

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

**ORIGINAL APPLICATION NO. 543/2023
(I.A. NO. 703/2023, I.A. NO. 239/2024,
I.A. NO. 182/2024, I.A. NO. 195/2025,
I.A. NO. 196/2025 and I.A. NO. 30/2024)**

IN THE MATTER OF:

1. ROHIT THAKRAN

S/o Late Sh. Amarpreet Thakran,
R/o New Plot No. 136-137,
Dear Wood Chase, Nirwana,
Sector-50, Village Adampur,
Gram Panchayat Jharsa,
District – Gurugram,
State of Haryana

...Applicant

Verses

1. STATE OF HARYANA

Through its Chief Secretary,
4th Floor, Haryana Civil Secretariat,
Sector-1, Chandigarh-160009

2. HARYANA SHEHRI VIKAS PARADHIKARAN

Through its Secretary,
HSVP Office Complex, C-3,
Sector 6,
Panchkula, Haryana

3. HARYANA TOWN AND COUNTRY PLANNING DEPARTMENT

Through its Secretary/Director General,
Department of Town & Country Planning, Haryana,
Plot No.3, Sector 18-A,
Madhya Marg,
Chandigarh-160018

4. DISTRICT TOWN PLANNER GURUGRAM

HUDA Complex,
Sector 14, Gurugram

- 5. GURUGRAM METROPOLITAN DEVELOPMENT AUTHORITY**
Deputy Commissioner Office,
1st Floor, Mini Secretariat,
Near Rajiv Chowk,
Gurugram-122001
- 6. HARYANA POND AND WASTE WATER MANAGEMENT AUTHORITY**
Through its Executive Vice Chairperson,
DHL Square, Plot No. 9,
3rd Floor, IT Park,
Sector 22, Panchkula,
Haryana-134112
- 7. HARYANA STATE POLLUTION CONTROL BOARD**
Through its Chairman,
C-11, Sector-6,
Panchkula-134109
- 8. PRINCIPAL CHIEF CONSERVATOR OF FOREST, GURUGRAM**
Van Bhawan, C-18, Sector-6,
Panchkula, Haryana
- 9. CHIEF CONSERVATOR OF FOREST, GURUGRAM**
Office of Divisional Forest Officer,
Forest Complex, Rajiv Chowk, Gurugram
- 10. LALITA JINDAL**
W/o Ashish Jindal
R/o Villa No. 129, Block X, Tatvam Villas,
Sector-48, South City-II,
Gurgaon, Haryana-122018
- 11. LALIT MOHAN**
S/o Dayal Chand
R/o H. No. 96 J, 1st floor, Cedar Crest,
Sector-50, Nirvana Country,
Gurgaon, Haryana-122018
- 12. PRATUL KUMAR**
S/o Chandra Pal Jain
R/o H. No. 975, Sector-14,
Gurgaon, Haryana-121001
- 13. PRATEEK RATHEE**
S/o Satvir Singh Rathee
R/o H. No. 1416, Sector-46,
Gurgaon, Haryana-121001
- 14. POOJA RATHEE**
W/o Prateek Rathee
R/o H. No. 1416, Sector-46,
Gurgaon, Haryana-121001

- 15. PANKAJ KUMAR**
S/o Om Prakash Agarwal
R/o Behal (106),
Bhiwani, Haryana-127028
- 16. KAPIL WASON**
S/o Darshan Kumar Wason
R/o AP-60, Shalimar Bagh,
North West Delhi,
Delhi-110088
- 17. GAJANAND AGARWAL**
S/o Tarachand
R/o Ward No. 04, Adarsh Nagar,
Behal (106), Behl,
Bhiwani, Haryana-127028
- 18. SHRAYANSH JAIN**
S/o Pratul Jain
R/o H. No. 975, Sector-14,
Gurgaon, Haryana-121001
- 19. SMITA GAKHAR**
W/o Ashish Bhutani
R/o Flat No. C-0506, 5th Floor,
Corona Optus,
Sec 37, Near Basal Chowk,
Gurugram, Haryana-122001
- 20. HITESH GARG**
S/o Rajender Kumar Garg
R/o E 301, Residency Apartments,
Ardee City, Sector 52,
Gurugram, Haryana-122001
- 21. DISTRICT MAGISTRATE**
Gurugram

...Respondent(s)

COUNSELS FOR APPLICANT:

Mr. A.R. Takkar, Mr. Manan Takkar and Ms. Astha Tyagi, Advocates for Applicant (through VC)

COUNSELS FOR RESPONDENT(S):

Mr. Rahul Khurana, Advocate for respondents no. 1, 3 to 9
Mr. Lokesh Sinhal, Senior AAG with Ms. Noopur Singhal, Advocates for respondent no. 2 with Mr. Sudeep, ADA HSVP
Mr. Rajan Kumar Hans and Mr. Param Rana, Advocates for respondents no. 10 to 17 and 19 to 20

CORAM:

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

RESERVED ON: MARCH 24, 2025
PRONOUNCED ON: AUGUST 08, 2025

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. Rohit Thakran, son of Late Amarpreet Thakran, resident of New Plot No. 136-137, Dear Wood Chase, Nirwana, Sector-50, Village Adampur, Gram Panchayat Jharsa, District–Gurugram, State of Haryana has instituted present proceedings by filing this Original Application (hereinafter referred to as '**OA**') under Sections 14 and 15 and all other enabling provisions of National Green Tribunal Act 2010 (hereinafter referred to as '**NGT Act, 2010**') being aggrieved by the alleged construction activities on the part of Haryana Shehri Vikas Paradhikaran (hereinafter referred to as '**HSVP**') i.e., respondent 2 and Haryana Town And Country Planning Department (hereinafter referred to as '**HTCPD**') i.e., respondent 3 on the land of two water bodies/reservoirs which are existing in khasra no. 24 and 28 in village Adampur, Gram Panchayat Jharsa, Gurugram.

2. The facts in brief stated in OA by the applicant are that two water bodies are/were existing in khasra no. 24 and 28 in village Adampur, Gram Panchayat Jharsa, Gurugram since 1850 and being used by neighbouring residents, villagers and animals as a source of water for various purposes. These water bodies are identified and duly recognised by State of Haryana also since they formed part of a list of water bodies submitted by State of Haryana before this Tribunal in **OA 325/2015, Lt. Col. Sarvadaman Singh Oberoi vs. Union of India** wherein, this

Tribunal vide order dated 20.07.2018 issued directions for restoration of 123 water bodies in Gurugram which included water bodies in khasra no. 24 and 28. Though State Government was under duty to restore the water bodies but no action was taken as remedial measures despite the direction given by this Tribunal vide order dated 20.07.2018 in ***Lt. Col. Sarvadaman Singh Oberoi vs. Union of India (supra)***. These water bodies were in continuous use till 2019-20 but now have been covered and surrounded by the constructions raised by respondent 2 in violation of environmental norms and also Tribunal's order dated 18.11.2020 passed in ***Lt. Col. Sarvadaman Singh Oberoi vs. Union of India (supra)***. Applicant approached various authorities to get the water bodies restored but all in vain. Water bodies in khasra no. 24, village Adampur had an area of 20 canals 10 marlas while water body in khasra no. 28, village Adampur had an area of 15 canals 4 marlas since 1850. Khasra khatoni of village Adampur of the year 1964-65 mentions two gair-mumkin jhohads in khasras no. 24 and 28. These water bodies i.e., gair-mumkin jhohads were surrounded by trees, some of which were 60-70 years old. Copy of khasra khatoni of the year 1964-65 in respect of the above khasra no. 24 and 28 have been placed on record as annexure-A/1.

3. For development of housing/institutional/industrial colony, State of Haryana acquired land including khasra no. 24 and 28 sometimes in 2004-05. Award was declared by Land Acquisition Collector sometimes in 2005-06. Gram Panchayat Jharsa was paid compensation for acquisition of land of khasra no. 28. Copy of award releasing compensation in respect of khasra no. 28 has been placed on record as annexure-A/2. Gram Panchayat was replaced by Municipal Corporation, Gurugram in 2008 but it did not bother to maintain water bodies though the land comprising

water bodies vested, for management, with Municipal Corporation, Gurugram, upto 2019, water bodies in khasra nos. 24 and 28 were being used by villagers as a source of drinking water for animals, birds etc. Respondents arbitrarily started destroying water bodies by uprooting trees and plants, and filling up the land with dust, stones and garbage. Before uprooting of trees and plants, no permission was obtained from Forest Department, though as per the information of applicant, some ex-post-facto permission has now been fabricated by the respondents. Size of water body in khasra no. 24 has been reduced by respondents 2 and 3 by raising constructions in the form of stairs, footpaths, railings etc. It has also uprooted trees surrounding water body in khasra no. 24.

4. Respondents 2 and 3 had planned to develop a township and for the said purpose, in October 2021, started levelling the land existing in khasra no. 28. A public notice to auction land bearing khasra no. 28 was published by respondent ignoring its responsibility of maintaining water bodies and preservation thereof. Applicant represented to Administrator, Gurugram requesting not to change nature of gair-mumkin jhohads in khasras no. 24 and 28 but he paid no heed to the said representation of the applicant. Having no relief from the concerned authorities, applicant came to this Tribunal by filing **OA 388/2021, Rohit Thakran vs. State of Haryana & Others** wherein following reliefs were sought:

- a) *Direct the respondents **to restore the Water Body** situated in **kahsra No.28**, at Village Jharsa, Dist. Gurgram, Haryana, which was destroyed by the respondents for developing the lend for plotting etc.,*
- b) *Direct the respondent for **not to disturb and / or destroy the existing water body situated in Khasra No. 24, admeasuring approx. 18 kanal** and its surrounding Green area (including Trees etc.) at Village Jharsa, Distt. Gurgram, Haryana;*

- c) *Direct the Respondent not to cut any more Tree standing there on the land surrounded the Water Bodies as well as available in the area, except as per the directions/recommendations of this Hon'ble Court or as per the provisions;*
- d) *That the respondents may be directed **to plant trees against the tree already cut down by the respondents in order to develop plotting in the Area and to pay appropriate compensation to the Local Bodies for restoration of the Greenary** in the area in order to provide clean environment to the people in the Area/ Village.*

To pass further such Order(s) as this Hon'ble Court may deem just and proper in the facts and circumstances of the Present Case."

5. **OA 388/2021 (supra)** was disposed of by Tribunal vide order dated 07.01.2022 directing District Magistrate, Gurugram to look into the matter and take remedial action in accordance with law. The order reads as under:

"1. Grievance in this application is against alleged damage to the water body in Khasra No.24 and 28, Village Jharsa, District Gurgaon by the Haryana Shehri Vikas Pradhikaran (HSVP). According to the applicant, the said water body was being used till 2019-20 but the same is now proposed to be covered by construction by the HSVP illegally, contrary to the environmental norms laid down in judgements of the Hon'ble Supreme Court and directions of this Tribunal vide order dated 18.11.2020 in O.A No. 325/2015, LT. Col. Sarvadaman Singh Oberoi v. Union of India.

2. In view of above, **we direct the District Magistrate, Gurgaon to look into the matter and take remedial action in accordance with law.** The applicant is at liberty to put forward his version before the District Magistrate, Gurgaon for further consideration.

The Application is disposed of.

A copy of this order along with the copy of the complaint be forwarded to the District Magistrate, Gurgaon by email for compliance."

6. In the light of the liberty granted by Tribunal to applicant to approach District Magistrate, Gurugram and place his version, applicant submitted a letter dated 09.02.2022 before District Magistrate/Deputy Commissioner, Gurugram giving facts regarding illegal destruction of water bodies existing in khasra no. 24 and 28 and requested for appropriate action against the respondent authorities.

7. Deputy Commissioner, Gurugram issued a letter dated 07.03.2022 recording its findings that according to Revenue Records, gair-mumkin jhohads i.e., reservoir land are in khasra no. 24 and 28 at village Adampur and thus he requested respondent 2 to coordinate with Chief Administrator, HSVP so as to comply with Tribunal's directions.

8. Respondents 2 and 3, however, proceeded illegally and reduced the size of water body in khasra no. 24, uprooted trees planted in the surrounding of the said water body and thus violated the order of this Tribunal. Respondents 2 and 3 also illegally constructed a temple along other structures such as tiled pavements, boundary walls, stairs, roads etc. in khasra no. 24. With regard to water body in khasra no. 28, the same was destroyed and converted to plots by respondents 2 and 3 and the people who were allotted plots in khasra no. 28 have started construction activities thereat. The sewer line was also laid in and around khasra no. 28.

9. In the light of the above violations on the part of respondents 2 and 3, applicant came to Tribunal again by filing **Execution Application No. 10/2022 in OA 388/2021, Rohit Thakran vs. State of Haryana & Others** which was also disposed of finally by Tribunal vide order dated 29.04.2022 and the order reads as under:

“1. Grievance in this application is against alleged damage to the water body in Khasra No. 24 and 28, Village Jharsa, District Gurgaon by the Haryana Shehri Vikas Pradhikaran (HSVP). According to the applicant, the said water body was being used till 2019-20 but the same is now proposed to be covered by construction by the HSVP, contrary to the environmental norms laid down in judgements of the Hon'ble Supreme Court and directions of this Tribunal vide order dated 18.11.2020 in O.A No. 325/2015, LT. Col. Sarvadaman Singh Oberoi v. Union of India.

2. Vide order dated 07.01.2022, the Tribunal directed the District Magistrate, Gurugram to look into the matter and take action in accordance with law.

3. In the present Execution Application, it is stated that even though the applicant made a representation to the District Magistrate on 09.02.2022 and the District Magistrate in turn wrote to the Haryana Shahari Vikas Pradhikaran, Gurugram, no decision is being taken in the matter. The letter of the District Magistrate is reproduced below:-

“In the above subject matter, the application of Shri Rohit Thakran S/o Sh. Amarpreet Thakran R/o New Plot No. 136-137, Deer Wood Chase, Nirwana, Sector 50 Village Jarsa Gurugram, Haryana (Mob. No. 9313272830) was received in this office on 09.02.2022. In regard of which the Estate Officer, Haryana Urban Development Authority, Gurugram and the applicant called and heard before the undersigned on 24.02.2022 to comply the order of Hon'ble NGT. After listening to both the parties and perusing the documents on the file, it was found that according to the revenue records, the variety of Khasra No. 24 and 28, Adampur Jharsa unauthorized johad.

Therefore, by attaching the receipt of the application received from Mr. Rohit Thakran S/o Sh. Amarpreet Thakran R/o New Plot No. 136-137, Deer Wood Chase, Nirwana, Sector 50 Village Jarsa Gurugram, Haryana (Mob. No. 9313272830) you are requested to take action in the said matter by establishing coordination with the Chief Administrator, Haryana Urban Development Authority, Chandigarh, following the orders of the Hon'ble National Green Tribunal, New Delhi.”

4. In view of above, **let the Haryana Shahri Vikas Pradhikaran, Panchkula take a decision in the matter and convey the same to the applicant within one month from today.**

The Application is disposed of.

A copy of this order be forwarded to the Haryana Shahri Vikas

Pradhikaran, Panchkula by email for compliance.”

10. Applicant challenged Tribunal’s order dated 29.04.2022 passed in **Execution Application No. 10/2022 in OA 388/2021 (supra)** in **Civil Appeal (Diary) No. 13652 of 2023** but the same was dismissed by Supreme Court vide order dated 04.05.2023 and the order reads as under:

“Delay condoned.

We find no ground to interfere with the impugned order passed by the National Green Tribunal. The civil appeal is, accordingly, dismissed.

Pending interlocutory application(s), is/are disposed of.”

11. Since no further action was taken by respondents as directed by this Tribunal, applicant sent a representation dated 28.06.2022 to Mayor, Gurugram and other authorities.

12. Faced with total inaction on the part of respondents, applicant approached Tribunal by filing **M.A. No.38/2022 in Execution Application No.10/2022 in Original Application No.388/2021, Rohit Thakran vs. State of Haryana & Ors.** with the following prayers:

- “a. Pass appropriate directions under Section 26 & 28 of the National Green Tribunal Act of 2010 qua imprisonment and imposition of exemplary fine upon the Respondent No.3; and/or*
- b. Pass any such other order/s in favour of the applicant as this Hon’ble Tribunal may deem it fit and proper in the interest of justice.”*

13. The above M.A. was dismissed by Tribunal as not maintainable before it vide order dated 14.07.2022 and the order reads as under:

“The application is for imposing punishment for violation of orders of this Tribunal which involves trial for offence under Section 26 for which jurisdiction is with the Area Magistrate as per Section 30

of the NGT Act, 2010. Thus, the application is not maintainable before the Tribunal and is accordingly dismissed as not maintainable.”

14. Thereafter, applicant submitted further representation dated 26.07.2022 to various authorities including Chief Administrator, HSVP and Administrator, Haryana Urban Development Authority, Gurugram (hereinafter referred to as **‘HUDA Gurugram’**) but again, had no response therefrom. Applicant in the meanwhile also sought information under Right to Information Act, 2005 (hereinafter referred to as **‘RTI Act, 2005’**) by submitting an application dated 08.07.2022 to respondent 2 and in reply thereof, information given by Sub-divisional Engineer, HSVP, Survey Sub Division No. II, Gurugram is as follows:

Point No.	Information sought	Reply
1	<i>Kindly provide me with the full details and number of residential plot carved out in the subjected khasra numbers</i>	18 Number of residential plots are carved out in Khasra No. 28. 22 number of residential plots, Ashiana scheme and R.B. Site are carved out in Khasra No. 24.
2	<i>Kindly provide me with the full details and information and particular of the plot which have been given position by HSVP in the above subjected khasra numbers.</i>	<i>The possession of plot No. 62-P, 63, 65, 68, 69, 70 & 71 have been given by this office.</i>
3	<i>Kindly provide me the full details whether any case pending before the NGT courts in regards to above subjected khasra numbers.</i>	<i>OA No. 388/2021 titled as Rohit Thakran Vs State of Haryana is pending before National Green Tribunal Principal Bench. On the above mentioned Khasra.</i>
4	<i>Kindly provide me with the attested copy of any</i>	<i>The order passed by the Hon’ble NGT is available on</i>

	<i>direction/ orders passed by the Honorable NGT court in regard to have subjected khasra number</i>	<i>website of the Tribunal. Copy be obtained from the site of NGT.</i>
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15. Applicant also availed remedy of filing criminal complaint under Section 26 of NGT Act, 2010 before Judicial Magistrate First Class, Gurugram to punish respondents for committing offence by disobeying/not complying Tribunal’s order and the same is registered as *Criminal Complaint No. 137/2022* and pending thereat. Magistrate passed order on 15.03.2023 and after being prima-facie satisfied with regard to maintainability of the complaint, has entertained the same and the matter is now proceeding for evidence of the complainant. However, the said proceedings per se may not result in protection of water bodies at khasra no. 24 and 28, therefore, applicant having no option, has filed the present OA for protection of the said water bodies and thereby protection of environment.

16. The action of respondents 2 and 3 in destructing and damaging water body is clearly illegal and contrary to law laid down by Supreme Court and this Tribunal. Applicant has relied on the proceedings in ***Lt. Col. Sarvadaman Singh Oberoi vs. Union of India (supra)*** wherein State Government submitted a report disclosing total number of water bodies existing in State of Haryana along with a map and therein water bodies in khasra no. 24 and 28 were clearly shown in the map as well as in the report. Tribunal vide order dated 20.07.2018 directed State Government Haryana for restoration of 123 water bodies in Gurugram which were admittedly in possession of State in the first instance by assigning Unique Identification Number (hereinafter referred to as ‘UID’) and making them free from encroachment. Unfortunately, due to laxity on

the part of the State, water bodies in question did not get any benefit of remedial measures on the part of State of Haryana. Respondents, it appears are acting in collusion and intentionally causing irreversible damage to surrounding environment of village Adampur in sheer greed of converting water bodies land into colonies for the purpose of urbanisation/development. Photographs have been placed on record as annexure-A/16 collectively to show raising of railing, pavements and other constructions which are in and around khasra no. 28 comprising water body.

17. In the grounds taken in support of OA, applicant has said that in the country before independence large number of small water bodies were existing in villages which are now being attempted to be grabbed by unscrupulous people using muscle power, money power and political clout at the cost of serious damage to environment. The construction raised over the disputed water bodies in khasra no. 24 and 28 was also in violation of Section 14 of Haryana Pond and Waste Water Management Authority Act, 2018 (hereinafter referred to as '**HPWWMA Act, 2018**'). Respondents 2 and 3 have also violated the provisions of Haryana Water Resources (Conservation, Regulation and Management) Authority Act, 2020 (hereinafter referred to as '**HWRCRM Act, 2020**') which also restricts damage to any water infrastructure and any otherwise attempt is liable to attract penalty under Section 25(1) of the said Act.

18. Applicant has also relied on Supreme Court's dictum in ***Hinch Lal Tiwari vs. Kamla Devi & Ors. (2001) 6 SCC 496*** (para 13) and ***Jagpal Singh & Ors. vs. State of Punjab & Ors. (2011) 11 SCC 396*** wherein Supreme Court has shown concern with regard to water bodies and has

issued directions for protection including restoration and preservation thereof. Reliance is also placed on Supreme Court's judgment in ***Karnataka Industrial Areas Development Board vs. C. Kenchappa, (2006) 6 SCC 371*** wherein the term 'Sustainable Development' has been held to mean a development which can be sustained by nature with or without mitigation. In other words, it is to maintain delicate balance between development and ecology. While development is essential for the growth of economy, at the same time, the environment and the ecosystem are required to be protected. Supreme Court has also said therein that in future, before acquisition of lands for development, the consequence and adverse impact of development on environment must be properly comprehended and the lands be acquired for development that they do not gravely impair the ecology and environment. Further, applicant has relied on Tribunal's judgment in ***Lt. Col. Sarvadaman Singh Oberoi vs. Union of India (supra)*** decided vide judgment dated 18.11.2020 (*supra*); ***OA 391/2022, Brigadier Paramjit Singh vs. State of Haryana*** decided vide judgment dated 17.03.2023 and ***OA 478/2023, Virendra Tyagi vs. State of Haryana***, decided vide judgment dated 03.08.2023.

19. On the foundation of the above facts and grounds taken by applicant, it has prayed this Tribunal to issue directions to respondent 2 to forthwith restore 02 water bodies existed in khasra no. 24 and 28 in village Adampur in their original form and maintain the same in terms of the directions contained in judgment dated 18.11.2020 passed in ***Lt. Col. Sarvadaman Singh Oberoi vs. Union of India (supra)***; restrain District Commissioner as well as HSVP (respondent 2) from construction activities on the land of water bodies in khasra no. 24 and 28; and replant the trees which have already been cut from the surrounding area of water bodies.

20. **Tribunal's Order dated 12.09.2023:** Tribunal took cognizance of the applicant on 12.09.2023 and after being *prima-facie* satisfied that a substantial question relating to environment has arisen out of the implementation of the enactments specified in Schedule I to NGT Act, 2010, issued notices to respondents 1 to 9 giving them time to file their responses.

Reply dated 12.12.2023 filed by respondent 2 (HSVP):

21. Respondent 2 has raised a preliminary objection with regard to maintainability of OA on the ground of limitation. It is said that land in question being khasra no. 24 Min(17K-8M) and 28(15k-4M) situated in village Adampur was acquired by State of Haryana Urban Estate Development vide notification dated 03.03.2003 issued under Section 4 of Land Acquisition Act, 1894 (hereinafter referred to as '**LA Act, 1894**') and dated 02.03.2004 issued Section 6 of LA Act, 1894. Award no.23 was delivered on 29.12.2005 and possession was transferred on 29.12.2005 for development of residential and commercial plots. Copy of the award has been placed on record as annexure R-1 at page 256 which shows that State took possession on 29.12.2005 whereupon the land acquired vested in State of Haryana on the date of possession. Respondent 2 claimed that in the light of the award dated 29.12.2005 after vesting the land in Haryana, it also vested in respondent 2 free from all encumbrances w.e.f. 29.12.2005.

22. Respondent 2 has further stated that layout plan of Sector 50 was prepared and approved on 22.01.2008. The area falling in khasra no. 24 measuring 0.82 acres was planned as religious site and 11 plots of 3 Marla Category as per approved layout plan dated 22.08.2008 were carved out.

Respondent 2 i.e., HSVP has already laid down services like sewerage, road etc. in 2014. Plots were carved out by HSVP in khasra no. 28 and put for public auction on various dates in 2021-22. Out of 19 carved out plots on khasra no. 28, 17 were already allotted by HSVP upon deposit of entire consideration money and possession has also been handed over on various dates. A chart given in para 10 of the reply showing plot no., date of allotment, date of possession to allottee and date of sanction of building plan reads as under:

S.No.	Plot No.	Date of allotment	Date of offer of possession	Date of Possession	Date of sanctioning of the building plan
1	Gajanand Agarwal Plot No. 55	24.01.2023	24.01.2023	09.03.2023	06.11.2023
2	56	23.08.2022	23.08.22	13.09.22	
3	59	16.03.2022	16.03.2022	21.10.2022	09.10.2023
4	60	13.09.2022	13.09.2022	19.10.2022	09.10.2023
5	61	16.09.2022	16.09.2022	19.10.2022	
6	62P	13.04.2022	13.04.2022	26.04.2022	12.06.2023
7	63	16.03.2022	16.03.2022	28.03.2022	15.07.22
8	64	24.03.2023	24.03.2023	30.03.2023	
9	65	01.04.2022	01.04.2022	07.04.2022	17.05.2022
10	66	25.01.2023	01.02.2023	21.02.2023	
11	67	24.05.2022	24.05.2022	16.08.2022	
12	68	20.04.2022	20.04.2022	25.04.2022	17.10.2023
13	69	26.04.2022	26.04.2022	14.07.2022	
14	70	16.03.2022	16.03.2022	21.03.2022	
15	71	06.05.2022	06.05.2022	16.06.2022	17.10.2023
16	72p	21.10.2023			
17	54P	29.08.2023	29.08.2023	22.09.2023	06.11.2023

23. It is thus clear that even Third Party Rights have been created on khasra no.28 and those parties are necessary parties. Section 14(3) of NGT Act, 2010 provides limitation of six months from the date on which cause of action for such dispute first arose.

24. In **OA 250/2022, Abhay Tyagi vs. Uttar Pradesh State Industrial Development Authority & Another**, Tribunal in its order dated 18.07.2023 observed that since allotment of land was made in 2006 hence OA filed in 2022 is not within the purview of Tribunal under Section 14 of NGT Act, 2010. Applicant has falsely alleged that till 2019, water bodies existed in khasra nos.24 and 28 and were being used by villagers as a source of drinking water for animals and birds and as a source of water supply for plants and trees for surrounding forest area. OA is abuse of process of law and for personal and commercial interest and the applicant has not come before Tribunal with clean hands.

25. Replying OA on facts, respondent 2 has divided its reply in various heads i.e., the allegation of acquisition of land, destruction of water body in khasra no.24, destruction of water body in khasra no.28, creation of third-party rights and the application is not for environmental conservation but for personal gains.

26. In the heading of factual matrix qua acquisition, respondent 2 has virtually reiterated what it has already stated and what we have noticed above hence not being repeated.

27. On the aspect of destruction of water body in khasra no.24, the same is denied and it is said that temples and ancillary structures falling in khasra no.24 admeasuring 1350 m² have not been acquired by respondent 2 and the same exist before acquisition proceedings were initiated on 03.03.2003 when notification under Section 4 of LA Act, 1894 was issued. HSVP does not undertake activities like building temples or other religious structures. It allots land for religious buildings as per its policy. It has

however not allotted any site for temple in land forming part of khasra no.24. The temple i.e., Baba Balaknath Temple existed on khasra no. 24 prior to even commencement of acquisition proceedings.

28. With regard to destruction of water body in khasra no.28, respondent 2 has stated that applicant has wrongly stated that the existing water body in khasra no.28 was levelled in 2021 and 2022 when residential plots were carved out. In fact, HSVP has already laid down services like roads, sewerage etc. in 2014 and hence allegations that the water body continued upto 2019 is incorrect. Google Imagery of the year 2010 to 2021 of khasra no.28 has been placed on record as annexure R-4 to R-10 to show that no water body existed in khasra no.28 at that time. Work of levelling of allotted plots is also not undertaken by HSVP instead it only allots sites through draw or e-auction, on as and where basis, and it is the allottee who has to undertake the levelling work of the allotted plot. With regard to third party rights, facts are repeated in para 29 and 30 hence we are omitting the same.

29. Then coming on the objection that OA is not for environmental conservation but for personal gains, respondent 2 has pleaded that applicant himself has encroached upon HSVP land acquired way back in 2005 by installing illegal mobile tower in khasra no.28 in plot no. 72P in Section 50. Entire attempt on the part of the applicant is to safeguard illegal mobile tower which is on the same parcel claimed to be a water body. Applicant has also constructed residential house in the claimed parcel of reservoir in khasra no.28 which is earmarked for plot no. 58 and 59 of Section 50. Illegal structures in the shape of mobile tower in residential house raised/constructed by applicant have been removed by

HSVP following due course of law. Relying on Supreme Court’s judgment in ***V. Chandrasekaran and Another vs. Administration Officer and Others (2012) 4 R.C.R. (Civil) 588***, respondent 2 has pleaded that one who seeks equity must do equity and a person must approach the Court with clean hands. In para 36, respondent 2 has said that water body in khasra no.24 is being maintained by Mandir Committee with the help of Municipal Corporation, Gurugram and no levelling of khasra no. 28 has been done by HSVP hence there is no violation of any direction of Tribunal.

I.A. NO.870/2023:

30. This IA filed by 11 persons namely; Lalita Jindal, Lalit Mohan, Pratul Kumar, Prateek Rathee, Pooja Rathee, Pankaj Kumar, Kapil Wason, Gajanand Agarwal, Shrayansh Jain, Smita Gakhar and Hitesh Garg has sought impleadment as respondents on the ground that HSVP has sold all developed plots through e-auction and the applicants seeking impleadment are owners of plots no. 66P, 69, 65, 60, 71, 54P, 56, 55, 63, 59 and 68 respectively. The facts disclosed in IA are that the applicants seeking impleadment were issued Letters of Intent in respect of the plots mentioned above and thereafter, letters of allotment, Possession Certificates and in some case, building plans have been approved by HSVP. In respect of Pooja Rathi and Smita Gakhar, sale deeds have also been executed. The chart giving the above information is reproduced as under:

TABLE A							
S N	Name of Intervenor (s)/ Proposed Applicant (s)	Plot No.	Date of LOI by HSVP in their favor	Date of allotment Letter issued by HSVP	Date of Possession Certificate by HSVP in their favor	Date of Approval of Buildin g Plans by HSVP	Date of Conveyance /Sale Deed

1.	<i>Lalita Jindal</i>	66P	28.09.2022	25.01.2023	01.02.2023	16.02.2023	N/A
2.	<i>Lalit Mohan</i>	69	17.11.2021	26.04.2022	14.07.2022	N/A	N/A
3.	<i>Praful Kumar</i>	65	02.12.2021	01.04.2022	07.04.2022	17.05.2022	N/A
4.	<i>Prateek Rathee</i>	60	19.05.2022	13.09.2022	19.10.2022	N/A	N/A
5.	<i>Pooja Rathee</i>	71	17.11.2022	N/A	16.06.2022	17.10.2023	19.10.2023
6.	<i>Pankaj Kumar</i>	54P	14.01.2023	29.08.2023	22.09.2023	N/A	N/A
7.	<i>Kapil Wason</i>	56	08.03.2022	23.08.2022	13.09.2022	N/A	N/A
8.	<i>Gajanand Agarwal</i>	55	13.04.2022	24.01.2023	09.03.2023	N/A	N/A
9.	<i>Shrayansh Jain</i>	63	18.11.2021	16.03.2022	28.03.2022	15.07.2022	N/A
10.	<i>Smita Gakhar</i>	59	17.11.2021	16.03.2022	21.10.2022	09.10.2023	11.08.2023
11.	<i>Hitesh Garg</i>	68	17.11.2021	20.04.2022	25.04.2022	17.10.2023	N/A

31. HSVP conducted e-auction for plots no.54 to 72P of Sector 50, Gurugram during 2020-2023 and most of these plots have been sold, allotted and physical possession has been granted to the respective allottees. HSVP after acquisition of land started process of developing plotted colony including infrastructure. In RTI reply dated 09.05.2023, HSVP has stated that development work of black carpeted roads was completed on khasra no.28, Adampur (now Sector-50, Gurugram) by August 2014. Presently, a cluster of 19 plots i.e., plot no.54 to 72P exist at the site of khasra no.28 and the applicants seeking impleadment are owners of some of these plots, hence they are necessary parties to be impleaded in the present proceedings.

32. Applicants seeking impleadment came to know that Rohit Thakran filed OA 543/2023 alleging damage to water bodies in khasra no. 24 and 28 at village Adampur, Gram Panchayat Jharsa, District Gurugram which

were used as water bodies till recently but now proposed to be covered with construction by HSVP. Khasra no.28 of village Adampur was acquired by HSVP on 29.12.2005. It was responsibility of HSVP to get the revenue record updated by change of mutation but it failed. Carpeting of black mortar roads in khasra no.28 was again completed in December 2022 by HSVP. Gair Mumkin Johad and temple are situated in khasra no. 24 and not khasra no.28 but the applicant has misled Tribunal by inter-mixing the details. Applicant himself is not an environmentalist but an encroacher. Earlier also, applicant Rohit Thakran filed **OA 388/2021 (supra)**, raising a similar dispute which was disposed of vide judgment dated 07.01.2022 with the following directions:

“1. Grievance in this application is against alleged damage to the water body in Khasra No.24 and 28, Village Jharsa, District Gurgaon by the Haryana Shehri Vikas Pradhikaran (HSVP). According to the applicant, the said water body was being used till 2019-20 but the same is now proposed to be covered by construction by the HSVP illegally, contrary to the environmental norms laid down in judgements of the Hon’ble Supreme Court and directions of this Tribunal vide order dated 18.11.2020 in O.A No. 325/2015, LT. Col. Sarvadaman Singh Oberoi v. Union of India.

2. In view of above, we direct the District Magistrate, Gurgaon to look into the matter and take remedial action in accordance with law. The applicant is at liberty to put forward his version before the District Magistrate, Gurgaon for further consideration.

The Application is disposed of.

A copy of this order along with the copy of the complaint be forwarded to the District Magistrate, Gurgaon by email for compliance.”

33. Applicant made representation to District Magistrate on 09.02.2022 and when no decision was taken, came to this Tribunal in **Execution Application No.10/2022 (supra)**, which was also disposed of vide order dated 29.04.2022.

34. Thereafter, applicant filed an application for prosecution under Section 26 of NGT Act, 2010 vide ***M.A. No.38/2022 (supra)*** which was rejected vide order dated 14.07.2022 on the ground that it is not maintainable before Tribunal since jurisdiction lies with the concerned Magistrate as per Section 30 of NGT Act, 2010.

35. **Tribunal's Order dated 16.01.2024:** Tribunal heard IA 870/2023 on 16.01.2024 and allowed the same by impleading Lalita Jindal as respondent 10.

I.A. NO.30/2024:

36. Applicant filed this application for taking action against the respondents; by directing State and its authorities including Haryana State Pollution Control Board (hereinafter referred to as '**HSPCB**') to take action against the persons who have illegally cut decades old trees standing on khasra no. 28.

37. **Tribunal's Order dated 24.01.2024:** On 24.01.2024, Counsel appearing for the applicant seeking impleadment by IA 870/2023 stated before Tribunal that application was moved for impleadment of 11 persons but only Lalita Jindal was impleaded. Tribunal observed that application was not properly drafted as it was signed only by Lalita Jindal and names of others were given in the body of the application. However, Tribunal modified its order dated 16.01.2024 and impleaded Lalita Jindal and 10 others as respondents 10 to 20. Tribunal found impleadment of District Magistrate, Gurugram to be necessary and thus he was impleaded as respondent 21. Respondents 10 to 21 were given time to file their responses, if any.

38. Implementing precautionary principle as enshrined in Section 20 of NGT Act, 2010, Tribunal directed the parties to maintain status-quo as on date.

Affidavit dated 19.04.2024 filed by HSVP:

39. Referring to earlier reply dated 12.12.2023, it is said that upon the conclusion of acquisition proceedings and laying out necessary services in 2014, HSVP put the plots carved out in khasra no.28 in public auction on various dates in 2021 and 2022. The development work completed in 2014. Out of 19 carved out plots, on khasra no.28, 17 have been allotted by HSVP upon deposit of entire consideration money to certain individuals. The details of the number of plots, date of allotment, date of possession and date of sanction of building plan, wherever applicable, has been given in the form of a chart in para 5 as under:

<i>S. No.</i>	<i>Plot No.</i>	<i>Date of allotment</i>	<i>Date of offer of possession</i>	<i>Date of Possession</i>	<i>Date of sanctioning of the building plan</i>
1	55	24.01.2023	24.01.2023	09.03.2023	06.11.2023
2	56	23.08.2022	23.08.22	13.09.22	
3	59	16.03.2022	16.03.2022	21.10.2022	09.10.2023
4	60	13.09.2022	13.09.2022	19.10.2022	09.10.2023
5	61	16.09.2022	16.09.2022	19.10.2022	
6	62P	13.04.2022	13.04.2022	26.04.2022	12.06.2023
7	63	16.03.2022	16.03.2022	28.03.2022	15.07.22
8	64	24.03.2023	24.03.2023	30.03.2023	
9	65	01.04.2022	01.04.2022	07.04.2022	17.05.2022
10	66	25.01.2023	01.02.2023	21.02.2023	

11	67	24.05.2022	24.05.2022	16.08.2022	
12	68	20.04.2022	20.04.2022	25.04.2022	17.10.2023
13	69	26.04.2022	26.04.2022	14.07.2022	
14	70	16.03.2022	16.03.2022	21.03.2022	
15	71	06.05.2022	06.05.2022	16.06.2022	17.10.2023
16	72p	21.10.2023			

40. Third party rights thus have been created under khasra no.28. HSVP further said that considering environmental principles as well as rights of allotees, proposal for allotting alternative land admeasuring approximately 1.9 acres in Haryana in lieu of land in question in khasra no.28, village Adampur has been sent to Competent Authority for approval and necessary exercise for identification and allotment of alternate land in lieu of khasra no.28 shall be completed within 90 days with the approval of competent Authority and the same will be restored as water body. HSVP thus requested to vacate *status-quo* order passed on 24.01.2024.

41. **I.A. No.239/2024:** Respondent 9 has filed *IA No. 239/2024* for bringing on record additional document which is a Pan drive containing video of the disputed area and the endeavour is to show that the entire area has been developed as a gated colony and khasra no.28 has already been allotted and some construction is also being raised thereon.

Rejoinder dated 23.05.2024 filed by applicant in reply to response of respondent 2 (HSVP):

42. On the preliminary objections raised by respondent 2 with regard to limitation, the applicant in the rejoinder affidavit has stated that the applicant came to know about entire scenario in 2021 when a public notice for e-auction was issued by HSVP on the website <http://hsvphry.org.in>.

The applicant came to know about illegal act of respondents in October 2021 and thereafter, approached the authorities for protection of water body of khasra no.28. He submitted a representation dated 04.10.2021 to Administrator Gurugram who failed to respond whereupon applicant preferred **OA 388/2021 (supra)** praying for protection of water body at khasra nos.24 and 28, village Adampur. Tribunal disposed of OA vide order dated 07.01.2022 directing District Magistrate, Gurugram to look into the matter and take remedial action. Applicant was also given liberty to place his version before District Magistrate, Gurugram. Accordingly, applicant submitted an application/letter dated 09.02.2022 to Deputy Commissioner, Gurugram apprising him of illegal destruction of water bodies in khasra nos. 24 and 28 and requested for taking remedial action. The applicant stated that in revenue record, khasra nos. 24 and 28 are entered as gair-mumkin johad i.e., reservoir. When no action was taken, either by Deputy Commissioner or HSVP, the applicant filed **Execution Application No.10/2022 (supra)**, whereupon Tribunal directed HSVP to take decision on khasra nos.24 and 28 and convey the same to the applicant within one month. The order passed by Tribunal on 29.04.2022 in **Execution Application No.10/2022 (supra)** was challenged in Supreme Court in **Civil Appeal bearing Diary No.13652/2023, Rohit Thakran vs. The State of Haryana & Ors.** but the same was dismissed vide order dated 04.05.2023.

43. Still noting proceeded further and no action was taken by official respondents though the applicant submitted representation dated 28.06.2022 to Mayor, Gurugram with a request to take appropriate action against HSVP for violating Tribunal's order.

44. Thereafter, applicant filed *MA 38/2022* but the same was dismissed vide order dated 14.07.2022 on the ground of maintainability.

45. Applicant still sent representations dated 25.07.2022 to Chief Administrator, HSVP; dated 26.07.2022 to Administrator HUDA, and dated 26.07.2022 to Collector, Gurugram requesting them to take remedial action in compliance of Tribunal's order dated 07.01.2022 and 29.04.2022 passed in **OA 388/2021 (*supra*)**.

46. One of the residents of village filed application under RTI Act, 2005, response whereof, was received on 01.08.2022 from HSVP stating that 18 residential plots were carved out in khasra no.28 and 22 in Ashiana Scheme and R.B. site were carved out in khasra no.24. The above chain of action clearly shows that allotment of plots has been done in 2022-23, hence application is not barred by limitation. The road which is said to have been laid down in 2014 for computing limitation as stated by respondent 2 was nothing but a non-concrete, non-metallic road and when enquired it was informed that a footpath was being made for development of the area similar to one already existing in khasra no.24. Further RTI response dated 09.05.2023 annexed as annexure p/3 by respondents seeking impleadment show that **road was only laid down in front of plot no. 62-65 of khasra no.28 upto August 2014** meaning thereby **non-concrete and non-metallic roads were not laid down in the entire khasra no.28**. Municipal Corporation at that time ensured gram Panchayat of the village that nature of land of khasra nos.24 and 28 will not be changed and existing water bodies shall be preserved for the benefit of the local villagers. The villagers got the impression that only footpath was being laid down but for development and preservation of the pond at

khasra no.28. It is only when in 2021, public notice for e-auction was issued for residential plots carved out in khasra no.28, the real purpose of destruction became evident to the applicant. Sewerage lines were laid down only in July 2023 and photographs have been appended as annexure A/18 to support it. It is further stated that the application raises substantial question relating to environment and “first cause of action” arose when legality of such construction work came to the notice of applicant in the context of destruction of water bodies in khasra no.28. It is in this context of subsequent events, the applicant has raised the issue. Reliance is placed by applicant on following judgments of Tribunal:

- (i) *J. Mehta vs. Union of India & Ors.*, MA Nos. 507, 509, 644 and 649 of 2013 in OA 88/2013,
- (ii) *Amit Maru vs. Secretary, MoEF&CC & Ors.* (MA 65/2014 in OA 13/2014), and
- (iii) *Chandni Chemicals Pvt. Ltd. Vs. UPPCB*, Appeal No. 14/2020.

47. It is also said that Tribunal is an expert body, hence cannot close its eyes to destruction caused by respondents to the water bodies in khasra nos.24 and 28 and reliance is placed on Supreme Court’s judgment in ***Municipal Corporation of Greater Mumbai vs. Ankita Sinha, (2022) 13 SCC 401***, paras 17.1, 17.3, 17.4, 21.6, 24.5 and 25.7. The applicant has also relied on Supreme Court’s judgment in ***Tapas Guha & Ors. vs. Union of India & Ors., 2024 SCC OnLine SC 843***.

48. On merits, the applicant on the issue of preliminary objections with regard to limitation has reiterated what it has already said and further in reply to para 17 to 36 of the response of respondent 2, in rejoinder, applicant has stated as under:

“17-21. That the contents of the corresponding paragraph are wrong and hence denied except those which are specifically admitted herein. That the Government of Haryana acquired properties through Land Acquisition Collector for development of housing/ institutional/ industrial colony/ area etc. from the year 2004-2005. **That Khasra No. 24 and 28 including the water bodies were acquired by the Government of Haryana.** That from year 2005 to 2006 the award for property acquired by Land Acquisition Collector was granted to the respective owners. That the Gram Panchayat received amount of compensation for land acquisition in respect of Khasra No. 28 but not in respect of Khasra No. 24 as against the orders of Land Acquisition Collector. It is pertinent to highlight that at the time of land acquisition the villagers were assured by the Gram Panchayat that the nature of the land i.e. Khasra No. 24 and 28 will not be changed after acquisition and that the water bodies existing on the land will be preserved for use of local residents. That however the **Gram Panchayat was abolished and was replaced by Municipal Corporation in the year 2008.** It is pertinent to mention herein that the Municipal Corporation never showed any concern towards the grievances of the local residents and after the abolishment of the Gram Panchayat, all the land was vested with the Municipal Corporation. It is in the humble submission of the Applicant herein that the **layout plans for the development to be undertaken at Khasra No. 24 and 28 have been approved without taking into consideration the existence of the two water bodies situated in Khasra No. 24 and 28. That the Respondents have already destroyed the water body existing in Khasra No. 28 completely and the contents of the para 20 would show that the Respondents have already planned to destroy the water body existing in Khasra No. 24. It is submitted that the Khasra No. 24 admeasures 20 Karnal 10 marla and out of the same 3 karnal 9 marla have been earmarked by the Respondent for religious site and the remaining has been earmarked by the Respondents for the purpose of plotting for development of a Residential Colony.** That the contents of the preliminary submissions are reiterated and not repeated for the sake of brevity.

22-23. That the contents of the corresponding paragraph are wrong and hence denied except those which are specifically admitted herein. It is submitted that auctioning and allotment of land where a water body exists, for any purpose be it religious or anything by Respondent No.2, is in itself violation of the environmental law of the land. **That the Respondents have already destroyed the water body existing in Khasra No. 28 completely and the contents of the para 20 would show**

that the Respondents have already planned to destroy the water body existing in Khasra No. 24. It is submitted that the Khasra No. 24 admeasures 20 Karnal 10 marla and out of the same 3 karnal 9 marla have been earmarked by the Respondent for religious site and the remaining has been earmarked by the Respondents for the purpose of plotting for development of a Residential Colony. That the contents of the preliminary submissions are reiterated and not repeated for the sake of brevity.

- 24-28. That the contents of the corresponding paragraph are wrong and hence denied except those which are specifically admitted herein. It is in the humble submission of the Applicant herein that **the road that is being claimed to having been laid down in the year 2014 was a non-concrete non-metallic road and it was told that a footpath was being made for the development of the pond similar to the one already existing in Khasra No.24.** That further the RTI response dated 09.05.2023 annexed by the Respondents @Annexure-P3 of their intervening application, states that the **road was only laid down in front of Plot No. 62-65 of Khasra No. 28 upto August 2014, meaning thereby that the non- concrete non-metallic road was also not laid down in the entire Khasra No. 28.** However, it is imperative to mention herein that at that point of time, the Municipal Corporation ensured the gram panchayat of the village concerned that the nature of the land i.e. Khasra No. 24 and 28 will not be changed and that the water bodies existing on the land will be preserved for use of local residents. That as ensured by the Municipal Corporation the water body existing at Khasra No. 24 was developed and when the non-metalead road was being laid down in the year 2014, **all throughout the Applicant herein along with other villagers were under the impression that similar development of the pond existing at Khasra No. 28 was being carried out by the Municipal Corporation and hence the footpath was being made by the Municipal Corporation in Khasra No. 28.** That it was **only in the year 2021 when the public notice for auction was issued by the Respondent No.2, that the Applicant herein got to know that plots are being carved out in Khasra No. 28 for the purpose of developing a Residential Colony.** It is imperative to mention herein that proper roads have been laid down in Khasra No. 28 only in the year 2022. That the sewage lines were also laid down only in July 2023 and the photographs of the same have already been annexed @ Annexure-A/18 @ page 222 of the Original Application filed by the Applicant herein. That further, even if the contention of the Respondent that it is not responsible for work of levelling of the allotted plots, is taken into consideration, but

still the **entire process of auctioning and thereafter allotting plots on a parcel of land in which a water body existed, is in itself against the Environmental law of the land.** That further the contention of the Respondent that no water body existed in Khasra No. 28 from 2010 to 2021 is completely contradictory to map submitted by the State along with the report in **Original Application No.325 of 2015 titled as Lt. Col. Sarvadaman Singh Oberoi vs. Union of India & Ors.** which showcased all the water bodies located within the State. It is submitted that number of water bodies as submitted by the State as well as the map includes the water bodies which are the subject matter of this Original Application. **That in view of the report submitted by the State, this Tribunal, vide order dated 20.07.2018 passed in the above said case gave directions for restoration of 123 water bodies in Gurgaon (now Gurugram) which were admittedly in the possession of the State in the first instance by assigning Unique Identification Number (UID) and making them free from encroachment.** However, it appears that the water body subject matter of adjudication in the present case despite being covered under the order dated 20.07.2018 did not benefit by the remedial measures taken for restoration of water bodies. That the map and the report submitted by the State as well as the order dated 20.07.2018 passed by this Hon'ble Tribunal in **Original Application No.325 of 2015 titled as Lt. Col. Sarvadaman Singh Oberoi vs. Union of India & Ors** clearly shows that the water bodies in Khasra No. 24 and 28 **were very much in existence at least till the year 2018 and hence the contention of the Respondent regarding non-existence of water body is completely false and is liable to be dismissed.** The contents of the preliminary submissions are reiterated and not repeated for the sake of brevity.

- 29-30 That in response to the contents of the corresponding paragraph it is submitted that **fault if any lies on part of Respondent No.2 in allotting plots on a parcel of land by destroying the water body existing in it.** That this Hon'ble Court as well as the Hon'ble Supreme Court has in the past come down heavily on anyone who has caused destruction to a naturally existing water body including ponds. That both the Courts in a catena of judgments have ordered for removal of any construction that was undertaken on a parcel of land by destroying a water body. That a judgment compilation has already been submitted by the Applicant herein to the effect where the Hon'ble Supreme Court as well as this Tribunal has directed for restoration of water bodies by removing any encroachment on it. That same approach is required to be taken by this Hon'ble Tribunal. It is also important to mention herein that as such **no construction has**

been undertaken on Khasra No. 28 by the private Respondents due to the status quo order passed this Hon'ble Tribunal. That before the status quo order was passed by this Hon'ble Tribunal and only after the present Original Application was filed by the Applicant herein, **a small kutcha structure of two floors was got built intentionally by the private Respondents in connivance with the Respondent No.2.** It is in the humble submission of the Applicant herein that **being a Government Authority entrusted with the protection of environment, it was the duty of the Respondent No. 2 and 3 to preserve the water body existing in Khasra No. 28.** That the Respondent Authorities have violated the public trust doctrine by destroying the water body existing in Khasra No. 28 by carving out plots and thereafter auctioning the same for allotment. That since no concrete construction has taken place till date, the Respondent Authorities are hence liable to return the auction money received from the private Respondents No. 10-20 and thereby restore the water body in Khasra No. 28. That the contents of the preliminary submissions are reiterated and not repeated for the sake of brevity.

- 31-35. That the contents of the corresponding paragraph are wrong and hence denied except those which are specifically admitted herein. It is denied that present application has been filed with ulterior motives by the applicant for safeguarding his own commercial interests. It is denied that the present applicant has encroached upon the HSVP Land acquired way back in year 2005 by installing Illegal Mobile Tower in Khasra No. 28 in plot No. 72 P in Sector 50. It is denied that entire attempt of the applicant was to safeguard his illegal Mobile tower on HSVP Land which is on the same parcel claimed to be a water body. It is denied that the present applicant himself had constructed Residential House in the claimed parcel of Reservoir in Khasra No. 28, which is earmarked for Plot No. 58 and 59 of Sector 50. It is denied that a petition filed by misrepresenting and distorting the factual position is undoubtedly abuse of process of law and is thus liable to be dismissed with exemplary cost. It is in the humble submission of the Applicant herein that the **Mobile Tower was in Khasra No. 17-10/1 and not in Khasra No. 28.** That though the said mobile tower was not illegal but the same now stands removed as admitted by the Respondents themselves. Further, the **residential house of the Applicant herein is not situated in Khasra No. 28 and is rather situate in Khasra No. 17 plot no. 26.** Hence, the allegations of the Respondent with regards to the present application being filed with ulterior motives by the applicant for safeguarding his own commercial interests holds no substance. That the contents

of the preliminary submissions are reiterated and not repeated for the sake of brevity.

36. *That the contents of the corresponding paragraph are wrong and hence denied. It is denied that answering respondents have not violated any directions of this Hon'ble Tribunal and it is applicant who is pursuing the present litigation for personal gains. this Hon'ble Tribunal in Original Application No. 388 of 2021 titled as **Rohit Thakran vs. State of Haryana & Ors.** vide order dated 07.01.2022 had directed the District Magistrate, Gurugram, Haryana to look into the matter of damage to the water body in Khasra No. 24 and 28 and take remedial action in accordance with the law. That further the District Commissioner vide letter dated 07.03.2022 had requested the Administrator Haryana Shehri Vikas Pradhikaran to comply with the directions of the Hon'ble National Green Tribunal. **That the Respondent Authorities failed to pay any heed to the directions issued by this Hon'ble Tribunal as well as the request of the District Commissioner vide letter dated 07.03.2022 and rather continued to undertake construction activities on the water bodies in question.** The Applicant herein thereafter filed Execution Application No. 10/2022 in O.A. No. 388/2021. That vide order dated 29.04.2022 the Hon'ble National Green Tribunal in Execution Application No. 10/2022 directed the Haryana Shahri Vikas Pradhikaran, Panchkula to take a decision on Khasra No. 24 and 28 and convey the same to the Applicant within one month however, no action has been taken by the said Respondent No.2 and 3 till date. The above clearly demonstrates that the Respondents have not complied with the direction of this Hon'ble Tribunal. That the contents of the preliminary submissions are reiterated and not repeated for the sake of brevity.”*

Another reply dated 23.05.2024 filed by applicant in response to the affidavit dated 19.04.2024 filed by respondent 2 i.e., HSVP:

49. The above reply has referred to the statement of respondent 2 in the affidavit dated 19.04.2022 that proposal for altered land admeasuring approximately 1.9 acres within Haryana in lieu of land of khasra no. 28, village-Adampur has been sent to Competent Authority for approval. The present reply filed by applicant is in reply to the above stand taken by respondent 2. Applicant has said that as per the law laid down by

Supreme Court and this Tribunal, the water bodies' area has to be restored to original form by removing construction etc. and water bodies cannot be relocated or shifted to some other locations. Reliance is placed on Supreme Court's judgment in ***Hinch Lal Tiwari vs. Kamla Devi & Ors. (supra)***, ***Jagpal Singh & Ors. vs. State of Punjab & Ors. (supra)*** and ***OA 174/2014, Sunder Singh vs. State of NCT of Delhi & Ors.*** decided by Principal Bench vide order dated 09.12.2016 and ***OA 43/2020 (CZ), Jaya Thakur vs. State of Madhya Pradesh & Ors.*** decided by Central Zonal Bench at Bhopal vide order dated 05.04.2022. Applicant has claimed that similar approach should be adopted in the present case also for restoration of water bodies at khasra nos. 24 and 28 which have been illegally and systematically obliterated by respondent authorities. Further replying to para 4 and 5 of the affidavit dated 19.04.2024, it is stated that the road said to have been completed by 2014 was a non-concrete and non-metallic road and it was told to the villagers at that time that footpath was being made for development of pond similar to the one already existing in khasra no. 24. Municipal Corporation ensured Gram Panchayat of the village concerned that nature of land at khasra nos. 24 and 28 will not be changed and water bodies existing thereon shall be preserved for local residents. Non-metallic road was taken by the villagers towards development of the pond and it is only in 2021 when public notice for auction of the land was issued by respondent 2, the applicant got the knowledge that the plots are being carved out at khasra no. 28 for developing residential colony. Roads were laid down in khasra no. 28 only in 2022 and photographs of the same have been attached with rejoinder to the reply filed by HSVP. Sewage lines were also laid down in July 2023 and photographs of the same have also been annexed as annexure-A/18 at page 222. Only when in 2021-22,

respondent 2 initiated the process of auctioning of the plots, the applicant became aware of the present scenario and approached the Tribunal by filing the present application for protection and preservation of water bodies.

Reply filed vide e-mail dated 24.05.2024 by respondents 10 to 20:

50. It is said that respondents 10 to 20 are in current possession of the plots allotted to them by HSVP through e-auction in Sector-50, Gurugram and these plots are situated at khasra no. 28 in Adampur village as per revenue record; OA is motivated and filed with *mala-fide* intention; it is barred by limitation in as much as the land was acquired vide notifications dated 03.03.2003 and 02.03.2004 pursuant to notifications issued under Sections 4 and 6 of LA Act, 1894 and the award was given on 29.12.2005; the cause of action cannot be extended beyond 2015 and hence outside the jurisdiction of Tribunal under Sections 14 and 15 of NGT Act, 2010; no water body existed in khasra no. 28 since 2005 as per satellite images; no document or evidence has been placed on record that a promise was made to Gram Panchayat that nature of land won't change; the claim of applicant that water body existed till 2019-20 is incorrect and not supported by the Satellite record from 2010 which shows that water bodies did not exist on the land in question for a considerable duration; khasra no. 28 does not possess a catchment area for inflow or outflow of water; HSVP already implemented infrastructure such as roads, sewage system in 2014, hence assertion of the applicant that destruction of water body took place in 2019 is incorrect; land in khasra no. 28 in village Adampur (now Sector-50, Gurugram) was acquired by erstwhile HUDA (now HSVP) on 29.12.2005 and after acquiring the same, layout plan was formulated

and development of associated structure was initiated; the construction of black top roads was concluded on khasra no. 28, village Adampur as early as in August 2014 as per the reply given by HSVP to RTI inquiry vide letter dated 09.05.2023; no water body existed on khasra no. 28 and 123; water bodies identified in **Lt. Col. Sarvadaman Singh Oberoi vs. Union of India (supra)** do not encompass the disputed area, namely khasra no. 28; the issue was raised by applicant in **OA 388/2021 (supra)** and thereafter, in **Execution Application No. 10/2022 in OA 388/2021 (supra)** and **M.A. No.38/2022 (supra)**, hence present OA is barred by principle of *res-judicata*; the present application is a ploy to disguise unlawfully constructed structures raised by the applicant himself which included a mobile tower, encroachments, and amenities for animals/cattle on the land in khasra no. 28, village Adampur; and the credentials of applicant are doubtful in as much as he has claimed himself to be an environmental activist but in fact an encroacher on the very same land i.e., khasra no.28.

Rejoinder dated 23.05.2024 filed by applicant to the response/reply of respondents 10 to 20:

51. The stand of respondents 10 to 20 with regard to limitation has been denied by the applicant and he has relied on Tribunal's judgment in **J.Mehta vs. Union of India & Ors. (supra)** (decided by Western Zonal Bench at Pune vide order dated 24.10.2013, **Amit Maru vs. Secretary, MoEF and Ors. (supra)** decided by Western Zonal Bench at Pune decided vide order dated 22.05.2019 and **Chandni Chemicals Pvt. Ltd. vs. UPPCB (supra)** decided by Principal Bench vide judgment dated 05.12.2022. Relying on Supreme Court's judgment in **Municipal Corporation of Greater Mumbai vs. Ankita Sinha (supra)** and **Tapas Guha & Ors. vs. Union of India & Ors. (supra)**, applicant has said that

Tribunal being an Expert Body, cannot turn its back towards environmental destruction caused by respondents i.e., to the water bodies existing in khasra nos.24 and 28. For restoration of water bodies, respondent 2 is liable to return auction money to the private individuals who have been allotted land i.e., respondents 10 to 20 and must restore water body in khasra no.28.

Additional Affidavit dated 27.06.2024 filed by HSVP i.e., respondent 2:

52. It is said that in order to find out when laying down of roads, sewage, storm water drainage etc. was completed in khasra no. 28; the detailed report was sought from concerned Executive Engineer, HSVP, Division No. 6, Gurugram. The said officer has submitted letter dated 06.06.2024 (annexure R-1 at page 877) providing details of tender, allotment of work qua construction of roads, sewerage lines, storm water drainage etc. in various pockets of Sector 50 including pocket of plot no. 54 to 72P, Sector 50, Gurugram which was carved out on khasra no. 28, village Adampur, Gurugram. The letter elaborates that in the year 2022-23, tenders were invited for a special repair of roads as well as shifting of sewerage line, storm water drainage etc. in 03 pockets in Sector 50 including pocket of plot no. 54 to 72P, Gurugram.

53. HSVP (earlier known as HUDA) through Executive Engineer, HUDA, Division no. 6, Gurugram invited online tender dated 05.12.2013 for construction of internal roads in various pockets in Sector 50, Gurugram including in front of plot no. 54 to 72P. The documents inviting tender is annexure R-2 at page 879 which shows that tenders were invited for the following work:

“Construction of Internal roads in various Pockets in Sec-50, Gurgaon. *“Earth work in embankment, preparation of Sub Grade, Providing & fixing GSB, WMM, Prime Coat & 25mm thick Premix Carpet with Seal Coat type ‘B’ ON 10 m & 12 m WIDE Roads & 50mm thick BM, 20mm thick MSS on 15 M & 18 M wide roads and all other works contingent thereto”. (Including three years etc. defect liability period free of cost)”*

54. Pursuant to tender notice dated 05.12.2013, M/s. Jain Construction Company, 254, Urban Estates-II, Hisar submitted its bid and was successful bidder. Work of construction of roads in various pockets of Sector-50, Gurugram was allotted to M/s. Jain Construction Company vide work order dated 17.02.2014. Copy of work order dated 17.02.2014 is annexed as annexure R-3 at page 882.

55. Executive Engineer, HSVP, Division No. 6, Gurugram vide letter dated 26.06.2024 (annexure R-4 at page 884) has given information with regard to certain work and completion period as under:

Sr. No.	Desired Information	Reply
1.	When was work of metallic road in front of plot No. 54 to 72 P, Sector 50, Gurugram was complete in pursuance of tender dated 19.12.2023 which was allotted to M/s Jain Construction Co., 254, Urban Estates-II, Hisar.	2014-2015
2.	When was work of lying down sewerage and storm water drainage in front of plot No. 54 to 72 P, Sector 50, Gurugram in pursuance of tender dated 13.12.2013 M/s The New Baliali -op L& C Society Ltd.	07/2014
3.	Similarly when was work of special repairs of roads in front of plot No. 54 to 72 P, Sector 50, Gurugram was completed in pursuance of tender dated 7.06.2022 allotted to M/s Ankit Construction Company.	03/2023
4.	When was work of shifting of sewerage lines in front of plot No. 54 to 72 P, Sector 50,	10/2023

	<i>Gurugram</i> in pursuance of tender dated 26.04.2023 which was allotted M/s The New Baliali Co-op L& C Society Ltd.	
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56. M/s. Jain Construction Company commenced construction work on 25.02.2014 and submitted first running bill on 02.07.2014 (annexure R-5 at page 885) and another running bill on 13.07.2015 (annexure R-6 at page 888).

57. On 07.06.2022, Executive Engineer, HSVP, Division No. 6, Gurugram invited online tender for special repair of roads in pockets A, B and Pocket Deer Wood Chase in Sector 50, Gurugram with date of opening of tender on 17.06.2022 and time limit to complete work was 03 months from allotment of the work. The said tender included plot no. 52 to 71 which were carved out on khasra no.28. Copy of the tender dated 07.06.2022 is annexure R-7 at page 903. Pursuant to tender notice dated 07.06.2022, work was allotted to M/s. Ankit construction Company vide letter dated 05.07.2022 (annexure R-7A at page 904). M/s. Ankit construction Company completed special repair work in March 2023 as per letter dated 26.06.2024 sent by Executive Engineer, HSVP, Division No. 6, Gurugram.

58. Executive Engineer, HSVP, Division No. 6, Gurugram vide tender notice dated 13.12.2013 invited tender for providing W/S, sewerage, storm water drain in various pockets in Sector-50, Gurugram and the time for completion of work was 04 months. The copy of the tender notice dated 13.12.2013 is annexure R-8 at page 907. It gives details of the work as under:

“Providing W/S, Sewerage, SWD in various Pocket in Sec-50, Gurgaon. “Providing, Stringing of D.I. Pipe line for Water Supply, Prov.

& lowering SW pipe for Sewerage, RCC Pipe NP2 for Storm Water Drainage, Providing & fixing sluice valve, const, of sluice valve haudies, manhole etc. and all other works contingent thereto". (Including three year mte. defect liability period free of cost)"

59. M/s. New Baliali Co-op L& C Society Ltd. was successful bidder and allotted work of sewerage etc. vide work allotment letter dated 04.03.2014 (annexure R-9 at page 910). M/s. New Baliali Co-op L & C Society Ltd. submitted its running bill for allotted work on 10.06.2014 which was paid. Sewerage line was completed in pocket of plot no. 54 to 72P, Sector 50 in July 2014 as per Executive Engineer's letter dated 26.06.2024.

60. Executive Engineer, HSVP, Division No. 6, Gurugram issued tender notice dated 26.04.2023 inviting tender for shifting of sewerage line, storm water drainage in pocket B and C in Sector-50, Gurugram which included the pocket of plot no. 54 to 72P. Tender notice is annexure R-10 at page 911. The details of the work mentioned therein reads as under:

"Providing Water Supply, Sewerage & SWD in pocket B & C in Sec-50, Gurugram. "Shifting of Sewerage line, Storm Water Drainage with connection and all other works contingent thereto." (Re-Invite)"

61. M/s. Gulia Industries was successful bidder pursuant to tender notice dated 26.04.2023 and allotted work vide letter dated 16.06.2023 (annexure R-11 at page 912). M/s. Gulia Industries submitted its CC 1st and running bill on 12.10.2023 (annexure R-12 at page 915).

62. Executive Engineer, HSVP, Division No. 6, Gurugram vide letter dated 26.06.2024 has informed that re-carpeting of roads in front of plot no. 54 to 72P, Gurugram was done in 2022-23 and realignment of sewerage line in front of the said plots was carried out in October 2023.

63. For electrification work in front of plot no. 54 to 72P, Sector-50, Gurugram, tender notice was issued in 2014. It was allotted to Jagjeet Singh Sethi on 13.08.2014 requiring to complete the work within 04 months. A copy of the allotment letter dated 13.08.2014 is annexure R-13 at page 923.

64. Work of electrification in front of plot no. 54 to 72P, Sector-50, Gurugram was completed in 2014 as informed by Executive Engineer, Electrical Division, Gurugram.

65. It is said that the above facts and documents bely the claim of applicant that road in front of plot no. 54 to 72P, Gurugram was constructed in 2023 and it is practically different from the road which was constructed in 2014. Pucca road with Bituminous layer was constructed in 2014 and only regular repair work was carried out in 2022. Similarly, sewer work in front of plot nos. 54 to 72P was completed in 2015 and only shifting work was carried out in 2023. Footpath in khasra no. 24 has not been constructed by HSVP but by Municipal Corporation, Gurugram. Applicant has constructed a mobile tower in plot no. 72P, Sector-50, Gurugram taking electricity from electrical lines laid down by HSVP in 2014 and the said tower was sealed in October 2023. Water body in khasra no. 28 as claimed by applicant does not fall in the list of 123 water bodies which were directed to be restored by Tribunal vide order passed in ***Lt. Col. Sarvadaman Singh Oberoi vs. Union of India (supra)***. Applicant himself has constructed a residential house in parcel of reservoir in khasra no. 28 which is earmarked for plot no. 58 and 59 of Sector 50 which was demolished in October 2023. Applicant cannot blow hot and

cold at the same time when he himself has made encroachment on khasra no. 28.

Reply dated 03.07.2024 filed by applicant to additional affidavit dated 27.06.2024 of respondent 2:

66. On the various aspects of construction of roads, carpeting of roads, sewerage lines, shifting and electrification work, applicant in its reply/rejoinder to the additional affidavit has said as under:

“REPLY TO CONSTRUCTION OF ROADS IN KHASRA NO. 28 (IN FRONT OF PLOT NO. 54 TO 72P SECTOR 50, GURUGRAM.

- i. *That the Respondent No.2 has placed reliance on tender dated 05.12.2013 floated for construction of roads in Sector 50 Gurugram. That it is pertinent to mention herein that the said tender document **mentions only Sector 50 Gurugram and nowhere states that roads were constructed in Khasra No.28 (in front of plot no. 54 to 72P)** as well and therefore in no manner proves the contention of the Respondent No.2 that the roads were constructed in the year 2013-2014. Further, similarly reliance of the Respondent No.2 on allotment of work order to M/s Jain Construction Co. vide letter dated 17.02.2014 and bills dated 02.07.2014 and 13.07.2015 is also highly misplaced since the **same also nowhere mentions that roads were constructed in Khasra No.28 (in front of plot no. 54 to 72P)**. In any case issuance of tenders or bills alone cannot be a sufficient proof of roads actually having been constructed.*
- ii. *It is in the humble submission of the Applicant herein that **no concrete road was made in Khasra No.28 (in front of plot no. 54 to 72P) in the year 2014-2015**. That as already submitted by the Applicant herein that only a non-concrete, non-metallic road (Kachha-Pakka road) was made which was told to be a footpath similar to the one already existing in Khasra No. 24. That tender may have been floated and work order may have been awarded, but no concrete road was made in Khasra No.28 in the year 2014-2015. It is reiterated that proper concrete roads have been laid down in Khasra No. 28 only in the year 2022 (Photographs @Page 784-787 of the Court File).*

REPLY TO RE-CARPETING OF ROADS IN KHASRA NO. 28 (IN FRONT OF PLOT NO. 54 TO 72P SECTOR 50, GURUGRAM.

That the tender dated 07.06.202 and work order dated 05.07.2022 to M/s Ankit Construction Company state that "Special repair of roads in pocket A, B and pocket deer wood chase in front of colonizer plot no. 135 and 136 in Nirvana Country Sector 50, Gurugram." That a perusal of the same would clearly show that the **same nowhere mentions about re-carpeting of roads in front of plot no. 54 to 72P i.e. Khasra No.28**. That in the year 2022, it was not re-carpeting of roads that took place in Khasra No. 28 but concrete road was for the first time laid in Khasra No.28 in the year 2022 itself.

REPLY TO SEWERAGE LINE AND SHIFTING OF SEWERAGE LINE IN KHASRA NO. 28 IN FRONT OF PLOT NO. 54 TO 72P SECTOR 50, GURUGRAM.

That the Respondent no.2 has placed reliance on tender dated 13.12.2013, work order allotment dated 4.03.2014 and bills dated 10.06.2014. That further reliance has been placed by Respondent No.2 on tender notice dated 26.04.2023, work order dated 16th June 2023 and bill dated 12.10.2023 with respect 2 shifting of the sewerage line, storm water drainage. That it is pertinent to mention herein that the **said documents talk about Sector 50 Gurugram and nowhere specifically mention about sewerage lines being laid in the year 2014** and further about the sewerage lines being shifted in the year 2023 in khasra number 28 (in front of plot no. 54 to 72P). It is in the humble submission of the Applicant herein that **there arises no question of shifting the sewerage line since the sewage lines for the first time were laid down only in July 2023 and the photographs of the same have already been annexed @ Annexure-A/18 @ page 222 of the Original Application filed by the Applicant herein.**

ELECTRIFICATION WORK IN FRONT OF PLOT NO. 54 TO 72P SECTOR 50, GURUGRAM

That the contention of the Respondent No.2 that the tender for electrification work was invited in the year 2014 and the work order was allotted on 13.08.2014 is completely baseless and hence cannot be relied upon. It is submitted that the Respondent No.2 has not placed on record any proof to establish that the electrification work was completed in the year 2014. It is submitted that the contention of the Respondent No.2 that the Applicant for his mobile tower took electricity from the electric lines laid down by HSVP in the year 2014, is completely false and vehemently denied by the Applicant herein. It is submitted that for the purpose of the mobile tower, the Applicant had to get a separate transformer installed by making appropriate

payments towards it to get electricity from a separate source as these electric lines as claimed by the Respondent No.2 in the additional affidavit were never there on site. The Applicant herein carves liberty from this Hon'ble Tribunal to produce and rely upon the bill at the time of arguments as he is in the process of tracing the same. That the electricity work has been carried out by HSVP in Khasra No. 28 only in the year 2022.

4. *That the aforementioned submissions on behalf of the Applicant herein would clearly establish the fact that the Respondent No.2 just in order to protect the wrong doing i.e. encroachment and destruction of water body that existed in Khasra No.28, is just trying to place reliance on some or the other document so as to establish its point qua the matter being barred by limitation. It is in the humble submission of the Applicant herein that the Respondent No.2 should be put to strict proof of the documents relied upon by it. Further, if for the sake of arguments it is considered (though not accepted) that tender for road construction, sewerage line and electricity work were floated in the year 2013-2014 and the work order for the same was also awarded, then it is a matter of further enquiry as to where did the money of the public go since the road was constructed, sewerage lines were laid down and electricity work was carried out only in the year 2022.”*

67. Meeting the issue of limitation, applicant has further said that the “first cause of action” arose when illegality of construction work commenced by the respondents destroying water bodies in khasra no.24 and 28 came to his knowledge and this is when the auction notice was issued for allotment of plots in khasra no.28.

68. **Tribunal’s Order dated 24.01.2025:** Tribunal enquired from the Learned Counsel appearing for HSVP as to what is the total area of Sector-50; whether it comprised of only land of khasra nos. 24 and 28 or land of some other khasra nos. is also included therein; and if so, what are their details which may include khasra number, area of the khasra number and whether all the khasra numbers/ land form part of the same village or falls in more than one village. Tribunal also enquired as to whether there is any

document to show that permanent development activities were carried out on the land comprising khasra nos. 24 and 28 and if so, what is the area on which such activities were carried out.

Compliance Affidavit dated 11.02.2025 filed by HSVP pursuant to Tribunal's order dated 24.01.2025:

69. HSVP stated that the land comprising the entire Sector 50 covered 548.090 acres as per the Report of District Town Planner (Planning), Gurugram. This entire land is part of Gurugram Manesar Urban Complex. Out of 548.090 acres area of Sector 50, Gurugram, 40.090 acres land falls under the area of HSVP in Sector 50, Gurugram and rest area i.e., 508 acres falls in the licensed area of various private developers namely M/s Unitech Limited, M/s Sheetal International Private International Private Limited, M/s Malibu Town, M/s Ajay Enterprises Pvt. Limited, M/s North Star Apartment Private Limited, M/s Unitech Investments Ltd., M/s Pyramid Empires LLP, M/s Pioneer Profin Limited, etc. who have been granted licenses by HTCPD for developing free hold plots, apartments, group housing sites, commercial projects, open areas, parks and public utility services. Private Developers have already utilized the land allotted to them as per their respective Layout Plans duly approved by HTCPD. The licensed land is already habitation of various owners as per nature of the licenses i.e., Residential, Commercial or Institutional.

70. 40.090 acres of land which was allotted to HSVP was planned to be developed by constructing roads, open spaces, residential plots, shopping areas, sites of public utility like school, creache, religious building site, Ashiyana Scheme for EWS. The land measuring 40.090 acres allotted to HSVP is not a compact block but in fragmented blocks in various pockets and total are 9. These pockets are marked as Pockets A,B,C,D,E,F,G,H,I

in the Layout Plan bearing D.T.P. Drawing No. 1679/07 dated 07.11.2007 approved by Chief Administrator, HSVP. A chart of 9 pockets along with khasra numbers of each pocket and its area, village, and its planning, as per approved Layout Plan of Sector 50, has been mentioned at page 941 of the paper book by HSVP in above compliance affidavit and it reads as under:

Sr. No.	Pocket No.	Village	Khasra No.	Area in acres	Planning
1	A	Badshpur (Award No. 24 dt. 30.07.12)	8//6/2 (3K-2M), 7//6(8K-0M), 7/1(2K-4M), 7/2(5K-16M) 8(8K-0M), 9(8K-0M), 10(8K-0M), 11/1(2K-8M), 11/2(5K-12M), 13/1(6K-4M), 13/2(1K-16M), 14(8K-0M), 15/1(4K-0M).	9.98	Plot No. 89A, 89-B, 143A, 143B, 335-P to 429-P of Sector 50.
2	B	Tigra (Award No. 22 dt. 29.12.2005)	20//3 (8K-0M), 4 (8K-0M)	2.00	Plot No. 430-P to 440-P, Sector 50
3	C	Tigra (Award No. 22 dt. 29.12.2005)	20//9(8K-0M), 10/1(4K-0M), 11/1(4K-5M), 12(6K-13M), 13/1(1K-0M)20/2(2K-12M)	3.20	Plot No. 5-P to 11, 34-P to 46-P, 50-P to 53, 441-P to 453-P
4	D	Adampur (Award No. 14 dt. 24.08.2000 & Award No. 23 dt. 29.12.05)	6//12 (8K-0M), 13/1(6K-18M), 13/2(0K-10M), 21/2(5K-16M) 22(2K-18M), 10//1(8K-0M), 2(8K-0M), 10(8K-0M), 24min (18K-16M) (Land in question)	8.42	Plot No. 262 to 334P, & Ashiyana Scheme, RB site

5	E	Adampur (Award No. 23 dt. 29.12.05)	28 (15K-4M) (Land in Question)	1.89	Plot No. 54-P to 72P, Sector 50, Gurugram
6	F	Badshapur (Award No. 24 dt. 29.12.05)	2//24/2 (1K- 12M), 25(8-0), 8//4 (8K-0M), 5(8K-0M), 6/1(4K-18M), 7(8K-0M), 8(7K-16M), 9(7K-16M).	6.76	Plot No. 75 to 89, 90 to 143.
7	G	Adampur (Award No. 23 dt. 29.12.05)	10//21(8K-0M), 22/2(4K-13M) 11//16/2 (3K-16M), 17(5K-18M), 24(6K-16M) 25(8K-0M)	4.64	Plot No. 201 to 261
8	H	Adampur (Award No. 23 dt. 29.12.05)	19//2/2(2K-0M), 3(7K-8M), 8/1(4K-15M), 9(8K-0M), 12(8K-0M), 19/1/1(1K-16M), 19/1/2(0K-18M).	4.04	Plot No. 144P to 179-P
9	I	Adampur (Award No. 23 dt. 29.12.05)	9//21(8K-0M), 13//5/2(2K- 10M), 14//1(8K-0M)	2.31	Plot No. 180 to 200P

71. The queries made by Tribunal vide order dated 24.01.2025 have been replied by HSVP in paras 10 to 29 of compliance affidavit dated 11.02.2025 and the same reads as under:

*“10. That in view of the submissions made hereinabove, **as far as Query No. 1 of the Hon’ble Tribunal is concerned,***

- a. That it is clear that **Sector 50, Gurugram does not contain only Khasra No. 24 and 28 which are subject matter of the present application.***
- b. That the Total land of HSVP in Sector 50, Gurugram is approx. 40.090 Acres which is divided into 9 Pockets bearing Pocket No. A, B, C, D, E, F, G, H and I, with land in question bearing **Khasra No. 24(18K-16M) forming part***

of Pocket “D” (Village Admapur) and Khasra No. 28 forming Part of Pocket “E” (1.89 Acres/7689.06 Sq. Meters of Village Adampur).

- c. That the entire area of Sector 50, Gurugram does not fall under HSVP as majority of area being part of License Land of Various Private Developers.
- d. That land of HSVP in Sector 50 pertains not only to Khasra No. 24(2.35Acres) and 28(1.89Acres) Village Adampur which comes to 4.24 Acres, but HSVP land encompasses 40.090 Acres including Khasra No. 24 and 28 and land of Village Tigra, Badshahpur being also included.

Query No.2 (Is there any document to show that permanent development activities were carried out on the land comprising Khasra No. 24 and 28 and if so, what is the area on which such activities were carried out)

- 11. That as far as above mentioned query of the Hon’ble Tribunal is concerned, it is respectfully submitted that on earlier occasion respondent HSVP had filed a detailed Additional affidavit wherein details laying down of development works both Civil such as Road, sewerage, storm water drainage etc and Electrical on Khasra No. 24 and 28 along with respective tenders, Measurement Book (MB), payment details to the respective contractors was filed. The said affidavit also included in chronological sequence laying down of development works in **Khasra Nos. 24 and 28 in year 2014-15 and re-carpeting of roads and realignment of sewage lines in year 2022-23.**
- 12. That as already submitted above, Khasra No. 24 of village Adampur Falls in Pocket D and Khasra No. 28 of village Adampur falls in Pocket E of HSVP Land in Sector 50, Gurugram.
- 13. That said affidavit was filed to profusely deny the wrongful claims made by the applicant in his rejoinder affidavit wherein it was wrongfully stated that roads in Khasra No. 28, Village Adampur which forms part of HSVP Sector 50 were constructed only in year 2022 and Sewerage lines were also laid down in year 2023 contrary to claim of the respondent HSVP. The said affidavit may also be read as part and parcel of the present affidavit as the present affidavit draws upon the assertions made in affidavit dated 26.06.2024 regarding details of Contractors, floating of tenders and Month & year of completion of development.
- 15. That in terms of the above query, a detailed report was sought from Executive Engineer, HSVP division No.VI, Gurugram who is

responsible for laying down for Civil Works in Sector 50, Gurugram and Executive Engineer, Electrical Division, HSVP, Gurugram regarding electrification of Khasra No. 24(Pocket D) and 28 (Pocket E).

16. That it is respectfully submitted that Executive Engineer Division No. VI vide letter dated 07.02.2025 has submitted a detailed report regarding laying down of Civil Works along with copy of layout plan showing various pockets (Layout plan is already annexed as Annexure R-1) and relevant measurement books showing entries in Measurement Books (MB) and maps by the concerned Junior Engineer upon inspection of the work being done the respective contractor and endorsed by Executive Engineer, HSVP, Division No. VI. A copy of report of the Executive Engineer, Division No. VI dated 07.02.2025 is annexed herewith as Annexure R-2(Pg 17 to 18) for the kind consideration of the Hon'ble Tribunal.

The MB'S showing the constructions of roads along with relevant map along with tender document as submitted by Executive Engineer, Division No. VI with report dated 07.02.2025 of year 2014-15 is annexed herewith as Annexure R-3(Pg 19 to 43).

The measurement books (MB) of sewerage lines, storm water drainage etc. in various pockets including Pocket No. E (khasra no. 28) of year 2014-15 along with relevant map and tender document are annexed herewith as Annexure R-4 (pg 44 to 122) for the kind consideration of the Hon'ble Tribunal.

17. That it is respectfully submitted that details of flotation of tender, completion of Civil Works like road, sewerage, storm water drainage in various pockets including Pocket E (Khasra No. 28) and re-carpating of roads and shifting of sewerage lines in pocket E (Khasra No. 28) are **already annexed in affidavit dated 26.06.2024 as Annexure R-2 (Pg 13-15), R-3(Pg 16-17), R-5(Pg 19-21), R-6(Pg 22-36), R-7(Pg 37), R-7A(38-40), R-8, R-9,R-10,R-11,R-12, R-13.**

18. That perusal of the Annexure R-2, R-3 and R-4 annexed with present affidavit would elaborate that:-

- a. The construction of internal roads including final black top in **Pocket E bearing plot no 54 to 72-P (Khasra No 28), Adampur Village**, Sector-50, Gurugram was constructed in 2014-2015 work allotted to M/s Jain Construction

Company. It is further submitted that perusal of the MB book and relevant map (R-3) would elaborate the excavation of earth work, laying of sub grade, laying of black asphalt bituminous final top of the road. The width of the black top road was 5.5 meter with rest of 12 meter being utilized for storm water drainage, water supply line and sewerage line on either side of the road.

- b. That perusal of the **MB Book and map (R-3 Pg No.) would elaborate that three roads were constructed in Pocket E marked as 1 (Plot No. 57 to 72P), 2 (Plot No. 62P to 65) and 3 (Plot No. 56 to 72P).**
 - c. **Work of special repair/re-carpeting of roads in Pocket E bearing plot no 54 to 72-P (Khasra No 28), Adampur Village, Sector-50, Gurugram was done in 03/2023 with work allotted to M/s Ankit Construction Company.** It is this repair which was wrongly claimed as construction in year 2022 by the applicant in his rejoinder affidavit.
 - d. That perusal of the **MB Book would elaborate that three roads were constructed in Pocket E marked as 1 (Plot No. 57 to 72P), 2 (Plot No. 62P to 65) and 3 (Plot No. 56 to 72P).**
 - e. The work of Providing of water supply, sewerage and SWD in Pocket E bearing plot no 54 to 72-P (Khasra No. 28), Adampur Village, Sector-50, Gurugram was completed on 07/2014 work allotted to The New Baliali Coop. L & C Society Ltd. The **M.B. Book and relevant map (R-4 Pg No.) would show various stages of development of water supply lines, sewerage, Storm water drainage (SWD) in various pockets including Pocket E (Khasra No. 28, Adampur).**
 - f. The **Work of shifting of sewerage line in Pocket E bearing plot no 54 to 72-P Khasra No 28), Adampur Village, Sector-50, Gurugram was done in 0/2023 work allotted to M/s The New Baliali Co-op L & C Society Ltd.**
19. That perusal of the above mentioned report that **HSVP had way back in year 2014-15 had laid down the road as well as water supply, storm water drainage, sewer line etc. in the Khasra No. 28 (Pocket E).**
 20. That the **work of electrification works in shape of High Tension Lines including step down transformer and LT**

Lines in various pockets of Sector 50, Gurugram was started in year 2014-15 and same was carried out and completed around plot No. 54 to 72 P (Pocket E Khasra No. 28) in year 2018 as reported by Executive Engineer, Electrical Division, Gurugram in report dated 07.02.2025. A copy of report dated 07.02.2025 is annexed herewith as Annexure R-5(Pg123 to 23) for the kind consideration of the Hon'ble Tribunal.

Khasra No.24 (Pocket D)

21. That as far as Khasra No. 24 is concerned wherein applicant has claimed that the answering respondents have reduced the size of the water body in Khasra No. 24 by undertaking constructions in form of Temple, stairs, footpaths, railings etc. around the said body, which is wrong and denied being incorrect as same have been done Municipal Corporation, Gurugram. **HSVP has not laid down any development works in Khasra No. 24 (Pocket D) where a water body still exists along with Baba Balaknath Temple which is very old and is visited by devotees. Though the acquired land in Khasra No. 24 have been planned, but no third party rights have been created thereon.**

Acquisition Status of Khasra No. 24 and 28 of village Adampur

22. That land in question bearing Khasra No. 24 and 28 have been acquired vide notification and declaration issued u/s 4 and 6 of Land Acquisition Act 1894 dated 03.03.2003 and 02.03.2004 respectively followed by award no. 23 dated 29.12.2005 and the possession of the acquired land was taken by drawing Rapat Roznamcha no. 217 dated 29.12.2005.
23. That it is pertinent to mention here that **area notified under section 4 of 1894 Act qua Khasra No. 24 of village Adampur was 22k-3M, however only area admeasuring 17k-8M was acquired vide award dated 29.12.2005 as far as Khasra No. 24 is concerned.** It is also pertinent to mention here that **existing water body/pond along with Baba Balaknath Temple in Khasra No. 24 was left out of acquisition proceedings after issuance of notification under section 4 dated 03.03.2003 under section 5A of 1894 Act. Further it is. pertinent to mention here that no land in Khasra No. 28 was left out of acquisition proceedings.** Had a pond existed over Khasra No. 28 as it existed over Khasra No. 24, it would have also been left out of acquisition proceedings.

24. That it is further respectfully submitted that HSVP does not undertake activities like building Temples or any other religious structures. It allots land for Religious buildings as per HSVP policy. It is further submitted that HSVP has not allotted any site for Temple in Land forming part of Khasra No. 24. **The temple as claimed by the applicant was existing at the time notification u/s 4 of the Land Acquisition Act 1894 was issued and same was not part of the award 29.12.2005.**
25. That applicant in past had also constructed Mobile Tower in Plot No. 72P, Sector 50, Gurugam (Part of Khasra No. 28) in 2019 which took electricity from the electric lines laid down by HSVP in year 2014. Further Applicant in past had raised illegal constructions on site of Plot No. 72P, Sector 50, Gurugram (Part of Khasra No. 28), which was demolished in October 2023. The applicant cannot blow hot and cold at the same time as whereas he himself had made encroachments on the Khasra No. 28 as submitted above. The one who seeks equity must do equity.

Latest Status over Land in Khasra No. 28, Adampur (Pocket E)

26. That **out of 19 carved out plots on Khasra no.28, 17 plots have already been allotted by HSVP upon deposit of entire consideration money.** The details of allotment are reproduced as under for the kind consideration of the Hon’ble Tribunal:-

S. No.	Plot No.	Date of Allotment	Date of Offer of Possession	Date of Possession	Date of Sanctioning of the Building Plan
1	54P	29.08.2023	29.08.2023	22.09.2023	06.11.2023
2	55	24.01.2023	24.01.2023	09.03.2023	06.11.2023
3	56	23.08.2022	23.08.22	13.09.22	27.12.2023
4	59	16.03.2022	16.03.2022	21.10.2022	09.10.2023
5	60	13.09.2022	13.09.2022	19.10.2022	09.10.2023
6	61	16.09.2022	16.09.2022	19.10.2022	09.10.2023
7	62P	13.04.2022	13.04.2022	26.04.2022	12.06.2023
8	63	16.03.2022	16.03.2022	28.03.2022	15.07.22
9	64	24.03.2023	24.03.2023	30.03.2023	

10	65	01.04.2022	01.04.2022	07.04.2022	17.05.2022
11	66P	25.01.2023	01.02.2023	21.02.2023	20.02.2023
12	67	24.05.2022	24.05.2022	16.08.2022	
13	68	20.04.2022	20.04.2022	25.04.2022	17.10.2023
14	69	26.04.2022	26.04.2022	14.07.2022	
15	70	16.03.2022	16.03.2022	21.03.2022	
16	71	06.05.2022	06.05.2022	16.06.2022	17.10.2023
17	72P	21.10.2023	19.02.2024		

27. That further **allottee of Plot No. 62 P, Sector 50 has already constructed House up-to Second Floor(Slab Casting) including Basement, Ground, First Floor as per approved building plan. The allottee of Plot No. 65 has already started construction work, Further allottees of Plot No. 54, 55 and 64 have already constructed Boundary wall before passing of status quo order dated 24.01.2024.** The above actions have taken place before passing of order of status quo dated 24.01.2024. The photographs of the constructions are annexed herewith as Annexure R-6(Pg 124 to 127) for the kind consideration of the Hon'ble Tribunal.
28. That Further, **as per the recent census data** (www.censusindia.gov.in) the village Adampur, Rural Area, Gurgaon Sub-District, Gurgaon District, Haryana **the population is Nil, Child population is Nil, Scheduled Caste population is Nil, Scheduled tribe population is Nil, Literate population is Nil, Illiterate population is Nil, Workers is Nil, Non workers is Nil.** This clearly shows that **the Village Adampur is Be-chirag and Viran village with Zero population.** Data drawn from official website is annexed herewith as Annexure R-7 (pg 128 to 128) for the kind consideration of the Hon'ble Tribunal.
29. That it is further submitted that **apart from the revenue entry, there is nothing on record to elaborate that a water body ever existed over the Khasra No. 28, Adampur (Pocket E), Sector 50 where HSVP had planned Plot No. 54 to 72P and which were put into public auction in year 2021-22 and were subsequently allotted to various individuals.** The above assertion is corroborated by the information provided by

Gurugram Metropolitan Development Authority (GMDA) under Right to information Act 2005 dated 29.05.2024 in response to questions namely:-

- a. Whether a pond exists in Khasa No. 28 as per Survey of India Toposheet 1976:- In reply GMDA has reported that **No pond visible but visible unlined Tubewell is marked in Survey of India Toposheet(1976).**
- b. Whether a pond exists in this Khasra No. i.e. 28 as per satellite imagery (2012)- In reply GMDA has reported that No pond is visible in **Satellite Image 2012.**
- c. At present does any pond exist on this land: In reply GMDA has reported that No pond is visible in latest available drone image (May 2023). As per latest, Roads constructed can be seen.

The report of GMDA has been provided to the office of deponent on 22.01.2025 and upon query put to GMDA regarding report dated 29.05.2024 having been issued by said office, GMDA vide email dated 11.02.2024 has confirmed that report dated 29.05.2024 has been issued by GMDA and as such same report dated 29.05.2024 along with Survey of India Toposheet 1976 qua land in question, satellite imagery along with confirmation email 129 dated 11.02.2025 are annexed herewith as Annexure R-8(Pg 129 to 132) and Annexure R-9 (Pg/ 35 to/ 53) for the kind consideration of the Hon'ble Tribunal.

29. That in view of the submissions made hereinabove and as reported by concerned Executive Engineer vide letter dated 07.02.2025 (R-2), it is submitted that **development works were already completed 9 years prior to filing of the present application and in year 2022-23 only re-carpating of roads and shifting of sewarge lines was done, which has been filed with oblique motives to deny HSVP to utilize the land in question as per approved layout plan and by one who himself had himself raised illegal constructions over the Khasra No. 28.**

72. HSVP has also placed on record a reply given by the office of Executive Engineer, HSVP Division No. VI, Gurugram vide letter dated 07.02.2025 which has been placed on record at page 953 and we find it appropriate to reproduce the query as well as reply given by the office of Executive Engineer as under:

Sr. No.	Query asked	Reply of this office.
1.	When was the development works were executed on Khasra No. 24 and 28 (Pocket D & E) of Sector 50, Gurugram. As per our earlier affidavit filed in the matter, we have elaborated on development works carried out in Sector 50 in year 2014-15 and 2022-23, But same pertained to Sector in General and not particular to Khasra No. 24 and 28 (Pocket D and E) Sector 50, Gurugram.	• The construction of internal roads including black top in Pocket E bearing plot no 54 to 72-P (Khasra No 28), Adampur Village, Sector-50, Gurugram was constructed in 2014-2015 work allotted to M/s Jain Construction Company. • Providing of water supply, sewerage and SWD in Pocket E bearing plot no 54 to 72-P (Khasra No. 28), Adampur Village, Sector-50, Gurugram was completed on 07/2014 work allotted to The New Baliali Coop. L & C Society Ltd. • Work of special repair/recarpeting of roads in Pocket E bearing plot no 54 to 72-P (Khasra No 28), Adampur Village, Sector-50, Gurugram was constructed in 03/2023 work allotted to M/s Ankit Construction Company. • Work of shifting of sewerage line in Pocket E bearing plot no 54 to 72-P (Khasra No 28), Adampur Village, Sector-50, Gurugram was done in 10/2023 work allotted to M/s The New Baliali Co-op L & C Society Ltd. • There is no development done by this office in Khasra No. 24 in Pocket-D, Sector-50, Gurugram.
2.	Copies of tender documents, MB Books may also be provided to strengthen our case as to elaborate development works particularly on Khasra No. 24 and 28, Sector 50, Gurugram.	Copies of map of Sector 50 clearly showing khasra no 28, Adampur village as pocket E and roads constructed in 2014 and marked over plan and measurement book copies attached.

73. Some other documents have been placed on record with the compliance affidavit which includes running bills and the record of measurement book of Executive Engineer concerned but therefrom, we find that reference is with respect to the pocket numbers and not with reference to khasra numbers particularly khasra nos. 24 and 28 and these documents, despite our query could not be shown by Learned Counsel for HSVP as to how helpful in throwing lights on the questions/queries made by Tribunal, vide order dated 24.01.2025.

74. There is another letter dated 07.02.2025 (annexure R-5 at page 1059) sent by Executive Engineer, HSVP Electrical Division, Gurugram to Estate Officer-II, HSVP, Gurugram informing that as per the report of Sub-divisional Officer, HSVP Electrical Sub Division I, Gurugram vide letter dated 07.02.2025, the electrification work was completed from plot no. 54-P to 72-P (khasra no. 28, Pocket-E), Sector-50, Gurugram in the month of October 2018. Electrification work was not completed at khasra no. 24 (Pocket-D), Sector-50, Gurugram.

Rejoinder Affidavit dated 26.02.2025 filed by applicant to compliance affidavit dated 11.02.2025 of HSVP:

75. The Layout Plan submitted by HSVP along with compliance affidavit filed as annexure R-1 has been seriously disputed and doubted by the applicant stating that as per the plan obtained under RTI, there were only Pockets A to C and, therefore, works whose measurements has been attached by respondent HSVP cannot be connected to khasra no. 28. The claim of HSVP regarding developmental activities has further been disputed by stating that no permanent developmental activities were undertaken by HSVP as claimed in 2014 or 2015 and in fact all such

activities have been undertaken in 2022 and 2023. The stand of applicant in para 6 is reproduced as under:

6. ...A specific stand has been taken by the applicant in this OA that the **road that is being claimed to have been laid down in the year 2014 was a non-concrete Kacha Path made while informing the Panchayat and the local population that a footpath is being made for development of the pond in Kasara number 28.** At that point of time, HSVP was believed as development of water body in Khasra number 24 stood initiated by HSVP. Further, this **Kacha Road was only laid down in front of plot number 62-65, and not in any other part of the Kasara number 28, as already put on record by way of RTI response dated 9th of May 2023 attached by private respondents as Annexure P-3 of their intervention application.** No sewage or water lines, et cetera, where laid as claimed, in the year 2014-15. **These Sewage lines for the first time were laid by HSVP in Khasra number 28, only in July 2023, and the photographs of the same already stand attached as annexure A/18 at page number 222 of this original application filed by the applicant herein...**

76. It is said that the documents placed on record like measurement book etc. nowhere makes any reference of khasra no. 28 and in the approved plan since there was no pocket beyond A to C hence the documents are unreliable. With regard to electrification work in khasra no. 28, applicant in para 8 of the rejoinder has said as under:

- “8. That further, another misleading letter has been attached by HSVP at Annexure R-5 on page number 1059 of this OA stating that the electrification work Stood completed in Kasara number 28 pocket-E sector-50 Gurugram in the month of October 2018. This is a white lie as when in the same Kasara number 28 the applicant wanted to have electricity for his house in March 2018, **he had to put his own transformer and transmission lines on payment basis, as the electrification of Khasara number 28 had not taken place.** Copies of the bills and receipts of DHVBN in this regard are collectively attached to as a Annexure A/2 with this rejoinder. It is submitted by the applicant that electrical lines and poles came to be installed much much later and not in the year 2018 has claimed by the HSVP.”

77. Applicant has summed up his stand by stating that after coming to the notice of auction notice published by HSVP in 2021 for auctioning plots carved out in khasra no. 28 on the land of water body, the applicant has been running from pillar to post consistently for protection of the water body and initiated proceedings by filing **OA 388/2021 (supra)** before this Tribunal hence it cannot be said that application in question is barred by limitation and the damage caused to the water bodies is irreversible. Tribunal must effectively direct HSVP to allot alternative plots to the private respondents and restore the water bodies in question in the light of Supreme Court's declaration of law in **Hinch Lal Tiwari vs. Kamla Devi & Ors. (supra)** and **Jagpal Singh & Ors. vs. State of Punjab & Ors. (supra)**.

I.A. No. 195/2025 dated 20.03.2025 filed by HSVP:

78. This IA has been filed for placing on record certain additional documents to explain the discrepancies pointed out by the applicant with regard to pocket numbers mentioned in the approved layout plan. The stand taken by HSVP in the above application stated as under:

- “4. That the present application is also being filed to clarify categorization of the HSVP Land in various pockets has been done by the Engineering division No. VI of HSVP, Gurugram while laying down of development works in various pockets of HSVP Land in Sector 50, Gurugram which have been relied upon by the respondent/applicant while filing compliance affidavit dated 11.02.2025 in reference of order dated 24.01.2025 in the captioned application.*
- 5. That the original drawing of the Sector 50, Gurugram bearing drawing no. D.T.P.(G)1679/07 dated 07.11.2007 was approved by the Chief Administrator, HSVP, Panchkula vide letter dated 22.01.2008. In the **said layout plan, no pocket nos. were mentioned, and it only showed plot nos. on the layout plan including Plot No. 54 to 72P, Sector 50, Gurugram** which were planned on Khasra No. 28 of village Adampur, Gurugram. A copy of D.T.P.(G)1679/07 dated 07.11.2007 along with letter*

dated 22.01.2008 are annexed herewith as Annexure R-2/1 for the kind consideration of the Hon'ble Tribunal.

6. That the **markings of the Pockets as A, B, C in the approved layout plan were done at the later stages.**

Pocket A & B

7. That as there were minor corrections/ amendments in the layout-cum-demarcation plan of Sector 49&50, the same were incorporated and approved by Chief Administrator, HSVP, Panchkula and the said areas were marked as Pocket A & B in the approved layout plan of Sector 50 (Annexure R-2/2), Gurugram vide **approval letter dated 13.12.2012 of Chief Administrator, HSVP, Panchkula** along with part-layout cum demarcation plan of Pocket A & B, Sector 50, Gurugram dated 05.12.2012. A copy of letter dated 13.12.2012 and Part layout Plan dated 05.12.2012 are annexed herewith as Annexure R-2/2 for the kind consideration of the Hon'ble Tribunal.

Pocket C

8. That similarly layout-cum-demarcation plan of Sector 50 was partly revised and duly approved and thus, **Pocket C was incorporated and marked in the approved layout plan of Sector 50 (Annexure R-2/2), Gurugram vide approval letter dated 18.12.2012 of Chief Administrator, HSVP, Panchkula** along with part-layout cum demarcation plan of Pocket C, Sector 50, Gurugram dated 10.12.2012. A copy of letter dated 18.12.2012 and Part layout Plan dated 10.12.2012 are annexed herewith as Annexure R-2/3 for the kind consideration of the Hon'ble Tribunal.
9. That perusal of the above-mentioned annexures would elaborate that **in the original layout Plan, there were no Pocket A, B or C and said pockets have been incorporated afterwards in the year 2012.** The original Layout plan only showed Plot numbers and not any particular pockets.

Pockets D to G

10. That thereafter HSVP's engineering division No. VI, Gurugram collected the approved layout plan (Annexure R-2/2) from the office of District Town Planner, Gurugram as is clear from letter for laying down the services like water supply, roads, sewerage and storm water drainage in various HSVP pockets in Sector 50, Gurugram and accordingly marked Pockets D to G in Sector 50, Gurugram (Pocket A to C were already marked). It is submitted that Applicant/Respondent has already furnished details of floating of tenders for laying down of roads, water supply,

sewerage and storm water drainage. Copies of Estimate of Services are annexed herewith as Annexure R-2/4 to R-2/7 for kind consideration of the Hon'ble Tribunal.

11. That **Engineering Division No. VI had marked Pocket D to Gon the layout Plan of Sector 50, Gurugram with respect to tenders for Water supply, storm water drainage, Roads and sewerage.** Copies of earmarked pockets in the layout plan are annexed herewith as Annexure R-2/8 to R-2/11 for the kind consideration of the Hon'ble Tribunal.
12. That perusal of the **Annexure R-2/8 to R-2/11 would elaborate that it showed the Khasra Nos. on which various sites of HSVP are planned including Pocket E which encompassed Khasra No. 28 and Pocket D which encompasses Khasra No. 24 of village Adampur, Gurugram and also clearly showed the dimensions of the various works which can be duly verified with Measurement books submitted by the respondents vide affidavits dated 26.06.2024 and 11.02.2025 which clearly show that development works were complete on Khasra No. 28 in year 2015 itself.**
13. That **Executive Engineer, Division No. 6, vide letter dated 12.03.2025 clarified that the land was divided into various pockets (Annexure R-2/8 to R-2/11) as these pockets exist at different places within Sector 50 and same is based upon clubbing together localized plots into singular entity i.e. A, B, C (already marked), D, E etc so that development works may be done at these local areas without creating ambiguity or difficulty** (Earlier difficulty used to arise due to involvement of multiple plots, this was resolved by giving intermediate identity). A copy of letter dated 12.03.2025 is annexed herewith as Annexure R-2/12 for the kind consideration of the Hon'ble Tribunal."

79. On page 1117 of paper book, HSVP has filed letter dated 13.12.2012 sent by Chief Administrator, HUDA (Town Planning Wing), Panchkula to District Town Planner, Gurugram communicating approval of part layout-cum-demarcation plan of Sector 49 and Sector-50, Gurugram marking Pockets A and B therein as duly approved by Chief Administrator, HUDA. The subject of the letter and the contents thereof reads as under:

“Subject: Approval of part layout-cum-demarcation plan of Sector-49 & Sector-50, Gurgaon.

Reference:- Admn. HUDA, Gurgaon office memo. No. 21046 dated 05.12.2012..

Find enclosed a copy of part layout-cum-demarcation plan of Sector-49, Gurgaon bearing drawing no. DTP(G) 2115/2012 dated 05.12.2012 and part layout-cum-demarcation plan of pocket ‘A’ & ‘B’, Sector-50, Gurgaon bearing drawing no. DTP (G) 2116/2012 dated 05.12.2012 duly approved & signed by Chief Administrator, HUDA.

You are requested to incorporate the part approved plan alongwith minor corrections/amendments in the overall layout-cum-demarcation plan of Sector-49 & 50. Thereafter, circulate its copies to all the concerned offices including this office. The Zoning plan of the above pockets may also be got finalized on PRIORITY.”

80. There is another letter dated 18.12.2012 of Chief Administrator, HUDA (Town Planning Wing), Panchkula addressed to District Town Planner, Gurugram at page 1119 of the paper book which conveys its approval of part revised layout plan adding Pocket C therein and reads as under:

“Subject: Approval of part revised layout-cum-demarcation plan of sector-33 and 50, Gurgaon.

Reference: Administrator, HUDA, Gurgaon office memo no. 21384 dated 10.12.2012.

Find enclosed a copy of part revised layout-cum-demarcation plan of sector-33, Gurgaon bearing drawing no. DTP(G)2119/12 dated 10.12.2012 and part vised layout-cum-demarcation plan of pocket ‘C’ sector-50 bearing drawing no. DTP(G)2120/2012 dated 10.12.2012 duly approved and signed by C.A. HUDA. You are requested to incorporate part plan alongwith corrections as indicated in red pen in the overall layout-cum-demarcation plan of sector-33 and 50, Gurgaon. Thereafter circulate its copies to all the concerned offices including this office. The zoning plan of the above pockets may also be got finalized on priority.”

81. Some further documents showing rough cost estimate of certain internal services have also been placed on record but despite query, Learned Counsel appearing for HSVP could not show as to how they are relevant to throw light on the question as to whether the activities were carried out on the land of khasra nos. 24 and 28, village Adampur.

I.A. No. 196/2025 dated 19.03.2025 filed by applicant:

82. This application has been filed by applicant for placing on record clear legible copy of Layout Plan already annexed by the applicant as annexure A/1 with the rejoinder affidavit filed to the compliance affidavit dated 11.02.2025 by HSVP.

ARGUMENTS:

83. Learned Counsel appearing for applicant submitted that admittedly khasra no.24, village Adampur, area 20 canals 10 marlas was a water body recorded in revenue record. Similarly, khasra no.28, village Adampur, area 15 canals 4 marlas was recorded as a water body at least since 1850. In the khasra khatoni of village Adampur of the year 1964-65, khasra nos.24 and 28 were shown as gair-mumkin jhohad. He supported the submission by referring to annexure-A/1 at page 61, copy of jamabandi of Gaon village Adampur, District Gurgaon. The nature of these water bodies has been changed/sought to be changed/damaged by respondent 2 which is not permissible in law. He claims that applicant has continuously raised the issues by approaching Tribunal earlier in **OA 388/2021 (supra)** in which directions were issued to respondents to consider the complaint and take remedial action but no such action was taken by the concerned authorities including respondent 2 and when they proceeded further to damage the water bodies, present OA has been filed, hence it cannot be said that it is

barred by limitation and this is well within the period of limitation prescribed in Section 14(3) and 15(3) considering the “date of first cause of action arose” i.e., proceedings of auction initiated by respondent 2 for allotment of plots in the land comprising water bodies in khasra nos.24 and 28. Since respondents authorities are under obligation to maintain water bodies for all the time to come irrespective of change of ownership, and, therefore, mere fact that common land in gram panchayat having water body was acquired by HSVP will not result in change of status of the land since even the transferee body acquiring the land will have to maintain status of land as water body and the same cannot be destroyed. He has placed reliance on the judgments of Supreme Court and Tribunal which we have already referred to above.

84. Per contra, Shri Lokesh Sinhal, Senior Additional Advocate General appearing for State of Haryana while not disputing the fact that khasra nos.24 and 28, as per revenue records, were water bodies/gair mumkin johad contended that the proceeding for change of nature of the land were initiated in 2003 when the notification for acquisition of land under Section 4 of LA Act, 1894 was issued on 03.03.2003 which resulted in the notification under Section 6 of the said Act, issued on 02.03.2004. Even possession of land was transferred to HSVP. The land vested in State of Haryana, after acquisition, was transferred to HSVP on 29.12.2005 for development of residential plots. The award for compensation was delivered on 29.12.2005 and according to him, the first date when ‘first cause the action arose’, should be taken as 29.12.2005 when possession of land was transferred to HSVP and, therefore, OA is hopelessly barred by limitation either under Section 14(3) or 15(3) of NGT Act, 2010. He further submitted that acquired land was sought to be developed as Sector 50 and

khasra nos.24 and 28, village Adampur, became part of Sector 50, Gurgaon. Layout Plan was approved for Sector 50 on 22.01.2008. The area falling in khasra no.24 measuring 0.82 acres was planned as religious site and 11 plots of 3 marla category, as per approved Layout Plan, were carved out (It appears that date of approved plan has been mentioned differently in para 6 of reply dated 12.12.2023 as 22.01.2008 while in para 7 at page 242, it is mentioned is 22.08.2008 and during the course of the arguments, this discrepancy could not be explained). Be that as it may, for the purpose of limitation, if any, the date of approved plan, if relevant, would make no difference whether it is 22.01.2008 or 22.08.2008 since the present OA has been presented/filed on 01.09.2023.

85. Learned Senior Additional Advocate General has further argued that as per approved Layout Plan of 2008, the necessary service infrastructure like roads, sewer lines, etc. were raised and completed in 2014. In khasra no.28, HSVP (respondent 2) carved out plots and put for public auction on various dates in 2021-22. Out of 19 carved out plots on khasra no.28, 17 were allotted by HSVP upon deposit of entire consideration money and possession was also handed over. Placing reliance on the chart mentioned in para 10 of its reply dated 12.12.2023, Learned Counsel pointed out that the date of allotment of plots no. 55 to 72P, which are total 17 in number, vary from 16.03.2022 to 21.10.2023. According to him, the allotment of plots to third parties, which includes respondents 10 to 20 is a consequential step of the construction activities already carried out with regard to services like roads etc. and will not constitute a 'fresh cause of action' for the purpose of computation of limitation under Section 14(3) and 15(3) which according to him would have to be taken either from the date when possession of acquired land was taken by HSVP i.e., 29.12.2005

or 2014 when construction of services infrastructure like roads, sewer etc. was completed.

86. In order to show that the construction of roads etc. was completed in khasra no.28 in 2014-15, as stated in para 6 of its additional affidavit dated 26.06.2024 (at page 868), Shri Lokesh Sinhal, Learned Counsel appearing for State of Haryana drew our attention to the documents filed along with additional affidavit dated 29/27.06.2024. He referred to the documents filed as annexure R-1 to 13 to buttress the above submissions. He, therefore, contended that application filed on 01.09.2023 is hopelessly barred by limitation and has to be rejected.

87. Addressing the Tribunal on merits, Senior Learned Counsel argued that nature of land has subsequently changed in a period of time and third party rights have also been created. Even the permissions for construction have been granted by HSVP by sanctioning building plans of the allottees of the plots and, therefore, any direction for restoration of water bodies at this stage would be highly prejudicial to such third parties who on their own have no fault in regard to change of status of land. It will also cause loss to the public revenue and public exchequer if the infrastructure, already raised on the land in question, is directed to be removed. The land in dispute is not the only land in the entire Sector 50 and the approved plan in layout plan will also get changed and altered in a substantial way.

88. In these facts and circumstances, Tribunal, instead of directing restoration of the land in dispute to the status of water bodies, may permit the respondents to find out an alternative land and create two water bodies thereat of the same area, which will serve the purpose of protection of ecology and environment, and, will not cause any harm to the applicant in

particular and the environment in general. He stated that steps have already been taken by HSVP to find out an alternative land admeasuring approximately 1.6 acres in Haryana in view of the land of water body in khasra no.28, village Adampur and the proposal has been sent to the Competent Authority for identification and allotment of alternative land.

89. The other Learned Counsels appearing for respondents-authorities have adopted the arguments of Shri Sinhal.

90. Learned Counsels for respondents 10 to 20 relied on their reply dated 24.05.2024 and contended that they are *bona-fide* purchasers of plots allotted to them in the part of Sector 50 which were earlier part of khasra no.28, village Adampur and whereof, plots no.54 to 72P have been carved out. Respondents 10 to 20 claim to have been allotted the plots mentioned in table A, whereof possession was handed over to them on various dates in 2022-23. However, only 6 of the respondents have got building plan approved and 02 have got sale deeds executed and these are as under:

Sl. No.	Name of allottee	Respondent no.	Plot no.	Date of approval of building plan	Date of sale deed
1	Lalita Jindal	10	66P	16.02.2023	
2	Pratul Kumar	12	65	17.05.2022	
3	Pooja Rathee	14	71	17.10.2023	19.10.2023
4	Shrayansh Jain	18	63	15.07.2022	-
5	Smita Gakhar	19	59	09.10.2023	11.08.2023
6	Hitesh Garg	22	68	17.10.2023	N/A

91. It is contended that after approval of building plan, the steps were taken by them for raising constructions but Tribunal passed restrain order on 24.01.2024 without giving any opportunity of hearing to respondent 10 to 20 and therefore, further construction activities could not be carried out but the fact remains that they are purchasers of the plots in question in *bona-fide* manner and they cannot be made to suffer for anything wrong, if any, committed by the authorities, in particular HSVP. It is further said that as per the satellite images, no water body existed on the disputed land at least since 2010 and as informed by HSVP, the infrastructure of services was completed in 2014-15, hence the application is barred by limitation and should be rejected accordingly. It is also contended that the applicant earlier approached Tribunal in **OA 388/2021 (*supra*)**, hence cannot be allowed to reagitate the issue in the present OA and it is barred by the principle of *res-judicata*.

ISSUES:

92. We have heard Learned Counsels appearing for the parties and perused the record. Substantial questions relating to environment which require adjudication by Tribunal, in our view, arising in this matter, are as under:

- (I) Whether the present OA is barred by limitation?
- (II) Whether the present OA is barred by principle of *res-judicata*?
- (III) Whether the land in khasra nos.24 and 28 is/was a water body?
- (IV) Whether a water body if damaged by the authorities should be directed to be restored or the authorities may be allowed to

construct another water body on alternative land by retaining the benefit of their act of damage of water bodies and thereby damaging the environment?

(V) Whether HSVP has caused any damage to environment by damaging/destroying water bodies on land in question?

(VI) If Issue No. III is answered in affirmative i.e., the land in question was/is a water body as per revenue records, what action or direction is required to be taken or issued in the light of 'Precautionary Principle', 'Sustainable Development' and principle of 'Polluter Pays' as enshrined vide Section 20 of NGT Act, 2010?

(VII) What appropriate order is required to be passed in the matter?

CONSIDERATION ON MERITS:

93. We proceed to consider the aforesaid issues as under:

ISSUE I:

94. This issue relates to limitation as to whether the cause of action raised in this OA is within the prescribed period of limitation.

95. Learned Counsel, Shri Lokesh Sinhal, Senior Additional Advocate General who has appeared on behalf of respondents 1 to 9 vehemently contended that OA is hopelessly barred by limitation in as much as the land of khasra nos.24 and 28 was acquired vide notification dated 03.03.2003 issued under Section 4 of LA Act, 1894 and 02.03.2004 issued under Section 6 of the said Act. Award for compensation was delivered on 29.12.2005 and possession was transferred to HSVP by the State on

29.12.2005 for development of residential and commercial plots. It is contended that once the land is vested free from all encumbrances in HSVP after delivery of possession on 29.12.2005, it was open to HSVP to change the nature of land in any manner, particularly, to give effect to its project and the cause of action also would commence immediately after 29.12.2005, hence OA is barred by limitation prescribed under Section 14(3) and 15(3) of NGT Act, 2010.

96. He further pointed out that the aforesaid land of khasra no.24 and 28 along with other several khasra nos. comprised a single sector numbered as Sector 50 for which layout plan was approved on 22.01.2008. As per the approved plan, area falling in khasra no.24 measuring 0.82 acres was planned as religious site and 11 plots of 3 marlas category were carved out. HSVP also commenced and completed development activities in 2014 and, therefore, even if the limitation is taken to have first arisen when the development activities were undertaken, the same ended in 2014 and the period of limitation under Section 14(3) of NGT Act, 2010 is 06 months and in Section 15(3), it is only 05 years while the present OA has been filed in 2023 hence by any stretch of imagination, the OA is barred by limitation.

97. Applicant has seriously disputed the contentions stating that the nature of land in khasra nos. 24 and 28 remained unchanged or unaltered due to any developmental activity of HSVP till 2021 when a public notice for e-auction of plots was issued by HSVP whereagainst the applicant made a representation on 04.10.2021 before Administrator, Gurugram and failing to receive any response approached this Tribunal in **OA 388/2021 (supra)** with a prayer for protection of water bodies at khasra

nos.24 and 28 in village Adampur. OA was disposed of by Tribunal vide judgment dated 07.01.2022 directing District Magistrate, Gurugram to look into the matter and take remedial action and applicant was given liberty to place his version before District Magistrate, Gurugram. Thereafter, the applicant submitted application dated 09.02.2022 before Deputy Commissioner, Gurugram apprising of the illegal destruction of water bodies in khasra nos.24 and 28 by way of plotting and requested him to take remedial action but when no action was taken, applicant again approached this Tribunal in **Execution Application No.10/2022 (supra)** wherein Tribunal directed HSVP to take decision on khasra nos.24 and 28 and convey the same to applicant within one month. No such decision was taken by HSVP and communicated to the applicant. Applicant sent representations dated 25.07.2022 to Chief Administrator, HSVP and, thereafter, filed present OA seeking protection of water bodies and their restoration, hence application is well within the period of limitation prescribed under Section 15(3) of NGT Act, 2010.

98. From the facts discussed above, we find that the nature of land of khasra nos.24 and 28 recorded as gair-mumkin johad in Revenue records is an admitted position. This is also clear from District Magistrate, Gurugram's letter dated 07.03.2022 whereby it has requested HSVP to coordinate with its Chief Administrator and comply Tribunal's directions. The land in question is sought to be converted into residential/commercial plots and on various dates in 2022 and 2023, the plots carved out on khasra no. 28 have been allotted to various individuals as is evident from the chart given hereinabove and thus it is also evident that HSVP is converting the gair-mumkin johad land as residential plots permitting construction of residential accommodation thereof and thereby disturbing

and damaging permanently the nature of land from gair-mumkin johad to residential.

99. The question up for consideration is whether the issue raised by the applicant in 2023 is within limitation or not.

100. Section 14 of NGT Act, 2010 confers jurisdiction upon Tribunal to adjudicate disputes over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I. Sub-section 3 of Section 14 provides limitation for settlement of the above dispute by Tribunal and says that no application shall be entertained by Tribunal unless it is made within a period of six months from the date on which the “cause of action for such dispute first arose”.

101. Section 15 deals with the power of Tribunal to grant relief, compensation and restitution by an order and provides that for the purpose of grant of any compensation or relief or restitution of property and environment, Tribunal may entertain an application if it is made within a period of five years from the date on which “cause of action for such compensation or relief first arose”.

102. The ambit of jurisdiction under Section 14 and 15 of NGT Act, 2010 is obviously different. Where only a substantial question relating to environment is raised, the limitation of 06 months under Section 14(3) would be attracted but where Tribunal is required to pass an order which includes the relief relating to restitution of property damaged or restitution of environment etc., Tribunal may entertain an application within a period

of 05 years from the date on which the cause of action for such compensation or relief first arose.

103. What we find in Section 14(3) and 15(3) of NGT Act, 2010 is that the date of commencement of limitation is the date on which cause of action first arose. The scope and ambit of Sections 14 and 15 largely travels on different fields though the ultimate order which may be passed by Tribunal, may have some over-lapping impact.

104. The above provisions have been considered by Supreme Court in ***Mantri Techzone Private Limited vs. Forward Foundation & Others, (2019) 18 SCC 494***. It has been held that jurisdiction of Tribunal is provided under Sections 14, 15 and 16 of NGT Act, 2010. Section 14 provides the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved. However, such question must have arisen out of the implementation of the enactments specified in Schedule I. Tribunal also has jurisdiction under Section 15(1)(a) of NGT Act, 2010 to provide relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I. Supreme Court has further said that under Sections 15(1)(b) and 15(1)(c), Tribunal can provide for restitution of property damaged and for restitution of the environment for such area or areas, as the Tribunal may think fit. Sections 15(1)(b) and 15(1)(c) have not been made relatable to Schedule I enactments of NGT Act, 2010. Supreme Court has observed that this has been done rightly since it grants a glimpse into the wide range of powers that the Tribunal has been cloaked

with respect to restoration of the environment. In paras 43, 44 and 45 of judgment, Supreme Court has said as under:

“43. Section 15(1)(c) of the Act is an entire island of power and jurisdiction read with Section 20 of the Act. The principles of sustainable development, precautionary principle and polluter pays, propounded by this Court by way of multiple judicial pronouncements, have now been embedded as a bedrock of environmental jurisprudence under the NGT Act. Therefore, wherever the environment and ecology are being compromised and jeopardized, the Tribunal can apply Section 20 for taking restorative measures in the interest of the environment.

44. The NGT Act being a beneficial legislation, the power bestowed upon the Tribunal would not be read narrowly. An interpretation which furthers the interests of environment must be given a broader reading. (See *Kishore Lal v. Chairman, Employees' State Insurance Corpn.* (2007) 4 SCC 579, para 17). The existence of the Tribunal without its broad restorative powers under Section 15(1)(c) read with Section 20 of the Act, would render it ineffective and toothless, and shall betray the legislative intent in setting up a specialized Tribunal specifically to address environmental concerns. The Tribunal, specially constituted with Judicial Members as well as with Experts in the field of environment, has a legal obligation to provide for preventive and restorative measures in the interest of the environment.

45. Section 15 of the Act provides power & jurisdiction, independent of Section 14 thereof. Further, Section 14(3) juxtaposed with Section 15(3) of the Act, are separate provisions for filing distinct applications before the Tribunal with distinct periods of limitation, thereby amply demonstrating that jurisdiction of the Tribunal flows from these Sections (i.e. Sections 14 and 15 of the Act) independently. The limitation provided in Section 14 is a period of 6 months from the date on which the cause of action first arose and whereas in Section 15 it is 5 years. Therefore, the legislative intent is clear to keep Section 14 and 15 as self contained jurisdictions.”

105. The above observations of Supreme Court make it very clear that Section 15 of NGT Act, 2010 provides power/jurisdiction independent of Section 14. In the context of Section 14(3) and 15(3) of NGT Act, 2010, it is said that Section 14(3) juxtaposed with Section 15(3) of NGT Act, 2010 are separate provisions for filing distinct applications before Tribunal with

distinct period of limitation demonstrating amply thereby that jurisdiction of Tribunal flows from Sections 14 and 15 independently. The legislative intent is too clear to keep Sections 14 and 15 as self-contained jurisdiction. In para 49, Supreme Court also held that in ***Mantri Techzone Private Limited vs. Forward Foundation & Others (supra)***, OA was filed with the specific prayer for restoration of ecologically sensitive land and for maintaining sensitive in its natural condition so that the ecological balance of the area is not disturbed and thus, it was a petition under Section 15 of NGT Act, 2010 and could be filed within 05 years from the date on which the cause for such compensation or relief first arose.

106. A Division Bench of Bombay High Court in ***M/s. Nish Developers Pvt. Ltd. & Anr. vs. State of Maharashtra & Ors.*** in ***Writ Petition No. 594/2015*** and other connected matters decided on 09.06.2016 has observed in para 35 that Section 14 sub-section 3 provides period of limitation as 06 months from the date on which the cause of action first arose. *Prima-facie*, it cannot be interpreted therefore, that it would arise from the date of the knowledge of original applicant of the alleged violation taking place or from the date on which environmental authorities were informed about violation and inaction on their part. Bombay High Court set aside the judgment of Tribunal at Western Zonal Bench, Pune in ***MA No. 65/2014 in OA No. 13/2014, Amit Maru vs. Secretary, Ministry of Environment, Forest & Ors.*** decided vide order dated 01.10.2014 wherein a contrary view was taken that date of knowledge will be the reckoning point for limitation.

107. Sections 14(3) and 15(3), both use the phrase “cause of action first arose”. The phrase **“cause of action first arose”** has two important components; one **“cause of action”** and second is **“first arose”**.

108. ‘Cause of Action’ as understood in legal parlance is a bundle of essential facts, which is necessary for the plaintiff to prove before he can succeed. It is the foundation of a suit or an action. ‘Cause of Action’ is stated to be entire set of facts that give rise to an enforceable claim. The phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In other words, it is a bundle of facts which when taken with the law applicable to them gives the plaintiff, the right to relief against defendants. It must contain facts or acts done by the defendants to prove ‘cause of action’.

109. The term ‘cause of action’ has to be understood in distinction to the nature or form of the suit. A cause of action means every fact which is necessary to establish to support the right to obtain a judgment. It is a bundle of facts which are to be pleaded and proved for the purpose of obtaining the relief claimed in the suit. It is what a plaintiff must plead and then prove for obtaining the relief. It is the factual situation, the existence of which entitles one person to obtain from the court remedy against another.

110. The ‘cause of action’ means every fact which, if traversed, would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, it is a bundle of facts which, taken with the law applicable to them, gives the plaintiff a right to relief against the defendant. It does not comprise evidence necessary to prove such facts

but every fact necessary for the plaintiff to prove to enable him to obtain a decree.

111. In **A.B.C. Laminart Pvt. Ltd. & Anr. vs. A.P. Agencies, Salem, (1989) 2 SCC 163**, in para 12, Court said as under:

“12. A cause of action means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action can possibly accrue. It is not limited to the actual infringement of the right sued on but includes all the material facts on which it is founded. It does not comprise evidence necessary to prove such facts, but every fact necessary for the plaintiff to prove to enable him to obtain a decree. Everything which if not proved would give the defendant a right to immediate judgment must be part of the cause of action. But it has no relation whatever to the defence which may be set up by the defendant nor does it depend upon the character of the relief prayed for by the plaintiff.”

112. In **Bloom Dekor Limited vs. Subhash Himatlal Desai & Ors. (1994) 6 SCC 322**, in para 28, Court said as under:

“28. By “cause of action” it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court, (Cooke v. Gill, 1873 LR 8 CP 107). In other words, a bundle of facts which it is necessary for the plaintiff to prove in order to succeed in the suit...”

113. In **Rajasthan High Court Advocates’ Association vs. Union of India & Ors., (2001) 2 SCC 294**, in para 17, Court said as under:

“17. The expression “cause of action” has acquired a judicially-settled meaning. In the restricted sense cause of action means the circumstances forming the infringement of the right or the immediate occasion for the action. In the wider sense it means the necessary conditions for the maintenance of the suit, including not only the infringement of the right, but the infringement coupled with the right itself. Compendiously the expression means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact which is necessary to be

proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in “cause of action”...”.

114. In ***Kunjan Nair Sivaraman Nair vs. Narayanan Nair & Ors., (2004) 3 SCC 277***, in para 16, Court said as under:

“16. The expression “cause of action” has acquired a judicially-settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in “cause of action”.”

115. In ***Y. Abraham, Ajith & Ors. vs. Inspector of Police, Chennai & Anr., (2004) 8 SCC 100***, in paras 17 and 18, Supreme Court construed cause of action as under:

“17. The expression “cause of action” is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for sitting; a factual situation that entitles one person to obtain a remedy in court from another person. (Black’s Law Dictionary a “cause of action” is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In “Words and Phrases” (4th Edn.) the meaning attributed to the phrase “cause of action” in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf.

18. In Halsbury’s Laws of England (4th Edition) it has been stated as follows:

“ ‘Cause of action’ has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the Court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. ‘Cause of action’ has also been taken to mean that

particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action”.”

116. In **Liverpool & London S.P. & I Associated Ltd. vs. M.V. Success I and Anr., (2004) 9 SCC 512**, Supreme Court in para 140 said as under:

“140. A cause of action is a bundle of facts which are required to be pleaded and proved for the purpose of obtaining relief claimed in the suit. For the aforementioned purpose, the material facts are required to be stated but not the evidence except in certain cases where the pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence.”

117. In **Prem Chand Vijay Kumar vs. Yashpal Singh & Anr., (2005) 4 SCC 417**, in para 10, Court said as under:

“10. In a generic and wide sense (as in Section 20 of the Civil Procedure Code, 1908 (in short “CPC”) “cause of action” means every fact which it is necessary to establish to support a right or obtain a judgment...”.

118. In **Mayar (H.K.) Ltd. & Ors. vs. Owners & Parties, Vessel M.V. Fortune Express & Ors., (2006) 3 SCC 100**, in para 12, Supreme Court construed ‘cause of action’ as under:

“12. ... A cause of action is a bundle of facts which are required to be proved for obtaining relief and for the said purpose, the material facts are required to be stated but not the evidence except in certain cases where the pleadings relied on are in regard to misrepresentation, fraud, wilful default, undue influence or of the same nature...”.

119. Construing Article 58 of the Schedule in Limitation Act, 1963 where accrue the right to sue first arose. Supreme Court in **Khatri Hotels Pvt. Ltd. & Anr. vs. Union of India & Anr., (2011) 9 SCC 126**, the use of word ‘first’ between the words ‘sue’ and ‘accrued’ would mean that if a suit is based on multiple causes of action, the period of limitation will begin to run from the date when the right to sue first accrues. When a person will

have a right to sue has also been considered by Supreme Court in ***Rukhmabai vs. Lala Laxminarayan, AIR 1960 SC 335*** and in para 33, referring to Article 120 of Limitation Act, 1908, Supreme Court said that right to sue accrues when defendant has clearly or unequivocally threatened to infringe the right asserted by the plaintiff in the suit. Every threat by a party to such a right however ineffective and innocuous it may be, cannot be considered to be a clear and unequivocal threat so as to compel him to file a suit. Whether a particular threat gives rise to a compulsory cause of action depends upon the question whether that threat effectively invades or jeopardizes the said right.

120. In Civil Appeal No. of 2025 (arising out of SLP (C) No. 13459 of 2024), ***Nikhila Divyang Mehta & Anr. vs. Hitesh P. Sanghvi and others, (2025) SCC OnLine SC 779***, decided vide judgment dated 15.04.2025, Supreme Court construing Article 58 of Schedule of Limitation Act, 1950, in para 24 observed as under:

“24. It may be pertinent to note that the limitation of three years is from the date when the cause of action first arose. So, according to the plaintiff’s case, the cause of action first arose on 04.02.2014 and, therefore, the limitation would end on 04.02.2017. However, even if the limitation is calculated from the date of knowledge of the Will and/or the Codicil, it would run from the first week of November, 2014 and would end in the first week of November, 2017. The suit admittedly was instituted on 21.11.2017; much beyond the first week of November, 2017 and as such is apparently barred by limitation, for which neither any defence is required to be looked into nor any evidence in support is needed to be adduced.”

121. In ***OA 124/2013, Kehar Singh vs. State of Haryana, ALL (I) NGT REPORTER DELHI 2013 (1) Page 256***, Tribunal held, while construing the limitation prescribed under Section 14 of NGT Act, 2010, the cause of action refers to in Section 14 must relate to such dispute i.e., a dispute relating to environment which has arisen due to implementation of the

enactments mentioned in Schedule I to NGT Act, 2010. The expressions 'cause of action first arose' and 'such dispute' have to be read together. In para 16 of the judgment, Tribunal said that 'cause of action', therefore, must be read in conjunction with and should take colour from the expression 'such dispute'. Such dispute will in turn draw its meaning from Section 14(2) and consequently Section 14(1) of NGT Act, 2010. These are interconnected and inter-dependent. 'Such dispute' has to be considered as a dispute which is relating to environment. NGT Act, 2010 is a specific Act with a specific purpose and object, and therefore, the cause of action which is specific to other laws or other objects and does not directly relate to environmental issues would not be 'such dispute' as contemplated under the provisions of NGT Act, 2010. The dispute must essentially be an environmental dispute and must relate to either of the Acts stated in Schedule I to NGT Act, 2010 and 'cause of action' referred to under Sub-section (3) of Section 14 should be the cause of action for 'such dispute' and not alien or foreign to the substantial question of environment.

122. Tribunal in para 17 of the judgment observed that for attracting jurisdiction of Tribunal, cause of action will mean the facts which are imperative for the applicant to state and prove that give him a right to obtain an order of Tribunal and these facts would constitute the bundle of facts so as to be called as 'cause of action'. Tribunal further said as under:

*“17...This obviously means that those **material facts and situations must have relevancy to the essentials or pre-requisites provided under the Act to claim the relief.** Under the NGT Act, in order to establish the cause of action, **pre-requisites are that the question must relate to environment or it should be a substantial question relating to environment or enforcement of any legal right relating to environment. If this is not satisfied, then the provisions of Section 14 of the NGT Act cannot be called in aid by the applicant to claim relief from the Tribunal.** Such question must fall within the ambit of jurisdiction of the Tribunal*

*i.e. it must arise from one of the legislations in Schedule I to the NGT Act or any other relevant provision of the NGT Act. For instance, the **Tribunal would have no jurisdiction to determine any question relating to acquisition of land or compensation payable in that regard.** However, it would have jurisdiction to award compensation for environmental degradation and for restoration of the property damaged. Thus, the **cause of action has to have relevancy to the dispute sought to be raised, right to raise such dispute and the jurisdiction of the forum before which such dispute is sought to be raised.**”*

123. In **J. Mehta vs. Union of India & Ors., M.A. Nos. 507/2013, 595/2013, 644/2013 and 649/2013 in OA 88/2013**, a five Members Bench of Tribunal in its order dated 24.10.2013 observed that cause of action should have a direct nexus with the matters relating to environment. The reckoning point of limitation for the purpose of ‘cause of action first arose’ under Sections 14(3) and 15(3), the contention of respondent that it is the first date when he violated the law relating to environment which should be taken for computing limitation and every person must be expected to know such violation or unauthorized use was not accepted by Tribunal by observing as under:

*“54.... In the present case, the respondents can hardly be heard to contend that since they have been flouting with impunity, the law, the terms and conditions of the EC for long, and **therefore, every person is expected to know such violations or unauthorized use, and as such, the application would be barred by limitation....**”*

124. In paras 55 and 56, Tribunal further said as under:

*“55. The cause of action is not restricted to ‘in personam’ but is an action available to any person in terms of Section 14 of the NGT Act. It empowers any person aggrieved to raise a substantial question relating to environment including enforcement of any legal right relating thereto. Every citizen is entitled to a clean and decent environment in terms of Article 21 of the Constitution and the term ‘cause of action first arose’ must be understood in that sense and context. **The applicant has been able to establish that he first came to know about the misuser and change of user, particularly with regard to adverse environmental impact,***

only in the middle of December, 2012 and immediately thereafter, he took steps requiring the authorities concerned to take action as per law but to no avail. Then he filed the present application within the prescribed period of six months. The respondents have not been able to rebut successfully the factual matrix stated by the applicant. As already stated, they have withheld relevant facts and information from the Tribunal.

*56. A **cause of action is a bundle of facts which should give, in its composite form, right to a plaintiff against the defendant to approach a court or Tribunal for a legal remedy or redressal of his grievance.** Thus, the existence of a legal remedy to the plaintiff is a sine qua non for an actionable cause of action. In view of the above reasoning, we **have no hesitation in concluding that the present application is not barred by time.***

125. In **OA 222/2014, The Forward Foundation & Anr. vs. State of Karnataka & Ors.** vide judgment dated 07.05.2015, Tribunal observed that the expression ‘cause of action’, as normally understood in civil jurisprudence, has to be examined with some distinction while construing it in relation to the provisions of NGT Act, 2010. Such ‘cause of action’ should essentially have nexus with the matters relating to environment. It should raise a substantial question of environment relating to the implementation of the statutes specified in Schedule I of NGT Act, 2010 to attract Section 14 of NGT Act, 2010. **A ‘cause of action’ might arise during the chain of events, in establishment of a project but would not be construed as a ‘cause of action’ under the provisions of Section 14 of NGT Act, 2010 unless it has a direct nexus to environment or gives rise to a substantial environmental dispute.** For example, acquisition of land simplicitor or issuance of notification under the provisions of the land acquisition laws, would not be an event that would trigger the period of limitation under the provisions of the NGT Act, ‘being cause of action first arose’. **A dispute giving rise to a ‘cause of action’ must essentially be an environmental dispute and should relate to**

either one or more of the Acts stated in Schedule I of NGT Act, 2010 to attract Section 14 of the said Statute. If such dispute leading to ‘cause of action’ is alien to the question of environment or does not raise substantial question relating of environment, it would be incapable of triggering prescribed period of limitation under NGT Act, 2010.

126. We may notice at this stage that this Tribunal’s judgment in ***Forward Foundation & Anr. vs. State of Karnataka (supra)*** was challenged before Supreme Court in ***Mantri Techzone Private Limited vs. Forward Foundation & Others (supra)***, and has been confirmed and even the review petition has been dismissed by Supreme Court vide order dated 06.08.2019.

127. In ***Tanaji B. Gambhire vs. Union of India & Ors., OA 38/2020 (WZ), I.A. No. 48/2020(WZ)***, Tribunal in its order dated 23.02.2023 said that in law of limitation, it is only the injury alone that is relevant and not the consequences of the injury. If the wrongful act causes the injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. In other words, distinction must be made between continuance of legal injury and the continuance of its injurious effects. Where a wrongful act produces a state of affairs, every moment continuance of which is a new tort, a fresh cause of action for continuance lies. Wherever a suit is based on multiple cause of action, period of limitation will begin to run from the date when the right to sue first accrues and successive violation of the right may not give rise to a fresh cause of action. In para 29 of the judgment, Tribunal said as under:

“29. A cause of action which is complete in all respects gives the applicant a right to sue. An applicant has a right to bring an

action upon a single cause of action while claiming different reliefs. Rule 14 of the National Green Tribunal (Practise and Procedure) Rules, 2011, shows the clear intent of the framers of the Rules that multiple reliefs can be claimed in an application provided they are consequential to one another and are based upon a single cause of action. Different causes of action, thus, may result in institution of different applications and therefore, there is exclusion of the concept of the 'joinder of causes of action' under the Rules of 2011. The multiple cause of action again would be of two kinds. One, which arise simultaneously and other, which arise at a different or successive point of time.

In first kind, cause of action accrues at the time of completion of the wrong or injury. In latter, it may give rise to cause of action or if the statutes so provide when the 'cause of action first arose' even if the wrong was repeated. Where the injury or wrong is complete at different times and may be of similar and different nature, then every subsequent wrong depending upon the facts of the case may gives rise to a fresh cause of action. To this general rule, there could be exceptions. In particular such exceptions could be carved out by the legislature itself. In a statute, where framers of law use the phraseology like 'cause of action first arose' in contradistinction to 'cause of action' simplicitor, accrual of right to sue means accrual of cause of action for suit. The **expressions 'when right to sue first arose' or 'cause of action first arose' connotes date when right to sue first accrued**, although cause of action may have arisen even on subsequent occasions. Such expressions are noticed in Articles 58 of the Limitation Act, 1963. We may illustrate this by giving an example with regard to the laws that we are dealing here. When an order granting or refusing Environmental Clearance is passed, right to bring an action accrues in favour of an aggrieved person. **An aggrieved person may not challenge the order granting Environmental Clearance, however, if on subsequent event there is a breach or non-implementation of the terms and conditions of the Environmental Clearance order, it would give right to bring a fresh action and would be a complete and composite recurring cause of action providing a fresh period of limitation. It is also for the reason that the cause of action accruing from the breach of the conditions of the consent order is no way dependent upon the initial grant or refusal of the consent.** Such an event would be a complete cause of action in itself giving rise to fresh right to sue. Thus, **where the legislature specifically requires the action to be brought within the prescribed period of limitation computed from the date when the cause of action 'first arose', it would by necessary implication exclude the extension of limitation or fresh limitation being counted from every continuing wrong, so far,**

it relates to the same wrong or breach and necessarily not a recurring cause of action.”

128. In **OA 157/2014, Sarav Shikshit Evam Berojgar Janhit Sangharsh Samiti Barmana vs. State of Himachal Pradesh and Ors.,**

Tribunal vide judgment dated 10.12.2015, in para 7, said as under:

“7. First and foremost, we would like to deal with the objections taken by the respondent No. 8 in regard to limitation and jurisdiction of this Tribunal. Both the objections taken by respondent No. 8 are without merit and in fact, during the course of arguments they were not even pressed before the Tribunal. As far as question of limitation is concerned, it is a ‘recurring cause of action’ and every event of pollution will give rise to a fresh ‘cause of action’ and cannot be hit by the concept of ‘cause of action’ first arose as enumerated under section 14 of the NGT Act. The industry had been granted consent in the year 1982 thereafter on regular interval fresh consent has been granted to the unit to operate. Not only this, even its manufacturing capacity was expanded. Various inspections have been conducted by the Board and the unit have been defaulting on some of the occasions while on other occasions it has been found to be complying. Every time it has been found to be defaulting or emitting or making noise in excess to the prescribed parameters, it would give a new cause of action and in that sense a recurring cause of action. Every new and complete cause of action would entitle applicant to a fresh period of limitation to approach the Tribunal. Furthermore, the applicant have also prayed for the relief of compensation which would be covered under Section 15 read with Section 17 of the NGT Act where the limitation prescribed is 5 years from the date when the cause of action first arose. The applicant has specifically relied upon the violations made by the respondent No. 8 in the year 2012-13 and onwards. As far as jurisdiction of the Tribunal is concerned, all the prayers raised in the application are within the ambit and scope of Section 14 read with Section 17 of the NGT Act. The respondent No. 8 has failed to point out as to which of the prayers made by the applicant falls beyond the ambit and scope of the NGT Act. Not only this, the case of the applicant is even supported by the reply filed by the HPPCB. It is correct that this Tribunal would not enter into the jurisdiction as to whether the applicant or the villagers had been awarded proper compensation or not under the provisions of Land Acquisition (Himachal Pradesh Amendment) Act, 1979. That is the matter with which Tribunal is not concerned directly or indirectly. It squarely falls beyond the ambit and scope of the Acts mentioned in the Schedule of the NGT Act. The applicant cannot raise a plea whether they received appropriate compensation and had left their lands voluntarily or otherwise. Except

to that extent, we are of the considered view that the application filed by the applicant squarely falls within the ambit and scope of the NGT Act. (refer to The Forward Foundation, A Charitable Trust and Ors. v. State of Karnataka and Ors. MANU/GT/0089/2015:2015 ALL (I) NGT Reporter (2) (Delhi) 81, and Medha Patekar v. Ministry of Environment and Forest. 2013 All (I) NGT Reporter (2) (Delhi) 174)."

129. In **OA 350/2016, Ved Prakash & Ors. vs. Union of India & Ors.**, vide order dated 03.01.2017, Tribunal said that the concept of "continuous cause of action" does not apply to a case before Tribunal, in view of Sections 14 and 16 of NGT Act, 2010. "Continuing cause of action" is contradictory in terms to the expression "cause of action first arose", as it can only be recurring cause of action which can be given effect to extend the period of limitation, as every action which is recurring cause of action itself would trigger limitation afresh.

130. The Division Bench of Telangana High Court in **Writ Petition Nos. 7879 of 2020 and 7961 of 2020, K T Rama Rao vs. Anumula Revanth Reddy and 7 others**, decided vide judgment dated 27.04.2022 said that while considering the issue of limitation under Section 14(3), Tribunal has to first ascertain the cause of action for the dispute, then determine the date on which such cause of action first arose, and thereafter, it has to consider whether the said date fell within the period stipulated in Section 14(3) of NGT Act, 2010 and its proviso or not.

131. In the light of the discussion made above, we are of the view that time of limitation has to be considered on the phraseology in Sections 14(3) and 15(3) of NGT Act, 2010 with the special and specialised role assigned to the Tribunal under the Act.

132. In **State of Meghalaya vs. All Dimasa Students Union, (2019) 8 SCC 177**, Supreme Court commented on the specialized and unique role of Tribunal of NGT and said in para 163 as under:

“163. The object for which the said power is given is not far to seek. To fulfil the objective of the NGT Act, 2010, NGT has to exercise a wide range of jurisdiction and has to possess wide range of powers to do justice in a given case. The power is given to exercise for the benefit of those who have right for clean environment which right they have to establish before the Tribunal. The power given to the Tribunal is coupled with duty to exercise such powers for achieving the objects...”

133. Power of Tribunal under Sections 15(1)(b) and (c) has been commented by Supreme Court in **Director General (Road Development) National Highways Authority of India vs. Aam Aadmi Lokmanch & Ors., (2021) 11 SCC 566** by observing as under:

*“73. The power and jurisdiction of the NGT under Sections 15(1)(b) and (c) are not restitutionary, in the sense of restoring the environment to the position it was before the practise impugned, or before the incident occurred. The **NGT’s jurisdiction in one sense is a remedial one, based on a reflexive exercise of its powers. In another sense, based on the nature of the abusive practice, its powers can also be preventive.**”*

134. Court in the above judgment, further said, in para 77, as under:

“74. As a quasi-judicial body exercising both appellate jurisdiction over regulatory bodies’ orders and directions (under Section 16) and its original jurisdiction under Sections 14, 15 and 17 of the NGT Act, the Tribunal, based on the cases and applications made before it, is an expert regulatory body. Its personnel include technically qualified and experienced members. The powers it exercises and directions it can potentially issue, impact not merely those before it, but also State agencies and State departments whose views are heard, after which general directions to prevent the future occurrence of incidents that impact the environment, are issued.”

135. In **Municipal Corporation of Greater Mumbai vs. Ankita Sinha, (2022) 13 SCC 401**, Supreme Court said that role of NGT was not simply

adjudicatory in the nature of a lis but to perform equally vital roles which are preventative, ameliorative or remedial in nature. The functional capacity of NGT is intended to leverage wide powers to do full justice in its environmental mandate. Supreme Court categorized Tribunals in 04 sub-heads and placed NGT in the category of “Tribunals made to safeguard rights under Article 21 of the Constitution of India”.

136. In ***Municipal Corporation of Greater Mumbai vs. Ankita Sinha (supra)***, in para 57, Supreme Court observed as under:

“57. During the course of its functioning, NGT has been recognised as one of the most progressive tribunals in the world. This jurisprudential leap has allowed our country to enter a rather exclusive group of nations which have set up such institutions with broad powers...”

137. In the context of jurisdiction of Tribunal (NGT), Supreme Court in ***Municipal Corporation of Greater Mumbai vs. Ankita Sinha (supra)***, in brief, has observed as under:

- i) NGT was conceived as a complimentary specialized forum to deal with all environmental multidisciplinary issues, both as original and also as an appellate authority, which complex issues were hitherto dealt with by the High Courts and Supreme Court.
- ii) NGT was intended to be the competent forum for dealing with environmental issues instead of those being canvassed under the writ jurisdiction of the Courts. It was explicitly noted that creation of NGT would allow Supreme Court and High Courts to avoid intervening under their inherent jurisdiction when an alternative efficacious remedy would become available before the specialized forum.
- iii) The power of judicial review was omitted to ensure avoidance of High Courts’ interference with Tribunal’s orders by way of a mid-way

scrutiny by High Courts, before the matter travels to Supreme Court where NGT's orders can be challenged.

- iv) The mandate and jurisdiction of NGT is conceived to be of the widest amplitude and it is in the nature of a *sui generis* forum.
- v) Unlike Civil Courts which cannot travel beyond the relief sought by the parties, NGT is conferred with power of moulding any relief. The provisions show that NGT is vested with the widest power to appropriate relief as may be justified in the facts and circumstances of the case, even though such relief may not be specifically prayed for by the parties.
- vi) Myriad roles are to be discharged by NGT, as was encapsulated in the Law Commission Report, the Preamble and the Statement of Objects and Reasons.
- vii) Parliament intended to confer wide jurisdiction on NGT so that it can deal with the multitude of issues relating to the environment which were being dealt with by High Courts under Article 226 of the Constitution or by Supreme Court under Article 32 of the Constitution.
- viii) The activities of NGT are not only geared towards the protection of environment but also to ensure that the developments do not cause serious and irreparable damage to ecology and the environment.
- ix) **Concept of *lis*, would obviously be beyond the usual understanding in civil cases where there is a party (whether private or government) disturbing the environment and the other one (could be an individual, a body or the government itself), who has concern for the protection of environment.**

- x) **NGT is not just an adjudicatory body but has to perform wider functions in the nature of prevention, remedy and amelioration.**
- xi) In ***Bhopal Gas Peedith Mahila Udyog Sangathan vs. Union of India, (2012) 8 SCC 326***, Court mandated transfer of all cases, concerning the Statutes mentioned in Schedule I of NGT Act to the specialized forum as otherwise there can be conflicts with the High Courts. Notably, some of those cases were originally registered *suo-moto* by the Courts.
- xii) As long as the sphere of action is not breached, NGT's powers must be understood to be of the widest amplitude.
- xiii) In ***Mantri Techzone (P) Ltd. vs. Forward Foundation, (2019) 18 SCC 494***, Court recognized that NGT is set up under the constitutional mandate in Entry 13 of List I in Schedule VII to enforce Article 21 with respect to the environment and in the context, Tribunal has special jurisdiction for enforcement of environmental rights.
- xiv) In ***Rajeev Suri vs. DDA, (2022) 13 SCC 401***, Court said that in its own domain, as crystalized by the statute, the role of NGT is clearly discernible.
- xv) Referring to ***Andhra Pradesh Pollution Control Board vs. Prof. M. V. Nayudu (Retd.) and Ors, (1999)2SCC718***, Court said that role of NGT was not simply adjudicatory in the nature of a *lis* but to perform equally vital roles which are preventative, ameliorative or remedial in nature. The functional capacity of the NGT was intended to leverage wide powers to do full justice in its environmental mandate.

- xvi) Statutory Tribunals were categorized to fall under four subheads; Administrative Tribunals under Article 323A; Tribunals under Article 323B; Specialized sector Tribunals and most prominently; Tribunals to safeguard rights under Article 21. As already noted, the duties of NGT brings it within the ambit of the fourth category, creating a compelling proposition for wielding much broader powers as delineated by the statute.
- xvii) Referring to ***State of Meghalaya vs. All Dimasa Students Union Dima-Hasao District Committee, (supra)***, Court said that reflecting on the expanded role of NGT unlike other Tribunals, this Court so appositely observed that the forum has a duty to do justice while exercising “*wide range of jurisdiction*” and the “*wide range of powers*”, given to it by the statute.
- xviii) NGT has been recognized as one of the most progressive Tribunals in the world.
- xix) NGT being one of its own kind of forum, commends us to consider the concept of a sui generis role, for the institution.
- xx) Referring to ***DG NHAI vs. Aam Aadmi Lokmanch, 2020 SCC Online SC 572***, Court repelled the argument for a restricted jurisdiction for NGT, and observed in paragraph 76 that **powers conferred on NGT are both reflexive and preventive and the role of NGT was recognized in paragraph 77 as “an expert regulatory body”, which can issue general directions also albeit within the statutory framework.**
- xxi) NGT was conceived as a specialized forum not only as a like substitute for a civil court but more importantly to take over all the environment related cases from High Courts and Supreme Court.

- xxii) **Given the multifarious role envisaged for NGT and the purposive interpretation which ought to be given to the statutory provisions, it would be fitting to regard NGT as having the mechanism to set in motion all necessary functions within its domain and this, as would follow from the discussion below, should necessarily clothe it with the authority to take *suo-motu* cognizance of matters, for effective discharge of its mandate.**
- xxiii) Section 14(1) of NGT Act deals with jurisdiction, and the jurisdictional provision conspicuously omits to specify that an application is necessary to trigger NGT into action. In situations where the three prerequisites of Section 14(1) i.e., Civil cases; involvement of substantial question of environment; and implementation of the enactments in Schedule I are satisfied, the jurisdiction and power of NGT gets activated. On these material aspects, NGT is not required to be triggered into action by an aggrieved or interested party alone. It would therefore be logical to conclude that the exercise of power by NGT is not circumscribed by receipt of application.
- xxiv) Section 14(1) exists as a standalone feature, not constricted by the operational mechanism of the subsequent subsections. The sub-Section (2) of Section 14 functions as a corollary and comes into play when a dispute arises from the questions referred to in Section 14(1). Likewise sub-Section (3) thereafter, refers to the period of limitation concerning applications, when they are addressed to the NGT. Where adjudication is involved, the adjudicatory function under Section 14(2) comes into play.

- xxv) When it is a case warranting NGT's intervention, or may be a situation calling for decisions to meet certain exigencies, the functions under Section 14(1) can be undertaken and those may not involve any formal application or an adjudicatory process. However, the later provisions may not work in similar fashion. Therefore, care must be taken to ensure unrestricted discharge of the responsibilities under Section 14(1) and that wide arena of NGT's functioning.
- xxvi) The other pertinent provisions relating to, *inter-alia*, jurisdiction, interim orders, payment of compensation and review, do not require any application or appeal, for NGT to pass necessary orders. These crucial powers are expected to be exercised by NGT, would logically suggest that the action/orders of NGT need not always involve any application or appeal. To hold otherwise would not only reduce its effectiveness but would also defeat the legal mandate given to the forum.
- xxvii) To be effective in its domain, we **need to ascribe to NGT a public responsibility to initiate action when required, to protect the substantive right of a clean environment and the procedural law should not be obstructive in its application.**
- xxviii) It is not only a matter of rhetoric that the Tribunal is to remain ever vigilant, but an important legal onus is cast upon it to act with promptitude to deal with environmental exigencies. The responsibility is not just to resolve legal ambiguities but to arrive at a reasoned and fair result for environmental problems which are adversarial as well as non-adversarial.

- xxix) It would thus be appropriate to state that much of the principles, institutions and mechanisms in this sphere have been created, on account of this Court's initiative.
- xxx) Supreme Court adopted the role of an "amicus environment" by threading together human rights and environmental concerns, resultingly developing a *sui generis* environmental discourse.
- xxxi) NGT is the institutionalization of the developments made by Supreme Court in the field of environment law. These progressive steps have allowed it to inherit a very broad conception of environmental concerns. Its functions, therefore, must not be viewed in a cribbed manner, which detracts from the progress already made in the Indian environmental jurisprudence.
- xxxii) NGT, with the distinct role envisaged for it, can hardly afford to remain a mute spectator when no-one knocks on its door. The forum itself has correctly identified the need for collective stratagem for addressing environmental concerns.
- xxxiii) NGT must act, if the exigencies so demand, without indefinitely waiting for the metaphorical *Godot* to knock on its portal.

138. For interpreting the provisions of limitation under Sections 14(3) and 15(3) of NGT Act, 2010 in the light of the discussions made above, we find that in the environmental matters, ordinarily the issues do not arise affecting, in personum, rights of the parties between them. Generally, the violator's actions are known to him only and conducted within a closed premise or atmosphere of secrecy. The right of clean environment of the public in general, though infringed, may not be to their knowledge unless an act or conduct is shown which brings such violation to the information or knowledge in public domain.

139. Therefore, the “cause of action first arose” in the context of adjudication of dispute under Section 14(1), (2) and (3) can be brought to Tribunal only when at least the applicant has information of such instance or occurrence of the dispute or that the dispute has arisen.

140. For Section 14, a substantial question relating to environment arising out of the implementation of the enactments specified in Schedule I shall give an occasion to file an application for adjudication of dispute, to a person, only when such person has information about such an act and not otherwise. The information may be in the form of something done which brings the action to the knowledge of the public or it is communicated to the person concerned in any recognised manner. Otherwise, any other view of the matter, will render the purpose of enactments of NGT Act, 2010 to be redundant in as much as an act surreptitiously and secretly done between some authorities or the proponents/violators, keeping the information within their own domain, causing damage to environment and still make it unchallengeable and beyond the province of remediation by Tribunal on the ground of limitation though protection of environment is the basic statutory responsibility of Tribunal.

141. In the light of ***Municipal Corporation of Greater Mumbai vs. Ankita Sinha (supra)***, Tribunal can exercise *suo-moto* jurisdiction but that also can be exercised only when violation comes to its knowledge and not otherwise.

142. Similarly, a person may bring such violation to the notice of Tribunal only when he himself has information and not otherwise.

143. The first date of information, therefore, is relevant for reckoning the point of limitation under Sections 14(3) and 15(3) of the Act so as to serve and give effect to the legislative intent under NGT Act, 2010 for protection of environment and serve the purpose for which the said enactment has been made.

144. When we consider the facts of the present case in the light of the above discussion, we find that in the paragraphs dealing with the issue of limitation, applicant has claimed that cause of action arose in 2019-2020 when respondents started destroying water bodies existing in khasra nos. 24 and 28. Respondents 2 and 3 reduced the size of water bodies existing in khasra no. 24 by undertaking construction in the form of stairs, footpaths, railing around the water body and also uprooted trees surrounding the water body in khasra no. 24. Further, cause of action arose when respondents 2 and 4 for the purpose of development of township, by October 2021, started levelling the land existing in khasra no. 28. Cause of action then arose when respondents issued public notice to auction the land bearing khasra no. 28 whereagainst the applicant brought issues before Tribunal in **OA 388/2021 (*supra*)**, which was disposed of by Tribunal vide order dated 07.01.2022 directing District Magistrate, Gurgaon to look into the matter and take remedial action.

145. In the prayer, applicant has sought restoration of water bodies existing in khasra no. 24 and 28, village Adampur, Gram Panchayat Jharsa, Gurugram in the original form and further direction to re-plant the trees which have been illegally cut. There is also a consequential relief that further construction activities in the land in dispute be stopped by issuing directions to District Commissioner as well as HSVP.

146. OA was presented in Tribunal on 01.09.2023. From the relief claimed by the applicant, it is evident that the jurisdiction under Section 15 of NGT Act, 2010 has been invoked by the applicant and, therefore, the period of limitation under Section 15(3) is attracted in the present case and the period of limitation is 05 years. In view of the proviso to Section 15(3), the delay, if any, occurred beyond 05 years, is for any sufficient cause, the same is condonable by Tribunal which does not exceed 60 days.

147. HSVP has claimed that OA is barred by limitation since the land was acquired in 2005 that is almost 18 years prior to the date of filing of OA, hence, OA is hopelessly barred by limitation. It is further contended that the plan was sanctioned on 22.01.2008 and developmental activities like sewerage, construction of roads etc. were completed in 2014 hence also OA in question is barred by limitation.

148. We do not find that the respondent-2's above submissions have any merit. It has miserably failed to substantiate its pleas.

149. As per the own disclosure by respondent 2 (HSVP), the land acquisition notification under Section 4 of LA Act, 1894 was issued on 03.03.2003 and under Section 6, it was issued on 02.03.2004. The acquisition of land comprised of large number of plots including the land of khasra nos. 24 and 28. The award for compensation was delivered on 29.12.2005 and possession of the acquired land was delivered to HSVP by State of Haryana on 29.12.2005. These are the proceedings related to land acquisition and cannot be said to have any connection with the issue of environment as such and thus it cannot be said that any dispute under Section 14 had arisen in respect to the land in dispute on account of the

above land acquisition proceedings. The question of seeking relief under Section 15 also did not arise on account of these acquisition proceedings.

150. The land acquisition proceedings are different, per se, having no concerned with the issue of affecting environment in any manner by violation of environmental laws enumerated under Schedule I of NGT Act, 2010 and, therefore, no cause of action can be said to have arisen on 03.03.2003 when the acquisition notification under Section 4 of LA Act, 1894 or on 02.03.2004 when declaration under Section 6 of LA Act, 1894 was published or on 29.12.2005 when the award for compensation in lieu of land acquired was delivered and possession was transferred to HSVP by State of Haryana.

151. At this stage, we may also observe that HSVP has claimed that on 29.12.2005 when possession of acquired land was transferred by State of Haryana to HSVP, the entire land vested in it free from all encumbrances. This submission, in our view, is thoroughly misconceived. Under LA Act, 1894, when land is acquired by State, the land vests in the State under Section 16 which reads as under:

“16. Power to take possession. - When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.”

152. It is true, when an acquisition is made by State for the benefit of some other party, it is open to the State to transfer its possession as well as ownership to such party in accordance with the procedure prescribed in law.

153. Under the provisions of Transfer of Property Act, 1882 (hereinafter referred to as ‘**TP Act, 1882**’), ownership of a land is transferred only by

execution of a sale deed. The ownership can also be transferred if any other statutory provision has been made providing transfer of ownership from the owner to another one in a different manner like gift. In the present case, however, no such provision has been shown to us which may confer ownership upon HSVP of the acquired land only on the basis of transfer of possession of land by State of Haryana to HSVP. It is also not the case of HSVP that by execution of sale deed, ownership of land was transferred to it. The title vested in the State cannot be divested unless a procedure prescribed in law is followed.

154. Respondent 2 is a Statutory body constituted/formed under Section 3 of Haryana Urban Development Authority Act, 1977 (hereinafter referred to as '**HUDA Act 1977**') and, therefore, not a department of State Government of Haryana. An acquired land vested in State under the provisions of LA Act, 1894 can be transferred to any other body in accordance with the provisions of TP Act, 1882 unless any provision otherwise is available to divest the State of its land and its vesting in another body. Mere transfer of possession of land by State to a Development Authority may confer a possessory title upon the transferee but vesting of land will continue to be with the State unless it is divested by following the procedure prescribed in law in accordance with any statutory provision, if existing in this regard. None has been shown to us.

155. However, we may observe hereat that the question whether land vested in respondent 2 or not, is not material to decide the issue in the present case, therefore, claim of respondent 2 with regard to vesting has been mentioned as pleaded but the same be not treated to be an accepted fact by this Tribunal.

156. In nutshell, we are clearly of the view that the proceedings of land acquisition, initiated by State of Haryana at the instance of HSVP in respect the land comprising large number of khasra numbers which were ultimately made part of Sector-50, did not give rise to any substantial question relating to environment and there was no dispute with regard to environment arising of the implementation of the enactments mentioned in Schedule I of NGT Act, 2010, hence, no cause of action whatsoever accrued or arose either on 03.03.2023 or 02.03.2004 or 29.12.2005. Hence, contention of HSVP, that cause of action first arose in 2003-2005 and OA has been filed in 2023 hence, is hopelessly barred by limitation, cannot be accepted.

157. The next reckoning point, for the purpose of limitation, as argued on behalf of HSVP, is the date when Layout Plan was approved by HTCPD for the entire acquired land which was clubbed and constituted as Sector-50. The Layout Plan was approved, as stated by respondent 2, on 22.01.2008. As per the Compliance Affidavit dated 11.02.2025 filed by HSVP, the total area of Sector-50 comprising land of several khasra numbers is 548.090 acres. The land falls within the jurisdiction of HSVP in Sector-50 for development was only 40.090 acres. This 40.090 acres comprised of a large number of khasra numbers which have been mentioned in a chart at page 941 of the paper book which we have already quoted above.

158. HSVP in its affidavit dated 11.02.2025 claimed that the entire land 40.090 acres allotted to HSVP was not a compact block but in fragmented blocks in various pockets and these pockets were marked as A to I i.e., 09 pockets. HSVP has placed a map on record at page 952 but the applicant has seriously disputed correctness of this map and said that Layout Plan

bearing D.T.P. Drawing No. 1679/07 dated 07.11.2007 which was approved by HTCPD on 22.01.2008 comprised only 03 pockets i.e., A to C and not beyond that. The Layout Plan approved on 22.01.2008, according to the applicant, did not have the pockets D to I.

159. During the course of the arguments, the above fact is not disputed by the Learned Counsel appearing for HSVP but it is stated that the subsequent pockets were marked later on by the authorities of HSVP. When such subsequent pockets in the Layout Plan were approved by HTCPD has not been stated and no document to show it has been placed on record. These relevant facts have not been placed on record despite due opportunity granted to HSVP.

160. The Learned Counsel for HSVP also admits that the land comprising khasra no. 24 falls in Pocket D and khasra no. 28 falls in Pocket E, therefore, Layout Plan which was approved on 22.01.2008 comprised of only 03 pockets i.e., A, B and C. These pockets did not relate to the land comprising khasra nos. 24 and 28 and in any case with respect to the Pockets D and E, the Layout Plan, did not provide any approval on 22.01.2008.

161. In any case, we are further of the view that mere approval of Layout Plan by Municipal Authorities under Municipal Regulatory Provisions will not give rise to a substantial question relating to environment arising due to implementation of the enactments mentioned in Schedule I and, therefore, even the date of approval of Layout Plan i.e., 22.01.2008, in our view, cannot be construed to be the reckoning point for computation of limitation and it cannot be said that it is the date when “cause of action first arose”. The approval of Layout Plan of Sector-50 on 22.01.2008 did

not result in any dispute giving rise to a substantial question relating to environment, arising out of implementation of enactments mentioned in Schedule I of NGT Act, 2010 hence it cannot be said that the cause of action first arose on 22.01.2008 and this submission made in this regard by the Learned Counsel for HSVP is worth rejection.

162. Even for the purpose of Section 15(3), no occasion arose to the applicant to claim restoration of the land since no damage to the water bodies is shown to have been caused due to approval of Layout Plan on 22.01.2008, particularly, when it was confined to only Pockets A, B and C and not concerned with Pockets D and E wherein khasra nos. 24 and 28 were placed hence even Section 15 was not attracted and there was no 'cause of action first arose' for invoking Section 15 of NGT Act, 2010 when Layout Plan was approved. We accordingly reject the contention of HSVP raised in its behalf.

163. The next submission of Learned Counsel appearing for HSVP with regard to limitation is that the services like sewerage, road etc. were completed in 2014. On this aspect, certain documents have been filed before Tribunal by HSVP along with Additional Affidavit dated 27.06.2024.

164. It is said that Executive Engineer, HUDA, Division no. VI, Gurugram invited online tender dated 05.12.2013 for construction of internal roads in various pockets in Sector-50, Gurugram including in front of plots no. 54 to 72P. The documents annexure R-2 at page 879 shows that it refers to construction of internal roads in various pockets in Sector-50, Gurugram without giving specific numbers of the pockets or the plot numbers or khasra numbers.

165. HSVP in its Compliance Affidavit dated 11.02.2025 has placed an information given by Executive Engineer of HSVP to Estate Officer, HSVP vide letter dated 07.02.2025 that internal roads including black top in Pocket E bearing plots no. 54 to 72P (khasra no. 28), Village-Adampur, Sector-50, Gurugram were constructed in 2014-2015 and the work was allotted to M/s Jain Construction Company. Further work of water supply, sewerage and SWD in Pocket-E bearing plots no. 54 to 72P (khasra no. 28), Village-Adampur, Sector-50, Gurugram was completed on July 2014 and the work was allotted to New Baliali Co-operative L & C Society Ltd. The work of special repair/recarpeting of roads in Pocket-E bearing plots no. 54 to 72P (khasra no. 28), Village-Adampur, Sector-50, Gurugram was constructed in March 2023 and the work allotted to M/s Ankit Construction Company. Work of shifting of sewerage line in Pocket-E bearing plots no. 54 to 72P (khasra no. 28), Village-Adampur, Sector-50, Gurugram was done in October 2023 and the work allotted to M/s. New Baliali Co-operative L & C Society Ltd.

166. In support of the above submissions, Executive Engineer has submitted copies of the map of Sector-50 showing khasra no. 28, Village-Adampur as Pocket-E and roads constructed in 2014 and marked Measurement Book.

167. These documents, we find are available on record, at page 955 to 1057. At page 955 is a letter of acceptance of the work contract in favour of M/s Jain Construction Company which according to the letter dated 07.02.2025 related to construction of internal roads in Pocket-E bearing plots nos. 54 to 72P (khasra no. 28). This acceptance letter is undated; it refers to tender price bid dated 19.12.2013 offered by M/s Jain

Construction Company and time limit for completion of work as 06 months reckoning w.e.f. 25.02.2014. We do not find mention of any plot number or pocket number or khasra number in the entire letter. The subject of the letter is reproduced as under:

“Sub: Construction of Internal roads in various Pockets in Sec-50, Gurgaon. “Earth work in embankment, preparation of Sub Grade, Providing & fixing GSB, WMM, Prime Coat & 25mm thick Premix Carpet with Seal Coat type ‘B’ ON 10 m & 12 m WIDE Roads & 50mm thick BM, 20mm thick MSS on 15 M & 18 M wide roads and all other works contingent thereto”. (Including three years mte. defect liability period free of cost).”

168. We enquired from HSVP to show from the above documents any reference to the information as contained in the letter dated 07.02.2025 but he failed to point out any such information and therefore, it appears that information contained in the letter dated 07.02.2025 has been incorporated by an officer of HSVP on its own though such information is not born out from the relevant documents placed on record at page 955. Then at page 957 is a copy of a memo dated 02.07.2014 submitted by Sub-Divisional Engineer, HUDA Sub-Division No. 1, Gurgaon to the Executive Engineer, HUDA, Division No. VI, Gurgaon enclosing therewith first and running bill of the work site in the subject of M/s Jain Construction Company with MB No. 5882 for pre-audit and payment of the contractor and here also the subject mentioned in the letter reads as under:

“Subject:- Construction of Internal Roads in various pockets in Sector-50, Gurgaon. “Earth work in embankment, preparation of Sub Grade, Providing and fixing GSB, WMM, Prime Coat & 25mm thick Premix Carpet with Seal Coat type ‘B’ on 10m & 12Mtr wide road and 50mm thick BM, 20mm thick MSS on 15 Mtr. & 18 Mtr. Wide roads and all other work contingent thereto.” (Including three years mte. defect liability period of cost)
A/c Rs. 184.90 Lacs”

169. The entire document nowhere refers to either the pocket numbers, plots numbers or khasra numbers and it only says construction of internal roads in various Pockets in Sector-50. In the running bills appended to the said document also, we do not find any reference of any particular pocket number or plot number or khasra number. At page 963 is a copy of the Measurement Book which contains date of 10.06.2014, refers to Pockets A, B, C and E at different places but nowhere mentions khasra number of the land and plots number which information has been given in the letter dated 07.02.2025.

170. In para 18 of Compliance Affidavit dated 11.02.2025, it has been said by HSVP that width of black top road was 5.5 meter with rest of 12 meters being utilized for storm water drainage, water supply line and sewerage line on either side of the road and three roads were constructed in Pocket-E. It is then stated in para 18(c) that special repair/re-carpeting of roads was done in March 2023 by M/s Ankit Construction Company and not in 2022 as claimed by the applicant in its rejoinder affidavit. Similarly, in para 18(e), it is said that work of providing water supply, sewerage and solid waste disposal in Pocket-E was completed in July 2014 and the work was allotted to M/s. New Baliali Co-operative L & C Society Ltd. In para 20, it is said that the electrification works in the shape of High Tension Lines including Step Down Transformer and LT Lines in various pockets of Sector-50 was started in year 2014-15 and completed in Pocket-E, plots no. 54 to 72P (khasra no. 28) in 2018 as reported by Executive Engineer, Electrical Division, HSVP, Gurugram vide letter dated 07.02.2025 (at page 1059). The said letter, we find does not refer to the date of commencement of the work of electrification on the plots in question but stated that it was completed in Pocket-E from plots no. 54P

to 72P (khasra no. 28) in the month of October 2018. It also says that no electrification work was completed in khasra no. 24. The contents of letter dated 07.02.2025 at page 1059 are reproduced as under:

“Sub:- OA No. 543 of 2023 titled as Rohit Thakran Vs HSVP (Pocket D & E) sector-50 HSVP Gurugram.

Ref:- Your office email dt. 03-02-2025 at 22:05 PM

In continuation of this office memo No. 323 dt. 06-02-2025. In this regard, it is submitted that the SDE, HSVP Elect. Sub Divn. I Gurugram has reported to this office vide his office letter No. 72 dt. 07-02-2025 that the electrification work stands already been completed from plot No. 54-P to 72-P (Khasra No. 28 Pocket-E) sector-50 Gurugram in the month of October-2018

The electrification work has not been completed at Khasra No. 24 (Pocket-D) sector-50 Gurugram.

This is for your kind information and further necessary action please.”

171. We enquired from learned Counsel appearing for HSVP that Layout Plan approved on 27.01.2008 contains only 03 pockets i.e., Pockets-A, B and C then when subsequent pockets D and onwards came into existence as part of approved Layout Plan but to this query, no reply could be given on behalf of HSVP.

172. In I.A. No. 195/2025 filed by HSVP along with which certain additional documents have been placed on record, a different stand has been taken and things have been explained totally differently. It is said that the original drawing no. D.T.P.(G)1679/07 dated 07.11.2007 was approved by Chief Administrator, HSVP, Panchkula vide letter dated 22.01.2008 and in the said Layout Plan, no pocket numbers were mentioned. It only showed plot numbers on the Layout Plan including plots no. 54 to 72P, Sector 50, Gurugram which were planned on khasra

no. 28. Some corrections/ amendments made in the layout-cum-demarcation plan of Sectors 49 and 50, which were incorporated and approved by Chief Administrator, HSVP, Panchkula vide letter dated 13.12.2012 (at page 1117) along with part layout-cum-demarcation plan of Pockets A and B. Layout-cum-demarcation plan of Sector-50 was further revised partly and approved by Chief Administrator, HSVP vide letter dated 18.12.2012 (at page 1119). Just prior to 2012, the approval Layout Plan did not contain any pocket number and Pocket numbers A, B and C were incorporated only in 2012. With regard to Pockets D and G, HSVP has said that Engineering Division No. VI of HSVP collected the approved layout plan from the office of District Town Planner, Gurugram for laying down the services like water supply, roads, sewerage and storm water drainage in various HSVP pockets in Sector-50, Gurugram and marked Pockets D to G in Sector-50. Development work in khasra no. 28 was completed in 2015. It is further said that vide letter dated 12.03.2025, Executive Engineer, Division No. VI, HSVP has clarified that the land of sector-50 within the control of HSVP was divided into various pockets as these pockets exist at different places within Sector 50 and the same is based upon clubbing together localized plots into singular entity i.e., A, B, C, D and E etc. so that development works may be done at these local areas without creating ambiguity or difficulty. The above information shows that no date of marking of pockets D to G has been disclosed by HSVP at all and they admit that the land was at different places. Moreover, if HSVP was going to start developmental activities in Sector-50 which included roads, sewer line, water supply lines etc. in respect to the land situated at different places why exact detailed information along with the

approval plan of the said demarcated area could not be produced before Tribunal.

173. Be that as it may, we are of the view that even the above activities, per se, cannot be said to construe an act of damage of water bodies so as to give rise a substantial question relating to environment arising out of the implementation of the enactments mentioned in Schedule I of NGT Act, 2010 and or to claim the relief or restoration under Section 15 of NGT Act, 2010, therefore, the contention that the limitation would commence on any date in 2014 or 2015, we find it difficult to accept and hence the same is rejected.

174. It is however, not in dispute that for changing the nature of the land of khasra nos. 24 and 28, public notices were issued on various dates in 2021-22 pursuant where to area of khasra no. 28 (water body) demarcated in different plots, was allotted to various incumbents including respondents 10 to 20 and even possession was handed over to them on various dates in 2022 and 2023 as we have placed in the chart in para 24 above. Thus, in our view, first date of public auction notice published in 2021 should be construed as first date for giving rise to the cause of action and since the relief claimed in present OA is for restoration of water body covered by Section 15 where limitation is 05 years, the present application is within the period of limitation and we find no ground to reject it on the ground of limitation. **Issue I is answered accordingly against respondents and in favour of the applicant.**

ISSUE II:

175. The contention of respondents and, in particular, HSVP and private parties who are beneficiaries of allotment of land/plot is that the applicant

earlier filed **OA 388/2021 (supra)** wherein relief claimed was not granted hence the present OA being second one is not maintainable and is barred by the principle of res-judicata or in any case, constructive res-judicata.

176. We have already quoted the relief sought in **OA 388/2021 (supra)** filed by applicant wherein he had sought a direction to restore the water body in khasra no. 28 and not to disturb and destroy khasra no. 24. Tribunal vide its order dated 07.01.2022 did not adjudicate the dispute on any issue and instead took a view that at the first instance, the matter should be considered by District Magistrate, Gurgaon hence disposed OA directing District Magistrate, Gurgaon to look into the matter and take remedial measure in accordance with law. Applicant was also given liberty to put forward his version before District Magistrate, Gurgaon for further consideration.

177. In effect, this Tribunal did not adjudicate any issue raised by applicant in **OA 388/2021 (supra)** and instead directed applicant to avail his remedy before District Magistrate, Gurgaon and District Magistrate, Gurgaon was directed to consider the matter and take remedial measures in accordance with law.

178. Application of principle of “res judicata” has to be seen in the backdrop of the fact that this Tribunal has been constituted under NGT Act, 2010 and it is not a ‘Court’ as defined under Code of Civil Procedure, 1908 (hereinafter referred to as ‘**CPC**’). Section 19 clearly says that Tribunal is not bound by the procedure laid down by CPC but shall be guided by the “principles of natural justice” and subject to NGT Act 2010, Tribunal shall have power to regulate its own procedure. Sub-section 4 of Section 19 of NGT Act, 2010, says that Tribunal shall have, for the purpose

of discharging its functions under NGT Act 2010, same powers as are vested in civil court under CPC while trying a suit, in respect of the matters enumerated in clauses (a) to (k). The provision of 'res judicata' prescribed under Section 11 CPC, as such, is not applicable to NGT but it is also true that it is a principle of well accepted doctrine that no one shall be vexed twice for the same cause or that it is for the public good that there be an end of litigation. This is a well-recognized principle applied since ancient time so as to quite to a dispute and not to allow the same party to litigate over the same matter again and again. Hence, if on an issue between the parties, there is already an adjudication, the principle of constructive res judicata, even in the matter before Tribunal can be made applicable.

179. Res judicata is a principle or doctrine or concept which is well recognized since ancient times. It is a principle of universal application treated to be a fundamental and basic idea in every developed jural society. The very objective of adjudication of a dispute by an adjudicatory forum, whatever name it is called, is to bring to an end dispute or lis between the parties. The seed of justice, thus, aims to have every matter fairly tried once and, thereafter, further litigation should be barred treating to be concluded for all times to come between the parties. **So far as the dispute which has already been adjudicated, it is a rule common to all, well defined in a civilized system of jurisprudence, that, the solemn and deliberate sentence of law upon a disputed fact pronounced, after a proper trial, by its appointed organ should be regarded as final and conclusive determination of the question litigated and should set at rest, forever, the controversy.** This rule which treats the final decision of a competent Tribunal as "irrefragable truth" was well known to Hindu

and Mohammadan lawyers and jurists since long as the system is recognized in Hindu as well as Muslim laws also.

180. So far as Europe is concerned, it is mainly influenced with the legal system of Roman jurisprudence. This principle is one of the great gains of Roman jurisprudence carried to modern jural system of Europe. In the Anglo saxon jurisprudence, this principle is formerly based on a maxim of Roman jurisprudence “*interest reipublicae ut sit finis litium*” (it concerns the state that there should be an end to law suits) and partly on the maxim “*nemo debet bis vexari pro una at eadem cause*” (no man should be vexed twice over for the same cause). The Act 8 of 1859 provided the principle of the res judicata in Section 2 which read as under:

“The civil court shall not take cognizance of any suit brought on or cause of action which shall have been heard and determined by a court of competent jurisdiction in a former suit between the same parties, or between parties under whom they claim.”

181. The principle of res judicata was inserted vide Section 2 of C.P.C., i.e., Act 8 of 1859. This provision came to be considered before Privy Council in **Soorjomonee Dayee vs. Suddanund Mahapatter (1873) 12 BLR 304, 315 (P.C.)**. Judicial Committee said “*We are of the opinion that Section 2 of the Code of 1859 would by no means prevent operation of the general law relating to res judicata founded on the principle “nemo debet bis vexari pro eadem causa”.*

182. The principle of res judicata has been discussed very elaborately by a full bench of Lahore High Court in **Mussammat Lachhmi vs. Mussammat Bhulli, 1927 ILR (VIII) 384**, and the relevant extract thereof is as under:

“In the mitakshra (Book II, Chap. I, Section V, verse 5) one of the four kinds of effective answers to a suit is “a plea by former judgment” and in verse 10, Katyayana is quoted as laying down that

“one against whom a judgment had formerly been given, if he bring forward the matter again, must be answered by a plea of Purva Nyaya or former judgment” (Macnaughten and Colebrooke’s translation page 22). The doctrine, however, seems to have been recognized much earlier in Hindu Jurisprudence, judging from the fact that both the Smriti Chandrika (Mysore Edition, pages 9798) and the Virmitrodaya (Vidya Sagar Edition, page 77) base the defence of Prang Nyaya (=former decision) on the following text of the ancient lawgiver Harita, who is believed by some Orientalists to have flourished in the 9th Century B.C. and whose Smriti is now extant only in fragments :-

“The plaintiff should be non-suited if the defendants avers; ‘In this very affair, there was litigation between him and myself previously,’ and it is found that the plaintiff had lost his case”.

There are texts of Parsara (Bengal Asiatic Society Edition, page 56) and of the Mayukha (Kane’s Edition, page 15) to the same effect.

Among Muhammadan lawgivers similar effect was given to the plea of “Niza-I-munfasla” or “Amar Mania Taqrir Mukhalif.” Under Roman Law, as administered by the Proetors’ Courts, a defendant could repel the plaintiff’s claim by means of “exceptio rei judicata” or plea of former judgment. The subject received considerable attention at the hands of Roman jurists and as stated in Roby’s Roman Private Law (Vol. II, page 338) the general principle recognized was that “one suit and one decision was enough for any single dispute” and that “a matter once brought to trial should not be tried except, of course, by way of appeal”.

The spirit of the doctrine is succinctly expressed in the well known maxim “Nemo debet bis vexari pro eadem causa” (no one shall be twice vexed for the same cause). At times the rule worked harshly on individuals (E.g., when the former decision was obviously erroneous) but its working was justified on the great principle of public policy “Interest rei publicae sit finis litium” (it is for the public good that there be an end of litigation).

In some of these ancient systems, however, the operation of the rule was confined to cases in which the plaintiff put forward his claim to “the same subject matter with regard to which his request had already been determined by a competent Court and had passed into judgment”. In other words, it was what is described as the plea of “estoppel by judgment” or “estoppel by record”, which was recognized and given effect to. In several European continental countries even now the rule is still subject to these qualifications, e.g., in the Civil Code of France, it is said “The authority of the thing adjudged (chose jugée) has place only in regard to that which has constituted the object of a judgment. It is necessary that the thing demanded be the same; that the demand be founded upon the same cause; that it be between the same parties and found by and against them in the same capacity.”

In other countries, and notably in England, the doctrine has

developed and expanded, and the bar is applied in a subsequent action not only to cases where claim is laid to the same property but also to the same matter (or issue) as was directly and substantially in dispute in the former litigation. In other words, it is the identity of the issue, which has already been “necessarily tried” between the parties and on which a finding has been given before, and not the identity of the subject matter which attracts the operation of the rule. Put briefly the plea is not limited to “estoppel by judgment” (or record), but is also extended to what is described as “estoppel by verdict”. The earliest authoritative exposition of the law on the subject in England is by Chief Justice DeGrey in the *Duchess of Kingston Case* (1), which has formed the basis of all subsequent judicial pronouncements in England, America and other countries, the jural systems of which are based on or inspired by British Jurisprudence. In that case a number of propositions on the subject were laid down, the first of them being that “the judgment of a Court of concurrent jurisdiction, directly upon the point, is as a plea a bar, or as evidence conclusive, between the same parties upon the same matter, directly in question in another Court.”

In British India the rule of *res judicata* seems to have been first introduced by section 16 of the Bengal Regulation III of 1793, which prohibited the Zilla and City Courts 'from entertaining any cause, which form the production of a former decree of the record of the Court, shall appear to have been heard and determined by any judge or any superintendent of a Court having competent jurisdiction". The earliest legislative attempt at codification of the law on the subject was, however, made in 1859, when the first Civil Procedure Code was passed. Section 2 of the Code barred the cognizance by Courts of suits based on the same cause of action, which had been heard and determined before by Courts of competent jurisdiction. It will be seen that this was only a partial recognition of the English rule in so far as it embodied the principles relating to estoppel by judgment (or record) only and did not extend to estoppel by verdict. In 1877 when the Code was revised, the operation of the rule was extended in section 13 and the bar was no longer confined to the retrial of a dispute relating to the same cause of action but the prohibition equally applied against reagitating an issue, which had been heard and finally decided between the same parties in a former suit by a competent Court. The section has been amended and amplified twice again and has assumed its present form in section 11 of the Code of 1908, the principal amendments which have a bearing on the question before us, being (a) that the expression 'former suit" was defined as meaning a suit which has been first decided and not one which was first instituted, and (b) that the competence of a Court is not regulated by the course of appeal of the former suit but by its capacity to try the subsequent suit as an original Court.

But although the Indian Legislature has from 1859 onwards made several attempts to codify the law on the subject and the present section 11 is a largely modified and improved form of the original section 2 of Act VIII of 1859, it **must be borne in mind that the section as even now enacted, is not exhaustive of the law on the subject, and the general principles of *res judicata* apply**

to matters on which the section is silent and also govern proceedings to which the section does not in terms apply.”

183. In ***Krishna Behary Ray vs. Bunwari Lal Ray, (1875) 1 Cal. 144 (146)***, Privy Council while construing the expression “cause of action” held that it cannot be interpreted in its literal and restricted sense. If a material **issue had been tried and determined between the same parties by a competent court, the same cannot be re-agitated again by the parties in a later suit who were also parties in the former suit.**

184. In ***Ram Kirpal vs. Rup Kuari (1883) ILR 6 (Alld.) 269 (P.C.)***, it was held that Section 13 of 1877 Act would not apply to execution proceedings but upon general principles of law the decision of a matter once decided in those proceedings was a bar to the same matter being re-agitated at a subsequent stage thereof.

185. Act 5 of 1908 contains the provision of res judicata under Section 11 which substantially is same as it was in Act 14 of 1882, but includes certain explanations clarifying some aspects of the matter considered to be necessary in the light of some judgments of different High Courts. It underwent some amendments (including insertion of Explanation VII and VIII) in 1976, but has withstood the test of time, more than a century. Section 11 of Act 5 of 1908, as it stands today, reads as under:

“11. Res judicata.- No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

*Explanation I-*The expression “former suit” shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

*Explanation II.-*For the purposes of this section, the competence of a

Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

*Explanation III-The **matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.***

Explanation IV-Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V- Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

Explanation VI- Where persons litigate bona fide in respect of public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

Explanation VII- The provisions of this section shall apply to a proceeding for the execution of a decree and reference in this section to any suit, issue or former suit shall be construed as references, respectively, to proceedings for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

*Explanation VIII- **An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in as subsequent suit,** notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.”*

186. The application of principle of res judicata is based on public policy and in the interest of the State as well. However, we would like to clarify here itself that it may not be understood that the principle of res judicata is confined to Section 11 of the Act 5 of 1908. The principle of *res-judicata* was well recognized in the ancient legal systems also and it has consistently been held as not limited to the specific words of the Code for its application.

187. One of the oldest cases which considered doctrine of res judicata vide Section 11, CPC, 1908 is ***Sheoparsan Singh and others vs. Ramnandan Prasad 43 IA 91(PC)= 20 C.W.N. 738 (P.C.)*** wherein their

Lordships reminded the dictum in the words of Lord Coke in ***Priddle vs. Napper*** 6 Coke IA 1777 which said “*Interest reipublicae ut sit finis litium*”, otherwise great oppression might be done under colour and pretence of law. (See also ***Commissioner of Central Excise vs. Shree Baidyanath Ayurved Bhawan Ltd.*** JT 2009 (6) SC 29).

188. The statement of law as propounded in ***Sheoparsan Singh (supra)*** has been approved in ***Iftikhar Ahmed vs. Syed Meharban Ali*** 1974 (2) SCC 151.

189. In ***Hook vs. Administrator General of Bengal*** 1921 (ILR) 48 (Cal.) 499 (P.C.), it was said that Section 11 of the Code is not exhaustive of the circumstances in which an issue is res judicata. Even though the Section may not apply, the plea of res-judicata still would remain operative apart from the limited provisions of the Code and would bar a subsequent suit on the same issue unless is shown to be inapplicable by the defendants referring to pleading, parties and cause of action etc. It was reaffirmed by Lord Buckmaster in ***T.B. Ramachandra Rao and another vs. A.N.S. Ramchandra Rao and others***, AIR 1922 PC 80 wherein the remarks were “*that the principle which prevents the same case being twice litigated is of general application, and is not limited by the specific words of the Code in this respect.*”

190. In ***Kalipada De vs. Dwijapada Das***, AIR 1930 PC 22, Privy Council held “the question as to what is considered to be res judicata is dealt with by Section 11 of CPC 1908. In that section many examples and circumstances in which the rule concerning res judicata applies are given; but it has often been explained by this Board that the terms of Section 11 are not to be regarded as exhaustive”.

191. The plea of res judicata is an inhibition against the Court and a finding in favour of a party on the plea of res judicata would oust the jurisdiction of the Court to try the subsequent suit or the suit in which such issue has been raised, which has been heard and finally decided in the former suit (see ***Pandurang Dhondi Chougule vs. Maruti Hari Jadhav* AIR 1966 SC 153**).

192. In ***Gulam Abbas vs. State of U.P.* AIR 1981 SC 2199**, it was held that Section 11 is not exhaustive of the general doctrine of res judicata. Though the rule of res judicata as enacted in Section 11 has some technical aspects, the general doctrine is founded on consideration of high public policy to achieve two objectives namely that there must be a finality to litigation and that individuals should not be harassed twice over the same kind of litigation.

193. It is thus clear that principle of res judicata is based on sound policy and not an arbitrary one. Henry Campell Black in his Treatise “for law of judgments” 2nd Edition Vol. I, para 242 has observed, “*Where the court has jurisdiction of the parties and the subject matter in the particular case, its judgment unless reversed or annulled or impeachment by parties or privies, in any collateral action or proceeding whatever the Doctrine of this Court, and of all the courts of this country, is formerly established, that if the court in which the proceedings took place had jurisdiction to render the judgment which it did no error in its proceedings which did not affect the jurisdiction will render the proceedings void, nor can such errors be considered when the judgment is brought collaterally into question one. This principle is not merely an arbitrary rule or law but it is a doctrine which is founded upon reason and the soundest principle of public policy*”.

194. In **Jenkins vs. Robertson, (1867) LRIHL 117**, Lord Romily observed “*res judicata by its very words means a matter upon which the court has exercised its judicial mind and has come to the conclusion that one side is right and has pronounced a decision accordingly. In my opinion res judicata signifies that the court has after argument and considerations come to a decision on a contested matter*”.

195. In Corpus Juris, Vol. 34, it is said that it is a rule of universal law providing every regulated system of jurisprudence and is put upon two grounds embodied in various maxims of common law, the one of public policy and necessity which makes it to the interest of the state that there should be an end of litigation, and, the other, hardship on the individual that he should not be vexed twice for the same cause.

196. In **Smt. Raj Lakshmi Dasi and others vs. Banamali Sen and others AIR 1953 SC 33**, Court remarked “*When a plea of res judicata is founded on general principles of law, all that is necessary to establish is that the Court that heard and decided the former case was a Court of competent jurisdiction. It does not seem necessary in such cases to further prove that it has jurisdiction to hear the later suit. A plea of res judicata on general principle can be successfully taken in respect of judgments of Courts of exclusive jurisdiction, like revenue Courts, land acquisition Courts, administration Courts, etc. It is obvious that these Courts are not entitled to try a regular suit and they only exercise special jurisdiction conferred on them by the statute*”.

197. In **Lal Chand vs. Radha Kishan, AIR 1977 SC 789=1977(2) SCC 88** the Court reiterated, “*the principle of res judicata is conceived in the larger public interest which requires that all the litigation must sooner than*

later come to an end. The principle is also founded on equity, justice and good conscious which require that a party which has once succeeded on an issue should not be permitted to be harassed by a multiplicity of proceedings involving the same issue”.

198. In ***K. Ethirajan vs. Lakshmi and others, AIR 2003 SC 4295***, the Court referring to para 26 of its earlier judgement in ***Hope Plantations Ltd. vs. Taluk Land Board, Peermade, JT, (1998) 7 SC 404***, held, that, rule of res judicata prevents the parties to a judicial determination from litigating the same question over again. Where the proceedings have attained finality, parties are bound by the judgement and cannot litigate again on the same cause of action.

199. In ***Sulochana Amma vs. Narayanan Nair, AIR 1994 SC 152***, the scope of Section 11 CPC was considered and it was said that Section 11 does not create any right or interest in the property but merely operates as a bar to try the same issue once over. It **aims to prevent multiplicity of proceedings and accords finality to an issue which directly and substantially has arisen in the former suit between the same parties or their privies, decided and became final so that parties are not vexed twice over**; vexatious litigation would be put to an end and the valuable time of the Court is saved. The above judgement also clarifies Explanation VIII that the decree of a Court of limited jurisdiction would also operates as res judicata in the subsequent suit though the subsequent suit was not triable by that Court.

200. In ***Swamy Atmananda and Ors. vs. Sri Ramakrishna Tapovanam and Ors., (2005) 10 SCC 51***, it was said, that principle of res judicate is to uphold the rule of conclusiveness of judgment, as to the

points decided earlier of fact, or of law, or of fact and law, in every subsequent suit between the same parties. **Once the matter which was the subject matter of lis stood determined by a competent court, no party thereafter can be permitted to reopen it in a subsequent litigation.** Such a rule was brought into the statute book with a view to bring the litigation to an end so that the other side may not be put to harassment. Recently, the above view is reiterated in ***Brij Narain Singh vs. Adya Prasad, JT 2008 (3) SC 1.***

201. In ***Ramchandra Dagdu Sonavane (Dead) by L.Rs. and Others vs. Vithu Hira Mahar (Dead) by LRs. and Others, (2009) 10 SCC 273,*** Court observed that well known doctrine of res judicata is codified in Section 11 of C.P.C. It generally comes into play in relation to civil suits.

202. Apart from the codified law, the doctrine of res judicata or the principle of the res judicata has been applied since long in various other kinds of proceedings and situations by courts in England, India and other countries. The rule of constructive res judicata is engrafted in Explanation IV of Section 11 C.P.C. and in many other situations also principles not only of direct res judicata but of constructive res judicata are also applied, if by any judgment or order any matter in issue has been directly and explicitly decided, the decision operates as res judicata and bars the trial of an identical issue in a subsequent proceeding between the same parties. The principle of res judicata comes into play when by judgment and order a decision of a particular issue is implicit in it, that is, it must be deemed to have been necessarily decided by implications even then the principle of res judicata on that issue is directly applicable. When any matter which might and ought to have been made a ground of defence or attack in a

former proceeding but was not so made, then such a matter in the eye of law, to avoid multiplicity of litigation and to bring about finality in it, is deemed to have been constructively in issue and, therefore, is taken as decided.

203. The doctrine of res judicata has been extended to public interest litigation also in ***State of Karnataka and another vs. All India Manufacturers Organization and others, (2006) 4 SCC 683*** and the Court has said:

*“As a matter of fact, in a public interest litigation, the petitioner is not agitating his individual rights but represents the public at large. Hence the litigation is bonafide, **a judgement in previous public interest litigation would be a judgement in rem. It binds the public at large and bars any member of the public from coming forward before the court and raising any connected issue or an issue, which had been raised should have been raised on an earlier occasion by way of public interest litigation.**”*

(Emphasis added)

204. In ***Mathura Prasad Sarjoo Jaiswal and others vs. Dossibai, AIR 1971 SC 2355***, Court clarified that the doctrine of res judicata is in the domain of procedure and cannot be exalted to the status of a legislative direction between the parties so as to determine the question relating to interpretation of the enactment affecting the jurisdiction of the Court finally between them even though no question of fact or mixed question of law and fact and relating to the right in issue between the parties once determined thereby. It also said that **a decision of a competent Court on a matter in issue may be res judicata in another proceeding between the same parties**; the “matter in issue” may be an issue of fact, an issue of law or one of mixed law and fact. *However, the Court said that the previous decision on a matter in issue alone is res judicata; the reasons for the decision are not res judicata, and said as under:*

*“The previous decision on a **matter in issue alone is res judicata**; the reasons for the decision are not res judicata.”*

205. Another aspect as to when the rule of res judicata would not be attracted has been dealt with in detail in para 10 of the judgment in **Mathura Prasad Serjoo Jaiswal (supra)** which reads as under:

*“A mixed question of law and fact determined in the earlier, proceeding between the same parties may not, for the same reason, be questioned in a subsequent proceeding between the same parties. But **where the decision is on a question law, i.e. the interpretation of a statute, it will be res judicata in a subsequent proceeding between the same parties where the cause of action is the same, for the expression “the matter in issue” in S. 11, Code of Civil Procedure, means the right litigated between the parties, i.e. the facts on which the right is claimed or denied and the law applicable to the determination of that issue.** Where, however, the question is one purely of law and it relates to the jurisdiction of the Court or a decision of the Court sanctioning something which is illegal, by resort to the rule of res judicata a party affected by the decision will not be precluded from challenging the validity of the order under the rule of res judicata, **for a rule of procedure cannot supersede the law of the land.**”*

(Emphasis added)

206. In other words, what we could discern from the above authorities is that the res judicata is a fundamental principle in a legal system to set at rest a dispute once settled so as not to trouble the parties again and again on the same matter. It operates on the principle that a question must be once fairly and finally tried by a competent Court and, thereafter, further litigation about it between the same parties must be deemed to have concluded and should not be allowed to be re-agitated. The maxim to be attracted is *“no one shall be vexed twice over the same matter”*. [See **Commissioner of Central Excise vs. Shree Baidyanath Ayurved Bhawan Ltd. (supra)**].

207. It is not that every matter decided in a former suit can be pleaded as res judicata in a subsequent suit. To attract the plea of res-judicata, the conditions precedent, which need be proved, are:

- (i) The **matter directly and substantially in issue** in the subsequent suit must be the same matter, which was directly and substantially in issue, either actually or constructively, in the former suit.
- (ii) The former suit must have the same parties or the parties under whom they or any of them claims.
- (iii) The parties must have litigated under the same title in the former suit.
- (iv) The Court, which decided the former suit must have been a Court competent to try the subsequent suit or the suit in which such issue has been subsequently raised.
- (v) The **matter directly and substantially in issue in the subsequent suit must have been heard and finally decided by the Court in the first suit.**

208. A constitution bench of Supreme Court in **Civil Appeal No. 10866-10867 of 2010, M. Siddiq (D) Thr Lrs v. Mahant Suresh Das & Others, decided on 09.11.2019, (ayodhya verdict)** has said that applicability of Section 11 is premised on certain governing principles which are:

- (i) *The matter directly and substantially in issue in the suit should have been directly and substantially in issue in a former suit;*
- (ii) *The former suit should be either between the same parties as in the latter suit or between parties under whom they or any of them claim litigating under the same title;*
- (iii) *The court which decided the former suit should have been competent to try the subsequent suit or the suit in which the issue has been subsequently raised; and*
- (iv) ***The issue should have been heard and finally decided by the court in the former suit.***

209. In certain cases, the applicability of res judicata qua the aforementioned conditions precedent came to be considered with certain different angles, which may be useful to be referred hereat.

210. One such aspect came to be considered by Privy Council in ***Midnapur Zamindary Co. Ltd. vs. Kumar Naresh Narayan Roy and others, AIR 1924 P.C. 144.*** The plaintiff excluded certain question by the statement of his pleader and, therefore, the trial court did not decide the issue. In the first appeal the defendant urged that the Trial Judge was wrong in not deciding this question even though his action was based on the plaintiff's advisor's statement and the defendant asked the first appellate court expressly to decide the question. The court did so. The question was whether it can be argued that the point decided was not raised and, therefore, the court did not consider it to be a necessary issue. On the contrary, when the first appellate court decided the issue and the same became final, it would operate as res judicata to the subsequent suit involving the same issue.

211. Another angle of the above aspect came to be considered by the Privy Council in ***Prem Narain vs. Ram Charan and others, AIR 1932 P.C. 51*** where though the point was not properly raised in the plaint but both parties without protest chose to join issue upon that point and it was held that the decision on the point would operate as res judicata between the parties.

212. In ***Jagdeo Misir vs. Mahabir Tewari, AIR 1927 All. 803,*** a Division Bench held:

“We think that those two cases are authorities for the proposition that if a party raised an issue, however improperly, in a case which is accepted by the other side and if the Court itself accepts the issue

to be one relevant to the enquiry and necessary for the determination of the case, and that issue is argued out by both parties and a judicial decision come to, it is not open subsequently for either of the parties or their successors in interest or the person claiming through them, to say that the issue does not constitute res judicata.”

213. In ***Dhan Singh vs. Jt. Director of Consolidation, U.P. Lucknow and others, AIR 1973 All. 283 (supra)***, Court also held that res judicata may apply even though the parties against whom it is sought to enforce did not enter appearance and contest question in the previous suit. But in such a case it has to be shown that such a party had notice that the relevant question was in issue and would have to be decided for which the burden lie on the person who pleaded bar of res judicata. For above propositions, Court followed and relied on ***Chandu Lal vs. Khalilur Rahman, AIR 1950 P.C. 17***.

214. Even if a judgement in a previous case is erroneous, it would be binding on the parties thereto and would operate as res judicata in subsequent case as held in ***Gorie Gouri Naidu (Minor) and another vs. Thandrothu Bodemma and others, AIR 1997 SC 808***.

215. In ***Jaswant Singh vs. Custodian of Evacuee Property, (1985) 3 SCC 648***, it was pointed out that the test is whether the claim in the subsequent suit or proceeding is in fact founded upon the same cause of action, which was the foundation of the former suit or the proceeding. The cause of action for a proceeding has no relation, whatsoever, to the defence, which may be set up, nor does it depend upon the character of the relief prayed for by the plaintiff or the applicant. It refers entirely to the grounds set forth in the plaint or the application, as the case may be, as the cause of action or in other words, to the media upon which the plaintiff or the applicant ask the Court to arrive at a conclusion in his favour.

216. One cannot understand whether res judicata will apply or not unless understand the import of words “suit”; “issue”; and, “directly and substantially in issue”.

217. The term “issue” has also not been defined in CPC. Whartons “Law Lexicon” says that “issue” means “the point in question at the conclusion of the pleading between the contending parties in an action, when one side affirms and the other side denies”. Order XIV of CPC deals with the settlement of “issues” and determination of suit on issues of law or on issues agreed upon. Rule 1 deals with the framing of issues as follows:

- (i) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.
- (ii) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.
- (iii) Every material proposition affirmed by one party and denied by the other, shall form the subject of a distinct issue.
- (iv) Issues are of two kinds.

(a) Issues of fact

(b) Issues of law.

218. Then comes as to what constitute “a matter directly and substantially in issue”. One of the tests recognized is, if the issue was necessary to be decided for adjudicating on the principal issue, and, was decided.

219. A collateral or incidental issue is one i.e., ancillary to a direct and substantive issue; the former is an auxiliary issue and the later the

principal issue. The expression collateral or incidental in issue implies that there is another matter which is directly and substantially in issue. (Mulla's C.P.C. 16th Edition, Vol. I, page 179).

220. The word “substantially” means “of importance and value”. When a matter is substantially in issue, when it is of importance and value for the decision of main proceeding. When parties go to a trial on a particular issue treating it as material and invites the Court to give a decision thereon, that will be an issue substantially and directly involved and would operate as res judicata. However, a mere expression of opinion on a question not in issue cannot operate as res judicata as held in **Ragho Prasad Gupta vs. Krishna Poddar, AIR 1969 SC 316.**

221. In **Sajjadanashin Sayed Md. B.E. Edr. (D) By LRS. vs. Musa Dadabhai Ummer and others, (2000) 3 SCC 350**, the term “directly and substantially in issue” qua the words “incidental and collateral” came up for consideration. The Edroos family in Gujarat claimed to be descendants of Hazarat Imam Ali, the son-in-law and cousin of Prophet Muhamed. One of the descendants of the said Hazrat came down to India in 1542 A.D. and founded his Gadi at Ahmedabad, Broach and Surat. The members of the Edroos family were Sajjadanashins or Mutavallis of the wakf throughout. The three Rozas at the three places as well as the villages which were granted - not only for the maintenance of these Rozas but also for the benefit of the Waquif's family, constituted the wakf. The holder was buried in the house and his Dargah is situated in this place. There is also a place for reciting prayers. In an earlier litigation in **Sayed Abdula Edrus vs. Sayad Zain Sayad Hasan Edrus, ILR (1889) 13 Bom. 555**, a Division Bench of the Bombay High Court, traced the history of the wakf

and held that the custom of primogeniture did not apply to the office of Sajjadanishin or Mutavalli of this wakf. In a later dispute in ***Saiyad Jaffar El Edroos vs. Saiyad Mahomed El Edroos, AIR 1937 Bom. 217*** another Division Bench held after construing the royal grants relating to the villages Umrao and Orma that the grants were primarily for the Rozas and Dargas and they clearly constituted “wakf” but that the Sajjadanashin or Mutavalli had, however, a right to the surplus income left over after discharge of the legal obligations regarding the wakf. It was thus held that the Sajjadanishin could provide for the needs of the indigent members of the family and this was a pious obligation which was only a moral obligation and not a legal obligation and hence the indigent members of the Edroos family, as a right, could not claim maintenance out of the surplus income. Thereafter, Regular Suit No. 201 of 1928 was filed by three plaintiffs under Section 92 C.P.C. impleading father of Sayed Mohamed Baquir-El-Edroos in 1928 after obtaining permission on 22.2.1928 from the Collector under Section 92 C.P.C. for filing the suit. The suit was dismissed on 6.10.1931, the first appeal was dismissed but cross objections were allowed on 21.11.1938 and the second appeal to the High Court was withdrawn. In the aforesaid suit, there were eight points whereof points no. 1 to 7 related to the validity of appointment of the defendant and the nature of the office and the right to the surplus etc. It was held that the appointment of defendant as Sajjadanashin was valid and that the grant of the property was both for the Rozas and for the maintenance, presumably of the Sajjadanashin and his family members. It was also held that the Sajjadanashin had complete power of disposal over the surplus as he was not in the position of an ordinary trustee. It was held that the Sajjadanashin had complete power of

disposal over the surplus, hence the plea of plaintiff's complaint about mis-utilization of the income by Sajjadanashin was rejected. Another issue was framed whether the waqf was a private or a public and it was held that it was a private waqf. The District Court held that from 1746 A.D. onwards, the Sajjadanashin were using the revenue of these villages for their own maintenance and that of the members of their family and other dependents. This finding was consistent with the judgment of the Bombay High Court in ***Saiyad Jaffar El Edroos (supra)*** wherein this was held permissible. The District Court in view of the fact that Sajjadanashin was from the family and not a stranger or outside held it a private waqf. Thereafter another matter came before the Gujrat High Court in relation to Ahmedabad Rozas wherein also a Single Judge of Bombay High Court in ***Alimiya vs. Sayed Mohd. AIR 1968 Guj. 257*** rejected a similar plea. This judgment was confirmed by the Division Bench in ***Sayed Mohd. vs. Alimiya (1972) 13 Guj.LR 285***. In the case before the Apex Court in respect to Rozas at all the three places, the Assistant Commissioner in enquiry no. 142 of 1967 passed an order dated 26.7.1968 accepting the preliminary objection of res judicata but the Joint Charity Commissioner, Gujrat in its order dated 17.12.1973, in appeal, did not accept the said plea which was pressed before him only in respect to the Rozas at Broach and Surat. He set aside the order of Assistant Commissioner and remanded the matter for enquiry. The Assistant Judge in Misc. Civil Application No. 32 of 1974 affirmed the order of Joint Commissioner on 3.9.1976 and it was further affirmed by a Division Bench of Gujrat High Court in First Appeal No. 985 of 1976 on 27.7.1985. Aggrieved by the aforesaid order, the appellant, Sajjadanashin Sayed took the matter to the Apex Court and raised the plea of res judicata

in respect to Rozas at Broach and Surat. It is in the light of the above facts, the Apex Court considered the matter. In order to see whether the principle of res judicata is attracted, the Apex Court framed an issue as to what is the meaning of “collaterally and incidentally in issue” as distinguished from “directly and substantially in issue”. In para 11, the Apex Court found that the matter collaterally and incidentally in issue are not ordinarily res judicata and this principle has been well accepted but certain exceptions to this principle have also been accepted. The Court also traced out the law on the subject in England, America, Australia and India. Referring to Halsbury’s Laws of England (Vol. 16, para 1538, 4th Edn.), the Court observed that the fundamental rule is that a judgment is not conclusive if any matter came collaterally in question or if any matter is incidentally cognizable. The said judgment attained finality since the second appeal filed in the High Court was withdrawn.

222. However, the concept of “constructive res judicata” is necessary to be dealt with in view of Explanation- IV Section 11 CPC. A Matter, which might and ought to have been made a ground of attack or defence is a, matter which is constructively in issue. The principle underlying Explanation- IV is res judicata not confined to issues which the Courts are actually asked to decide but cover issues or facts which are so clearly part of the subject matter of the litigation and so clearly could have been raised that it would be an abuse of the process of the Court to allow a new proceeding to be started in respect of them. (***State of U.P. vs. Nawab Hussain, AIR 1977 SC 1680***). The proposition of law expounded, as referred to above is also unexceptional. However, it would apply only where a plea was available at the time of the suit but not availed of.

223. But there is no question of constructive res judicata where there is no adjudication in the earlier proceedings (***Kewal Singh vs. Smt. Lajwanti (1980) 1 SCC 290***).

224. The effect of Explanation IV is where a matter has been constructively in issue, it could not from the very nature of the case be heard and decided but will be deemed to have been heard and decided against the parties omitting to allege it except when an admission by the defendant obviates a decision (***Sri Gopal vs. Pirthi Singh (1902) ILR 24 Alld. 429 (PC); Government of Province of Bombay vs. Peston Ji Ardeshir Wadia AIR 1949 PC 143***).

225. In ***Commissioner of Endowments and others vs. Vittal Rao and others, (2005) 4 SCC 120***, it was held that even though an issue was not formerly framed but if it was material and essential for the decision of the case in the earlier proceeding and **the issue has been decided**, it shall operate as res judicata in the subsequent case.

226. From the record of ***OA 388/2021 (supra)***, we also find that on the very first date when OA was listed before Tribunal for admission, it was disposed of and even notices were not issued to respondents. District Magistrate, Gurgaon was relegated with the direction to look into the matter and take remedial action. Tribunal did not adjudicate any question of law and fact in the matter. No issue was adjudicated. We may also place on record that challenging the order dated 07.01.2022 passed in ***OA 388/2021 (supra)***, the applicant filed ***Civil Appeal No. 3394/2023*** which was dismissed by Supreme Court vide order dated 04.05.2023 which reads as under:

“Delay condoned.

We find no ground to interfere with the impugned order passed by the National Green Tribunal. The civil appeal is, accordingly, dismissed.

Pending interlocutory application(s), if any, is/are disposed of.”

227. Applying the law of res judicata discussed above, we find that in **OA 388/2021 (supra)** though the reliefs claimed by the applicant was the same or similar as have been made in the present OA but since Tribunal was not bound by the procedure laid down by Central Pollution Control Board (hereinafter referred to as ‘**CPCB**’) and has power to regulate its own procedure, it thought it fit not to adjudicate any issues raised by the applicant in that matter and instead referred the matter to the local administration to look into the grievance and take remedial action, hence no issue has been adjudicated and decided by Tribunal and that being so, it cannot be said that the order in **OA 388/2021 (supra)** could operate as res judicata in the present case. Accordingly, **Issue II is answered against respondents and in favour of applicant.**

ISSUE III:

228. It is not disputed before us that in the records, khasra nos. 24 and 28, both were recorded as ‘johad’ i.e., water body. However, it is said that there was no water table on the land of khasra nos. 24 and 28 and the water, if any, was dried up when the development activities were carried out by HSVP. In the reply dated 12.12.2023, HSVP has placed on record Google imaginary of the year 2010-2021 to show that in khasra no. 28, there was no water during that period. These imageries show that at least when the land was acquired in 2003-2005, the land was filled with water and may have dried up subsequently after acquisition of land. However, the presence of water as such for the purpose of maintenance of water body is not relevant

in as much as once the land is recorded in revenue record as a “water body”, it has to be maintained as such throughout and its damage cannot be allowed.

229. Moreover, the conduct of HSVP to seek another land for creating new water bodies in place of the land of khasra nos. 24 and 28 also proves that the land in question comprised of water bodies i.e., “gair mumkin johad” and therefore, issue III is to be answered in affirmative holding that khasra nos. 24 and 28 were/are water bodies. **The issue III is answered in favour of applicant and against respondents.**

ISSUES IV, V, VI and VII:

230. The facts discussed above show that the land of water bodies of khasra no. 28 in substantial manner has been damaged by carving out several plots which have been allotted to the respective parties including respondents 10 to 20 and in some cases, even constructions have started.

231. Protection of a water body as a constitutional obligation is part of right of water, healthy environment etc. guaranteed under Article 21 of the Constitution. Recognising the importance of preservation of wetland and need to prevent encroachment on the wetland, Supreme Court in **Hinch Lal Tiwari vs. Kamla Devi & Ors. (supra)**, in para 13, said:

*“13. It is important to notice that the **material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public***

at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.”

232. Madras High Court also in the matter of **L. Krishnan vs. State of Tamil Nadu and Ors. in W.P. No. 20186/2000** reported in **Manu/TN/0660/2005**, has held:

“5. Since time immemorial ponds, tanks and lakes have been used by the people of our Country, particularly in rural areas, for collecting rain water for use for various purposes. Such ponds, tanks and lakes have thus been an essential part of the people's natural resources. However in recent years these have been illegally encroached upon in many places by unscrupulous persons who have made their constructions 6 thereon, or diverted them to other use. This has had an adverse effect on the lives of the people.”

233. Under Environment (Protection) Act, 1986 (hereinafter referred to as **‘EP Act, 1986’**), Central Government framed Wetlands (Conservation and Management) Rules 2010 (hereinafter referred to as **‘Wetlands Rules, 2010’**) for protection of wetland which have been substituted by Wetland (Conservation and Management) Rules, 2017 (hereinafter referred to as **‘Wetlands Rules, 2017’**). Wetlands Rules, 2017 have been framed by Central Government exercising the powers conferred by Section 25 read with sub-section 1 and clause (iv) of sub-section 2 and sub-section (1) of Section 3 and Section 23 of EP Act, 1986. Rule 2(g) of Wetlands Rules, 2017 defines “wetlands” as under:

“2(g)- “wetland” means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/ tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreating and irrigation purposes.”

234. The water bodies (gair-mumkin johod) under consideration in the present case are clearly covered within the meaning of ‘wetland’ as given

above. Rule 4 of Wetlands Rules, 2017 specify the prohibited activities within the wetland and it does not permit conversion of wetland for non-wetland use including encroachment of any kind. Under Rule 5, State Wetland Authorities have been constituted. Sub-rule 4 of Rule 5 enumerates the powers and functions of “Wetland Authority” which include defining the strategies for conservation and wise use of wetland within their jurisdiction. For the effective implementation of the Wetlands Rules, 2017, Ministry of Environment, Forest and Climate Change (hereinafter referred to as ‘**MoEF&CC**’), Government of India has issued the Guidelines, which mention the importance of wetland and management planning for the wetland as under:

“67. Wetlands are one of the most embedded and interlinked ecosystems with human livelihoods and well-being. A balanced management approach, addressing biodiversity conservation values while providing for sustainable utilisation in a way compatible with the maintenance of natural properties of the ecosystem, needs to be adopted for these ecosystems. It is, therefore, recommended that management of each notified wetland (is guided by an “Integrated Management Plan”. The plan refers to a document which describes strategies and actions for achieving ‘wise use’ of the wetland and includes objectives of site management; management actions required to achieve the objectives; factors that affect, or may affect, various site features; monitoring requirements for detecting changes in ecological character and for measuring the effectiveness of management; and resources for management implementation. Besides identifying resources, a management plan serves several important functions including generating baseline information, communication with stakeholders and ensuring compliance with regulatory frameworks and policy commitments.

68. While it is recognized that each wetland has its own distinctive ecological and hydrological features and thereby distinctive management needs, the following broad planning principles need to be kept in mind while formulating integrated management plans:

- Integrated planning: Aquatic and terrestrial ecosystems are intimately linked by the process of the water flowing through them. Every land use decision has a consequence on water availability. Delineating a basin or a coastal zone enables demarcation of a distinct hydrological unit which is the natural integration of all hydrological processes within its boundary and therefore an ideal and rational unit for soil, water and bio-resources conservation and management. Thus, management*

planning for wetlands should not be restricted to a defined administrative boundary, but rather take into account wider planning and management context of the basin or coastal zone within which the site is located.

The process of development and implementation of management plans for wetlands often needs to be accompanied by governance improvements at basin and coastal zone level. Such an approach underpins Integrated Lake Basin Management framework that calls for achieving ‘sustainable management of wetlands through gradual, continuous and holistic improvement of basin governance, including sustained efforts for integration of institutional responsibilities, policy directions, stakeholder participation, scientific and traditional knowledge, technological possibilities, and funding prospects and constraints.

Achieving close relationship between planning and governance is critical, considering multiple stakeholder and sectoral interests which underlie and, to a large extent, structure wetland biodiversity and ecosystem service values, and the need to secure people’s involvement and participation in basin-scale management for considerably long periods of time.

Reflection upon the following six pillars of basin-scale governance may thus be useful:

Institutions: Development of effective organisations and governance frameworks

- Policies: Setting broad directions and specific rules*
 - Participation: Expanding the circle of involvement*
 - Technology: Possibilities and limitations*
 - Information: Pursuing sources of knowledge and wisdom, and*
 - Finance: Seeking sustainable sources at the appropriate level*
-
- **Use of diagnostic approaches for defining management approach and actions:** Given the uniqueness associated with each wetland, it is important that ‘one size fit all’ approach is replaced with a diagnostic approach, wherein the ecological, hydrological, socioeconomic and institutional features are comprehensively assessed and trends therein determined to be able to spell out management objectives and actions clearly.*
 - **Adaptable management:** Wetlands are influenced by a range of drivers and pressures that act at multiple spatial, temporal and political scales. Their management plan, therefore, needs to be accommodative of uncertainties and challenges. This can be achieved by using an adaptable management approach that allows for suitable modification of management based on continuous site monitoring and assessment of new information.*

- **Stakeholder participation:** *The condition of any wetland is an outcome of actions by a range of stakeholders, which are linked to the ecosystem in a number of ways. Management planning, therefore, needs to recognise these linkages, and build a mechanism for participation of stakeholders in design, review and implementation processes.*
- **Governance:** *Being located at the interface of land and water, wetlands are influenced by a range of developmental activities that take place within their direct and indirect basins and coastal zones. Institutional arrangements for managing wetlands need to be such that they are capable of integrating activities across multiple sectors (such as agriculture, water resources, forests, rural development, urban development, forests and wildlife and others), and balancing the needs of a group of diverse stakeholders while ensuring that ecological integrity of these fragile ecosystems is not adversely affected. In the above context, association of entities or individuals as ‘Wetland Mitras’ can encourage stakeholder participation and overall governance.”*

235. It is pointed out on behalf of respondents that Wetland Rules, 2017 are applicable to notified wetlands but we find that Supreme Court in **Writ Petition (C) No. 230/2001, M.K. Balakrishnan & Ors. vs. Union of India & Ors.** vide order dated 04.10.2017 directed as under:

*“We make it clear and reiterated that in terms of our order dated 8th February, 2017, 2,01,503 **wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010.**”*

236. This order was communicated to all the States and Union Territories by the MoEF&CC in November 2017 and again it was reiterated vide Office Memorandum dated 08.03.2022 which reads as under:

“Subject: Protection of Wetlands as per Rule 4 of the Wetlands (Conservation and Management) Rules, 2017

The Hon’ble Supreme Court vide Order dated 4th October, 2017 in W.P. (C) No.230 of 2001 has inter-alia, directed that, “We make it clear and reiterated that in terms of our order dated 8th February, 2017, 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and

Management) Rules, 2010.”

2. The same has been communicated by this Ministry to all the States and UTs in November, 2017. Hon’ble NGT has also reiterated the same in various recent cases.

3. In view of above, it is once again clarified/reiterated that the 2,01,503 wetlands (>2.25 ha) as per the National wetland Inventory and Assessment (NWIA), 2011 should be protected as per Rule 4 of the Wetland (Conservation and Management) Rules, 2017. This protection is irrespective of the applicability of/notification as per the said Rules.”

237. Irrespective of the fact whether Wetlands Rules, 2017 are applicable or not but once it is accepted that khasra nos. 24 and 28 which have been questioned in this OA are recorded as “pond” (gair-mumkin johad) in revenue records, hence, it cannot be doubted that the same ought to have been maintained as it is, in view of the directions given by Supreme Court in ***Hinch Lal Tiwari vs. Kamla Devi & Ors. (supra)***.

238. Supreme Court in the matter of ***Jagpal Singh & Ors. vs. State of Punjab & Ors., (2011) 11 SCC 396*** has underscored the importance of water bodies and made following observations:

*“13. We find no merit in this appeal. The Appellants herein were trespassers who illegally encroached on to the Gram Panchayat land by using muscle power/money power and in collusion with the officials and even with the Gram Panchayat. We are of the opinion that such kind of blatant illegalities must not be condoned. Even if the Appellants have built houses on the land in question they must be ordered to remove their constructions, and possession of the land in question must be handed back to the Gram Panchayat. Regularizing such illegalities must not be permitted because it is Gram Sabha land which must be kept for the common use of villagers of the village. The **letter dated 26.9.2007 of the Government of Punjab permitting regularization of possession of these unauthorized occupants is not valid. We are of the opinion that such letters are wholly illegal and without jurisdiction. In our opinion such illegalities cannot be regularized. We cannot allow the common interest of the villagers to suffer merely because the unauthorized occupation has subsisted for many years.***

xxx.....xxx.....xxx

19. In this connection we wish to say that our ancestors were not fools. They knew that in certain years there may be droughts or water shortages for some other reason, and water was also required for cattle to drink and bathe in etc. Hence they built a pond attached to every village, a tank attached to every temple, etc. These were their traditional rain water harvesting methods, which served them for thousands of years.

20. **Over the last few decades, however, most of these ponds in our country have been filled with earth built upon by greedy people, thus destroying their original character. This has contributed to the water shortages in the country. Also, many ponds are auctioned off at throw away prices to businessmen for fisheries in collusion with authorities/Gram Panchayat officials, and even this money collected from these so called auctions are not used for the common benefit of the villagers but misappropriated by certain individuals. The time has come when these malpractices must stop.**

xxx.....xxx.....xxx

23. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. **Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.”**

239. During the course of the arguments, HSVP pointed out that since the land of khasra no. 28 has been allotted/assigned to various parties

who have further proceeded towards construction of their residential accommodation, therefore, HSVP has requested State Government to make available another land for making/constructing a new water body in place of water bodies in khasra nos. 24 and 28.

240. Learned Counsel for the applicant contended that it is incumbent upon the respondents to restore the land in question in its original status of pond (gair-mumkin johad) and if any construction has been raised, the same must be directed to be removed.

241. Ordinarily what has been contended by the Counsel for the applicant is indisputable. In a case of damage to a pond, a direction should be issued for restoration thereof.

242. In the present case, we find some more relevant facts which have direct impact upon such kind of direction. It is evident from record that so far as khasra no. 24 is concerned, no development has been carried out thereon as stated by HSVP and there are some old religious constructions standing on the land.

243. However, so far as khasra no. 28 is concerned, it is evident from record that dried land was on the site since long and after acquisition, large scale of developmental activities have been carried out thereon; the roads have been constructed; sewer lines etc. have been laid down; electricity lines have been installed; and several plots have been carved out on the land in question and 17 such plots have been allocated to different persons. Out of 17, only 11 are parties before us i.e., respondents 10 to 20 and remaining are not before us. The possession of the land was handed over to the allottees in 2022-2023 and in 09 cases, building plan had also been

sanctioned. Any direction for restoration of the land of khasra no. 28 in its original status, is bound to affect adversely even those allottees who are not parties in the present proceedings and have no opportunity to defend themselves. The order against their interest would be *ex-facie* in violation of principle of natural justice which this Tribunal would not like to follow since repeatedly it has been held by Supreme Court that this Tribunal must not pass any order adverse to the interest of any party unless it is given any opportunity of hearing and compliance of principles of natural justice is duly observed.

244. Moreover, applicant knew that the plots have been allotted to 17 persons but it made no efforts to implead all the allottees as respondents in the present case.

245. We are also of the view that due to the developmental activities carried out on khasra no. 28 in the past several years and also the allotment of plots and progress made therein by approval of building plan and raising of some construction in some of the plots, it will be difficult to recreate the same *flora-fauna* in the said area as it was and, therefore, the restoration of khasra no. 28 from the stage as it is today may not give the same result as is normally required when a pond status is restored and remediated to its original position.

246. Taking into consideration the entire development, HSVP has requested the Government of Haryana to make available land for creation of new ponds of the same size as was the status in respect of khasra nos. 24 and 28 and it is in process.

247. Considering the entire aspects as discussed above, so far as khasra no. 24 is concerned, respondent should be directed to maintain its status as a 'pond' as it was at the time of acquisition and as recorded in the revenue record. So far as khasra no. 28 is concerned, in the interest of justice, in place of disturbing the parties' interest in khasra no. 28, we may direct HSVP to construct another water body in an area similar to that of khasra no. 28 within a period of 06 months and for this purpose, State of Haryana be also directed to take steps for compliance of the above directions by HSVP by making the appropriate land available to HSVP in accordance with law.

APPLICATION OF 'POLLUTER PAYS' PRINCIPLE:

248. The liberty which we may grant to HSVP in respect to khasra no. 28 however will not mitigate the liberty to HSVP in causing damage to the pond at khasra nos. 24 and 28 and, therefore, by application of principle of 'Polluter Pays', it is liable to pay environmental compensation.

249. It was open to HSVP to protect the water bodies at khasra nos. 24 and 28 by leaving the land as it is but instead, it proceeded to damage the water bodies by carving out the plots, allotting the same to respective allottees, including respondents 10 to 20 and also permitting to some of them to raise constructions over the land of the water bodies. The mere fact that the land was acquired by HSVP does not mean that it got a license to damage the water bodies. Ownership of the land may have been transferred to State due to acquisition of land and possession thereof was transferred to HSVP but these activities on their own did not make it obligatory on HSVP to damage the land of water bodies and it could have well protected the same by leaving the land as it was at the time of acquisition. However, the activities of HSVP have caused damage to water bodies and thereby, the environment has been

damaged by affecting *flora-fauna* and other ecological and hydrological features present on a land of water body.

250. It is now well settled that if a person has caused damage to environment, it is liable to incur liability of restoration of the environment by application of 'Polluter Pays' principle which has been held to be an integral part of law of environmental jurisprudence.

251. When environment is damaged on account of act of anyone, on account of illegal activities which are in violation of environmental laws and norms, such violator is liable to share the cost which may be incurred for remediation and rejuvenation of damaged environment. Supreme Court on this aspect has categorically said that the violator is liable to share cost which may be required for remediation of environment which is damaged on account of illegal activity of such violator. For this purpose, Supreme Court has recognized the principle of 'Polluter Pays'.

252. In **Vellore Citizens Welfare Forum vs. Union of India & Others (1996) 5 SCC 647**, Court held "*In view of the Constitutional and Statutory Provisions---*, ***“Precautionary” Principle and “Polluter Pays” Principle are part of the Environmental Laws of our country”***.

253. Explaining “Precautionary” principle, Court said that it includes (i) environmental issues-by State Government and statutory bodies-must anticipate, prevent and attempt causes of environmental degradation (ii) where there are threats of serious and irreversible damage, lack of full scientific certainty should not be used as a reason for proposing cost effective measures to prevent environmental degradation (iii) the **‘onus of**

proofs' is on the actor or the developer/industrialist to show that the action is environmentally benign.

254. "Polluter Pays" principle was interpreted stating that absolute liability for harm to environment extends not only to compensate victim of pollution but also the cost of restoring environmental degradation. Environmental protection and prevention of pollution is primarily function of executive but unfortunately, they have failed.

255. In ***Tarun Bharat Sangh, Alwar vs. Union of India, AIR 1992 SC 514***, issue of mines licenses granted in Rajasthan for mining limestone or dolomite stone in Sariska Tiger Park was considered. Court issued various directions for protection of the area. It also observed **that a litigation relating to environment initiated by a common person, individually or collectively, should not be treated as usual adversarial litigation.** The person(s) is concerned for environment, ecology and wildlife and it should be shared by government also.

256. In ***Virendra Gaur vs. State of Haryana, (1995) 2 SCC 577***, Court said that Government had no power to sanction lease of land vested in municipality for being used as open space for public use. The **word 'environment' is of broad spectrum which brings within its ambit "hygienic atmosphere and ecological balance"**. It is duty of State and every individual to maintain hygienic environment. State in particular has duty to shed its extravagant unguided sovereign power and to forge in its policy to maintain ecological balance in hygienic environment. Court further said:

*"Enjoyment of life and its attainment including their **right to life** with human dignity encompasses within its ambit, **the protection and***

preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed, any contra acts or actions would cause environmental pollution. Environmental, ecological, air, water pollution etc. should be regarded as amounting to violation of Article 21.

257. Court also held that hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a human and healthy environment. Court further said,

“Therefore, there is a constitutional imperative on the State Government and the Municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve both the manmade and the natural environment.”

258. This Principle was recognized as part of environmental law in India in ***Indian Council for Enviro-Legal Action vs. Union of India, (1996) 3 SCC 212***. Certain industries producing assets were dumping their waste. Even untreated waste water was allowed to flow freely polluting atmosphere and sub-terrain supply of water which ultimately caused darkening and dirtiness of wells and the streams water rendering it unfit for human consumption. Certain environmentalists’ organizations broadly alleging severe damage to villager’s health, filed a Writ petition as PIL in 1989 before Supreme Court. By that time, some of the units were already closed. Referring to Article 48-A in Directive Principles of State Policy and 51-A in the Fundamental duties of citizens, Supreme Court observed that said provisions say that State shall endeavour to protect and improve environment and to safeguard the forest and wildlife of the country. One of the fundamental duties of citizens is to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creature. Where a **Proponent has established its commercial unit and operate contrary to law flouting norms provided**

by law, Statutory Regulator is bound to act and if it fails, a judicial forum can direct it to act in accordance with law.

259. Referring to Oleum Gas leak case, i.e., ***M.C. Mehta vs. Union of India, (1987) 1 SCC 395***, Court observed in para 58 that the constitution bench held that **enterprise must be held strictly liable for causing such harm as a part of social cost of carrying on the hazardous or inherently dangerous activity**. Hazardous or inherently harmful activities for private profits can be tolerated only on the condition that the enterprise engaged in such hazardous or inherently dangerous activity indemnifies all those who suffer on account of carrying on of such hazardous or inherently dangerous activity, regardless of whether it is carried on carefully or not.

260. Court also referred to its earlier decision in ***Indian Council for Enviro Legal action vs. Union of India, (1995) 3 SCC 77***, wherein concerned Pollution Control Board identified about 22 industries responsible for causing pollution by discharge of their effluent and a direction was issued by Court observing that they were responsible to compensate the farmers. It was the duty of State Government to ensure that this amount was recovered from the industries and paid to the farmers. In para 67 of the judgment, Court said that the **question of liability of respondent units to defray the costs of remedial measures can also be looked into from another angle which has now come to be accepted universally as a sound principle**, for example, 'Polluter Pays' principle. On this aspect, Court further observed as under:

“67. ...The Polluter Pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the

pollution, or produce the goods which cause the pollution.

Under the principle it is not the role of government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer. The 'Polluter Pays' principle was promoted by the Organization for Economic Co-operation and Development (OECD) during the 1970s when there was great public interest in environmental issues. During this time there were demands on government and other institutions to introduce policies and mechanisms for the protection of the environment and the public from the threats posed by pollution in a modern industrialized society. Since then, there has been considerable discussion of the nature of the polluter pays principle, but the precise scope of the principle and its implications for those involved in past, or potentially polluting activities have never been satisfactory agreed.

*Despite the difficulties inherent in defining the principle, the European Community accepted it as a fundamental part of its strategy on environmental matters, and it has been one of the underlying principles of the four Community Action Programmes on the Environment. The current Fourth Action Programme ([1987] OJC 328/1) makes it clear that **the cost of preventing and eliminating nuisances must in principle be borne by the polluter**', and the polluter pays principle has now been incorporated into the European Community Treaty as part of the new Articles on the environment which were introduced by the Single European Act of 1986. Article 130-R(2) of the Treaty states that environmental considerations are to play a part in all the policies of the Community, and that action is to be based on three principles: the need for preventative action; the need for environmental damage to be rectified at source; and that the polluter should pay."*

261. Court further said that **according to the above principle of 'Polluter Pays', responsibility for repairing the damage is that of the offending industry.** Sections 3 and 5 of EP Act, 1986 empower Central Government to give directions and take measures for giving effect to this principle. Court further said:

"...In all the circumstances of the case, we think it appropriate that the task of determining the amount required for carrying out the remedial measures, its recovery/realisation and the task of undertaking the remedial measures is placed upon the Central Government in the light of the provisions of

the Environment [Protection] Act, 1986. It is, of course, open to the Central Government to take the help and assistance of State Government, R.P.C.B. or such other agency or authority, as they think fit.”

262. The above principle has been followed in **Vellore Citizen Welfare Forum vs. Union of India, 1996 (5) SCC 647**. In para 25, direction no. 2 reads as under:

*“2. The authority so constituted by the Central Government shall implement the “precautionary principle” and the “polluter pays” principle. The **authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.**”*

263. In **Bittu Sehgal and Another vs Union of India & Others, (2001) 9 SCC 181**, referring the earlier judgments, Supreme Court has said that ‘Precautionary Principle’ and ‘Polluter Pays Principle’ have been accepted as part of the law of the land.

264. In **Research Foundation for Science vs. Union of India & Ors., (2005) 13 SCC 186**, in para 26 and 29, Court, on ‘Polluter Pays’ Principle, has said as under:

*“26. The **liability of the importers to pay the amounts to be spent for destroying the goods in question cannot be doubted on applicability of precautionary principle and polluter-pays principle. These principles are part of the environmental law of India.** There is constitutional mandate to protect and improve the environment. In order to fulfill the constitutional mandate various legislations have been enacted with*

attempt to solve the problem of environmental degradation.

29. The polluter-pays principle basically means that the producer of goods or other items should be responsible for the cost of preventing or dealing with any pollution that the process causes. This includes environmental cost as well as direct cost to the people or property, it also covers cost incurred in avoiding pollution and not just those related to remedying any damage. It will include full environmental cost and not just those which are immediately tangible. The principle also does not mean that the polluter can pollute and pay for it. The nature and extent of cost and the circumstances in which the principle will apply may differ from case to case.”

265. In **Karnataka Industrial Areas Development Board vs. C. Kenchappa & Others, (2006) 6 SCC 371**, principle of ‘Polluter Pays’ has been explained in detail referring to the earlier judgments in **Indian Council for Enviro-Legal Action vs. Union of India (supra)** and **Vellore Citizen Welfare Forum (supra)**.

266. Even this Tribunal under Section 20 of NGT Act 2010 has been empowered to decide matters by applying the principle of ‘sustainable development’, ‘precautionary principle’ and principle of ‘Polluter Pays’. In this regard, no specific provision has been made in NGT Act, 2010 and the rules framed thereunder laying down the mode and manner the computation of environmental compensation. A general guideline is given that environmental compensation can be assessed by this Tribunal by application of principle of ‘Polluter Pays’.

267. In view of the above discussion, we are of the view that by application of ‘Polluter Pays’ principle, HSVP is liable to pay environmental compensation.

268. In the reply dated 12.12.2023 filed by HSVP, the area of khasra no. 24 is said to be 17 kanal and 8 marlas i.e., 2.175 acres or 8801.91 square meter. In the same document, the area of khasra no. 28 has been stated to be 15 kanal 4 marlas i.e., 1.9 acres or 7689.03 square meters. These water bodies were in village Adampur for providing water resource to the inhabitants which has been damaged. Considering the total area of khasra nos. 24 and 28 and damage caused to the same resulting in damage to ecology and environment, in our view, by application of principle of “Polluter Pays”, HSVP should be saddled with the liability of environmental compensation of Rs.50 lakhs which it should deposit with HSPCB within three months. In case of failure in deposit, HSPCB shall take immediate steps for recovery of the amount in accordance with law. Our these directions are in exercise of the power of imposition of compensation under Section 15 read with Section 20 of NGT Act, 2010.

269. The amount of environmental compensation as directed above shall be utilised for remediation of the damaged environment and restoration of water bodies in accordance with Rejuvenation Plan which shall be prepared by a Committee comprising HSPCB, CPCB and District Magistrate/Deputy Commissioner, Gurugram wherein HSPCB shall be the Nodal Authority. The Plan shall be prepared within three months and would be executed within next six months. A Compliance Report shall be submitted through HSPCB with Registrar General of this Tribunal within one month after expiry of the above period. Registrar General if finds that any further order is required, shall place the matter before Tribunal.

270. In view of the above discussions, **we answer issues IV, V, VI and VII accordingly** in the light of the above discussion and observations made

above and hold that land of khasra no. 24 shall be maintained as a pond (gair-mumkin johod) as recorded in revenue record and in the same status as it was at the time of acquisition; in respect of land of khasra no. 28, HSVP and State of Haryana shall take steps to construct another water body on alternative land ensuring that a new pond of the same size as khasra no. 28 is constructed within a period of 06 months; HSVP for causing damage to the ponds land is liable to pay environmental compensation of Rs. 50 lakhs which shall be deposited with HSPCB within 03 months and in case of failure, HSPCB shall take steps for recovery of the amount in accordance with law; the amount of environmental compensation after recovery shall be utilised for remediation of damaged environment in restoration of water bodies in the area concerned in accordance with a Rejuvenation Plan which shall be prepared within a period of 03 months by a Committee comprising HSPCB, CPCB and District Magistrate/Deputy Commissioner, Gurugram wherein HSPCB shall be the Nodal Authority; and executed in next six months.

271. A Compliance Report shall be submitted by the said Committee through HSPCB to Registrar General of this Tribunal within one month after expiry of the period as directed above. Registrar General if finds that any further order is required, shall place the matter before the Bench.

272. In the result, OA is partly allowed in the light of the discussion made and directions given hereinabove.

273. All the pending IAs stand disposed of in the light of the discussion, findings and directions issued hereinabove.

274. Copy of this judgment be forwarded to Chief Secretary, State of Haryana; CPCB; HSPCB; HSVP; HTCPD; Haryana Pond and Waste Water Management Authority; and District Magistrate, Gurugram for information and compliance.

SUDHIR AGARWAL,
JUDICIAL MEMBER

DR. AFROZ AHMAD,
EXPERT MEMBER

August 08, 2025
Original Application No.543/2023
(I.A. No. 703/2023, I.A. No. 239/2024,
I.A. No. 182/2024, I.A. No. 195/2025,
I.A. No. 196/2025 and I.A. No. 30/2024)
R