

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI
Original Application No. 91 of 2023 (SZ)

Tribunal on its own motion SUO MOTU based on the news item published in 'The News Indian Express', Chennai E- edition dated 30.06.2023, Road being laid inside marshland in Perumbakkam.

...SUO MOTU TAKEN MATTER

-Vs-

1. The Member Secretary,
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building,
No. 1, Gandhi Irwin Road,
Egmore, Chennai – 600008
2. District Collector,
Chengalpattu,
Collectorate, GST Road,
Chengalpattu, Tamil Nadu.
3. Additional Chief Secretary,
Department of Environment, Forest & Climate Change,
No.1, Jeenis Road, Panagal Building, Ground Floor,
Saidapet, Chennai.
4. Member Secretary,
Tamil Nadu State Wetland Authority,
Panagal Maligai,
Saidapet, Chennai, Tamil Nadu.

...Respondents

STATUS REPORT FILED BY THE 1st RESPONDENT (CMDA)

I, Anshul Mishra, I.A.S. son of Thiru Harishchandra, Hindu, aged about 44 years, having office at No.1, Gandhi-Irwin Road, Egmore, Chennai-600 008, do hereby solemnly and sincerely affirm as follows:

(Faint, illegible text, possibly a stamp or signature)


Member-Secretary
Chennai Metro Politan
Development Authority
Chennai-600008

1. I am the Member Secretary of Chennai Metropolitan Development Authority (CMDA) and the 1st Respondent herein. As such, I know the facts of the case as borne out from records.

2. I submit that while the Hon'ble Tribunal took suo motu cognizance of the matter on 14.07.2023 and the below directions came to be issued:

"1. There was a news item published in 'The New Indian Express', Chennai Edition dated 30.06.2023 under the caption "Road being laid inside marshland in Perumbakkam"

2. The allegation is that one of the private realtors is constructing the road across the Perumbakkam marshland and tonnes of construction materials and soil were dumped inside the water body by employing heavy machinery. The news item further states that Mr. Deepak Srivastava – Member Secretary, Tamil Nadu State Wetland Authority is aware of it.

3. Therefore, we take Suo Motu cognizance of the matter and issue notice to the (1) Director – DTCP, Tamil Nadu, (2) District Collector – Chengalpattu, (3) Additional Chief Secretary – Department of Environment and Climate Change, and (4) Member Secretary – Tamil Nadu State Wetland Authority for the time being. 4. Let notice be issued to all the respondents through the Tribunal along with a copy of the news item.

5. The learned counsel Dr. D. Shanmuganathan accepts notice on behalf of Respondents No.2 to 4.

6. Let the matter be listed on 31.07.2023. In the meanwhile, the respondents are directed to file their respective responses."

3. I submit that when the matter was listed on 31.07.2023, the CMDA came to be suo motu impleaded and substituted in place of DTCP and directed as below:



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"1. As the area in question falls within the purview of the CMDA, the learned Government Pleader wants to substitute the CMDA in place of DTCP Tamil Nadu. Accordingly, the Member Secretary – Chennai Metropolitan Development Authority (CMDA) is substituted in the place of Director – DTCP, Tamil Nadu.

2. Let notice be issued to the CMDA through the Tribunal along with a copy of the news item.

3. The learned counsel appearing for the CMDA is directed to be put on notice and file a report as to the nature of the land, permission (if any) granted to the private realtors as alleged in the news item and the action taken or to be taken in this regard.

4. In the meanwhile, the District Collector – Chengalpattu (Respondent No.2) is directed to file a detailed report as to the nature of land as recorded in the revenue records, and action taken for stopping the unauthorized construction like road or building.

5. Post the matter on 28.08.2023."

4. I submit that on 28.08.2023 the Hon'ble Tribunal upon submissions of the Panel Advocate for CMDA directed CMDA to file its Comprehensive Report answering the report filed by the Tamil Nadu State Wetland Land Authority.

5. I submit that with reference to the affidavit filed by the Member Secretary, Tamil Nadu State Wetland Authority it is informed that in exercise of the powers conferred by sub - section (1) of section 32 and section 122 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) and other Acts, the T.N.CDB Rules, 2019 were framed in G.O (Ms.) No.18, MAWS Department; dated 04.02.2019 and notified in the Tamil Nadu Government Gazette Extraordinary No.43, Part-III - Section 1 (a); dated 04.02.2019. While so, I submit that Chennai Metropolitan Area comprises of Greater Chennai Corporation, Avadi Corporation, Tambaram Corporation, 5 Municipalities, 3 Town Panchayats and 10 Panchayat Unions with a total extent of 1189 Sq. km, under Chennai District, parts of Thiruvallur District, Kancheepuram districts. In October 2022, the jurisdiction of Chennai Metropolitan Area was expanded by inclusion of contiguous areas in 1225 villages.


Member-Secretary
Chennai Metro Politan
Development Authority
 Chennai-600004

6. While so, I submit that as per the Second Master Plan for Chennai Metropolitan Area (CMA) approved by the Government of Tamil Nadu in G.O. (Ms) No, 190, H&UD Department, dt.02.09.2008 and notified in Tamil Nadu Government Gazette Extraordinary No. 266, Part II - Section 2 dt.02.09.2008, the Survey Nos. 286/2A, 286/2B, 286/2C (Pt), 285/1A, 285/1B2, 285/1B3, 285/2B2, 285/2B3, 286/1B2(Pt), 285/1B1, 285/2B1, 286/1B4(Pt), 286/1B3(Pt), 473/1A2(Pt) and 473/1A1D of Perumbakkam Village is classified as Primary Residential use zone. The extract from the II Master Plan and the Google Image of the area, with the subject lands highlighted are produced herewith as **Annexures -II & III**. The Google Image also has the gift roads / Link Roads as per the Approved Plans to the existing public Road, highlighted for the easy reference of this Hon'ble Tribunal.

7. I submit that as regards issuance of Planning Permission as per Rule 6 – of the TNCD BR-2019, sub rule (1); provides that for the purpose of obtaining Planning Permission or building permit, the applicant should be the owner of the land or leaseholder or Power of attorney holder, who has right over the land to develop, shall submit an application on-line in the prescribed form along with (a) documentary evidence to establish the ownership of the land by furnishing registered sale deed, parent documents and revenue records such as Patta and FMB etc., to the competent authority, under section 49 of the Tamil Nadu Town & Country Planning Act, 1971. The Planning Permission Application submitted by the individual will be examined by CMDA based on the documentary evidence (registered sale deed, parent documents and revenue records such as Patta and FMB) to establish the ownership of the land, Land use compatibility for the site with reference to Master Plan and objections if any. While

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so, I submit that in this case under reference, the Applicant had furnished required documentary evidence (registered sale deed, parent documents and revenue records such as Patta and FMB sketch) to establish the ownership of the land, and from the documents submitted and as per the Records of the Revenue Authorities the subject lands are Patta Lands, and as per the II Master Plan of CMDA the subject lands and the adjoining lands are situated in the Primary Residential Use Zone. Therefore, the Planning Permission came to be issued. The Planning Permissions for the buildings in the adjoining lands to the subject lands, was granted to M/s Casa Grande and The Embassy Residency after proper inspection and scrutiny of the documents submitted before the Authorities and the relevant records, and the said documents are annexed along with this report as **Annexure - I**. The Access road from the existing public Road, which is termed as the Link Road which is usually gifted to the Authorities, as given in the Approved Plan of M/s Casa Grande in PP No. C/PP/ MSB/26 (A/V)/2020 , dated 27/08/2020 is highlighted in Blue ; and in the Approved plan of the Embassy Residency in PP No. CC/PP/ MSB/ 43 (Reg 83)/2014 dated 30/12/2014 it is highlighted in red for easy reference. The Approved plans are submitted as **Annexure -IV A & IV B**

8. I submit that from the compliance report filed by the 2nd Respondent the Marsh lands are situated in Survey. No. 534/4 (20.74.0 Hectares) as per G.O 147 dated 12.05.2014. Hence this answering Respondent Authorities have gone by the official records of the Revenue Authorities and the II Master plan. If the TN WetLand Authorities regard that marsh lands are encroached, they are to establish the same and also take action for the waste materials being dumped into marshlands. It is submitted that the Tamil Nadu Government had constituted "Tamil Nadu Wetland Authority" vide G.O.No.24 dated 15.06.2016 for the protection and preservation of Wetlands in the interests of maintaining ecological balance and other benefits as stated therein. I therefore submit that as custodian of Marshland, the Tamil Nadu Wetland Authority is the concerned authority to take necessary action against any individual for violations or


Member-Secretary
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Development Authority
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for any activities being carried out in the Marshlands of the State. Further, the Tamil Nadu Wet Land Authorities have to establish the fact that the sites where PPs were issued by these Authorities are situated in the Ramsar Site. This Respondent has processed the applications for the Planning Approval in strict adherence to Rules and Regulations as per the TN Town & Country Planning Act 1971, the Development Regulations and the TNCDBR 2019.

It is therefore prayed that this Hon'ble Tribunal may be pleased to consider the submissions of this Respondent and pass suitable orders and thus render justice.



**Member-Secretary
Chennai Metro Politan
Development Authority
Chennai-600008**

Solemnly affirmed at Chennai on
this the 29th day of December, 2023
and signed in my presence.

BEFORE ME



ADVOCATE: CHENNAI
A.S. MANISHA
MS/2415/17
No.5, Law Chambers
H/g h Court
Chennai-1

Member-Secretary
Chennai Metro Politan
Development Authority
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**IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(Special Original
Jurisdiction)
Original Application No.91
of 2023 (SZ)**

Tribunal on its own motion,
SUO MOTU based on the
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Perumbakkam.

...Petitioner

-Vs.-

Thiru.Anshul Mishra, IAS
The Member Secretary,
Chennai Metropolitan
Development Authority,
Thalamuthu Natarajan
Building,
No. 1, Gandhi Irwin Road,
Egmore,
Chennai - 600 008.

...Respondents

**STATUS REPORT FILED BY
THE FIRST RESPONDENT**

**P.Veena Suresh., M.L.,
Standing Counsel for
CMDA
Mobile : 9841234454**