

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE AT CHENNAI

APPEAL NO. 10 OF 2021 (SZ).

G.DEVARAJAN,  
S/o Govindappa Naidu,  
15, Gandhi Nagar, 2<sup>nd</sup> Street,  
Reliance Backside,  
Arumbakkam  
Chennai- 600 106  
E-mail: manuraj.office@gmail.com  
Contact-No: 99621 98210

... Applicant

VERSUS

1. THE STATE OF TAMIL NADU,  
Rep. by the Chief Secretary to Government,  
Secretariat, Fort St.George,  
Chennai – 600 009.
2. State of Tamil Nadu,  
Rep. by the Principal Secretary to Government,  
Public Works Department,  
Secretariat, Fort St.George,  
Chennai – 600 009.
3. Tamil Nadu Housing Board  
Rep. by its Chairman,  
493, Anna Salai, Nandanam,  
Chennai – 600 035
4. State Level Environment Impact Assessment Authority  
Rep. by the Member Secretary,  
SEIAA, 3<sup>rd</sup> Floor, Panagal Maaligai,  
No.1 Jessy Road, Saidapet, Chennai – 600 015

... Respondents

**Counter Statement filed by the 3<sup>rd</sup> Respondents**

I, Shunchonngam Jatak Chiru, Son of Mr.R.Daneiwan aged 48 years having address at A-6/3, TAISHA, Nerkundram, Chennai do hereby solemnly affirm and sincerely state as follows:



MANAGING DIRECTOR  
TAMIL NADU HOUSING BOARD  
KOYAMBEDU, CHENNAI-600 107.

1. I state that I am the Managing Director, Tamil Nadu Housing Board, representing the 3<sup>rd</sup> Respondent herein and as such I am well acquainted with the facts of the case from the available records and I am authorized to file this Reply Statement on behalf of the third Respondent.

2. I submit that Tamil Nadu Housing Board is a Statutory Board set up under the Tamil Nadu Housing Board Act, 1961 for the purpose of execution of housing and improvement schemes and is controlled by Board of Directors consisting of Senior Government officers. All its projects are for public purpose and are implemented following rules and procedure laid down. It is committed to taking up environmentally sustainable projects not only in adherence to environmental laws but also in proactively promoting eco-friendly technology in its projects.

3. I humbly submit that Tamil Nadu Housing Board provides affordable housing to various sections of the society in Tamil Nadu, particularly the Economically Weaker Sections which accounts for more than 50% of the dwelling units constructed by TNHB. Since its inception, Tamil Nadu Housing Board has developed 4,35,065 housing units (plots, flats and individual houses) including 1,31,557 units for Economically Weaker Sections (EWS) and 1,03,226 units for Low Income Group (LIG), 82,801 units for Middle Income Group (MIG) and 58,367 units for Higher Income Group (HIG) categories, and thereby making lakhs of people realized their dream of becoming house owners. Besides, TNHB has also constructed 20,060 dwelling units for slum rehabilitation. It also provides housing to Government employees, having constructed 32,044 rental quarters. On account of its various schemes, TNHB has played a major role in ushering an orderly growth of urban centers by creating satellite townships across the State. Many of the prominent localities of Chennai such as Anna Nagar, Besant Nagar, K.K.Nagar, etc., were developed by TNHB through its neighbourhood schemes.

Likewise, in cities such as Madurai, Trichy, Coimbatore and Hosur, TNHB has been responsible for developing the planned localities in these cities. Tamil Nadu Housing Board continues to evolve as a premier institution in providing environment friendly and sustainable housing solutions in the State. TNHB is currently implementing various projects which include residential, commercial and office spaces, community amenities, etc.

4. I humbly submit that Tamil Nadu Housing Board has been executing the schemes by acquiring huge extent of lands over 16500 acres following the procedures as laid down under The Land Acquisition Act, 1894. The subject land in TS No. 2 was originally comprised in Survey Nos. 249/1, 249/2, 249/3, 249/5, 250/1-8, 251 and 252/2A to an extent of 8.49 acres.

5. I humbly submit that in G.O.Ms. No. 728 (Housing) Industries, Labour and Cooperation Department dated 13-2-60 orders were issued for the formation of West Madras Neighborhood Schemes. The lands bearing S.Nos. 249/1,3,4,5, 250/1,2,3,4,5,6,7,8, 251 and 252/2A measuring Acre 7.29 Cents were acquired in Award No: 14/1966 dated:28-03-1966 and the lands bearing S.Nos. 249/2 and 249/6 measuring Acre 2.12 Cents of Arumbakkam village, Madras central Taluk, Madras District were acquired in Award No.15/1966 dated 28/03/1966 under ordinary provision of the Land Acquisition Act. The Notification under Section 4(1) of the Land Acquisition Act was published at pages 179 and 180 of part II Section I of the Fort St. George Gazette, dated 10.08.60 as Notification II-I No. 538 of 1960. In that Notification, the Special Deputy Collector for Land Acquisition, West Madras Neighborhood, was appointed to perform the functions of a Collector under Section 5-A of the Act. The enquiry under the Section 5-A of the Act was held on 4-10-60. The Draft Declaration



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under Section 6 of the Act was published at page 1658 of Part II Section I of the Fort St. George Gazette, dated 1-11-1961. Award enquiry was conducted on 26-9-1962 by the Special Deputy Collector for Land Acquisition, West Madras Neighborhood Schemes. Further, proceedings could not be taken in view of the general stay granted by the High Court, Madras while admitting Writ Petition filed by some of the land owners. On the judgement of the High Court, the Government ordered that in cases where there are Residential buildings, fresh 5-A enquiry should be conducted. At this stage, this scheme was transferred to the Special Deputy Collector for Land Acquisition, State Housing Board Schemes, Madras. The Notification under section 3(o) of the Act appointing the Special Deputy Collector for Land Acquisition, State Housing Board Schemes, Madras, to perform the functions of Collector was published at pages 363 - 364 of Part II Section I of the Fort St. George Gazette, dated 4-3-64 and the 5-A enquiry was held on 16-4-64. The Draft Declaration under section 6 of The Land Acquisition Act was published at page 409 of part II section I as Notification II-I No.988 of 1965 dated 10-3-65. The Award enquiry was held on 8-4-65.

6. I humbly submit that at the time of enquiry during 16/04/1964 to 8/04/1965, the PWD did not raised any objection for the acquisition proceedings carried out by the Land Acquisition Officer.

7. I humbly submit that the survey No.249/4 for an extent of 0.20 Acres and survey No.249/6 for and extent of 0.72 Acres, totally 0.92 acres of land was excluded and the possession of 8.49 Acres is vested with Tamil Nadu Housing Board from the year 1966.

8. I humbly submit that Rs.26048.09 has been paid as compensation to the land owners of the S. Nos. 249/1,2,3,5, 250/1,2,3,4,5,6,7,8, 251 and 252/2A as per Award No. 14/1966 and Award No. 15/1966.

9. I humbly submit that the S. Nos. 249/1,2,3,5, 250/1,2,3,4,5,6,7,8, 251 and 252/2A, the lands under acquisition have been classified as dry lands in the Revenue Accounts indicating that there was no water source in the above said lands.

10. I humbly submit that the survey No. 250/6 was acquired from one Sri. Purushotham Dass Goooola Dass, son of Goooola Dass who had purchased the land in 1919 vide document. No 3886/19 dated 1/11/1919 along with some other properties. Similarly, TNHB acquired the land in survey No. 249/1 from one Sri K.M. Govinda Naidu, who had purchased from one Sri A. Muthuswamy Iyer in 1932 vide Document No. 334/1932, indicating thereby that the said acquired lands were in the custody of private individuals prior to Independence.

11. I humbly submit that from 1966 to till date, the above said lands have been in the custody of TNHB. And TNHB is the ultimate owner of the 8.49 acres extent of the land.

12. I humbly submit that the encroachments made by the anti-social elements to an extent of 7.14 acres were removed during the year 2010. Subsequently the encroachments made in an extent of 1.23 Acres by the anti-social elements were removed during December 2020 by making alternate arrangements by paying rehabilitation charges of Rs.45,90,000 to Tamil Nadu Slum Clearance Board and resettlement of the slum people at Athipattu Tamil Nadu Slum Clearance Board tenements.

13. I humbly submit that at the time of eviction also, the PWD has not claimed/ raised any objection to the TNHB for the above said lands.



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14. I humbly submit that as per the Town and Country planning Rules, there is no statutory requirement for NOC from PWD. TNHB has proposed the project and applied for the NOC only from the inundation point of view for obtaining planning permission.

15. I humbly submit that the issue is related to the ownership of the land. PWD is not the authority to determine the ownership of the land; Revenue Department is the only authority to determine the ownership of the land based on the relevant records available.

16. I humbly submit that the TNHB has been implementing the project for the Construction of 304 HIG Multistoried Residential flats (2B+G+19 Floors) and Proposed construction of multistoried commercial cum office complex (2B+G+19 Floors) at survey No 2, Block No 4 of Arumbakkam village, Egmore, Nungambakkam Taluk, Chennai District based on the guidelines and norms issued by the Government from the enactment of TNHB Act 1961 and latest Government orders issued then and there.

17. I humbly submit that the land in T.S. No. 2, Block No. 4, Arumbakkam Village belongs to TNHB and PWD has no locus standi to dispute the ownership of the land. The Original Application and Appeal arises out of the NOC issued by the PWD-WRO vide Letter No. DB/T5(3)/F-NOC-Arumbakkam/2020 dated: 3.10.2020. It is humbly stated that the PWD NOC was issued only from inundation point of view for obtaining planning permission and any observation in the NOC with a bearing on the boundary is irrelevant to the purpose for which the NOC was sought for.

18. I humbly submit that the 4th respondent has granted Environmental Clearance only after the thorough scrutiny of all the records pertaining to the subject matter project and it is noted in the



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Environmental Clearance that NOC on inundation point of view was issued by PWD.

19. I humbly submit that Para Nos.1 and 2 of the Memorandum of the above appeal do not require any comments.

20. I submit that I deny the averments made in Para Nos. 3 and 4. Initially the project was proposed for the Construction of 304 HIG Multistoried Residential flats (2B+G+19 Floors) and Proposed construction of multistoried commercial cum office complex (2B+G+22 Floors) at survey No 2, Block No 4 of Arumbakkam village, Egmore, Nungambakkam Taluk, Chennai District and later it was revised as stated in para 16 of the appeal. Initially the whole parcel of the land under question come under T.S.No 2. Subsequent to the NHAH proposal for the elevated corridor in the TNHB land, Highways Sub Inspector of Survey/ National Highways Department got the land sub-divided into three portions (i.e.) 2/1, 2/2 and 2/3. An extent of 2242 Sq. m in T.S.No. 2/3 and an extent of 6008 Sq. m in T.S.No. 2/2 have been earmarked as water way and land reserved for NHAH respectively. There is distance ranging from 23 to 45m between the building boundary and the river. Hence, the proposed project being situated just 0.01Km is factually incorrect.

21. I humbly submit that the National Highways Department published a Notification under section 3G (3) and (4) of the National Highways Act 1965(Act No 48 of 1956) for land acquisition in 2/2 for an area of 6008 Sq.m. I further submit that the remaining sub divided land in 2/1 measuring an extent of 24750 Sq.m and the land in 2/3 measuring an extent of 2242 Sq.m remains as TNHB land. I submit that based on the above 3G notification the proposed project plan was revised for construction of mixed-use development which consist of a commercial block with double basement, ground floor and 19 floors

and 2 residential block each with double basements, a combined stilt floor cum ground floor and upto 19 floors, accommodating 152 dwelling units which total 304 dwelling units.

22. I humbly submit that the proposed project is set to be located at S.No 2, Block No.4 of Arumbakkam village, PH road, Egmore - Nungambakkam Taluk, Chennai district more fully comprised in Survey Nos. 249/1,2,3 & 5, 250/1,2,3,4,5,6,7,& 8, 251, 252/2A. For the revised proposal the Environmental clearance was obtained vide Letter No. SEIAA-TN/F.NO.7627/EC/8 (a)/739/2020 dated: 23.01.2021

23. I submit that as far as para Nos. 5 to 8 are concerned, the Tamil Nadu Housing Board did not start the construction before the grant of the Environmental Clearance vide Letter No.SEIAA-TN/F.NO.7627/EC/8(a)/739/2020 dated: 23.01.2021 by the 4th respondent except the preparatory work and work relating to scientific analysis of Environmental management plan like solid waste management, green belt development, Energy conservative measures, rain water harvesting measure, grey water treatment plants, and sewage treatment plants. The project was proposed for a total built up area of 1,35,031.13 Sqm. Environmental clearance was obtained vide Letter No. SEIAA-TN/F.NO.7627/EC/8 (a)/739/2020 dated: 23.01.2021 after which only the work was initiated.

24. I submit that I deny the averments made in para 9, 11, 12 & 15 of the Memorandum of Appeal as untrue because before the grant of NOC the land dispute between the PWD-WRO and the TNHB had been justified with the revenue records from the Assistant Director of Survey (Chennai) based on the records from the Assistant Director of Survey's Office. And the same has been marked in the field in the presence of PWD officials especially Assistant Engineer and surveyor of PWD and provided the FMB Sketch dated 10.09.2020 vide letter No.Na.KA.E.1/2333/2020 dated: 11.09.2020. I further submit that since the lands were acquired in the year 1966 and the possession of

the lands have been with TNHB from 1966, the TNHB went by the available revenue records.

25. I submit that fixing the boundaries of the above subject matter land was done by the Assistant Director of Survey Team. However, the 2nd respondent had constructed the Cooum river/baby canal by diverting inside the subject matter TNHB land. In fact, by this act, 2nd Respondent has encroached into TNHB land.

26. I submit that in order to avoid any discrepancy, the 2nd respondent and the Assistant Director of Survey again engaged the same team to survey the same block map from the Naduvankari Village which lies to the northern side of the river. I further submit that the said survey also established the fact that there is no encroachment made by TNHB which is evident from the FMB sketch dated 28.09.2020 of the Survey Department issued for the block 6 of the river. The FMB sketch clearly reflects the fact that the upstream side of the river near the inner ring road is 130m but while nearing the TNHB land it has an average width of 78m only. The No Objection Certificate from Public Works department-WRO was obtained vide Letter No. DB/T5 (3)/F-NOC-Arumbakkam/2020 dated: 3.10.2020 after the survey work was done and it was meant for obtaining planning permission from inundation point of view and any observation in the NOC with a bearing on the boundary is irrelevant to the purpose for which the NOC was sought for.

27. I submit that I deny the averments made in Para 10 of the Memorandum of Appeal as false. I submit that the team engaged by the Assistant Director of Survey started the demarcation of the above TNHB land by considering the whole village map including the Poonamallee High Road. Further, it is informed that the demarcation of the site was carried out through the GPS instrument to avoid errors in



the marking. I submit that the property was measured by the Tamil Nadu Housing Board at the instance of the PWD in their presence and the No-Objection certificate from Public Works department-WRO was obtained vide Letter No. DB/T5 (3)/F-NOC-Arumbakkam/2020 dated: 3.10.2020. With all the above facts, the minimum set back of 15m is sufficiently provided.

28. I submit that the averments made in para nos. 13, 14 and 15 are contrary to present revenue records. The PWD has encroached the TNHB land while forming the baby canal in the recent years. While demarcating the site in the northern side, the boundary of the TNHB land is 38m beyond the baby canal. Based on the scientific analysis, the retaining wall in the northern side was designed as recommended in the PWD NOC and the stilt floor level is fixed above 92.5 cm from the Road level (i.e.) 13.80m. In order to reduce the impact of any flood, the retaining wall was designed to reduce the risk of the inundation and flood surge. It is clearly shown in the FMB sketch that the average width of the river is 78m, but the PWD formed the earthen bund in 110m in later dates of 2006 by encroaching the TNHB land. To validate the average width of the river, Tamil Nadu Housing Board again conducted a survey on 29/09/21 and it is established that the present river regime width is as intact as it was before the execution of construction work which is 78m, the width indicated in the revenue record.

29. I submit that in so far as para nos. 16 & 17 are concerned, as per the NOC, the proposed project is provided with an internal storm water drainage network in sizes not less than 1.50x1.20m as peripheral and 0.90x75m as lateral drain with road side drains to drain the rain water towards northern side i.e. Cooum river.

30. I submit that I deny the averments made in para nos. 18 & 19 as false. TNHB engaged professional consultants to design the

structure and got it vetted by Anna University, as is done in most of the TNHB projects. On this basis, I submit that the basement is feasible, since the project basement is provided with the shear wall without any opening in the peripheral, the chance of flooding is nil. Moreover, the retaining wall is constructed upto the level of 14.80m so that no water would get into the basement floors and in addition to dewatering arrangements and emergency pumping operation provision has been given in the scheme proposal.

31. I submit that I deny the averments made in para 20 as false since, as per revenue records, T.S.No 2/2 belongs to Respondent No. 3 and not Respondent No. 2. I crave leave of this Hon'ble Tribunal to refer to para Nos.21 and 22 of this reply statement that sets out the factual aspects with regarding to the averments made in para 20 of the Memorandum of Appeal. Averments made in para 21 are stoutly denied and the said issue was addressed in paras 24 to 27 of this reply statement.

32. I submit that I deny the averments made in paras 22 and 23 as the TNHB has not violated any of the existing rules and regulations and the said issue was addressed in the para 2 and 3 of this reply statement. Further, during the Chief Secretary's CRRT review meeting on 19.10.2020, it was decided to conduct the joint inspection by a team of Survey department, PWD and TNHB. The Northern Boundary of the site lies in the Bank of Cooum River and extent measuring 8250 Sq. m of land Reserved in Northern Boundary is treated as waterway and alignment of elevated corridor. The Revenue record of the site and Cooum River at boundary is enclosed for reference.

33. I submit that I deny the averments made in paras 24 to 31 as there will be no impact on the environment as stated in the para 30 of this statement. Apart from that, the basement level of the project is



more than 3m height from the Maximum flood level (i.e.) (+) 11.375. I further submit that 4th respondent has granted Environmental Clearance only after the thorough scrutiny of all the records pertaining to the subject matter project and as such the said Environmental Clearance is perfectly valid.

34. I submit that as far as grounds of this appeal is concerned, all the grounds are rebutted and answered in the above paragraphs and I crave leave of this Hon'ble Tribunal to consider the same in order to avoid repetition of addressing the same issues. As far as ground h is concerned, to my knowledge there is no interim order against the present project either in Hon'ble High Court or Hon'ble Apex court. That apart, neither TNHB nor the 4<sup>th</sup> respondent were party to the said proceedings. Hence the 4th respondent has no legal embargo to grant the Environmental clearance.

For the reasons stated above, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the Appeal No. 10 of 2021 (SZ) as devoid of merits and thus render justice.

Dated at Chennai on this the 4<sup>th</sup> day of October, 2021



3<sup>rd</sup> RESPONDENT

MANAGING DIRECTOR  
TAMIL NADU HOUSING BOARD  
KOYAMBEDU, CHENNAI-600 107.

VERIFICATION

I, Shunchonngam Jatak Chiru, Son of Mr.R.Daneiwan, aged 48 years, having address at A-6/3, TAISHA, Nerkundram, Chennai, working as Managing Director, Tamil Nadu Housing Board do hereby verify that the contents of Paragraph Nos. 1 to 34 are true to the best of my knowledge and Paragraph Nos. 1 to 34 are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 4<sup>th</sup> day of October, 2021

  
3<sup>rd</sup> RESPONDENT

MANAGING DIRECTOR  
TAMIL NADU HOUSING BOARD  
KOYAMBEDU, CHENNAI-600 107.