

BEFORE THE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH, NEW DELHI****OA No. 16/2014****IN THE MATTER OF:-**

Shri Hazi Arif,

President Rashtrya Kishan Brigade

.....Applicant

Vs

State of U.P. & Ors.

.... Respondents

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Place: New Delhi

Date: 25.02.2022

Through

*Jagrati Singh.***JAGRATI SINGH**Advocate for the Respondent No. 10
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BEFORE THE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH, NEW DELHI****OA No. 16/2014****IN THE MATTER OF:-**

Shri Hazi Arif,

President Rashtrya Kishan Brigade

.....Applicant

Vs

State of U.P. & Ors.

.... Respondents

SUBMISSIONS ON BEHALF OF RESPONDENT NO.10 I.E.
STONEX INDIA PVT. LTD PURSUANCE OF THE ORDER
DATED 16.12.2021 PASSED BY HON'BLE NGT (PB) IN EX APP
No 18/17 IN OA NO. 16/2014 (IA NO. 172/2021)

MOST RESPECTFULLY SHOWETH:-**PRELIMINARY SUBMISSIONS:**

It is respectfully submitted that the respondent herein i.e. Stonex India Pvt Ltd. Having registered office WZ-29, Mansarovar Garden, Ring Road, New Delhi-110015, is being represented by Sh Amresh Kumar Jha, S/o Sh Dani Kant Jha, an executive of the company and was duly authorised by Board of Directors of the company on 13.01.2022. It is further submitted that respondent herein i.e. Stonex India Pvt. Ltd. was not arrayed as a party in OA No 16/2014. However, it was made party on the basis of report of Committee appointed by Hon'ble Tribunal. Subsequently, respondent herein filed detailed reply to OA, The details of the same is mentioned in subsequent paras and is not being reproduced herein for the sake of brevity and accordingly it is

vehemently denied that the respondent herein never filed replies to the OA No. 16/2014 and report of the committee.

PRELIMINARY OBJECTIONS

1. That the applicant has No Locus to file the present OA, as mentioned in case of Balwant Singh Choffal [(2010) 3SCC 402] as applicant has not contributed anything towards environment.
2. That the present OA is not maintainable because of Misjoinder of parties as the government agencies i.e. NHAI, Railways, etc. who have covered a major part of the drain under consideration, have not been made parties.
3. That the present OA is not maintainable because of Non-joinder of parties, UP Jal Nigam is not made party who is responsible for sewage network and disposal in the area.
4. **That Sec 2 (m) of NGT Act, 2010: 'substantial question relating to environment' shall include:-**
 - (i) There is direct violation of a specific statutory environmental obligation by a person by which :-
 - (A) The community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or
 - (B) The gravity of damage to the environment or property is substantial ; or

5. The damage to public health is broadly measurable; **Sec 20:**

Tribunal to apply certain principles:

Tribunal shall, while passing any order or decision or award, apply the principles of Sustainable development, The precautionary principle and The polluter pays principle.

That it is respectfully submitted that respondent herein itself maintaining the cleanliness of the drain. Respondent herein is the absolute owner of the property at Plot No.60/1,(Site IV) which forms part of the subject matter of the instant Original Application. It is submitted that the only approach to Plot 60/1 of the respondent herein is through the Nala/Drain and therefore to put the plot to industrial use and in furtherance of the fundamental right of the Applicant herein to carry on trade or business, it is imperative that the Nala/ Drain be covered to make an approach road to the Plot of the Applicant to put it to industrial use.It is once again reiterated that respondent herein is not discharging any untreated effluents in drain rather they are cleaning the waste/garbage of the drain at their own expenses which is coming from the back. Thus the respondent is contributing in making better environment.

6.That Present OA is barred by period of Limitation, Sec 14 of NGT Act 2010. The OA is not supported by any Application for Coadunation of Delay. (Already decided by the Hon'ble Tribunal in several other cases). In present OA. Cause of action occurred in 2008 when policy decision was taken to cover the drain.

7. That as a well settled position Scope of Judicial Intervention is very limited in Conscious Policy Decision. In the present case policy decision was taken by Ghaziabad Nagar Nigam who is competent authority under the law. The Hon'ble Supreme Court of India has in catena of cases held that policy decisions should not be in the referred with by the Ld. Courts and Tribunal and the instant case the decision to cover the Nala/ Drain forming the subject matter of dispute herein being a policy decision should not be interfered with by this Ld. Tribunal. Therefore, it is submitted that the Original Application No. 16 of 2014, filed by the Petitioners is liable to be dismissed at the outset. It is noteworthy that the Hon'ble High Court of Delhi in the case of IFS Co-operative Group Housing Society & Ors. Vs. Government of National Capital Territory of Delhi & Ors., in W.P.(C) 2385/2011, while upholding the policy of covering the drains has categorically held that once a policy decision was taken by the Government of NCT of Delhi to cover the drains, all statutory authorities as well as the tribunals should not interfere and abide by the same.

6. That Notices were issued to the answering respondent on the basis of Expert Committee Report submitted in April 2014. It is pertinent to mention that no evidence/proof placed on record supported by scientific study /ENVIRONMENTAL ANALYSIS. The Committee submitted the report without going into the facts and giving any opportunity to be heard by the said Committee. The said report is vague and arbitrary as it was filed in haste without Considering and appreciating the history of construction of drain under

consideration. It is respectfully submitted that the Drain No 1 is a man made drain and only drain to channel the industrial waste and domestic discharge.

7. That Municipal issues are matter of State List under **Article 246** of the Constitution. Therefore Provisions of the UP Municipalities Act ,1916 are applicable in deciding the limits of municipal limit of Ghaziabad [**CHAPTER IX A : THE MUNICIPALITIES OF THE CONSITUTION OF INDIA**] (Inserted by Constitution (Seventy Fourth Amendment) ACT, 1992)

8. That Sec 2 (9) of the UP Municipalities Act defines “Municipality” means an institution of self Government [referred to in Clause (e) of Article 242-P of the Constitution]

9. That Sec 2 (9-B) defines “Municipal Council” means the Municipal Council constituted under sub-clause (b) of Clause (1) of Article 243 –Q of the Constitution.

10. Article 243 W of the Constitution, “Powers, authority and responsibilities of Municipalities etc.” Listed in Twelfth Schedule”

11. Sec 2 (6) of the UP Municipalities Act , 1916 defines “DRAIN” as “ Drain includes a sewer, pipe, ditch, channel or any other device for carrying of sullage, sewage and polluted water, or rain water or sub soil water, together with pail depots

traps, traps, sinks cisterns, flush, tanks and other fitting appertaining thereto,”

12. Sec 7 (c) of the UP Municipalities Act, dealing with the ‘ Duties of the Municipality’ refer “ cleaning public streets, places and drains, removing noxious vegetation and abating all public nuisances:

13. Section 7 (h): “constructing, altering and maintaining public Streets, culverts, markets, slaughter –houses. Latrines, privies, urinals, drains, drainage, works of and sewerage works;”

14. THE UP MUNICIPAL CORPORATIONS ACT, 1959

(Sec 4: Article 243 of the Constitution)

Sec 2 (85) defines ‘DRAIN’

Sec 114: Obligatory duties of the Corporation

Sec 115

Sec 128:- Permission

Sec 137 A:- Private Sector Participation Agreement

CHAPTER X: DRAINS AND DRAINAGE

Sec 228: Drains to be constructed and kept in repair by the Municipal Commissioner

Sec 231 & 232: Alteration, etc., and discontinuance of drains

CHAPTER XIV: IMPROVEMENT SCHEMES

Sec 383-A: PREPARATION OF DEVELOPMENT PLAN FOR THE CITY

Thus as per the provisions of the Section 228 and 231/232 of the U.P. Nagar Mahapalika Adhiniyam 1959, drain under consideration comes under Ghaziabad Nagar Nigam for all purposes. GNN is responsible for construction, repair, maintenance etc and since it is a man made corporation drain meant for the passage of sewage, industrial waste/effluents, domestic discharge, etc, therefore provisions of Water Act are not applicable.

15. That from the above, it is well established that Ghaziabad Municipal Corporation is competent authority under the law of land to enter into agreement with private parties. Therefore Ghaziabad Nagar Nigam in accordance with law granted lease/license to various private plot holders/parties to cover said Drain along with other conditions which in-er-alia included the license fee payable by Licensee/Lessee and proper cleaning and maintenance of the respective portion of the said Nalla/Drain No 1 and the same is being done under proper supervision of GNN

16. That being Man made drain, provisions of Water Act are not applicable, as the covering of drain is done under the approved plan with prior permission, Only provisions of UP Municipal Corporations Act will apply for the drain under consideration. The Hon'ble Tribunal has also permitted the same in several cases.

BRIEF FACTS/SUMMARY OF THE CASE

1. That the Drain No 1 i.e. the drain under consideration is Manmade /constructed drain with brick lining for carrying treated industrial discharge and storm runoff originally, however now carries sewage as well in one of the most densely populated residential and industrial area. Important to note that this the only drain for all the purpose.
2. That the Land for said drain was acquired somewhere in 1970 by UPSIDC to construct the drain substantiated by revenue records and SUPER IMPOSED MAP of UPSIDC.
3. That it is important to note that it carries waste water discharge from Delhi border to Hindon and Kalindi kunj drain. It is further pertinent to mention that Topography of land does not support it to be a natural storm water drain.
4. That apart of this all type of waste out of animal husbandry activity on the banks and MSW by residents are also dumped into it apart from illegal sewage outlets by encroachers settled along the bank of the drain.
5. That there is no sewage network in the unauthorized /rural area and in planned colonies though sewer network is present, the entire sewerage flows through it only (booster pumps are there to discharge all sewage in this drain).
6. That he width of drain can take all three sources of discharge i.e. domestic sewage discharge, industrial discharge and storm runoff water. Further UPPCB has accepted in their reply that drain has enough gradient for water flow and never accumulation or overflow takes place. It is pertinent to mention that because of brick lining,

no chance of pollution of underground water so there is no chance of contamination of ground water.

7. Thus in nutshell, it is only a OPEN SEWER and poses great threat to health and safety of residents as well as to environment.
8. Only very limited part of total drain length is covered while projection is as if whole length of drain is covered. The said drain is manmade, corporation drain, exclusively under the control of the Ghaziabad Nagar Nigam for its building, repair, maintenance etc. in complete contrary to the Geomorphologic drainage system. Wherein the total length of the drain is approximately 13 KM and the covered area is approximately 13% of the total length of the drain that too include the bridge maintained by PWD over the GT Road, Link Road, Railway Line and Metro Line, which covers the major part of the drain. The respondent herein had not done any such act which is detrimental and can be considered as any irregular activity over the drain.
9. That the design of three box method to cover the drain was suggested by Civil Department IIT Roorkee and the same was approved by Ghaziabad Nagar Nigam. The most important issue is as per Water Act, covering of drains is permissible if it is not CAUSING OBSTRUCTION TO THE FLOW.
10. That the judgments of Hon'ble NGT in case of Manoj Mishra which allows to partially cover the drain where 80% construction is complete.

11. That in case of Godavari river in Trimbak, Hon'ble NGT allowed to cover the part of river Godavari itself.
12. That various reports have been filed in Hon'ble Supreme Court by EPCA since 2000 and Apex court itself is monitoring the issue of sewage in the Sahibabad drain in the main matter of Yamuna river.
13. That Hon'ble NGT in present case in its Order dated 06.10.2016, observed that it is 'Man made Natural Storm Water Drain' and observed that sewage flows in the drain; of course, the Quantum of sewage was not presented before this Hon'ble Tribunal.
14. That three-member Expert Committee was formed by Hon'ble NGT vide the said judgment to examine the issue whether the covering of drain can be allowed with Master Plan/Larger Scheme where prior permission has been obtained by the parties to cover the drain.
15. However, the Committee gave contradictory findings that goes against the observations/ direction made in judgment dated 6.10.2019, such as the very observation that it is a natural drain. The important aspect overlooked relates to examine the whole issue in proper perspective of sewage, discharge quantum and obstruction to the flow, if any.
16. That as per 'Shijra Map' of 1957 of the area Sahibabad, District Ghaziabad, Uttar Pradesh, no any drain /nala was situated at the place where presently a Drain No 1 at Sahibabad, District

Ghaziabad, Uttar Pradesh is situated and this land is shown as agricultural land.

17. That in 1967, Drain No 1 Sahibabad came into existence following the acquisitions of agricultural land for the development of the area and the drain was created by merging three minor sewage drains at Shaheed Nagar, coming from various nearby colonies and connected to this drain at Surya Nagar, point of origin. The maintenance of this drain was under the Ghaziabad Development Authority and subsequently transferred to Ghaziabad Nagar Nigam.

It is important to mention that the drain has no any other source of water or natural reservoir or any natural feeding area for water.

Hence the drain No 1, Sahibabad, District Ghaziabad is a man made corporation drain only mean for the passage and removal of effluents, sewerage etc.

18. That the 'SUPERIMPOSE PLAN' of the UPSIDC pertaining to the Site No. 4, Sahibabad clearly mentions the "100" WD proposed drain. Further, rapid urbanisation and development alongwith fast industrialisation in the area increased population density, which led to more discharge of the effluents/sewage/industrial waste, etc in said drain. It cause release of Sulphur fumes, acidic gas/particles, other toxic and poisonous gases, persistent foul smell, breeding and spreading of mosquitoes and other parasites, resulting into serious health hazards and threat to life of human, animals, plant, microorganisms etc, It was also polluting ground water and disturbing the ecology of the area. Being aggrieved, the

local residents of the area made several representation to local authorities i.e, Ghaziabad Development Authority, Ghaziabad Nagar Nigam etc. to cover the drain.

19. That in 2005, Ghaziabad development Authority prepared a master plan 2021 and included the Drain No 1 in place of agriculture land. Moreover, no where Drain No 1 is mentioned as natural drain/stream.

20. That it is pertinent to mention that based on the request and representation by the residence of the area, the Ghaziabad Municipal Corporation got a technical feasibility report from the Civil Engineering Department of the IIT Roorkee to cover the drain No 1 of the Sahibabad. The Civil Engineering Department of the IIT Roorkee, in its technical feasibility report recommended to cover up the said drain with box type channel design to stop air pollution, health hazards to human, animal and plant, water and soil pollution.

21. That on 16.05.2008, the technical feasibility report of the Civil Engineering Department of the IIT Roorkee and its recommendation to cover up said drain was taken up in the meeting of the board of Municipal Corporation of Ghaziabad and it took conscious policy decision in larger public interest to grant permission on selective basis.

22. That from 04.09.2008 onwards, Ghaziabad Nagar Nigam started granting license/lease to various private plot holders/parties to cover the said drain alongwith the license with other conditions which interalia include the license fee payable by

licensee and proper cleaning and maintenance of the respective portion of the drain No 1, same is being done under proper supervision of the Nagar Nigam Ghaziabad.

23. That after getting the approval, the said drain was inaugurated by the Urban Development Minister, Govt. Of U.P. in presence of the Principal Secretary, Govt. Of U.P., District Magistrate Ghaziabad, Mayer Ghaziabad, Chairman Ghaziabad Development Authority and other dignitaries and representatives of social welfare organisations and public at large.

It is further pertinent to submit that to cover up the said drain was a conscious policy decision taken by the all concerned authorities in large public interest. The answering respondent and other interested parties were given license to cover the drain under public-private partnership and for that also paid agreed fee/charges as demanded by concerned authorities and also fulfilled other conditions imposed by them.

One of the condition with approval to cover up the drain was for cleaning of drain by respective adjacent plot holders and same are being done by them and there is no obstruction in said drain. There are proper cleaning provisions made in the covered drain including Sewerage treatment plant to ensure free flow of water through it and till date there is no any violation or complaint and alternately it is admitted fact on record that the drain is maintained properly by private parties. The capacity of the drain for flow of water is 120-125 MLD whereas presently it is running at 74 MLD approximately. Further, over the period of time due to outside shifting of industrial units and increase in domestic

population the industrial discharge has decreased but the domestic discharge has increased.

Further, after covering the said drain, now it is free from dumping of solid waste but wherever it is open dumping of solid waste is continuing which is causing blockage in drain.

24. That the answering respondent is a company registered as Stonex India Pvt. Ltd. It is submitted that initially 5 plots together was admeasuring about 20,000 SQM was allotted by UPSIDL/Respondent No. 2 herein to M/s Ontime Cargo & Couier Private Limited in the Sahibabad Industrial Area. It is submitted that out of the said industrial plot, M/s Ontime Cargo & Couier Private Limited sold off Plot Nos. 60/1, 60/1/1 and 60/1/2 admeasuring about 12150 sq.mtrs to M/s Stonex India Pvt. Ltd/Applicant herein. It is noteworthy that these plots have already been transferred in the name of M/s Stonex India Pvt. Ltd/applicant by UPSIDC/respondent no .2 which has become the owner of the Plot No.60/1(SiteIV) ("Plot 60/1") and in possession of the said industrial plot. Lease Deed was executed between M/s Stonex India Private Ltd/ respondent herein and U.P. State Industrial Development Corporation in terms of which the respondent herein became the owner of Plot 60/1 and all permissions and approvals from various authorities stood transferred in the name of the respondent. That the possession letter issued by UPSIDA/ RESPONDANT NO .2 to the owner of Plot 60/1 evidences that the only approach to Plot 60/1 was through the Nala/drain. It is submitted that it is an accepted position of fact that the only approach available to Plot 60/1 was through the

Nala/drain and to put the plot to industrial use, an approach road had to be constructed by covering the Nala/drain. That accordingly the respondent initiated the construction to cover the Nala/Drain in front of his Plot 60/1. It is submitted that the construction initiated on the Nala/Drain by the respondent is with the approval and consent of the concerned authorities and in complete compliance with the technical specifications set out by the technical experts/engineers on the said Nala/drain forming the subject matter of dispute herein. It is submitted that any averments to the contrary in the Original Application are denied as completely false and misleading and not admissible.

25. That in OA No. 16/2014, Hon'ble NGT appointed a committee to carry out inspection and submit report. The said Committee visited the site on 12.03.2014 and in one go without going into the detail prepared a report in haste submitted to Hon'ble National Green Tribunal.

It is pertinent to mention that this report was prepared by the said committee only on the basis of the general observations and without any basis or proof or going into the facts on records about the history of the said drain, its origin, creation and existence, its development, maintenance and ground reality on risk and hazard to the life and properties of the neighbouring residents. The said report was prepared within few hours of visit by the committee on 12.04.2014.

Further the said committee did not follow the due process in preparation of the report as interested parties were neither

informed nor heard nor asked for their representation, hence it is against the principal of natural justice. Hence the said report has no value in the eyes of law and cannot be relied upon for any purpose.

26. That the Uttar Pradesh Pollution Control Board filed their reply in OA No 16/2014 and categorically stated on the basis of the records and facts that the drain No 1, is a man made drain. On the basis of the reply, records and facts stated by the Uttar Pradesh Pollution Control Board and Moreover the layout plan attached with the reply as Annexure -2 of the said reply, the Hon'ble National Green Tribunal categorically found that the Drain No. 1 was a man made drain.

27. That the answering respondent also filed reply to OA No 16/2014 on 26.11.2014 inter alia stating that the Drain No 1 is a man made drain and looking into the health hazards to the public at large in surrounding area of the drain caused due to the release of toxic and poisonous gases in open air, it's covering is essential. It is further pertinent to mention that the only access to the plot of answering respondents is through drain. **Annexure -R10/1**

28. That Hon'ble National Green Tribunal in its order dated 07.10.2016 passed in the OA No 16/2014 categorically stated in its order that 'drain under consideration' can be viewed as MAN MADE DRAIN' and further appointed a committee to submit its report.

29. That Execution No 18/2017 was preferred by the applicant. Further, the Committee constituted vide order dated 07.10.2016

submitted its report before Hon'ble NGT on 12.10.2017. It is pertinent to mention that the said Committee has given report beyond its mandate and has contradicted the findings of the Hon'ble NGT passed in the order dated 07.10.2016 that the drain under consideration 'can be viewed as Man Made storm water drain' but the said committee in its report has changed the nature of drain as natural drain in contrary to the findings of the order dated 07.10.2016 without going into the detail of origin, nature and history of the said drain. Hence the report of the said committee was without jurisdiction and an overreach of the power, authority and mandate given to the committee.

30. That the answering respondents was not made party in the execution application 18/2017, hence an implemment application being MA No 1457 was filed on 05.10.2018 and was impleaded as Respondent No 10 in the Execution Application 18/2017. **ANNEXURE -R10/2**

31. That Hon'ble National Green Tribunal on 08.04.2019 directed all the authorities to file their reply. Thereafter, Ghaziabad Nagar Nigam in its reply to the Execution Application No 18/2017 has categorically stated that the Drain No 1 of Sahibabad is man made and has been developed by the UPSIDC and after its development, handed over to the Ghaziabad Nagar Nigam for its maintenance. It further states that there is no any unauthorised construction / cover over the drain and only covered at those places where permission has been granted are existing and same were granted looking into the health and safety threat to the public at large.

32. That the committee constituted vide order dated 07.10.2016 submitted additional vague and arbitrary report on 03.05.2019.
33. That it is further important to note the discrimination made by the applicant in making the parties to present OA. In the present petition, there is Misjoinder of parties as if the source of pollution load in the drain is from sewage and the applicant has not made appropriate respondents a party. Not a single grievance has been raised by the applicant against sewage discharged by the authorized and unauthorized settlements. Same is true about dumping of MSW into the drain by residents of several colonies.
34. That another important fact is that only 14.75% (0.907 km out of 6.149 Km from Railway Crossing to NH 24) and 20.64% Km 0.322 Km out of 1.56 Km of residential area) is covered and the rest of the drain is open which proves that there is no problem of access for cleaning the drain. Further the responsibility of cleaning the area of covered drain is responsibility of the respective respondent and for that they pay highest charges/taxes to Ghaziabad Nagar Nigam and Ghaziabad Nagar Nigam in turn in case of any violation related to cleaning and maintaining of covered area of drain takes penal action against the respective party.
35. That it is further quite ironical that the said Committee was also formed by the Hon'ble Tribunal in Manoj Mishra Vs. Union of India and Ors (As per Judgment dated 13-01-2015 in Original Application No. 6 of 2012 pertaining to clean and rejuvenated Yamuna River Delhi as well as 300/2013 pertaining to drainage system in NGT of Delhi). It is pertinent to mention that in the said

order, the Hon'ble Tribunal allowed in Delhi to cover the drain falling in Delhi with the permission of the Hon'ble Tribunal wherein already 85% work is completed which implied to making it prospective in nature.

36. That in a similar matter, Pune Zonal bench of Hon'ble NGT in the matter of Smt Shinde Vs CEO, Nashik (OA No. 13/2014 (WZ) had observed that "we are not inclined to accept the prayer of the Applicants for removal of the concrete structures covering the river."

It is important to note that the issue under consideration before the Hon'ble NGT was that State and the Trimbak Municipal Council (TMC) have grossly intervened in the natural flow of River Godavari, even to the extent that many of the stretches of the River and its tributaries are blatantly covered and encased in R.C.C. box culverts, making the River disappear for much of its length in the TMC area.

37. That It is evident from the abovementioned cases that the Hon'ble Tribunal has itself permitted the covering over drain and river with certain conditions. Moreover, the issue under consideration here is also raised before Hon'ble Supreme Court and various reports have been submitted by EPCA since 2000.

38. That it is further submitted that the waste water/discharge in Sahibabad Drain is sewage water and it cannot be left open for various reasons including safety of people living in nearby residential area, its damaging effect to environment and health issues involved.

That in view of the aforementioned facts and circumstances, it is clear that the report submitted by the Committee on 24.04.2014 is vague, arbitrary, prepared without following the due process of law and against the principal of natural justice, hence needed to be rejected. Further, the present OA is also devoid of merits and is liable to be dismissed with cost.

Place: New Delhi

Date: 25.02.2022

Through

Jagrati Singh.

JAGRATI SINGH

Advocate for the Respondent No. 10

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**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 16/2014

IN THE MATTER OF:-

Shri Hazi Arif,

President Rashtrya Kishan Brigade

..Applicant

State of U.P. & Ors.

...Respondents



I, Amresh Kumar Jha, S/o Dani Kant Jha, age about 40 R/o A- 83, 2nd floor Gali No. 02, Sainik Enclave, Vikas Nagar, D.K. Mohan Garden, West Delhi- 110059, working as Executive in Stonex India Pvt Ltd. New Delhi, do hereby solemnly affirm and state as follows:-

1. That the accompanying Submissions has been drafted on my instructions and I am well conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of accompanying submissions are true and correct to the best of knowledge, belief and derived from the record and noting is false therein.

Identify the Deponent who has signed/cut T.I. if in my presence.

Jageeti Singh.

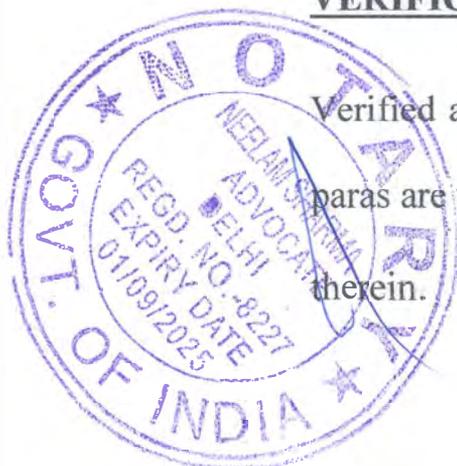
For STONEX INDIA PVT. LTD.

Amresh
DEPONENT
Authorised Signatory

VERIFICATION:-

25 FEB 2022

Verified at New Delhi on 24th February 2022 that the contents of above paras are true and correct to my knowledge and belief and nothing is false therein.



ATTESTED

NOTARY (GOVT. OF INDIA)
Neelam Sharma
Advocate
24, No 165A, Gate No. No.11,
Patiala House Courts,
New Delhi-110001
(M: 9899408301)

For STONEX INDIA PVT. LTD.

Amresh
DEPONENT
Authorised Signatory

25 FEB 2022

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

M.A. NO. ____ OF 2014

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SHRI HAZI ARIF

PRESIDENT

RASHTRYA KISHAN BRIGADE

PETITIONER

VERSUS

STATE OF U.P. & OTHERS

RESPONDENTS

AND

IN THE MATTER OF :-

M/s Stonex India Pvt. Ltd.

Through Mr. Gaurav Agarwal

Plot 60/1, Industrial Area, Sahibabad,

Ghaziabad, Uttar Pradesh

... APPLICANT/INTERVENOR

APPLICATION FOR IMPLEADMENT

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COUNSEL FOR THE APPLICANT : M/S AP & J CHAMBERS

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

M.A. NO. ____ OF 2014

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M/s Stonex India Pvt. Ltd.

Through Mr. Gaurav Agarwal

Plot 60/1, Industrial Area, Sahibabad,

Ghaziabad, Uttar Pradesh

... APPLICANT/INTERVENOR

MEMO OF PARTIES

M/s Stonex India Pvt. Ltd.

Through Mr. Gaurav Agarwal

Plot 60/1, Industrial Area, Sahibabad,

Ghaziabad, Uttar Pradesh

... APPLICANT

APPLICATION FOR IMPLEADMENT

To,

The Hon'ble Chairperson and his companion members
The humble application of the applicant above named.

MOST RESPECTFULLY SHOWETH :

1. That the Petitioner above named, has filed the instant Original Application bearing No. 16 of 2014 seeking *inter alia* stay of all construction activities including encroachments and other occupations on the water drainage 127 mld from Sahibabad drain No. 1.
2. That the instant application is being filed by the Applicant seeking impleadment in the Original Application No. 16 of 2014 in the facts and circumstances stated hereinafter and principally because the Applicant is the absolute owner of the property at Plot No. 60/1 (Site IV) which forms part of the subject matter of the instant Original Application. It is submitted that the only approach to Plot 60/1 of the Applicant herein is through the Nala/Drain and therefore to put the plot to industrial use and in furtherance of the fundamental right of the Applicant herein to carry on trade or business, it is imperative that the Nala/Drain be covered to make an approach road to the Plot of the Applicant to put it to industrial use.

**PRELIMINARY OBJECTION TO THE ORIGINAL APPLICATION
FILED BY THE PETITIONER**

3. That in terms of the provisions of the U.P. Nagar Mahapalika Adhiniyam, 1959 (Chapter X - Sections 228 to 232), the U.P. Nagar Mahapalika has been entrusted with the statutory obligation of constructing, altering, discontinuing, repairing and cleaning of the drains. Accordingly, any decision concerning covering of Nala/Drains falls within the exclusive domain of the U.P. Nagar Mahapalika and the jurisdiction of this Ld. Tribunal to adjudicate upon the functioning of the concerned authorities is ousted. In view of the same, the Original Application No. 16 of 2014 is liable to be dismissed *in limine*.
4. That the Hon'ble Supreme Court of India has in a catena of cases held that policy decisions should not be interfered with by the Ld. Courts and Tribunal and the instant case the decision to cover the Nala/Drain forming the subject matter of dispute herein being a policy decision should not be interfered with by this Ld. Tribunal. Therefore, it is submitted that the Original Application No. 16 of 2014, filed by the Petitioners is liable to be dismissed at the outset.

It is noteworthy that the Hon'ble High Court of Delhi in the case of *IFS Co-operative Group Housing Society & Ors. Vs. Government of National Capital Territory of Delhi & Ors.*, in W.P.(C) 2385/2011, while upholding the policy of covering the drains has categorically held that once a policy decision was taken by the Government of NCT of Delhi to cover the drains, all statutory authorities as well as the tribunals should not interfere and abide by the same.

5. That the covering of the Nala/Drain forming the subject matter of dispute herein is a policy decision and in relation to the same, the following points are noteworthy:
- (a) That considering that hazards posed by the Nala/Drain on NH-58 in Sahibabad Industrial Area, the Ghaziabad Nagar Nigam with a view to cover the Nala/Drain prepared a preliminary project report for covering the Nala/Drain and sought the technical opinion on the same from the Department of Civil Engineering, IIT Roorkee. True copy of the letter dated 11.01.2008 issued by the Ghaziabad Nagar Nigam to the Civil Engineering Department, IIT Roorkee along with the Project Report is annexed herewith and marked as ANNEXURE-MA/1.
 - (b) That the Civil Engineering Department, IIT Roorkee responded to the aforesaid preliminary project report of the Ghaziabad Nagar Nigam on covering the Nala/Drain stating that the overall project proposal of covering the Nala/Drain should be accepted by the Nigam as the same will not only improve the aesthetic look but also improve the ecology of the area and general health hazards of the people working in the area. True copy of the response of the Civil Engineering Department, IIT Roorkee to the aforesaid preliminary project report of the Ghaziabad Nagar Nigam is annexed herewith and marked as ANNEXURE-MA/2.
 - (c) That a scheme for beautification of the link road drain on the National Highway No. 58 including the Nala forming the subject matter of dispute herein was sanctioned in the meeting of the

board of Municipal Corporation Ghaziabad dated 16.5.2008 presided by Special Secretary whereby the working scheme was also approved. Accordingly, in the presence of the concerned cabinet minister, Hon'ble Mayor and Secretary in Chief Nagar Vikas, the inauguration was done on 19.9.2008. Thereafter, on 30.1.2009, followed by the meeting dated 18.6.2009, the working scheme was duly approved by the executive body of the board of Ghaziabad Nagar Nigam. It is submitted that the outcome of the sanction of this scheme of beautification was that whoever concerning makes a request and desires to cover the drain, the approval may be granted subject to conditions. True copy of the minutes of meeting dated 30.1.2009 is annexed and marked as **ANNEXURE-MA/3**.

- (d) That the decision to cover the Nala/Drain was taken in "public interest" and any averments to the contrary rejecting the benefit of a covered drain over an open drain are denied as completely false and misleading. In support of the said averment, a copy of the decision of the Board of Counsellors is annexed herewith and as **ANNEXURE-MA/4**.
6. That the benefits of covering the Nala/Drain outweigh the disadvantages, if any, following the covering the Nala/Drain. It is submitted that the benefits/advantages flowing from covering the drains have been recognized worldwide by the health organizations and also by policy makers within our country.

It is submitted that covered Nala/Drain not only makes the environment more congenial by reducing odour and emission of poisonous fumes, but also reduces health and safety hazard.

7. That the present mechanism whereby each plot holder makes provision for covering the Nala/Drain facing its plot, to make use of the industrial plot, is not only compliant with the technical specifications approved by the experts in the field including the Civil Engineering Department, IIT Roorkee, but is also in the process performing the duty of covering the drains which would otherwise fall within the scope of work of the Ghaziabad Municipal Corporation and the Ghaziabad Development Authority.
8. That the said covering of Nala/Drain by the Applicant herein along with other similarly placed allottees of the plots is not only adding to the beautification of the vicinity but also fetching a huge amount of revenue, adding upto a total of approximately Rs. 50 Lakhs p.a. in addition to House Tax which is also utilized for the welfare and development of the vicinity including the vicinity in which the Petitioner himself resides.
9. That the instant Original Application filed by the Petitioner is malafide, false and baseless and has been filed with the intention of extracting money and other benefits from the Applicant and other similarly placed individuals, who have not paid heed to any illegal demands of the Petitioner. In view of the fact that the construction of the Nala/Drain was approved by the authorities and was legally

complaint, the Applicant herein refused to agree any illegal demands of the Petitioner. It is submitted that the Petitioner runs a primary school in the vicinity and has often approached various plot owners with the intent of extracting money. It is submitted that when the Petitioner/Hazi Arif approached the Applicant the Applicant herein filed a complaint with the District Magistrate, Ghaziabad. It is noteworthy that the learned District Magistrate, Ghaziabad immediately endorsed the complaint of the Applicant herein and directed the SDM to look into the matter and take appropriate steps. True copy of the said complaint to the District Magistrate, Ghaziabad dated 21.02.2014 is being annexed herewith and marked as ANNEXURE-MA/5.

10. That the Original Application filed by the Petitioner is an abuse of the process of law and therefore the Original Application No. 16 of 2014 is liable to be dismissed at the outset. It is submitted that till date no complaint against the covering of the Nala/drains by the Applicant herein or other similarly placed allottees has been received either from the Resident Welfare Societies in the area or any of the Trade Associations, which speaks volume of the valid and legal authority of the Applicant herein or other similarly placed allottees to cover the Nala/Drain.
11. That a careful consideration of the technical specification in terms of which the Nala/Drain is being covered and the measurements of the Nala/Drain, as detailed below makes it amply clear that the by covering the Nala/Drain no hazard or danger is being posed to the health of the people or the ground water.

FACTS CONCERNING THE APPLICANT/INTERVENOR

12. That initially 5 plots together admeasuring about 20,000 sq. mtrs was allotted by UPSIDCL/Respondent No. 2 herein to M/s Ontime Cargo Pvt. Limited in the Sahibabad Industrial Area. It is submitted that out of the said industrial plot, M/s Ontime Cargo Pvt. Ltd. sold off Plot Nos. 60/1, 60/1/1 and 60/1/2 admeasuring about 12150 sq. mtrs to M/s Stonex India Pvt. Ltd/Applicant herein. It is noteworthy that these plots have already been transferred in the name of M/s Stonex India Pvt. Ltd/Applicant by UPSIDCL which has become the owner of the Plot No. 60/1 (Site IV) ("Plot 60/1") and in possession of the said industrial plot. True copy of the Lease Deed executed between M/s Stonex India Pvt. Ltd/Applicant and U.P. State Industrial Development Corporation in terms of which the Applicant herein became the owner of Plot 60/1 and all permissions and approvals from various authorities stood transferred in the name of the Applicant is annexed herewith and marked as ANNEXURE- MA/6.
13. That the possession letter issued by UPSIDCL to the erstwhile owner of Plot 60/1 evidences that the only approach to Plot 60/1 was through the Nala/drain. It is submitted that it is an accepted position of fact that the only approach available to Plot 60/1 was through the Nala/drain and to put the plot to industrial use, an approach road had to be constructed by covering the Nala/drain.

True copy of the possession memo given by UPSIDCL is being annexed herewith and marked as ANNEXURE-MA/7.

14. That accordingly the Applicant has initiated the construction to cover the Nala/Drain in front of his Plot 60/1. It is submitted that the construction initiated on the Nala/Drain by the Applicant is with the approval and consent of the concerned authorities and in complete compliance with the technical specifications set out by the technical experts/engineers on the said Nala/drain forming the subject matter of dispute herein. It is submitted that any averments to the contrary in the Original Application are denied as completely false and misleading.
15. It is submitted that in compliance with the abovementioned decision of the concerned authorities, the erstwhile owner of Plot 60/1 had already applied for and got permission from the Ghaziabad Municipal Corporation for covering the Nala/Drain subject to making a payment of Rs. 9,78,189.60. True copy of the permission received by the erstwhile owner of Plot 60/1 from the Ghaziabad Municipal Corporation dated 15.06.2011 for covering the drain is annexed herewith and marked as ANNEXURE-MA/8.
16. That in terms of the permission letter dated 15.06.2011 as mentioned aforesaid, the erstwhile owner of Plot 60/1 deposited a sum of Rs. 9,78,189.60 with the Ghaziabad Municipal Corporation for grant of permission to cover the drain.

17. That the process of covering the Nala/Drain is being carried out by the Applicant in complete compliance with the requirements specified by the authorities. It is submitted that as per the conditions imposed by the Ghaziabad Municipal Corporation, the Applicant or anybody else who intended to cover up the Nala/Drain was first required to carry out the technical feasibility study by some reputed engineering department and thereafter the Applicant and other similarly situated allottees could cover the Nala/Drain after taking due permission from the Ghaziabad Municipal Corporation.
18. That as per the directions of Ghaziabad Municipal Corporation the Applicant hired renowned engineers to make the detailed project report and the design for covering the Nala/Drain.
19. That the Applicant herein submitted a map on the guidelines and design approved by the IIT, Roorkee and made a plan for covering the drain by putting retaining wall and 2 partition walls in such a way that it causes minimum obstruction in the flow of water, silt and sewerage. It is submitted that the width of the Nala in front of the Applicant plot is 18 Mtrs and the Applicant in order to cover up the Nala was supposed to make a concrete slab of 18 mtrs. To put a concrete slab of 18 mtrs the Applicant as per the design was suppose to make 2 partitions of RCC vertical walls in the Nala/Drain. The width of these vertical wall was 14 inches and on the other end of Nala the Applicant wanted to make a retaining wall so that the mud and other soil did not come in and the slab

rested on it. On the whole by making a slab the Applicant would have only obstructed by the 14 inches wall. The inspection of the Nala would show the width of the Nala was from 2 meters to 18-20 meters and the depth was 1 meter to 4 meters. Infact the Nala in front of the Applicant's plot has a maximum width of 18 meters and has a depth of 3 meters so while making a 14 inches partition wall the Applicant herein has not at all obstructed the free flow of Nala. True copy of the Map submitted for the Plot 60/1 is being annexed herewith and marked as ANNEXURE- MA/9.

20. That this Hon'ble Tribunal had appointed a Committee to carry out a site inspection vide its order dated 3.3.2014. The inspection was carried out by Ms. Parul Gupta and on 12.04.2014 a report had been submitted to this Hon'ble Tribunal. That a bare perusal of the report submitted by Ms. Parul Gupta clearly shows that the average width of the Nala was 50-60 meters (however the width in front of the Applicant's plot is 59 ft.). She further goes to state in the report that in this Nala/Drain there is a daily and continuous discharge of sewerage from the residential area and also animal dump etc. In addition to it since the Nala was open hundred tonnes of solid waste was thrown in the Nala by the people and industries that were living in the close proximity of the Nala. The report further goes to show that the Nala is full of foul, smell and order and are creating an unhygienic condition which is highly hazardous to the human health.

21. That looking into the environment the prevailing conditions, health hazards and other conditions it was imperative that the Nala/ Drain should be covered. It is submitted that the Ghaziabad Municipal Corporation took a decision to cover the Nala which decision was approved by the Board of Nagar Nigam and thereafter Applicant and other allottees on the Nala were allowed to cover the drain/Nala. It is submitted that there was no malafide intention of any personal gain of anybody in the Municipal Corporation in allowing the allottees next to the Nala/Drain to cover the drain.
21. That the Applicant by covering the open Nala/Drain is only undertaking upon itself the duty of covering the drain which is the responsibility of the Municipal Authorities and by covering the said drain is also adding to greater good. It is submitted that Greater Common Good versus Restricted Individual Harm is a settled principle of law and actions of the Applicant herein is in furtherance of the said principle.
22. That in the process of covering the Nala/Drain certain obstructions were created in the Nala/Drain, which were subsequently removed by the Applicant herein. True copy of the letter dated 05.07.2014 by the Applicant herein to the Nagar Nigam, Ghaziabad is annexed herewith and marked as ANNEXURE-MA/10.
23. That the distance of the industrial plot of the Applicant herein to the Nala/Drain is 3 meters and in terms of the provisions of the Building and Operations Act any building above 5000 sq. meters is entitled to construct two basements. It is further submitted that if

the Nala is not covered and no retaining wall is constructed the said existing provisions of law can never be implemented and will remain a paper piece bringing the value of the industrial plot to zero.

23. It is further submitted that the covered drain has various advantages including but not limited to:

- a) The Ghaziabad Nagar Nigam whose responsibility it is to cover the drain has failed in its duty to do so which responsibility has been undertaken by the Applicant herein by expending a huge sum of money being Rs. 2,000/- per sq. ft. approximately.
- b) The covered drain not only reduces the odour but also makes the vicinity clean and also adds to the beautification of the same.

24. That it is submitted that the Original Application filed by the Petitioner is malafide and filed with the intention of blackmailing and extracting money from the Applicants and similarly placed allottees by making a false and baseless claim. It is noteworthy that had their being any concerns on the drain stopping/obstructing the flow of water, some complaint or action would have been initiated by the Nagar Nigam Authorities or the local counsellors. However, in the absence of any such complaints or application but for the instant one concerned with the covering of the Nala/Drain evidences the malafide intent of the Applicant.

25. That it is submitted that the open drain was constructed only subsequent to receiving of the approval of the Nagar Nigam Authorities. It is noteworthy that the map of the industrial plot of

the Applicant herein was duly sanctioned and approved by the Nagar Nigam Authorities.

26. That it is submitted that by covering the open drain the answering respondent is only assisting the Nagar Nigam Authorities in their duties. It is noteworthy that the Nagar Nigam does not have any provision for the maintenance and cleaning of the 60 ft. drain. It is submitted that by covering the said the present equipments available with the Nagar Nigam can and are being used to clean the existing drain.
27. That the hollowness of the Original Application of the Petitioner/Hazi Arif is evident from the fact that while the pullia through which the water flows measures 5 ft X 5 ft, whereas the Nala/Drain in which the water flows into measures 50 ft. It is submitted that by no stretch of imagination can it be argued that the said water flowing into a bigger drain causes obstruction of flow of the water and the said assertion of the Petitioner belies all logic and reasoning.
28. That by leaving the Nala/Drain open, the Applicant herein will suffer grave and irreparable harm as it will completely erode the productivity of the Applicant's plant and machinery that it plans to install at the Plot.
29. That human safety being the primary concern of any authority the coverage of drain will only add to the said safety and not have any adverse effects as alleged by the Applicant.

30. That in view of the aforesaid facts, the Applicant seeks your lordships' leave to pass the following directions.

PRAYER

That in view of the aforesaid facts and circumstances the Applicant most humbly prays:

- A. Permit the abovementioned applicant to be impleaded as Respondent in the above mentioned matter;
- B. Pass any further orders, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE APPLICANTS SHALL AS IN DUTY BOUND EVER PRAY.

DRAWN ON AND FILED BY

NEW DELHI

FILED ON : 26.11.2014

(M/S AP & J CHAMBERS)
COUNSEL FOR THE APPLICANT

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

M.A. NO. ____ OF 2014

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SHRI HAZI ARIF

PRESIDENT

RASHTRYA KISHAN BRIGADE

PETITIONER

VERSUS

STATE OF U.P. & OTHERS

RESPONDENTS

AND

IN THE MATTER OF :-

M/s Stonex India Pvt. Ltd.

Through Mr. Gaurav Agarwal

Plot 60/1, Industrial Area, Sahibabad,

Ghaziabad, Uttar Pradesh

...APPLICANT/INTERVENOR

AFFIDAVIT

I, Gaurav Agarwal S/o Shri Bajrang Lal Agarwal-, aged about 33 years, working as the Director in the Applicant Company having its office at plot 60/1, Industrial Area, Sahibabad, Ghaziabad, Uttar Pradesh presently at New Delhi do hereby solemnly affirm and state as follows: -

1. I say that I am working as Director in the Applicant Company in the present application and I am well conversant with the facts, proceedings and circumstances of the case.

2. That I have read and understood the contents of the accompanying M.As. and I say that the contents thereof are true and correct to my knowledge.
3. That all the Annexures filed herewith are true copies of their respective originals.
4. I say that the averments of facts stated herein above are true to my knowledge and records, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

I, the deponent above named do hereby verify and state that the contents of the application are true and correct to the best of my knowledge and belief.

Verified this day of November, 2014 at New Delhi.

DEPONENT

-TRUE COPY-

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. NO. 1457 OF 2018

IN

EXECUTION APPLICATION NO. 18 OF 2017

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SH. HAZI ARIF

... APPLICANT

VERSUS

STATE OF U.P. & ORS.

... RESPONDENTS

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APPLICANT

(Respondent No. 10 in O.A. No. 16/2014)

THROUGH

Tushar

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BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. NO. OF 2018

IN

EXECUTION APPLICATION NO. 18 OF 2017

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SH. HAZI ARIF

... APPLICANT

VERSUS

STATE OF U.P. & ORS.

... RESPONDENTS

NOTICE OF MOTION

Sir,

The enclosed application in the aforesaid matter is being filed on the behalf of the applicant and is likely to be listed on 08.10.2018 or any date thereafter.

Please take notice accordingly.

APPLICANT

(Respondent No. 10 in O.A. No. 16/2014)

THROUGH



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Date: 04/10/2018

Place: New Delhi

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BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. NO. OF 2018

IN

EXECUTION APPLICATION NO. 18 OF 2017

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SH. HAZI ARIF

... APPLICANT

VERSUS

STATE OF U.P. & ORS.

... RESPONDENTS

Urgent Application

To

The Registrar General
National Green Tribunal
Principal Bench, New Delhi

Sir,

Kindly treat this accompanying application as an urgent one in accordance with the Rules and Orders, on the ground that the applicant is seeking urgent orders from this Hon'ble Tribunal.

APPLICANT

(Respondent No. 10 in O.A. No. 16/2014)

THROUGH

Date: 04.10.2018

Place: New Delhi


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BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. NO. OF 2018

IN

EXECUTION APPLICATION NO. 18 OF 2017

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SH. HAZI ARIF

... APPLICANT

VERSUS

STATE OF U.P. & ORS.

... RESPONDENTS

MISCELLANEOUS APPLICATION ON BEHALF OF STONEX INDIA PRIVATE LIMITED (RESPONDENT NO. 10 IN O.A. NO. 16/2014) SEEKING IMPLEADMENT AS RESPONDENT IN EXECUTION APPLICATION NO. 18/2017 AND LIBERTY TO FILE REPLY TO THE REPORT OF EXPERT COMMITTEE FORMED IN O.A. NO. 16/2014 VIDE ORDER DATED 07.10.2016

MEMO OF PARTIES

1. Sh. Hazi Arif

President Rashtriya Kisan Brigade

R/o House No. 167, Village Maharajpur

P. O. Bharat Nagar

Sahibabad, Site-4 Industrial Area

Dist. Ghaziabad, U. P. -201010

... APPLICANT

Versus

1. State of U. P.

Through the Chief Secretary

Secretariat, 5th Floor, Govt. of U.P.

Lucknow, U. P. - 226001

2. The Regional Manager

Uttar Pradesh State Industrial Development Corporation Ltd.

G-2, 4th Floor, Mahalakshmi Mall, RDC, Raj Nagar

Ghaziabad - 201001, U.P.

3. The Municipal Commissioner

Ghaziabad Municipal Corporation

Nav Yug Market, Ghaziabad - 201001, U.P.

4. The Member

U.P. Pollution Control Board

Pick Up Bhawan, 3rd Floor B-Block

Vibhuti Khand, Gomti Nagar

Lucknow - 226010, U.P.

5. Ghaziabad Development Authority

Through its Vice Chairman

GDA Building, Nav Yug Market

Raj Nagar, Ghaziabad, U.P. - 201001

... RESPONDENTS

APPLICANT

(Respondent No. 10 in O.A. No. 16/2014)

THROUGH



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E: agarwal.tushar19@hotmail.com

Date: 04.10.2018

Place: New Delhi

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BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. NO. OF 2018

IN

EXECUTION APPLICATION NO. 18 OF 2017

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SH. HAZI ARIF

... APPLICANT

VERSUS

STATE OF U.P. & ORS.

... RESPONDENTS

MISCELLANEOUS APPLICATION ON BEHALF OF STONEX INDIA PRIVATE LIMITED (RESPONDENT NO. 10 IN O.A. NO. 16/2014) SEEKING IMPLEADMENT AS RESPONDENT IN EXECUTION APPLICATION NO. 18/2017 AND LIBERTY TO FILE REPLY TO THE REPORT OF EXPERT COMMITTEE FORMED IN O.A. NO. 16/2014 VIDE ORDER DATED 07.10.2016

MOST RESPECTFULLY SHOWETH

1. That the present application has been preferred on behalf of M/s Stonex India Pvt. Ltd. (hereinafter referred as "present applicant") seeking impleadment as Respondent in the instant Execution Application no. 18/2017 in O.A. No. 16/2014 and liberty to file appropriate response to the report of the Expert Committee formed in O.A. No. 16/2014 vide order dated 07.10.2016 passed by this Hon'ble Tribunal.
2. That the instant Execution Application has been filed by the Applicant for the purpose of the execution of the Order dated

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- 07.10.2016 passed by this Hon'ble Tribunal in O.A. No. 16/2014 vide which an Expert Committee was formed to give necessary recommendations in relation to the environmental issue raised by the Applicant in the said Original Application and accordingly disposed off the same.
3. That it is pertinent to mention here that the present applicant was a party in O.A. 16/2014 and was arrayed as Respondent No. 10. However in the instant Execution Application, the present applicant has not been made a party and therefore it is completely unaware about the proceedings pending before this Hon'ble Tribunal.
 4. That the present applicant came to know that pursuant to the Order dated 07.10.2016, an Expert Committee, formed under the directions of this Hon'ble Tribunal, has submitted its Report in relation to the environmental concern raised by the Applicant in O.A. No. 16/2014.
 5. That the present applicant has not been provided with the certified copy of the Report of Expert Committee and it has serious apprehension that certain recommendations might have been made by the said Committee which can proved to be adverse to the interests of the present applicant.
 6. That it is in the interest of justice that the present applicant be impleaded as a Respondent party in the instant Execution Application in order to afford an opportunity of hearing before this Hon'ble Tribunal.
 7. That it is most humbly submitted that the present applicant be arrayed as Respondent in the instant Execution Application No. 18/2017 and be provided the sufficient time to file its response to the recommendations made by the said Expert Committee.
 8. That this Hon'ble Tribunal is vested with sufficient powers to allow the present application and condone the delay if any in filing the same.

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PRAYER

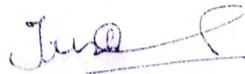
In the light of aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- a) Allow the Application and pass necessary directions for impleadment of present applicant as Respondent in the instant Execution Application No. 18/2017;
- b) Direct the registry to make available the copy of the Report of the Expert Committee, formed in O.A. No. 16/2014, to the present applicant;
- c) Grant 06 weeks time from the receipt of the copy of the report of Expert Committee to the present applicant in order to file its response /reply to the same;
- d) Condone the delay if any in filing the present application;
- e) pass such other and further orders which this Hon'ble Tribunal may deem fit and proper in the interest of justice.

APPLICANT

(Respondent No. 10 in O.A. No. 16/2014)

THROUGH



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E: agarwal.tushar19@hotmail.com

Date: 04.10.2018

Place: New Delhi

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. NO. OF 2018

IN

EXECUTION APPLICATION NO. 18 OF 2017

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SH. HAZI ARIF

... APPLICANT

VERSUS

STATE OF U.P. & ORS.

... RESPONDENTS

AFFIDAVIT

I, Alok Singh aged about 29 years, S/o Sh. Gopal Verma, R/o WZ 9, Tagore Garden - New Delhi 110027 being the Authorized Representative of M/s Stonex India Pvt. Ltd. do hereby solemnly affirm and declare as under:

1. That I am the Applicant herein and am fully conversant with the facts of the case, as such I am competent to swear to this affidavit.



I have read and understood the contents of the accompanying application and I state that the same has been prepared under my instructions. The facts stated therein are true and correct to the best of my knowledge.

Notarized and dependent file has signed in my presence
Date: 04/10/2018

STONEX DEPENDENT

VERIFICATION

CERTIFIED THAT THE DEPENDENT
Shri/Smt. Alok Singh, R/o WZ 9, Tagore Garden, New Delhi, has been identified by me and I have read and explained the contents of the affidavit to him and he has solemnly affirmed that the contents of the affidavit are true and correct to his knowledge.

04 OCT 2018

04 OCT 2018

STONEX DEPENDENT

NOTARY

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M. A. NO. OF 2018

IN

EXECUTION APPLICATION NO. 18 OF 2017

IN

ORIGINAL APPLICATION NO. 16 OF 2014

IN THE MATTER OF:

SH. HAZI ARIF

... APPLICANT

VERSUS

STATE OF U.P. & ORS.

... RESPONDENTS

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APPLICANT

(Respondent No. 10 in O.A. No. 16/2014)

THROUGH



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E: agarwal.tushar19@hotmail.com

53

10/3/2018

Impleadment Application on behalf of M/s Stonex India Pvt. Ltd. in Execution ...

TUSHAR AGARWAL

Wed 03/10/2018, 21:39

To: venkat1advocate@gmail.com <venkat1advocate@gmail.com>;
advpriyankaswami@gmail.com <advpriyankaswami@gmail.com>; ramanyadav@aol.in <ramanyadav@aol.in>;
vishwajit@gmail.com <vishwajit@gmail.com>; gauravs.adv@gmail.com <gauravs.adv@gmail.com>;
pradeepmisra@yahoo.com <pradeepmisra@yahoo.com>;
advbhupenderkumar@gmail.com <advbhupenderkumar@gmail.com>

1 attachments (431 KB)

Impleadment Application.pdf;

Respected Counsels

Please find attached herewith the Impleadment Application on behalf of M/s Stonex India Pvt. Ltd. seeking Impleadment in Execution Application No. 18/2017 titled as "Sh. Hazi Arif vs. State of UP & Ors.", pending before National Green Tribunal, Principal Bench, New Delhi.

This service of the Impleadment Application vide this email will be deemed as advance service on the parties and will qualify as valid proof of service if the email does not bounce back.

Warm Regards

Tushar Agarwal

Advocate

R- 62, Greater Kailash, Part: 1

New Delhi

M: +91 9971374150

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Execution Application No. 18/2017

IN

Original Application No. 16/2014

In the matter of:

Sh. Hazi Arif

...Applicant/Petitioner

Versus

State of UP & Ors.

... Respondents

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Through

Tushar Agarwal *Sumer Singh Boparai*

Tushar Agarwal & Sumer Singh Boparai
Advocates for Respondent No. 10

R-62, Greater Kailash, Part-1

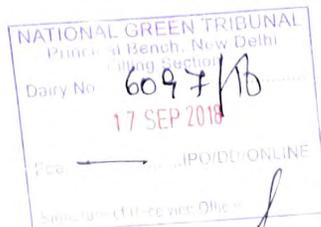
New Delhi-110048

+91-9971-374-150

+91-9560-450-308

Date: 17.09.2018

Place: New Delhi



VAKALATNAMA

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI
 Execution Application No. 18/2017
 IN
 Original Application No. 16/2014

Sh. Hazi Arif

... Applicant /Petitioner

.Vs

State of UP & Ors.

... Respondents

KNOW ALL to whom these present shall come that, I, **M/s Stonex India Pvt. Ltd.,**
Respondent No. 10 in the above named matter do hereby appoint:

TUSHAR AGARWAL

ADVOCATE

R-62, GREATER KAILASH-1

M-9971374150

D/3169/2016

E: agarwal.tushar19@hotmail.com**SUMER SINGH BOPARAI**

ADVOCATE

M-9560450308

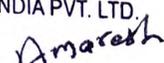
P/1139/2016

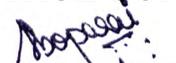
(herein after called the advocate/s) to be my/our Advocate in the above noted case authorize him:-

- To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/us.
 - To sign, file, verify and present pleadings, appeals, cross-objections or petitions for executions review revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subject to payment of fees for each stage.
 - To file and take back documents, to admit and/or deny the documents of opposite party.
 - To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
 - To take execution proceedings.
 - To deposit, draw and receive monthly cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
 - To appoint and instruct any other Legal Practitioner authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.
 - And I/We the undersigned do hereby agree to rectify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and proposes.
 - And I/We undertake that I/We or my/our duly authorized agent would appear in Court on all hearings and will inform the Advocate for appearance when the case is called.
 - And I/We the undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. 11. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain for himself.
 - And I/We the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/we hereby agree that once fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us.
- IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 17th day of September 2018 Accepted subject to the terms of the fees.

-TRUE COPY-

For STONEX INDIA PVT. LTD.


 Authorised Signatory


 17/09/2016


 21/3/16/2016


 14/9/2017


CERTIFIED TRUE COPY OF MINUTES OF THE MEETING OF BOARD OF DIRECTORS OF THE COMPANY HELD ON 13th JANUARY, 2022 AT REGISTERED OFFICE WZ-29, MANSAROVER GARDEN, RING ROAD, NEW DELHI-110015 AT 11 A.M.

AUTHORISING TO FILE REPRESENTATION IN NGT

"RESOLVED THAT Mr. AMRESH KUMAR JHA son of Sh. Dani Kant Jha who is Executive of the company is hereby authorized to file representation in National Green Tribunal and institute all kinds of legal proceedings on behalf of the Company. In this regard he is authorized for and on behalf of the company to sign, institute and file any kind of plaint, complaint, appeal, revision, application before the Court/Authority of the competent jurisdiction; to engage advocate/pleaders; to depose on oath; make statement; summon witnesses; to withdraw any matter or to file any other petition as per the law. He is further authorized and empowered to do all such acts and deeds as deemed fit and proper in the interest of the Company".

For STONEX INDIA PVT. LTD.

For STONEX INDIA PVT. LTD.
Director

MR. VIKAS AGGARWAL
(DIRECTOR)
DIN- 03092238

 STONEX INDIA PVT. LTD.

Corporate Office: WZ 29, Mansarovar Garden, Ring Road, New Delhi 110015

Factory: Khasra No. 210, Makrana Road, Kishangarh, Ajmer 305801

P: +91 11 4949 4444 E: stonex@stonexindia.com W: www.stonexindia.com

CIN: U14200DL2007PTC168592

IN THE NATIONAL GREEN TRIBUNAL

Original Application No. 16 of 2014

IN THE MATTER OF:

Shri Hazi Arif,
President Rashtrya Kishan Brigade

-VERSUS -

Sate of U.P. & Ors.



Petitioner (s)

Appellant (s)

Respondent (s)
Defendant (s)

VAKALATNAMA

I/ Amresh Kumar Jha, S/o Dani Kant Jha, Authorize Signatory of Stonex India Pvt Ltd. DEFENDANT / RESPONDENT/ PETITIONER / OPPOSITE PARTY, in the above application/ suit/appeal/petition/ reference do hereby appoint and retain **MS. JAGRATI SINGH** Advocates of the National Green Tribunal, to act and appear for me/us in the above application/ suit/petition/appeal reference and on my/our behalf to conduct and prosecute or defend or withdraw the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for Review to file and obtain return of documents and to deposit and receive money on my / our behalf in the Application/Suit/Petition/Appeal reference and application for Review, and to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/We agree to ratify all acts done by the aforesaid advocate, in pursuance of this authority.

Jagrati Singh

Dated this the 25 day of Feb 2022

Accepted Identified By

For STONEX INDIA PVT. LTD.

Advocate,

(Petitioner (s) / Appellant (s) / Respondent (s) / Defendant(s) / Opposite Party) *Amarish*
Authorized Signatory

MEMO OF APPEARANCE

To,

The Registrar,
National Green Tribunal
Principal Bench, New Delhi

Sir,

Kindly enter my appearance in the above matter on behalf of the Petitioner / Appellant / Respondent.

Dated 25/02/2022 2022



Jagrati Singh

Advocate for the
Petitioner(s)/Appellant(s)/Respondent(s)

J-12, LGF, Jungpura Ext. New Delhi

Email: advocatejagrati111@gmail.com +91- 9250208553