

AC (Pg.) MPR/TC
Diry No. 234
Date 24/5/12

OFFICE OF THE DIR (Pg.)
MPR/TC, D.D.A. N. DELHI-2
Diry No. 1664
Date 3-5-12

Director (Pg.) MPR/TC
D.D.A. Vikas Sadan N. DELHI-2
Diry No. 1664
Date 3-5-12

दिल्ली विकास प्राधिकरण
केन्द्रीय डायरी कक्ष
प्राप्ति एवं प्रेषक (मुख्य)
2 - MAY 2012
डायरी नं. 2978

Date - 30.4.2012

The Vice Chairman,
Delhi Development Authority,
Vikas Sadan,
NEW DELHI.

SECRETARY'S OFFICE
Diry No. 25MP
Date 2-5-12

Subject : Public Notice inviting suggestions for Review of
Master Plan 2021.

Sir,

We write with reference to your Public Notice as referred to
above inviting suggestions for the review of the Master Plan 2021.

2. Sir, the present representation is being made on behalf of
Rotary Cooperative Group Housing Society, a Society registered
under the Delhi Cooperative Societies Act.

3. The aforesaid Society is the owner of a piece of land
measuring 12 bighas 15 biswas (Khasra No.584/529(10-05) &
611/532(2-10)) located at Village Kasoompur, Tehsil Mehrauli, New
Delhi. The aforesaid Society is a cooperative society and the
aforesaid land was purchased for the purposes of construction of
residential flats for its members who are primarily constituted of
service class people.

4. The aforesaid land was purchased way back in 1990 and
construction of certain towers also took place prior to 1993.
Unfortunately, however, subsequent thereto, an attempt was made
to acquire the aforesaid land which led to litigation in the Hon'ble
Delhi High Court between the Society and inter alia the DDA. The
aforesaid litigation, i.e., being WP Nos. 3177 /1990, 3371 / 1993 &
5345 / 1993, has now come to an end. The Hon'ble Delhi High
Court by a judgment and order dated 22.11.2010 passed in WP
No.5345 / 1993 held inter alia that Section 17 of the Land Acquisition
Act was wrongly invoked and that an opportunity under Section 5A
of the said Act ought to have been given to the Society before a
declaration under Section 6 could be made. A copy of the judgment
is enclosed herewith.

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5. Pursuant thereto, we filed our objections under Section 5A; however, since till date the Section 5A objections have not been rejected, it is ex facie obvious that the concerned authorities have found merit in the said objections since as on date the Section 4 Notification has itself lapsed in view of the clear position of law under the Land Acquisition Act, 1894.

6. The reason for the present representation, however, is that even though the aforesaid land is not under acquisition and even as per the DDA the nature of user of the land is residential, in its attempt to justify the acquisition, the DDA had before the Delhi High Court, for the first time in 2010 sought to classify the land as being part of the Aravali Bio-diversity Park. It is relevant to mention that the proceedings before the Hon'ble Delhi High Court had started in 1993 and since then the DDA had maintained that the Society's land was residential in nature and was required for construction of SFS Flats. It is only in 2010 towards the culmination of the said proceedings that the DDA sought to justify its acquisition on the misconceived basis that this was a part of the Aravali Bio-diversity Park and was, therefore, a green area according to the Master Plan 2021. Please find enclosed affidavit dated 13.09.2010 filed before the Delhi High Court in W.P. No. 5345/1993 on our behalf; this affidavit sets out in detail various conflicting stands of the DDA; the contents of the aforesaid affidavit are self-explanatory and may be referred to.

7. Your attention is also invited to the order dated 06.07.2010 passed in WP No.3371 / 1993, a copy whereof is enclosed. A perusal of the aforesaid order would also establish that as late as 06.07.2010, the only impediment in the sanctioning of the plans for the construction of the residential flat was the acquisition proceedings, i.e., apart from the acquisition, there was no other hindrance in the construction of residential flats by the Society; obviously therefore, the area in question is not a green area.

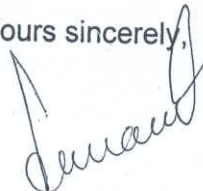
8. It has been the consistent stand of the Society that the user of the land has always been residential in nature. This was also indicated in the respective Zonal Plan and the Master Plan 2001. This was also the DDA's position till as late as 2010. However, as recorded in the judgment dated 22.11.2010 in paragraph 7 the DDA is now attempting to dispute it.

9. It appears that there is some confusion in the DDA as to where the Society's land is actually located. You are, therefore, requested to carry out an appropriate review of the Zonal Plan and Master Plan and demarcate the area correctly as part of residential user. This is of course without prejudice to our stand that even according to the records as they exist today, the user of the land is residential.

You are, therefore, requested to do the needful at the earliest. Please also inform us as to when and where public hearings pursuant to your aforesaid notice are to be held so that we can participate in the said hearings and give our further suggestions in this regard.

Thanking you,

Yours sincerely,



Sandeep Narula
Secretary

Rotary Coop. Group Housing Society Ltd.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on : 08.11.2010

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Date of decision : 22.11.2010

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WP (C) No. 5345 / 1993

M/S. ROTARY CO-OPERATIVE GROUP HOUSING SOCIETY LTD.

... .. PETITIONER

Through : Mr. Aman Lekhi, Sr. Adv. with
Mr. Kirtiman Singh, Mr. Sanchar Anand
& Mr. T. Singhdev, Advocates.

- V E R S U S -

UNION OF INDIA & ORS. RESPONDENTS

Through : Mr. Sanjay Poddar, Advocate
for R - 2 to 5 / LAC.
Mr. Ajay Verma, Adv. for R - 6 / DDA.
Mr. Mukesh Gupta & Mr. Sumit Gupta,
Adv. for R - 7 / MCD.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

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|----|--|-----|
| 1. | Whether the Reporters of local papers
may be allowed to see the judgment? | YES |
| 2. | To be referred to Reporter or not? | YES |
| 3. | Whether the judgment should be
reported in the Digest? | YES |

SANJAY KISHAN KAUL, J.

1. The petitioner society towards its avowed objective of providing housing to its members entered into an

Agreement to Sell dated 24.07.1987 for purchase of land measuring 10 bighas & 5 biswas situated in khasra No. 584/529 and 2 bighas & 10 biswas situated in khasra No. 611/532 in total 12 bighas & 15 biswas of land situated in the revenue estate of Village Kasoompur, Tehsil Mehrauli, New Delhi. The possession of the said land is stated to have been taken over from the vendors by the society on 24.10.1987 after payment of full consideration. The land was already subject matter of notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as, 'the said Act') dated 23.01.1965 and a declaration under Section 6 of the said Act dated 06.09.1966 for the public purpose of Planned Development of Delhi. The petitioner society claims that since for 10 years after declaration under Section 6 of the said Act, the land was still not acquired, it was their belief that the land stood released from compulsory acquisition under the said Act.

2. However, on or about 21.05.1983 notices were issued under Sections 9 and 10 of the said Act by respondent No. 3 / Land Acquisition Collector (for short, 'LAC'). A writ petition bearing No. 1302/1983 titled 'Shri Chandgi & Ors. v. Union of India & Ors.' was filed challenging the acquisition proceedings and the notification in respect of the land in question. It is during the pendency of this petition that the petitioner society entered into the Agreement to Sell and filed an application for impleadment

and substitution in the writ petition, which was allowed.

The writ petition was finally allowed on 23.04.1990.

3. A perusal of the Order dated 23.04.1990 shows that the only ground considered therein is that the notice was more than 10 years old since its publication and, thus, the land should be released from acquisition in view of the provisions of Section 55 of the Delhi Development Act, 1957 (hereinafter to be referred to as, 'the DD Act'). The effect of the said provision had already been the subject matter of decision in Civil Writ Petition No. 721/1974 titled 'Scindia Potteries & Ors. v. Union of India & Ors.' decided on 05.12.1977 and Sahab Singh & Ors. v. Union of India & Ors., 38 (1989) DLT 127 where it was held that when a notice under Section 55 of the DD Act is issued and the administration does not acquire the land for a period of six months, the land stands free from the notice of acquisition. The judgment in the case of the petitioner society was never challenged and became final.
4. The petitioner society having succeeded in this writ petition applied to the ADM (Land Acquisition), i.e., respondent No. 4 herein for issuance of No Objection Certificate (NOC) for the transfer of land by means of a registered sale deed in view of the provisions of the Delhi Lands (Restrictions on Transfer) Act, 1972 and pursuant to the certificates being issued on 14.06.1990, sale deeds were executed on 15.06.1990. This was followed up by

mutation in revenue records on 24.07.1990. The demarcation had already been carried out by the Tehsildar on 04.08.1989. The petitioner society thereafter sought to make the plans for the construction and applied to DDA / respondent No. 6 for sanction of the building plans. The petitioner claims that the land use prescribed is 'residential'. However, DDA refused to sanction plans for the group housing society vide letter dated 24.12.1990 on the ground of non-submission of NOC from the Land Branch of DDA. The petitioner society filed an appeal before the Vice-Chairman, DDA vide its letter dated 08.02.1991 and also made representations to the Hon'ble Minister for Urban Development. The petitioner claims that the Minister recommended the case of the petitioner society, but to no avail. The petitioner also states that DDA itself had constructed SFS flats adjacent to the land of the petitioner society, which are popularly known as 'Hill View Apartments'. The petitioner society finally filed Civil Writ Petition No. 3371/1993 being aggrieved by the rejection of the plans.

5. The next development was the issuance of notification dated 13.09.1993 under Section 4 read with Section 17(1) and 17(4) of the said Act once again in respect of the land of the petitioner society. The provisions of Section 5A of the said Act were dispensed with and this fact came to the notice of the petitioner when DDA filed answer to show-

cause to Civil Writ Petition No. 1973/1992. The petitioner society, thus, claims that it was deprived of the valuable right under Section 5A of the said Act. The present writ petition under Article 226 of the Constitution of India (for short, 'the Constitution') lays a challenge to this notification issued afresh.

6. The writ petition was contested by the respondents. We may note that further affidavits were directed to be filed in view of certain subsequent developments which arose in the present case. An important legal development took place as the judgment in Scindia Potteries & Ors.'s case (supra) stood subsequently overruled by a Full Bench judgment of this Court in Roshnara Begum v. Union of India, 61 (1996) DLT 206 (FB) which was affirmed by the Supreme Court in Murari v. Union of India, 1997 (1) SCC 15. Thus, the very premise on which the judgment was delivered by the Division Bench in the case of the petitioner on 23.04.1990 stood rejected though the judgment had become final in view of no further challenge laid to that judgment.
7. The other development, which has been brought to our notice, is that a large area of land in the same vicinity including allegedly the land in dispute was subject matter of Writ Petition (Civil) No. 4677/1985 before the Hon'ble Supreme Court. The matter was examined from the perspective of environmental issue and the Environment

Impact Authority itself recommended that the complete area was to be maintained as green. The area is, thus, now included in the Aravali Biodiversity Park (District Park) as per the Master Plan of Delhi – 2021 (MPD-2021) read with Zonal Development Plan (ZDP) and the lay-out plan of the area. Learned counsel for DDA has categorically asserted before us that the area in question is now to be used only as a green area and forms part of the Biodiversity Park. In this behalf, learned senior counsel for the petitioner has, however, contended that the area has not been correctly pointed out and the area is outside the Biodiversity Park. We may note at this stage itself that we are not here in the present proceedings to carry out any demarcation of the area in question for which the present proceedings are certainly not the appropriate one.

8. In the conspectus of the pleadings of the parties, learned senior counsel for the petitioner contended that if the impugned notification was upheld, it would amount to the Executive having the power to overrule the judicial pronouncement made by this Court in respect of the land in question in CWP No. 1302/1983 decided on 23.04.1990 as the purpose of acquisition is the same as earlier specified, i.e., Planned Development of Delhi. It was sought to be contended that the law declared by this Court was binding on all authorities and tribunals and the impugned notification is a colourable exercise of power.

Learned senior counsel contended that the respondents could not rely upon the Full Bench judgment of this Court in Roshnara Begum's case (supra) as they had never challenged the Order dated 23.04.1990 in the case of the petitioner. Such repeated notifications, it was contended, were issued against the observations made in Roshnara Begum's case (supra).

9. We are unable to accept the plea advanced by learned senior counsel for the petitioner as it is obvious to us that all that weighed with the Court while passing the Order dated 23.04.1990 was the interpretation of Section 55 of the DD Act as enunciated in Scindia Potteries & Ors.'s case (supra) which judgment stood subsequently overruled. This did not prevent the competent authorities from issuing a fresh notification for acquisition of the land. The petitioner would obviously get the benefit of the judgment dated 23.04.1990 since the earlier notification dated 23.01.1965 had been quashed and the fresh impugned notification was issued on 13.09.1993 and, thus, the petitioner would be entitled to compensation at 1993 rates.
10. Another aspect, on which learned senior counsel for the petitioner has placed reliance, is the construction of SFS flats known as 'Hill View Apartments' by DDA itself where only part of the flats were constructed. This can hardly be of any assistance to the petitioner since undoubtedly Hill View Apartments having been already constructed stands

as an island in the Biodiversity Park and this does not imply that since the said flats are constructed, the petitioner should also be permitted to construct on the adjacent land.

11. The last aspect, which in our considered view is really the only aspect which needs consideration, is the plea arising from invocation of the urgency clause under Section 17 of the said Act dispensing with the requirement of inviting objections and giving a hearing under Section 5A of the said Act. In this behalf, learned senior counsel for the petitioner submitted that while the earlier notification was quashed on 23.04.1990, the fresh notification was issued only on 13.09.1993 after more than three and a half years. This clearly showed that there was no urgency. It was further contended that the existence of urgency is different from the need to dispense with the enquiry and while the first condition is merely mentioned, there was nothing on record to even suggest that the need to dispense with the enquiry was ever considered. The provisions of the said Act being in the nature of expropriatory legislation, the same have to be strictly considered and, thus, the absence of the condition precedent for attracting Section 17(4) of the said Act with no material being on record to support application of mind is sufficient to quash the impugned notification.
12. The aforesaid plea is sought to be negated by learned counsels for LAC and DDA by making a reference to the

observations in a recent judgment of the Supreme Court in Tika Ram v. State of U.P., (2009) 10 SCC 689 and Chameli Singh & Ors. v. State of U.P. & Ors., 1996 (2) SCC 549. We may, however, note that the facts in Tika Ram's case (supra) speak for themselves where large-scale development in utilization of acquired land after acquisition was stated to be apparent on the face of the record. A number of houses had been constructed with third-party interest created in favour of plot-owners. The whole township had come up, the houses and lands had been allotted, sold and re-sold, awards had been passed and overwhelming majority of land-owners had also accepted the compensation including some of the appellants therein. Similarly, in Chameli Singh & Ors.'s case (supra), the aspect of there being material on record to show urgency was emphasized. The importance of providing housing to dalits, tribes and the poor was emphasized and it was observed that so long as the problem is not solved and the need is not fulfilled, the urgency continues to subsist. Thus, the aspect of providing housing to the poor and under-privileged weighed with the Court.

13. Learned counsel also stated that various judgments on the issue of invocation of emergency clause have also been examined in Nand Kishore Gupta & Ors. v. State of U.P. & Ors., JT 2010 (10) SC 521. Here again, the issue of emergency clause and its invocation was considered in the

context of the construction of Yamuna Expressway and it was held that there was material before the State Government to dispense with the enquiry under Section 5A of the said Act. The project was enormous one and the likelihood of encroachments, number of appellants would required to be heard and the time taken for the purpose were held to be material, especially as the project had lingered already from 2001 till 2008.

14. We are of the view that certain important pronouncements on this aspect needs to be taken note of arising from the pronouncements of this Court and the Supreme Court.
15. In Vasant Kunj Enclave Housing Society Limited through its President & Ors. v. Union of India & Ors., 2006 (89) DRJ 406, it was observed in para 26 as follows :-

"26. I find it difficult to read in this note anything concerning the question whether or not an enquiry under Section 5-A of the Act qua the land belonging to the petitioners should be conducted. The note does not even address itself to that question leave alone propose to the Lt. Governor any particular course of action in regard thereto. All that the note proposes is the issue of a notification under Section 6 and 17(4) for Zone I and II, taking over of possession of area not covered by court order in Zone I and II, issue of a corrigendum in respect of Zone III and affording the owners an opportunity for filing objections under Section 5-A of the Act. The note also seeks approval of instructions to the DDA to ensure that no further construction comes up in Zone III during the time the objections are heard. Significantly, Lt. Governor has approved the note which inter alias implies that those owning farm houses in Zone III may be given an opportunity of filing objections under Section 5-A. The order passed by the Lt. Governor however does not demonstrate application of mind leave alone record any reasons for dispensing with such an enquiry under Section

17(4) of the Act in regard to other area notified for acquisition. Just because the Lt. Governor agreed to afford an opportunity to the farm house owners for filing objections under Section 5-A, it cannot be said that a proper consideration of the question had taken place nor can it demonstrate application of mind by the competent authority. Any inference from these notes which are sketchy and which do not directly address the issue in the manner it ought to be, would be far-fetched and unsustainable. If the law requires, as it does in the instant case, that the authority passing the order should apply its mind properly, such application of mind cannot be readily inferred. That is especially so when the order passed by the authority affects valuable civil rights of the citizens. As a matter of fact, the greater the potential of mischief, the more careful and objective should the authority passing the order be. There is also no gainsaying that while acquisitions made for public purpose are at times inevitable, hardship is more often than not implicit for expropriated owners in any compulsory acquisition. Adherence to the requirements of law and the procedure established for the purpose must, therefore, be scrupulously ensured lest the procedural safeguards that the law provides to the owners against arbitrary acquisitions are reduced to bare rituals. I, therefore, agree with the view expressed by brother Madan Lokur, J. that there was no due and proper application of mind on the part of the Lt. Governor to the question of dispensing with the enquiry either before the issue of the notification under Section 17(4) or at any time thereafter."

(emphasis supplied)

16. In Essco Fabs Pvt. Ltd. & Anr. v. State of Haryana & Anr., JT 2008 (12) SC 315, the Supreme Court after noticing all the relevant provisions of the said Act as also the case-laws held as under :-

"44. In our judgment, from the above case law, it is clear that normal rule for acquisition of land under the Act is issuance of notification under Sub-section (1) of Section 4, hearing of objections under Section 5A and issuance of final notification under Section 6 of the Act. Award will be made by the Collector, notice has to be issued to the land-owners or the person interested and

thereafter possession can be taken. Section 17, no doubt, deals with special situations and exceptional circumstances covering cases of 'urgency' and 'unforeseen emergency'. In case of 'urgency' falling under Sub-section (1) of Section 17 or of 'unforeseen emergency' covered by sub-section (2) of Section 17, special powers may be exercised by appropriate Government but as held by a three Judge Bench decisions before more than four decades in Nandeshwar Prasad & Anr. v. The State of Uttar Pradesh & Ors., AIR 1964 SC 1217 and reiterated by a three Judge Bench decision in Union of India & Ors. v. Mukesh Hans etc., 2004 (8) SCC 14 even in such cases, inquiry and hearing of objections under Section 5A cannot ipso facto be dispensed with unless a notification under Sub-section (4) of Section 17 of the Act is issued. The legislative scheme is amply clear which merely enables the appropriate Government to issue such notification under Sub-section (4) of Section 17 of the Act dispensing with inquiry under Section 5A if the Government intends to exercise the said power. The use of the expression 'may' in sub-section (4) of Section 17 leaves no room of doubt that it is discretionary power of the Government to direct that the provisions of Section 5A would not apply to such cases covered by Sub-section (1) or (2) of Section 17 of the Act.

45. In our opinion, therefore, the contention of learned Counsel for the respondent authorities is not well founded and cannot be upheld that once a case is covered by sub-section (1) or (2) of Section 17 of the Act, Sub-section (4) of Section 17 would necessarily apply and there is no question of holding inquiry or hearing objections under Section 5A of the Act. Acceptance of such contention or upholding of this argument will make sub-section (4) of Section 17 totally otiose, redundant and nugatory.

... ..

47. In the instant case, the facts are eloquent. Initial action of acquisition of land was taken as early as in 1982 but the proceedings lapsed. In 1991, when Essco made an application praying for change of user of land, it was rejected on the ground that the land was likely to be required for public purpose. Nothing, however, was done for about a decade. It is only in 2001 that again

IN THE HIGH COURT OF DELHI AT NEW DELHI

06.07.2010

Present: Mr. Aman Lekhi, Sr. Advocate with Mr. Kirtiman Singh, Mr. S. Anand, Mr. T. Singhdev and Mr. Vishal Balecha, Advocates for the Petitioner.

Mr. Ramesh Ray, Proxy counsel for Mr. Sanjay Poddar, Advocate for the Respondent/LAC.

Mr. Amit Mehra, Proxy counsel for Mr. Ajay Verma, Advocate for the Respondent/DDA.

WP (C) No.3371/1993

The petitioner is aggrieved by non-sanction of plans. The only obstruction seems to be the fresh acquisition proceedings by the respondents. It is not necessary now to go into the issue whether despite such acquisition the plan ought to have been sanctioned since we are now proceeding to hear the matter relating to acquisition and thus in case the petitioner succeeds in those proceedings naturally there cannot be any obstruction whatsoever to the sanction of plans.

The writ petition accordingly stands disposed of.

SANJAY KISHAN KAUL, J.

**JULY 06, 2010 VALMIKI J. MEHTA, J.
b'nesh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P. (C) NO. 5345/1993

IN THE MATTER OF:

Rotary Co-operative Group
Housing Society Ltd. & Others

...Petitioners

Versus

Union of India & Ors.

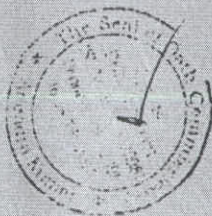
... Respondents

**AFFIDAVIT IN RESPONSE TO THE ADDITIONAL AFFIDAVIT FILED
BY THE RESPONDENT DDA DATED 20.08.2010.**

MOST RESPECTFULLY SHOWETH:

I, Sandeep Narula S/o Sh. B. J. Narula, R/o-42-Narang Colony, Janak Puri, New Delhi-110058, Secretary of Rotary Co-operative Group Housing Society Ltd, Registered Office at SD-348, Tower Apartment, Pitampura, New Delhi-110034, do hereby solemnly affirm and declare as under:

1. That I am the Secretary of the Petitioner Society in the above noted matter and as such well conversant with the facts and circumstances of the present case and hence competent to swear this affidavit.
2. That the contents of the accompanying response have been drafted under my instructions and the facts contained therein are true and correct to my knowledge and belief derived from the records of the petitioner-Society. Unless any averment is not specifically admitted to same may be treated as denied.
3. It is respectfully submitted that on 20.07.2010 this Hon'ble Court was pleased to pass the following order:



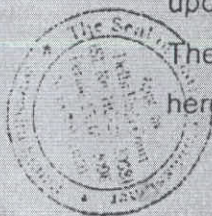
"Ld. Counsel for the DDA/ Respondent No. 6 seeks some time to file an affidavit to place on record current position of the land in so far as authorized user or any other aspect is concerned alongwith relevant plans. The needful be done within one week. The area of the Petitioner should also be super imposed on a second plan to show where it exactly falls and the prescribed user thereof under the MPD 2021/ZDP. Response be filed within a week thereafter. List on 25th August, 2010. Dasti to the Ld. Counsel for the DDA under the signature of the Court Master."

4. The petitioner respectfully submits that pursuant to order dated 20.07.2010 the respondent DDA have filed an affidavit dated 20.08.2010. It is respectfully submitted that:

- (i) This affidavit is admittedly not deposed to on the basis of the record of the DDA but on the personal knowledge of the deponent.
- (ii) The affidavit is completely bare in terms of the material particulars that this Hon'ble Court had directed the DDA to file an affidavit upon. The affidavit merely mechanically lists the annexures that have been filed along with it and states nothing else.
- (iii) This affidavit is thus not an affidavit of a statutory authority that makes assertions on the basis of a record; being based on the personal knowledge of the deponent, this affidavit cannot be relied upon. In any case this affidavit is clearly not in compliance with the directions issued by this Hon'ble Court on 20.07.2010.

5. The petitioner respectfully submits that this is not the first time that the DDA has deliberately attempted to evade complying with the specific directions issued by this Hon'ble Court with respect to the location and user of the petitioners land. It is respectfully submitted that this Hon'ble Court had even previously on various occasions including by way of orders dated 19.05.2004 and 30.07.2004 called upon the DDA to clearly identify the location of the petitioners land.

The relevant portion of order dated 19.05.2004 is reproduced hereunder:



During the course of arguments it is pointed out by Mr. Lekhi, learned Senior Counsel for the petitioners that the subject land falls within the constraint area as depicted in the site plan appearing on page 290 of the paper book. The stand is that the land is adjacent to Hill Views Apartments, Block-A. Let the DDA file an affidavit explaining its stand vis-à-vis, the submission made by learned counsel for the petitioners. A copy of the site plan has also been placed on record by Mr. Lekhi and a copy of thereof has been supplied to learned counsel for the DDA. The same shall also be verified."

6. The petitioner respectfully submits that the DDA had earlier filed a map (page 290) in which the petitioners land was represented to be at an equidistant point between Kusoom Pur Village and Hill View Apartments Block-A. The petitioners contention, as recorded in order dated 19.05.2004 has consistently been that the petitioners land is adjacent to Hill View Apartments, Block -A.

7. From a perusal of pages 4-7 of the affidavit filed by the DDA it is ex-facie apparent that despite making numerous efforts to mislead this Hon'ble Court as to the location of the petitioners land the respondent DDA has had to finally admit that the petitioners have all along been correct in their assertion that their land is adjacent to Hill View Apartments Block -A. This unequivocally demonstrates the petitioner's submission that the respondent DDA has been attempting to mislead this Hon'ble Court and is determined to deprive the petitioners of their lawful entitlement by using any means whatsoever.

8. With regard to the user of the land the petitioners most respectfully submit that it has been the petitioners consistent case that :

(i) That admittedly from the constraint area of 92 hectares, 3 hectares has been earmarked for the SFS Flats Scheme of DDA which is now known as the Hill View Apartments Project.

(ii) That on these 3 hectares 481 residential flats are to be constructed as part of the aforementioned project. The petitioners land is required to complete this entire area of 3 hectares.



(iii) That presently out of the 481 flats, 160 flats have been constructed on 1.2 hectares. As per the norms prescribed by the DDA at the time when the above 160 flats were constructed, 60 flats were permitted on one acre of land, i.e. about 150 flats were permitted in 1 hectare of land with 15% variation.

(iv) That according to the DDA the idea of "constraint area" and "green area" came into existence in the year 1996. It is only on account of the fact that the petitioners land fell within this

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constraint area that the DDA on 22.03.2001 wrote to the Land & Building Department requesting it to announce the award in respect of the land in question so that the same could be developed for the purposes of the aforesaid schemes. A copy of letter dated 22.03.2001 has been placed on record at page no. 472. Letter dated 22.03.2001 is reproduced hereunder:

File No. F.14 (94)69/CRC/53

Dated: 22.03.2001

From: O.C. Prashar,
J. Dir. (NL)

To

The Under Secretary,
Land & Building Department,
Govt. of NCT of Delhi,
Vikas Bhawan, New Delhi.

Sub: Reg. Issuance of award under LA Act/handling over of physical possession to DDA in r/o land measuring 12 bighas 15 biswas of Village Kasoompur.

Sir

Please refer to this office letter No. F.14 (94)69/CRC/014 dated 1.11.95 vide which it was informed that cheque bearing No. 2107893 dated 2.4.93 amounting to Rs. 12,84,562/- against the acquisition of land bearing No. 589/529 (10 bighas, 5 biswas) and 611/532 (2 bighas, 10 biswas) was sent to your office vide letter dated 15.04.93 (copy enclosed). It was also requested to announce award of above said land as the same was urgently required by DDA for development of Vasant Kunj Residential Scheme.

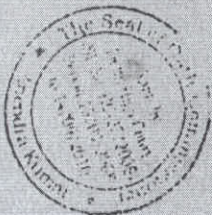
No action has so far been taken by your office inspite of reminder issued by this office vide letter of even No. dated 9.9.96.

You are, once again requested to announce award of above said land urgently. Also hand over the physical possession of said land urgently as the same is required for the development of Vasant Kunj Residential Scheme.

Yours faithfully,
Sd/-

(O.C. PRASHAR)
JOINT DIRECTOR (NL)

Copy to:



9. It is respectfully submitted that communication dated 22.03.2001 as reproduced above clearly and amply demonstrates that the petitioners land falls within the constraint area and that since the DDA was fully aware and conscious of the same, it requested the Land & Building Department in the year 2001 to announce the award as expeditiously as possible so that the DDA could complete its residential housing project.

10. It is respectfully submitted that in fact it is the DDA itself that has consistently sought to justify the acquisition proceedings on the ground that the land of the petitioners was required as part of the residential schemes of the DDA in Vasant Kunj. The details of the submissions made by the DDA in this regard are reproduced hereunder:

(i) *W.P. No. 1302/1983- Chandgi & Ors vs. UOI & Anr.* - In the aforesaid petition the respondent DDA took the consistent stand that

(a) The land of the petitioner was to be acquired for the purposes of SFS Flats under the Vasant Kunj Residential Scheme. (Page 16 read with page 417)

(b) All the surrounding areas of the lands of the petitioner have been handed over to the concerned division of the DDA for construction of Flats and Flats have already been constructed on the lands adjoining the petitioners land. (Page 16 read with page 417)



(ii) Affidavit dated 7.3.1994 (page 135) - It is submitted that in response to the present petition the DDA filed its affidavit on 7.3.1994 (page 135). In the aforesaid affidavit the DDA has made clear and categorical submissions to the effect that the land of the petitioners is required for construction of flats in the Housing scheme known as Vasant Kunj Phase II, and that the Lt. Governor was fully satisfied that the provisions of Section 17 are applicable. (paragraphs 5,10,11,15,19,20,21,33,39-47,60).

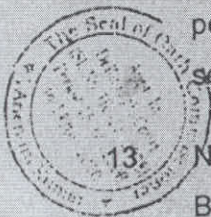
(iii) Affidavit dated 28.07.2004 (page 423) - pursuant to the order dated 19.05.2004 the DDA filed an affidavit dated 28.07.2004 in terms whereof it was clearly admitted that the land of the petitioners fell within the constraint areas in paragraphs 10 & 11 of the aforesaid affidavit.

(iv) Affidavit dated 20.4.2009 (page 477)- an affidavit now has been filed purportedly on behalf of respondents No. 1-5. In terms of the aforesaid affidavit it has been submitted at page 482 para 14 that the land of the petitioners is required for the purposes of the Vasant Kunj Residential Scheme.

(v) WP No. 1973/1993-In the counter affidavit filed in the said writ petition, which was being heard along ~~with the~~ present writ petition and has been disposed of vide order dated 6.7.10 it has been specifically and repeatedly averred that the land of the petitioners was required for the Vasant Kunj SFS Residential Scheme. (Paras 3,4 & 10)

11. The petitioners respectfully submit that now by the written submissions and by the present additional affidavit the respondent DDA has come up with a wholly new ground to justify depriving the petitioners of their land. The petitioners respectfully submit that it is now being alleged that the land of the petitioners falls within the Aravali Bio-diversity Park.

12. The petitioners respectfully submit that the flip-flops that the DDA has been taking in the present case clearly establish that the only intention on behalf of the DDA is to somehow justify /defend its wholly misconceived acquisition proceedings against the petitioners. This is yet another twist in the flip-flop that the DDA seems to have become prone to in the present case.



No details whatsoever have been provided as regards the Aravali Bio-Diversity Park. The map placed on record itself shows that it is almost 15 years old. No reason /justification whatsoever has been given as to why this map or any such averment was never made before in the present proceedings. In any case as per the information made available by the respondent DDA in respect of the Aravali Bio-Diversity Park in the public domain it is ex-facie

apparent that even this assertion of the DDA is clearly factually incorrect.

14. The Aravali Bio-Diversity Park is located in Zone F-13. The petitioners are placing on record prints of Zone F-13 taken from the official website of the DDA and satellite images of Zone F-13 as Annexure P-1(Colly). A perusal of the aforesaid maps would clearly establish that the respondent DDA is misrepresenting the boundaries of the Aravali Bio Diversity Park. The petitioners respectfully submits that a perusal of the photographs of the google earth satellite images and the map downloaded from the website of DDA (which clearly corresponds to the satellite image) would clearly show that in the map produced by DDA the boundary of the biodiversity park has been deliberately extended southwards so as to include within it the petitioners land, where as the official map of the bio diversity park would show that the petitioners land is clearly outside the park.

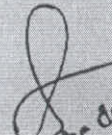
15. It is further respectfully submitted that from the information made available by the DDA itself it is ex-facie apparent that the Aravali Bio Diversity Park comprises of an area of 692 acres. Copy of the relevant information made available officially by the DDA is annexed and marked as Annexure P-2. A comparison of the map placed on record by the DDA at Page 7 of its additional affidavit with page 290 would establish that they are in fact the same. It is submitted that a comparison of the aforesaid two maps would further establish that the demarcation of the area that is allegedly the "Green Area" is identical to what has been identified as the Aravali Bio Diversity Park in the present affidavit. In other words according to the respondent DDA the Green Area is in effect the Aravali Bio Diversity Park.



16. This again is a deliberate attempt to mislead this Hon'ble Court. It is submitted that a simple ocular comparison of the official map of the park as made available by the DDA itself with page 7 of its additional affidavit would clearly establish that they are vastly different from each other. Moreover, since the Green Area comprises admittedly of 223 hectares, and the Aravali Bio Diversity

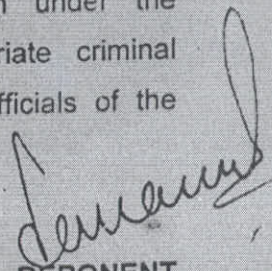
Park Comprises of 280 hectares (i.e. 692 acres) the boundaries of the two admittedly cannot be the same.

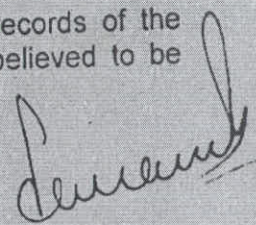
17. In fact a perusal of the official map would establish that whereas that land of the petitioners does not fall within the park, a deliberate attempt has been made by the present affidavit to distort the park boundary and include within it the petitioners' land.
18. The petitioners therefore respectfully submit that not only does the affidavit of the DDA deserve to be ignored; in the most respectful submission of the petitioners appropriate action under the Contempt of Courts Act and /or other appropriate criminal proceedings deserve to be initiated against the officials of the respondent DDA.


I identify the deponent who
has signed in my presence

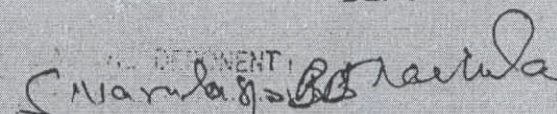
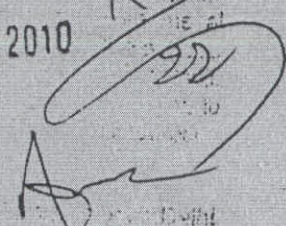
VERIFICATION:

Verified on this 13 day of September, 2010 that the contents of this affidavit are true to my knowledge based on the records of the petitioner-Society as well as information received and believed to be correct.


DEPONENT


DEPONENT

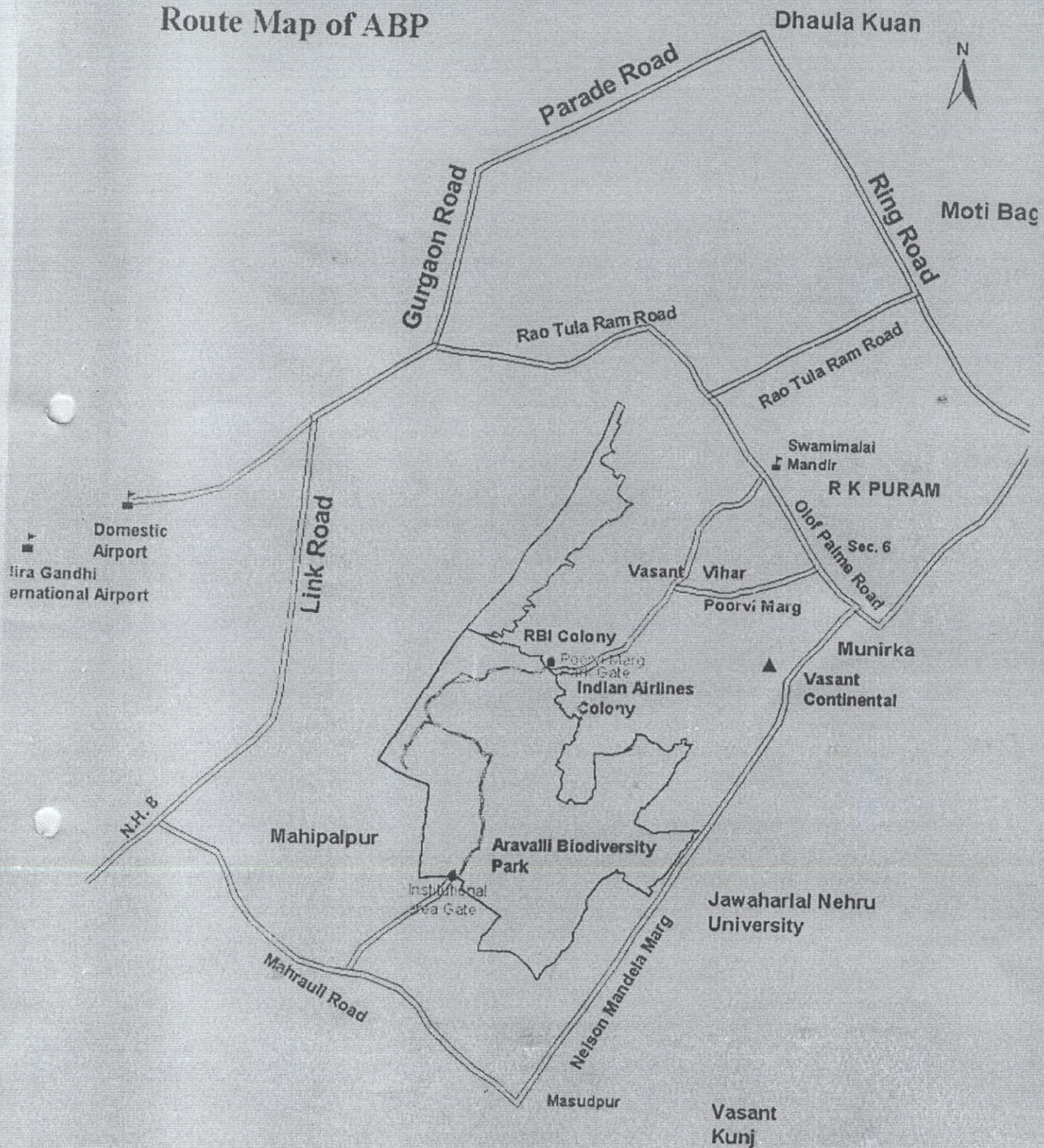


DEPONENT

K. Mani
13 SEP 2010


ANNEXURE-P-1 GOLA

9

Route Map of ABP



10





BIODIVERSITY PARKS

The Ministry of Environment and Forests



Home

Goals

Conservation

Promoting Awareness

Living World

Delhi Biodiversity Foundation

Yamuna Biodiversity Park

Aravalli Biodiversity Park

ANNEXURE-P. 2

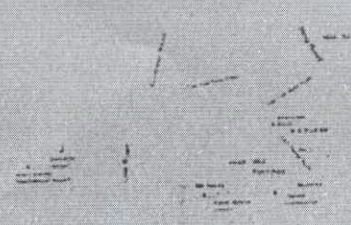
11

Aravalli Biodiversity Park

The Aravallis are among the oldest mountain ranges having evolved about 1500 million years ago, and extend from Gujarat through Rajasthan to Haryana-Delhi. The spurs of the Aravallis are popularly known as the Delhi Ridge in Delhi which is divided into the Northern, Central, South Central and Southern Ridge.

The Aravalli Biodiversity Park is located on the South Central Ridge and spreads over an area of 692 acres. The area is bounded clockwise by JNU (Nelson Mandela Marg), the Mehrauli - Manpallpur road, NH-8 and the Palam road and the southern boundary of Vasant Vihar. The landscape is undulating with gentle slopes and dotted with numerous morrum and clay mined pits of different sizes, depths and shapes.

One can approach to the Aravalli Biodiversity Park, at present, either from Vasant Vihar- Poorvi Marg gate located at about 4 km south west of Moti Bagh, and 2 km west of Jawahar Lal Nehru University (Munirka) or from the Vasant Kunj Institutional gate which is about 3.5 km north of Mahipalpur and one km west of Vasant Kunj Malls.



Route map of ABP

The Park features two major zones - the visitor zone and the nature reserve zone.

The first community that is encountered at the Poorvi Marg gate is young plantation of the moist deciduous forest community represented by broadleaves of species such as *Diospyros melanoxylon* (Tendu), *Adina cordifolia* (Haldu), *Madhuca longifolia* (Mahua), *Nerargyna parviflora* (Ken) and *Sapindus laurifolius* (Soapnut, Reetha) under canopy of *Prosopis juliflora* (Vilayati khair). When fully developed, the top canopy of this native forest community will attain a height of 40 to 50 feet. You may also find a few uncommon birds like the Black-breasted Redstart, the tree-whiskered bulbul, and the Ashy Prinia.

The moist deciduous forest community merges with a luxuriant **Acacia dominated forest** community with species such as *Aegle marmelos*, *Prosopis cineraria* and *Cordia garuf* interspersed with grass patches.

A side trail leads to the Fernary, a conservatory developed in a pit with rugged cut slopes having crevices having dimensions that provide ideal niches for ferns such as *Phymatosorus lucidus*, *Lycopodium wightii* etc.
<http://www.aravalli-biodiversity-park.org.in/>

9/11/2010

Aravalli Biodiversity Park | Biodiversity ...

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Dinaria propinqua.

To the south east of the Fernary, is the Conservatory of Orchids, one of the high points of the Park. The trail from the Orchidarium runs through a young plantation of the *Wrightia* dominated community which merges with the rangelands. The rangelands, spread over an area of 150 acres composed of a mosaic of grasslands and woodlands, are rich in avifauna and carnivores sprinkled with termite and ant mounds on its grounds. The trail that runs through the rangelands enters in to the visitor area which is being developed and will showcase Aravalli plant communities, a rock garden, a bulbous garden and conservatories of butterflies and medicinal plants.



A view of peripheral bamboo plantation

On the way from the visitor area back to Poorvi Marg gate, one can approach to habitats, which harbours a wide range of communities native to Aravallis, distributed on either side of the main trail. Before reaching to the office complex there is a side trail with a water body in the centre surrounded by a rugged and undulating landscape with a mixed deciduous forest. The water-body supports aquatic vegetation and a few native ducks. Adjacent to the office complex, one can find a trail, which passes from the conservatory of herbal plants, goes towards a shallow valley, through stairway, called amphitheatre.



Wetland

Adjacent to the amphitheatre is a conservatory of butterflies. Being a saucer shaped depression with slopes harbouring native bush vegetation, it holds thousands of butterflies belonging to 30-40 species.

About ABP | Fernary | Orchidarium | Conservatory of Butterfly | Wetland | Conservatory of Herbal Plants

Rangeland | Nature Education | Nature Reserve Zone

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IN THE HIGH COURT OF DELHI AT NEW DELHI
WP(C) No. 5345 of 1993

In the matter of:

Rotary Coop. Group Housing Society

.....Petitioner

VERSUS

UOI & Ors.

.....Respondents

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S.No.	Particulars	Page (s)
1	Rejoinder Affidavit to the Response Affidavit filed by Petitioner to Additional Affidavit of DDA.	1-2

AJAY VERMA, Advocate
DDA Standing Counsel
21/4719 Dayanand Road
Darya Ganj, New Delhi-2

New Delhi
Dated:

1/10/2001

556

IN THE HIGH COURT OF DELHI AT NEW DELHI
WP(C) No. 5345 of 1993

In the matter of:
Rotary Coop. Group Housing Society

.....Petitioner

versus

UCI & Ors.

.....Respondents

COUNTER AFFIDAVIT ON BEHALF
OF RESPONDENT, DDA

I, R. K. JAIN, aged about 55 yrs. do hereby solemnly affirm
and state on oath as under:

1. I am the DIRECTOR (PLANNING) of Respondent Authority and am fully
authorized and competent to sign and swear this Affidavit on behalf of Respondent.
I am familiar with the matter based on records of the Respondent Authority.

2. Pursuant to Order dated 20.7.10 Answering Respondent had filed an
Affidavit dated 20.8.10.

3. Petitioner filed its Response Affidavit to the above Affidavit of
Answering Respondent.

4. The Submissions/allegations made in the Response Affidavit are
wrong, baseless and misconceived.

5. It is reiterated that:

i. As per the site identified on the copy of the Layout plan of 92 hae.
Constraint area the site under reference is out side the Constraint area. The Hill View
Apartments are existing at site and the site is fenced with proper boundary wall and
the land is falling out side the boundary of Hill View Apartments.

ii.

As per MPD 2021 and Zonal Plan

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reference can be made to directions dated 6.10.99 issued under section 5 of the Environment (Protection) Act, 1986 by the Environment Pollution (Prevention & Control) Authority conveying "that the environmental factors are not in favour of any urban use of this 223 hac. of land, and the entire parcel of land should be developed as green."

R. Gan

DEPONENT

Verification

Verified at New Delhi on this _____ day of _____, 2010 that the contents of the above affidavit are true to my knowledge, no part of it is false, and nothing material has been concealed therefrom.

R. Gan

DEPONENT

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Exch/35



EVEREST ADVERTISING PRIVATE LIMITED

REGISTERED OFFICE: DIWRAJ CHAMBERS, 7/15, HAZARIMAL SOMANI MARG, MUMBAI - 400 001.
TEL.: 2047411, 2049111X, 2652797, 2652389 (GRAMS); EVERESTAD, MUMBAI. TELEX: 011-88365 EVAD-IN. FAX: 022-2049328.

CLIENT	C00030 DALMIA INDUSTRIES LTD DELHI	INVOICE NO.	09309904			
		DATE	30/09/97			
		PAGE	01			
REFERENCE	RE:MEGAMIND 2 PLUS OUR EST.NO.DAL/15/97-98 DT. 14.8.97 REV.NO.1 DT.21/8/97 CHARGES PAYABLE ON YOUR BEHALF TO DD FOR THE TELECAST DURING SEPT,1997					
DESCRIPTION	CMS	COL	INS	SPC	RATE	AMOUNT Rs.
01 AUHIKARI BROTHERS DD - METRO PRUG : SHRIMAN SHRIMATI DURN : 20 SEC. DATE : 5/9/97 Service Tax payable to the Govt. 45% on Commission			1		80000.00	80000.00
						80000.00
						600.00
						80600.00
RUPEES EIGHTY THOUSAND SIX HUNDRED ONLY						

for EVEREST ADVERTISING PRIVATE LTD.

Branches :
• E-2/4, Swami Ram Tirh Nagar, Jhandewalan Extension, New Delhi 110 055
• 1074 / B1, 11th Main, HAL II Stage, Indiranagar, Bangalore 500 030
• 1-E, Apex Plaza, 3 Nungambakkam High Road, Madras 600 034
• Plot No. 17, 2nd Floor, Motilal Nehru Nagar, Begumpet, Hyderabad 500 010
Please note the terms below which will form part of the Contract/Order:
• All relevant proofs are attached.
• Objection, if any, for the subject job be raised within 10 days from the date of receipt of the bill.
• Payment should be made by crossed order cheques.
• Interest @ 18% p.a. will be charged on delayed payments.

E. & O. E.

Sales Tax Registration Nos.
S.T. No. 400001/3/3135 dt. 1-4-96
C.S.T. No. 400001/3/3001 dt. 1-4-96

Authorised Signatory
Authorised Signatory

559

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EXEW 1/38
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EVEREST ADVERTISING PRIVATE LIMITED

REGISTERED OFFICE: DHIRAJ CHAMBERS, 9/16, HAZARIMAL SOMA-II MARO, MUMBAI - 400 701.
TEL: 2047411, 2049118/9, 2352287, 2352389 URBANIS: EVERESTAD, MUMBAI. TELEX: 011-86365 EVAD-IN. FAX: 022-2048328.

CLIENT: C00030 DALMIA INDUSTRIES LTD DELHI		INVOICE NO. 09310000				
		DATE 31/10/97				
		PAGE 01				
REFERENCE: RE: MEGAMIND 2 PLUS OUR EST. NO. DAL/15/97-98 DT. 14.9.97 CHARGES PAYABLE ON YOUR BEHALF TO DD FOR THE TELECAST DURING SEP. 1997						
DESCRIPTION	CMS	COL	INS	SPC	RATE	AMOUNT Rs.
01 FILM CENTRE OD - NATIONAL NETWORK PROG.: HINDI F. FILM DURN: 20 SEC. DATE: 26/9/97			1		260000.00	260000.00
Service tax payable to the Govt. 05% on Commission						1750.00
						261750.00
RUPEES: TWO LAC SIXTY ONE THOUSAND NINE HUNDRED FIFTY ONLY						

Branches:
• E-2/4, Swami Ram Tirth Nagar, Jhandewalan Extension, New Delhi 110 055
• 1074 / 31, 11th Main, HAL II Stage, Indiranagar, Bangalore 560 030
• 1-E, Apex Plaza, 3 Nungambakkam High Road, Madras 600 034
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E. & O. E.

Sales Tax Registration No.
B.S.T. No. 400001/3/1135 dt. 1-4-98
C.S.T. No. 400001/3/3561 dt. 1-4-98

Author