

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**SOUTHERN ZONE, CEHNNAI**

**Original Application No.119 of 2021 (SZ)**

**IN THE MATTER OF :**

Tribunal on its own motion Suo Motu based on the News item published in Dinamalar Tamil Newspaper Chennai Edition Dated 14.04.2021, under the caption "All over the village is dust land. If deforms the villages along with lives"

... Applicant (s)

**Versus**

1. The Chief Secretary to Govt. of Tamil Nadu,  
Govt. Secretariat, Fort St. George  
Chennai, Tamil Nadu 600 009.
2. The Secretary to Govt. of Tamil Nadu,  
Department of Environment & Forest,  
Govt. Secretariat, Fort St. George,  
Chennai, Tamil Nadu 600 009.
3. The Principal Secretary to Govt. of Tamil  
Nadu,  
Industries Department,  
Govt. Secretariat, Fort St. George,  
Chennai, Tamil Nadu 600 009.
4. The Chairman,  
Tamil Nadu Pollution Control Board,  
No.76, Anna Salai, Guindy,  
Chennai, Tamil Nadu 600 032.
5. State Environment Impact Assessment  
Authority,  
Government of Tamil Nadu,

Rep. by its Member Secretary,  
3<sup>rd</sup> Floor, Pamagal Maaligai,  
No.1, Jeenis Road, Saidapet,  
Chennai 600 015.

6. Department of Geology and Mining,  
Rep. by its Commissioner,  
Alandur Road, Guindy Industrial Estate,  
Guindy, Chennai-600 032.

7. The District Collector,  
Coimbatore District,  
District Collectorate Office,  
Collectorate Building,  
Coimbatore 641 018.

8. Chinna Thadagam Village Panchayat,  
Rep. by its Secretary,  
Panchayat Village Office,  
Mariyamman Kovil Street,  
P.N.Palayam, Coimbatore,  
Tamil Nadu 641 010.

9. 24, Veerapandi Village Panchayat,  
Rep. by its Secretary,  
Panchayat Village Office,  
24, Veerapandi Post,  
P.N.Palayam, Coimbatore,  
Tamil Nadu 641 108.

10. Nanjundapuram Village Panchayat,  
Rep. by its Secretary,  
Village Panchayat Office,  
Nanjundapuram Road,  
Thadagam Post, P.N.Palayam,  
Coimbatore, Tamil Nadu 641 108.

11. Somayampalayam Village Panchayat,  
Rep. by its Secretary,  
Village Panchayat Office,

Kalapanaickanpalayam Opp Bus Stand,  
Soamayampalayam Post, P.N.Palayam,  
Coimbatore, Tamil Nadu 641 108.

12. Pannimadai Village Panchayat,  
Rep. by its Secretary,  
Village Panchayat Office,  
Pannimadai Post, P.N.Palayam,  
Coimbatore, Tamil Nadu 641 017.

....Respondent (s)

**Status Report filed by the Sixth Respondent**  
**The Commissioner of Geology and Mining**

I J. Jayakanthan I.A.S., S/o. D. Jagadeeswaran (late) Hindu aged about 55 years functioning as the Commissioner of Geology and Mining, Chennai-32 do hereby solemnly affirm and sincerely state as follows: -

I am the sixth respondent herein and as such I am well acquainted with the facts of the case from the available records. I deny the averments made in this Original Application except those which are admitted hereunder.

2) It is submitted that Brick is one of the oldest and essential material for construction. Even, in present time there is no proper substitute available for brick for construction. This is relatively cheap to make, very durable and require little maintenance. Bricks are usually made of kiln-baked mixture of clay. In ancient times, bricks were made of mud and dried in the sun but later, bricks were made of clay and fired in kilns to create strong and lasting material. Normally, brick contain ingredients such as sand, clay, lime, iron oxide and magnesia. Brick kiln industry in India is the small-scale

industry utmost in rural areas or semi-urban areas which compete with each other at regional level. It is estimated that India has more than 1,00,000 brick kilns producing about 250 billion bricks annually, employing about 15 million workers and consuming about 35 million tons of coal annually. The brick industry is growing as the demand for bricks is increasing in the towns and villages due to the fast economic growth, urbanization and prosperity. The brick sector in India is unorganized and is tremendous in size and spread. India is the second largest brick producer (China dominates with 54 % share) in the world. The bricks industries have challenges like rapid increase in brick production, environmental concerns, use of good quality agriculture topsoil for brick production, shortage of workers, Increased competition etc.

3) It is further submitted that "Mining" is the activity of primary sector which is being carried out by the mankind from the historical period of copper age/Iron age, which is beneficial to all other sectors viz. construction of buildings, roads, factories, railways, etc., and also beneficial to industries in terms of supplying raw material to them. Mining is defined as any activity to winning any mineral. Mineral is a naturally occurring inorganic element or compound having an orderly internal structure and characteristic chemical composition and physical form. Mineral is used for all the industries viz. manufacturing of goods and materials, cements, chemicals, medicine, paints, etc. which is very essential for mankind and development of various industries. Without mining activity, it is rightful to say no evolution of development from the historical period to till date. Construction industry primarily relies upon the bricks manufactured through brick kilns for which red soil is suitable and wherever red soil is abundant, brick kilns were

established historically. **In Thadagam area the alluvium is more than 30 m thick in the Chinna Thadagam Valley north east of Coimbatore and in the Siruvani Valley west of Coimbatore District. Thus, the Thadagam brick chambers were supplying bricks to the construction activities for several years until it was closed vide Collector Order Lr.Rc.No.5329/2021, dated 17.03.2021.**

4) **It is further submitted that the Department of Geology and Mining is always having a concern and vision to safeguard environment and taking necessary steps to improve the Greenary in quarry area by utilizing Green Fund introduced by the Government in the Tamil Nadu Minor Mineral Concession Rules, 1959 vide G.O.(Ms).No.23, Industries (MMC.1) Department, dated 23.02.2022 and as follows:**

**35-A. Green Fund**

- (1) There shall be a Green Fund for every district for reclamation, restoration and rehabilitation of abandoned mines of quarries.
- (2) The Green Fund shall vest with the Reclamation, Restoration and Rehabilitation Committee, constituted under rule 35-C.

**35-B. Contribution to the Fund**

- (1) Every holder of a prospecting licence or a quarry lease of any mineral shall, in addition to the seigniorage fee, contribute to the Green Fund of the district in which the mining or quarry operations are to be done, an amount at the rate of ten percentage of the seigniorage fee:

Provided that if the minerals are transported to a destination outside the State, the contribution to the Green Fund shall be twenty percentage of the seigniorage fee:

**35-C. Constitution of Reclamation, Restoration and Rehabilitation Committee**

- (1) Every District Collector shall constitute a Committee under his Chairmanship called as the Reclamation, Restoration and Rehabilitation Committee (hereinafter referred to as "Committee"), with the following ex-officio members, namely: -
- (a) The District Collector - Chairperson
  - (b) The Assistant Director of Geology and Mining • Member-Secretary
  - (c) The District Forest Officer
  - (d) The Executive Engineer, Water Resources Department
  - (e) The District Environment Engineer, Tamil Nadu Pollution Control Board

**35-E. Functions of the Committee. The Committee shall,**

- (i) Recommend policies for the reclamation, restoration and rehabilitation and its allied activities;
- (ii) manage, administer, supervise, monitor and review the expenditure of the Green Fund at regular intervals;
- (iii) approve the prioritized list of the abandoned mines or quarries in the district for undertaking reclamation, restoration and rehabilitation projects and formulate development projects in the said areas;
- (iv) approve the measures or schemes for reclamation, restoration and rehabilitation suggested in the Detailed Project Report;

- (v) facilitate the promotion and better utilization of the quarried site and make inspections and investigations necessary to ensure.

**35-F. Procedure for reclamation, restoration and rehabilitation.**

- (1) The Member-Secretary shall prepare, examine and prioritize the list of abandoned mines or quarries in the district to conduct detailed studies for their reclamation, restoration and rehabilitation.
- (2) The Committee on approval of the lands prioritized by the Member Secretary, outsource the work to conduct detailed study to any agency authorized by the Central or State Government in this behalf, for which the expenditure shall be drawn from the Green Fund:

Provided that the total expenditure for outsourcing agencies per annum under this rule shall not exceed one percentage of the total receipt of the Green Fund per annum.

The outsourced Agency, after conducting necessary field studies, shall submit a Detailed Project Report (DPR) containing a plan for reclamation, restoration and rehabilitation of the abandoned mines or quarries. The Report shall contain, among others, measures to, -

- a) facilitate better utilization of the quarried site;
- (b) preserve the environment and ecology of the quarried site;
- (c) enable stabilization of quarry/mine slopes, dump slopes and erosion control measures;
- (d) improve the soil health;

- (e) augment water resources through efficient rain water harvesting methods viz., creation of adequate water storage structures, channels etc., for public uses;
- (f) stored water into potable standards by using suitable water purification techniques for supplying to the public;
- (g) provide efficient water use in agriculture including micro irrigation from the quarried pits;
- (h) develop agriculture, horticulture and pisci-culture using advanced technologies viz., geo textiles, hydroponics, terrace farming, aquaculture etc.,
- (i) promote afforestation of agro forestry and social forestry in the quarried area using native species;
- (i) establish land form designs viz., parks, gardens, recreation centres, shopping centres, parking areas, water sports facilities, play grounds, Agriculture storages/ warehousing with cold storage, mineral processing units/clusters which generate additional income to local public as well as to the Government;
- (k) facilitate reclamation, restoration and rehabilitation;
- (l) convert quarried pits into dumping yards for solid wastes by adopting suitable technologies;
- (m) protect the public and livestock from accidents, in the case of non-restorable deep quarries:

Provided that all such reclamation, restoration and rehabilitation plans in the report shall be prepared in such a way as to ensure the seamless integration of the environment, ecology and land form aesthetics of the abandoned mines or quarries with the surrounding area.

- (4) The activities undertaken by the Committee shall be executed through Government Departments, Government agencies or Public Sector Undertakings, which are authorized to perform such activities.
- (5) Notwithstanding anything contained in this section, for reasons to be recorded in writing the Committee may, with the approval of two thirds of its members, award execution of the work, to any other suitable agency, through processes such as tender-cum-auction. In all such cases, the terms, conditions and procedures as may be applicable to execution of Government projects, shall be followed.

Technical approval and supervision of the work shall be done by the competent authority of the department concerned.

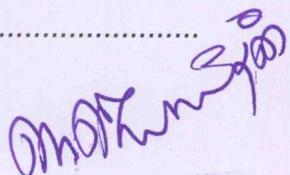
### **35-G. Duties of Member Secretary**

- (1) The Member-Secretary shall,
- (a) be in charge of all payments made to the Green Fund;
  - (b) maintain proper books of accounts, documents and records with respect to the transactions of the Green Fund;
  - (c) furnish a monthly consolidated statement of receipts and payments of the Green fund, to the District Collector concerned and the Director of Geology and Mining, before the 15th day of every month.
- (2) The Member-Secretary shall maintain the following, namely:
- (i) Details of Members of the Committee.
  - (ii) List of abandoned mines or quarries.
  - (iii) Monthly details of the contributions received from the lessees.

- (iv) All meeting agenda, minutes and action taken reports (ATRs) of the Committee.
- (v) Detailed Project Reports for each abandoned mines or quarries.
- (vi) Online registry on the status of implementation of all the projects and programmes being undertaken under Green Fund on the website, including description of work, estimated cost, name of implementing agencies, expected date of commencement and completion of work, financial and physical progress upto last quarter, etc.,
- (vii) Project completion report for each abandoned mines or quarries.
- (viii) Annual reports.

5) It is further submitted that, in the objective of safeguarding environment and using of mineral resources judicially, Rule 41 was framed under Tamil Nadu Minor Mineral Concession Rules, 1959 to adopt scientific and systematic mining wherein "Mining Plan" concept was introduced. The said Rule read as "(7) *While considering the approval of mining plan, the Assistant Director or Deputy Director of Geology and Mining as the case may be, of the district concerned has to consider the (i) level of production (ii) level of mechanization (iii) type of machinery used in the mining of Minor Mineral (iv) quantity of diesel consumption (v) number of trees uprooted due to mining operation (vi) export and import of the minor mineral and (vii) storage of mine waste or dump, etc.*(8)*The draft mining plan should contain the following details*

*namely:.....*  
 .....

  
 COMMISSIONER  
 COMMISSIONERATE OF GEOLOGY AND MINES  
 CHINDY, CHENNAI-600 012

...(v) *The extent of manual or mining by the use of machinery and mechanical devices on the precise area. The plan of the precise area showing natural water courses, limits of reserved and other forest areas and density of trees, if any, assessment of impact of mining activity on forest land surface and environment including air and water pollution; details of scheme for restoration of the area by afforestation, land reclamation, use of pollution control devices and of such other measures"*

6) It is further submitted that on the objective of strong environment concern Rule 42 was framed under the Tamil Nadu Minor Mineral Concession Rules, 1959 which mandated for obtaining Environmental Clearance from SEIAA for grant of quarry lease. The said Rule read as "42. (i) *The approved mining plan shall be forwarded to the applicant for obtaining environment clearance from the State Level Environment Impact Assessment Authority or the Ministry of Environment and Forests, as the case may be. (ii) On submission of approved mining plan and environment clearance from the said authorities, the Government or the District Collector, as the case may be, shall grant the quarry lease"*

7) It is further submitted that by strictly following the provisions of the said rules and other rules framed under the Tamil Nadu Minor Mineral Concession Rules, 1959 and provisions of the Sections framed under the Mines and Minerals (Development and Regulation) Act, 1957, all the quarry leases have been granted with ultimate concern about environment and forests.

**8) It is further submitted that at this juncture, one Thiru. Muralidaran has filed W.P.No.27356 of 2019 before the Hon'ble High Court of Madras with a prayer to issue a**

**writ of mandamus or any other writs or directions, directing the 1<sup>st</sup> respondent i.e. the Principal Chief Conservator of Forests & Chief Wildlife Warden to identify and secure the elephant corridors in the Coimbatore forest division** with the support of the other Respondents and pass any such further or other orders as deem fit and proper in the facts and circumstances of the case and thus render justice and to pass an order of direction, directing the 4<sup>th</sup> & 5<sup>th</sup> respondents i.e. the Principal Secretary/Chairman, Tamil Nadu Pollution Control Board and the Commissioner of Geology and Mining respectively to close all the illegal brick kilns operating in Thadagam valley of Coimbatore and pass as such further or other orders as deem fit and proper in the facts and circumstances of the case and thus render justice.

9) It is further submitted that another petitioner Thiru. T.M.S.Rajendran has filed W.P.No.28475 of 2019 before the Hon'ble High Court of Madras with a prayer to direct the respondents to take necessary action to close down the illegal brick kilns being operated in all the villages of Veerapandi, Thadagam, Somayapalyam, Nanjundapuram and Pannimadai panchayats of Coimbatore District within the time frame stipulated by the Hon'ble Court.

10) It is further submitted that the Hon'ble High Court of Madras has passed orders dated 10.02.2021 in W.P.Nos.27356 of 2019 and 28475 of 2019 ordered as follows:- "2. *In some of the other matters, the grievance appear to be directed against brick kilns which have mushroomed all over the State and general refrain is that the local authorities have turned a Nelson's eye to the illegal operations of brick kilns. The official respondents must take immediate remedial measures to ensure that brick kilns function*

*within the parameters set down and upon obtaining license remain confined to the areas demarcated. Burgeoning brick kilns that encroach into forest lands or elephant corridors should be proceeded against without undue delay”.*

11) It is further submitted that the District Collector, Coimbatore has furnished letter vide Rc.No.650/Mines/2021, dated 26.03.2021 stated that a total number of 186 brick kilns units which were unlawfully operated in Veerapandi, Thadagam, Somayampalayam, Nanjundapuram and Pannimadai villages in Coimbatore North Taluk, Coimbatore District were closed and the brick kilns owners were banned from carrying out any activities from 19.03.2021 onwards.

12) It is further submitted that against the closure orders passed by the District Collector, Coimbatore, the aggrieved brick kilns owners have preferred appeals before the Commissioner of Geology and Mining under Rule 36-C (2) and 36(D) of Tamil Nadu Minor Mineral Concession Rules, 1959 with a prayer to grant stay all further proceedings of the impugned closure orders passed by the District Collector, Coimbatore and thus render justice.

13) It is further submitted that the Hon'ble National Green Tribunal, Southern Zone, Chennai on its own Suo Motu registered O.A.No.119 of 2021 and passed orders dated 04.06.2021 constituted a joint committee comprising of the District Collector, Coimbatore, a senior officer from Tamil Nadu State Environment Impact Assessment Authority, designated by its Chairman, a senior officer from Tamil Nadu Pollution Control Board designated by its Chairman, a senior officer from Department of Geology and Mining deputed by its Commissioner to inspect the area in question and to

submit a factual as well as action taken report, if there is any violation found. As per the directions of the Hon'ble National Green Tribunal, the joint committee has carried out inspection and submitted a report dated 19.07.2022 and quantified 1,10,77,276 Cbm volume of brick earth were illegally quarried in the villages of Veerapandi, Chinnathadagam, Somayapalayam, Nanjundapuram and Pannimadai and recommended to levy the interim compensation for a sum of Rs.373,74,20,826/- on owners of the brick kilns for the illegal quarrying of the brick earth.

14) NGT has issued a certain direction to the Joint Committee and requested to submit the factual reports. The reply is given below by the Commissioner of Geology and Mining to the NGT directions.

Direction i & ii

- i. The committee is also directed to consider as to whether environmental clearance are obtained for the purpose of extracting mud for commercial purpose.
- ii. Whether necessary permissions have been obtained from the Mining Department and how the mining Department is regulating the activities to check over exploitation of minerals.

**As per the Rule 44 of Tamil Nadu Minor Mineral Concession Rule,1959 it is permitted that earth can be extracted from 1.5 – 2m and the extraction of the earth shall be carried out under a short-term permit issued for a period not exceeding three months by the District Collector. The soil excavated 1.5 – 2m is for improving the soil structure or fertility of lands where continuous cultivation is under taken for**

**several decades without using organic manures and where soil nutrients got depleted which resulted in lesser yield. The soil excavated for this purpose is considered as non-mining activity. Hence Environmental Clearance is exempted for this activity.**

Direction iii

- iii. Whether there was any excessive mining done by any of the persons who have been authorized to do such work

**The quantity of earth excavated by the individuals brick kilns owners in 569 survey fields/patta lands is not quantifiable because, the mining activities in the area is going on for more than 40 years and in single survey number several persons have removed earth for brick chamber purpose. There is no records available for quantification in future the quantification will be insisted by maintaing permit register and permits.**

Direction iv & v

- iv. Whether any action has been taken against those persons  
v. Whether there was any violation of excessive mining and if so, what is the nature of action taken against offenders by the regulators.

**It is further submitted that based on the enquiry during personal hearing with owners of the Brick Kilns and perusal of other connected documents, it was observed that from the year of 2013,**

majority of the Brick Kilns have not remitted Annual Brick Mineral Fee. Hence, penalty levied for recovery of Annual Brick Mineral Fee for about 8 years which ranged from Rs. 3,00,000/- to Rs.40,00,000/- based on the production capacity of the Brick Kilns and passed orders vide Rc.No.681/MM1/2021, dated 29.12.2022. The total penalty levied on owners of the Brick Kilns is Rs.12,92,00,000/-. There is no provision under Rule 19(2) for collection of seigniorage fee for brick earth removed from patta lands and as per MMDR amendment Section 21(5) cost of mineral collection is not applicable for registered brick chamber.

- vi. Whether the brick kiln industries are following the directions issued by the Principal Bench of National Green Tribunal in similar matters in North India, with modifications if any, required considering the situation prevailing in these areas to protect environment.

**It is further submitted that all the brick kiln units are functioning as per the notification issued by MoEF & CC, dated, 22.02.2022 and as stated in the Environment (Protection) Rules, 1986, in the SCHEDULE-I, for entry at Sl.No.74, the following entry shall be substituted, namely: -**

74	Brick Kilns	Particulate matter in Stack emission	250 mg/Nm <sup>3</sup>
		Minimum stack height (Vertical Shaft Brick Kilns)	
		- Kiln capacity less than 30,000 bricks per day	14m (at least 7.5, from loading platform)
		- Kiln capacity equal or more than 30,000 bricks per day	16m (atleast 8.5 m from loading platform)
		Minimum stack height (Vertical Shaft Brick Kilns)	
		- Kiln capacity less than 30,000 bricks per day	24m
		- Kiln capacity equal or more than 30,000 bricks per day	27m

All these Brick chambers in Thadagam region are with adequate chamber height as prescribed by the Government of India & Guidelines as per above.

Direction Vii & Viii.

- vii. Whether any damage has been caused to any of the water bodies nearby.
- viii. Whether it has affected the water bodies like rivers and streams etc.

**It is submitted that, sufficient slope/ gradation is to be created in the dugout/mined out pits. Further, water harvesting structure can be created in all such pits in order to improve Ground water levels of these areas with the help of Government Departments and also with the involvement of**

**panchayat & brick kiln chamber owners it will be / restored and rejuvenation of pits completed within in a month.**

Direction ix:

- ix. Whether any depletion in the ground water level has happened on account of unscientific manner in which such industries are being run by the persons involving in such activities. If any damage has been caused to environment, the Committee shall indicate what is the nature of damage caused and offer recommendations for restoring the damage caused to the environment and also assess the environmental compensation to be recovered recover from those persons who are responsible for such degradation.

**It is submitted that, the year wise ground water level data provided by the Water Resources Department in nearby villages of Anaikatti, Daliyur, Mangarai, Veerapandi and Kovilmedu of Coimbatore North taluk, reveals that during the past years there is no drastic change in ground water table and there is no indication of depletion of ground water table due to this mining activity and the water level remains unchanged/unaltered or is improved in respect of all the villages. This is due to the fact that all these quarried pits conserve water received during monsoon rainfall season and thus contribute to maintenance of ground water table of the area.**

15) It is further submitted that Joint committee has arrived Environmental Compensation by using the Formula as follows as per Office Assistant /10360/2015 (PB) National Green Tribunal Bar Association Vs Virender Singh (State of Gujarat) which was applicable for sand mining and not for removal of earth in patta lands.

Severity	Mild	Moderate	Significant	Severe
Risk Level	1	2	3	4
Risk Factor	0.25	0.50	0.75	1.0

Where,

Market value of illegally mined Material(D) = Qty Mined\*

Rs/Cbm

Annual Value of Foregone Ecological Values =D\*RF

Present Value of Foregone Ecological Values=Pv

Net Present Value (after netting out market value of illegally Mined Material) – i.e. Total Compensation to be levied =NPV=PV-D

16) **It is further submitted that the Joint Committee has taken Risk Factor as "1" (instead of 0.25) and arrived the Environmental Compensation for a sum of Rs. 373,74,20,826/-. Whereas, the said formula used for arriving the said Environmental Compensation is only for sand mining not for the brick earth. If the Risk Factor is taken as "0.25", the Environmental Compensation could be arrived for a sum of Rs. 15,63,33,298/-. The difference of Environmental Compensation between Risk Factor 0.25 and 1.0 is tabulated below: -**

<b>Name of the Villages</b>	<b>Environmental compensation (in Rs) (If the Risk Factor Taken as 1.0)</b>	<b>Environmental Compensation (in Rs) (If the Risk Factor Taken as 0.25)</b>
Thadagam	1,46,86,04,923	10,04,01,578
Veerapandi	1,47,18,33,681	3,64,12,243
Nanjundapuram	11,17,75,104	25,67,882
Somayapalayam	67,38,02,049	1,66,69,441
Pannimadai	1,14,05,069	2,82,154
<b>Total</b>	<b>373,74,20,826</b>	<b>15,63,33,298</b>

**Further, the above Environmental Compensation was arrived by using the formula for sand mining in rivers not for brick earth in lands.**

**In respect of poramboke lands, streams and rivers unless it is proved by way of seizure of vehicles etc or any other reports by Village level officials it cannot be confirmed that these brick owners alone are responsible for excavation in poramboke lands. The penalty of Rs 373.74 crores was arrived based on the inspection of physical damage of water streams, riverine system etc as per page 20 of the Joint Committee report and hence it is not related to patta lands wherein the owner of the patta lands have voluntarily sold the earth to the brick kiln chamber owners.**

17) It is further submitted that owners of the brick kilns have filed W.P.Nos.34307, 34312, 34316 & 34320 of 2022 against the penalty levied by the Tamil Nadu Pollution Control Board towards environmental compensation with a prayer to grant an order of interim stay of the order passed by the 3<sup>rd</sup> respondent i.e. the Tamil Nadu Pollution Control Board and to issue writ of certiorari or any other writ, order or direction in the nature of a certiorari calling for

the records of the 3<sup>rd</sup> respondent and to quash the same as arbitrary, unjust and illegal and pass such further or other orders as the Hon'ble Court may deem fit and necessary and thus render justice.

**18) It is further submitted that the Hon'ble High Court of Madras has passed orders dated 21.12.2022 in W.P.Nos.34307, 34312, 34316 & 34320 of 2022 has granted an order of interim stay on the penalty proceedings passed by the Tamil Nadu Pollution Control Board towards environmental compensation.**

19) It is further submitted that the Hon'ble National Green Tribunal Southern Zone, Chennai in Original Application No.119 of 2021 (SZ) & I.A.Nos.22 of 2022 and 23 of 2022 has stated that "It may be mentioned here that, if any, applications were filed in proper form complying all the legal procedure for any particular purpose as required under any statute, it is for the authorities to pass appropriate orders in those application in accordance with law within a reasonable time and pendency of the suo motu proceedings on the question of pollution caused on account of the alleged illegal operation of the brick kilns without adopting the pollution control mechanism will not be a bar for consideration of such applications in exercising their statutory powers if it is otherwise permissible in law strictly in accordance with that statute. So we do not want to give any clarification as the statutory authorities are expected to exercise their powers under respective statutes in accordance with law as there was no injunction granted against any of the authorities in passing appropriate orders in respect of any applications filed before them".

20) It is further submitted that in the meantime, the brick kilns owners have filed W.P.Nos.8694, 8695, 8697, 8888, 8885, 8867, 8855, 8838, 8846 & 8923 of 2022 before the Hon'ble High Court of Madras with a prayer to issue writ of mandamus or any other writ or any order or direction in the form of writ, by directing the respondent to de-seal the premises and grant of electricity connection so as to enable to remove/shift all the baked bricks, raw bricks, machineries and other materials from the brick kilns and pass such further orders may deem fit to the Hon'ble Court and thus render justice.

21) It is further submitted that the Hon'ble High Court of Madras has passed orders dated 13.04.2022 in W.P.Nos. 8694, 8695, 8697, 8888, 8885, 8867, 8855, 8838, 8846 & 8923 of 2022 ordered as follows, "13. Thus, while considering the appeals of all the petitioners, R1 will consider and decide the interim protection sought. Those, of the petitioners who have not thus far sought interim protection are permitted to seek such interim protection as they may desire, by way of separate applications. And let such applications, if and when filed, be disposed within a period of two weeks thereafter. The appeals shall be disposed within a time frame of six (6) weeks as fixed and directed earlier".

22) It is further submitted that in compliance to the orders passed by the Hon'ble High Court of Madras dated 13.04.2022 in W.P.Nos. 8694, 8695, 8697, 8888, 8885, 8867, 8855, 8838, 8846 & 8923 of 2022, necessary action have been taken for disposal of all the appeals filed before the Commissioner of Geology and Mining by the owners of the brick kilns. Due opportunity of personal hearing of the appellants have been granted and the appellants

have appeared before the Commissioner of Geology and Mining and submitted written statements.

23) It is further submitted that MoEF & CC, in its notification dated, 22.02.2022 has stated that in exercise of the powers conferred by sections 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules further to amend the Environment (Protection) Rules, 1986, namely: -

1. Short Title and commencement: -

(1) These rules may be called the Environment (Protection) Amendment Rules, 2022.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Environment (Protection) Rules, 1986, in the SCHEDULE-I, for entry at Sl.No.74, the following entry shall be substituted, namely: -

74	Brick Kilns	Particulate matter in Stack emission	250 mg/Nm <sup>3</sup>
		Minimum stack height (Vertical Shaft Brick Kilns) - Kiln capacity less than 30,000 bricks per day - Kiln capacity equal or more than 30,000 bricks per day	14m (at least 7.5, from loading platform)  16m (atleast 8.5 m from loading platform)
		Minimum stack height (Vertical Shaft Brick Kilns) - Kiln capacity less than 30,000 bricks per day	

	- Kiln capacity equal or more than 30,000 bricks per day	24m 27m
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All these Brick chambers in Thadagam are with adequate height as prescribed above.

24) It is further submitted that all the the Brick Chambers obtained registration certificate long back. The Annual brick mineral Fee structure as per rule 19(2) of Tamil Nadu Minor Mineral Concession Rules, 1959, is as follows:

- (i) For Kiln up to 16 chambers Rs.60,000/- (Rupees sixty thousand only) per kiln per annum.
- (ii) For Kiln up to 17 chambers but not exceeding 26 chambers: Rs.75,000/- (Rupees seventy-five thousand only) per kiln per annum.
- (iii) For Kiln up to 27 and more chambers Rs.90,000/- (Rupees ninety thousand only) per kiln per annum.
- (iv) For Kiln up to 15 firing vents: Rs.10,000/- (Rupees ten thousand only) per kiln per annum.
- (v) For Kiln with more than 15 firing vents: Rs.12,000/- (Rupees Twelve thousand only) per kiln per annum.

25) It is further submitted that fee structure was revised as follows:

Sl. No	No. of Chambers of the Brick Kiln	Annual Brick Mineral Fee (in Rs.) before 04.04.2017	Annual Brick Mineral Fee (in Rs.) after 04.04.2017
1.	For Brick Kiln upto 16 chambers	28,000	60,000
2.	For Brick Kiln with 17 and more chambers but not exceeding 26 chambers	35,000	75,000
3.	For Brick Kiln with 27 and more chambers	40,000	90,000
4.	For Country Kiln upto 15 firing vents	5,000	10,000
5.	For Country Kiln with more than 15 firing vents	6,000	12,000

26) It is further submitted that under Rule 19(2) of TNMMCR, 1959, **there is no provision for collecting seigniorage fee for quantum of brick earth removed** whereas the provisions were framed for collection of Annual Brick Mineral Fee based on the number of chambers of the Brick Kiln and number of firing vent of the Brick kiln as mentioned in the above table.

Rule 19(2) of TNMMCR, 1959 read as "(a) Every brick manufacturing unit shall for quarrying brick earth apply to the District Collector concerned for quarrying permit in Form I in Appendix IV-A along with copy of certificate of registration issued by the District Collector concerned, the consent letter from the pattadar from whose land it is proposed to quarry the earth for the manufacture of bricks, a non-refundable application fee of Rs.1500/- and the brick mineral fee at the rate specified.

(i) *The permit holder shall intimate to the District Collector about the details of patta lands from which the earth for manufacture of brick is proposed to be quarried, fifteen days before the commencement of quarrying of earth. Whenever there is a change of location (Survey field) of quarrying it shall be intimated in the manner indicated above."*

27) It is submitted, that the total volume of brick earth mined in the patta lands of Nanjundapuram, Pannimadi, Somayampalayam, Chinnathadagam and Veerapandi villages of Coimbatore North is approximately around 10589566 m<sup>3</sup>. It is further submitted that, the Joint Committee has calculated the penalty amount as Rs. 373,74,20,825/- by considering **cost of Mineral of Rs. 100/- per cbm in respect of the patta lands.**

28) It is submitted that the **cost of mineral is not applicable** in patta land as per the new amendment made in the section 21(5) of MM(DR) Acts of 1957, since the earth was removed by registered brick chamber units.

*"Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raise, or, where such mineral has already been disposed of, the price thereof, any may also recover from such person, rent, royalty or tax, as the case may be for the period during which the land was occupied by such person without any lawful authority*

**Explanation:** *On and from the date of commencement of the Mines and Minerals (Development and Regulations) Amendment Act, 2021, the expression 'raising, transporting or causing to raise or transport any mineral without any*

*lawful authority' occurring in this section, shall meaning raising, transporting or causing to raise or transport any mineral by a person without prospecting license, mining lease or composite license or in contravention of the rules under section 23C".*

Since they are registered brick chamber as per TNMMCR, 1959 cost of mineral as per MMDR Act 1957, Amendment Act 2021, cannot be imposed with respect to seigniorage fee for Rs. 33/- it will amount to a of penalty amount of Rs 34,94,55,678/-

29) However, as per Rule 19(2) of Tamil Nadu Minor Mineral Concession Rules, 1959 seigniorage fee is not applicable/collected for brick kiln units. Hence it is also cannot be imposed and collected from the brick chamber owners as per Tamil Nadu Minor Mineral Concession Rules, 1959. Brick mineral fee is alone applicable/collectable as per rules.

30) It is further submitted that based on the enquiry during personal hearing with owners of the Brick Kilns and perusal of other connected documents, it was observed that all the brick chambers were registered as Brick Kilns and some of them have not remitted Annual Brick Mineral Fee. Hence, apart from penalty levied for recovery of Annual Brick Mineral Fee for about 8 years which ranged from Rs. 3,00,000/- to Rs.40,00,000/- based on the production capacity of the Brick Kilns and passed orders vide Rc.No.681/MM1/2021, dated 29.12.2022. The total penalty levied on owners of the Brick Kilns is Rs.12,92,00,000/- towards recovery of Annual Brick Mineral Fee as penalty for non-remittance period for 8 years since there is no provision under Rule 19(2) for

collection of seigniorage fee for brick earth removed from patta lands and as per Amendment made in Section 21(5) of MMDR Act 1957 cost of mineral is not applicable for patta land hence it cannot be levied.

31) It is further submitted that based on the number of chambers, the Brick Kilns were categorized into three Categories i.e., Category-I, Category-II and Category-III and levied the said penalty as tabulated below:-

Sl.No.	Category of Brick Kilns	Annual Brick Mineral fee to be recovered from 2013 to 2017 (for 5 years) as per Rule 19(2) of TNMMCR, 1959 at the rate of before 04.04.2017 (in Rs.)	Annual Brick Mineral fee to be recovered from 2018 to 2020 (for 3 years) as per Rule 19(2) of TNMMCR, 1959 at the rate of after 04.04.2017 (in Rs.)	Total Penalty amount (in Rs.)
1.	<b>Category-I</b>	28,000 x 5 = 1,40,000	60,000 x 3 = 1,80,000	3,20,000 (based on the production capacity of Brick kiln the penalty was fixed as <b>Rs.3,00,000/-</b> )
2.	<b>Category-II</b>	35,000 x 5 = 1,75,000	75,000 x 3 = 2,25,000	4,00,000 (based on the production capacity of Brick kiln the penalty was fixed as <b>Rs.6,00,000/-</b> )

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3.		<b>Category-III</b>	40,000 x 5 = 2,00,000	90,000 x 3 = 2,70,000	4,70,000 (based on the production capacity of Brick kiln the penalty was fixed as <b>Rs.10,00,000/-</b> )
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**\*The District Collector, Coimbatore has closed 177 brick kilns which were operated in Thadagam, Veerapandi, Nanjundapuram, Somayapalayam & Pannimadai villages and brick kiln owners were banned from carrying out any activities from 19.03.2021.**

32) It is further submitted that even though the joint committee has reported that one crore cbm of earth was removed in different 569 survey numbers in patta lands in the five villages, the details related to the individual brick chamber or pattadar wise breakup for removal of earth has not been quantified and this removal of brick earth was in force time- memorial and hence the common order passed on the appeals vide in Rc.No.681/MM1/2021, dated 29.12.2022 and levied penalty for a sum of Rs.12,92,00,000/- which ranged from Rs.3,00,000 to 40,00,000/- on the owners of the brick kilns for extraction of brick earth without remittance of prescribed Annual Brick Mineral Fee. **Apart from above penalty, brick mineral fee arrears/ dues can also be collected from respective individual brick chamber owners as per their dues by the Assistant Director of Mines, Coimbatore on remittance of penalty, the owners of brick chambers were allowed to remove baked and un-baked bricks from their respective brick kilns and to operate in order to remove already manufactured bricks which were pending for disposal for more than 2 years thus affecting the economy of labour force and brick chamber owners and the owners of the brick kilns were directed to apply to District**

**Collector as per provisions stipulated under Rule 44 and 19(2) of the Tamil Nadu Minor Mineral Concession Rules, 1959 with all statutory clearances including clearance from HACA. The said order was issued subject to the outcome of directions to be passed by the Hon'ble High Court and Hon'ble National Green Tribunal in future.**

33) It is submitted that, the year wise ground water level data provided by the Water Resources Department in nearby villages of Anaikatti, Daliyur, Mangarai, Veerapandi and Kovilmedu of Coimbatore North taluk, reveals that during the past years there is no drastic change in ground water table and there is no indication of depletion of ground water table due to this mining activity and the water level remains unchanged/unaltered or is improved in respect of all the villages.

Year	Anaikatti	Dailyur	Veerapandi	Mangarai	Kovilmedu
2006		49.5			
2007	4.2	49.5			
2008	9.89	49.5			
2009	10.01	49.3			
2010	8.95	46.7			
2011	8.92	42		42	
2012	9.54	42		42	
2013	10.3	42		42	
2014	10.07	42		42	
2015	8.61	41.6		41.6	
2016	8.8	40.9			
2017	10.01	39.8	49.44		32.16
2018	10.12	39.3	49.18		37.8
2019	9.25	39.3	49.82		35.93
2020		39.3	50		37.32
2021		39.3	52		37.27

34) It is further submitted that, sufficient slope/ gradation is to be created in the dugout pits. Further, water harvesting structure can be done in all such pits in order to improve Ground water levels of these areas with the help of Government Departments and also with the involvement of panchayat & brick kiln chamber owners these works will be completed within in two months.

35) It is further submitted that the District Collector, Coimbatore vide letter No.650/Mines/2019, dated 23.02.2023 has stated among other things that:-

- i. The Brick making Industries of Thadagam region have been in operation for more than four decades. During the year 2021, a total number of 177 brick kilns/chambers were being operated registration certificates in the said region were closed by the District Administration. However, these brick chambers are in possession of registration certificate obtained before 2013 and have also they have paid Annual Brick Mineral Fees till 2021. A total quantity of 1,12,25,251 Cbm of brick earth was mined from the 569 survey fields in 5 villages.
- ii. At this stage, there are no available records about the exact quantum of brick earth mined out by individual brick kiln/chamber owners and from where and when from (period) the brick earth was mined by whom.
- iii. Therefore, based on the information provided in the Joint Committee report it is practically impossible for

concluding on the individual penalty to be paid by the brick kiln owners / pattadars or to quantify the amount of brick earth excavated by any individual. Hence, no demand could be sent to any pattadar/owner of the brick kilns/chambers till date by the District Administration though the Joint Committee gave its report during July 2022.

- iv. Further, with regard to the applications preferred by the brick kiln owners of Thadagam region for grant of permission for quarrying brick earth, it is informed that a total number of 119 applications were preferred by the owners of the brick kiln/chamber. However, the applications were incomplete as the applicant have not paid the required fee and also have not produced documents such as village records, consents from TNPCB, etc. At this stage, the subject matter was taken up by the Hon'ble High Court of Madras and Hon'ble National Green Tribunal and hence no further action was taken in this regard.

**36) It is further submitted that as stated by the District Collector, Coimbatore above vide letter No. 650/Mines/2019, dated 23.02.2023 that the brick kiln/chambers are registered and operated for the past 40 years and there are no records on the exact quantum of brick earth mined out by individual brick kiln/chamber owners and from where and when the brick earth was mined by whom and even though the joint committee has reported that about one crore cbm of earth was removed in 569 different patta lands in the five villages, it is practically**

**impossible for concluding on the individual penalty to be levied on the brick kiln owners / pattadars or to quantify the amount of brick earth excavated by any individual. Since the Registered Brick Kiln/Chambers were operational for 40 years,** the common order has been passed by the Commissioner of Geology and Mining vide Rc.No.681/MM1/2021, dated 29.12.2022 and levied penalty for a sum of Rs.12,92,00,000/- which ranged from Rs.3,00,000 to 40,00,000/- on the owners of the brick kilns for the violations of extraction of brick earth without remittance of prescribed Annual Brick Mineral Fee. The said penalty has been levied by considering the factors pertaining to the non-remittance of Annual Brick Mineral Fee by the Brick Kilns / Chambers for the period 2013 to 2020 and also considering the factors related to production levels of the Brick kilns/Chambers to compensate "the Revenue Loss" to the Government made by the Brick Kilns/Chambers in respect of non-remittance of Annual Brick Mineral Fee.

37) From the year of 2003, the owners of the registered Brick Kiln/Chambers have to obtain clearance from HACA for quarrying brick earth. Though they have applied for seeking HACA clearance, the District Collector is yet to forward those applications to the State Authorities and the District Collector, Coimbatore vide letter No.650/Mines/2019, dated 23.02.2023 has stated that the subject matter was taken up by the Hon'ble High Court of Madras and the Hon'ble National Green Tribunal and hence no further action was taken in this regard. However District Collector was directed to send proposal to State authorities for HACA clearances after obtaining clearances from District officials of HACA Committee.

**38) It is further submitted that at this juncture, one Thiru. Muralidaran has filed W.P.No.27356 of 2019 before the Hon'ble High Court of Madras with a prayer to issue a writ of mandamus or any other writs or directions, directing the 1<sup>st</sup> respondent i.e. the Principal Chief Conservator of Forests & Chief Wildlife Warden to identify and secure the elephant corridors in the Coimbatore forest division.**

39) It is further submitted that the Hon'ble Supreme Court of India, dated 03.06.2022 in Writ Petition (Civil) No.202/1995 filed by T N Godavarman Thirumalpad Vs. Union of India and Others, directing among others that "each protected forest, that is national park of wildlife sanctuary must have an ESZ of minimum one kilometer measured from the demarcated boundary of such protected forest in which the activities prescribed and prescribed in the Guidelines of 09.02.2011 shall be strictly adhered to and that mining within the national parks and wildlife sanctuaries shall not be permitted". It may be noted that "protected forests" in the context means Sanctuaries and National Parks and not Reserve Forests. The Guidelines of the Government of India, Ministry of Environment and Forests (Wildlife Division) dated 09.02.2011 relate only to the Eco-sensitive Zones around National Parks and Wildlife Sanctuaries and not to Reserve Forests. Out of five villages, Pannimadai is not an HACA village and all the brick chambers in five villages are located one kilometre away from the reserve forest.

40) It is further submitted that the five villages of Thadagam regions i.e., Chinna Thadagam, Veerapandi, Nanjudapuram, Somayampalayam and Pannimadai villages of Coimbatore District is located one kilometer away from reserve forest and not at all

located in the eco-sensitive zone as prescribed by the Hon'ble Supreme Court.

**41) It is further submitted that there are no officially notified elephant corridor in 5 Villages i.e., Chinna Thadagam, Veerapandi, Nanjudapuram, Somayampalayam and Pannimadai villages of Coimbatore District as stated by District Forest Officer, Coimbatore division vide letter reference no. E2/3371/2021, dated 03.07.2021.**

**42) It is further submitted that the Hon'ble High Court of Madras has passed orders dated 21.12.2022 in W.P.Nos.34307, 34312, 34316 & 34320 of 2022 has granted an order of interim stay on the penalty proceedings passed by the Tamil Nadu Pollution Control Board towards environmental compensation.**

43) It is further submitted that due to closure of brick kilns in Thadagam area of Coimbatore District cost of bricks has increased from Rs.6 to Rs.13 to 14 in Coimbatore and almost in all the districts. It is further submitted that Bricks from chambers of other three districts Madurai, Dindigul & Erode were being transported and supplied at higher rates in Coimbatore and other districts.

44) It is further submitted that Thadagam Brick chamber owners have requested for permission for sale of bricks which were ready for sale and which were pending for sale for more than 2 years now, may be considered by the Hon'ble National Green Tribunal, in order to protect the livelihood of labours and owners of brick chambers in Thadagam area.

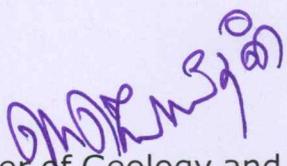
45) It is further submitted that the District Administration will improve the ecology of already quarried pits by creating gentle slope/gradient in the pits by utilizing the funds apportioned to respective panchayats, green funds and funds available under DMFT (District Mineral Fund Trust). Prime thrust will be to harvest water to improve the water table of the area apart from assisting in agricultural activities and afforestation activities around quarried pits. Quarried pits will also be utilized as compost pits by the village panchayats.

It is therefore most respectfully and humbly prayed before the Hon'ble National Green Tribunal that

- a. In the interest of supply of bricks at a reasonable rate to the common people, and to protect the livelihood of lakhs of Laboures of brick chambers, the bricks which are ready for sale but are kept unsold for more than 2 years now may be permitted for sale after remittance of penalty levied by the Commissioner of Geology and Mining vide Rc.No.681/MM1/2021, dated 29.12.2022
- b. Brick Kilns/Chambers which are located in the five villages of Thadagam, Nanjundapuram, Veerapandi, Somayampalayam and Pannimadai may be permitted to operate after obtaining all the statutory clearances including from Tamil Nadu Pollution Control Board and clearance from HACA as required under Tamil Nadu Minor Mineral Concession Rules, 1959.

- c. The District Administration may be directed to improve the ecology of quarried pits within two months time by utilizing the services of all the brick kiln owners and Government Departments and thus render justice.

Solemnly affirmed at  
Chennai this the ~~26th~~ 26th day of  
February, 2023 and signed  
his name in my presence.

  
Commissioner of Geology and Mining

COMMISSIONER  
COMMISSIONERATE OF GEOLOGY AND MINING  
GUINDY, CHENNAI-600 026