

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
SUPPLEMENTARY AFFIDAVIT
IN
ORIGINAL APPLICATION No. 641 of 2023**

IN THE MATTER OF

**SUMAN CHAUHAN & 49 OTHERS VS GOVERNMENT OF UTTAR
PRADESH & OTHERS**

Next Hearing Date: 19.11.2024

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Air Commodore
Abhay Gupta (VSM)

Sumit

Sumit Mehta

Manoj

Manoj Singh

Megha
Megha Abhay Gupta

Megha
Abhay Gupta

Name and Signatures of party in person/Authorized representatives

Dated: 17.11.2024

Place: Delhi

Megha



449

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
SUPPLEMENTARY AFFIDAVIT
IN
ORIGINAL APPLICATION No. 641 of 2023**

IN THE MATTER OF

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PRADESH & OTHERS**

To,

The Hon'ble Chairman of National Green Tribunal and his companion judges.

Respectively showeth as under:

I, Megha Abhay Gupta D/O Air Commodore Abhay Gupta, Add.Plot 56A, Dostpur Mangroli, Noida, Gautam Budh Nagar, Uttar Pradesh-201301, presently at Delhi, do solemnly affirm as under:

1. That I am the original applicant in the present application, and conversant with the facts of the case and thus competent to depose.
2. That, I am filing this supplementary affidavit in the above-captioned matter to provide additional submissions and relevant details for the kind consideration of this Hon'ble Tribunal.
3. That I have read all the contents of this supplementary affidavit and every thing submitted is correct to my knowledge.
4. **That as per the order dated 21.05.2024**, the Hon'ble Tribunal had constituted a joint committee to ascertain the correct position concerning the nature and extent of construction (permanent, temporary, and area, with full details) carried out by the applicants and whether due permission from the competent authority was obtained.
5. **That the joint committee was constituted prior to the filing of a withdrawal application by the petitioners on 29.05.2024.** Subsequently, the Hon'ble Tribunal, vide its order dated 07.08.2024, directed the respondents to file their response to the withdrawal application.
6. **That the petitioners are the lawful owners of their properties and have been residing therein with their families for several years.** These properties are used solely for personal living purposes, and the open areas are utilized for



Megha Abhay Gupta

agriculture, vegetable farming/cow shelter, purely for self consumption. The petitioners undertake that these properties will continue to be used for personal living only. In support of this claim, voter cards, Aadhaar cards, and gas bills of the petitioners/their families are annexed herewith as ANNEXURE-1.

7. That the petitioners are members of a registered Residents Welfare Association of the area and represent a significant group of residents.
8. That over 10,000 similar properties exist in the area and its vicinity, with numerous individuals and families residing there.
9. That the assertion by the respondent that the petitioners' properties are located in the floodplains of the Yamuna is factually incorrect. The scientific demarcation of floodplains is being carried out in another matter before this Hon'ble Tribunal in "Original Application No. 275/2023, Mahesh Kumar Versus State of Uttar Pradesh," where public responses are being filed, and the matter is yet to be adjudicated and lacs of people can be affected. The order in that matter will be applicable to the petitioners as well. In light of the withdrawal application filed by the petitioners, The petitioners can't be discriminated against with other affected people by the Authorities due the current matter filed by the petitioners.
10. That it has already been submitted in earlier pleadings at page 149-156 that the flood entered into many posh sectors of Noida & Delhi including many cities along the whole length of the river. All the areas can not be said to lie in floodplains without studying the reasons of flood.
11. That the respondents' claims are barred by the limitation under the NGT Act, 2010. In a similar case, *Original Application No. 305/2022, Vipin Nayyar Versus Union of India*, concerning property located in the floodplains of the Ganga, this Hon'ble Tribunal vide its order dated 08.08.2024 dismissed the petition on the grounds of limitation. Relevant excerpts from the judgment are as follows:

17. Under Section 14(3), Tribunal can entertain an application only if cause of action for the dispute has first arisen within a period of six months from the date of such cause of action. Applicant contended that construction is continuing to exist, therefore, that it is a case of continuance cause of action but contention is thoroughly misconceived, Constructions once raised and completed, the cause of action completed. The latest construction was made of 16 rooms in 2004 and it completed



[Handwritten signature]

on that date. The mere fact that construction are continuing cannot be said to the 'continuance cause of action'. Moreover, Section 14 (3) talks of 'cause of action first arose' and where cause of action first arose in 1993 in respect of 3 rooms and in respect to 16 rooms in 2004, the complaint with regard to above construction in 2022, in our view, is beyond the period of limitation prescribed under Section 14 of NGT Act, 2010.

18. Even if we take the complaint to be covered by Section 15 of NGT Act, 2010, there also period of limitation is only 5 years from the date on which cause of action for such relief first arose. According to this provision also, the period of limitation has expired long back.

19. Since reliefs sought in the present application are regard to demolition/removal of construction in question is barred by limitation, we find that this Tribunal cannot grant relief as prayed by applicant

20. Applicant, thereafter, contended that commercial activities have started in 2021 by running Moga Resort which is not permissible under the provisions of River Ganga (Rejuvenation Protection and Management) Authorities Order 2016, which was published in Gazette of India on 07.10.2016.

21. In this regard, Counsel for respondent 8 drew our attention to affidavit dated 07.08.2024 filed before us stating that respondent 8 shall not use the property of Moga Resort for any commercial purpose/activities. Relevant paras 2, 3 and 4 are reproduced as under:

"2. I say that I am the owner of the Moga Resort that is the subject matter of the present case.

3. I say that land/property of the said Moga Resort is my ancestral home and my family has been living there since past several years.

4. I say that as per the directions passed by this Hon'ble Tribunal, I will not use the property of Moga Resort for any commercial purpose/activities."

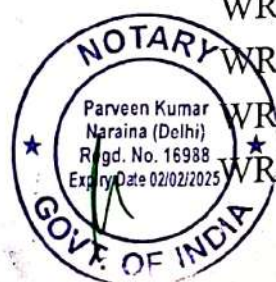
22. In view thereof, and the stand taken by respondent 8, we direct District Magistrate, Dehradun and Uttarakhand State Pollution Control Board to ensure that respondent 8 shall not use the property in question for any commercial purpose/activities.

Subject to above directions, this Original Application is disposed

[Handwritten signature]



12. **That the flooding in the area is not a natural disaster but a result of mismanagement and failure by the authorities.** The annual deposition of silt from the hills reduces the water-holding capacity of the river channel in plains, causing water to spill into habitations. Over time, the extent of designated floodplains has progressively expanded due to shrinkage of river channel, with authorities classifying more habitations within flood plains. This shifting demarcation has created instability and uncertainty for residents, undermining their property rights and causing significant challenges. This necessitates desilting activity before determining the extent of floodplains, and the property rights granted under Article 300A of Indian constitution cannot be arbitrarily altered. The petitioners have earlier given their detailed submissions on the reasons of flooding being unnatural in the earlier pleadings at page no. 15, 16, 18, 143, 144.
13. **That the legality of the properties in question has been previously upheld by the Hon'ble Allahabad High Court,** which ruled in favor of the residents in an appeal filed by the Noida Authority against the District Court's order. The properties have not been declared illegal by the State in the past, as evidenced in the submissions already placed on record (Page Nos. 289 & 290).
14. **That the Noida master plans remain unapproved due to the lack of mandatory approvals** from the National Capital Region Planning Board (NCRPB), as previously submitted in earlier pleadings on Page Nos. 144-146.
15. **That the Government of Uttar Pradesh has not notified the said area as flood plain** and activities permitted in it according to Northern India Canal and Drainage Act, 1873. UP state has still not notified the flood plain zoning policy despite many reminders from Centre Govt.
16. That there exists a big gaushala of Noida Authority with permanent constructions in the area. There exists a big land parcel of the Indian Air Force with a permanently constructed office in the area.
17. **That currently the properties of the petitioners and other residents in the area are under status quo granted by Hon'ble High Court of Allahabad in various writ petitions Writ C No. 73795/2005, WRIC/13936/2023, WRIC/14752/2023, WRIC/18162/2024, WRIC/18194/2024, WRIC/18196/2024, WRIC/18241/2023, WRIC/18464/2023, WRIC/18496/2023, WRIC/18544/2023, WRIC/18584/2023, WRIC/20367/2023, WRIC/20487/2023, WRIC/20489/2023, WRIC/20490/2023, WRIC/22864/2023, WRIC/23221/2022,**



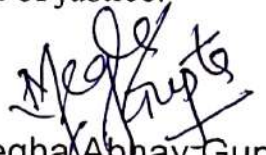
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PRAYER

In light of the above submissions, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to:


1. Take the submissions mentioned herein in the records.
2. Permit the applicants to withdraw the original application in the current matter.
3. Such other and further orders as may be deemed fit and proper by this Hon'ble Tribunal may also kindly be passed in the interest of justice.


Megha Abhay Gupta
DEPONENT

VERIFICATION

17 NOV 2024

Verified at New Delhi on this.....day of 2024, that the contents of the above affidavit are true and correct and nothing has been concealed there from.


Megha Abhay Gupta
DEPONENT

Dated: 17.11.2024

Place: Delhi

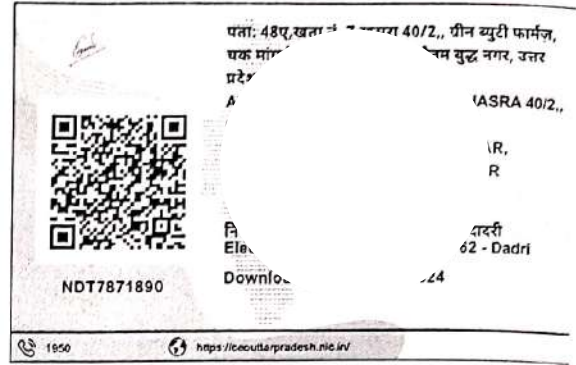


ATTESTED BY,

PARVEEN KUMAR
NOTARY, DELHI, R-16988
GOVT OF INDIA

17 NOV 2024

ANNEXURE-1



TRUE COPY, ATTESTED

NOTARY, DELHI, R-16988
GOVT. OF INDIA

17 NOV 2024

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इंडियन ऑयल कॉर्पोरेशन लिमिटेड
Indian Oil Corporation Ltd.
(Marketing Division)

स्टेशनरी क्रमांक Stn. No.
प्रपत्र संख्या Form No.
कागजात प्रकार Doc. Type
संख्या Number
दिनांक Date

उत्तर प्रदेश S0-11
Noida

वितरक Distributor
नाम Name
पता Address
कोड Code

R. K. INDIAN SEWA
HANDIR MARKET, OPPOSITE VIVEK
NOIDA
201301

ग्राहक Customer
नाम Name
पता Address
कोड Code
श्रेणी Category
प्रकार प्रकार Egpt. Type
सिलिंडर Cylinder
रेगुलेटर Regulator

ANILAVA DEB
23A PHASE-7
GREEN BEAUTY FARM
SECTOR-135
NOIDA GBN
201301
Domestic
3750000040681817(CY-9840-779)
Previous Document

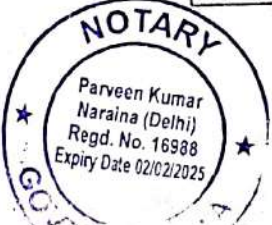
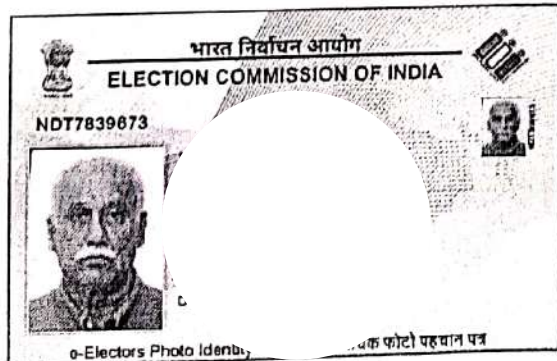
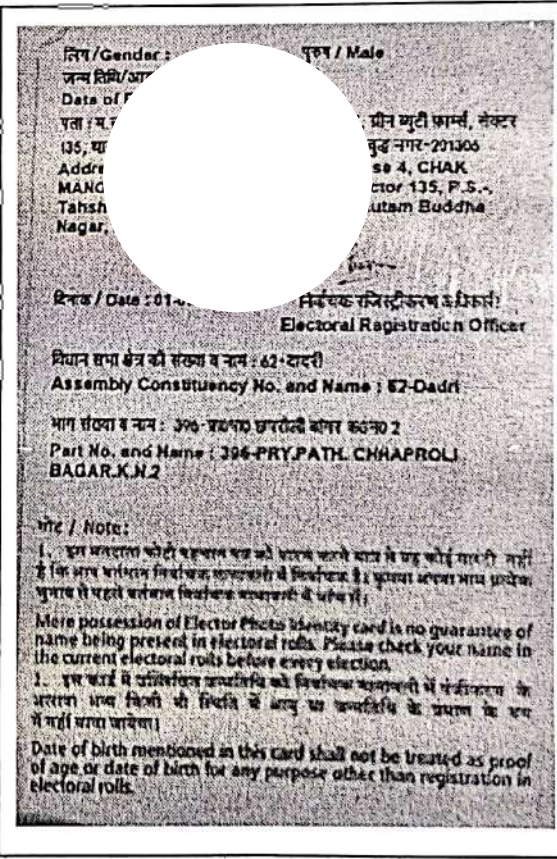
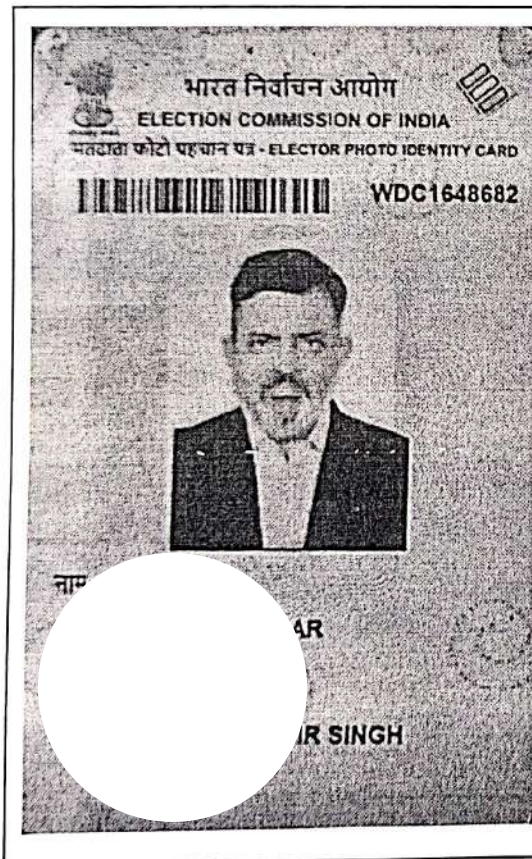
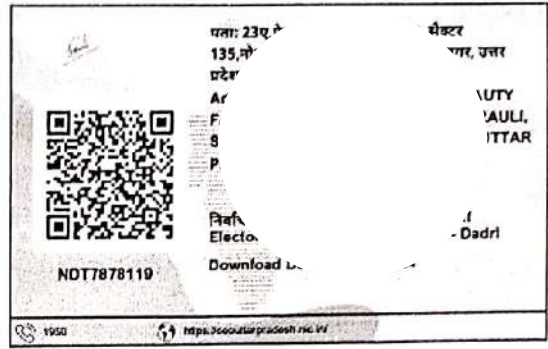
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क्र. सं. क्र. सं. Br. No.
टिप्पणी Remarks

107230
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कुल Total 950.00
Net Payables: Nine Hundred Fifty only

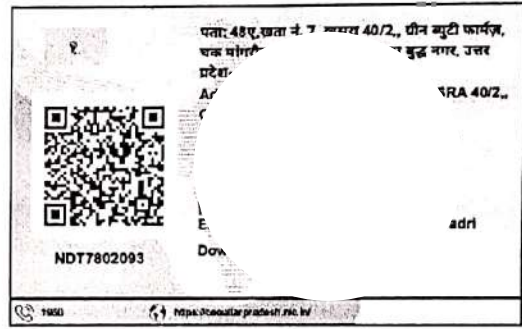
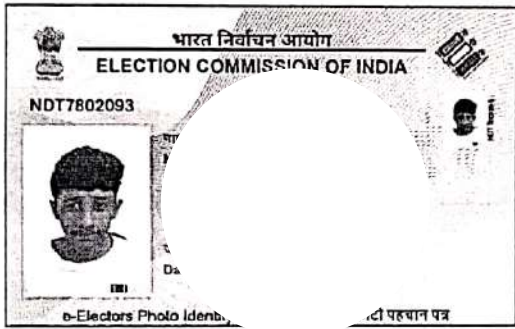
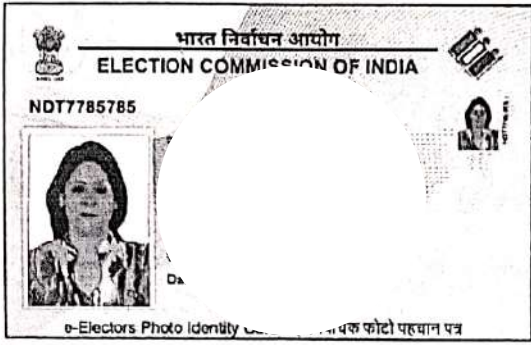
रेगुलेटर Regulator
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Lost Returned Defective
CUSTOMER'S SIGNATURE
ON BEHALF OF INDIAN OIL CORPORATION
DISTRIBUTION'S SIGNATURE WITH STAMP

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17 NOV 2024

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Supplementary affidavit by applicants in Original application No 641/2023 (Suman Chauhan and 49 others Vs Govt of Uttar Pradesh and others) in Hon'ble NGT

1 message

abhay gupta <tony51aoc@rediffmail.com>

Mon, Nov 18, 2024 .

To: ceodelhi.djb@nic.in, ceifcd@gmail.com, csdelhi@nic.in, fciwrd@gmail.com, ceo@noidaauthorityonline.com, eincididuplu-up@nic.in, contactdfccil@dfcc.co.in, dmgnb@nic.in

Dear Sirs, You are respondents in the Original Application No. 641/2023 (Suman Chauhan and 49 others VS Govt of Uttar Pradesh and others) filed in the Hon'ble NGT. Please find enclosed herewith, copy of the supplementary affidavit being filed by the applicants / petitioners in the current matter. Regards, Air Commodore Abhay Gupta VSM (Original Applicant)

 **Supplementary_Affidavit-1.pdf**
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