

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTH ZONE, CHENNAI
MEMORANDUM OF APPEAL
(Under Sections 16(h) read with 18(1) of the National Green Tribunal Act,
2010)
Appeal No. 15 of 2022

Arjun Gopalaratnam

....Appellant

Vs.

The Tamilnadu State Environment
Impact Assessment Authority & Anr.

... Respondents

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//True copies of their respective originals//
Dated this the 6th of July, 2022



Through
Yogeshwaran. A
Counsel for the Appellant

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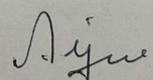
The Tamilnadu State Environment
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**REJOINDER FILED BY THE APPLICANT IN RESPONSE TO THE REPLY
STATEMENT FILED BY THE 2nd RESPONDENT DATED 26.05.2022**

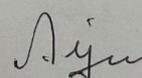
I, Arjun Gopalaratnam S/o R. Gopalaratnam, aged about 68, residing at No. 02, Nerkundram Village, Salavakkam post via Anambakkam, 603107, now come down to Chennai do solemnly affirm and sincerely state as follows:

1. I have read the reply statement dated 24.05.2022 filed by the 2nd Respondent. I deny the entire contents of the affidavit and the reply as false, unless expressly admitted to hereunder. Without prejudice to the generality of the above denial the following reply is tendered.
2. The contents of Paragraph 1 & 2 are for the information of the Hon'ble Tribunal and do not call for any reply.
3. The contents of Paragraph 4 to 9 are denied as false and utterly without merit. The 2nd Respondent has contended that the present appeal is barred by limitation and hence not maintainable before this Hon'ble Tribunal. The 2nd Respondent has completely failed to note the order of the Hon'ble Supreme Court in Suo Moto Writ Petition (C) No. 3 of 2020 (In re: Cognizance for Extension of Limitation) which categorically held that the period of limitation shall stand excluded till 28.02.2022. The present Appeal was filed within this period and it cannot be contended by the 2nd Respondent that the present



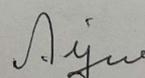
Appeal is barred by limitation and is therefore not maintainable. The challenges posed by this pandemic and the consequent restrictions imposed severely curbed the ability of persons to approach courts for redressal of their grievances which prompted the Hon'ble Supreme Court to take suo moto cognizance of this issue and periodically pass orders. I submit that the filing of representations to the authorities by post is very different from filing a legal action in a court of law. Approaching a lawyer, collecting necessary documents, preparing legal documents etc. cannot be compared to filing representations to the authorities seeking action against the 2nd Respondent. The statement of 2nd Respondent that I was "neither prevented or incapacitated" due to the pandemic from approaching this Hon'ble Tribunal is false and as a senior citizen living on a farm carrying on agriculture, I was put to serious difficulties during the pandemic. However, these facts are not relevant to the present issue and the present Appeal is maintainable as it is within the period specified by the Hon'ble Supreme Court.

4. The statement of the 2nd Respondent that I have filed the Appeal with vested interest is false and the 2nd Respondent is put to strict proof of the same. The Appeal is thus maintainable and the contentions of the respondent are without merit.
5. The contents of Paragraph 10 is denied as false. The 2nd Respondent has failed to even understand the averments in the Appeal and is under the impression that they pertain only to suppression of facts in Form – I. However, on the reading of the Appeal would show that the subject Environmental Clearance (EC) has been impugned on several grounds inter alia suppression of facts, absence of assessment of impact, non application of mind by the authorities etc. The blatant suppression of facts in Form I has been dealt with elaborately in the Appeal and are not repeated in the interest of brevity.
6. The contents of Paragraph 11, 12 and 16 are denied as false. The attempt of the 2nd Respondent to state that they have not suppressed the presence of Edamachi Reserve Forest adjacent to the proposed site is futile. The reliance placed on the proceedings of Assistant Director, Geology and Mining



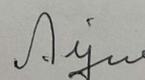
Department is misplaced and is no evidence to support the contention of the 2nd Respondent. The Survey of India Toposheet showing the subject forest as a Reserve Forest has already been filed. The village FMB sketch of Edamachi village which also clearly marks Edamachi Forest as Reserve Forest is filed herewith as **Annexure - A12**. Extract from the MoEF's GIS based Decision Support System website provided by the MoEF showing details of the Edamachi Reserve Forest is annexed as **Annexure - A13**. Therefore, there can be no doubt and it is evident that the adjacent Edamachi forest is a Reserve Forest and the 2nd Respondent has suppressed this fact in his Form – I.

7. This suppression is significant in light of G. O Ms. No. 295, Industries (MMC. 1) dated 03.11.2021 vide which Clause (d) & (e) were added to Sub rule – A of Rule 36 of the Tamil Nadu Mines and Minerals Concession Rules, 1959, prohibiting any mining any mining activity within 1km from the boundary of a Reserve Forest. It is relevant to note that the 2nd Respondent had mentioned in the Form – I that the Kavanipakkam Reserve Forest is at a distance of 930 mts. on the north east side. Therefore the present site cannot be used for any quarrying activity under the Mines and Minerals Concession Rules and no mining lease can be issued to the 2nd Respondent under law. It is an admitted fact he has not obtained requisite permissions under the Tamil Nadu Mines and Minerals Concession Rules, 1959 and other mining regulations.
8. The contents of Paragraph 13, 14, 15 and 17 are denied as false and it is submitted that not only has the Project Proponent suppressed the Edamachi Lake, which is the 3rd largest lake in Kacheepuram, even finding mention in the Gazetteer, they have also filed false information on the ground water table in the area. The 2nd Respondent does not even attempt to provide any justification for his false statement that ground water table is found at a depth of 43.5 – 45 mts. bgl. except to state that it is evident from a report prepared by his consultant. It is a matter of record that even the Project Proponents own report, showing the collection of water sample at a well on the property demonstrates that the ground water level is very high in the



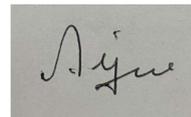
area in light of its proximity to the Edamachi lake and the general hydrological regime.

9. On 27.06.2022 the 2nd Respondent illegally and contrary to the undertaking given to the Hon'ble Tribunal on 24.05.2022, commenced land clearing activities using a JCB to ostensibly clear a path and also filled in and destroyed the well on the property. Work continued till 29.06.2022. Photographs showing the JCB working, the destroyed well and the trench dug by the JCB, old photos of the well etc. are annexed as **Annexure – A14**. Interestingly ground water started seeping in the trench dug by the JCB as can be seen from the photos annexed. This is further evidence of the high ground water table in the area and at the site, also demonstrating that the 2nd Respondent filed patently false information in this regard. The studies allegedly submitted by the 2nd Respondent are unscientific, incorrect and tailor made to suit his requirements, contrary to the true nature of the project site and ought to be disregarded by this Hon'ble Tribunal. The fact that the SEAC and the SEIAA failed to even notice these aspects is demonstrative of the lack of application of mind and rigour in the appraisal of this proposal resulting in the grant of the impugned EC.
10. The contents of Paragraph 18 are denied as false. In this paragraph, the 2nd Respondent has stated that the Karikilli Bird Sanctuary is at a distance of more than 10 kms and hence he is not obligated to disclose the same in the Form – I. As per the EIA Notification, the Project Proponent is obligated to disclose Protected Areas as well as the adjacent Reserve Forest under entry "(III) Environmental Sensitivity" of the Form I which requires the disclosure of all sensitive areas within an Arial distance of 15 kms. Karikilli Bird Sanctuary is admittedly within 15 kms. The suppression of facts in this aspect is also very clear and cannot be obfuscated.
11. The contents of Paragraph 19 and 20 are denied as false and the willingness of the 2nd Respondent to comply with the conditions has no bearing to the present proceedings which assail the EC issued by the 1st Respondent. The deleterious impacts of quarrying is well documented and requires no elaboration. The present site is unsuitable for quarrying on account of its



environmental setting, hydrology, impacts on people in the surrounding villages on account of quarrying and transport. Had the 2nd Respondent disclosed all true and relevant facts about the Edamachi lake, or Edamachi Reserve Forest or the high ground water level in the area or the absence of transport routes and roads to transport the mined material, the 1st Respondent would not have even issued the subject EC.

12. There is no public interest in the proposed quarrying by the 2nd respondent – in fact, it is deleterious to the environment, ecology and people of the area. It is once again denied that the Appeal has been filed with vested interest. The 2nd Respondent has made this allegation in a cavalier fashion without bothering to produce any evidence or even substantiate the statement made by him. Such conduct has to be deprecated.
13. The contentions raised by the 2nd Respondent are without merit and liable to be rejected and the Appeal is liable to be allowed as prayed.



Solemnly affirmed and signed]

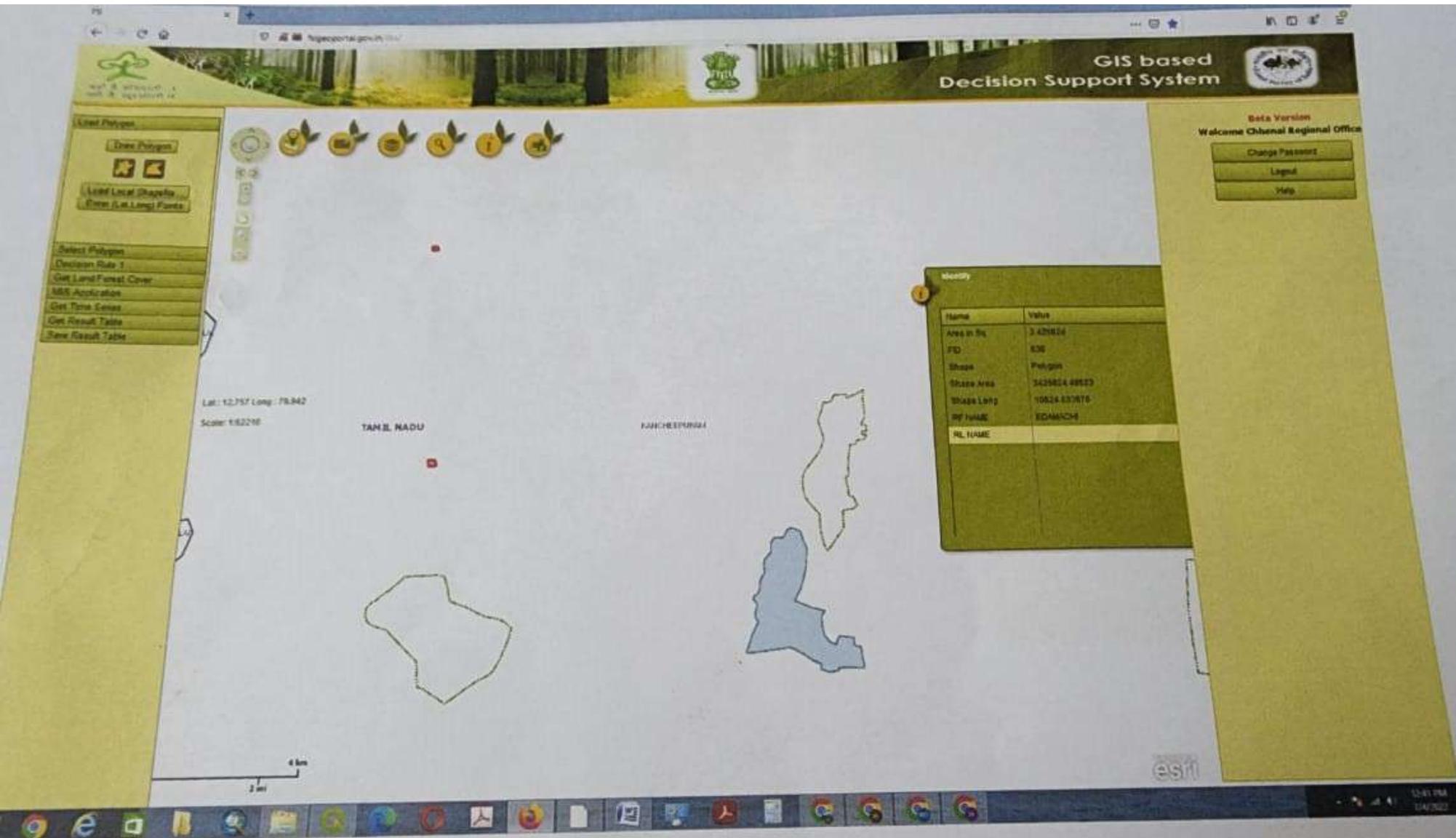
Before Me

His name this the 5th day of July, 2022]

Chadha V
MAM 6/18/17
Nave, Brindavan
St. Mylaguda
Ch 9

At Chennai]

Advocate : Chennai



Photographs showing work that was done at the site









Photograph showing destroyed well



Photographs of the well before it was destroyed



