

BEFORE THE NATIONAL GREEN TRIBUNAL (SEZ) CHENNAI

I.A No. 11 of 2021
in
Application No. 21 of 2021

Dr. Anupkrishnan. V

Flat 7173, Tower 7, Prestige Bella Vista
Ayyapanthangal Billage, Mount Poonamallee Road,
Kanchipuram District, Chennai – 600056
mobile no: 9445727579, 9447527579
email: anupkrishnanviswanath@gmail.com

...Applicant

-Vs-

1. Ministry of Environment, Forest and Climate Change

Represented by its Director, MOEF & CC RO(SEZ)
HEPC Building, No. 34, Cathedral Garden Road,
Nungambakkam, Chennai – 600034
Phone: 044 28222325
Email: ro.moefccc@gov.in

2. State Level Environment Impact Assessment Authority

Represented by Member Secretary,
3rd Floor, Panagal Maligai, No. 1, Jeenis Road, Saidapet,
Chennai – 600015
Phone: 044 24359974
Email: mstnseiaa@yahoo.com

3. CMDA

Represented by its Member Secretary,
Thalamuthu Natarajan Building,
No. 1, Gandhi Irwin Road, Chennai – 600008
Phone No. 044 28414355
Email: mcmda@tn.gov.in

4. M/s. Prestige Estates Projects Ltd.

Represented by Chairman & Managing Director,
Falcon House, No. 1 Main Guard Road,
Bangalore – 1, Karnataka, PIN: 560001
Phone: 080 25591080, 080 25591945

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Member-Secretary
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Email: irfan@prestigeconstructions.com

5. M/s. Prestige Estates Projects Ltd, Chennai

Represented by Head of Business Operations
Prestige Polygon- top floor, #471, Anna Salai,
Nandanam, Chennai – 600035
Phone: 044 42924000
Email: Nagaraj.c@prestigeconstructions.com

6. Tamil Nadu Pollution Control Board

Represented by its Member Secretary, Corporate Office,
76, Mount Salai Guindy – 600032
Phone: 044 22353145
Email: tnpcb-chn@gov.in

7. Managing Committee of

Prestige Bella Vista Flat Owners Welfare Association,

Represented by Mr. Balachander.B as President,
Flat No. 181210, Tower 18C, Prestige Bella Vista,
Ayyappanthangal Village, Mount Poonamallee Road,
Kanchipuram District, Chennai – 600056, Cell No: 9444398557,
Email: secretary@prestige-bella-vista.com

8. Managing Committee of

Prestige Bella Vista Flat Owners Welfare Association,

Represented by Mr. Balakrishnan, SS as President,
Flat No. 181012, Tower 18C, Prestige Bella Vista,
Ayyappanthangal Village, Mount Poonamallee Road,
Kanchipuram District, Chennai – 600056, Cell No: 9987377654,
Email: president@prestige-bella-vista.com

...Respondents

STATUS REPORT FILED BY THE THIRD RESPONDENT (CMDA)

I, Anshul Mishra, I.A.S. son of Thiru Harishchandra, Hindu, aged about 44 years, having office at No.1, Gandhi-Irwin Road, Egmore, Chennai-600 008, do hereby solemnly and sincerely affirm as follows:

1. I am the Member Secretary of Chennai Metropolitan Development Authority (CMDA) and the Third Respondent herein. As such, I know the facts of the case as borne out from records.

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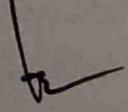
Member-Secretary
Chennai Metropolitan

2. I am filing this Status Report based on records available and I am well aware of the facts and circumstances of the case.

3. I submit that the above Original Application has been filed by the Applicant praying for (1) a direction as against the Respondents 4 & 5 to stop operating the incomplete residential complex Prestige Bella Vista. (2) an instruction as against the Respondents 4 & 5 to comply with all stipulations in the Environmental Clearance letter and ensure implementation of enactments specified in the Schedule I of the National Green Tribunal Act, 2010 before putting Prestige Bella Vista Project into operational phase; (3) an instruction as against Respondents 1, 2 & 6 to conduct a re-inspection at Prestige Bella Vista Project and to ensure implementation of enactments specified in the Schedule I of the National Green Tribunal Act, 2010; (4) a direction as against Respondents 1, 2 & 6 to take strict action against Respondents 4 & 5 for not complying with the stipulations in the Environmental Clearance letter no. F. No./SEIAA/FN/F430/2011-1A..III dated 16/10/2012 and starting the Project without the Environmental Clearance Letter in January 2012 itself and putting it into operational phase without Completion Certificate; (5) an instruction as against the Respondent 3 to stop issuance of Completion Certificate to the PBV Project till compliance with stipulations in Planning Permit and EIA clearance letter are met with and thus, render justice.

4. I submit that the prayer of the Applicant in the I.A.No.11 of 2021 is to cancel the two illegal Partial Completion Certificates issued violating Environmental stipulations mentioned in the Environmental Clearance F. No. SEIAA/F430/2011-IA.III. And the Interim Application No. 181 of 2021 was filed by the Applicant, praying for (1) cancellation of all illegal car park spaces allotted by Respondents 4, 5, 7 and 8 to residents in Prestige Bella Vista violating stipulations in EC and CTE; (2) Direction to Respondents 4, 5, 7 and 8 to submit detailed list of car park space allotment with drawing before Hon'ble Tribunal; (3) Direction to Respondents 4, 5, 7 and 8 to "coordinate with local traffic police to work out schemes for regulating increased traffic flow in the premises due to the project" as was stipulated by the CTE issued by Respondent 6 and thus, render justice.

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5. I submit that earlier, M/s. Prestige Estate Projects Ltd (Respondent 4 and 5) have obtained Planning Permission from CMDA (3rd Respondent) for the construction of Multi Storied Building comprising 33 Blocks and Club House Block (Type A - 18 Nos, Type B - 8 Nos. Type C - 4 Nos. Type D-3 Nos.), Combined Double Basement floor - I connecting the Blocks A1 to A4, A10 to A18, B1, B6 to B8, C1, C4 & Club House, Combined Double Basement floor - 2 connecting the Blocks A5, B2, B3, B4 & C3. Combined Double Basement floor - 3 connecting the Blocks A6 to A9, B5, C2, D1, D2 & D3. Each block consisting of Double Basement floor + Ground floor + 16 Floors Residential Building with 2610 Dwelling units and Club House block consisting Basement floor + 1st floor part (Block D1 to D3 with 200 dwelling units in each Block reserved for LIG Housing) at Mount Poonamallee High Road in S. No. 1/1, 1/2, 2, 3/2, 3/3, 5/1, 8/2A35, 42/1, 42/2, 42/3A, 42/3B, 42/4, 42/5, 43/1, 43/2, 44/1A, 44/1B, 44/2, 44/3, 45/1A, 45/1B, 45/2, 45/3, 45/4A, 45/4B, 46/1, 46/2, 46/3, 47/1E, 48/A, 48/1B, 48/2, 48/3, 48/4, 49/1, 49/2, 49/3, 50/1A, 50/1B, 50/2, 50/3, 50/4, 51/1A, 51/1B1, 51/1B3, 51/1C1, 51/1C3, 51/1D, 51/1E, 52/1, 52/2, 53, 54/1B of Ayappanthangal Village in Planning Permission No. C/PP/MSB-IT/38 A to AC/2012 permit No. 7115 (Valid up to 12.02.2016) in Letter No. C3(N)/4606/2011 dated 13.02.2013 under premium FSI, (Government have accorded approval in letter (Ms) No. 09. H&UD (UD1) Dept. dated 05.01.2012) and also obtained Building Permission from Ayyappanthangal Panchayat in No. 16/2013-14 dated 23.04.2013.

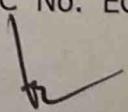
6. I submit that the Planning permission was issued by the 3rd Respondent with the condition that "*the approved plans are released based on the interim orders passed by the Hon'ble High Court in their order dated 22.01.2013 on the Appeal filed by the (3rd Respondent) CMDA in M.P. Nos. 1 & 1 of 2013 in W.A.Nos 147 & 148 of 2013, subject to the result of the above said appeals pending before the Hon'ble High Court*".

7. I submit that the First Partial Completion Certificate was issued in Lr. No. EC/C-1/4841/2015, CC No. EC/Central-1/04/2016 dated 08.01.2016 for 14 completed Blocks (A5, A6, A7, A8, A9, B2, B3, B4, B5, C2, C3, D1, D2 & D3) out of 33 Blocks, Club House Block, Combined Double Basement floor - 2 connecting the Blocks A5, B2, B3, B4 & C3 and Combined Double Basement floor - 3 connecting the Blocks A6 to A9, B5, C2, D1, D2 & D3. Each block consisting Double Basement floor + Ground floor + 16 Floors Residential Building with 1340 dwelling units (as per approval 1337 dwelling units) in which the Blocks D1 to D3 with 603 Dwelling units (as per approval 600 dwelling units) is **reserved for LIG housing** vide CC No. EC/Central-1/04/2016 dated 08.01.2016.

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8. I submit that the 2nd Partial Completion Certificate was issued in Lr. No. EC/C-1/4841/2015, CC No. EC/Central-1/68/2016 dated 16.03.2016, was issued for the 11 completed Blocks and a Club House Block (A3, A11 to A18, B1, B8 & Club House Block) out of 33 Blocks and Club House Block. Each Block consists of a Combined Double Basement floor - I connecting the Blocks A1 to A4, A10 to A18, B1, B6 to B8. CI, C4 & Club House + Ground floor + 16 floors residential building with 737 dwelling units.

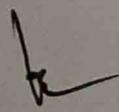
9. I submit that it was decided in the Committee of senior officers that while considering the 3rd and final CC, it was also decided to accept the reduced distance between blocks for which partial Completion Certificates were already issued (1 & 2nd Partial CC) since the fire safety compliance were obtained by the Director of Fire & Rescue Service for these blocks. The present blocks for which 3rd and final Completion Certificate was applied satisfies Development Regulations and Completion Certificate norms.

10. I submit that the 1st & 2nd Partial Completion Certificates were issued by CMDA (3rd Respondent) based on the Environmental Clearance issued by SEIAA vide letter No. SEIAA/F430/2011-IA-III dated 16.10.2012 and also based on the Fire compliance issued by the Directorate of Fire and Rescue Services for these two Partial Completion Certificate vide D.Dis.No.8805/C1/2015 in C.C.No.41/2015 dated 25.08.2015.

11. I submit that the Govt., H & UD (UD (3) Dept. in G.O. (Ms.) No. 17 dated 05.02.2016 ordered the installation of Solar Photovoltaic System at 1/3rd of the total terrace floor area in all buildings as mandatory. While so, in the instant case, the Planning Permission was issued on 13.02.2013 and the 1st Partial Completion Certificate Application received on 20.03.2015 and Completion Certificate issued on 08.01.2016 and 2nd Partial Completion Certificate Application received on 12.01.2016 and Completion Certificate issued on 16.03.2016 after completion of building blocks. Hence, the installation of mandatory Solar Photovoltaic System is not applicable for the case under reference.

12. I further submit that the subsequent compliance report on Environmental Clearance was also obtained from the Ministry of Environment, Forest & Climate Change (South Eastern Zone) for 20 residential towers having 33 blocks vide letter No. F. No. EP/12.1/2012-2013/SEIAA/11/TN/0255 dated 15.02.2019. In this regard, it is submitted that the Planning

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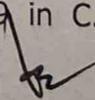

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Permission was issued by CMDA for the project under reference on 13.02.2013 and building permission from Ayyappanthangal Panchayat in No. 16/2013-14 dated 23.04.2013. As per the Approved Plan, the total land area of the project is 1,00,182.70 m² and the total build up area is 4,64,047 m² and no. of blocks is 33 nos. The SEIAA issued Environmental Clearance in letter No. SEIAA/F430/2011-IA.III dated 16.10.2012. As per the Environmental Clearance, the total land area is 1,00,199 m² and build up area is 4,78,003 m² and no of blocks is 20 Nos. It is informed that though there is variation in the no. of blocks i.e. 33 as per approval instead of 20 blocks as per EC, there are no changes in the extent of the total land area and the built up area as mentioned in the Environmental clearance. Based on the environmental clearance dt. 16.10.2012 and Fire compliance letter dt. D.Dis.No.8805/C1/2015 in C.C.No.41/2015 dated 25.08.2015, the two Partial Completion Certificates were issued in 2016 by CMDA. Subsequently, the Ministry of Environment. Forest & Climate change (South Eastern Zone) has issued Environmental compliance report for 20 residential Towers having 33 blocks in letter No. F. No. EP/12.1/2012-2013/SEIAA/11/TN/0255 dated 15.02.2019. As the compliance report dated 15.02.2019 is already furnished by the Applicant from the MoEF, it does not come under the purview of CMDA, to go beyond the report of the MoEF and decide on the Environmental stipulations.

13. I submit that the 3rd & Final Completion Certificate for 8 blocks was examined and M/s Prestige Estates Projects Ltd (4th & 5th Respondent) was advised to remit the balance premium FSI and I&A charges of Rs. 84,93,90,000/- subject to the outcome of the Hon'ble Supreme Court order, in the communication of the 3rd Respondent in Lr. No. EC/C-1/4841/2015 dated 10.01.2019. But M/s Prestige Estates Projects Ltd (4th & 5th Respondent) did not remitted the said charges, instead filed a Review petition before the Hon'ble Supreme Court.

14. Subsequently, I submit that based on the Supreme Court orders dated 29.07.2019 in Civil Appeal Nos. 5642-5643 of 2019 (@SLP (C) Nos. 31274-31275 of 2014) & dated 06.11.2019 in R.P.(C) 2270- 2271/2019 in C.A. 5642-5643/2019, an advice letter was sent to the Applicant vide Lr. No. C3(N)/4606/2011 dated 24.01.2020, requesting to remit the balance premium FSI charges to 3rd Respondent (CMDA). Further with subsequent dismissal of the review petition and Curative Petition by the Hon'ble Supreme Court by order dated 13.05.2022 in Curative Petition (C) Nos.166-167/2021 in R.P.(C) 2270- 271/2019 in C.A. (N) /5642-

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5643/2019, the applicant was requested to pay the balance Premium FSI charges of Rs.80,76,75,000/- along with interest amount of Rs. 95,85,88,211/- till 11.07.2022 vide official communication in letter no. C3(N)/4606/2011 dated 13.07.2022. Accordingly, the Applicant has remitted the charges on 05.7.2022, 11.11.2022 & 25.11.2022 and the details of the remittance of the charges are as follows:

| S. No. | Charges remitted | Amount | Receipt No./ Date |
|--------|--|--------------------|---|
| 1. | Developmental Charges | Rs. 25,000/- | Remitted vide |
| | I.A. Charges | Rs. 2,50,000/- | Receipt No. |
| | Premium FSI Charges | Rs. 80,76,75,000/- | B0021696 dated 05.07.2022. |
| 2. | Interest on Premium FSI Charges | Rs. 95,69,95,299/- | Remitted vide |
| | Interest on Development Charges | Rs. 10,455/- | Receipt No. B0022415 dated 11.11.2022. |
| | Interest on Infrastructure & Amenities Charges | Rs. 1,54,973/- | |
| 3. | Balance Interest on Premium FSI Charges | Rs. 35,58,516/- | Remitted vide Receipt No. B0022488 dated 25.11.2022. |

15. I further submit that as per the approved plan, the total number of car parking to be provided is 2215 nos. and as on site, the car parking available is also 2215 in numbers.

16. I submit that as regards the final Completion Certificate, the same was pending with the 3rd Respondent - CMDA, only for the reason of non-payment of Premium FSI charges of Rs. 80,76,75,000/- (Eighty Crores Seventy-Six Lakhs and Seventy-Five Thousand only) and interest amount of Rs. 95,69,95,299/- (Ninety-five Crores Sixty-Nine Lakhs Ninety-Five Thousand and Two Hundred Ninety-Nine only) which was paid by the Applicant in receipt no. B0021696 dated 05.07.2022 and B0022415 dated 11.11.2022. As the

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Applicant has paid all the necessary dues, and the MOEF had issued Environmental compliance in No. F. No. EP/12.1/2012-2013/SEIAA/11/TN/0255 dated 15.02.2019 for 20 residential towers having 33 blocks, CMDA recommended to issue Final CC based on the MoEF letter dated 15.02.2019 for 33 blocks. Accordingly, the Final Completion Certificate for 8 blocks was issued in letter No. CMDA/CC/HRB/C/4841/2015 in CC No.EC/Central-1/395/2022 dated: 08.12.2022.

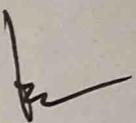
17. It is therefore prayed that this Hon'ble Tribunal may be pleased to consider the submissions of this Respondent and pass orders as may be required on the facts and circumstances of the case in the interest of justice and render justice.

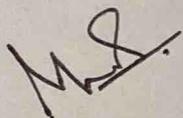
Solemnly affirmed at Chennai on

this the 3rd day of January, 2023

and signed in my presence.

18.


Member-Secretary
Chennai Metropolitan
Development Authority
BEFORE ME Chennai - 600 008.


ADVOCATE: CHENNAI
A.S. MANISHA
MS/2415/17
No. 5, Law Chambers
High Court
Chennai - 104