

**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 Chruuch 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


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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
3rd Floor, Integrated Animal Husbandry and Fisheries Building,
Chennai.
7. The District Collector,
Thiruvallur District,
Thiruvallur.

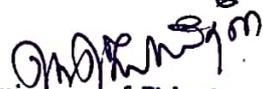
... Respondents

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 6th respondent herein and well acquainted with the facts and circumstances of the case based on material facts available on the records.


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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 Thiruvallur 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.


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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 OBM / 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


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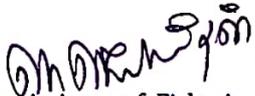
original position as these details will have to be taken into account by this Tribunal proper disposal of this case.

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 temporary 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.


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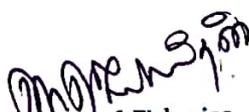
- Arrived Rs. 99,90,000/- as assessment of environmental compensation.

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.

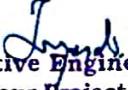
9) It is respectfully submitted that the above said it has been mentioned, in this case, 6th respondent, Department of Fisheries, Government of Tamilnadu has extended the break water structures in the southern and northern direction of the project site from the existing groins and formation of roads.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

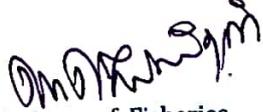

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of Fisheries. It is called as Kasikoilpattai and it belongs to concerned local bodies. As per Town Survey Register, Kasikoilpattai has been noted as Vandipathai i.e Road in Ward I, Block 4, Town Survey No.22 and Old Survey No.38/59 which is a Government 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 i.e., 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.


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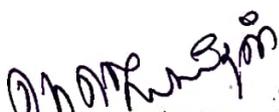

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10) It is respectfully submitted that the aim of Project of Tuna Fishing harbour is mainly with the objectives of benefitting to the local fishermen community in Thiruvottriyurkuppam which includes the following public welfare activities in this project 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.


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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”.


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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
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Solemnly affirmed at Chennai

On this day of March, 2021

and signed his name in my presence.


Executive Engineer
Fishing Harbour Project Divisic..
Chennai.

Before me

No.	Name of locality or street പ്രദേശ പേര് അല്ലെങ്കിൽ റോഡ് പേര്	Survey field മുഖ്യ ഭാഗം	Subdivision അനുഭാഗം	Old survey number and letter പഴയ മുഖ്യ നമ്പർ; അക്ഷരം	Municipal door number നഗരസഭാ ഡോർ നമ്പർ	Government, Mita, Zamindari, Inam ഭരണ, മിത, ജാമിന്ദാരി, ഇനം	Dry, Wet, Unassessed, Porembate خشك, تر, غيرمقياس, پورمبته	Source of irrigation and class സമീപമായ തടവുകൾ; തരം	If double crop, rate of composition രണ്ടുതവണയെടുക്കുന്നുണ്ടെങ്കിൽ നിരക്ക്	Class and sort of soil തരത്തിൽ തടവുകൾ തരം	Tanna തണ	RATE PER ACRE/HECTARE ഒരു ഏക്കർ/ഹെക്ടർ എന്നതിന് നിരക്ക്	
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21	HOPE												
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23				246000	B	4							
24				3471 342000 181800	B	4							

Extent by Topo Survey ലോക്കൽ മുഖ്യ ഭാഗം	Municipal നഗരസഭാ	Government ഭരണ	Number of plots or items registered and held by the registered holder നഗരസഭാ മുഖ്യ ഭാഗം രജിസ്റ്റർ ചെയ്തവരുടെ മുഖ്യ ഭാഗം	Municipal register നഗരസഭാ മുഖ്യ ഭാഗം	Adangal അടങ്കൽ	How the holding is utilized പ്രദേശം ഉപയോഗിക്കുന്ന രീതി	REMARKS മറ്റു
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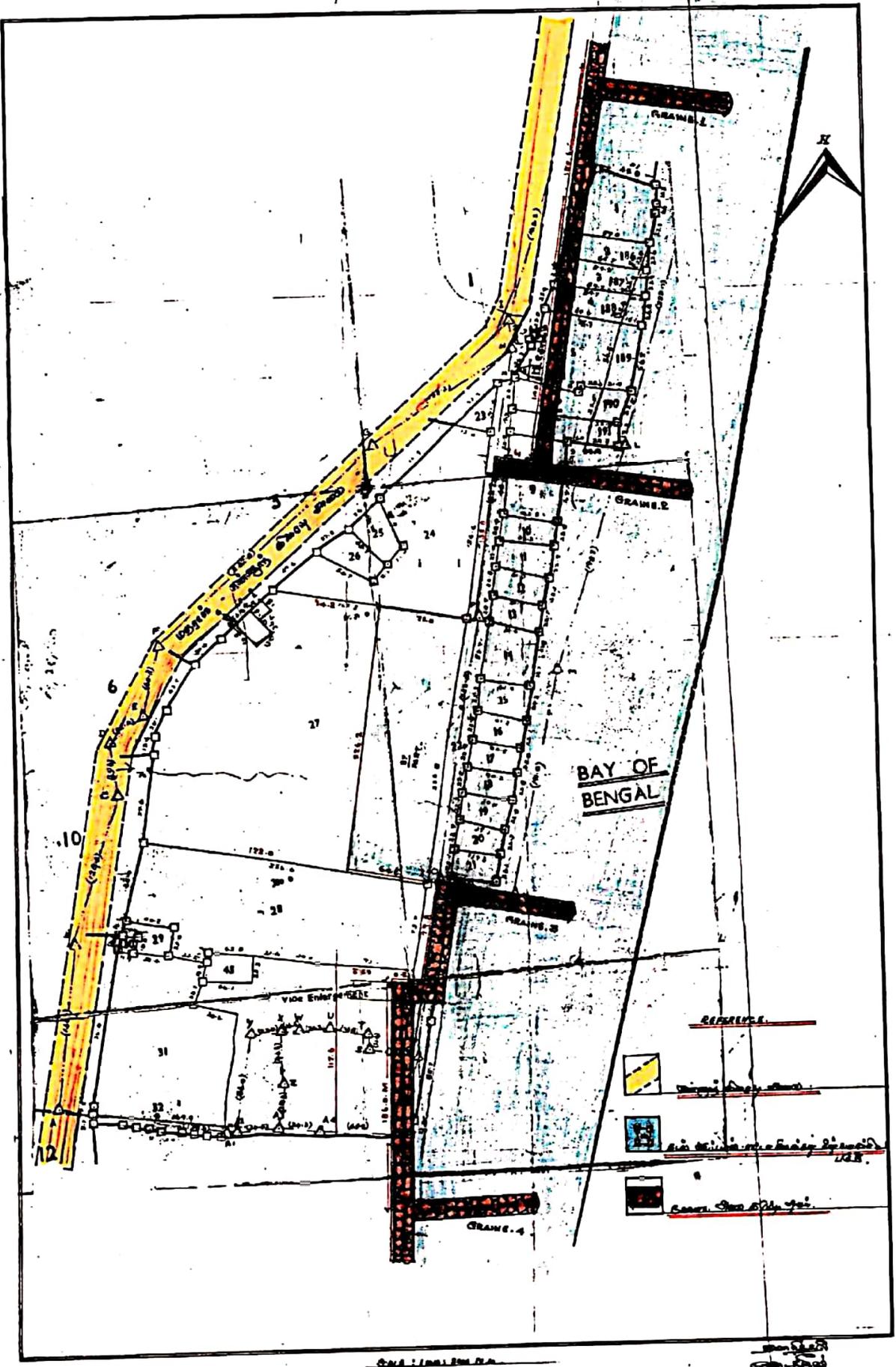
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THE TAMIL NADU DISTRICT MUNICIPALITIES
ACT, 1920
(TAMIL NADU ACT V OF 1920)

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CHAPTER IX.
STREETS.

Public streets.

162. Maintenance and repair of streets.—¹[(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.

¹[(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.]

²[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 ¹[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.



OA 28 of 2020 Fisheries counter.pdf

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In the above referred matter , we're duly serving the counter affidavit filed by the Fisheries department (6th Respondent)

From,

The Office of Special Government Pleader (Forests)
Madras High Court ⚖️



OA 28 of 202...s counter.pdf

