

Before The National Green Tribunal sitting at
Chennai

Application No149 of 2016

Between:

V.Ramasubbu
Advocate
Door No.48/17, Theppakulam Street
Srivaikundam - 628 601.

.....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 and 8 Others.

.....Respondents

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Counsel for Applicant

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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
3rd 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
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 County Planning
807, Annasalai, Chennai - 600 002

9. M/s Bahri Estate Pvt. Ltd
 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

WRITTEN ARGUMENT FILED ON BEHALF OF THE APPLICANT

A) Fact In Brief:

1. The 9th respondent, M/s Bahri Estates Pvt. Ltd. has established a Land Development and Township project in Ganguvarpatti village, Periyakulam Taluk, Theni District, Tamil Nadu, in the name of Bahri Beautiful Country the project involves the followings,
 - ❖ Resident villas
 - ❖ Commercial area with Food Court, Office building, convention centre
 - ❖ Resort
 - ❖ Group housing
 - ❖ Clubhouse and
 - ❖ Golf ground
2. The exact location is very adjacent to the Kodaikanal Wild Life Sanctuary and downhills of the Kodaikanal Hills.
3. It is alleged that, the 9th respondent has established the said project without any environmental clearances, Permission from National Wild Life Board and consents from State Pollution control Board.
4. Moreover, it is also alleged that, the project proponent, 9th Respondent has abolished natural streams which flow into the project area. Hence the application was filed before this Hon'ble Green Tribunal.

B) Brief Points of Argument:

Violation of Environmental Protection Act 1986:

5. It is submitted that, the sub item (b) of item 8 of schedule of EIA Notification provides as follows,

Project Activity		Category with threshold limit	Conditions if any	
(1)	(2)	(3)	(4)	(5)
8		Building /Construction projects/Area Development projects and Townships		
8(a)	Building and Construction projects		≥ 20000 sq.mtrs and $< 1,50,000$ sq.mtrs built-up area	#(built up area for covered construction; in the case of facilities open to the sky it will be the activity area)
8(b)	Township and Area Development projects		Covering an area ≥ 50 ha and or built up area $> 1,50,000$ sq.mtrs ++	++ All projects under item 8(b) shall be appraised as Category B1

6. It is pertinent to point out that, there are two types of land covered by the this project,
- Private land acquired by the 9th Respondent by entering agreements and by sale deed
 - Land belongs to government by getting permission and NoC from the competent Department.

Private land of the Project (Patta Land)

7. Regarding private land the 9th Respondent has entered agreement with following companies and firms
1. M/s Sushma Sales Pvt. Ltd
 2. M/s Anpra Farms Development Pvt. Ltd.
 3. M/s Bhari Cuisines Pvt. Ltd.

4. M/s Suprava Agro Estates Pvt. Ltd.

5. M/s Venkatesh Agro Estates Pvt. Ltd.

8. It is pertinent to point out that, the 9th respondent has mentioned the area of the project in different figure in various department as follow,

S.No.	Date	Events	Document to substantiate
1	24-01-2008	NoC issued by District Forest Officer, Theni the area of project mentioned as 51.82 Hect.	Page No. 13-18 of Reply affidavit filed by applicant to objection of 9 th Respondent
2.	09.03.2009	8 th Respondent letter to the village president, G.Kallupatti village Panchayat- the area of project mentioned as 122.95 Acre i.e 49.76 Hect.	Page No. 11-13 of paper book filed by 9 th Respondent (Translation Copy of various authorities)
3	31-05-2009	Layout approved by 8 th Respondent the area of layout is 49.31 Hect.	Layout approval of 8 th Respondent
4	02-07-2011	Letter issued by District Forest Officer, Theni the area of project mentioned as 51.82 Hect.	Page No. 13-18 of Reply affidavit filed by applicant to objection of 9 th Respondent
5	28-03-2014	An agreement copy submitted along with consent Application in Form I & II by the 9 th Respondent to 7 th Respondent stated the area as 56.25 Hectare	Page No. 3 Para 2(IV) of Reply affidavit filed by 6 th and 7 th Respondent
6	02.04.2014	Application filed before 4 th respondent for Environmental Clearance stated Area of project 803301.3 Sq.mt. i.e. 80.33 Hect.	Page No.3 Para 4 of Reply affidavit filed by 4 th Respondent

9. It is obvious that, the 9th Respondent has stated different extent of area regarding the alleged project before different officials.

10. Moreover, the joint committee constituted by the Hon'ble Tribunal also confirmed that, the 9th respondent utilized more land and beyond the layout approval area.

11. It obvious that, entire project was molded for 51.82 Hectares including the Survey Field Number 426,428,429 and 441/1 which are very adjacent to the project site and will have access from the roads constructed by the 9th respondent.

Survey No.426,428 and 429 location and Proposed usage

12. It is humbly submitted that the above said Survey Field 426, 428 and 429 are located in adjacent North East side of the project area. And It is very adjacent to Survey Field Number 430,427 and 425 which are part of layout approval.

13. It is noticed that, the advertisement and brochure published by the 9th Respondent shows construction of lake and one golf field in survey Field Number of 426,428 and 429. The residential sketch of brochure refers the DTCP approval and in addition to the layout, the area comprised in S.F.No.426,428 and 429 are proposed to utilized for the project particularly the sketch showing there is lake and golf ground.

14. It is also pertinent to point out that, the ownership of the said survey filed number is vested with the 9th Respondent, the details of which is furnished below table

Sl.No.	S.F.No.	Patta No.	Area of extent In Hectare-Arse	Owner Name
1.	426	9603	1.38.50	M/s Bahri Estate Pvt. Ltd
2.	428	9603	0.57.00	M/s Bahri Estate Pvt. Ltd
3.	429	9153	0.53.50	M/s Bahri Estate Pvt. Ltd
Total area			2.49.00	

Ownership of Land comprised in survey Field Number 441

15. Moreover, regarding land comprised in survey number 441/1 with extent of 1 Acre, it is clear that the No Objection Certificate issued by the District Forest Officer shows that the said land comprised in Survey field Number 441/1 is vested with M/s Venkates Agro Estate Pvt. Ltd

the copy of NOC issued by the District Forest Officer. The Joint committee report also confirm the same, the utilization of survey field Number 441/1 is under utilization of project.

16. It is humbly submitted that, the only objection of the 9th respondent regarding the S.F.No.426, 428, 429 and 441/1 is that, the 9th respondent is not owner of the land comprised in S.F.No.441/1. But the revenue land records shows that the owner of land vested with 9th Respondent as well as M/s Venkatesh Agro Estates Pvt. Ltd who is the one of the party of land development agreement.
17. It obvious that, the survey field number 441/1 with area of extent Hect. 0.39.50 is very part of the project and so the area of the same shall be the covering area of the project.
18. It is humbly submitted that, the area of project is more than 50 Hec i.e. Hect.52.18, after adding above tabled survey field area Hect.2.49.0 and area of Survey Field No.441/1 Hect.0.39.50.
19. It obvious that, entire project was molded for 52.18 Hectares and the development activity in 426,428,429 and 441/1 will be carried out after construction of all the residential buildings and commercial buildings.
20. The Hon'ble Supreme Court of India in **Vellore Citizens Welfare Forum vs. Union of India [(1996) 5 SCC 647]** held that, In case of doubt, however protection of environment would have precedence over the economic interest. Precautionary principle requires anticipatory action to be taken to prevent harm, The harm can be prevented even on a reasonable suspicion. It is not always necessary that there should be direct evidence of harm to the environment.
21. It is humbly submitted that, the 9th respondent himself stated the area of the project more than 50 Hect. before various department except 8th respondent (DTCP) for layout approval. But all other department such as Forest Department, SEIAA and Tamil Nadu Pollution Control

- Board the 9th respondent stated the area of project is more than 50 Hect. Moreover, in his advertisement for the project, the sketch shows additional usage and development of land more than layout approval.
22. It is also pertinent to point out that, the layout approval of 8th respondent shows some more area is being utilized for the project to construct bridges, retaining walls.

Additional Land usage for the Project (Government Land)

23. In addition to the private land, the 9th respondent has obtained statutory permission from Public Works Department to utilize the following government land for the project to construct drainage all along the survey field numbers and also to construct 9 + 2 number of bridges across following government land vide Executive Engineer (WRO) PWD, Manjalaru Division, Periyalukalam letter No.Ka.No.46M/EVaA3/Ko.13/2011 dated 03.02.2011 (Page No. 20A of paper book filed by 9th respondent(Translation copy)).

Additional Survey Fields utilized for the Project	
Sl. No.	Survey Field No.
1.	296
2.	306/1
3.	310
4.	378
5.	398
6.	418
7.	419
8.	419B

24. It is submitted that, the above said land area under utilization for the project shall be treated as the covering area of the project wherein the 9th respondent constructed the bridges and proposed to construct sewage drainages. So the covering area of the projects comes more than 50 Hect. And thus obtaining the Environmental clearance under 8(b) of Schedule of EIA Notification is mandatory.

25. The Hon'ble Principal Bench of Green Tribunal held in **Vikrant Kumar Tongad Vs. Delhi Tourism and Transportation Corporation & ors** (Signature bridge case) order dated 19.01.2015 as follow

"12. A bridge cannot be made to stand on its own without connecting in with the roads on both ends. It is an integral part of an activity of development or area development that has to be seen wholly and form a holistic point of view"

26. Here, the 9th respondent has constructed 11 bridges across the ephemeral river. The bridges cross entire survey filed of above tabled which includes banks of river, flood plains of rivers and in-stream part of ephemeral river.
27. In addition to the said bridges, in the same order, the 9th respondent has obtained statutory permission to construct sewage drainage and retaining wall all along the streams. It means the entire area of the above tabled survey fields are covered by the project. So, the above said survey filed numbers also has to be considered as the part of the project.

Covering area of the Project

28. It is submitted that, the entry 8(b) of the Schedule I of Environment Impact Assessment Notification stated that prior environmental clearance is mandatory for Township and Area Development project with covering an area ≥ 50 hectares and built up area in excess of 1,50,000 Sqmt.
29. The term 'Covering an area' in the sub-item b of item 8 of EIA shall not be restricted as land owned by project proponent, but it shall be extended to every land legally acquired for the project to develop. And the term covering an area shall be wide-ranging and it includes every area under development by the project.

30. It is submitted that, in the **Vikrant Kumar Tongad Vs. Delhi Tourism and Transportation Corporation & ors**, the Principal Bench of National Green Tribunal held after referring various judgements of the Hon'ble Supreme court of India such as, in the case of **The Authorised Officer, Thanjavur and Anr Vs. S.Nagarnatha and Ors (1979) 3 SCC 466**; in the case of **Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation (1985) 4 SCC 71**; in the case of **Securities and Exchange Board of India Vs. Ajay Agarwal (2010) 3 SCC 765** that as follows

"30. Thus clearly, the mandate of the Regulation of 2006 is to ensure protection of environment and ecology in face of rapid developmental activities, which are even the need of the hour. Since, the object of the Regulations of 2006 is to provide developmental activities while ensuring presence of a safer environment, it can be termed as welfare legislation. Thus, the rule of reasonable constructions in conjunction with the liberal construction would have to be applied."

31. While interpreting the term 'covering an area' of Schedule I of EIA Notification, it has to be interpreted by applying principle of purposive construction as well as the liberal construction.

32. Here, the 9th Respondent utilized some government land and developed the same by getting permission from statutory body and so, the area of the seven survey field numbers i.e 296,360/1,310,378,398,418,419 of Ganguvarpatti Village, Periyakulam Taluk Theni District have also to be treated as the covering an area of the project.

33. It is submitted that, the 9th Respondent repeatedly stated, in counter affidavit, objections to committee report, that, the area of project is just 49.31 Hect. by quoting the Layout approval of DTCP. But, the

layout approval has no any environmental value and it has not expressed the surrounding environment of the project site. The Layout approval itself has not disclosed the sub-stream structure of the layout area. And the 8th respondent has blindly approved the layout without considering the sub-streams passing into the private land.

34. It is also pertinent to point out that, the area mentioning in the layout approval is only the private land which have to be subdivided as 298 residential plots and commercial area such as club house etc. But, the area of sewage and area for construction of bridges have not been mentioned in the layout approval. So, the layout approval cannot be considered as the documents to fix the covering an area of the alleged project.

Violation of Wild Life Protection Act

35. One of the allegation raised in the original application is that, the 9th respondent has not obtained any recommendations of the Standing Committee of National Board of Wild Life (In short NBWL). To counter this ground of allegation, the 9th respondent stated in his counter as well as Objection to Joint committee report, that, the entire project was completed during 2011 for which the 9th respondent quoted the letter of District Forest Officer dated 12.07.2011
36. Contrary to that, the District Forest Officer, Kodaikanal Forest Division in his letter dated 12.07.2011, after conducting filed inspection, has stated that, in the project site there is only gravel road (மண் பாதை) i.e road with soil only, and so there is no any disturbance for forest environment. The Statement itself substantiates that, the project still in progress and not completed.
37. It obvious that, the Kodaikanal Wild Life Sanctuary was declared on 20.09.2013 by Govt. Order G.O.Ms.No. 143 Environment and Forest (FR.5) dated 20.09.2013. But, on time of declaration of Sanctuary, the project is under progress. Particularly, the 9th respondent has

abolished many sub-streams flowing into the project site only after the declaration of Kondakanal Wild Life Sanctuary.

38. It is also pertinent to point out that, on 02.04.2014, the 9th respondent has filed an application for Environmental Clearance before 4th Respondent and further it was delisted by the 4th respondent and the same was communicated to the applicant by letter No. Lr.No.SEIAA-TN/001292/2016 dated 13.06.2016. In the letter the 4th respondent stated as follows,

"Further, it is informed that, since, the project proponent has started the construction activity without obtaining mandatory prior Environment Clearance from the Authority, the Environment & Forest Department, Govt. of Tamil Nadu was requested to take credible action against the violation committed by the Project Proponent. Subsequently the SEIAA-TN delisted the proposal for violation of EIA Notification 2006"

39. It is crystal and clear that, the project was molded with area more than 50 Hect. And even after declaration of Kodaikanal Wild Life Sanctuary the project works is continued by the 9th Respondent and the 9th respondent has applied for environmental clearance only after declaration of Kodaikanal Wild Life Sanctuary. So, the project attracts the Wild Life Protection Act.

40. Moreover, the google earth of the project site also shows the the 9th respondent during 2017 to 2020, on pending this Original application before Hon'ble Green Tribunal, has abolished the sub-streams and constructed commercial Building without obtaining any clearance and prior permission from National Board of Wild Life. The Section 29 of the Wild Life Protection Act provides as follows,

29. Destruction, etc., in a sanctuary prohibited without a permit.—No person shall destroy, exploit or remove any wild life including forest produce from a sanctuary or destroy or damage

or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wild Life Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the Board that such removal of wild life from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wild life therein, authorises the issue of such permit: Provided that where the forest produce is removed from a sanctuary the same may be used for meeting the personal bona fide needs of the people living in and around the sanctuary and shall not be used for any commercial purpose. Explanation.—For the purposes of this section, grazing or movement of livestock permitted under clause (d) of section 33 shall not be deemed to be an act prohibited under this section.

41. But, the 9th respondent even after declaration of Kodaikanal Wild Life Sanctuary, has diverted sub-streams and abolished water flow structure. The google images dated 15.08.2014, 19.01.2018 and 31.01.2020 of the same location show the scheme of abolition of sub-stream structure existing within the project site. (page No. 22 to 24 of reply affidavit filed by the Petitioner in response to the objection filed by 9th respondent)
42. So, the Wild Life Protection Act is very much attracted by the project since, 9th Respondent is abolishing the sub-stream structure and raining water flow around and out side the Kodaikanal Wild Life Sanctuary.

Existence of Water Body within the Project Site:

43. The alleged project very well located in downhills of Kodaikanal Hills, Kodaikanal Wild Life sanctuary. The down hills always has high density

- of sub-streams and natural spill channels. The sub-streams have very important role to collect rain water into main stream. Particularly, the downhill environment always very familiar with natural drainage structure which are gift of nature to collect rain water. The streams existing at the downhills are well connected with substreams to collect the rain water. The sub-streams as a basic unit of natural rain water harvesting system, plays very sensitive roles in downhill ecology.
44. The ecology of the sub-stream structures are very sensitive. Without sub-stream structure there is no streams, vice versa there is no rivers and lakes. The very beginning step to kill natural water environment is abolishing the sub-streams particularly in downhills. Every ephemeral streams losses some quantity of water on abolishing a sub-streams, and as a chain reaction it affects the entire inter-connection water environment.
45. In the present application, one of the prayer is to restore the natural streams which are abolished by the 9th Respondent. The alleged project site has very high sub-stream structures, particularly a sub-stream flows in to survey filed Number No. 384 and further flowing through survey filed numbers 382 and 383 which are the part and parcel of layout approval. Moreover, survey field number **210,214,399, 400 and 402** itself contains sub-streams within the private land owned by project proponent.
46. Although, the ownership of the land vested with the 9th respondent, natural rain water structure should be maintained as it is. By the law of nature the air, running water, the sea and consequently the shores of sea are common to every creature living on the earth. No any individual person being a owner of land can claim the ownership on running water into natural streams.
47. In *M.S.Mehta vs. Union of India* (1997) 3 SCC 715 in para - 10 the Hon'ble Supreme Court observed:

"Articles 21, 47,48-A and 51-A(g) of the Constitution of India give a clear mandate to the State to protect and improve the environment and to safeguard the forests and wildlife of the country. It is the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures. The "precautionary Principle" makes it mandatory for the State Government to anticipate, prevent and attack the cause of environment degradation. We have no hesitation in holding that in order to protect te two lakes from environmental degradation it is necessary to limi the construction acitivity in the close vicinity of the lakes"

48. In the same line, the Hon'ble Supreme Court of India reported in Hinch Lal Tiwari vs. Kamala Devi and ors AIR 2001 SC 3215 held as follows

"13.It is important to notice that the material resources of the community like forest, tanks, ponds hillock, mountain etc are nature's bounty. They maintain delicate ecological balance. The need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e Respondents 11 to 13 having noticed that, a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knvish attempts to seek allotment in non-abadi site."

49. It is well settled that, the water In stream has not been owned by any individuals and so, it is duty to the 9th respondent to maintain all the sub-stream as it is, flowing into their private land. But, the 9th

respondent has abolished the sub-stream drainage system without any hesitation. Particularly, a sub-stream in the Survey Field Number 400 and 401 was abolished by the 9th respondent and constructed a commercial building over the sub-stream. (Annexure 4 and page No.22 to 25 of Reply filed by the Petitioner in response to the objection filed by 9th respondent).

50. It is submitted that in **M.C.Mehta v. Kamalnath (1997) 1 SCC 388** the Honourable Supreme court of India held that

“ The public trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes.

51. Here, the 9th respondent has diverted, abolished the sub-streams which are passing into project land and converted natural River Bed in to commercial buildings .

modus operandi of 9th respondent

52. It is submitted that, the *modus operandi* of 9th respondent in this project is as follows,

- a. Purchasing land from local people in various company name which were purposefully created for this project.
- b. Entering an agreement with companies for developing land
- c. Marketing the said land by advertisement as villas, and resorts
- d. Make a sale deed and registered the same between the real owner of the particular land and the purchaser

e. On the same day of registration of sale deed one more agreement for construction of villas also entered between purchaser and 9th respondent. And then as per the agreement villa will be constructed and given to the newly purchaser.

f. Each and every construction such as villas, roads, bridges, resorts, hospitals, commercial building, food court, communal hall, club house are being constructed by 9th respondent only.

The copy of registered sale deed and construction agreements are already submitted before the Hon'ble Green Tribunal as additional document in response to the objection filed by 9th respondent (page No.11 to 51).

53. It is submitted that, the 9th respondent entered an agreement with the real owner of the property. And so, on time of registration of every sale deed the 9th respondent also one of the parties in the sale deed and on the same of registration of sale deed the 9th respondent has also entered an agreement with the claimant of the property to construct the villas. Here it is furnished the some of the sale deed and its agreement,

Sl.No.	Date of sale deed and agreement	Doc Registered deed	No. Sale	Doc. No. Registered of Agreement
1.	28.04.2014	1334/2014		1335/2014
2.	05.05.2014	1412/2014		1413/2014
3.	04.06.2014	1781/2014		1782/2014
4.	09.06.2014	1861/2014		1862/2014
4.	22.08.2014	2883/2014		2884/2014
5.	11.09.2014	3116/2014		3117/2014
6.	29.09.2014	3331/2014		3332/2014
6.	29.09.2014	3335/2014		3336/2014

7.	30.09.2014	3359/2014	3360/2014
8.	10.10.2014	3417/2014	3418/2014
9.	27.10.2014	3576/2014	3577/2014
10.	28.10.2014	3593/2014	3594/2014
11.	10.11.2014	3742/2014	3743/2014
12.	08.12.2014	4120/2014	4121/2014
13.	11.12.2014	4160/2014	4161/2014

The list of sale deed and agreements reveals that, the 9th respondent is the one and only constructor of all the villas, and all other building in the project area. So that, on time of registration of each and every sale deed, on the same time, an agreement also registered with the claimant of the property for construction of villas in the property purchased.

54. It is humbly submitted that, since, the commercial building such as food court, office building, conventional centre, and Resorts, Group housing, club house, Mini golf are all the part of the project and the part of the layout plan approved by the 8th respondent DTCP, the project of 9th respondent comes under purview of the EIA Notification in view of the built up area and so obtaining Prior Environmental Clearance is mandatory.
55. It is also pointed out that, by adding additional area for which the 9th respondent obtained permission to construct bridges and sewage drainage in S.F. No. 296,306/1,310,378,398,418,419 also come under covering area of project and so it obvious that the covering area of the 9th respondent's project is more than 50 Hect. and so obtaining of prior Environmental clearance is mandatory as per 8(b) of Schedule I of EIA Notification.

56. It is submitted that, after corroboration of the documents such as registered sale deed & Agreements and application for prior environment clearance in Form I submitted by the 9th respondent to the 4th respondent, it is observed that, all the buildings such as residential and commercial building are being constructed by the 9th respondent and the built up area of the entire construction comes more than 80797 Sq.meter (54497 Sq.m. as per Form I of 9th respondent + 26,300 Sq.meter for residential building). And so in view of built up area also the project comes under purview of 8(a) of the EIA Notification.

9th respondent's Willful disobedience of Environment Act and Regulations and the order of Hon'ble Green Tribunal

57. It is also submitted that, for the huge area of construction, the 9th respondent has established concrete mixture unit and concrete solid blocks-Manufacturing unit within the project area without obtaining any consent from any authorities. It is also observed from the committee report that, the unit had provided 2 number of D.G sets of 250 KVA and 1 number of 25 KVA D.G. Set are in operable condition.
58. It is humbly submitted that, the concrete mixture and concrete block manufacturing units with two number of 250 KVA (500 KVA) Diesel Power Generator in the project site were established without obtaining consent from 6th and 7th respondent. In this regards, the 6th and 7th respondent has sent show cause notice to 9th respondent. But, there is no any further action has been taken for the reason best known them only.
59. It is humbly submitted that, the 9th respondent is not illiterate, but he is well established company having team of administration in all manners. The 9th respondent has executed several real estate project and so, the 9th respondent very well aware of environmental law and

regulations. Though, the 9th respondent willfully violates every environmental law of land in all manners.

60. It very much unfortunate that, on pending of this application, the 9th respondent has daringly abolished sub-streams and constructed commercial buildings in S.F.No 400 and 402 of the alleged project site. It is worthy to state here that, the Hon'ble Supreme Court of India in Indian Council of Enviro Legal Action vs. Union of India (1996) 5 SCC 281 observed:

"If the mere enactment of laws relating to the protection of environment was to ensure a clean and pollution free environment, then India would, perhaps, be the least polluted country in the world. But, this is not so. There are stated to be over 200 Central and State statutes which have at least some concern with environmental protection, either directly or indirectly. The plethora of such enactments has, unfortunately, not resulted in preventing environmental degradation which, on the contrary, has increased over the years."

61. It is well established that, the 9th respondent by violating all the Environmental Law and regulations without any hesitation. Due to the alleged project the entire raining water drainage ecology of the Kodaikanal downhill is under threat. Some of the sub-streams were already abolished by 9th Respondent which can not be restored as it original.

62. It is also submitted that, the alleged project includes S.F.No. 426, 428, 429 which owned by 9th respondent and 441/1 for which the 9th respondent entered an agreement. In addition to the patta land the govt. land comprised in 296,360,310,378,398.418 and 419 also under the activity of project by construction of bridges, sewage drainage and retaining walls. So, the covering an area of the project is definitely more than 50 Hect.

In these circumstances it is humbly prayed that this Hon'ble Green Tribunal may be pleased to take into consideration this written arguments and to direct to stop the further construction activities of the project and to compensate the environmental degradation caused by the 9th respondent project and also direct to restore the sub-streams abolished by the 9th respondent by demolishing the commercial building and pass such order or any other orders as this Hon'ble tribunal may deem fit and proper in this case and thus render justice.

Dated at Musiri on this the 10th day of January 2022


Counsel for Applicant