 to 5 have been filled by me.

Dated: 18/11/2024


KSHITIJ GOPAL KALRA
Advocate
Counsel for the Respondent No. 7

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

SUPPLEMENTARY AFFIDAVIT

On behalf of Respondent No. 7

IN

Original Application NO. 463 OF 2022

Vipin Nayyar

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VERSUS

Union of India & others

..... Respondents

Affidavit of Nitin Dev (Male) aged about 45 years S/o Sri Dev Raj R/o House No.310, Block 2, Decon Valley, Tapowan, District Tehri Garhwal, proprietor of Hideout Café having address 232/4, Aastha path Behind Durga Mata Mandir, Rishikesh, Uttarakhand 249201.



DEPONENT

I, the deponent above named, do hereby solemnly affirm and state on oath as under: -

1. That the deponent is the Respondent No. 7 in the aforesaid Original Application and is fully authorized to file the present

Nitin Dev

Identified by

Kshitish G. Kalra

KSHITISH G. KALRA
UK 983/2021

affidavit and as such he is well acquainted with the facts and circumstances of the case deposed below.

2. That the deponent has already placed on record his counter affidavit on dated 05-08-2024 which evinces that the Deponent had already adhered to all the requisite environmental compliances, required for his property in question, however, in light of the order dated 29-07-2024, graciously passed by the Hon'ble High Court of Uttarakhand in Nainital, in WPMS 2028 of 2024 titled as *Nitin Dev versus State of Uttarakhand and others*, the Mussoorie Dehradun Development Authority, sent a letter dated 16-08-2024 to the concerned officials of the Irrigation Department, for conducting the measurement, as ordered and directed by the Hon'ble High Court of Uttarakhand in the aforementioned order dated 29-07-2024. The true copy of the order dated 29-07-2024 passed by the Hon'ble High Court of Uttarakhand in Nainital is attached as **Annexure No. 1** for the kind permission of this Hon'ble Tribunal.

3. That three officials of the Irrigation Department Dehradun i.e. Er. Sanjay Jagudi, (JE), Er. Ashish Bisht (Addl. AE), and Er.



Nitin

Kuldeep Singh (Addl. AE) conducted the survey and measurement for measuring the distance of the property of the deponent from the edge of Ganga River. The said Engineers even made a Joint Inspection Report dated 21-08-2024 wherein the average distance between the property of the Deponent and edge of Ganga River was found out to be 30.12 Meters. The true and exact copy of the said Joint inspection report dated 21-08-2024 prepared by the concerned officials of the Irrigation Department is attached as Annexure No. 2 with the present Affidavit.

4. That in light of the above, the pending compounding map No. OR/0406/24-25/RE2 filed by the deponent for regularization of his property, with the Mussoorie Dehradun Development Authority, Dehradun, was also passed on dated 01-11-2024 by Er. Sunil Kumar, Executive Engineer. In light of the same, a sanction letter was also issued to the Deponent on dated 04-11-2024. The true and exact copy of the Map OR/0406/24-25/RE2 and the sanction letter dated 04-11-2024 are being collectively attached as Annexure No. 3 (colly.) with the present Affidavit.



Notary

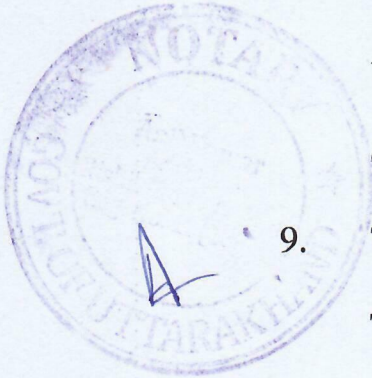
5. That it is also relevant to state that on running Page No. 356 of the record of the Hon'ble Tribunal, the letter dated 16-04-2024 bearing reference No. 1141/सि०ख०दे०/कैप is present which makes it apparent that the Deponent's property is outside from both the (100 year Flood Frequency) Restricted Zone and (25 year Flood Frequency) Prohibitory Zone of the River Flood Zone from the right bank of the Ganga River. The Government Notification No. 727/II(2)- 2022,06 (18)2020 dated 13 July 2022 is also attached on page No. 357 to page No. 363 of the record making it evident that the property of the deponent situated in **Khasra No.298 Min Jumla** was outside the restricted and prohibited zones.

6. That it is also relevant to state that Deponent's property is connected to the sewer, whose bill is demand number - 04916/NP3331 and consumer number - RI22NPN02N23C010996572. The said report is also attached at page No. 364 to 365 of the record of this Hon'ble Tribunal.



Nitish

7. That the deponent further states that the page no. 367 in the record of this tribunal further shows that the Deponent's property's drinking water supply is being obtained from departmental drinking water connection having connection number 04950/NP1083 and no borewell was been found installed in the café.
8. That further it is also pertinent to mention that the page No. 368 of the record of this Hon'ble Tribunal would further evince that deponent's property's Domestic effluent is being disposed through sewer lines and no disposal was found outside. The deponent's café has received consent to operate from the Board till 30-09-2027 and 15 KVA load is sanctioned for the café and even the DG set is installed.
9. That further the page No. 369 of the record of this Hon'ble Tribunal would also show that on the Joint inspection of deponent's property it was found that the user charge for garbage vehicle collection was being deposited on time by the deponent.



Nitay

- 10. That all these averments make it evident that the Deponent has never caused any environmental violations and this the Original Application of the Applicant is frivolous.
- 11. That it is respectfully implored that this Hon'ble Tribunal may kindly take the said Supplementary affidavit, along with the Annexures filed with it, on record.

I, the deponent above named, do hereby declare that contents of paragraph nos. 1, 2, 3, 4, 5, 6, 7, 8, 9

----- of this affidavit are true to my personal knowledge, contents of paragraph nos. -----

----- of this affidavit are based on perusal of record, contents of paragraph nos ----- of this affidavit are

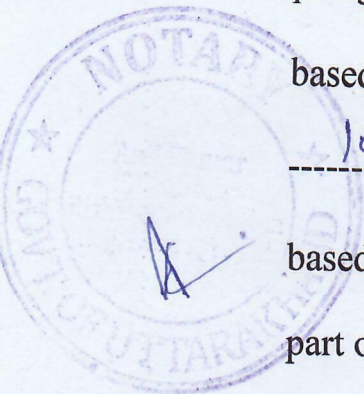
based on information received and contents of the paragraph nos. ----

10, 11 ----- of this affidavit are

based on legal advice, which all I verify and believe to be true that no part of this affidavit is false and nothing material has been concealed.

SO HELP ME GOD

Nitesh
DEPONENT

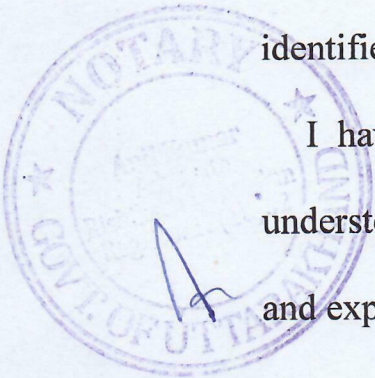


I, Kshitij Gopal Kalra, Advocate, Dehradun District and Sessions Court, do hereby identify the deponent, who has produced the aadhaar card no. 6711 5179 0904, Nitin Dev, before me and I am satisfied that he is the same person as alleged.

Kshitij Gopal Kalra
ADVOCATE
Kshitij Gopal Kalra
 Regd. No. UK983/2021

Solemnly affirm before me on this ...18.....day of November, 2024 at about...12...../a.m./p.m. by the deponent, who has been identified by the aforesaid advocate.

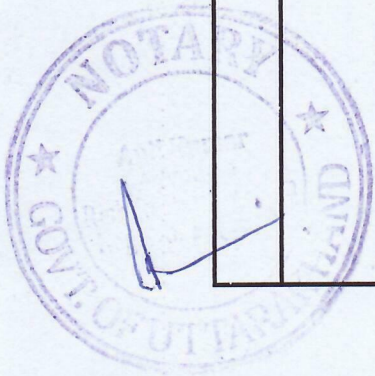
I have satisfied myself by examining the deponent, who has understood the contents of the affidavit, and which has been read over and explained to him by me.



NOTARY

This Affidavit is Sign And Sworn
 Before Me Nitin Dev
 Person Who is Identified by Kshitij Gopal Kalra
 At Dehradun on 18.11.24
 Tense Rishresh

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>WPMS 2028/2024 <u>Hon'ble Manoj Kumar Tiwari, J.</u></p> <p>Mr. Dushyant Mainali, Advocate, for the petitioner.</p> <p>Mr. Suyash Pant, Standing Counsel, for the State.</p> <p>Mr. Rahul Consul, Advocate, for the MDDA.</p> <p>Mr. Vipin Nayyar, caveator-in-person.</p> <p>(2) Petitioner runs a restaurant at Veerbhadra Marg, Rishikesh in the name and style of <i>Hideout Café</i>. A sealing order was passed by Mussoorie Dehradun Development Authority (MDDA) in respect of the said restaurant, which was challenged by the petitioner by filing an appeal before the Divisional Commissioner. Divisional Commission passed an order on 29.5.2024, directing the competent authority in MDDA to consider petitioner's compounding application. The said order, however, was recalled by the Commissioner, on an application filed by some third person, vide order dated 15.7.2024 and the matter was referred to Secretary, Housing for nominating someone else as appellate authority. In this writ petition, petitioner has challenged the said order passed by the Commissioner on 15.7.2024. Reliefs sought in the writ</p>



Kites

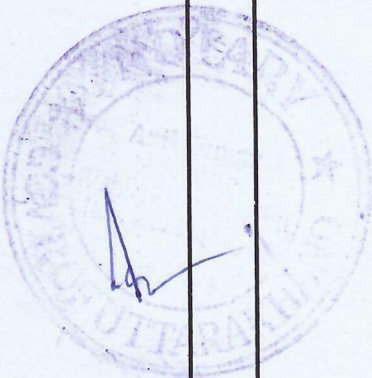
petition are as under:

"i) Issue a writ of certiorari quashing the impugned order dated 15.07.2024 passed by the respondent no. 2, whereby, the Recall Application filed by a stranger to the appellate proceedings i.e. the respondent no. 5, has been allowed and the orders dated 29.05.2024 and 01.06.2024 passed by the respondent no. 2 in Appeal No. 125/23-24 filed by the petitioner U/s 28A(4) of the Uttarakhand Urban and Country Planning and Development Act, 1973, have been cancelled and recalled. (annexed as Annexure No. 1 to this writ petition).

ii) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent no. 4 to resume the process of de-sealing of the property of the petitioner by treating the orders dated 29.05.2024 and 01.06.2024 passed by the respondent no. 2 in Appeal No. 125/23-24 U/s 28A(4) of the Uttarakhand Urban and Country Planning and Development Act, 1973, to be still in force (annexed as Annexure No. 12 and 13 respectively to the writ petition)."

(4) Learned Counsel for the petitioner submits that in view of the sealing order, MDDA has put its lock in the premises in which restaurant was being run by the petitioner and, as a consequence, the irrigation department, which is the nodal agency to measure the distance between the building in which petitioner was running the restaurant and the river Ganges, is unable to measure the same.

(5) Mr. Rahul Consul, learned



Noted

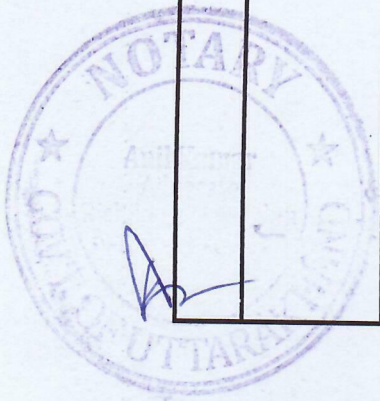
Counsel appearing for the MDDA, also submits that application submitted by the petitioner for compounding has not been considered so far as the distance of the premises, in question, from river Ganges could not be ascertained.

(6) Having regard to the peculiar facts and circumstances of the case, writ petition is disposed of by directing the MDDA to open the lock put on the premises, in question, on a particular date, after coordinating with the concerned engineer of the irrigation department, so that the distance between the building in which petitioner was running the restaurant and the river Ganges can be measured. This exercise shall be completed within three weeks from the date of production of certified copy of this order.

(Manoj Kumar Tiwari, J.)

29.7.2024

Pr



Kitya


संयुक्त निरीक्षण आख्या


आज दिनांक 21-08-2024 को कार्यालय मसूरी देहरादून विकास प्राधिकरण देहरादून के पत्रांक 12575/वाढ सं०-सी-003/2022, दिनांक 16/08/2024 के क्रम में रिट पिटीशन सं० - WPMS-2028/2024 हार्डिड आऊट कैफे, वीर शद्रभार्ग मृषिकेश की गंगा नदी के किनारे निर्मित भवन की डूरी नापने हेतु निम्नलिखित अधिकारी/कर्मचारी उपस्थित रहे,

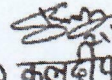
- ① इं० कुलदीप सिंह, उपर सहायक अभियन्ता, सिंचाई खण्ड देहरादून।
- ② इं० आशीष बिष्ट, उपर सहायक अभियन्ता, सिंचाई खण्ड देहरादून।
- ③ इं० संजय जगूड़ी, कनिष्ठ अभियन्ता, एम० डी० डी० ए०, मृषिकेश।


गंगा नदी के दांये तट पर स्थित हार्डिड आऊट कैफे के निर्मित भवन के दोनो किनारो से गंगा नदी के तट से दूरी क्रमशः 30.99 मी० एवं 29.27 मी० नापी गई। अतः गंगा नदी के किनारे से हार्डिड आऊट कैफे की औसतन दूरी 30.12 मी० आंकलित की गई है।

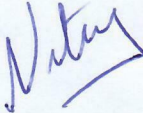
उक्त कैफे के मानचित्र स्वीकृति से सम्बन्धित समस्त अग्रेतर कार्यवाही M.D.D.A. द्वारा की जानी है।

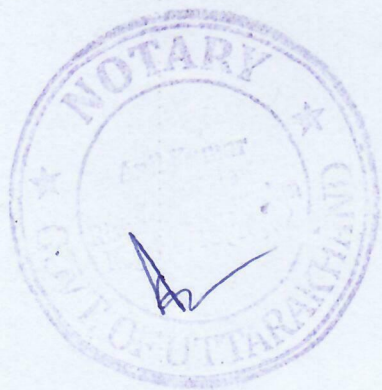

इं० संजय जगूड़ी
कनिष्ठ अभियन्ता
एम० डी० डी० ए०

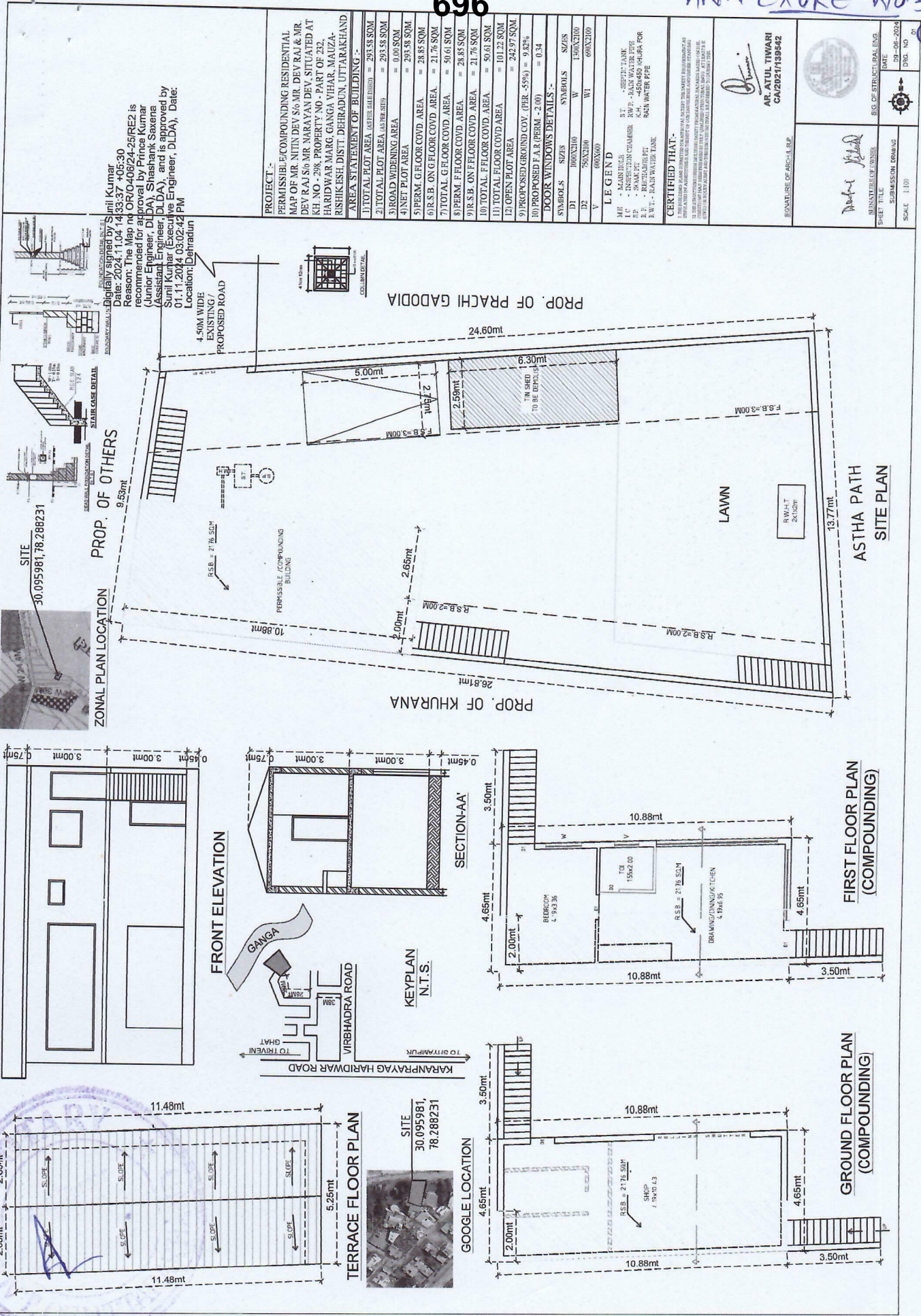

इं० आशीष बिष्ट
उपर सहायक अभियन्ता
सिंचाई खण्ड, देहरादून


इं० कुलदीप सिंह
उपर सहायक अभियन्ता
सिंचाई खण्ड, देहरादून


लोक सूचना अधिकारी
मसूरी देहरादून विकास प्राधिकरण
शाखा कार्यालय, मृषिकेश







Digitally signed by Simli Kumar
 Date: 2024.11.04 14:33:37 +05:30
 Reason: The Map no OR/O-06/24-25RE2 is recommended for approval by Prince Kumar (Junior Engineer, DDA), Shaashank Saxena (Assistant Engineer, DDA), and is approved by Simli Kumar (Executive Engineer, DDA), Date: 01.11.2024 05:02:52 PM
 Location: Degradad

PROJECT :-
 PERMISSIBLE/COMPOUNDING RESIDENTIAL MAP OF MR. NITIN DEV S/O MR. DEV RAJ & MR. DEV RAJ S/O MR. NARAYAN DEV, SITUATED AT KH. NO - 298, PROPERTY NO - PART OF 212, HARDWAR MARG, GANGA VIHAR, MAUZA- RSHIKESH DIST. DEHRADUN, UTTARAKHAND

AREA STATEMENT OF BUILDING :-

1) TOTAL PLOT AREA (AS PER SALE DEED) =	293.58 SQM
2) TOTAL PLOT AREA (AS PER SITE) =	293.58 SQM
3) ROAD WIDENING AREA =	0.08 SQM
4) NET PLOT AREA =	293.58 SQM
5) PERM. FLOOR COVD. AREA =	28.85 SQM
6) R.S.B. ON FLOOR COVD. AREA =	21.76 SQM
7) TOTAL G FLOOR COVD. AREA =	50.61 SQM
8) PERM. F FLOOR COVD. AREA =	28.85 SQM
9) R.S.B. ON F FLOOR COVD. AREA =	21.76 SQM
10) TOTAL F FLOOR COVD. AREA =	50.61 SQM
11) TOTAL FLOOR COVD. AREA =	101.22 SQM
12) PROPOSED GROUND COY. (P/R - 55%) =	9.82%
10) PROPOSED F.A.R. (PERM. - 2.00) =	0.14

DOOR WINDOWS DETAILS :-

SYMBOLS	SIZES	SYMBOLS	SIZES
D1	1000X2100	W	1500X2100
D2	750X2100	W1	600X2100
V	600X600		

LEGEND

MH - MAIN FLOOR
 I.C - INSPECTOR CHAMBER
 R.W.P - RAIN WATER PIPE
 S.M.K - SLOAK PIT
 R.F.P - RAIN WATER PIPE
 E.W.T. - EACH WATER TANK

CERTIFIED THAT :-
 I, THE UNDERSIGNED ARCHITECT, HAVE PREPARED THE ABOVE DRAWINGS AND SPECIFICATIONS IN ACCORDANCE WITH THE REQUIREMENTS OF THE URBAN DESIGN ACT, 1972 AND THE URBAN DESIGN REGULATIONS, 1973 AND THE URBAN DESIGN ACT, 1972 AND THE URBAN DESIGN REGULATIONS, 1973 AND THE URBAN DESIGN ACT, 1972 AND THE URBAN DESIGN REGULATIONS, 1973.

Signature of Ar. A.T. Tiwari
AR. ATUL TIWARI
 CA/2021/199542

Signature of Ar. S.P. P.
 Signature of Ar. S.P. P.

Scale: 1:100

Date: 01-11-2024
 Dwg. No: 01

Nitun



Uttarakhand Housing & Urban Development Authority
Department of Housing, Govt. of Uttarakhand
Rajeev Gandhi Multipurpose Complex, Dispensary Road
Dehradun – 248001 Telefax – 0135-2719500



MUSSOORIE DEHRADUN DEVELOPMENT AUTHORITY
Transport Nagar, Saharanpur road, Near ISBT,
Dehradun-248001 (Uttaranchal) INDIA
GST No. 05AAAAM4651Q1ZA

Sanction Letter

Online Application For Building Construction Permit			
Applicant Name	Nitin Dev	File No.	OR/0406/24-25/RE2
Father's Name	Dev Raj	Submission Date	30/09/2024
Co-Applicant	NO	Plan Type	OTS
Address	GANGA VIHAR,298,,Dehradun,Dehradun,,Dehradun,Uttarakhand		
Sector	Sector Rishikesh	Property Category	Residential Building
Contact Number	8077027274	Site Purpose	Single Dwelling Unit
Co-Applicant Name(s)		Approval Date	04/11/2024

Subject: - Letter of sanction towards your application No.OR/0406/24-25/RE2 for Building Permit

Dear Mr./Ms. Nitin Dev

Your proposal # OR/0406/24-25/RE2 received on 30/09/2024 through your Architect/ L.E./ Own self (Nitin Dev) and proposal is approved on dated 04/11/2024 with the following terms and conditions:

1. By approval of this map, the rights and ownership of any government department or local body or any individual in the government department is not affected.
2. The Map will be used for the same purpose for which it has been approved, if there is any deviation in purpose, the whole construction will be considered invalid.
3. For any development work in future, if development charges are asked, shall be payable without any objection. If required, additional development charges for any project development work in the same area shall be paid without any objection, so that the development work of the area could be done from the development charges received from the same area.
4. The government or the local body will not be responsible for any development work in the area which is not suitable for the development work.
5. Doors and windows should be fixed in such a way that they don't open in any government land or road and do not affect the light or air of any other house.
6. One approved copy of the map shall always be kept at the construction site so that it can be investigated at any time. The construction will be done as per the approved map specifications and the applicant shall be responsible for ownership of the building.
7. This map is valid for five years from the date of approval, after that no construction work will be done.
8. The road service lane or the government land shall not be used for putting any building construction material and the arrangement of sewage shall be done by self.

Digitally signed by SUNIL KUMAR

Date:04-11-2024 14:33:28

Nitin



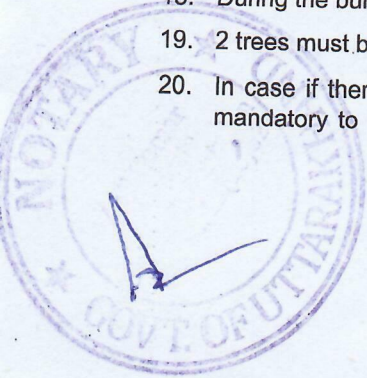
Uttarakhand Housing & Urban Development Authority
Department of Housing, Govt. of Uttarakhand
Rajeev Gandhi Multipurpose Complex, Dispensary Road
Dehradun - 248001 Telefax - 0135-2719500



MUSSOORIE DEHRADUN DEVELOPMENT AUTHORITY
Transport Nagar, Saharanpur road, Near ISBT,
Dehradun-248001 (Uttaranchal) INDIA
GST No. 05AAAAM4651Q1ZA

14

9. After the completion of the construction work, within 3 months of the completion according to the approved map, certificate should be obtained from the authority then only the building should be used else the approval will be cancelled.
10. If there is any tree in construction area; before cutting it, approval must be taken.
11. After getting the approval, at any point of time if the Vice Chairman or any other authorized person finds out the approval has been taken by hiding the facts or by submitting the forged documents the officer will have right to cancel the approval and in that case the construction under the map will stand cancelled.
12. After getting the approval if the court cancels the ownership of the applicant the approval will stand cancelled automatically.
13. The approval of the map will not be considered as ownership of the map and in any court this map will not be considered as proof of land ownership.
14. If there is any violation on ceiling land, government land or public land, this approval will stand cancelled automatically.
15. In road widening area if there is any violation of boundary wall, gate or public land, the approval will stand cancelled automatically.
16. In summer season, keeping in view the drinking water scarcity, between 15th April to 30th June; the construction will not be done.
17. Hill cutting will not be done from any hilly terrain.
18. During the building construction, earthquake and other security measures must be considered.
19. 2 trees must be planted in the front portion of the building.
20. In case if there is change in name of the building owner in the approved map or renaming the building, it is mandatory to inform the authority.



उत्तराखण्ड राज्य

Digitally signed by Sunil Kumar
Date: 2024.11.04 14:33:28 +05:30
Reason: Online Map Approval
Location: Dehradun

Sunil Kumar