

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE :: AT CHENNAI**

O.A No. 100 of 2022 (SZ)

**Between:
Akula Satish**

...Applicant

**Vs.
State of Telangana & others**

...Respondents

**PRELIMINARY COUNTER AFFIDAVIT FILED ON BEHALF OF
RESPONDENT NO.11**

I, R. Ashok Swaminathan, S/o. Late R.S.Aiyer, being the Director of Respondent No.11, aged 52 years and having address at 4th floor, Ashoka Hitech Chambers, # 8-2-120/76/1/B/16, 17 & 18, Road No.2, Banjara Hills, Hyderabad-500034, Resident of Hyderabad, do solemnly affirm and state as under:

1. I state that I am the Director of Respondent No.11 Company and as such am well versed with the facts of the case and competent to depose as under.
2. At the outset, I state that the Answering Respondent denies all the allegations, averments and contents in the Original Application No.100 of 2022 ("**Application**") and state that nothing should be deemed to be admitted by me unless specifically admitted herein.
3. I state that I am filing this Preliminary Counter Affidavit for the limited purpose of placing on record certain preliminary objections in the matter. The Answering Respondent craves the leave of this Hon'ble Tribunal to file a detailed counter on the merits of the matter, should this Hon'ble Tribunal so deem fit.
4. The Answering Respondent humbly submits that it is unconnected with the projects that appear to form part of the Application and is neither the owner of the said lands nor the developer of the said projects. As such, the Applicant appears to have impleaded an incorrect entity and the present Application must be dismissed for non-joinder of necessary party. In this regard, the Answering Respondent states as follows:
5. The main allegation of the Applicant pertains to illegal encroachment of 9 acres of land on which the Visukavani Cheruvu has been purportedly situated, i.e., Sy. No.18, 19 & 20 of Kazipally Village, Jinnaram Mandal, Dundigal Municipality, Medchal Malkajgiri District of Telangana State. However, a perusal of the contents of certain official documents, which are summarized in Paragraph 3 of the Application, appear contrary to the aforesaid statements. These documents





state that some parts of the lake FTL and buffer zone of the lake appears to be situated in Survey Nos.19 and 20 of *Mallampet Village* (*emphasis supplied*) and not in Survey Nos.19 and 20 of Kazipally Village, while the other parts of the lake falls in other survey numbers of Kazipally Village. In this regard, the Answering Respondent states that it does not have any ongoing construction activities/ projects in either of the subject villages, i.e., Kazipally Village or Mallampet Village.

6. The Answering Respondent states that the pictures set out in Paragraph 2 of the Application appear to refer to projects constructed on the lands owned by one Esteem Villas Pvt. Ltd. ("**Esteem**"), Edifice Homes India Pvt. Ltd. ("**Edifice**") and one Sterling Avenues Pvt. Ltd. ("**Sterling**"). Pertinently, the Esteem, Edifice & Sterling's projects are situated in Shambupur Village and not in Kazipally or Mallampet Village. Further, the Answering Respondent is not in any way connected with the projects of Esteem and Edifice. It is neither the owner of the land nor the developer of Esteem and Edifice's projects and is completely unconnected with the same. The Answering Respondent states that its wholly owned subsidiary, i.e., M/s. Modi Builders and Infrastructures Private Limited, is the developer of the aforesaid projects.
7. The Answering Respondent humbly submits that it enjoys a separate legal entity, independent from that of M/s. Modi Builders and Infrastructures Private Limited, Esteem and Edifice. Merely because the Answering Respondent, Esteem and Edifice have a few common shareholders and the Answering Respondent is the parent company of M/s. Modi Builders and Infrastructures Private Limited, the same cannot fasten any liability on the Answering Respondent in the matter.
8. In these circumstances, the Answering Respondent submits that there can be no effective and meaningful orders passed in the matter in the absence of the persons concerned with the projects. Accordingly, the Answering Respondent submits that the captioned application ought to be dismissed *in limine* for non-joinder of necessary party.
9. Without prejudice to the aforesaid, the Answering Respondent humbly submits that since it is not in any manner connected with the projects alleged to be the subject matter of the present Application, the Answering Respondent ought to be struck off as a party Respondent in the matter, as it is neither a necessary nor a proper party.





The Answering Respondent humbly prays that the Hon'ble Tribunal be pleased to take the preliminary counter affidavit on record and pass appropriate orders.

Solemnly affirmed at Telangana
this the ____ day of December 2022
and signed his name in my presence



BEFORE ME

Advocate

VERIFICATION

I, R. Ashok Swaminathan, S/o. Late R.S.Aiyer, being the Director of Respondent No.11, aged 52 years and having address at 4th floor, Ashoka Hitech Chambers, # 8-2-120/76/1/B/16, 17 & 18, Road No.2, Banjara Hills, Hyderabad-500034, Resident of Hyderabad, do hereby verify that the contents of the Preliminary Counter Affidavit are based on record and information are true to the best of my knowledge and belief.

Verified on the ____ day of December 2022 at Telangana


DEPONENT

ATTESTED

B. AGANI, B.A., L.L.M.
ADVOCATE / NOTARY
Indra Reddy Allwyn Colony,
Miyapur, Hyderabad, G.O.M.S. No.1972/121
My Commission Expires on 15-11-2026

23 DEC 2022