

N.D.H.: 10.10.2025

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

EXECUTION APPLICATION NO. 3 OF 2025

IN

ORIGINAL APPLICATION NO.60 OF 2014

**IN THE MATTER OF :**

SOCIETY FOR PROTECTION OF CULTURE,  
HERITAGE, ENVIRONMENT, TRADITIONS  
AND PROMOTION OF NATIONAL AWARENESS  
[ALSO KNOWN AS SPCHETNA]

....APPLICANT

VERSUS

DELHI DEVELOPMENT AUTHORITY  
AND ANOTHER

....RESPONDENTS

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**Place:** New Delhi

**Date:** 27.09.2025

FILED BY:-



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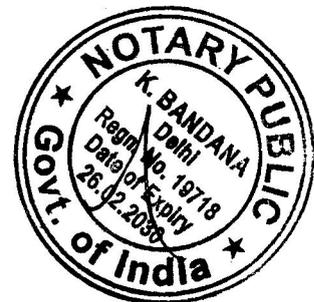
DELHI DEVELOPMENT AUTHORITY & ORS.

...RESPONDENTS

**SUR-REJOINDER FOR AND ON BEHALF OF RESPONDENT  
NO. 2, M/S JHANKAR BANQUETS.**

I, USHA KAPOOR, aged about 64 years, W/o Shri Mahesh Kapoor,  
R/o G-87, Preet Vihar, Delhi -110092, do hereby state on solemn  
affirmation as under:

1. That I am a Partner of the answering Respondent in the present Execution Application as such I am well conversant with the facts and circumstances of the present case and hence, competent to swear this affidavit. The instant Execution Application is filed on behalf of the Applicant seeking execution/ compliance of the order of this Hon'ble Tribunal dated 24.05.2024 passed in EA No. 50 of 2023 in OA No. 60 of 2014, along with execution/compliance of order dated 10.07.2015 passed in OA No. 60 of 20214.

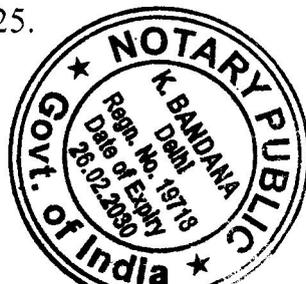


2. That this Tribunal by order dated 22.05.2025 allowed the answering Respondent to file its reply and posted the matter for 25.07.2025. The answering Respondent, accordingly, filed its reply on 16.07.2025.
3. That a rejoinder is, thereafter, filed on behalf of the Applicant on 04.08.2025 raising the following preliminary objections:
  - (i) Against the reply filed by the answering Respondent through a new counsel; and
  - (ii) Against the question to the jurisdiction of the Tribunal having not challenged the main order in Appeal.
4. That vide Order dated 07.08.2025, this Tribunal allowed the answering Respondent to file a sur-rejoinder to the preliminary objections of the Applicant. Hence, the present reply is submitted to rejoinder raising misleading, incorrect preliminary objections which are made only in an attempt to digress the issue before this Tribunal.
5. That it is submitted that after the notice was issued, the answering Respondent has appeared before this Tribunal on 02.05.2025 and 22.05.2025. A perusal of the said Orders shows that the matter was listed before a two-member bench of the Hon'ble Chairperson and an Expert Member in Court No. 1.
6. That on 22.05.2025 the aforesaid bench granted liberty to the answering respondent to file its reply and posted the matter for 25.07.2025. Meanwhile the answering Respondent consulted his present advocate and engaged him in the matter. It is submitted here that the present Execution Application was filed by the Applicant in 2025 only and the matter was at the stage of

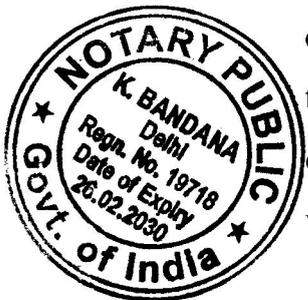


completion of pleadings only hence it is false to state that the matter was old and was at final hearing stage.

7. That the answering Respondent engaged the new advocate, who drafted the reply and filed the same on 16.07.2025 along with his vakalatnama. It is pertinent to mention that there was no disqualification for the newly engaged advocate to accept the brief of the answering Respondent. If the matter was not before a bench disqualifying an advocate to appear or if he has not appeared on behalf of the other side, the advocate cannot refuse a brief.
8. That is further submitted that as on the date on filing of the vakalatnama and reply by the new counsel, the cause list for 25.07.2025 was not published, therefore, the constitution of the bench on 25.07.2025 could not have been in the knowledge of the new counsel at the said time. Hence, the engagement of the new counsel cannot be questioned by the Applicant as it is the prerogative of the party to engage its counsel and for that reason the reply filed cannot be denied to be taken on record of this Hon'ble Tribunal.
9. That there is also no reason for not taking on record the reply submitted by the answering Respondent. The relationship of an advocate to a member of Hon'ble Tribunal cannot by itself disqualify an advocate to accept a brief. In the evident factual scenario, neither the answering Respondent nor the newly engaged counsel can be assumed to know the constitution of bench on 25.07.2025 while filing of vakalatnama and reply on 16.07.2025.



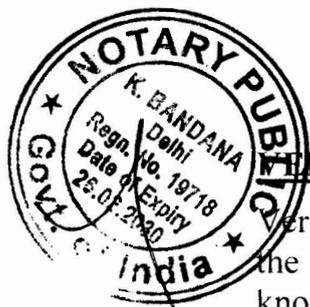
10. That the allegations regarding the conflict of interest, principles of transparency and fairness in adjudication are ill founded and baseless. On 25.07.2025 the matter was listed before the bench presided over by Hon'ble Chairperson, along with two Judicial Members and an Expert Member. However, as one of the Judicial Member being related to the advocate of the answering Respondent, the matter was adjourned for 07.08.2025 for listing before another bench. Thus, no case of breach of transparency or unfairness is made out in the present facts and circumstances. Moreover, as the Hon'ble Judicial Member has recused from the bench, there also is no case for conflict of interest. Thus, the preliminary objection is baseless and clearly appears to be filed only to digress the issue as the Applicant has failed to make any reply on merits of the matter.
11. That as regards the other preliminary objection that the answering Respondent has accepted the order dated 10.07.2015 and not challenged it in Appeal hence is bringing out a new case in Execution, it is submitted that the same is based on non- appreciation of the reply of the Applicant. The answering Respondent has raised a defense of jurisdiction of the Hon'ble Tribunal in entertaining the OA No. 60 of 2014. The issue raised before the Tribunal in OA were beyond the jurisdiction of the Tribunal under section 14 of the NGT Act. Hence, failure to challenge the order dated 10.07.2015 does not makes the order final and binding as against the answering Respondent, which is otherwise non- est/ nullity/ void ab initio.
12. That it is trite law that no consent can confer jurisdiction over a Court/ Tribunal that is otherwise does not possess. The Supreme Court has reiterated the principle in catena of cases (not referred here for sake of brevity) that nullity can be raised in defense at



any stage of proceeding. Hence, even not challenging the order dated 10.07.2015 in Appeal or taking part in earlier round of proceedings in execution will not confer jurisdiction on Tribunal for what it does not possess and, therefore, order dated 10.07.2015 will remain nullity forever and not executable. Even otherwise, a bare perusal of the said Order would show that there was no restriction placed on the answering Respondent, as is sought to be contended by the Applicant herein.

13. That the present sur-rejoinder is confined to the fresh averments made by the Applicants in the rejoinder affidavit. The answering Respondent reiterates and affirms the contents of the reply affidavit and prays that the present Execution Application be dismissed for the reasons set forth in therein the reply affidavit.
14. That I have gone through the accompanying sur-rejoinder para 1 to 13 and say that the contents thereof are true and correct to the best of my knowledge and belief and I believe the same to be true.

Solemnly affirmed on this 24<sup>th</sup> day of September 2025 at New Delhi,



**IDENTIFIED**

**VERIFICATION**

Verified at New Delhi on this 24<sup>th</sup> day of September 2025 that the contents of my above affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

*Usha Kapoor*

**DEPONENT**

EMPOWERED TO ADMINISTER THE OATH  
SECTION 139 OF CPC 1908  
SECTION 297 OF CRPC 1973  
DELHI HIGH COURT RULES 1967  
PART-6, CHAPTER XVIII-227  
EVIDENCE BY AFFIDAVIT BEFORE NOTAR  
SUPREME COURT RULES, 2013  
ORDER-X-7

**24 SEP 2025**

*Usha Kapoor*

**DEPONENT**

ATTESTED  
NOTARY PUBLIC DELHI  
Govt of India