

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(SOUTHERN ZONE)  
(ORIGINAL SIDE JURISDICTION)**

**I.A No.83 of 2020 IN  
Appeal No.(SZ) 5 of 2020**

**IN THE MATTER OF:-**

Yashaswi Fishmeal and Oil Company

.....Appellants

Vs.

Karnataka State Coastal Zone Management Authority And another

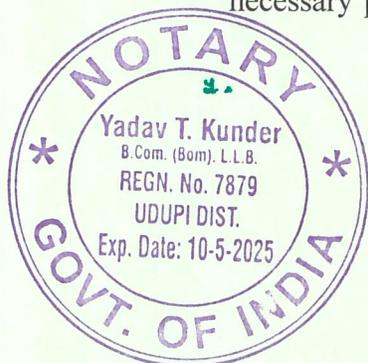
.....Respondents

Having its office at MS Building,  
Dr Ambedkar Veedhi  
Bangalore-1  
Email ID- prsfee@karnataka.gov.in

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE APPELLANT/1st  
RESPONDENT**

I, Mr. Sadhu Salian, S/o, Late Mr. Lachu Kunder, aged about 65 years, residing at "YASHASWI" post kodavoor Salamara road, malpe, udupi taluk and district -576106 , do hereby solemnly affirm and state as follows:

1. I submit that I am the Managing Partner of the Appellant/ 1st Respondent and am duly authorized to file the present Counter Affidavit to the I.A No. 83 of 2020 filed by the Applicants (hereinafter referred to as "Application") in Appeal No.5 of 2020 (hereinafter referred to as the "Appeal"). As such, I am well aware of the facts and circumstances of the case and I am competent to depose on behalf of the Appellant.
2. I submit that I have perused the present Application filed under Section 19(1) and (4) of the National Green Tribunal Act, 2010 and deny each and every averment contained therein except those specifically admitted vide the present Counter and put the Applicants to strict proof of the allegations contained in the Application.
3. I submit that the present Application for the purpose of appearing and contesting the Appeal deserves to be dismissed at its threshold in as much as the Applicants are not proper or necessary parties to the Appeal. I state that the Respondent No.1/ Appellant is a registered



*[Handwritten Signature]*

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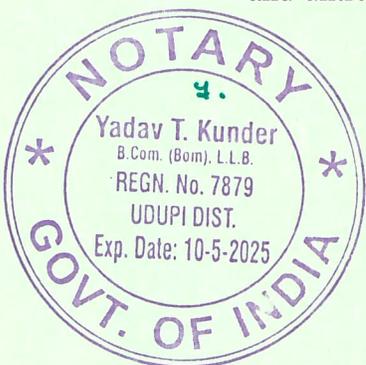
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NOTARY UDUPI

partnership firm, operating as an industrial establishment or undertaking in the fishmeal and fish oil industries in Pithrody village of Udyavara, Udupi Taluk and District. The said Appellants were constrained to file approach this Hon'ble Tribunal vide the present Appeal seeking to set aside the direction dated 15.03.2018 in NO. FEE 187/CRZ/2017 issued by the Karnataka State Coastal Zone Management Authority (hereinafter referred to as "KSCZMA") under Section 5 of the Environment (Protection) Act, 1986 (hereinafter referred to as the "Act") and for remanding the matter back to the concerned authority for fresh consideration of the issue primarily on the ground that the aforesaid direction had failed to follow the principles of natural justice. Accordingly, on 20.02.2020, the Hon'ble Tribunal had was pleased to grant interim stay against the impugned direction issued by the KSCZMA in NO. FEE.187/CRZ/2017 dated 15.03.2018 on the basis of the grounds in the Appeal.

4. Further, another group of persons from the same village have filed an application before this Hon'ble Tribunal i.e. OA No. 27 of 2019 wherein a joint committee was constituted for the purpose of ascertaining the allegations of environmental violations by this Appellant. As per the report furnished by the said Committee dated 03.03.2020 [hereinafter referred to as the "Committee Report"], it has been confirmed that the Appellants operations adheres to the prescribed standard of environmental parameters and that the effluents being discharged are meeting the standards prescribed by the KSPCB. In view of the same, the Applicants allegation of their lives being affected by the present Appeal is blatantly false and baseless. In any event, considering the Applicants are well aware of the findings of the Committee Report, it is abundantly clear that the purpose of filing the present Application is not bonafide and is done with the sole motive of furthering their collateral purpose, especially considering the findings in OA No. 27 of 2019 are being re-agitated vide the present Application in view of the favourable findings contained in the Committee Report. On the said basis, the reliefs sought for by the Applicants ought not to be entertained by this Hon'ble Tribunal. Further, from a perusal of this Application it is blatantly clear that the Applicants herein are not only unnecessary and improper parties to the present dispute but will also not suffer any grievance on account of the outcome of the said Appeal.
5. Without prejudice to the above contentions, the Appellants para-wise response to the present Application is as follows:

A. The allegations contained in paragraph 1 and 2 of the Application contain no allegations against the Respondent No.1/Appellant and thus the same merit no rebuttal.

B. I submit that the allegation contained in paragraph 3 of the Application is denied as false and untrue. It is submitted that the W.P No.47781 to 47784 of 2017(GM-POL) was filed

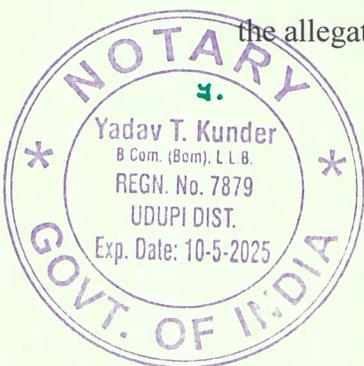


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by the Applicants against 16 respondents. The said W.P No's 47781 to 47784 of 2017 were solely filed against the alleged inaction of the KSCZMA and had nothing to do with the Respondent No.1/Appellant and was accordingly disposed of by the Hon'ble Karnataka High Court.

- C. I submit that the allegation contained in paragraph 4 of the Application that the basic and fundamental right to live in the village was taken away on account of the alleged illegalities are denied as false, misconceived and baseless in as much as the operations of the Appellant are not in any manner affecting their lives or polluting the air and river; as is even confirmed in the findings of the Committee Report. Further, vide the said baseless allegation, the Applicants are contending that this Hon'ble Tribunal overlook the breach of the principles of natural justice suffered by the Appellant during the implementation of the direction, which is impermissible.
- D. As for paragraph 5 and 7 of the Application, the allegations contained therein are misconceived and unsustainable. I submit that the said SLP No (C) 10276 - 10279 of 2018, which was withdraw by the Appellant, the WP No. 14808 of 2018 and WA No. 995 of 2019 are completely irrelevant to the issues before the Hon'ble Tribunal in the present Appeal. In any event, the said proceedings took place before the premises of the Appellant were inspected by the Joint Committee constituted by the Hon'ble Tribunal. In view of the above, it is evident that the aforesaid writ proceedings do not in any manner alter the fact that the operations of the Appellant are not affecting the lives of the residents of the said villages.
- E. I submit that the allegations contained in paragraph 6 does not merit any rebuttal.
- F. I submit that the allegation contained in paragraph 8 of the Application that the Applicants are the aggrieved party and that their lives and liberty is in danger at the hands of the alleged erred fishmeal and oil company is denied as false, baseless and misconceived. I submit that the Appeal was filed by the Respondent No.1/Appellant seeking to set aside the direction dated 15.03.2018 in NO.FEE 187/CRZ/2017 issued by the KSCZMA under Section 5 of the Act which directed that a part of the Respondent No.1/Appellants fishmeal and oil unit be demolished without any inspection or prior notice and does not have anything to do with the Applicants. Further, considering it is confirmed by the Committee Report that the effluents discharged by the Appellant are compliant with the environmental parameters, the allegation that their lives are being affected by its operations is untenable.



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G. I submit that the allegations contained in paragraph 9 of the Application are irrelevant to and have no bearing on the Appeal. Further, the contention that the Applicants are yet to be served with the copies of appeal does not arise. I submit that the appeal has been filed against the KSCZMA and the Regional Director, Udupi seeking the concerned authorities to set aside the direction dated 15.03.2018 in NO.FEE 187/CRZ/2017 issued by the KSCZMA under Section 5 of the Act. Further, in view of the present Application filed, unless the present Application is allowed by the Hon'ble Tribunal, there arises no obligation on part of the Respondent No.1/Appellant to serve necessary copies of the Appeal on the Applicants.

H. In so far as Para 10 to 12 are concerned, the same are false and baseless. I submit that the Applicants will not be put to any irreparable damage or injury considering their lives are not in any manner being affected by the operations of the Appellant. In fact, the orders of the Hon'ble Tribunal in respect of the present Appeal will have no bearing on the Applicants and therefore no prima facie case has been made out by the Applicants for them to be impleaded.

In view of the above, it is humbly prayed that the Hon'ble Tribunal dismiss the present Interim Application [i.e. IA No. 83 of 2020] with exemplary costs and pass such other and further orders as it may deem fit in the interest of justice.

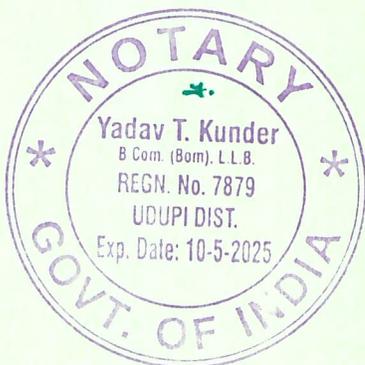
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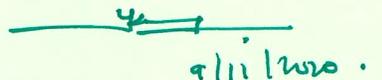
Date: 09.11.2020

Respondent No.1/Appellant



NOTARIAL REGISTER NO  
SI No ..... 926 .....  
Date. .... 9-11-2020 .....  
Book No ..... II .....  
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ERRORS ..... nil ..... ONLY

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