

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI  
Original Application No. 158 of 2020

**Between:**

**Sri. Srinivas Prabhu Kumble,**

S/o. Sri Narayan Prabhu Kumble,

Aged about 57 years,

Office No. 301, III Floor, 'Bindu Galaxy',  
First Main Road, Industrial Town,

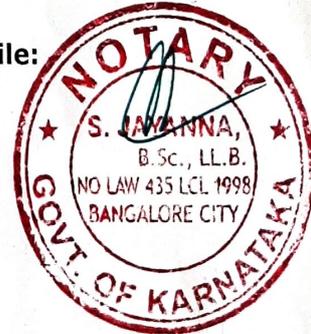
Rajajinagar, BENGALURU - 560 010.

Mobile: 98451 84783 email: [srinivaskumble@yahoo.com](mailto:srinivaskumble@yahoo.com)

...Applicant

**AND:-**

- 1. The Senior Environmental Officer,**  
Karnataka State Pollution Control Board,  
Having its office at  
NisargaBhavan,  
3<sup>rd</sup> Floor, Thimmaiah Road,  
Bangalore City,  
BANGALORE - 560 010,  
Email: [seoc@kspcb.gov.in](mailto:seoc@kspcb.gov.in) Mobile: 080 -23228864
- 2. Health Officer of  
Bruhat Bangalore Mahaanagara,  
Palike, West division,**  
Sampige Road, Malleswaram,  
BANGALORE - 560 010  
Email: [report.jewesj@rediffmail.com](mailto:report.jewesj@rediffmail.com) Mobile: 948856968
- 3. Miss. Karishma P. Shah,**  
D/o. Mr. Paresh S. Shah,  
Aged about 28 years,  
R/a No. 29, Sharada Colony,  
VII "B" Mail, III Stage, IV Block,  
Basaveshwaranagar,  
BENGALURU - 560 079.  
Email: [karishmashah1992@gmail.com](mailto:karishmashah1992@gmail.com) Mobile:  
9738222738
- 4. Sri. Paresh S. Shah,**  
S/o. Late Sharad H. Shah,  
Aged about 59 years,  
R/a No. 29, Sharada Colony,  
VII "B" Mail, III Stage, IV Block,  
Basaveshwaranagar,  
BENGALURU - 560 079.  
Email: [paresh.1508@gmail.com](mailto:paresh.1508@gmail.com) Mobile: 7259468060



 ...Respondents

**COUNTER AFFIDAVIT FILED BY THE 3<sup>RD</sup> AND 4<sup>TH</sup> RESPONDENT**

I, Paresh S. Shah, S/o. Late Sharad H. Shah, Aged about 59 years, and residing at No. 29, Sharada Colony, VII "B" Mail, III Stage, IV Block, Basaveshwaranagar, Bengaluru - 560 079, do hereby sincerely state and solemnly affirm as follows:

1. I am the 4<sup>th</sup> Respondent herein and I am well versed with the facts and circumstances of the instant case. It is stated that I am authorised to file this Counter Affidavit on behalf of the 3<sup>rd</sup> Respondent also.
2. It is submitted that at the outset, all averments made by the Applicant in his Affidavit are denied except the ones specifically admitted to herein. It is submitted that the present Original Application filed by the Applicant is not maintainable both in the eyes of law and facts of the instant case.
3. It is submitted that the present Respondents are law abiding citizens and have a reputable professional experience and practice in the society. It is submitted that the present Respondents never intend to violate any provisions of law or regulations and would strive to strictly follow the legal stipulations. It is submitted that the present Application has been filed in respect of the alleged pollution caused by the generators installed by the present Respondents in their office complex. In this regard, it is humbly submitted that the said generators have not been functional since 1<sup>st</sup> of October 2020 and hence, no pollution has been caused therein. Evidence in this regard in the form of letter submitted before the concerned Chief Post Master is annexed herewith. It is submitted that the present Respondents also undertake to not use the said generators without following the regulations in that regard. It is also undertaken that the present Respondents would not commence use of the said generators without installing a necessary acoustic enclosure as mandated by law. It is submitted that the present Respondents undertake to this Hon'ble Tribunal that they would not cause any violations of the laws in



force, and the connected Rules and Regulations and would not operate the generators in question, except in accordance with the permissible emission limits and necessary enclosures in place. Hence, it is humbly prayed that no punitive action may be taken against the present Respondents.

4. It is further submitted that notwithstanding the aforesaid, the application filed by the applicant herein is tainted by *malafide* and has been filed with an ulterior motive. The Applicant has not disclosed the entire facts and circumstances in his application and has misrepresented before this Hon'ble Tribunal. It is stated that in order to fully understand the circumstances surrounding the present case, a brief background of the facts of the case are as follows.
5. It is submitted that the averments made in para 4 of the Applicant's memorandum of application are true to the extent that an office complex is constructed on the property bearing No. 2, First Main Road, Industrial Town, Rajajinagar, Bengaluru and the same was constructed by Bindu Ventures who are the owners of the property.
6. It is submitted that the office premises bearing no. 303, 3rd floor, Bindu Galaxy, No.2, 1st Main Road, Industrial Town, Rajajinagar, West of Chord Road, Bangalore - 560010 was purchased by the 3<sup>rd</sup> Respondent, who is none other than the daughter of the 4<sup>th</sup> Respondent, and who is also a chartered accountant under employment and thus has nothing to do with the use of the generator by the 4<sup>th</sup> Respondent in the said office premises. It is stated that the 4<sup>th</sup> Respondent is a practicing chartered accountant in Bangalore since 1987 and has been running his firm from the said office premises right from 01.10.2017 upto 30.09.2020. However, since the onset of the Covid19 pandemic and the lockdown that ensued, the 4<sup>th</sup> Respondent has not been operating out of the said office and the office has been non functional.



*Ambedkar*

7. It is stated that this being the case, there was a serious misunderstanding and dispute between the 3<sup>rd</sup> Respondent and the builders of the office premises, M/s Bindu Ventures, Bangalore with regard to the levy and collection of GST @ 12% on the registered sale value of the said office premises of Rs.41 lakhs amounting to Rs. 4.92 lakhs in the form of GST. The said dispute arose on 08.02.2018 much later after the executing of the absolute sale deed in favour of the 3<sup>rd</sup> Respondent by the said builder M/s Bindu ventures on 20.12.2017.

8. It is submitted that the said builder has neither got any occupancy certificate nor any completion certificate till date from the competent Authority, that is, the concerned BBMP office, Govindarajanagar Ward, Bangalore. In fact, the 3<sup>rd</sup> Respondent has filed a complaint against the said Builder before RERA Authorities bearing case No.3176 of 2019. It is stated that as a result, the Khata applied by the 3<sup>rd</sup> Respondent for change of name in her favour was rejected by the said BBMP authorities with an endorsement stating that they are unable to do so due to the pending disputes between them and the said builder. In fact, the concerned BBMP has passed an order of demolition of unauthorized structure against the said builder vide its order dtd. 21.03.2018. This matter is pending adjudication before the Karnataka Appellate Tribunal in case no. KAT 320/2018. In short, the said builder is not at all a law abiding citizen.

9. It is submitted that ever since 08.02.2018, the said builder has been harassing the 3<sup>rd</sup> and 4<sup>th</sup> Respondents in all possible manners illegally including the disconnection of all the basic amenities to their office premises including the parking facility. A suit in this regard was filed by the 3<sup>rd</sup> Respondent against the said builder and proceedings in relation to the same are pending before the Hon'ble High Court of Karnataka bearing CRP No. 08 of 2019. In fact, the said builder has admitted before the Karnataka State Human Rights Commission that they have



never provided the 3<sup>rd</sup> and 4<sup>th</sup> Respondents with the basic amenities such as electricity, water, sanitation etc. In fact, the electricity and other amenities were disconnected by the said builder only from 08.02.2018.

10. It is humbly submitted that due to the severe dispute with the builder M/s. Bindu Ventures and at their behest, electricity supply was made unavailable to the 3<sup>rd</sup> and 4<sup>th</sup> Respondents' office premises. As a result, since 09.02.2018, the 4<sup>th</sup> Respondent was running his office of chartered accountancy from the said premises with the use of a generator. The present generator of **SHAKTI** brand with 5KVA capacity was purchased by the 4<sup>th</sup> Respondent only on 29.05.2020. This averment is supported by documentary evidence in the form of invoice. Copy of the said invoice is annexed herewith. Prior to that, the 4<sup>th</sup> Respondent was using a Honda Generator of around 3 KVA capacity.

11. It is stated that this being the case, the 4<sup>th</sup> Respondent was forced to use a generator for running his office solely due to the constant pressure by the builder M/s. Bindu Ventures. It is submitted that however, the pollution from the said generator was virtually non-existent and the same is evidenced from the fact that even though the 4<sup>th</sup> Respondent was using the generator since February, 2018 itself, no complaints have been received regarding the same from any other persons in the building.

12. It is submitted that however, due to escalation of tensions between the 4<sup>th</sup> Respondent and M/s. Bindu Ventures, FIR's and charge sheet were filed by the Jurisdictional Magadi Road Police Station against the said builder and his accomplices for indulging in criminal offences against the 3<sup>rd</sup> and 4<sup>th</sup> Respondents. Further, the FIR has also been filed against them



for criminal offence of trespass and damages to the 4<sup>th</sup> Respondent's office to let and other properties.

13. It is submitted that from a bare perusal of the above mentioned facts, it becomes amply clear that the builder, M/s. Bindu Ventures is in the constant habit of causing disruption to the 4<sup>th</sup> Respondent's business and

has put lots of hurdles to the present Respondents at every possible juncture.

14. It is submitted that in an attempt to further intimidate and cause further hardships to the present Respondents, the present original application has been filed by the Applicant, who is a fellow tenant/owner of an office in the same building, at the instigation of the builder, M/s. Bindu Ventures, with a view to cause further damages to the present Respondents and also causing loss of profits to the present Respondents.
15. It is humbly submitted that the averments made in para 8 of the application filed by the Applicant is completely false and misleading, as the 4<sup>th</sup> Respondent was forced to the present position of using the generator solely due to the hurdles put forth by the builder. Now, the Applicant and M/s. Bindu Ventures have colluded behind the backs of the present Respondents to cause further harm and losses and hardship to the present Respondents.
16. It is humbly submitted that the averments made by the Applicant are completely false and misleading owing to the fact that the 4<sup>th</sup> Respondent has stopped running his profession since 1<sup>st</sup> of October, 2020 and as a result, the present 4<sup>th</sup> Respondent has also stopped using the said generators. Further, the present Respondents have made all possible efforts to have an electricity connection allotted to their office, however, the same were thwarted due to the builder. Now, the builder has further put forth further hurdles to the present Respondent's profession.

17. It is further submitted that the collusion between the Applicant and the builder is exemplified by the fact that the Applicant has stated in para 13 of the application that pollution has been caused only since March 2020 and never had any problems with the present Respondents for the past 2 years and have only now come forth to cause hardships to the 3<sup>rd</sup> and 4<sup>th</sup> Respondents at the instance of the builder.

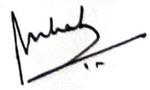


18. It is thus submitted that the present Application filed by the Applicant at the instance of the builder, M/s. Bindu ventures is nothing more than a false, frivolous and vexatious application filed to cause serious loss and damages to the 3<sup>rd</sup> and 4<sup>th</sup> Respondents. It is stated that the present application is an abuse of the process of the court as it has been filed with an ulterior motive and with a personal vendetta towards the present Respondents.

19. Hence, it is humbly submitted that the present Application filed by the Applicant is devoid of all merits and is nothing more than an attempt to smear the 3<sup>rd</sup> and 4<sup>th</sup> Respondents with wild and unfounded allegations so as to disrupt their peaceful possession and enjoyment of their property and hence is liable to be dismissed. It is submitted that the undertaking given by the present Respondents may be taken on record and the application filed by the Applicant based on false averments may be wholly rejected and the Applicant may be held not liable for any compensation to be paid as he has not come to the court with clean hands.

For the reasons stated above, it is humbly prayed that this Hon'ble Tribunal maybe pleased to hold that the present Original Application is devoid of merits and liable to be dismissed, and thus render justice.

COUNSEL FOR 3<sup>RD</sup> and 4<sup>TH</sup> RESPONDENTS

  
4<sup>TH</sup> RESPONDENT

(Paresch S Shah)



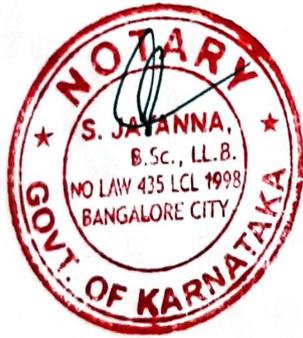
**VERIFICATION**

We, Karishma P. Shah and Paresh S. Shah, the 3<sup>rd</sup> and 4<sup>th</sup> Respondents herein hereby declare that the averments made in Paras 1 to 19 are true and correct to the best of our knowledge, belief and information and that we have not suppressed any material facts.

Dated at Chennai on this the 15<sup>th</sup> day of February, 2021.

  
4<sup>TH</sup>RESPONDENT  
(Paresh S Shah)

NO. OF CORRECTIONS 1



**SWORN TO BEFORE ME**

 15/2/2021  
S. JAYANNA, B.Sc., LL.B.  
NOTARY & ADVOCATE  
Room No. 13, Basement Floor,  
No. 1, Amar Towers, 1st Main, 1st Cross,  
Gandhinagar, BENGALURU - 560 009.

**GOVT. OF KARNATAKA HAS DISCONTINUED  
THE USE OF STAMPS W.E.F. 1-4-2004  
HENCE NOTARIAL STAMPS NOT AFFIXED**