

**THE NATIONAL GREEN TRIBUNAL
SOUTHERN BENCH AT CHENNAI**

Under section 18 (1) read with sections 15, 17 & 27 of National Green Tribunal Act,
2010 and Rule 8 of National Green Tribunal (Practices & Procedures) Rules 2011

APPLICATION No: 150 of 2021

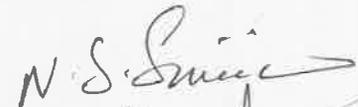
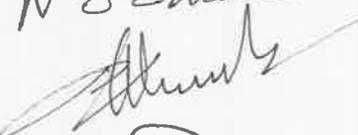
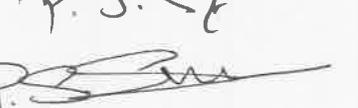
IN THE MATTER OF: -

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...APPLICANTS

-Vs-

1. M/s Khivraj Tech Park Private Limited
No.1, SIDCO Industrial Estate
Guindy, Chennai 600 032,
Rep. by its Director Mr. Ajit Kumar Chordia
E-mail: infoadmin@olympiagroup.in
Ph No: 044- 43563773
2. M/s. Olympia Tech Park (Chennai) Private Limited
No.1, SIDCO Industrial Estate
Guindy, Chennai 600 032,
Rep. by its Director Mr. Ajit Kumar Chordia
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3. Chandrakant Kankaria
Whole Time Director
M/s. Khivraj Tech Park Private Limited &
M/s. Olympia Tech Park (Chennai) Private Limited
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4. Mr. Ajit Kumar Chordia
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9. The Collector
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Ph No: 044- 27427412

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10. The Revenue Divisional Officer
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13. Tamil Nadu Pollution Control Board
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Chennai - 600 032
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Ph No: 044- 22353134

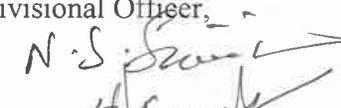
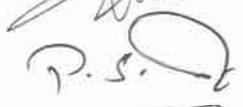
..... RESPONDENTS

**OBJECTIONS FILED BY THE APPLICANTS TO THE REPORT OF THE
JOINT COMMITTEE & REVENUE DIVISIONAL OFFICER, CHENGALPATTU**

The Applicants submit as follows:

1. The Applicants submit that the Applicants have gone through the Report of the Joint Committee & Revenue Divisional Officer, Chenglapattu, constituted by this Hon'ble Tribunal, pursuant to the order dated 19.07.2021, passed in O.A. No. 150/2021 (SZ) & I.A. Nos. 98 & 99/2021 and intend to place their Objections as follows:

2. That this Hon'ble Tribunal in its order dated 19.07.2021, passed in O.A. No. 150/2021 (SZ) had appointed a committee consisting of, i) The Revenue Divisional Officer,

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Chengalpattu, ii) a Senior Officer from the Tamil Nadu Pollution Control Board (TNPCB) as nominated by its Chairman (Divisional Engineer) TNPCB, M.M. Nagar, has been nominated, iii) the Block Development Officer, of concerned Panchayat Union, namely Navalur, Panchayat (BDO, Thiruporur Panchayat Union).

3. That the Hon'ble Tribunal had appointed the above committee to *inspect the area in question and submit a factual as well as, an action taken Report, if there is any violation found* and specifically posed 7 queries in order to ascertain the ground reality to adjudicate the Application. However the Joint Committee without adhering to the specific directions of this Hon'ble Tribunal and without applying its mind to address the queries, posed by this Hon'ble Tribunal, had sought to file an Inspection Report, without recording the actual status, in a casual manner. In short, the Inspection Report appears to be a report for the sake of filing the Report. Hence the purpose for this Hon'ble Tribunal Constituting Joint Committee, was not fulfilled.

4. The Applicants have extracted the queries, posed by this Hon'ble Tribunal and the response of the Joint Committee to such queries posed by this Hon'ble Tribunal, for ready reference as follows:

QUERY No. 1 : Ascertain the actual extent of the "Kuttai" in Survey No.45/1 of Navalur Village land, as per the original Revenue Records prior to Independence and when the Sub-Division made, what are the changes effected?

RESPONSE BY JOINT COMMITTEE TO QUERY No.I:

It has been ascertained in the Report that even in the year 1911 and subsequent UDR entry in "A" Register (year not mentioned) and the present "A" Register and also in the

1. N.S. Swamy
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computerised "A" Register, the extent of "Kuttai" in Survey No. 45/1, Navalur Village has been correctly shown as 3.40 Acres from the year 1911 till date, in all the Revenue Records.

That the relevant extracts for the above query is reproduced herein:

"1. The actual extent in survey Number 45/1 an extent of 3.40 Acres classified as Kuttai as per the A Register in 1911.

2. In survey Number 45/1 an extent of 3.40 Acres classified as Kuttai as per the A Register in U.D.R entries

3. In survey Number 45/1 an extent of 3.40 Acres classified as Kuttai as per the A Register in computer A Register entries

4. No subdivision were made in S.No. 45/1."

APPLICANTS OBJECTIONS TO THE RESPONSE TO QUERY No.I:

The Applicants state that the Report of the Joint Committee, answering to the first part of the query, has ascertained the actual extent of Kuttai is 3.40 Acres as per the original Revenue Records even today. However, as regards the second part of the query, the Report of the Joint Committee has left to presumption that in Survey No.45/1, there are no changes effected in the Revenue Records.

5. **QUERY No. II:** What is the status of this Property shown in the original Revenue Records?

RESPONSE BY JOINT COMMITTEE TO QUERY No. II:

"Present status in Kuttai (sketch enclosed with encroachment by 5 items)"

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APPLICANTS OBJECTIONS TO THE RESPONSE TO QUERY No. II

6. The Applicants state that the Joint Committee has given an evasive and vague answer on this point. They have not disclosed the real status of the Property "shown in the Revenue Records." They have not specifically extracted the present status of "Kuttai", as found in the Revenue Records. In other words, the Report tries to lead to the presumption that 5 items of encroachments, shown in their sketch appended to the Report, have been shown in the Revenue Records but it is not so.

6. **QUERY No. III:** Whether any illegal assignments have been made in respect of any portion of the "Kuttai" (Pond) ?

RESPONSE BY JOINT COMMITTEE TO QUERY No. III:

The response of the Committee to the above query is as follows "There is no illegal assignments have been made by Revenue authorities, in respect of the above said "Kuttai".

APPLICANTS OBJECTION TO THE RESPONSE TO QUERY No. III

The Applicants state that the Joint Committee has tendered a vague statement and such an answer is given only to say that "Revenue Authorities have not given any illegal assignments" but the Report failed to ascertain as to, whether the Local Panchayath or Tamil Nadu Pollution Control Board has permitted any construction on the "Kuttai" land, as shown in their sketch. Therefore there occurs a need to call for the records from the local Panchayat or Panchayat Union or Taluk Office or from Tamil Nadu Pollution Control Board, in this respect.

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7. **QUERY IV:** Whether any illegal construction have been done including laying of roads or other structures in that area described as “Kuttai” (Pond) in the original Revenue Records and if so what basis?

RESPONSE BY JOINT COMMITTEE TO QUERY No. IV:

The response of the committee to Query No. IV is as follows:

1. “by way of North side construction of Houses an extent of 2050 sq.mts.
2. by way of North side adjacent Patta land in S.No.45/2A, 2B an extent of 108 mtrs. in Survey No.45/1 laid by president Navalur, based on Panchayat resolution
3. by way of North side Mayana Pathai as extent of 0455 sq.mtrs.
4. by way of South side of the K.C. High School link road and compound wall as extent 0803 sq.mtrs.
5. By means of vacant land 0180 sq.mtrs.”

APPLICANTS OBJECTION TO THE RESPONSE TO QUERY No.IV

The Report of the Joint Committee, has in its Report, indicated 5 instances of encroachments. However the Report is silent about, as to whether such encroachments, including laying of road in “Mayana Pathai” and whether “Houses were allowed to be constructed” on the northern part of “Kuttai” and whether the other structures in the area of “Kuttai” were mentioned in the original Revenue Records. The Joint Committee has not categorically set forth, whether the existing structures are reflected in the revenue records

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8. **QUERY No. V:** If it is found to be an encroachment into the water body, then what is the nature of action taken by the authorities to remove the same and restore it to its original position?

RESPONSE BY JOINT COMMITTEE TO QUERY No. V:

The Joint Committee in its report has set forth the following with respect to the above query "Southern side construction of compound and wall road by Olympia Panache leading to KC International School (extent 803.Sq.mts)"

APPLICANTS OBJECTION TO THE RESPONSE TO QUERY No. V

The Report ought to have mentioned about the action taken on the 5 encroachment. The silence maintained by the Joint Committee only establishes the fact that no action has been taken to remove the encroachments and restore the "Kuttai to its original position till the date of inspection dated 12.08.2021.

9. **QUERY No. VI:** Whether Respondents 1 to 5 had encroached into the water body namely, "Kuttai" (Pond) and made any construction, if so what is the nature of construction made by them?

RESPONSE BY JOINT COMMITTEE TO QUERY No. VI:

"Though as per the above Report, the Tahsildar, Thiruporur, has issued necessary instructions for the eviction of 5 items of encroachment in S. No. 45/1, Navalur Village, Forms to be issued shortly."

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APPLICANTS OBJECTION TO THE RESPONSE TO QUERY No.VI

The Applicants find that it is pertinent to point out that the Report of the Committee has not given any specific answer to this point. The Report ought to have mentioned that only the Respondents 1 to 5 have encroached the Water Body namely "Kuttai" (Pond) to form the concrete road on the "Kuttai" itself, as a second access from the Residential Gated Community called "Olympia PANACHE" leading to KC International School, owned by Respondents 1 & 2, which is totally situated outside the Residential Gated Community. The encroachments and conversion of part of the pond area lying on the Southern Side, into land for the commercial interest is visible to the naked eye, from Annexure 26 filed along with the Application. Interestingly the Joint Committee appointed by this Hon'ble Tribunal has not whispered a word about the encroachments which are in gross violation of various provisions under the Environment Protection Act, 1986.

There is not even mention about Respondents 1 to 5, who have manipulated a fraudulent Sale Deed and formed the concrete road on the Southern part of "Kuttai" itself, to make second access to the "K.C. International School" from the Residential Gated Community, which itself is the gross violation of various provisions of Environment Protection Act, 1986 and also the sanctioned Building Plan of the Gated Community.

The Committee failed to mention the names of Respondents 1 to 5, who are responsible for such violation.

10. QUERY No. VII:

Whether any damage has been caused to the water body and if so, assess the environmental compensation including the expenses for restoring the water body to its original position, apart from the proposed legal action proposed to be taken by them against such encroachment.

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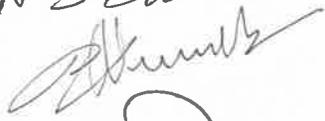
According to the sketch prepared by the Joint Committee and the Report submitted by them, in respect of the Para No. 14 (IV) (1), it is admitted that in the Northern side of the "Kuttai" (coloured in Green), houses have been found constructed on an extent of 2050 sq. mts., but the Report failed to mention that the houses are given Door Numbers by the Navalur Panchayat, implying that it is only the Navalur Panchayat which had given Building Permission and the Joint committee failed to ascertain as to whether the Navalur Panchayat has been collecting Property Taxes from the encroachers/violators. The Report failed to furnish the details of basis for such constructions, as to whether the houses were built on the Pond with the knowledge of the local Panchayat or not.

12. MAYANA PATHAI: (Violet Coloured area in the sketch attached to the Report)

The formation of the "tar" road, on the Northern Middle Part of the "Kuttai" (coloured in violet), is an encroachment and has not been recorded in the Report, as to the basis on which the said road was formed or whether the road was formed with the permission of the local authorities are not, has not been spelt out in the Report.

The Report refers to a Panchayat Resolution passed by the President Navalur, as if the Panchayath is empowered to lay a road by encroaching on the "Kuttai" area, the Joint Committee has not enclosed a copy of alleged Panchayat Resolution and other related details of allocation of funds for the formation of road on the "Kuttai" (shown in Red).

**13. ENCROACHMENT ADJACENT TO SURVEY Nos. 45/2A & 2B , NAVALUR
(Red Coloured area in the sketch attached to the Report)**

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Although the rough sketch shows area coloured in Red, as one of the encroachments, no details about the present usage or by whom it has been used and present status of the encroachment. Without giving all necessary details, the Report simply bypassed the encroachment in "Kuttai".

14.STATUS OF LAND AREA IN SURVEY Nos. 45/2A & 2B , NAVALUR

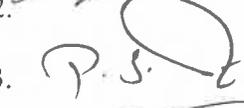
The Report describes the lands in Survey No. 45/2 A & 2B, as Patta land but failed to mention that land measuring an extent of 12 Cents, was part of Open Space Reservation Area of 2.22 Acres, gifted to Navalur Panchayat, as a pre- condition for obtaining Sanction Plan for the Residential Gated Community.

15.ENCROACHMENT ON THE EASTERN SIDE OF THE "KUTTAI"

The Report of the Joint Committee was silent about the Eastern Side and the western Side of the "Kuttai".

The Eastern side bund of "Kuttai" has been partially encroached on the Eastern Part, to construct a Compound Wall on the other side of the bund itself for the K.C. International School and the School buildings were found constructed on the bund without leaving 30 Mts set back from a Water Body. The Joint committee has chosen to ignore that 30 Mts Set Back from a Water Body, is mandatory.

16.CONCRETE STRUCTURE (FOUNDATION) HAS BEEN RAISED ON THE MIDDLE OF THE "KUTTAI"

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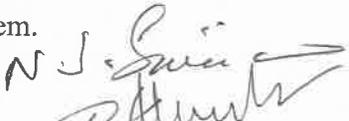
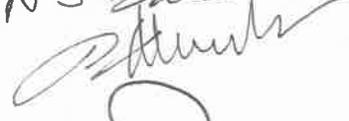
The Report suppressed the ongoing construction of concrete structure in the middle of the “Kuttai” and who is constructing and for what purpose and whether permission was granted from Pollution Control Board. Curiously they have provided photo showing the Southern part where excavation is going on. Even the Report has not given any reasons or details about the same.

Thus the Report of the Joint Committee is incomplete and not even fulfilled specific directions given by this Hon’ble Tribunal.

17. CONCRETE ROAD ON THE SOUTHERN SIDE OF “KUTTAI” LAID BY RESPONDENTS 1 to 5:

The Joint Committee has failed to inform this Hon’ble Tribunal in its Report, as to who laid the concrete road on the “Kuttai”. The Joint Committee ought to have placed before this Hon’ble Tribunal that it is the Respondents 1 to 5, who had laid the concrete road as the second access to reach the K.C. International School (owned by Respondents 1 & 2) from the Residential Gated Community “Olympia PANACHE” illegally. There is no provision for any road from the “Olympia PANACHE” to the school and any formation of road would be a violation of the Sanctioned Plan.

On the contrary the Joint Committee Report has chosen to completely ignore the Southern Side of the “Kuttai” by making the following passing statement by Thalisdhar, Thirporur at page No.5 at paragraph No.3 “In the South side of the pond, the illegal construction of the cement road, which was requested to removal by the Green Tribunal”. It has only focused on the Northern Side of the “Kuttai” and has made no further mention of the Southern Side of the “Kuttai” for obvious reasons best known to them.

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18.COST AND EXPENSES FOR RESTORATION OF “KUTTAI”

The Report has given the extent of “Kuttai ” as 3.40 Acres, in Survey No.45/1, Navalur Village and the Report also confirms, based on the Revenue Records that “Kuttai” has been in existence since 1911 and it is “Rain -fed Kuttai”. The Revenue Records even today show the extent of “Kuttai” as 3.40 Acres in Survey No. 45/1, Navalur Village, but during inspection by the Joint Committee it has been found that the substantial part of “Kuttai” was encroached by Navalur Panchayat itself and the Report has stated that there is no illegal assignment and they have not shown any “legal assignments”. Admittedly there is a failure on the part of the Revenue Authorities including Navalur Panchayat. In addition to the above, the Report is silent about, what is the present status of the Water Body in terms of the total measurement and total extent of the “Kuttai” (Water Body).

19.The purpose of the appointment of a Joint Committee was to identify encroachments/ extent of damage, caused to the “Kuttai” in Survey No. 45/1 and if so, to assess the environmental compensation including the expenses for restoring the Water Body to its original position, apart from the proposed legal action, proposed to be taken by them against such encroachment.

20.However, the Joint Committee has failed to make the above evaluation in the Report and has merely focused on the Road Construction (Mayana Pathai) on the Northern Side of the “Kuttai”. The legitimate expectations of the Applicants that the Joint Committee consisting of various Government Officials would have answered each and every query, posed by this Hon’ble Tribunal has not been met with. The actual site photographs taken by the Applicants on 29.08.2021, gives a different picture and reveals that the Joint Committee has chosen to ignore the fundamental issues posed by this Hon’ble Tribunal.

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21. The Report of the Joint Committee is bereft of required details, as directed by this Hon'ble Tribunal and it requires further details, to adjudicate the Application.

Therefore it is humbly prayed that this Hon'ble Tribunal may be pleased to appoint Advocate Commissioner or Officer who should be directed to submit a detailed Report on each and every encroachments of 'Kuttai' with supporting details and documents and to evaluate the damage and determine the cost and expenses to restore the "Kuttai" to its original position and thus render justice.

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APPLICANTS



THROUGH

M/s. B. DHANARAJ
DEEPA MARIAPPAN

ADVOCATES

COUNSELS FOR THE APPLICANTS

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VERIFICATION

We, N.S.SRINIVASAN, son of late Mr. P.N. Shanmugham, the Applicant-1 herein, aged about 57 years, resident of No.G-61, 12th Block, Anna Nagar, Chennai 600 102, do hereby verify that the contents in the Paragraphs Nos. 1 to 21, are true to my personal knowledge and that I have not suppressed any material fact.



APPLICANT No. 1

VERIFICATION

I, P.NA.MANISUNDHAR, son of late Mr. P.N. Shanmugham, aged about 55 years, resident of No.G-61, 12th Block, Anna Nagar, Chennai 600 102, do hereby verify that the contents in the Paragraphs Nos. 1 to 21, are true to my personal knowledge and that I have not suppressed any material fact.



APPLICANT No. 2

VERIFICATION

I, P.S.MOHAN, son of late Mr. P.N. Shanmugham, aged about 53 years, resident of No.G-61, 12th Block, Anna Nagar, Chennai 600 102, do hereby verify that the contents in the above Paragraphs Nos. 1 to 21, are true to my personal knowledge and that I have not suppressed any material fact.



APPLICANT No. 3

VERIFICATION

I, P.S. SARAVANAN, son of late Mr. P.N. Shanmugham, aged about 48 years, resident of No.G-61, 12th Block, Anna Nagar, Chennai 600 102, do hereby verify that the contents in the above Paragraphs Nos. 1 to 21, are true to my personal knowledge and that I have not suppressed any material fact.



APPLICANT No. 4