

BEFORE THE NATIONAL GREEN TRIBUNAL
ORIGINAL APPLICATION NO. 134 OF 2017 (SZ)

M. Ravichandran & others

... Applicants

Versus

Joint Commissioner,
Arulmighu Dhandayuthapani Swamy
Thirukovil,
Palani & 9 others

... Respondents

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CHENNAI

DATE: 03.01.2022.

DRAWN AND FILED BY



ADVOCATE FOR RESPONDENT NOS.10&11

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**RESPONSE /OBJECTIONS FILED BY R-10 & R-11 TO THE REPORT OF
THE JOINT COMMITTEE DATED OCTOBER 2021**

1. It is submitted that the main application was originally filed alleging that the temple administration and also the Respondents 10 & 11 were discharging untreated effluents into the lands of the Petitioner. This Hon'ble Tribunal by order dated 24.08.2017 has clearly observed that the construction of hotel by the Respondents 10 & 11 was at the preliminary stage and there is absolutely no discharge of any effluents from hotel being constructed by the Respondents 10 & 11. However, the said Respondents were directed to obtain necessary consent from the concerned authorities. Subsequently, by order dated 12.12.2019 this Hon'ble Tribunal constituted a Joint Committee to ascertain the present status as to whether any untreated sewerage water is being discharged into the properties of the Applicant and whether it has caused any damage and in case of any discharge or damage also to assess environmental compensation.

2. The Joint Committee after inspection has filed a report wherein it is stated in page No.18 that the subject land is flooded with water and mixed with domestic waste water generated from septic tanks of Arulmighu Dhandayuthapani Swamy Thirukovil and waste water from Palani



H. Subhikumar
S. Prerna

Municipality and Sivagiri Panchayat. In page 20 of the report it is observed by the committee that the hotel is yet to start commercial operations and STP had been installed and was under operable condition. It was also noted that since hotel was not under operation there was no generation of sewage or any waste water and therefore there was no discharge. Under the circumstances, the committee has concluded in page No.21 of the report that STP has been established with necessary standards and capacity to treat the waste water.

3. However, unfortunately in page No.25 of the report while dealing with the damage caused to the environmental by the alleged polluters, the Joint Committee without an iota of evidence has observed that M/s. S.P. Properties has started construction by obstructing the existing drainage. This is totally unwarranted and incorrect. In the earlier part of the report, the Committee has already recorded a finding that M/s.S.P. Properties has not discharged any effluent. However, the Committee has made an irrelevant observation as follows: "M/s. S.P. Properties has provided Sewerage treatment plant and same was not put into regular usage". This observation is unsupported by any evidence. This is because the committee has already observed that STP provided by M/s. S.P. Properties (Respondents 10 & 11) will meet the necessary standards and is in operable condition. Regarding soil pollution the committee has concluded that the soil is fit for cultivation.

4. Further in page No.25 of the report the Committee merely states as follows:-

"The Petitioner brings to the notice DRO, Palani on 09.11.2016 that their lands are polluted due to the discharge of domestic waste Arulmighu Dhandayuthapani Swamy Thirukovil and due to construction of M/s.S.P.Properties". After this observation and without any evidence on record the committee has proceeded to assess the damage and levy environmental compensation as though M/s. S.P. Properties (R10 & R11) are also responsible for domestic sewerage discharge. The compensation



M. Senthirumar
S. Prerna

estimated @ Rs.301355 for all the three has been directed to be apportioned among the Temple Administration, Sivagiri Panchayat R-10 & R-11.

5. The Committee has not chosen to give any finding as to how R10 & R11 were responsible for causing obstruction to any drainage system. On the other hand, in the contour map filed as part of the report, it is clear that there is substantial distance between the original drainage and the compound wall of M/s. S.P. Properties. The drainage system mentioned in the diagram is not in existence for more than 10 to 12 years, the same probably having been already converted to building area due to construction of bus stand and Devasthanam parking area. Even at the time of commencement of construction of by M/s. S.P. Properties there was no drainage system in existence in order to see whether M/s. S.P. Properties caused any obstruction at all. At the time of construction, the sand used for construction was stored at the rear side of the property of R10 & R11 (not the Petitioners) as there was no drainage system and it was only dry land. The Petitioners have made unnecessary complaints to bring forth a make-believe situation as though drainage existed prior to commencement of construction by M/s. S.P. Properties and that M/s. S.P. Properties have actually caused obstruction.

6. The Joint Committee instead of verifying the genuineness of claim made by the petitioners and recording a finding whether any drainage at all existed has proceeded to assume the allegation of the Petitioners as true and has made the Respondents 10 & 11 also liable for compensation.

7. The conclusion as to blockage of any drainage system by M/s. S.P. Properties and consequent damage to Petitioner's land and levy of compensation thereof are totally unsupported by any evidence. Therefore, the finding of the Joint Committee in this regard is liable to be disregarded totally.

N. S. K.
S. Prerna



8. The Respondents have set out their defence clearly in their Reply Statement filed in the main Original Application.

9. It is therefore submitted that the Joint Committee Report in so far as it seeks to fix any responsibility on Respondents 10 & 11 is liable to be rejected as the same is not supported by any evidence.

Dated at Chennai on this the 9th day of December 2021

RESPONDENTS No.10 & 11

VERIFICATION

We, 1. Selvakumar Natarajan S/o. Natarajan, and 2. Mrs.S.Prema W/o Selvakumar, No.7, North Giri Street, Palani, do hereby verify and declare that what is stated in the above paragraphs are true to the best of our knowledge and belief.

N. Selvakumar
S. Prema

RESPONDENTS No.10 & 11

Place: Palani

Date: 3/1/2022

Solemnly Affirmed And Signed
Before Me At Palani On. 3.1.22..

M. Senthilkumar
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**M/S. K.S. VISWANATHAN, T.HEMALATHA & S.RATHI
COUNSEL FOR RESPONDENT NOS. 10 & 11**