

## BEFORE THE NATIONAL GREEN TRIBUNAL

## SOUTHERN ZONE AT CHENNAI

I.A. No. 11 of 2022

In

Original Application No. 21 of 2021

## BETWEEN

Dr. Anupkrishnan. V,  
Flat 7173, Tower 7, Prestige Bella Vista,  
Ayyappanthangal Village, Mount Poonamallee Road,  
Kanchipuram District, Chennai - 600056

... APPLICANT

v.

Ministry of Environment, Forest and Climate Change,  
Represented by its Director, MOEF&CC RO (SEZ),  
HEPC Building, No.34, Cathedral Garden Road,  
Nungambakkam, Chennai - 600034  
& Others

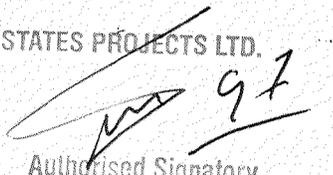
... RESPONDENTS

**COUNTER STATEMENT FILED ON BEHALF OF THE FOURTH AND FIFTH  
RESPONDENTS**

I, C. Nagaraj, S/o. Mr. C.R. Narasimhan, aged about 53 years, the Head – Business Operations (TN) and Authorised Signatory of the Fourth and Fifth Respondents herein (“**the Answering Respondents**”), having office at Prestige Polygon, Top Floor, 471, Anna Salai, Nandanam, Chennai 600, do solemnly affirm and sincerely state as follows:

1. I am the Head – Business Operations (TN) and Authorized Signatory of the Answering Respondents and hence well-acquainted with the facts of the case. I am also duly authorized to file this affidavit on behalf of the Answering Respondents.
2. I have perused the above Interlocutory Application filed on behalf of the Applicant and deny all the averments and allegations contained therein, except to the extent specifically admitted herein. The Answering Respondents put the Applicant to strict proof of all averments and allegations that are not expressly admitted herein.

For PRESTIGE ESTATES PROJECTS LTD.



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Authorised Signatory

3. At the very outset, it is submitted that the relief sought by the Applicant in the abovementioned Application is frivolous and unsustainable under the law, for the following reasons:
- (i) The issues/ questions relating to validity of the completion certificates issued by the competent authority are wholly beyond the scope of the jurisdiction of this Hon'ble Tribunal and therefore, cannot be agitated/ raised by the Applicant before this Hon'ble Tribunal. Consequently, the present Application ought to be dismissed *in limine* on this ground alone.
  - (ii) Notwithstanding the above, the Applicant has failed to make out any case to seek cancellation of the same before this Hon'ble Tribunal. Furthermore, the Answering Respondents respectfully submits that there is no violation of any conditions stipulated under the EC/ CTE.
  - (iii) The Third Respondent has issued the two completion certificates (for 25 Blocks in 17 Towers) for the Project under the Tamil Nadu Town and Country Planning Act, 1971, after due inspection and being satisfied that the Project has been construed in compliance of the required norms. In specific terms, it is pertinent to submit that the Project has been constructed in due compliance of the approved building plans and planning permission. Hence, the completion certificates issued for the Project are neither illegal nor invalid.
  - (iv) In the guise of seeking an interim relief, the Applicant has sought final relief, which is unsustainable under the law. Further, the present Application is completely premature in as much as the purported violations on the basis of which the present application has been filed, forms part of the issues raised in the main application and is yet to be adjudicated upon finally. By filing the present Application, the Applicant is attempting to snatch interim orders in the absence of a final determination/ adjudication in the matter, for oblique reasons best known to the Applicant.
  - (v) The interim relief sought by the Applicant in the instant Application are mala fide, frivolous, vexatious, and an abuse of the due process of law.

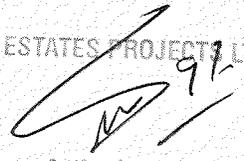
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Authorized Signatory

4. Without prejudice to the abovementioned objections, the Answering Respondents craves leave to traverse the averments in the instant interim application under reply, paragraph-wise.
5. The contents of Paragraph 1 merely set out the relief sought by the Applicant in the instant Application and hence requires no specific traversal. However, for the reasons aforementioned, the Application is unsustainable.
6. The statements made in Paragraph 2 are facts on record and require no traversal. However, the Answering Respondents adds that there is no violation of EC or any other permits/ approvals, as falsely alleged by the Applicant.
7. The averments in Paragraphs 3 and 4 are denied as false and misleading. In fact, the Joint Committee has clarified in its Report dated 21/03/2022 that there is no violation in the construction of 33 Blocks within the total as-built area. The CTE also envisages construction of 33 Blocks in 20 Towers under the Project, within the stipulated built-up area. Furthermore, upon inspection and being satisfied that the construction was in due compliance of all required norms, the Third Respondent has also issued the two completion certificates (for 25 Blocks in 17 Towers) in favour of the Answering Respondents. Therefore, the averment that the Third Respondent does not have any counter argument to the Applicant's allegation is also denied as false and incorrect.
8. The averments made in Paragraph 5 are denied as ambiguous, misconstrued, and untenable. It is vehemently denied that the constructions remained incomplete when the completion certificates were issued. On the contrary, the entire construction of the Project, for all necessary purposes of obtaining the completion certificates, was completed by 2015 itself. The reliance placed on the date of receipt of compliance reports and the contents thereof are highly misleading. It is respectfully submitted that the statements made by the Answering Respondents in the half-yearly reports was only in the context that the completion certificates for the balance 8 Blocks had been withheld and not issued by the Third Respondent.
9. The averments made in Paragraph 6 are denied as false, incorrect, and frivolous, as the Parameter 22 of Revised Norms relied by the Applicant is inapplicable to the Project in question, as the same was issued much after the completion of the

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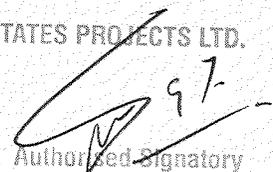


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Project. Be that as it may, the Answering Respondents have already achieved about 20-30% energy conservation, including through solar energy. Further, based on the Committee's Recommendation, the Answering Respondents are also in the process of harnessing adequate solar power for lightings at driveways and garden areas within the Project at an approximate cost of approximately Rs. 46 Lakhs. Therefore, the Answering Respondents have complied with the spirit and essence of this revised parameter by ensuring generation and supply of energy from renewable resources. The Answering Respondents had also obtained all necessary consents/ approvals/ NOCs, including the NOC from AAI, IAF and CMWSSB, etc., that were required at the relevant time, for issuance of the completion certificates, prior to making an application for completion certificate for the Project to the Third Respondent. Hence, the averments raised by the Applicant that the Third Respondent overlooked the purported violations in issuing the completion certificates is denied as false and baseless,

10. The averments made in Paragraph 7 of the Application are denied as false and baseless for the reasons more fully set out in the Objections dated 22/09/2021 and 04/04/2022, in response to the Joint Committee's Reports, (ii) Response dated 07/10/2021 to the Main Application, Objections dated 07/10/2021 and 17/02/2022 to the TNPCB's Report, and the same are not reiterated herein to avoid repetition. The Answering Respondents submits that the contents of the said objections/ responses be read as a part and parcel of this affidavit. In precise terms, the Answering Respondents have not violated the EC Conditions, inter-alia relating to: (i) provision of number of Blocks to be constructed, (ii) provision of adequate power back-up through DG sets, (iii) provision of adequate car parking space, (iv) treatment and discharge of sewage, (v) provision of adequate drinking water facility, (vi) disposal of wates, including hazardous waste, (vii) provision of adequate solar energy and energy conservation, (viii) provision of necessary internalised car parking and traffic management, (ix) submission of compliance reports.
11. As regards the averments in Paragraph 8 of the Application, it is denied that the Project was under construction at the time of issuance of the two completion certificates and the Applicant is put to strict proof of the same. The Answering Respondents are not aware of the RTI application preferred by the Applicant and whether there has been any response to the same. Hence the said averment is not

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Authorized Signatory

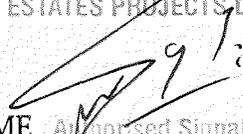
traversed. Be that as it may, these allegations and the entire basis on which the instant Application is filed is highly vexatious, baseless, and unsustainable.

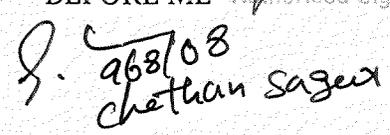
12. The Answering Respondents have a strong case on merits and the balance of convenience rest in their favour. Considering the fact that there are more than 2000 apartments within the Project, grave prejudice, loss and irreparable injury will be caused to the routine lives of these residents if the instant relief sought by the Applicant is granted. On the other hand, no prejudice or loss will be caused to the Applicant. It is pertinent to note that the Applicant has failed to make out any case and further failed to plead and demonstrate either balance of convenience or prejudice / injury that will be caused to him if the relief is not granted. Furthermore, the Applicant has approached this Hon'ble Tribunal with unclean hands and the instant Application is an abuse of the due process of law. The averments and claims of the Applicant are only made in a mala fide manner to unjustly enrich himself from these proceedings. Most significantly, as stated above, the reliefs sought by the Applicant is totally untenable and unsustainable under the law. The allegations raised and the reliefs sought by the Applicant in the above interim Application is ill-motivated, frivolous and an abuse of the due process of law.

For the reasons stated above, it is respectfully prayed that this Hon'ble Tribunal be pleased to dismiss the instant Application, with exemplary costs, and thus render justice.

Solemnly affirmed at Chennai on this the 04<sup>th</sup>  
day of April 2022 and signed in my presence.

For PRESTIGE ESTATES PROJECTS LTD.

BEFORE ME  Authorised Signatory

  
968108  
Chethan Sagar

ADVOCATE, CHENNAI

32, V.V. Road, T. Nagar,  
Chennai - 600017

**BEFORE THE NATIONAL GREEN  
TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

**IA No. 11 of 2022  
in  
Original Application No. 21 of 2021**

Dr. Anupkrishnan. V

.... Applicant

**Vs.**

Ministry of Environment,  
Forest and Climate Change,  
Rep by its Director, MOEF & CC RO(SEZ)  
Cathedral Garden Road,

HEPC Building, No. 34,

Nungambakkam,  
Chennai – 600 034

And 5 others

... Respondents

**Counter Affidavit**

S. Arjun Suresh

B. Kishore

Raghavendra Ross Divakar

Apoorva Vinjamur

Gautham Balaji

of M/s. Dua Associates, Advocates

**COUNSEL FOR THE 4<sup>th</sup> & 5<sup>th</sup> RESPONDENT**