

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT  
CHENNAI.

MEMORANDUM OF APPLICATION  
(UNDER SECTION 18(1) READ WITH SECTIONS 14, 15, 16 & 17  
OF NATIONAL GREEN TRIBUNAL ACT, 2010)  
APPLICATION NO. 149 OF 2016(S2)

Between  
V.Ramiasubbu  
Advocate  
Door No. 48/17, Theppakulam Street  
Srivikundam - 628601.

...Applicant

And

1. Union of India Rep. by the Secretary to Government,  
Ministry of Environment and Forests and Climate Change  
Government of India, Paryavaran Bhavan,  
New Delhi - 110003.
2. The Wildlife Preservation (Southern Region),  
Ministry of Environment Forest and Climate Change,  
C-2/A, Rajaji Bhawan,  
Basant Nagar, CGO Complex  
Chennai - 600 090.
3. The Principal Chief Conservator of Forest and Chief Wildlife Warden,  
Panagal Maligai,  
Saidapet,  
Chennai - 600 006.
4. The Member Secretary  
State Level Environment Impact Assessment Authority  
Tamil Nadu  
3<sup>rd</sup> Floor, Panagal Maligai, No.1, Jeenis road  
Saidapet, Chennai - 15.
5. The State of Tamil Nadu Rep. by the Secretary to Government,  
Department of Environment and Forest, Government of Tamil Nadu,  
Fort St. George,  
Chennai - 600 003.

*Ar. Ar. 15/3/17*  
Assistant Director  
Directorate of Town and Country Planning  
Government of Tamil Nadu

*M. M. M.*  
Commissioner of Town and Country Planning,  
Government of Tamil Nadu,  
Chennai-600 002.

6. The Chairman  
Tamil Nadu Pollution Control Board  
76, Mount Salai, Guindy, Chennai - 32
7. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
DNo. 15-4-12-A3 Back to National Theatre  
SAR Complex  
Theni - 625 531
8. The Commissioner  
Directorate of Town and Country Planning  
807, Annasalai, Chennai - 600 002.
9. M/s. Bahri Estate Pvt. Ltd,  
rep by the Managing Director,  
201-202, Park N Shop, L-Block, DLF City Phase - II  
Gurgaon - 122 002  
Delhi

...Respondents

To

The Hon'ble Chairman and  
his companion Members of  
the National Green Tribunal.

COUNTER AFFIDAVIT FILED BY THE 8<sup>TH</sup> RESPONDENT

I, Shambhu Kallolikar, S/o Thiru. Krishana Kallolikar, aged about 53 years,  
the 8<sup>th</sup> Respondent working as the Commissioner/Director of Town and Country  
Planning (I/c), Chennai, do hereby solemnly affirm and sincerely state as follows.

1. It is submitted that the Government of Tamil Nadu issued  
Government Order in G.O.Ms.No.255 Rural Development (C2) Department dated  
18.08.1997 in which it is clearly stated that the Executive Authority of Rural Local  
Bodies have to obtain prior concurrence of the Director of Town and Country  
Planning or Joint Director of Town and Country Planning or Regional Deputy

*Shambhu*  
Assistant Director  
Directorate of Town and Country Planning  
Government of Tamil Nadu

*M. G. S. S.*  
Commissioner of Town and Country Planning,  
Government of Tamil Nadu,  
Chennai-600 002.

Director of Town and Country Planning for any layout proposal. It is submitted that the above mandatory condition as notified by the Government of Tamil Nadu and it is incorporated in Rule 3 in Tamil Nadu Panchayats Building Rules 1997. The Directorate of Town and Country Planning is a Government Organization functioning under the provisions of Town and Country Planning Act 1971, and the function of this Department is preparing the Master Plans and Detailed Development Plans etc., for various Local Planning area and issuing technical approval for various developments received from local bodies in Tamil Nadu.

2. It is submitted that any person intend to carryout any development in the area other than the planning Area shall make an application writing to Local Authority for Permission and the Local Authority before according permission U/s 47A(1) shall obtain Prior concurrence of Director of Town and Country Planning. Any layout development has been approved by the Executive Authority who shall get Prior Concurrence of the Director of Town and Country Planning or his authorized Joint Director or Deputy Director of Town and Country Planning for such approval. The Government of Tamil Nadu has accorded power delegation to approve layout upto 5.00 Acres in Rural area vide G.O.Ms.No. 71 R.D & CA Department, dated. 16.06.2003. Accordingly all the Layout developments and Building developments shall obtain Technical Approval/Planning Permission from Town and Country Planning Department.

3. It is submitted that the application from M/S. Bahri Estates Pvt., Ltd., the 9<sup>th</sup> Respondent requesting layout approval for an extent of 49.31.00 Hectares in survey Nos. 179B, 209B/2B etc., of Genguvarpatti village of G.Kallupatti

*[Signature]*  
 Assistant Director  
 Directorate of Town and Country Planning  
 Government of Tamil Nadu

*[Signature]*  
 Commissioner of Town and Country Planning,  
 Government of Tamil Nadu,  
 Chennai-600 002.

Panchayat through the President G.Kallupatti Panchayat was received by Deputy Director of Town and Country Planning, Madurai Region on 14.02.2008.

4. It is submitted that the proposed Layout gaining access from the Vathalagundu to Kodaikanal Road. The proposed layout site lies in foot hills of Kodaikanal in the Non-Planning area and as well as Genguvarpatti Village is not included in the List of Hill Villages notified in G.O.Ms. No. 49, Housing Urban Development Dated. 24.03.2003.

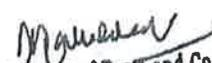
5. It is submitted that since the extent of Layout is more than 5 Acres the layout proposal was scrutinized and forwarded to Directorate of Town and Country Planning, Chennai along with Remarks and Inspection Report of the Deputy Director of Town and Country Planning, Madurai Region.

6. It is submitted that the 9<sup>th</sup> Respondent's Layout proposal was technically analyzed and approved by the Directorate of Town and Country Planning and numbered as LP/DTCP No. 13/2009 vide Roc No. 3082/2008 Dated. 09.03.2009. The Details of the approved layout is as follows.

T	- 21.84 Acres (49.31.00 Hect.)	
Allotted plots	- 298 Nos.	
OSR (Open Space)	-552210.0 Sqft (12.68 Acres)(10.40%)	
Shops	- 6.34 Acres	(5.20%)
Nursing Home	- 2.15 Acres	} (4.14%)
Educational Purpose	- 2.90 Acres	
Mini Golf	- 10.1190 Acres	(8.29%)

the above approved layout was sent to President Genguvarpatty Village for its Final Approval.

  
Assistant Director  
Directorate of Town and Country Planning  
Government of Tamil Nadu

  
Commissioner of Town and Country Planning,  
Government of Tamil Nadu,  
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7. It is submitted that the 9<sup>th</sup> Respondent also handed over the layout Roads and OSR like open space to Local Body (Genguarpatti Panchayat) through Gift Deed. This technically approved layout was also approved by the President of G Kallupatti Panchayat vide Resolution No. 58/09 Dated. 31.05.2009.

8. It is submitted that the technically approved layout has to be developed without any deviation and buildings shall be constructed by the individual, who is Owner of the plot shall construct or develop according to the layout condition annexed along with the approved layout. Each plots of the approved layout has its own regulations, such as setbacks plot coverage etc., accordingly the development has to be made. If various developments made in various plots by the various owners is not construed as a Group Development.

9. All the developments in Planning Area or Non-Planning Area shall satisfies the Development Control Regulations, Public building Rules 1993 and Panchayat building Rules 1997. According to the Ministry of Environment Forest Notification, SO.3252(E) dated. 27.12.2014. Layout or Township development exceeding 50 Hectares shall obtain Environment clearance from the Ministry of Environment Forest Government of India.

10. It is submitted that the Extent of 9<sup>th</sup> Respondent's layout proposal is less than 50 Hectares. The plots in the approved layouts are legally subdivided lands for the specific purpose and the developments shall be made as per layout and its conditions. All the residential developments in the approved layout are individual private developments. Hence obtaining NOC for Ministry of

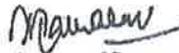
*APR 2015*  
Assistant Director  
Directorate of Town and Country Planning  
Government of Tamil Nadu

*[Signature]*  
Commissioner of Town and Country Planning,  
Government of Tamil Nadu,  
Chennai-600 002

Environmental for was not insisted. Hence, the application made by the Petitioner is liable to be set aside.

It is prayed that this Hon'ble National Green Tribunal pass such orders as may be deemed fit and proper in the facts and circumstances of the case.

Solemnly affirmed at  
On this the .....day of March 2017  
and signed his name  
in my presence

  
Commissioner of Town and Country Planning,  
Government of Tamil Nadu,  
Chennai-600 002,

BEFORE ME

  
Assistant Director  
Directorate of Town and Country Planning,  
Government of Tamil Nadu