

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE AT CHENNAI**

**APPEAL NO. 55 OF 2021 (SZ)**

**BETWEEN:**

A. Anthony Raj Williams  
S/o. Anthony,  
No.7, 8<sup>th</sup> Cross Street,  
Anna Nagar, Chennai – 600 040

... Appellant

**AND**

The Ministry of Environment, Forest and Climate Change,  
Rep. by its Secretary,  
Indira Paryavaran Bhavan,  
Jorbagh Road, New Delhi – 110 003  
& 5 Others

... Respondents

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Dated at Chennai on this 30<sup>th</sup> day of November, 2021



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1. The Ministry of Environment, Forest and Climate Change,  
Rep. by its Secretary,  
Indira Paryavaran Bhavan,  
Jorbagh Road, New Delhi – 110 003

2. The District Collector,  
Collector Office Rd, Moovendar Nagar,  
Villupuram, Tamil Nadu 605 602

3. The Member secretary,  
Tamil Nadu Coastal Zone Management Authority,  
Panagal Building,  
Saidapet, Chennai. 2

4. The Assistant Director of Town and Country Planning,  
Villupuram Region,  
TADCO Building G.H. Road,  
Villupuram.

5. The Managing Director,  
D.S. Properties,  
AP 2261, H-Block,  
10th Street, Kathiravan Colony,  
Annanagar West, Chennai. – 600040

6. The Managing Director  
Indira Projects and Developments (T) Pvt. Ltd.,  
No. 116/1, Anna Salai (Behind IDBI Bank),  
Saidapet, Chennai – 600 015

... Respondents

For D S PROPERTIEI



Partner

**OBJECTIONS TO THE JOINT COMMITTEE REPORT, FILED  
BY THE 5<sup>TH</sup> RESPONDENT**

I, D.HarishKumar, Son of Mr.N.R.K.Desapanthu, aged about 35 years, having office at AP.2261.H-Block, 10<sup>th</sup> Street, Opp. Kathiravan Colony, Anna Nagar, Chennai – 600 040, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the Managing Partner of M/s.D.S.Propertyei, the 5<sup>th</sup> Respondent herein and as such I am well acquainted with the facts of the case.

2. I state that the above appeal in Appeal No. 55 of 2021 (SZ) has been filed by the appellant herein under Section 18 (1) read with Section 16 (h) of the National Green Tribunal Act, 2010, for the following relief:

*"to pass an order calling for the records, pertaining to order of the 3<sup>rd</sup> Respondent in order dt. 31.07.2019 in Proc. No. P1/1721/2019 (Annexure-1), quash the same and thus render justice."*

4. I respectfully submit that the above Appeal itself is not maintainable at all as it is barred by limitation and this apart it is devoid of merits on both the factual and legal aspects. I state that the Appellant has no locus standi to file the above Appeal and as such the same has been filed with vested interest and is an abuse of process of law. I filed an Interim Reply Statement on the point of limitation and the same may be treated as part and parcel of this present objection.

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5. I humbly submit that this Hon'ble Tribunal in its order dated 13.08.2021 constituted a Joint Committee comprising of (1) The District Collector, Villupuram, (2) a Senior Officer from Coastal Zone Management Authority, Tamil Nadu, (3) The District Environment Engineer, Tamil Nadu Pollution Control Board and (4) A Senior Officer from the Ministry of Environment Forest and Climate Change, Integrated Regional Officer, Chennai, to inspect the project area in question and ascertain as to :

*"(i) Whether there is any violation of Coastal Regulation Zone, Notification and ;*

*(ii) Whether there is any suppression of material fact or misrepresentation made regarding a non-existence road as existing road for the purpose of getting the clearance, as alleged by the appellant and ;*

*(iii) If there is any violation what is the action taken by the authorities in this regard."*

6. I humbly submit that the Joint Committee inspected the site in question on 19.10.2021 and filed its report before this Hon'ble Tribunal. The relevant portion of the report reads as follows:-

*".....The recommendation made by this Authority was based on the information that there was a mud road connecting Vasavankuppam village to the burial ground located beyond the northern boundary of the layout site under reference as reported by the authority concerned. The Committee did not notice any apparent violation of Coastal Regulation Zone Notification, in so far as the recommendation for clearance in the case, as seen from the relevant records.*

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*The Committee inspected the stretch abutting the fenced eastern boundary of the layout. As regards the road claimed to be running on the eastern side of the layout separating it from High Tide Line, the Committee found no such road existing, from the sea front up to the fenced eastern of the layout, it is seamless sandy stretch. However, the villagers of Vasavankuppam while being enquired, told the Committee that they carry the dead bodies to the burial ground along the eastern boundary of the layout.*

*In the absence of a road abutting the eastern boundary of the layout, it cannot be claimed that it has come up on the landward side of an existing road. The most crucial condition that buildings shall be permitted only on the landward side of an existing road as per CRZ Notification is not fulfilled in the case."*

7. I deny the observations made above in the Joint Committee Report, except those that are specifically admitted therein. I am filing the following objections to the Joint Committee Report;

i. That M/s. D.S. Propertiei, the 5<sup>th</sup> Respondent herein, a Partnership Firm, who is the absolute owner of the vacant lands situated at Marakkanam North Village (Thalangadu Village), Marakkanam Taluk, Villupuram District, had proposed to develop the same into a residential plots in the name of "Doctor's Beach Project". As the part of the subject land falls within the Coastal Regulation Zone (CRZ) – II, the Project Proponent had applied to the Tamil Nadu State Coastal Zone Management Authority (TNSCZMA) under the Para 8 (i) II, CRZ II (i), (ii) & (iii) of Coastal Regulation Zone (CRZ) Notification 2011.

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**ii.** That the District Environmental Engineer, Tamil Nadu Pollution Control Board, the Convenor of District Coastal Zone Management Authority, Villupuram, had requested the Revenue Department to furnish a report on the above application.

**iii.** That in pursuant to the above, the Tahsildar, Marakkanam Taluk had requested and conducted a Joint Inspection of the Site in question with Deputy Inspector, Taluk Deputy Inspector, Zonal Deputy Tahsidlar, and Village Administrative Officer and also sought independent report.

**iv.** That the Village Administrative Officer issued a Certificate dated 18.01.2019 wherein it was stated as follows:

"...

<i>Survey No.</i>	<i>Patta No.</i>	<i>Name of the Pattadhar</i>
<i>108/8, 9, 10</i>	<i>2569</i>	<i>Executive Officer (Town Panchayat)</i>
<i>109/1A5C4, 1B2, 2B1C4, 4A1A4</i>	<i>2569</i>	<i>Executive Officer (Town Panchayat)</i>
<i>115/1B, 2B, 3B, 4B</i>	<i>2569</i>	<i>Executive Officer (Town Panchayat)</i>

*The above Survey Nos. are comprising a mud road from Vasavankuppam and the graveyard.*

*It is certified that on enquiry and revenue records, it is found that this is in use by village people."*

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v. That it is seen that all the independent authorities had personally conducted physical inspection of the site and it was only thereafter that they had sent the reports confirming the existence of the 15 feet mud road. That in pursuant to the independent and Joint Inspection reports of the Revenue Authorities namely (1) Tahsildar, (2) Revenue Inspector and (3) Village Administrative Officer, the District Coastal Zone Management Authority, Villupuram has also recommended the subject project in their meeting held on 21.02.2019 to the Tamil Nadu State Coastal Zone Management Authority (TNSCZMA) with certain conditions. The relevant portion of the recommendations is as follows:-

***"The details of CRZ location of the Project area is as follows:-***

.....

.....

*The Tahsildar, Marakkanam and the Executive Officer, Marakkanam Town Panchayat, Marakkanam has informed that an existing mud road connecting the Vasavankuppam Village and burial ground of Vasankuppam Village running in the seaward side of the M/s. DS Propertiei.*

....."

vi. That there is a mud road which is being used by the Local villagers for a long time and the said road is connecting the village and the graveyard. The dead bodies are being carried through motorized cart on this mud road by the locals, which fact was also confirmed by the local villagers and the revenue authorities. It is pertinent to note that there are two grave yards located in the village in Survey Nos.

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107/2 and 110/6, apart from the grave yard in Survey No. 108/1C2, which fact is also evident from the Village A Register i.e., UDR Extract. In Survey No. 110/6, Harichandra Temple is also located and the same is being worshiped by the local villages. The access for the above graveyards and temple, is the subject mud road, except which there is no other road available for the access. The revenue records and Field Measurement Book (FMB) sketch also substantiate the same.

**vii.** That the extract of Adangal for the Fasli year 1431 substantiates the existence of a mud road which reads "Mud road of Vasavankuppam Village" and reflects the name of the local body i.e., the Executive Officer, Marakkanam.

**viii.** That the Village Administrative Officer, Marakkanam Village, in his report dated 22.02.2019 after a field inspection with Tahsildar, Marakkanam Taluk and Deputy Inspector, Marakkanam, Taluk Deputy Inspector, Marakkanam and Zonal Deputy Tahsidlar, it stated as follows:-

*"....that the compound of M/s. D S Propertiei is situated at a distance of 60 metres from the Tidal Line and the said layout was found between 871 metres from the Tidal Line. Further in the Patta for the above land in the name of M/s. DS Propertiei. There is no Government Poramboke land in the above said lands.*

*Further, the village people of Vasavankuppam are using the mud road in Survey Nos. 115/1B, 2B, 3B, 4B, 109/1A5C4, 1B2-2B1C4, and 108/8, 9, 10 to graveyard situated in Survey No. 108/1C2. There is a 15 feet wide*

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*mud road situated in at a distance of 60 metres between the compound wall constructed by the above said M/s. D.S. Propertiei and tidal line, which road has been in use for many years as a passage to the graveyard."*

**ix.** That the Tahsildar, Marakkanam Taluk in his report bearing Na.Ka. A3/007/2019 dated 23.02.2019, which was based on Joint Inspection and Enquiry conducted with the Zonal Deputy Tahsildar, Head Surveyor, Village Administrative Officer and Village Assistant, had stated as follows:-

*"The layout was formed on the land comprised in S Nos. 106 / 2,3,4,5,6, 108/1, 2A, 2B, 2C1, 2C2, 109/1, 2, 3(P), 4, 110/1(P), 2(P), 3, 4, 5, 111/1, 2, 3, 4, situated at Thazangadu Village, Marakkanam North (Mathura). A Distance of 60 metres between the compound wall M/s. DS Propertei and Tidal Line and the said layout was formed between 202 metres and 871 metres from the Tidal Line. Further, the Patta for the above land was mutated in the name of M/s. DS Propertiei. Further, there is no Government Poramboke land in the above said lands.*

*Further, the village people of Vasavankuppam are using the mud road in Survey Nos. 115/1B, 2B, 3B, 4B, 109/1A5C4, 1B2-2B1C4, and 108/8, 9, 10 to graveyard situated in Survey No. 108/1C2. There is a 15 feet mud road is situated in between the compound wall constructed by the above said M/s. D.S. Propertiei and tidal line, which road was gifted by the above company to the Town Panchayat."*

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x. That it is seen that the Executive officer, Town Panchayat Office, Marakkanam, had sent a letter dated 23.02.2019 vide Na. Ka. No. A1/33/2019, to the District Collector, Villupuram, which stated as follows :

*"Based on the meeting held at the Collector's office, the below mentioned properties have been gifted in favour of the Panchayat, by Mr. D Harishkumar, Partner, M/s. D S Propertei, for the purpose of its usage as a pathway leading to graveyard, by the local people situated at Ward No. 1, Vasnavakuppam Village, Marakkanam District, Marakkanam Panchayat, vide Doc No. 44 of 2019 dated 10.01.2019, registered in the office of the Sub - Registrar, Marakkanam.*

1. S No. 108/2B1A1, 108/2C1J, 108/2C2F - 400 x 15 feet = 6000 sq ft.
  2. S No. 109/1A5C, 109/1B, 109/2B1C, 109/4A1A - 265 x 15 feet = 3975 sq ft.
  3. S No. 115/1,2,3,4 - 457 x 15 sq ft = 6855 sq ft.
- (Totalling : 16,830 sqft)

*Further it is humbly submitted that all the lands gifted for roads have been mutated in the ownership of the Panchayat, in the Records of the Immovable Property, Page No. 14 and 15 for the year 2018 - 2019."*

xi. That the above proposal of the project proponent was placed before the 104<sup>th</sup> and 105<sup>th</sup> meetings held on 27.02.2019 and 21.05.2019 respectively of the Tamil Nadu Coastal Zone Management Authority (TNSCZMA) wherein it was resolved to direct the Project Proponent to furnish the details of plots falling the CRZ-II areas and outside CRZ

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areas and it was also resolved to issue No Objection Certificate (NOC) in respect of the plots which are falling in Non-CRZ areas.

**xii.** That in compliance of the directions of the TNSCZMA the Project Proponent furnished all the relevant particulars and as such, NOC was granted by the TNSCZMA in its Letter dated 11.07.2019, in respect of the plots, which are falling outside CRZ Areas as per the HTL demarcation map issued by the Institute of Remote Sensing, Anna University dated 14.12.2018.

**xiii.** That subsequently the Project Proponent made an application to grant CRZ Clearance for the layout which is falling in CRZ Area. Pursuant which, the subject project was placed before the 106<sup>th</sup> meeting of the TNSCZMA held on 25.07.2019 and it was resolved to grant clearance to the project and as such, the CRZ Clearance was granted which is impugned in the present Appeal, with various conditions, vide Proc. No. P1/1721/2019 dated 31.07.2019.

**xiv.** That as per the conditions imposed in the impugned clearance, the Project Proponent had applied to the Assistant Director of Town and Country Planning, Villupuram Zone under Regularization Scheme of the Government of Tamil Nadu and the subject layout was approved with certain conditions, vide Proceedings in Na.Ka.No. 1646/2019/VM dated 19.09.2019.

**xv.** That in compliance of the conditions imposed in the above layout approval of DTCP, the Executive Officer of Marakkanam Town Panchayat in his Proceedings in Na.Ka.No.226/2019/B1 dated 25.10.2019, issued In-

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Principle approval for the subject project, with certain conditions.

**xvi.** That the Project Proponent registered the subject project with the Tamil Nadu Real Estate Regulatory Authority as mandated under the Real Estate (Regulations and Development) Act, 2016 vide TN/04/Layout/0210/2020 dated 05.11.2020.

**10.** I humbly submit that the Joint Committee had erroneously mentioned that there was no mud road existing from the sea front up to the fenced eastern boundary of the layout. It is submitted that the Joint Committee in its report, has stated that

*"the villagers of Vasavankuppam while being enquired, told the committee that they carry the dead bodies to the burial ground along the eastern boundary of the layout."*

**11.** It is submitted that the Joint Committee has not properly verified the revenue records and in fact the findings of the joint committee is contrary to the enquiry made from local villagers where the local villagers have categorically stated that the said mud road is being used by them for a long time.

**12.** It is submitted that the Joint Committee failed to consider that there is a mud road which is being used by the villagers for a long time and due to climatic changes, the road was covered with sand deposits and it cannot be stated that there was no mud road and it is an admitted fact that the dead bodies are being taken in a motorized cart which cannot travel on sand unless there is a mud road.

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**13.** It is submitted that the above said statement is in consonance with all the independent and joint inspection reports given by the authorities and it is further submitted that the non existence of a mud road in the year 2021 will not in any way vitiate the fact that there was in fact a mud road which existed 2 years back, in the year 2019, at the time of inspection and lay out approval.

Under the above circumstances, I humbly submit that this Hon'ble Tribunal may be pleased to dismiss the above appeal on the point of limitation as it is scrupulously barred by limitation with heavy cost and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in circumstances of the case and thus render justice.

Dated at Chennai on this the 30<sup>th</sup> day of November, 2021

For **D S PROPERTIEI**



Partner

**5<sup>TH</sup> RESPONDENT**

### VERIFICATION

I, D.HarishKumar Son of Mr. N.R.K.Desapanthu, aged 35 years, having address at AP.2261.H-Block, 10<sup>th</sup> Street, Opp. Kathiravan Colony, Anna Nagar, Chennai – 600 040, do hereby verify that the contents of paras 1 to 13 are true to the best of my knowledge and paras 1 to 13 are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 30<sup>th</sup> day of November, 2021

For **D S PROPERTIEI**



Partner

**5<sup>TH</sup> RESPONDENT**