

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

Original Application No.106 of 2020 (SZ)

BETWEEN

Atana Flat Owners and Residents Association
Regn.No.80201B
Rep. by its Secretary Mrs.G.Anitha
Vandalore-Walajabad Road,
Karanithangal Village,
Kancheepuram District 602105

Applicant

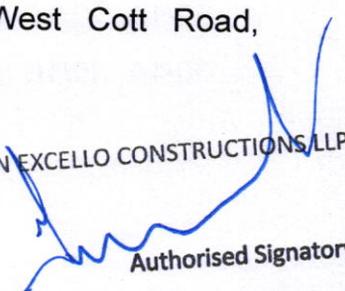
AND

- 1) The District Environmental Engineer
Tamil Nadu Pollution Control Board
Plot No.CP-5B, SIPCOT, Oragadam,
Sriperumpudur Taluk,
Kancheepuram District – 602 105
- 2) M/s. Arun Excello Constructions LLP,
Represented by its Designated Partner
Mr.P.Suresh,
Bhattad Tower,
No.18, West Cott Road,
Royapettah,Chennai – 600 014.
- 3) The Chairman
State Level Environment Impact Assessment Authority (SEIAA)
Govt. of Tamil Nadu, Panagal Maligai,
3rd Floor, Saidapet,
Chennai – 600 015

Respondents

ADDITIONAL COUNTER AFFIDAVIT OF THE 2ND RESPONDENT

I, P.Suresh, Son of V.Panchapakesan, Hindu, aged about 63 years
having its registered office at Bhattad Towers, 18, West Cott Road,

For ARUN EXCELLO CONSTRUCTIONS LLP

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Royapettah, Chennai – 600 014, do hereby solemnly affirm and sincerely state as follows:

I submit that 2nd Respondent herein is a Limited Liability Partnership Firm duly registered under the Limited Liability Partnership Act, 2008. I am one of the partners of the Respondent firm. I am well acquainted with the facts of the case set out hereunder.

This respondent is filing this additional counter in response to the report submitted by 1st Respondent Tamil Nadu Pollution Control Board.

- 1) It is submitted that the 2nd respondent had purchased the land through various sale deeds at different points of time from various vendors viz (1) 187 cents vide registered Sale Deed No.1119 of 2013 dated 28-3-2013 in Survey No.23/4, 23/2B1, 29/2A, 29/2B, 23/5, 31/1,33/2A1, (2) 298 cents vide registered Sale Deed No.1120 of 2013 dated 28-3-2013 in Survey No, 23/1, 23/2A1, 23/2A2, 23/2A3, 23/2A4, 23/3, 24/1C, 24/3, 28/2, (3) 33 cents vide registered Sale Deed No.1942 of 2013 dated 7-6-2013 in Survey No.32/1, (4) 114 cents vide registered Sale Deed No.1948 of 2013 dated 7-6-2013 in Survey No in Survey No.29/1, (5) 72 cents vide registered Sale Deed No.1949 of 2013 dated 7-6-2013 in Survey No.27/5B, 27/5C, 27/5D, (6) 128 cents vide registered Sale Deed No.1950 of 2013 dated 7-6-2013 in Survey No.19/1D, 30/2A, 30/2B, 30/2C, 30/2D, 31/2, 32/2 and (7) 260 cents vide registered Sale Deed No.1951 of 2013 dated 7-6-2013 in Survey No.19/1A, 19/1B, 19/1C, 22/1A, 22/1B1, 22/1B2, 22/2A, 22/2B1, 22/2B2, 22/C1, 22/2C2, 23/2B2, 30/1A, 30/1B totalling 1092 cents.

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- 2) It is submitted that since the land was in proximity to the industrial development and also keeping in mind the large section of society employed in lower income group this respondent has planned for affordable compact homes to cater to the needs of the first time home buyers.
- 3) It is submitted that the environmental clearance from the competent authority is not mandatory for the said projects considering the fact that the four projects are separate projects and there are separate approvals for each project and each project was carried out on separate land parcels divided by distinct metes and bounds. The projects were commissioned and completed at different periods of time.
- a. **Vasantha** : This first project comprises only 1 BHK apartments 375 Sq.ft. each (420 units) and was constructed using aluminium form work shear wall technology. This is an affordable housing project developed to cater to the needs of the lower income group who are first time home buyers.
- ✓ Building permit issued by Local Body on 10-10-2013.
 - ✓ Total number of apartments 420 Units with Ground + 3 Floors structure in 3 Blocks.
 - ✓ The entire project comprises single bed room apartment. (FSI area -13,836.18 Sq. M).
 - ✓ Lift with power back-up for common amenities.
 - ✓ STP with grey water recycling.
 - ✓ Infrastructure and amenities charges (I&A) paid to Government – Rs.51,90,000/-.

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b. **Megha** : This second project was constructed with aluminium form work shear wall technology comprising 1BHK apartments (388 units) of 375 sq.ft size. This is again an affordable housing project developed to cater to the needs of the lower income group who are first time home buyers.

- ✓ Building permit issued by Local Body on 14-3-2014.
- ✓ Total number of apartments 388 Units with Ground + 3 floor structure in 3 Blocks.
- ✓ The entire project is of single bed room apartment (FSI area- 12,714.58 Sq.M).
- ✓ Lift with power back-up for common amenities.
- ✓ STP with grey water recycling.
- ✓ Infrastructure and amenities charges (I&A) paid to Government – Rs.47,70,000/-.

Both these projects were developed in two different parcels of land with 2 different approvals from the DTCP authorities and completed and handed over to the owners during the years 2015 and 2016 respectively.

c. **Madhulika** : This third project was then launched with a combination of 1 BHK (21 units) & 2 BHK (192 units) apartments (Total 213 units) ranging from 510 Sq.ft to 910 Sq.ft area in a separate parcel of land with conventional type of RCC composite structure construction. This is also an affordable housing project developed to cater to the needs of the middle income group who are first time home buyers.

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- ✓ Building permit issued by Local Body on 29-01-2015.
- ✓ Total number of apartments 213 Units with Ground + 2 Floor structure in 4 Blocks without lift facility.
- ✓ The project is combination of Single and Double bed room apartments. (FSI area-13,266.97 Sq. M.)
- ✓ The method of construction used in this project is RCC/Masonry Composite Structure.
- ✓ Power back-up for common amenities.
- ✓ STP with grey water recycling.
- ✓ Infrastructure and amenities charges paid to Government – Rs.49,87,500/-

d. **Atana** : This fourth project also was launched with a combination of 1 BHK (39 units) and 2 BHK (157 units) apartments (Total 196 units + 2 shops) ranging from 470sq.ft to 980 Sq.ft area adjacent to project "Megha" and handed over during the year 2016. This is again an affordable housing project developed using conventional method of construction with RCC composite structure to cater to the needs of the middle income group.

- ✓ Building permit issued by Local Body on 15-05-2015.
- ✓ Total number of apartments 196 Units + 2 shops with Ground + 2 Floor structure in 3 Blocks without lift facility.
- ✓ The project is combination of Single and Double bed room apartments. (FSI area-11,893.79 Sq. M)
- ✓ The method of construction used in this project is RCC/Masonry Composite Structure.
- ✓ Power back-up for common amenities.

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- ✓ STP with grey water recycling.
- ✓ Infrastructure and amenities charges (I&A) paid to Government – Rs.44,81,250/-.

Since there was change in the market conditions and demand for 2 BHK apartments in the area, the 2nd respondent had changed the strategy accordingly and planned for construction of 2BHK apartments in the 3rd & 4th projects to meet the growing demand.

All the four projects were constructed separately in different periods of time as per the approval of DTCP/Local body and were handed over to the owners. The 2nd respondent had not contemplated to carryout or implement the four projects as one composite project. Each project was independently conceived and separate approvals was obtained.

- 4) It is submitted that in all the four projects apart from provision of STP facility, recycling of grey water facility (treated effluent) has also been provided for each project for ablution purposes (toilet flushing) to reduce the fresh water requirement by more than 50%. This procedure significantly reduces the load on STP thereby allowing proper treatment and maintenance.

Hence, from the above, it is clear that each of the project approval dates, the design, method of construction and specifications are different. These projects were launched in different periods of time based on the market conditions to meet the requirement of the lower and middle income groups of society and were not conceived as a composite development.

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- 5) It is submitted that this respondent further claims that the DTCP authorities were well aware of about the previous approvals every time a proposal was submitted showing the land extent earmarked for each project and separate approvals were obtained from the competent authorities. Hence the DTCP authorities have accorded the approvals separately for each project with the full knowledge because each project land was different, the design was different, the construction methodology was different and finally the sizes apartments were different for different projects. In all the projects aforesaid, DTCP did not insist for environmental clearance during the course of sanctioning the proposal as Environmental Clearance was not necessary and accorded necessary approval.
- 6) It is submitted that this respondent denies the report of the 1st respondent that the sewage treatment plant provided was inadequate. The STP has been designed and provided as per NBC norms based on the number of occupants according to the size and number of dwelling units in a project as already pleaded by us in our counter affidavit filed earlier. It is also evident from the inspection report of the 1st respondent that the STP was in operation in two of the projects (Madhulika & Atana) and not properly maintained/fully operational by the resident association in the other two projects (Vasanthaa & Megha).
- 7) It is submitted that the STP provided by this respondent in each of the project is in line with the National Building Codes 2005 (NBC Clause 4.3 for the construction of the residential / dwelling units. The respondent has also submitted the design and capacity of the STP proposed for each project certified by the architect.

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NBC 2005 - Water Supply Requirements for Buildings
Page 18 – Part IX – Refer Clause 4.1.1

Note: The value of water supply given as 150 to 200 litres per head per day may be reduced to 135 litres per head per day for houses for Lower income groups (LIG) and Economically Weaker Section Of Society (EWS). Depending upon prevailing conditions.

NBC 2005 - Occupant Load for STP
Page 27 – Part – IV

As per National Buildings Code 2005 (NBC) in Table 20 clause 4.3 Residential occupancy - Occupant Load, floor area for Residential is 12.5 m² per person.

As per the above referred clauses, the dwelling units put up in Atana project

Carpet area / 12.5 = 49.84 / 12.5 = 3.99

Note: 5 Persons considered for each unit for water supply and STP design calculation.

The respondent had submitted the STP report along with design of STP at the time of development for planning permission to DTCP duly certified by architect and the same was duly approved and stamped in the approval plan by the authorities.

- 8) It is submitted that this respondent was maintaining the STP and operating it through a reputed vendor till it was handed over to the association who is an expert in operation and maintenance of the STP and it requires skilled manpower and the treated water was tested regularly in an authorised testing lab and the results were within the permissible norms. Only after handing over of the maintenance to the

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respective resident association, the issue of letting out of sewerage on the road due to poor maintenance/non-operation of the STP had cropped up thereby showing the lapses of the association members to maintain their own apartment. This Respondent had also taken lot of efforts in educating the association on maintenance of the common amenities which they fail to appreciate and follow.

- 9) It is further submitted that the individual owners leased out their respective apartments to a group of people predominantly bachelors working in nearby factories with an intention to earn more revenue irrespective of the size and feasibility which has increased the usage of water and thereby increased the quantum of discharge much above the handling capacity of the STP provided. It is very obvious that the STP capacity has been designed based on NBC guidelines calculated based on the occupancy norms for each apartment and when the number of persons staying in a house exceeds what has been considered for the design of STP based on NBC guidelines, obviously the water requirement goes up which in turn increases the load on the STP more than the designed capacity thus impacting the functioning of the STP system. This has been highlighted to the Residential Associations by way of email communication to restrict the number of persons per apartment to avoid excess discharge and overloading the STP to ensure proper usage which has not been done by them and the main reason for the issue. This has led to the overflowing of the sewage for which the developer/2nd respondent cannot be held responsible.
- 10) It is also clearly evident from the notice issued vide Na.Ka.No.1581/2018/A1 dated 27-7-2021 by Block Development

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Officer, Vaipur Panchayat, Kunrathur Union to all the Residents' Associations that the resident owners have rented out their residential apartments to the workers who are working in nearby factories by allowing more people to stay in an apartment beyond the permissible norms for their monetary commercial gains. The statutory bodies had therefore identified the wrong doers and have rightly sent the warning notices to the applicant association to take action against them.

- 11) It is also submitted that the Local body in their terms & conditions of the approval have stated that any excess treated sewage after ablution, gardening purposes etc., shall be disposed by tanker lorries which was not followed properly by the Residents' Associations. The treated/untreated sewage was let into the storm water drains constructed outside of each project which in turn has stagnated and caused nuisance to the residents, general public and the State highway.
- 12) This respondent deny that they have not provided adequate Open Space Reservation area (OSR). The OSR area is not decided by the applicant. As per the Development control rules of the DTCP, 10% of the land extent earmarked for the proposed construction has to be gifted to the Local Body as Open Space Reservation area for approval purposes. Only after execution of OSR gift deed in favour of the Local Body, the necessary approval for the proposal is granted by DTCP. Hence this respondent has not violated the norms of providing adequate OSR as per the DTCP norms. This procedure has been duly followed for all the four projects namely Vasanthaa, Megha, Madhulika & Atana developed by the respondent.

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In these circumstances, it is therefore prayed that this Hon'ble Tribunal may be pleased to reject imputations against this respondent in the joint committee report and thereby dismiss this application as devoid of any merit with costs and direct the Residents' Associations to follow the guidelines to bring in proper maintenance and operation of the STP on a continuous basis to resolve the issue which is the main core of the issue in this petition and thus render justice.

For ARUN EXCELLO CONSTRUCTIONS LLP

Authorised Signatory

Solemnly affirmed at Chennai this the
4th January, 2022 and signed
his name In my presence:

Before Me,


E.No. 552/1998

Advocate : Chennai