

**BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH,
NEW DELHI
Original Application No. 661/2018**

In the matter of:

Praveen Kakar & Ors.

Applicant(s)

Versus

Ministry of Environment & Forests & Ors.

Respondent(s)

**Written submissions on behalf of the
applicants in the above noted O.A. No. 661 /
2018**

1. That the above noted O.A. No. 661/2018 was filed by the applicants inter-alia on the ground that the Project Proponent (PP) has encroached, grabbed and then sold the green and open spaces in Sushant Lok Phase I, Gurgaon with the active "**collusion**" of the officials of Town & Country Planning Department, Haryana and other local bodies.

2. That as per **Clause 4. (1) of the HARYANA DEVELOPMENT AND REGULAATION OF URBAN AREAS RULES, 1976**, the builder / developer is required . to .leave 45% of land for roads, open spaces, schools/ public and community buildings and other

common uses. The said clause 4 (1) of the Rules is reproduced as under:

"In the layout plan of a colony other than industrial colony the land reserved for roads, open spaces/ schools, public and community buildings and other common uses shall not be less than forty five percent of the gross area of the land under the colony.

Provided that the director may reduce after recording reasons therefor, this percentage to a figure not below thirty five percent where in his opinion the planning requirements and the size of the colony so justifies."

3. That the Town & Country Planning Department with a view to extend illegal benefits to the Project Proponent to the tune of several hundred crores of rupees, never measured the actual area at site to ensure whether the said 45% is intact at site or not.
4. That this Hon'ble Tribunal took cognizance of the fact and appointed a High Powered Committee, which submitted its report on 16.11.2018
5. That the High Powered Committee in para No.1 of the report observed as under:

However, the committee recommend that area under open or green area, road and community site need to be verified as per standards methods adopted by Town and Country Planning Department which will lead to conclusion whether 45% approved under open or green area road and community site is available or not.

6. That this Hon'ble Tribunal in its order dated 08.01.2019 observed that that:

*4. The above factual conclusion shows violation of environmental norms by the respondent no. 11- Ansal Properties and Infrastructure Ltd. The project has been constructed without taking consent to operate under the Air (Prevention and Control of Pollution) Act and Water (Prevention and Control of Pollution) Act and without requisite Environmental Clearance. Rain water harvesting system has not been provided and ground water has been extracted without requisite NOC from CGWA. Sewage is meeting the storm water drain. Maintenance is not upto the mater, Construction and Demolition Waste Management Rules, 2016 have not complied with. DG sets are operating without stack height. Inspite of the above, part completion certificate have been granted by the Town and Country Planning Department, Haryana. It is also clear that despite serious violations, the Haryana State Pollution Control Board has failed to perform its duties in taking statutorily mandated coercive measures under Sections 31A Air Act and 33B of the Water Act or initiating prosecution. **The CGWA, CPCB, State PCB have also failed to perform their duties. The Town and Country Planning Department appears to have colluded.***

7. That this Hon'ble Tribunal in its order dated 05.02.2020 further directed that:

The Chief Secretary may explore action against the collusion by the concerned officers of the State PCB, the Town and Country Planning Department or other State authorities for their failures mentioned above including the officers who agreed for insignificant compensation of one lac by way of plea bargaining in spite of conviction for serious offence. In this regard, action of black listing, attaching available assets of the defaulting builder may also be considered, apart from other coercive measures.

8. That despite the recommendations of the High Powered Committee, the said area is still not being measured by the officials of the Town & Country Planning Department, HSPCB and other concerned authorities.
9. That it is important to mention here that the Project Proponent is still encroaching, grabbing and selling the green area in Sushant Lok Phase I, Gurgaon. That one of the park which is situated in C Block Sushant Lok Phase I, Gurgaon which is a subject matter of this O.A. [paras no. 7, 8, 9 10 and 11 of O.A] has been grabbed and sold by the Project Proponent in January,

2022 and the authorities concerned are the passive spectator to it. The project proponent has no respect for law.

10. That the damage caused by the Project Proponent to the environment is immense and irreparable, which cannot be compensated in terms of money.

11. That it is respectfully submitted that without measuring the said 45% at site, the real magnitude to the illegal gains and the loss caused to the environment cannot be assessed.

It is therefore most respectfully prayed that

a) the concerned authorities / Chief Secretary, Haryana may kindly be directed to measure the actual area at site in Sushant Lok Phase I, Gurgaon to ensure that whether 45% area as per Clause Clause 4. (1) of the HARYANA DEVELOPMENT AND REGULAATION OF URBAN AREAS RULES, 1976, is intact at site or not.

b) Necessary action may be initiated against the erring officers who aided the Project Proponent in causing immense loss to the environment

c) the Project Proponent may be directed to make good the losses caused to the environment, which must commensurate with the illegal gains made by the Project Proponent.

Prayed accordingly....

Dated: 12.04.2022



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