

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

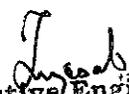
**ORIGINAL APPLICATION No.28 of 2020**

Meenava Thanthai K.R.Selvaraj Kumar  
Meenavar Nala Sangam  
Registered under section 10 of the Tamil Nadu  
Societies Act in Sl.No.205 of 2015 dated 26.06.2015  
Rep by its President  
M.R.Thiyagarajan  
S/o.Late Rajalingam  
Office at No/48, East Madha Chruch Street,  
Royapuram, Chennai - 600013.

...Applicant

Versus

1. State of Tamilnadu,  
Through the Chief Secretary,  
Government of Tamilnadu, Secretariat,  
Chennai - 600 009
2. Tamil Nadu State Environmental  
Impact Assessment Authority  
Through the Chairman  
Ground Floor, Panagal Maligai  
No.1 Jeenis Road, Saidapet, Chennai-600 015  
Tamil Nadu
3. The Tamilnadu State Expert Appraisal Committee  
Through the Chairman,  
3rd Floor, Panagal Maligai  
No.1 Jeenis Road, Saidapet, Chennai-600 015  
Tamil Nadu

  
Executive Engineer  
Fishing Harbour Project Division  
Chennai.

  
Commissioner of Fisheries  
Chennai - 600 035

4. Tamilnadu Pollution Control Board,  
Through the Chairman  
76, Mount Salai,  
Guindy, Chennai

5. Tamilnadu State Coastal Zone Management Authority  
Through the Member Secretary  
Panagal Building, Saidapet  
Chennai

6. Department of Fisheries Tamil Nadu  
Through the Director  
3<sup>rd</sup> Floor, Integrated Animal Husbandry and Fisheries Building,  
Chennai.

7. The District Collector,  
Thiruvallur District,  
Thiruvallur.

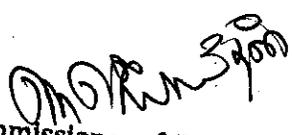
... Respondents

**COUNTER AFFIDAVIT FILED BY THE 6th RESPONDENT**

I, J.Jayakanthan S/o Jagadeeswaran , aged 53 years serving in the post of Commissioner, Department of Fisheries, Government of Tamil Nadu, Chennai do hereby solemnly affirm and sincerely state as follows:-

1. It is respectfully submitted that I am the 6<sup>th</sup> respondent herein and well acquainted with the facts and circumstances of the case based on material facts available on the records.

  
Executive Engineer  
Fishing Harbour Project Division  
Chennai.

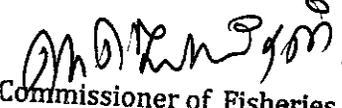
  
Commissioner of Fisheries  
Chennai - 600 035

2. It is respectfully submitted that the present Original Application is filed that the Fisheries Department is executing the Construction of Tuna Fishing Harbour at Thiruvottriyurkuppam without obtaining CRZ and Environmental clearances from the competent authorities , and doing building constructions, dredging, reclamation, construction of roads, illegal structures, dumping heavy materials and constructions debris which affects the ecosystem and clear violation of EIA and CZ notifications. Hence it is requested the Honble Court to issue directions to take action against Respondent 6 as well as restrain from further construction and other relative activities.

3. It is respectfully submitted that the Thiruvallur District has 28 km coast boundary and 77 Fishermen villages are located on the coastal stretch. There are about 116 Mechanised Fishing Vessels ( MFVs ) and about 4500 Country crafts / Out Board motorized boats ( OBMs ) are registered boats in Thiruvallur District. At the same time, there is no fishing harbor in Tiruvallur District. Therefore, all the above said numbers of MFVs and OBMs are being operated from Chennai Fishing Harbour.

4. It is respectfully submitted that the Chennai Fishing Harbour is only fishing harbour for Chennai, Thiruvallur and Kancheepuram districts resulting huge congestion in Chennai Fishing Harbour besides both Mechanized Fishing Vessels and Out Board motorized boats are operating with very difficulties. Sometimes, it is also causing damages of boats among them. More over, the Chennai Fishing Harbour is also under the administrative control of Chennai Port Trust.

  
Executive Engineer  
Fishing Harbour Project Division  
Chennai.

  
Commissioner of Fisheries  
Chennai - 600 035

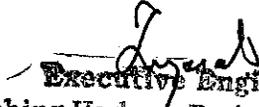
5. It is respectfully submitted that there are about 1300 Mechanized Fishing Vessels and 1700 Out Board motorized boats are being operating from Chennai Fishing Harbour. It has been created in 1985 to facilitate about 585 Mechanized Fishing Vessels. Then, about 645 m long wharfs / Jetties were created to accommodate 215 Mechanized Fishing Vessels and 718 m long low level wharf have been created for OBMs / FRBs.

The following table will reveal the needs and necessity for Tuna Fishing Harbour (TFH) when compared with Chennai Fishing Harbour (CFH)

Types of Boats in CFH	CFH Designated in CFH	Additional facilities created upto 2019	Total berthing facilities available	Total No.of Boats in CFH	Deficit	Designated capacity of TFH
MFV	585	215	800	1300	500	500
OBM	Beach landing	1400	1400	1700	300	300

6) It is respectfully submitted that the Honble Tribunal in its order dated 14.09.2020 had passed orders as given below:

" Para 15: Since, the committee members have mentioned that they don't have the expertise to assess the environmental damage and they wanted assistance of an expert in remote sensing for the purpose of identifying the area prior to the activities and what is the nature and extent of the damage caused and also what is the nature and extent of the damage caused and also what is the amount required for restoring the same to its

  
**Executive Engineer**  
 Fishing Harbour Project Division  
 Chennai.

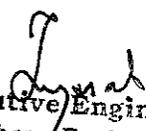
  
**Commissioner of Fisheries**  
 Chennai - 600 035

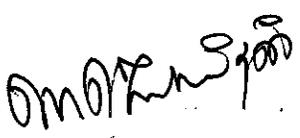
original position as these details will have to be taken into account by this Tribunal proper disposal of this case.

Para 16: So, for that purpose we include an expert from the Institute of Remote Sensing, Anna University, Chennai as additional Member in the committee so that, the committee can with the help of the expert collect data regarding the prior position of the area. Time series satellite data from July 2019 till date can be procured for appearing the appropriate period of commencement of construction and to what extent this has been done and the committee is directed to assess the environmental compensation based on the available data and submit the further report to the Tribunal".

7. It is respectfully submitted that the committee had submitted its report with the following observations:

- A Silo and one temporal structure has been erected around June 2019.
- Activities such as strengthening of groynes and other permanent structures are not seen till June 2019.
- The groynes A and C, supposedly the part of proposed Tuna Fish Landing Harbour are strengthened after June 2019, whose lengths and had been increased by 235m and 153 m by Feb 2020.
- Production of Tetra pods using the silo must have been started around June 2019.
- The seaward distance of the coastline from the HTL, varies between 5.40 m to 67.2 m at different points as depicted in the map 2 of the IRS, Anna University.
- No evidence of other construction activity found during the field visit.

  
Executive Engineer  
Fishing Harbour Project Division  
Chennai.

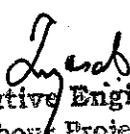
  
Commissioner of Fisheries  
Chennai - 600 035

- Arrived Rs. 99,90,000/- as assessment of environmental compensation.

8) It is respectfully submitted that it has been mentioned in the above said committee report about the methodology adopted based on the guidelines by the Principal Bench of National Green Tribunal in OA No. 593 / 2017 ( WP ( Civil) No. 375 of 2012 ) on the file of Paryavaran Suraksha Samiti & Anr. Vs. Union of India and Others as mentioned below:

- a) Discharges in violation of consent conditions, mainly prescribed standards/consent limits.
- b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.
- c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission/Effluent Monitoring systems.
- d) Accidental Discharges lasting for short durations resulting into damage to the environment.
- e) Intentional discharges to the environment- land, water and air resulting into acute injury or damage to the environment.
- f) Injection of treated/partially treated/untreated effluents to ground water.

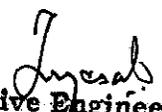
9) It is respectfully submitted that the above said it has been mentioned, in this case, 6<sup>th</sup> respondent, Department of Fisheries, Government of Tamilnadu has extended the break water structures in the southern and northern direction of the project site from the existing groins and formation of roads. In fact, the road is not formed by the Department

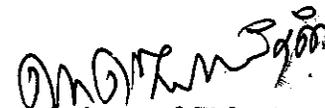
  
**Executive Engineer**  
Fishing Harbour Project Division  
Chennai.

  
**Commissioner of Fisheries**  
Chennai - 600 035

of Fisheries. It is called as Kasikoilpattai and it belongs to concerned local bodies. As per Town Survey Register, Kasikoilpattai has been noted as Vandipathai i.e Road in Ward I, Block 4, Town Survey No.22 and Old Survey No.38/59 which is a Government poramboke land vested with local body for Road purpose of Thiruvottriyur Taluk ( Annexure ) as signed by the competent authority during the month of June, 2019. It confirms that the existence of road even prior to 1950` s ie., earlier to July, 2019 since the above said committee had prepared the report for the period from July,2019 and September, 2020 as ordered by the Honble Tribunal.

It proves that Department of Fisheries is not owner of this road whereas local body authorities are the owner of the road as per District Municipalities Act 1920 and now under Chennai Corporation as per the Chennai city Municipal Corporation (MCMC) Act 1919. Moreover, the intention of the break water structures is to avoid soil erosion which in turn will protect the existing structures like roads, buildings, houses, etc., from any damages. In addition to it, it also acts as a shield to protect the fisherfolks of Thiruvottriyurkuppam without any environmental damage and save their life. Furthermore, the methodology formulated by the Principal Bench of National Green Tribunal mentioned under penultimate para is not applicable in the case on hand. In view of the above said reasons and circumstances, the question of environment damages does not arise and thus none of the criteria laid in OA No.593/2017 is attracted. Therefore, the calculation of compensation amount of Rs. 99,90,000/- worked out based on this methodology is not fair and reasonable and absolutely bad and hence it is not applicable.

  
**Executive Engineer**  
Fishing Harbour Project Division  
Chennai.

  
Commissioner of Fisheries  
Chennai - 600 035

10) It is respectfully submitted that the aim of Project of Tuna Fishing harbour is mainly with the objectives of benefitting to the local fishermen community in Thiruvottriyurkuppam which includes the following public welfare activities in this project apart from other departmental activities after considering the long pending request and welfare scheme of fishermen, regarding congestion and frequent boat accident in Chennai Fishing Harbour and promoting deep sea fishing.

Sl.No	Details of works
1.	Jetty
2.	Fish handling and Auction hall
3.	Fishermen gear shed
4.	Net mending shed
5.	Fishermen rest shed
6.	Boat repair shop
7.	Restaurant
8.	Sloping yard for Tuna boats
9.	Radio communication tower
10.	Public toilets

11) It is respectfully submitted that a public hearing meeting for the project of Tuna Fishing Harbour was conducted on 25.07.2019 under the chairmanship of the District Collector, Chennai along with other concerned officials. In the minutes of the above meeting, it was mentioned that the public were invited to express their views, concerns and questions, if any, by clearly mentioning their names and the villages to which he / she belongs.

*Lycial*  
**Executive Engineer**  
 Fishing Harbour Project Division  
 Chennai.

*M. K. S. 1007*  
**Commissioner of Fisheries**  
 Chennai - 600 035

The following persons expressed their views as given below:

1. Mr. S. Sankar, ThiruvottriyurKuppam, Thiruvottriyur

*This project is historically special project. This project will improve the livelihood of the fisheries community. Due to this project, 1 lakh people will benefit.*

2. Mr. C. Rajendran, President Palagaithotti Kuppam, Thiruvottriyur

*We welcome the fishing harbour project coming to Thiruvottriyur Kuppam*

3. Mr. Jeyavel, Thiruchinnan Kuppam, Thiruvottriyur

*On behalf of my kuppam, I welcome the fishing harbour project coming to Thiruvottriyur Kuppam.*

4. Mr. Jaisingh, Ondikuppam, Thiruvottriyur

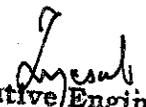
*This project is our dream for many days. We wholeheartedly welcome fishing harbour project coming to Thiruvottriyur Kuppam*

5. Mr. Chinnapillai, Thiruvottriyur Pothunala Sangam, Thiruvottriyur

*We wholeheartedly welcome the fishing harbour project coming to Thiruvottriyur Kuppam*

6. Mr. Lokesh, Thiruvottriyur Illaingar Pothunala Sangam, Thiruvottriyur

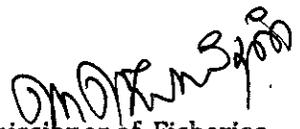
*I thank the people who proposed to bring this project to Thiruvottriyur Kuppam and I wish to implement this project early so as to provide employment and benefits to fishermen".*

  
Executive Engineer  
Fishing Harbour Project Division  
Chennai.

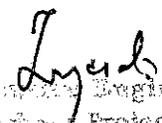
  
Commissioner of Fisheries  
Chennai - 600 035

12) It is respectfully submitted that, in the committee report, it has been mentioned that the necessary clearance from various competent authorities have been obtained at different point of time by the Department of Fisheries and it is imperative to mention herein that the committee has also observed and noted that the establishment of Tuna Fishing Harbour is a public welfare scheme for which Coastal Regulation Zone clearance was obtained during 10.03.2017 itself under the Coastal Regulation Zone notification 2011 and delay in execution will affect the general public and fishermen in getting their basic rights in time and also escalation in the project cost. Thus as of now the department got all clearances.

In view of the above said circumstances and reasons, it is humbly prayed that this Hon'ble Tribunal may be pleased to consider the above said facts and pass such order or orders as deemed fit and proper and thus render justice.

  
Commissioner of Fisheries  
Chennai - 600 035

Solemnly affirmed at Chennai  
On this            day of March, 2021  
and signed his name in my presence.

  
Engineer  
Fishing Harbour Project Division  
Chennai.

Before me

committee report, it has from various competent of time by the Department in that the committee has F Tuna Fishing Harbour is a action zone clearance was Coastal Regulation Zone act the general public and and also escalation in the all clearances.

asons, it is humbly prayed sider the above said facts id proper and thus render

Commissioner of Fisheries  
Chennai - 600 035

*Handwritten signature*

Number எண்.	Survey field சாலை பகுதி	Subdivision பகுதி	Old survey number and letter பழைய சாலை நம்பெரு: கோட்டு.	Municipal door number முனிசிபல் டோர் நம்ப.	Government, Mita, Zamindari, Inan சர்க்கார், மீட்டர், ஜமிந்தாரி, இனா.	Dry, Wet, Unassessed, Poxamboke உலர், நேர, அளவீடப்படாத, புல்தா.	Source of irrigation and class பயிர்நீர்நீர்நீர்நீர், வகை.	If double crop, rate of composition இரண்டு கட்டாயம் சாலை, கோட்டு.	Class and sort of soil பயிர்நீர்நீர்நீர்நீர்.	Taxation தர.	Rate per கட்டாயம்/கட்டாயம் பகுதி/பகுதி	
											Rapes கட்டாயம்.	Paise பைசா.
21			HOPE 21/A/H									
22			283/593	B	4/10							
23			24/1000	A	4							
24			34/1000	A	4							

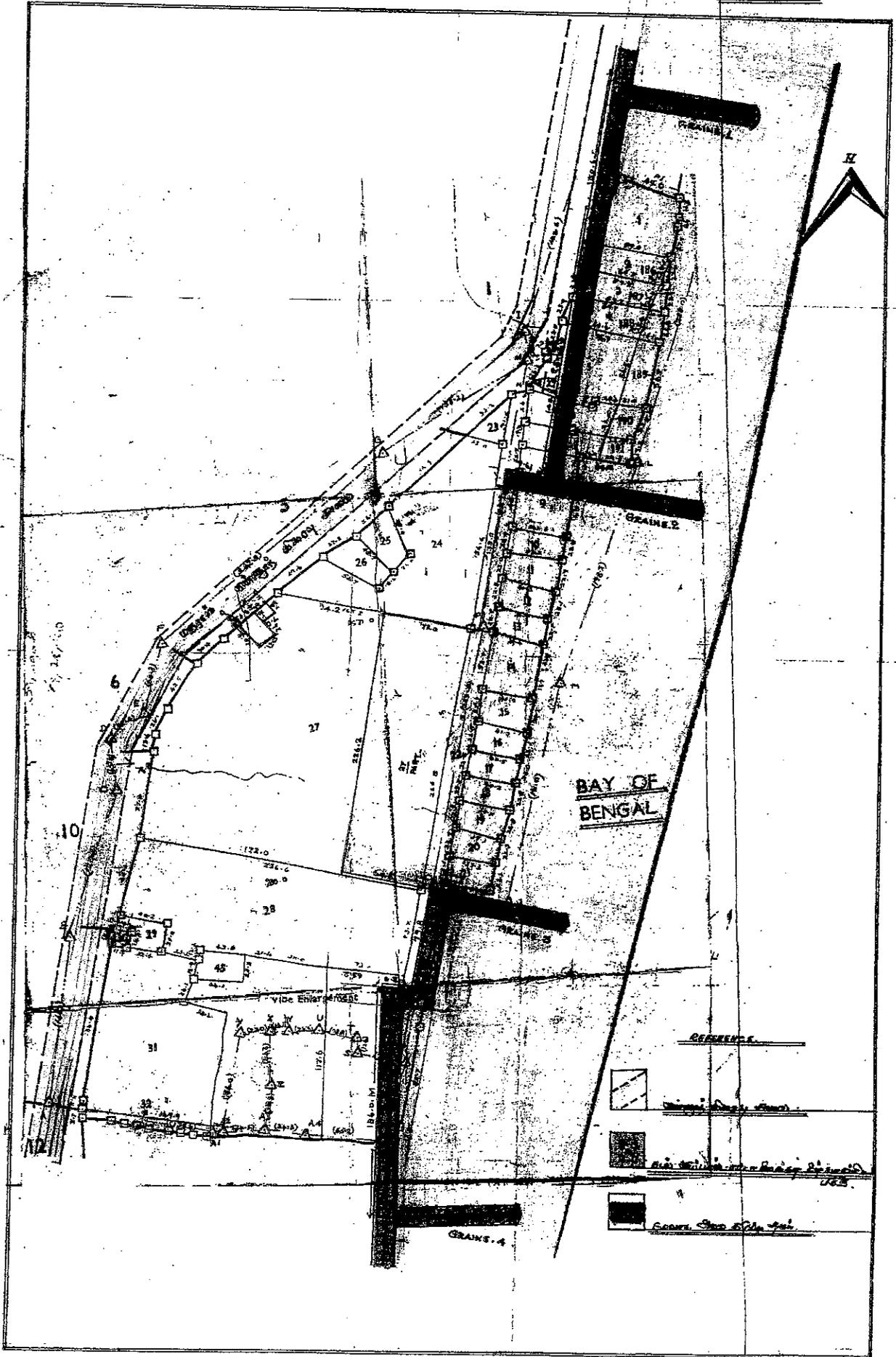
ANNEXURE - 1

Report by Town Survey கட்டாயம்/கட்டாயம் பகுதி/பகுதி	Assessment தர.	Number of plots or farm பகுதி/பகுதி	How the holding is utilised பயிர்நீர்நீர்நீர்நீர்.	Remarks குறிப்பு.	
					Area பகுதி
0.09280					
1.11000					
0.05600					
1.21600					

*Handwritten signature*

சென்னை

112 T.S. Road, T.S. Road, Call Storage



Scale 1:1000

Handwritten notes and signatures at the bottom right of the drawing.

THE TAMIL NADU DISTRICT MUNICIPALITIES  
ACT, 1920  
(TAMIL NADU ACT V OF 1920)

SECTION	CONTENTS	PAGE
	<b>PART - I</b>	
	<b>CHAPTER - I</b>	
	<b>PRELIMINARY</b>	
1.	Title and extent	
2.	Repeal of enactments	21
3.	Definitions	21
	<b>CHAPTER I-A</b>	21
	<b>THIRD GRADE MUNICIPALITIES</b>	
3-A.	Application of Chapter	
3-B.	Formation of Third Grade Municipalities	27
3-C.	Constitution of Third Grade Municipalities	27
3-D.	Incorporation of Third Grade Municipality	28
3-E.	Alteration of classification of transitional area	29
3-F.	Strength of a Third Grade Municipality	29
3-G.	Duration of Third Grade Municipality	29
3-GG.	Appointment of Special officer in certain circumstances	30
3-GGG.	Appointment of Special Officer in certain circumstances	30
3-H.	Election of members to Third Grade Municipality	30
3-I.	Reservation of seats	31
3-J.	Division of Third Grade Municipality into wards	31
3-K.	Term of office of members.	32
		32

SECTION		PAGE
	<i>PRIVATE DRAINAGE</i>	
138.	Control over house-drains, privies and cess-pools	153
139.	Connection of house-drains with public drains	153
140.	Executive authority may close or limit the use of existing private drains	154
141.	Power of Executive Authority to drain premises in combination	155
142.	Building, etc., not to be erected without permission over drain	155
143.	Construction of culverts or drain-coverings by owner or occupier	156
144.	Maintenance of troughs and pipes for catching water	156
	<i>PUBLIC LATRINES</i>	
145.	Provision of public latrines and urinals	156
	<i>PRIVATE LATRINES</i>	
146.	Provision of latrines by owner or occupier	156
147.	Provision of latrines for labourers	157
148.	Provision of latrines for markets, cart-stands, cattle-sheds, choultry, etc.	157
149.	Latrines to be screened from view and kept clean	157
	<i>GENERAL POWERS</i>	
150.	Power to carry wire, pipes, drains, etc., through private property subject to causing at little inconveniences as possible and paying for direct damage	157
151.	Prohibition against making connection with mains without permission	158
152.	Powers in respect of works outside the Municipality	158
	<b>CHAPTER VIII</b>	
	<b>SCAVENGING</b>	
153.	Municipality to arrange for the removal of rubbish and filth	159
154.	[***] Omitted	
155.	[***] Omitted	
156.	Contributions from persons having control over places of pilgrimage, etc	159
157.	Prohibition of improper disposal of carcasses, rubbish and filth	160
158.	Prohibition against keeping filth on premises too long. etc	160
159.	Prohibition against allowing outflow of filth	160
160.	Prohibition against using any cart without cover in the removal of filth, etc	160
161.	Prohibition against throwing rubbish or filth into drains	160
	<b>CHAPTER IX</b>	
	<b>STREETS</b>	
	<i>PUBLIC STREETS</i>	
162.	Maintenance and repair of streets	161

CHAPTER IX.  
STREETS.

*Public streets.*

**162. Maintenance and repair of streets.**—<sup>1</sup>[(1)] The Municipal Council shall, at the cost of the municipal fund, cause the public streets and bridges to be maintained and repaired and may from the same fund meet the cost of all improvements to the same which are necessary or expedient for the public safety or convenience.

<sup>1</sup>[(2)] The Council may entrust to any other local authority with the consent of such authority the maintenance of any public street or portion thereof, the cost of maintenance being provided by the Council.]

<sup>2</sup>[**162-A. Planting and preservation of avenue trees** .— The Municipal Council shall, at the cost of the municipal fund, cause trees to be planted at all convenient places on the sides of all public streets and make adequate arrangements to preserve such trees.]

**163. Powers of Municipal Authorities** .— (1) The Council may—

- (a) lay out and make new public streets ;
- (b) construct bridges and sub-ways ;
- (c) turn, divert or with the special sanction of the <sup>1</sup>[State Government] permanently close any public street or part thereof ;
- (d) widen, open, extend or otherwise improve any public street.

(2) Reasonable compensation shall be paid to the owners and occupiers of any land or buildings which are required for or affected by any such purposes.

**164. Power to dispose of permanently closed street.**— (1) When a public street is permanently closed under Section 163, the Municipal Council

- 
- 1. Section 162 was re-numbered as sub-section (1) of Section 162 and a new sub-section (2) was added by Section 97 of the Tamil Nadu District Municipalities (Amendment) Act, 1930 (Tamil Nadu Act X of 1930).
  - 2. Inserted by the Tamil Nadu Act 23 of 1987.