

BEFORE THE NATIONAL GREEN TRIBUNAL

O A No. 17 of 2023

BETWEEN

Link Valley Residents Association, Reg No. ER 405/05, Link Valley, Kusumagiri, Kakkanad.P.O. Kochi-682030. Represented by its General Secretary, Sreeja P.V., aged 58 years, wife of Soumyan C.V., now residing at LIVRA-62, Link Valley, Kusumagiri PO, Kakkanad, Kochi-682 030.Applicant

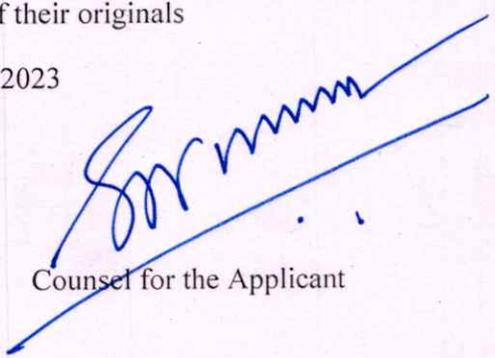
VERSUS

Union of India, Ministry of Environment, Forests and Climate Change, Represented by its Deputy Director General of Forests (C), Regional Office (SZ), Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road, Koramangala II Block, Bangalore – 560034. Tel.No.080-25635901/908 E-Mail: rosz.bng-mef@nic.in and othersRespondents

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| 1 | 03-10-2023 | Rejoinder filed by the Applicant | 01-07 |
| 2 | 03-10-2023 | Affidavit in support of rejoinder | 8 |
| 3 | | <u>AnnexureA.8.</u> Some photographs of the boundary of the applicant resident and the property of the 6 th respondent. | 09-11 |
| 4 | | <u>AnnexureA.9.</u> Photographs showing the apartments of 6 th respondent taken during night time.. | 12-15 |
| 5 | 04-10-2015 | <u>AnnexureA10.</u> True copy of the Building Plan approved by the 6 th respondent. | 16 |

Certified that the above documents are true copies of their originals

Dated at Ernakulam on this the 4 October 2023


Counsel for the Applicant

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONAL BENCH, CHENNAI**

ORIGINAL APPLICATION No. 17 of 2023

BETWEEN

Link Valley Residents Association, Reg No. ER 405/05, Link Valley, Kusumagiri, Kakkanad.P.O. Kochi-682030. Represented by its General Secretary, Smt. Sreeja P.V., aged 58 years, wife of Soumyan C.V., now residing at LIVRA-62, Link Valley, Kusumagiri PO, Kakkanad Kochi-682 030.

.....Applicant

VERSUS

Union of India, Ministry of Environment, Forests and Climate Change, Represented by its Deputy Director General of Forests (C), Regional Office (SZ), Kendriya Sadan, 4th Floor, E&FWings, 17th Main Road, Koramangala II Block, Bangalore – 560034. Tel.No.080-25635901/908 E-Mail: rosz.bng-mef@nic.in and others.Respondents

REJOINDER FILED BY THE APPLICANT

1. All facts and averments contained in the Reply filed by the 1st respondent dated 6th May, 2023, Report filed by the 3rd respondent dated 15th July, 2023, the Report filed by the 5th respondent dated 18-07-2023 and the 6th respondent is denied except those that are specifically admitted hereunder.

For LINK VALLEY RESIDENTS' ASSOCIATION

Sreeja P.V.

GENERAL SECRETARY



2. Though the 2nd respondent stated that they have inspected the site they have not noticed the blatant violations which has been pointed out to them. While granting E.C. (Annexure.A.3) it was specifically stated that the existing elevation along the boundary with adjacent plots should be maintained as it is. Whereas the 6th respondent has raised the height of the land to the top of the boundary wall of the nearby residents. This is the main reason for flooding on the western side. The said condition of maintaining ground level is imposed to avoid flooding in the nearby area, where the members of the applicant Some photographs of the boundary of the applicant resident and the property of the 6th respondent is produced herewith and marked as Annexure.A.8. It is clearly visible that the 6th respondent has raised the ground level to the top level of the boundary wall of the applicant's property. The 2nd respondent being fully aware of the violation of Condition No.4 ought to have taken steps against the 6th respondent who is continuing the constructions.
3. Though the 2nd respondent has noticed that no Half Yearly Compliance Reports are filed no action is taken against them. That itself is indicative of the fact that they are in collusion with the 6th respondent.
4. The 3rd respondent in their report dated 15th July, 2023 has stated that the occupation is not yet started in the building and there is no sewage



FOR LINK VALLEY RESIDENTS' ASSOCIATION

[Handwritten Signature]
GENERAL SECRETARY

generated in the apartment. The fact the building is not occupied by any persons is incorrect and is denied. Several apartments are already occupied. Lights are clearly visible from outside to show that the flats are occupied. Photographs showing the apartments of 6th respondent taken during night time is produced herewith and marked as Annexure.A.9. Thus it is crystal clear that there is collusion between the 3rd respondent and the 6th respondent. The failure to take-action for the non installation of S.T.P is thus arbitrary and blatant support to illegal builders.

5. The 5th respondent has filed in their reply statement that admitted the fact that the land where the applicant members occupy is in low lying area. But has cleverly ignored the fact that the 6th respondent has raised the level of the land constructed many canals in the area without any permission from them. A site plan drawn on the basis of the Master Plan of the area has been submitted by the 6th respondent at the time of making application for building permit in 2013. The Inspecting Officer of the 5th respondent has inspected the land and certified that it is correct. The said drawings contain the then existing canals of the area as on 2013. The building permit was issued for making constructions as per this Plan. A true copy of the said Building Plan approved by the 6th respondent on 04-10-2015 is produced herewith and marked as Annexure.A.10.

For LINK VALLEY RESIDENTS' ASSOCIATION

Lijun Lijun
GENERAL SECRETARY



6. The 6th respondent has constructed several canals in addition to what is shown in Anneuxre.A.10 plan. These canals are constructed after raising their ground level. This fact is cleverly ignored by the 5th respondent while inspecting the land in question and the constructions.
7. The 5th respondent has found that there is a water logging issue and made some suggestions. But not implemented any of them. They are colluding with the 6th respondent for reasons unknown. Since the building is constructed in violation of the building rules they ought to have refused to issue Occupancy Certificate instead of issuing it. Instead of issuing a partial Occupancy Certificate they ought to insisted for the construction of flood mitigation measures using their C.S.R funds before the issuance of Occupancy certificate.
8. It is respectfully submitted that the reply affidavit of the 6th respondent dated 2nd May, 2023 has been suppressed material facts. Though Exhibit.6 (a) refers to the Lay Out approval they have not incorporated the Town Plan Map. Anneuxre.A.10 produced above is the Lay Out approved Map which contains all the then existing Canals. Had it been produced it should have revealed the fact that there is clear violation of the Town Planning Plan. Several canals were constructed and ground levels were raised. Condition No.5 specifically state that the Secretary of the 5th respondent has to ensure that the said things are in existence in the



For LINK VALLEY RESIDENTS' ASSOCIATION

[Handwritten Signature]
GENERAL SECRETARY

site. Condition No.12 stipulates that it shall not cause any difficulties to the nearby residents. Necessary flood litigation measures are also to be taken. But no steps were taken by the 6th respondent.

9. It is respectfully submitted that the Occupancy certificate is only for 128741.10 sq. mts. Since there is blatant violation the respondents ought to have issued stop memo's for violating the Building Rules, Environmental Protection Act, 1986, and Solid Waste Management Rules. It is because of the collusion of authorities the 6th respondent was able to go ahead with such massive constructions in blatant violation of law. It is the duty of the Municipality to provide proper drains and they cannot escape from their duties.
10. It is respectfully submitted that Exhibit.R.6 (j) plan produced by the 6th respondent is not correct and is tailor made for the purpose. The 6th respondent is making all efforts to trespass in the lands of the members of the applicant. It is because of the said apprehension some members approached Civil Court. It is reiterated that for the same reliefs prayed for this applicant has not approached anybody.
11. The averments in paragraph 17 of the reply affidavit filed by the 6th respondent is not correct. Those facts are only imaginations of the 6th

For LINK VALLEY RESIDENTS' ASSOCIATION

GENERAL SECRETARY



respondent to defeat the very purpose this litigation. Even on the small rains there was flooding even in the month of August-September, 2023.

12. It is the 6th respondent who made constructions after raising the level of the land is one of the main reasons for the flooding in the area on western side. They have also constructed several drains which are not in the Master plan which resulted in the increase flow of water in the public drain resulting in flood in the Link Valley area.
13. Exhibit.R.6 (I) is tailor made by the 6th respondent. The 6th respondent has failed to state how they came into possession of the said letter to which no further action is taken. Moreover Mr.Sasidharan was one of the person who requested this applicant to take action against Prestige.
14. It is respectfully submitted that 6th respondent has raised the ground level in blatant violation of the EC conditions and the Master Plan. They are proceeding with their project of "Prestige Hillside Gatewa " on the basis of Anneuxre.A.3. EC in utter disregard to the conditions imposed. Therefore, it is proper that appropriate orders be passed in the application filed by this applicant

Dated at Ernakulam on this the 3 October 2023.

Counsel for the Applicant

For LINK VALLEY RESIDENTS' ASSOCIATION

[Signature]
GENERAL SECRETARY
Applicant



VERIFICATION

I, Sreeja P.V., aged 59 years, Wife of Soumyan C.V., General Secretary, Link Valley Residents Association, Reg.No.ER 405/05, Link Valley, Kusumagiri, Kakkanad.P.O., Kochi-682030, residing at LIVRA-62, Link Valley, Kusumagiri PO., Kakkanad, Kochi-682 030, do hereby verify that the contents of paras 1 to 14 are true to my personal knowledge and are believed to be true on legal advice and that I have not suppressed any material fact.

Dated at Ernakulam on this the 3rd October, 2023.


Counsel for the Applicant



For LINK VALLEY RESIDENTS' ASSOCIATION



GENERAL SECRETARY

Applicant

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

O.A.NO. 17 of 2023

BETWEEN

Link Valley Residents Association.....Applicant

VERSUS

Union of India, Ministry of Environment, Forests and Climate Change,
and othersRespondents

AFFIDAVIT

I, Sreeja P.V., aged 59 years, wife of Soumyan C.V., General Secretary, Link Valley Residents Association, Reg.No.ER 405/05, Link Valley, Kusumagiri, Kakkanad.P.O., Kochi-682030, residing at LIVRA-62, Link Valley, Kusumagiri PO, Kakkanad Kochi-682 030, do hereby solemnly affirm and state:

1. That I am the General Secretary of the Applicant organization in the above-mentioned Application and as such am conversant with the facts and circumstances of the case and am competent to swear to this affidavit on its behalf.
2. I state that the contents of paragraphs 1 to 14 of the accompanying rejoinder are true and correct to the best of my knowledge and belief.

Solemnly affirmed on this the 3 October 2023.

For LINK VALLEY RESIDENTS' ASSOCIATION



Sreeja P.V.
GENERAL SECRETARY
Deponent

And signed his name in my presence.

BEFORE ME

T.S. Harikumar
Adv.T.S.HARIKUMAR
(K/782/1989), Ernakulam



Erwin



Srinivas



Signature



This is the true photographs of the document referred to and marked as Annexure-A8 in the Rejoinder.

A handwritten signature in black ink, appearing to be 'S. M. M. M.', written in a cursive style.

Advocate



Srinivas

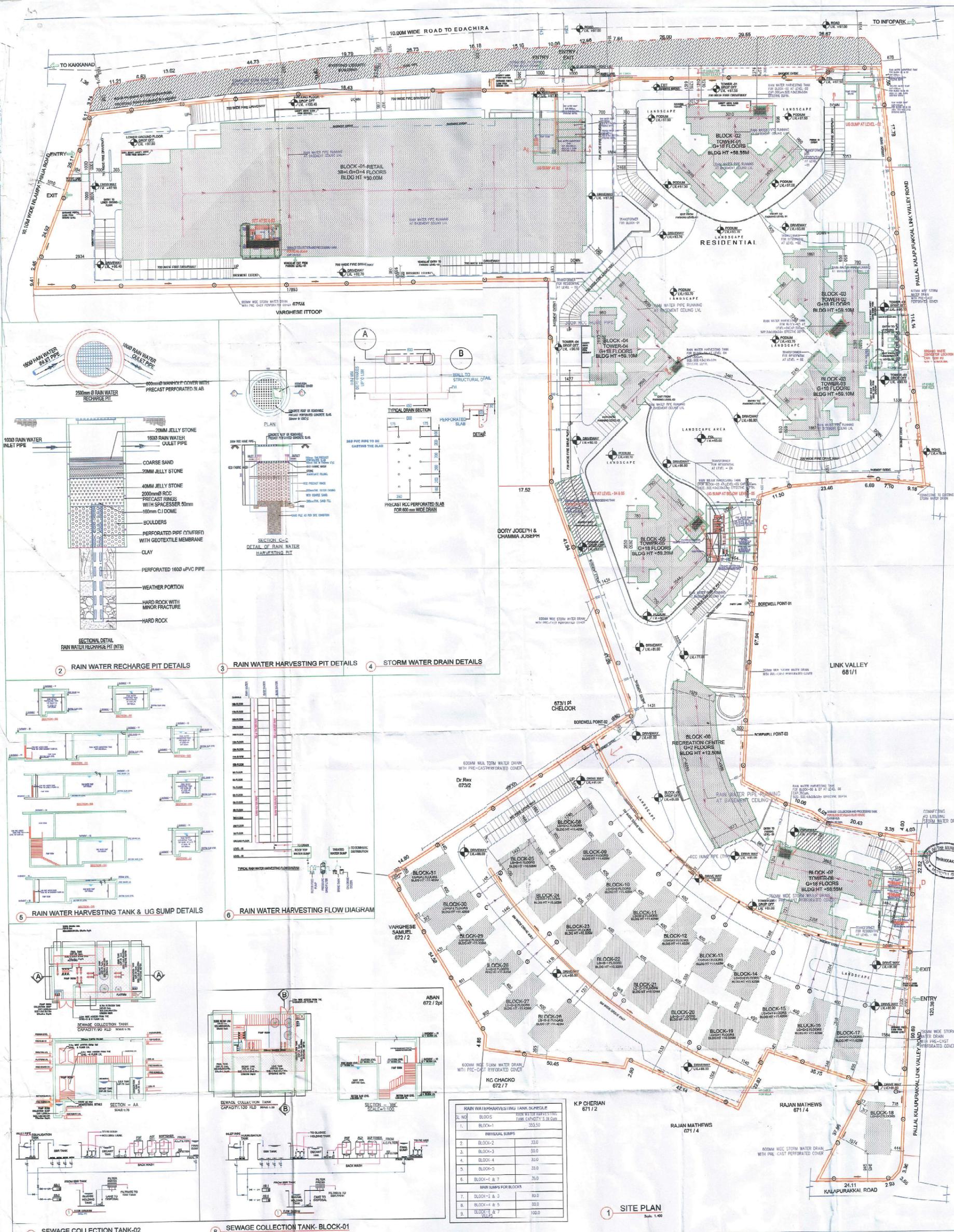


SRM



This is the true photographs of the document referred to and marked as Annexure-A.9 in the Rejoinder.

Advocate



This is the true copy of the document referred to and marked as Annexure-A.10 in the rejoinder.

[Handwritten signature]

Advocate

1 SITE PLAN
Scale: 1:400

OWNERS SIGNATURE: *[Signature]*
For Prestige Estates Projects Ltd.
Thiruvananthapuram

ARCHITECTS SIGNATURE: *[Signature]*
Zachariah CONSULTANTS
P.O. Box 10, Kankannoor, Kanyakumari District, Kerala

SITE PLAN SERVICES
Drawing Original: ZACHARIAH CONSULTANTS
Checked by: [Name] Date: 19.04.14
Designed by: [Name] Date: 19.04.14
Purpose: BUILDING PERMIT
Drawing No: A-001_1

APPROVED PERMIT
Permit No. 1339/2013
Date: 19.04.14
Valid up to: 19.04.15
S. Jay
Thiruvananthapuram

INDEX
1. 10m WIDE ROAD
2. BOUNDARY LINE
3. ROAD WIDENING EXTENT
4. OPEN AIR RECREATION
5. VENTILATION SHAFT LOCATIONS AT 100 FROM ROOMS

REFERENCES
DISTRICT: ERNAKULAM
TALUK: KANYAKUMAR
VILLAGE: KANKANNAD
RESURVEY NUMBER: 671/1, 674/1, 675/4
BLOCK NO: 08
EXTENT: 4879.33

NOTE:
ALL DIMENSIONS IN CM UNLESS IT IS SPECIFIED
ALL LEVELS IN METRES.

Copy of Rejoinder -.O.A.No.17 of 2023

1 message

P B Sahasranaman <sahasram@gmail.com>

Wed, Oct 4, 2023 at 11:32 AM

To: Jamal Sulaiman <advsjamal@gmail.com>, vidyalakshmi@ymail.com, kumaresan@ekklegal.com, Rema Smrithi V K KSPCB <remasmrithivk@gmail.com>, "abukans@gmail.com" <abukans@gmail.com>

Sir

I am attaching herewith the copy of the rejoinder to be filed in the above case.

Regards

**P. B. Sahasranaman**
Advocate, Kerala High Court**Address:** "Narayaneeyam", Chittoor Road, Kochi - 682011. Kerala. India.**Phone:** +91 484 2354339 | **Mobile:** +91 94465 44339**Follow on Twitter:** [@pbsahasranaman](https://twitter.com/pbsahasranaman) | **Connect at LinkedIn:** [linkedin.com/in/sahasram/](https://www.linkedin.com/in/sahasram/)

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