

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ), AT CHENNAI
IN THE MATTER OF

Original Application No. 228 of 2021
PRESENTATION FORM

A and Y Partners, Advocates, F-3, iii Floor, Ligoury Court, No.7, Palmgrove Road, Victoria Layout, Bangalore- 560 047		BETWEEN: Jagan Kumar J AND: The Member Secretary, SEIAA and Others	
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IN THE MATTER OF

Original Application No. 228 of 2021

BETWEEN

Jagan Kumar J.

...Applicant

AND

The Member Secretary, SEIAA and others

...Respondents

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Place: Bangalore

Date: 22.1.2022

Advocate for Respondent No.3

I
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Statement of Objections filed by Respondent No.3

The Respondent No. 3 humbly submits as hereunder:

1. It is submitted that the address of the Respondent No.3 is as shown in the cause title to the Original Application. Further, the Respondent No.3 may also be served on its Counsel **M/s. A & Y Partners**, having its office at F-3, III Floor, Ligoury Court, #7, Palm Grove Road, Victoria Layout, Bangalore-560047, Karnataka state.
2. Before proceeding to the true facts of the case, the Respondent No.3 would like to place its preliminary objections to the Application as here under:
3. At the very outset, it is submitted that the prayer for withdrawing the Environment Clearance issued by the SEIAA bearing No. SEIAA 64 CON 2019 dated 09.07.2019 made in Application filed by the Applicant before this Hon'ble Tribunal is hopelessly barred by limitation as provided under Section 16 of the National Green Tribunal Act, 2010. Hence on this ground alone, the claim petition merits dismissal. It is submitted that the Applicant herein has filed the present Application before this Hon'ble Tribunal for the following reliefs:

- I. Direction to Respondent No.1 and 2 to withdraw the Issued Environment Clearance vide No. SEIAA 64 CON 2019 dated 09-07-2019 and Plan Approval vide LP No. BBMP/ADDL.DIR/JDCENTRAL/001/19-20 Dated 19-08-2020 which was issued without ascertaining/evaluating the Tank/waterbody and its buffer zone adjacent to project site in violation of Law.
 - II. Direction to the appropriate authority to conduct resurvey of the Tank/Waterbody, mark its boundary, clean, rejuvenate and restore the Tank/Waterbody and maintain its buffer zone free from any encroachments/constructions in time bound manner.
 - III. Direction to the appropriate authorities to initiate necessary legal action against the respondents for failure to perform their duties and disobedience of law.
 - IV. Award costs of the proceedings and such other reliefs as this Hon'ble Tribunal deems fit in the interest of justice and equity.
4. Further, as mentioned hereinabove, the Applicant has filed the present Application seeking for withdrawal of the Environment Clearance dated 09-07-2019 issued by the Respondent No.1 which is clearly barred by limitation as prescribed by Section 16 of the National Green Tribunals Act 2010. It is submitted that upon a bare perusal of Section 16 of the NGT Act, it states that an order granting environmental clearance may within a period of thirty days from the date of the order or decision prefer an appeal to the Tribunal. The Applicant has surreptitiously filed the present application under Section 18 read with Section 14 and Section 15, when in actuality it is in the nature of an appeal challenging the Environment

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Clearance granted in the year 2019, only in order to bypass the bar imposed by law from filing the same at such a belated stage. The Applicant has not challenged the said Environment Clearance in the manner prescribed by law and is attempting to subvert the procedure established by law and as such, on this ground among others, the relief claimed in the present application cannot be considered by this Hon'ble Tribunal. The said act of the Applicant is highly impermissible in law and hence on this ground also the Application is liable to be dismissed.

5. It is submitted that the Applicant has alleged that Survey No. 159 of Haraluru Village of Varturu Hobli, Bangalore East Taluk, Bangalore Urban District is a Tank/waterbody and the same is reflecting in the village map. However, upon perusal of all the revenue records and Sanctioned plans issued by BBMP, the above-mentioned Survey No. 159 is in fact reflected/shown as cultivable land and nowhere in any of the documents and land records pertaining to the above-mentioned land, does it mention that the same is a water body. Further, the allegation that Survey No. 159 is tank/water body does not survive due to the fact that since many decades, appropriate authorities have held the land to be cultivable land, time and again and the same has also been entered in various revenue and land records. As such all the allegations made in the Application are only self-serving statements and not substantiated with any material evidence. In such circumstances, the prayer in relation to the presence of a tank/water body and consequently for a resurvey, rejuvenation and restoration of such tank/water body is also liable to be rejected. The documents produced by the Applicant as well as the allegations made by the Applicant in the Application do not come to the rescue of the Applicant

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so as to effectuate the reliefs claimed. Hence on this ground also the Application is liable to be dismissed.

6. Without prejudice to the above, the Respondent No.3 puts forth the true facts of the case as hereunder:

It is submitted that the ownership of the land bearing above-mentioned Survey No. 159, came to be vested with one Mr. H. Ramaiah Reddy S/o. Hanuma Reddy, by the Deputy Commissioner, Inams Abolition, Bangalore vide proceedings in Case No. 476/68-69 dated 25 .05.1968, wherein, Mr. H. Ramaiah Reddy, the Petitioner therein, had claimed occupancy rights of the land bearing Survey No. 159 having been in possession and enjoyment of the said land since long time. Further, it is submitted that in the order of the Deputy Commissioner, it is shown that the Petitioner Mr. H. Ramaiah Reddy had been shown as an occupant over the said Survey No. 159 in the survey records. Further, there had been no counter-claimants over the said land either and infact the Jodidar admitted the claim of the Petitioner Mr. H. Ramaiah Reddy. As such, vide this order, the Deputy Commissioner, under Section 5 of the Mysore (Religious and Charitable) Inams Abolition Act, 1955, registered the Petitioner, Mr. H. Ramaiah Reddy as the Permanent Tenant in respect of Survey No. 159 land and Premium was also waived. It is also to be noted that, the Deputy Commissioner also conducted an enquiry through the Gazetted Assistant as per Rule 7 of the Inam Abolition Rules and the said report was relied on to make the above-mentioned order under Section 9 of the Act. On a con-joint reading of the said provisions of the Act, it can be noted that the above-mentioned land, even assuming to be a tank/water body but not conceding, was granted free from all encumbrances to Mr. H. Ramaiah Reddy by virtue of which the said land

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came to under the ownership of Mr. H. Ramaiah Reddy. It is also to be noted that the Deputy Commissioner, has nowhere mentioned in the order that the said land bearing Survey No. 159 is a tank/water body and the same is also not found in the report relied on as well. As such, it is submitted that the said survey no. 159 was never a tank/water body as alleged by the Applicant. A copy of the Order passed by the Deputy Commissioner in Case No. 476/68-69 dated 25.05.1968 is produced herewith as **Annexure-A** and its typed copy is produced herewith and marked as **Annexure-A1**. As such, in pursuance of the above-mentioned order, the said land came to be acquired by Mr. H. Ramaiah Reddy.

7. It is further submitted that subsequently, Mr. H. Ramaiah Reddy got his name entered in the revenue records and as such has been consistently shown to be in possession and enjoyment of the Survey No. 159 land since its grant and paying Tax (kandaya) to the State. Upon a bare perusal of the RTCs from the year 1973 through 2021-22 would show that Mr. H. Ramaiah Reddy has been shown as the occupier of the said land. It is also very pertinent to note that the said RTCs show that the said survey No. 159 as cultivable land and not as a tank/water body. It is submitted that all the land records and survey records, show that the said survey no. 159 as cultivable land and the same has not been classified as a water body or a tank. As such the allegation of the Applicant is far from the truth. A copy of the RTC from the year 1973-1977, 2020-21 and 2021-22 is collectively produced herewith and marked as **Annexure-B** and translated copy are produced herewith and marked as **Annexure B1**.

8. It is submitted that subsequently, in the year 2004, Mr. H. Ramaiah Reddy sold a portion of the Survey No. 159 land measuring up to 30 Guntas to one Mr. E. Muralidhar vide a Registered Sale Deed dated 03.03.2004, bearing no. BNG (U)-BLR(s) 24/39/2003-04 registered in the office of the Sub-Registrar of Bangalore South Taluk, certified now by the SRO, Bhommanahalli (Jayanagara). A copy of the registered sale deed dated 03.03.2004 is produced herewith and marked as **Annexure-C**. It is to be noted here that the said land is shown as Agricultural Land in the said sale deed. Further, it is very pertinent to note that Mr. H. Ramaiah Reddy, vide DC order bearing No ALN (E) SR 354/04-05 dated 29.12.2004, got the remaining 1 Acre 09 Guntas of Survey No. 159 land converted from Agricultural land to Residential Purpose by paying the requisite fee to the state. The Copy of the Conversion order and its translated copy are produced herewith and marked as **Annexure-D and D1**. It is submitted that above mentioned transactions and conversion is reflected in the Mutation Records bearing MR. No. 57/2003-04 and MR No. 40/2004-05 respectively. A copy of Mutation Records bearing MR. No. 57/2003-04 and MR No. 40/2004-05 is produced herewith as **Annexure-E** and Translated copy are marked as **Annexure E1**. It is also pertinent to mention here that even in the Joint Map as provided by the Assistant Director of Land Records, bearing No. ADLR(P) MISC/682/19-20 does not show that the said Survey No. 159 land as a tank/water body. A copy of the Joint Map issued by the ADLR is produced herewith as **Annexure-F**. Hence, it is submitted that the nature of the said land has been confirmed through several levels of scrutiny by various land and revenue authorities to be a cultivable land and not a water body/tank as alleged by the Applicant. The said authorities have from time and again after thorough enquiry and through various

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approvals have confirmed the fact that the Survey No. 159 land is not a water body/tank and it is a cultivatable land

9. It is submitted that the Respondent No.3 is a Real Estate Developer engaged in the development of commercial and residential buildings/properties and have a stellar reputation in the field and have been developing land in conformity with all the applicable laws. The Respondent No.3 is the absolute owner, in possession and enjoyment of the land bearing Sy. No. No 36/1 measuring 1 Acre 11 Guntas of Haraluru Village and vide registered JDA dated 30.07.2018 bearing no. 2228/2018-19 registered at the Sub Registrar's office at Halasuru, Bangalore, the Respondent No. 3 is developing both the above said properties into residential buildings. It is submitted that in view of the same, the Respondent No.3 has thoroughly followed all the applicable procedures established by law and has obtained various permits and NOCs from the requisite departments to carry out construction and development activities on the said properties. Copy of the Sale Deed of Sy. No. 36/1 wherein the Respondent No. 3 purchased it is produced herewith and marked as **Annexure- G**. Copy of JDA dated 30.07.2018 signed for Developing Sy. No. 39 is produced herewith as **Annexure- H**. It is submitted that the Respondent No.3 has rightfully obtained Plan Sanction bearing No. BBMP/ADDL. DIR/JDCENTRAL/0001/19-20 dated 25.02.2020 in respect of the above-mentioned land from the BBMP. A copy of the Plan Sanction is produced herewith as **Annexure-J**. It is submitted that the Respondent No.3 has prepared the plans in consonance with the prevailing laws and the same has come to be confirmed and approved by the BBMP, who in their wisdom have deemed it fit for approval as the Plan submitted by the

Respondent No.3 was in conformity with the applicable laws and hence proceeded to grant the Plan Sanction to carry out the development and construction activities. Accordingly, the sanctioned plan contains the distance from the existing Kasavanahalli lake and required buffer is maintained.

10. It is further submitted that in fact, the Kasavanahalli lake is actually situated on the western side of the Survey No. 36/1 and Survey No. 39 properties and the authorities had directed the Respondent No.3 to ensure that the requisite buffer zone, be maintained from the lake for any development or construction activity so as to protect the water body and its ecology and in order to be in conformity with the rules and regulations in respect of the buffer zone to be maintained from a lake. In view of the same, it is submitted that the Respondent No.3 has fully complied with such requirements imposed by the appropriate authorities and the Respondent No.3 continues to strictly abide by such rules and regulations in respect of protection and safeguarding of water bodies. It is submitted that in view of the facts relating to the nature of the Survey No. 159 land, narrated herein above, the Respondent No.3 has not violated any norms or rules and regulations in respect of maintain buffer zone, as the Survey No. 159 is neither a water body nor a tank. As such the present Original Application does not survive in facts or in law and is liable to be rejected with cost.

11. It is submitted that the Respondent No.3 approached the State Level Environment Impact Assessment Authority in respect of construction of the Residential Apartment in Survey No. 36/1 and Survey No. 39 for issue of Environment Clearance as mandated by law. It is further submitted that the

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SEIAA, Karnataka, in its wisdom and exercise of powers duly vested with it, has conducted a thorough inquiry and vide meeting held on 28th May 2019 has approved and granted Environmental Clearance. The same has been communicated to the Respondent No.3 by way of Environment Clearance dated 09-07-2019 bearing No. SEIAA 64 CON 2019. It is submitted that the SEIAA has exercised its due diligence, wisdom and based on rigorous scrutiny of all the requirements as mandated by the prevailing laws, has proceeded to grant the Environment Clearance on various terms and conditions. It is submitted that the Respondent No.3 has been abiding by the said terms and conditions and has followed the same with utmost obedience and diligence. A copy of the SEIAA Environment Clearance dated 09-07-2019 bearing No. SEIAA 64 CON 2019 is produced herewith as **Annexure-K**. It is submitted that only after obtaining all the necessary permits and approvals, the Respondent No.3 began construction and is meticulously taking steps to ensure that the construction and development activities are in conformity with all the rules and regulations applicable. As such, the Applicants prayer to stop the said activities are misconceived and does not stand against the weight of the facts presented herein and is liable to be rejected.

12. Para wise Reply to Para 1: The averments made in Para 1 with respect to the Survey No. 159 of Haraluru Village of Varturu Hobli, Bangalore East Taluk, Bangalore Urban District being a Tank/Water body is completely denied as false and misconceived. It is submitted that the said Survey No. 159 land is neither a tank nor a water body. As already mentioned hereinabove, the said land, from many decades, throughout all revenue and land records is reflected as cultivable land and no appropriate authority

in any of the documents relating to the land, has ever remotely indicated or shown that the said property is a tank or a water body. It is further submitted that to substantiate the said assertion of the Respondent No.3, photographs obtained from Google Earth Extract Images is produced herewith from the years 2002 to 2021 as **Annexure-L**. It is submitted that upon perusal of these photographs it can be seen that there is no water body on the said land and it could be said that it is a low-lying land but there is no water collection on the said land which could deem it to be a water body or tank as alleged by the Applicant. As such, the contents and averments of the Para Number 1 is completely denied.

13. Para wise Reply to Para 2: The averments made in Para 2 with respect to the construction activity going in the alleged "buffer zone" in Survey No. 36/1 and Survey No. 39 is hereby totally denied as false and misconceived. It is submitted that, since the Respondent disputes that the nature of land in Survey No. 159 is neither a water body nor a tank, there is no scope for the existence of a buffer zone as it has been private land. As already elicited and expounded above, the construction of the residential building in the Survey No. 36/1 and Survey No. 39 is in total conformity with all the applicable laws and the Respondent No.3 is strictly abiding by all the terms and conditions imposed on the construction activities and has not violated any requirements of the law.

14. Para wise Reply to Para 3: The contents of Para No. 3 regarding issuance of Environmental Clearance for the said construction bearing No. SEIAA 64 CON 2019 dated 09-07-2019 is true and admitted. It is also true and

admitted that BBMP has approved Plan approval bearing no. BBMP/ADDL.DIR/JDCENTRAL/001/19-20 dated 25.02.2020.

15. Para wise Reply to Para 4: The averments and allegations in the Para No. 4 is completely denied as false and misconceived. The Respondent No. 1 and 2 have issued the Environmental Clearance and Plan Sanction respectively, after detailed scrutiny of all the required documents. It is submitted that the Respondent No. 3 has adhered to all the rules and regulations and further has obtained all the necessary permissions and subject to inspection and scrutiny of all the documents provided by the Respondent No.3, the Respondent No.1 and 2 have rightfully issued that Environmental Clearance and Plan Sanction respectively.

16. Para wise Reply to Para 5 and 6: It is submitted that the Respondent No.3 immediately upon receiving the email from the Applicant, began the process of reviewing all the land records and other documents in the power and possession of the Respondent No.3 in order to ascertain the veracity of the claims and allegations of the Applicant. The Respondent No. 3 was further in the process of making out a detailed reply to the contents of the email sent by the Applicant after cross-verifying with the records maintained by the Respondent No.3 in respect of the Survey No. 159 and the nature of the said land. Due to the fact that the said documents stretch up to many decades and due to the voluminous nature of the records, the Respondent No.3 were in the process of discussing the same with their legal counsel in order to prepare a detailed reply with regard to the email sent by the Applicant. However, the present Application has been filed by the Applicant while the Respondent No.3 was in the process of preparing a detailed reply to the Email sent by the Applicant.

17. It is submitted that, in view of the forgoing paragraphs, it is evident that the Applicant has not made any case before this Hon'ble Tribunal. Further the Applicant has not produced any documents in support of the respective reliefs sought before this Hon'ble Tribunal. It is submitted that the present Original Application has been filed by the Applicant mainly due to mistake of fact and also ulterior motives and is unjustly trying to harass the Respondent No.3 to arm-twist the Respondent No.3 in meeting the demands of the Applicant.

18. It is further submitted that, Sy. No. 159 of Haraluru village is neither a lake or water body nor a part of our development and it is made crystal clear that, it is a private property of an individual granted by the Special Deputy Commissioner for Inams Abolition, Bengaluru vide his order dated 25.05.1968 and it was under cultivation before it was granted also. There is no encroachment of the lake or water body by the 3rd Respondent as observed by this Hon'ble Tribunal at the 2nd para of the order dated 04.01.2022.

19. It is submitted that the Respondent No.3 herein craves leave of this Hon'ble Tribunal to rely on such other further grounds, information and documents as may be necessary at the time of adducing the evidence or hearing before this Hon'ble Tribunal.

WHEREFORE, it is therefore most humbly prayed that this Hon'ble Tribunal be pleased to dismiss the Application with exemplary costs, in the interests of justice and equity.

Bangalore

Dated: 22.1.2022



Advocate for the 3rd Respondent

Application No. 228 of 2021

IN THE MATTER OF

BETWEEN

Jagan Kumar J.

...Applicant

AND

The Member Secretary and others

...Respondents

VERIFYING AFFIDAVIT

I, J. Boopesh Reddy, aged about 49 years, Son of S. Jayarama Reddy, Director: M/s Bren Corporation Pvt. Ltd., having office at, No. 61, Bren Balavana, Koramangala, 5th 'A' Block, Bangalore-560095, Karnataka do hereby solemnly affirm and state on oath as follows:

- I. I state that I am the Director of the 3rd Respondent and that I am well conversant with the facts of the case and hence competent to swear to this affidavit.
- II. I state that the averments made in Para No. 1 to 19 of the accompanying statement of objection are true and correct to the best of my knowledge, information and belief.
- III. I state that the Annexures A to L produced along with the accompanying statement of Objections are true copies of the originals to the best of my knowledge, information and belief.

IDENTIFIED BY ME,

[Signature]

ADVOCATE
KAR 1216/07

Place: Bengaluru

Date: 21 JAN 2022



For BREN Corporation Pvt. Ltd.

DEPONENT
Director

[Signature]

[Signature]
N. ... LLB
21 JAN 2022
3rd Floor, ... 560 084