

BEFORE THE NATIONAL GREEN TRIBUNAL (SEZ) CHENNAI

Application No.21 of 2021

Dr.Anupkrishnan

..Applicant

-vs-

- 1.Ministry of Environment, Forest and Climate Change
- 2.State Level Environment Impact Assessment Authority
- 3.CMDA
- 4.M/s.Prestige Estates Projects Ltd.,
5. M/s.Prestige Estates Projects Ltd.,
- 6.Tamilnadu Pollution Control Board
- 7.Managing Committer of  
Prestige Bella Vista Flat Owners Welfare Association  
Represented by Mr.Balachander, B, as Secretary
- 8.Managing Committer of  
Prestige Bella Vista Flat Owners Welfare Association  
Represented by Mr.Balakrishnan SS, as President

..Respondents

**COMMON COUNTER AFFIDAVIT FILED BY RESPONDENTS 7 & 8**

I, B BALACHANDER, aged about 59 years, son of Mr. Baluchamy, residing at Flat No.181210, Tower 18C, Prestige Bella Vista, Ayyappanthangal, Mount Poonamallee Road, Chennai – 600056, do hereby solemnly affirm and sincerely state as follows:

of PRESTIGE BELLA VISTA FLAT  
OWNERS WELFARE ASSOCIATION

  
Secretary

1. I am the Secretary of Prestige Bella Vista Flat Owners Welfare Association, which is a Society registered under the Tamil Nādu Societies Registration Act, vide Regn No. 321/2013. It has been formed by the owners of various apartments, in the Apartment Complex known as “Prestige Bella Vista” at Iyyappanthangal, Chennai – 600 056, which has been developed by the 4<sup>th</sup> Respondent. The main objective of the Plaintiff is the welfare of the residents and occupants of the Apartment Complex.

**PRELIMINARY OBJECTIONS:**

A) The Association is neither a necessary party nor a proper party for the present proceedings and the Applicant has unnecessarily dragged it into the proceedings, by misrepresentation of the facts. From a reading of the order dated 25.08.2021, passed by this Hon’ble Tribunal in I.A.No.94 of 2021 (SZ), it is seen as follows:

*“...According to the applicant, the Prestige Bella Vista Flat Owners Welfare Association are the persons who are managing the affairs of the Flats and they have not been undertaking any work as expected from them and they are necessary party to the proceedings. So, considering the circumstances, we feel that it is necessary to implead them also as additional respondents...”*

For PRESTIGE BELLA VISTA FLAT  
OWNERS WELFARE ASSOCIATION

  
Secretary

Thus it can be seen that this Hon'ble Tribunal has been led to believe that the Association is managing the affairs of the Flats and are not undertaking any work as expected.

B) The said allegation of the Applicant is false and he is liable to be proceeded for the offence of perjury. The Applicant is well aware that the 4<sup>th</sup> Respondent Developer has not handed over the Complex to the Association yet and is being administered and maintained by the Developer, through a Property Management Services from the beginning till date. This fact has also been confirmed in the report dated 31<sup>st</sup> August 2021, filed by the 6<sup>th</sup> Respondent in Paragraph 6 (r). This report itself appears to have been filed pursuant to an order dated 05.02.2021, passed by this Hon'ble Tribunal whereby a Joint Committee was appointed to inspect the area in question.

C) Therefore, the basis on which the Applicant has sought for impleading the Association itself is incorrect and the Applicant is liable to be deleted from the array of parties. Further a reading of the reliefs in Page No.15 of FORM 1, filed under Section 18(1) read with Section 14, 15 of the National Green Tribunal Act 2010, would go to show that there is no relief of any nature that has been prayed as against the Association.

All the 4 prayers are sought only

as against the Respondents 1 to 6. On this score also the Association ought to be deleted from the array of parties.

**HARDSHIP ASPECT**

A) It is respectfully submitted on behalf of the Association that it is a representative body acting as the LINK between the entire community of 2613 Flat owners in the Complex with the Developer and Maintenance service provider. Since the administration has not been handed over to the Association, several attempts are being made through the Association to solve the stalemate without in any manner shutting down the communication channel with them.

B) The office bearers of the Association are all periodically elected and render honorary services. Both the President and the Secretary are senior citizens, who have invested their life savings for acquiring a shelter for their families and are looking forward for spending their retirement years peacefully. The Association is only acting as an enabler and is not the administrator. Further the Association also does not have the necessary resources to conduct its affairs or fight costly litigations, notwithstanding the fact that it wants the Developer to discharge all its lawful obligations in all fronts and hand over the premises to the Association,

as per the provisions of the Apartment Ownership Act and the Real Estate Regulation and Development Act.

C) It is pertinent to point out that the Applicant and certain other like minded Flat owners numbering around 230 have not come forward to pay even single month's Common Area Maintenance (CAM) charges ever since 2016, when they occupied their respective Flats. This is also really affecting the quality of maintenance. All these persons are enjoying all the facilities at the cost and benevolence of other Flat owners. Being a total defaulter not respecting the agreement signed is putting the entire community of 2613 people at risk of improper maintenance.

#### **FURTHER SUBMISSION**

A) The Association is not privy to the reply statement if any filed by the Developer, the 4<sup>th</sup> Respondent herein. It is submitted that only the Developer will be able to file appropriate response to the various allegations levelled regarding the various clearances.

PRESTIGE BELLA VISTA FLAT  
OWNERS WELFARE ASSOCIATION

Secretary

B) In the interest of proper compliance of all Statutory requirements the Association is also keen to impress upon the Developer to discharge all its obligations and handover the complex to the Association at the earliest.

C) Suitable orders safeguarding the interest and welfare of the 2613 owners of the Flats may kindly passed, apart from directing the Applicant to pay the arrears of CAM with a further direction to continue to pay the same periodically without default.

Only such payments would enable any maintenance agency to provide the clean environment notwithstanding the statutory clearances alone.

Hence it is respectfully prayed that this Hon'ble Tribunal may be pleased to discharge the Respondents 7 and 8 from the array of parties and pass orders as prayed above and thus render justice.

Solemnly affirmed at Chennai  
and signed in my presence on  
this the 20<sup>th</sup> day of September 2021

of PRESTIGE BELLA VISTA FLAT  
OWNERS WELFARE ASSOCIATION

Secretary

Before Me

Praveen  
2983/18  
chamber - 149, High Court  
(Praveen - S. Kumar)

Advocate, Chennai

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TRIBUNAL (SEZ) CHENNAI

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Dr. Anupkrishnan

... Applicant

- Vs -

Ministry of Environment, Forest and  
Climate Change and 7 others.

... Respondent

**COMMON COUNTER AFFIDAVIT**  
**FILED BY RESPONDENTS 7 & 8**

RANK Associates  
Counsel for Respondent 7 & 8