

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ),

CHENNAI

ORIGINAL APPLICATION NO. 21 OF 2021

Dr. Anupkrishnan. V

... APPLICANT

v.

Ministry of Environment, Forest and Climate Change,
And 7 Others.

... RESPONDENTS

**COUNTER STATEMENT FILED ON BEHALF OF THE FOURTH & FIFTH
RESPONDENTS TO IN RESPONSE TO THE APPLICATION FILED BY THE**

APPLICANT

M/s. S. Arjun Suresh, B. Kishore,
Raghavendra Ross Divakar
Apoorva S. Vinjamur
Noyal James
Gautham Balaji

Of M/s. Dua Associates

COUNSEL FOR THE FOURTH & FIFTH RESPONDENTS

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

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.

1. 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
2. State Level Environment Impact Assessment Authority,
Represented Member Secretary,
3rd Floor, Panagal Maligao,
No.1, Jeenis Road, Saidapet,
Chennai - 600015
3. Chennai Metropolitan Development Authority
Represented by its Member Secretary,
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road, Chennai - 600008
4. M/s. Prestige Estates Projects Limited,
Represented by Chairman & Managing Director,
Falcon House, No.1, Main Guard Road,
Bangalore, Karnataka - 560001
5. M/s. Prestige Estates Projects Ltd, Chennai,
Rep. by Head of Business Operations,
Prestige Polygon - Top Floor,
#471, Anna Salai, Nandanam,
Chennai - 600035
6. Tamil Nadu Pollution Control Board,
Rep. by its Member Secretary,
Corporation Office, 76, Mount Salai,
Guindy, Chennai - 600032
7. Managing Committee of
Prestige Bell Vista Flat Owners Welfare Association,
Rep. by Mr. Balachander. B as Secretary,
Flat No. ``181210, Tower 18C,
Prestige Bella Vista, Ayyapanthangal Village,
Mount Poonamallee Road,
Kanchipuram District, Chennai - 600 056

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8. Managing Committee of
Prestige Bella Vista Flat Owners Welfare Association,
Rep. by Mr. Balakrishnan. SS as President,
Flat No. 181012, Tower 18C,
Prestige Bella Vista, Ayyapanthangal Village,
Mount Poonamallee Road,
Kanchipuram District, Chennai - 600 056 ... **RESPONDENTS**

**COUNTER STATEMENT FILED ON BEHALF OF THE FOURTH AND
FIFTH RESPONDENTS IN RESPONSE TO THE APPLICATION FILED BY
THE APPLICANT**

**The Fourth and Fifth Respondents named above most respectfully
submits as under:**

1. The instant Application was filed by the Applicant under Sections 14, 15 and 20 of the National Green Tribunal Act, 2010, alleging that the Fourth and Fifth Respondents (***“the Answering Respondents”***) have violated the conditions imposed in the Environmental Clearance and also regarding the other permissions granted for the Project, namely “Prestige Bella Vista Project” (***“The Project”***).
2. The Answering Respondents deny each and every allegation and averment made by the Applicant in the aforesaid Original Application as false, incorrect and baseless, except to the extent specifically admitted hereinunder.
3. At the outset, it is submitted that the Applicant shall not be permitted to raise issues/ allegations relating to the purported violations concerning planning permission, car parking spaces, built-up areas, etc., before this Hon’ble Tribunal as these issues do not per se have any relationship / nexus to the environment. Even assuming without admitting that the said allegation relating to violations of Town and Country Planning laws/ Development Regulation’s merit enquiry, it is respectfully submitted that the Applicant is not permitted to raise any such allegations before this Hon’ble Tribunal.
4. Be that as it may, before traversing the allegations in the original application, the Answering Respondents submits the facts, in brief, which are relevant to the aforesaid Original Application:

- a) The Answering Respondents are well-known and reputed property developers and a company incorporated under the Companies Act,

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1956. The Answering Respondents are based out in South India and have developed several residential colonies/complex and commercial spaces in Bangalore, Chennai, Kochi, Mangalore, Hyderabad and Mysore and several ongoing projects.

- b) During the course of its business, the Answering Respondents had entered into land development with M/s. Estra Enterprises Private Limited and had initiated plans to set up a Multi Storey residential complex i.e., the Project, at Ayyappanthangal Village, Sriperumbudhur Taluk, Kanchipuram District, Tamil Nadu under name and style - **"Prestige Bella Vista"**. The Answering Respondents engaged the service of M/s L&T to complete the Bella Vista Project on a Design and Build, considering its vast experience and its high standard of quality of construction.
- c) The Project, being a multistoried residential construction covering vast area, required an Environmental Clearance. At this juncture, it is pertinent to note the SEIAA-TN was not constituted at the relevant time of submitting the application for EC for the Project (which falls under Category-B for grant of EC) and hence the requisite application was placed by the Answering Respondents before the First Respondent for consideration and approval. The said application was then placed before the Central Level Expert Appraisal Committee (EAC) for consideration/ appraisal.
- d) After considering the EIA/EMP report by the First Respondent and pursuant to the appraisal of EAC, the EC with regard to the Project was issued by the First Respondent on 16/10/2012 subject to the terms and conditions which was to be complied by the Answering Respondents during execution and after completion of the Project. As per the EC, the Project was to be constructed as a residential complex comprising of 20 blocks/ towers (**"Towers"**). As stipulated in the EC, there are only 20 Towers that have been constructed within the Project. Each of these Towers comprises of one or more blocks (to a maximum of three blocks), aggregating to a total of 33 blocks (**"Blocks"**). This is evident from the master plan of the Project as well as on a perusal of the planning permit issued by the CMDA. It is further relevant to submit that the construction was made well within the built-up area as envisaged in the EC and hence, there is no violation committed. As a pre-condition, the Answering Respondents had also published in the daily newspaper with regard

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to the EC being granted by the First Respondent to the Answering Respondents for the Project.

e) The Answering Respondents had applied for the Planning Permission (**PP**) under the Tamil Nadu Town and Country Planning Act, 1971 before the Third Respondent for approval. The same was granted vide CMDA Planning Permission No. C/PP/MSB-IT/38A to AC/2012 Permit No.7115 in Letter No. C3/4606/2011 dated 13/02/2013 for the construction of Multi Storied Building. The Answering Respondents also obtained building permit for the Project on 23/04/2013.

f) The Answering Respondents developed and constructed the Project comprising of 33 Blocks in 20 Towers with a total built-up area of 4,49,971 sq. m. (inclusive of FSI and non-FSI areas), and 4,43,738.16 sq. m. excluding the non-FSI area, along with facilities such as club house, parks, open spaces and car parking's etc. At present, the residents, including senior citizens, professionals, entrepreneurs, foreign nationals, and children, are residing within the Project, peacefully with an enhanced quality of life.

g) In these circumstances, as a sheer afterthought and after a lapse of more than 5 years from taking possession of his unit (i.e., 25/08/2016), the Applicant has initiated the instant proceedings on totally false and vexatious grounds. It is further submitted that the Applicant has filed the instant Application with a manifest intent of causing harm to the Answering Respondent's reputation and to unjustly enrich himself, which is untenable.

Paragraph-wise Response:

Preamble:

5. The contents of paragraphs 1 to 3 of the preamble are facts on record and hence require no specific traversal.

Response to averments made under the head "Facts in Brief"

6. In response to the averments made in paragraph 1, it is clarified that the website of the CMDA reflected that the planning permission of the Answering Respondent's Project had been approved on 28/05/2012. However, the Answering Respondent received planning permission only

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vide letter dated 13/02/2013. Hence, the averment made by the Applicant that the planning permission was earlier issued on 23/05/2012 and subsequently re-issued on 13/02/2013 is false and misleading. It is a matter on record that the planning permit was valid up to 12/02/2016 and EIA was valid up to 16/10/2019, and hence require no traversal. Therefore, all averments made to the contrary in the application under reply are denied as false and incorrect.

7. The averment in paragraph 2 that the construction works for the Project commenced by January 2012 is denied as false and incorrect. It is It is clarified that, in January 2012, the Answering Respondents merely held Bhoomi Pooja (ground-breaking Ceremony) and therefore the Data Sheet of the Compliance Report appears to have erroneously considered this as the commencement date.. It is further pertinent to state that the “Data Sheet” filed by the Applicant along with the Compliance Report (**at Pages 31 and 32 of the Applicant’s Compilation**) was never received by the Answering Respondents and the same have come to its knowledge only in these proceedings.

8. Moreover, the averments made by the Applicant that the Answering Respondents had forced the buyers to register and occupy the apartments are vehemently denied as false, baseless, and untenable. Firstly, the Applicant is not privy to any of the transactions of the Answering Respondents with their individual customers and hence is not competent to comment on the same. Furthermore, the agreements were registered by the customers/ buyers voluntarily, on their free will and consent, which was also duly acknowledged in writing, and hence the question of force/ coercion does not arise. None of the buyers have alleged that the sale deed was executed and registered under coercion or force. In addition, the averment that the no-objection certificates were issued by the banks in violation of RBI circulars and tripartite agreement are also denied as false and erroneous. The Answering Respondents provided possession of units only upon completion of works and the buyers being satisfied about the same after carrying out a pre-inspection of the same. The Applicant is therefore put to strict proof of the averments made to the contrary. Notwithstanding the above, on a without prejudice basis, it is respectfully submitted that by the Answering Respondents that these allegations do not constitute any purported violations of environmental laws and hence cannot be agitated by the Applicant before this Hon’ble Tribunal.

Therefore, all averments made to the contrary in the application under reply are denied as false and incorrect.

9. The averments in paragraphs 3 and 7(I) of the application are denied as false, contradictory, and baseless. In fact, the Joint Committee in its Inspection Report had rightly observed that the Answering Respondents have duly complied with the requirement of submitting the half-yearly compliance reports to the First Respondent. The Answering Respondents add that, after obtaining the Consent to Establish (CTE) in June 2013, the compliance report for October 2013 to March 2014 was submitted to the First Respondent on 06/06/2014. The Answering Respondents continues to submit the compliance reports even as on date. In fact, even during the lockdown on account of the COVID-19 pandemic, the Answering Respondents continued to submit the abovementioned reports by email. Hence, the averments and allegations of the Applicant to the contrary are blatantly misleading and false.

10. In response to the averments made in paragraph 4, it is true that two completion certificates viz., one on 08/01/2016 (for 11 Blocks) and another on 16/03/2016 (for 14 Blocks) were issued by the Third Respondent for the Project. In effect, the completion certificates were issued in respect of 25 Blocks that were complete in all respects as on the date of issuance of such certificates. It is vehemently denied that the two completion certificates were illegal and obtained fraudulently and puts the Applicant to strict proof of the same. The Answering Respondents calls upon the Applicant to abstain from making such superfluous allegations/statements that are totally uncalled for. The Answering Respondents deny and take strong exceptions to such statements made by the Applicant. As regards the reference made by the applicant to the statement in the compliance report i.e., that the project is under construction, it is submitted that the said reliance is highly misplaced and misleading. It is further clarified that, as regards the contention of the Applicant that the half-yearly reports record that the Project is under construction, it is submitted that the reliance on the same is highly misplaced and erroneous. It is respectfully submitted that the statements made by the Answering Respondents in the half-yearly report was only in the context that the completion certificate for the balance 8 Blocks had been withheld and issued by the Third Respondent. It is pertinent to state that the Applicant resides in Tower No. 7 (in Block 11) for which completion certificate was issued by 08/01/2016 itself. Consequently, all statements

and averments made to the contrary in the paragraphs under reply are denied as false and untenable.

11. The averments made in paragraph 5 are denied as false and baseless. The Answering Respondent states that the works in respect of the remaining 8 Blocks were completed prior to the expiry of the planning permit in 12/02/2016. Although the Answering Respondents had made its application for completion certificate for these 8 Blocks, the Third Respondent has not approved the same. In this regard, it is pertinent to state that the approval is withheld by the Third Respondent by citing pendency of an unconnected dispute between the Answering Respondents and the Third Respondent for demand of a Premium FSI charges before the Hon'ble Supreme Court of India, and not on account of any violation of norms/ planning permit, as evident from the CMDA's letter dated 21/09/2020 (**Annexure 29**). It is further denied that the Answering Respondents violated the conditions of EC or any other law for the time being in force. Consequently, all statements and averments made to the contrary in the paragraphs under reply are denied as false and untenable and the Applicant is put to strict proof of the averments made to the contrary.
12. The contents of paragraph 6 are facts on record and hence require no traversal.
13. The averments made in paragraph 7 are denied as false and baseless. It is vehemently denied that the compliance report was issued by overlooking alleged non-compliances of the EC conditions. It is further denied that the alleged violations have serious impacts on the lives of the residents within the Project. Such allegation is totally false, untenable, and contrary to the overall perception of the residents within the Project. The Applicant is put to strict proof of any such adverse impact.
14. In response to sub-paragraph A, the Answering Respondents submit that completion certificates were issued in respect of 25 Blocks by the Third Respondent. These certificates were issued by the Third Respondent after duly inspecting the Project and the same is legally valid. The word "partial" is being used to denote that some Blocks within the Project have not been issued completion certificates. However, that does not mean that the construction of 25 Blocks remain incomplete. In fact, the Answering

Respondents have also obtained the Consent to Operate (CTO) for these 25 Blocks.

15. As regards the balance 8 Blocks, as stated above, the Answering Respondents have already applied for completion certificate and the same is pending approval. In this regard, it is submitted that, based on a demand raised by CMDA, the Answering Respondents had paid the developmental charges and Infrastructure and Amenities charges for the Project in March 2012 itself. However, thereafter, the CMDA issued a revised demand for the aforementioned charges, that were challenged by the Answering Respondents before the Hon'ble Madras High Court, by way of a writ petition. The writ petition was allowed by quashing the revised demand raised by the CMDA. On appeal, the Division Bench of the Hon'ble High Court also confirmed the order of the Ld. Single Judge of the Hon'ble Court and dismissed the CMDA's appeal. Subsequently, the CMDA preferred a Special Leave Petition (SLP) before the Hon'ble Supreme Court, which subsequently came to be converted into a civil appeal. The Appeals were finally heard and disposed of, by partly allowing the revised demand. The Answering Respondents preferred a review, that came to be dismissed, subsequent to which a curative petition is preferred before the Hon'ble Supreme Court and is numbered as Curative Petition No. 166-167/2021. The Answering Respondents abstain from dealing with the issues in the above proceedings on merits, as the Hon'ble Supreme Court is seized of the matter and the issues dealt with therein are sub-judice.

16. Be that as it may, meanwhile, the Answering Respondents had applied to the CMDA for the Completion Certificate for remaining 8 Blocks and have been taking earnest efforts in following-up with CMDA to obtain approval of the same. However, by egregiously citing pendency of the above proceedings, the CMDA has refused to issue the completion certificate and has been erroneously withholding the same for the past 4.5 years. It is submitted that the non-issuance of completion certificate by the CMDA for the remaining 8 Blocks is not due to any violation of plans/ permissions/ EC, but for the reasons set out above. Therefore, there is no violation of any laws/ regulations by the Answering Respondents. In any event, the issue relates to compliance with the TN Town & Country Planning Act is presently sub judice and it is therefore humbly submitted that it is not appropriate for the Applicant to raise such issues before this Hon'ble Tribunal.

17. The averments made in sub-paragraph B and C are denied as false and misleading. It is submitted that the Answering Respondents have provided and allotted more than an adequate number of parking lots to the residents as per the CMDA norms. In precise terms, based on the Second Master Plan for Chennai Metropolitan Area, 2026 (Volume II - Development Regulations), the CMDA had indicated in its approval plan that at least 2212 car parking spaces and 600 two-wheeler parking were to be provided in the Project. Accordingly, the Answering Respondents have allotted 2215 car parking spaces and 600 two-wheeler parking spaces under the Project. These parking lots have been provided as open (surface parking) and covered (basement parking) so that no public space were utilized and without obstructing the common utilities within the premises. Therefore, the allegations to the contrary are absurd, unsustainable, and false.
18. The averment that there are blatant violations and encroachments of public roads and pedestrian pathway are vehemently denied by the Answering Respondents are false and baseless. The averments regarding the alleged onsite calculation done by residents and obstruction of pathway / public roads are also denied as frivolous and false. Be that as it may, the Answering Respondents shall not be made accountable for cars of residents being parked on roads and pathways, despite allotted car parking spaces being provided within the Project. The averment that there is illegal WTP construction, emergency DG sets and piped gas banks are also denied as bald, false, misleading, and untenable. There are not illegal constructions and the aforementioned facilities duly installed are not in violation of any CMDA norms/ EC conditions. Since the allegations are vague and ambiguous, the Answering Respondents are unable to adequately respond to the same. The Applicant is put to strict proof of each and every averment made in this regard and demonstrate the alleged violations.
19. In response to sub-paragraph D, it is submitted that as per the EC (prior to commencement of Project), the total water requirement for the Project was estimated at 1659 KLD (i.e., fresh water is 856 KLD and re-cycled water from STP is 803 KLD), which shall be sourced from the borewells and metro water supply. The above requirement of water was estimated by taking into account the estimated built-up area of 4,78,003 sq. m. However, the actual total built-up area of the Project is 4,49,971 sq. m., (4,49,971.68 sq. m., in precise) only and accordingly, the total requirement

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of water for the Project is approximately 1000-1300 KLD per day (varies based on consumption of water on weekdays, weekends, and holidays). Considering the above, the Project requires about 525-600 KLD of fresh water and 600-750 KLD of re-cycled water on a daily basis. To meet the above requirement, the Answering Respondent's has obtained 2 MLD (2000 KLD) of freshwater from the Chennai Metro Water Supply and Sewage Board (**CMWSSB**). At present, considering the fact that some apartments remain unoccupied, the current demand of water supply at the Project is much less than the maximum demand.

20. In addition, recycled water from the Project is treated and used for gardening, flushing and green belt development. As such, the Answering Respondents are duly complying with the requirements and there are no violations with respect to the undertaking provided in the EC in so far as supply of water is concerned.

21. Furthermore, G.O. Ms. No. 142 dated 23/07/2014 issued by the Government of Tamil Nadu, envisages grant of No-objection Certificate (NOC) to draw ground water for, *inter-alia*, domestic purpose by individual household and infrastructure project (Housing) only in case of non-availability of surface water. In addition to the above restriction, it is stated that the borewells contains high iron content. Therefore, despite the fact that there are no guidelines stipulated for projects such as Prestige Bella Vista (which are located within the Chennai Corporation region) to draw/extract ground water notwithstanding the availability of fresh water from CMWSSB, the Answering Respondents have exercised abundant caution to ensure that the borewells are not used. As stated above, the Project meets its requirements from the recycled water generated from the 3 Sewage Treatment Plants (**STP's**) set up in the residential complex.

22. It is further submitted that the fresh water for drinking supplied by CMWSSB and private tankers is being treated by 3 Water Treatment Plants (WTPs), installed within the Project, and having a total capacity of 67.5 m³/ hour, containing pressure sand filter and activated carbon filter, as well as disinfected by chlorination. These WTPs are designed to meet the domestic water standards. Moreover, the water supplied by CMWSSB is of potable quality and hence reverse osmosis is not required.

23. In addition, the Total Dissolved Solids (TDS) in fresh water supplied to the Project is less than 500 mg/l. It is respectfully submitted that, in O.A. No.

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134 of 2015, the Principal Bench of the Hon'ble NGT, New Delhi, vide Order dated 20/05/2019 had considered the issue of consequences of Reverse Osmosis Technology and inter alia took note of the fact that RO technology reduces the extent of potable water drastically, which resource is as such extremely scarce and also has significant ramifications on the health of individuals by stripping water off essential minerals. In addition, the Hon'ble Tribunal had also observed that there is wastage of water i.e., the reject water from the plant to an extent of around 80% and same would harm surface water and the surroundings if disposed untreated. Accordingly, the Hon'ble NGT, New Delhi inter alia directed prohibition of the use of Reverse Osmosis plants across all the states where Total Dissolved Solids (TDS) in water is less than 500 mg/l.

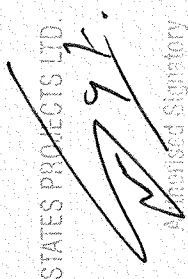
24. In view of the above, as mechanical compliance with the EC Conditions would in fact result in a situation that is harmful to the health of persons as also the environment, the Answering Respondents have opted for alternate mechanisms of treating fresh water. It is humbly submitted that the intention behind this stipulation in the EC is to ensure that the drinking water supplied is treated and fit for human consumption. The Answering Respondent has ensured substantial compliance with this stipulation by putting in place adequate filtering mechanism to ensure distribution of good quality drinking water. As regards the allegations pertaining to the muddy water is concerned, the same was only a one-off situation that occurred at an earlier point of time and the same is not recurring in nature. It is also pertinent to point out that Joint Committee, during inspection had not received any instances of complaints from the residents regarding the quality of drinking water provided.

25. The Answering Respondent is also duly bound to submit that the sewage generated from the project site is estimated to be 1133 KLD, for which the Answering Respondents have installed 3 STPs having a total capacity of 1550 KLD. In fact, relevant adequacy reports have also been furnished by the Anna University for the STPs. At present, the total inflow volume of the sewage is less than the estimated range indicated in the EC, as some of the units remain unoccupied. This treated / re-cycled water from the STPs is used within the Project for gardening, flushing and green belt development. The surplus/ remainder of the treated/ recycled water is decanted to the CMWSSB's pumping station. The STP's comprises of primary treatment such as bar screen chamber, Equalization Tank followed by biological treatment comprising Fixed-bed bioreactors (FBBR)

and settling tank followed by activated carbon filter and Ultraviolet system for disinfection.

26. In response to sub-paragraph E, it is submitted that the total power requirement for the Project is 10.5 MVA, for which the sub-station and transformer yard has been installed within the Project site by obtaining prior approval from TNEB. The Answering Respondents have installed 20 DG sets [725 KVA in 10 Nos, 600 KVA in 5 Nos. and 500 KVA in 5 Nos.], with a total capacity of 12.75 MVA, to meet out the power back-up supply for the Project. The Joint Committee, in its Inspection Report, had rightly observed that “adequate numbers of DG sets were provided to meet out the back-up power supply”. The Answering Respondents have engaged one M/s. Thirumalai Agency (approved by TNPCB) for disposal of spent oil/waste discharged from the DG sets. The emission that emanates from the stack is also within the permissible limits/ parameters of the environmental norms.

27. The averments made in sub-paragraph F are denied as false and baseless. It is submitted the total plot coverage area of the Project is only 21.67% and, after offsetting the OSR of 10%, the remaining area of approximately 68% (which constitutes the majority area) is only allocated towards open spaces (including roads, hardscaping, parks, and green belts). The green belt development is in conformity to the standards of the residential project. In compliance with the EC conditions, the Answering Respondents have ensured that the available green belt acts as an adequate barrier to avoid/ reduce for noise pollution (day and night). Additionally, the Answering Respondents have planted indigenous and native variety of plants/ trees in the green belt area and the open spaces of the Project, which are being maintained on a day-to-day basis, thereby ensuring that the plot is suitably landscaped with vegetation of indigenous variety. The provision of car parking spaces and tennis courts are neither illegal nor in violation of CMDA norms. Likewise, the provision of gas bank is also not illegal, as alleged by the Applicant. The Applicant is put to strict proof of each and every averment made in this regard. The construction of civil structures, car parking spaces and other facilities under the Project are in due compliance with the CMDA norms. Therefore, all statements and averments made to the contrary in the paragraphs under reply are denied as false and untenable and the Applicant is put to strict proof of the averments made to the contrary.

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28. The averments made by the Applicant in sub-paragraph G are denied as false and erroneous. The Answering Respondents have achieved 20 - 30% energy conservation method by inter-alia providing (i) solar water heater for the top 2 floors of 30 Blocks, (ii) pressure reducing valve for water consumption, (iii) dual system for flushing, (iv) LED bulbs instead of CFL, (v) Variable Frequency Drive (VFD) drive panel for lifts and pumps to reduce power consumption, (vi) CO2 sensor for ventilation plants, (vii) energy efficient level transformers to avoid power losses, (viii) DG sets in consonance with CPCB norms, etc. The Answering Respondents deny that the solar water heating, so provided, were not properly working and puts the Applicant to strict proof of such allegation. The averment regarding the requirement to apply to TANGEDCO to install roof top solar voltaic cell and for net metering are denied as misleading and untenable. In addition, it is reiterated that sufficient green belt and open spaces have been provided within the Project to cater an eco-friendly and environmentally conscious atmosphere to its residents. The Answering Respondent has also proposed to install adequate solar streetlights along the internal roads of the Project.
29. The averment of the Applicant in sub-paragraph H are denied as false and erroneous. It is submitted that the environmental cell was duly formed by the Answering Respondents headed by Mr. Nagaraj, the deponent herein. This has also duly recorded by the Joint Committee in its Inspection Report and no violation in this regard has been observed. As such, the averments of the Applicant that there was a lapse on the part of Respondents 1 and 2 in issuing the Compliance Report are totally vexatious and false.
30. The contents of paragraph 8 are not within the personal knowledge of the Answering Respondents and hence the same are not traversed. The non-traversal does not amount to admission of the contents. However, as stated above, it is reiterated that there were no non-compliance/ violations of the EC conditions/ planning permit caused by the Answering Respondents.
31. In reply to the averments made in paragraph 9 of the application, at the outset, the Answering Respondents state that the contents thereof are repetitive and have been addressed hereinabove. For the sake of brevity, the Answering Respondents refer to their submissions above and is refraining from repeating the same. It is vehemently denied and reiterated that the two completion certificates were issued when the Project was under construction. The Applicant is put to strict proof of the averments

made to the contrary. As regards the declaration in the compliance report, the same has already been dealt with hereinabove and as such, there is no violation committed by the Answering Respondents.

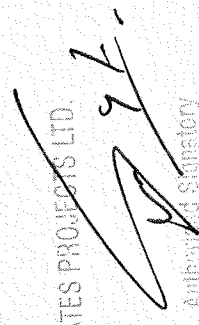
32. In response to the averments in paragraph 10, the Answering Respondents does not have personal knowledge in respect of the communications purportedly sent by the Applicant to the Third Respondent and hence the Answering Respondents is not in a position to traverse the same. However, the Answering Respondents reiterate that there were no violations whatsoever, including violation of environmental laws, committed by them as alleged by the Applicant. The swimming pool is not an unauthorized construction and the same was constructed well within the CMDA norms. Be that as it may, the Answering Respondents had duly responded to the aforementioned notice on 14/09/2020.

Reply To Grounds:

33. The contents of Ground A are false and baseless and hence denied. As stated above, it is reiterated that the Answering Respondents have duly complied with all the conditions stated in the EC and are in due compliance of the Environmental Law and the Applicant has failed to make out a case raising substantial questions relating to the environment. Moreover, it is vehemently denied that the purported violations have impacted the livelihood and quality of life of the residents within the Project. On the contrary, the Project has only enhanced the livelihood of the residents. It is further reiterated that the contracts with individual buyers were entered independently at the free will and consent of such buyers, who have voluntarily chosen to reside within the Project. Therefore, the averments made to the contrary are unwarranted and baseless.

34. The averments in Ground B are vehemently denied as false and baseless for the reasons more fully set out above and the same are not reiterated to avoid repetition and for the sake of brevity. The Answering Respondents have duly complied with all EC conditions, CMDA norms, and the laws in force. At this juncture, it is also noteworthy to submit that the Answering Respondents had duly obtained to Consent to Operate (CTO) for 25 out of 33 Blocks within the Project, which has been renewed from time to time by paying the applicable fees.

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35. As regards the remaining 8 Blocks, the Answering Respondents are not in a position to apply for the same for reasons not attributable to them i.e., due to non-issuance of completion certificate by the CMDA. Subsequently, based on a notice issued by the Sixth Respondent calling upon the Answering Respondent to apply for CTO for the entire Project, the Answering Respondents duly applied for the same (which includes CTO for all 33 Blocks).

Application is not maintainable:

36. Therefore, the Applicant has failed to make out a legitimate and justifiable case before this Hon'ble Tribunal and has approached this Hon'ble Tribunal with a mala fide intention and unclean hands. The allegations contained in the application are false and vexatious and merely raised by the Applicant to unfairly and unjustly enrich from the Answering Respondents. It is further submitted that the complaint is barred by the law of limitation. Moreover, the reliefs sought by the Applicant is unsustainable under the law.

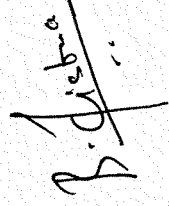
For the reasons aforementioned, it is most respectfully submitted that the Hon'ble Tribunal may be pleaded to dismiss the instant application with costs and thus render justice.

FOR PRESTIGE ESTATES PROJECTS ID -



Authorized Signatory

FOURTH & FIFTH RESPONDENTS



COUNSEL FOR THE FOURTH & FIFTH RESPONDENT

S. Arjun Suresh, B. Kishore,
Raghavendra Ross Divakar
Apoorva S. Vinjamur
Noyal James and
Gautham Balaji
Of M/s. Dua Associates
Advocates and Solicitors
Palani Centre, No. 32, Venkatanarayana Road
T Nagar, Chennai - 600017

Place: Chennai

Dated: 07/10/2021

VERIFICATION

I, C. Nagaraj, son of Mr. C.R. Narasimhan, aged about 53 years, the Head – Business Operations (TN) of the Fourth and Fifth Respondents herein, having office at Prestige Polygon, Top Floor, 471, Anna Salai, Nandanam, Chennai 600, do hereby verify that the contents of paragraphs 1 to 36 above are true and correct to my personal knowledge and belief and that I have not suppressed any material fact.

FOR PRESTIGE ESTATES PROJECTS LTD.



Authorized Signatory

FOURTH & FIFTH RESPONDENTS



Prestige
GROUP

Add Prestige to your life

PRESTIGE
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THE GOOD LIFE BEGINS HERE

- BLOCK 1 (2 & 2.5 BHK)
- BLOCK 2 (3 BHK)
- BLOCK 3 (4 BHK)
- BLOCK 4 (STUDIO UNITS)





23-09-2020

To,
The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi-Irwin Road,
Chennai-600 008.

Sir,

Sub: CMDA- Enforcement Cell – Central-1- Final Completion Certificate Application for the completed construction of MSB of Blocks **A1, A2, A4, A10, B6, B7, C1 & C4;** (8 Blocks) Double BF + GF+16 floors at Mount- Poonamallee Road, Chennai – 600 116 comprised in S. Nos. 1/1, 1/2, 2,3/1, 3/2, 3/3, 5/1, 8/2A, 35, 42/1, 42/2, 42/3A, 42/3B, 42/4, 42/5, 43/1, 43/2, 44/1A, 44/1B, 44/2, 44/3, 45/1A, 45/1B, 45/2, 45/3, 45/4A, 45/4B, 46/1, 46/2, 46/3, 47/1E, 48/1A,48/1B, 48/2, 48/3, 48/4, 49/1, 49/2, 49/3, 50/1A, 50/1B, 50/2, 50/3, 50/4, 51/1A, 51/1B1, 51/1B3, 51/1C1, 51/1C3, 51/1D, 51/1E, 52/1, 52/2, 53, 54/1B of Ayyappanthangal Village-submission of particulars-reg

Ref:

1. Planning Permission No. C/PP/MSB-IT/38A to AC/2012 in letter No.C3/4606/2011, dated 13.02.2011, Permit No.7115.
2. 1st partial Completion Certificate issued for the completed 14 Blocks with 1340 dwelling units in CC No.EC/central-1/04/2016 dated 08.01.2016.
3. 2nd partial Completion Certificate issued for the completed 11 Blocks with 737 dwelling units in CC No.EC/central-1/68/2016 dated 16.03.2016
4. 3rd and final Completion Certificate Application for the completed 8 Blocks (A1, A2, A4, A10, B6, B7, C1 & C4) for 536 dwelling units dated 23.08.2018
5. Your letter No.EC/C-1/4841/2015 dated 10.01.2019, 24.07.2019 & 24.01.2020
6. Hon'ble Supreme Court Order dated 29.07.2019 in Civil Appeal No.5642-5643 of 2019@SLP(C)No.31274 of 2014

Prestige Estates Projects Ltd., Prestige Polygon, Top Floor #471, Anna Salai, Nandanam, Chennai – 600035
Phone : +91 44 42924000 Fax: +91 44 42924099

Corporate & Registered Office :

Prestige Estates Projects Ltd., Prestige Falcon Towers, No 19 Bruntion Road, Bangalore - 560 025
Phone : +91 80 25591080 Fax : +91 80 25591945 www.prestigeconstructions.com
CIN : L07010KA1997PLC022322

-2-

7. Hon'ble Supreme Court Order dated 06.11.2019 in R.P.(C)2270-2271/2019 in C.A.5642-5643/2019.
8. Your letter No.EC/C-I/4841/2015 dated 14.09.2020
9. Curative Petition diary no.16022/2020 pending in Hon'ble Supreme Court.

We are in receipt of your letter under reference-8 cited above. In this regard we wish to inform you that against the order of Hon'ble Supreme Court cited in reference 6 & 7 cited above we have filed Curative Petition cited in reference 9 above. We therefore request you not to initiate any Enforcement action until the outcome of the said petition for nonpayment of additional premium FSI charges.

Thanking You,

Yours Truly

For Prestige Estates Projects Limited



Authorised Signatory

**BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL (SZ),
CHENNAI**

ORIGINAL APPLICATION NO. 21 OF 2021

Dr. Anupkrishnan. V

... APPLICANT

v.

Ministry of Environment, Forest and
Climate Change,
And 7 Others.

... RESPONDENTS

**COUNTER STATEMENT FILED ON
BEHALF OF THE FOURTH & FIFTH
RESPONDENTS TO IN RESPONSE TO
THE APPLICATION FILED BY THE
APPLICANT**

M/s. S. Arjun Suresh, B. Kishore,
Raghavendra Ross Divakar
Apoorva S. Vinjamur
Noyal James
Gautham Balaji
Of M/s. Dua Associates

**COUNSEL FOR THE FOURTH & FIFTH
RESPONDENTS**