

**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

**INDEX**

<b>Sl. No.</b>	<b>Date</b>	<b>Description</b>	<b>Page No</b>
1.	<b>30.11.2021</b>	Reply Statement filed the 5 <sup>th</sup> Respondent	<b>1 – 15</b>

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



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A. Anthony Raj Williams  
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Anna Nagar, Chennai – 600 040

... Appellant

**AND**

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 PROPRTIEI



Partner

**REPLY STATEMENT 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 D.S. Properties, 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."*

**3.** I humbly submit that I have read the contents of the above appeal and at the outset; I deny all the averments contained in this appeal except those that are specifically admitted therein. I am filing this Interim Reply Statement on the point of limitation alone and reserve my right to file additional Reply Statement by this Respondent on merits of the matter at a later stage.

**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

For D S PROPERTIES



Partner

and as such the same has been filed with vested interest and is an abuse of process of law.

5. I humbly submit that M/s. D.S. Propertiei, the 5<sup>th</sup> Respondent herein, a Partnership Firm, 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.

6. I humbly submit 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.

7. I humbly submit that 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.

8. I humbly submit that the Village Administrative Officer issued a Certificate dated 18.01.2019 wherein it was stated as follows:

"...

<b>Survey No.</b>	<b>Patta No.</b>	<b>Name of the Pattadhar</b>

For D S PROPRTIEI

  
Partner

108/8, 9, 10	2569	Executive Officer (Town Panchayat)
109/1A5C4, 1B2, 2B1C4, 4A1A4	2569	Executive Officer (Town Panchayat)
115/1B, 2B, 3B, 4B	2569	Executive Officer (Town Panchayat)

*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."*

9. I humbly submit 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 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*

For D S PROPERTIEI

  
Partner

*Vasavankuppam Village and burial ground of Vasankuppam Village running in the seaward side of the M/s. DS Propertiei.*

....."

**10.** I humbly submit 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. 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.

**11.** I humbly submit 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.

**12.** I humbly submit 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:-

For D S PROPRTIEI

  
Partner

"...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 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."

**13.** I humbly submit 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.

For D S PROPRTIEI

  
Partner

*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."*

**14.** I humbly submit 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, Vasanavakuppam 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*

For D S PROPRTIEI  
  
 Partner

*Panchayat, in the Records of the Immovable Property, Page No. 14 and 15 for the year 2018 – 2019.”*

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

**16.** I humbly submit 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.

**17.** I humbly submit that subsequent 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.

**18.** I humbly submit 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

For D S PROPRTIEI

  
Partner

conditions, vide Proceedings in Na.Ka.No. 1646/2019/VM dated 19.09.2019.

**19.** I humbly submit 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-Principle approval for the subject project, with certain conditions.

**20.** I humbly submit 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.

**21.** I humbly submit that as the project proponent has complied with all the mandatory requirements under law and also in compliance with the conditions imposed by various authorities in their respective approvals/permissions, the project proponent has sold nearly 75 vacant Plots in the subject layout and the purchaser/s were put in possession of their respective vacant plots.

**22.** I humbly submit that despite aware that the CRZ clearance was issued to the subject property, the Appellant filed an Original Application in OA No. 160 of 2021 (SZ) before this Hon'ble Tribunal on **08.07.2021** 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 Poc.No.P1/1721/2019 ANNEXURE 1, quash the same and thus render justice."*

For D S PROPETIEI  
  
Partner

It is apparent from the above prayer that the Appellant herein had already challenged the impugned CRZ clearance by way of an Original Application under Section 18 (1) read with Section 14 of the National Green Tribunal Act 2010. Despite the Appellant aware that an order cannot be challenged by way of an Original Application and the same can be only by way of appeal, the Appellant herein had filed the Original Application since the period of limitation has already exhausted, which itself prove the malafide intention of the Appellant.

**23.** I humbly submit that the Appellant could have filed an appeal at the first instance instead of filing an Original Application, however, the Appellant has failed to do so. Further, this Hon'ble Tribunal has rightly pointed out how the above application is maintainable especially when remedy of filing an appeal is provided under Section 16 (h) of the National Green Tribunal Act, 2010 against the issuance of clearance under CRZ Notification read with Section 5 (A) of Environment (Protection) At, 1986.

**24.** I humbly submit that this Hon'ble Tribunal in its order dated 02.08.2021 dismissed the above Original Application as withdrawn with liberty to the applicant to resort to the remedies available under the respective statutes against the clearance granted as per provisions of those statutes and subject to limitation, if any, provided under those statutes.

**25.** I humbly submit that subsequent to the above dismissal, the Appellant herein has filed the present Appeal under Section 18(1) read with Section 16 (h) of the NGT Act before this Hon'ble Tribunal with an inordinate delay and the Appellant has preferred present appeal after lacks its period of limitation and thus, it is hopelessly time barred and on this ground alone the above

For D S PROPETIEI

  
Partner

appeal can be dismissed. The Relevant provisions are extracted hereunder:

**"Section 18 of NGT Act, 2010:**

*Application or appeal to Tribunal. –*

*(1) Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.*

.....

....."

**Section 16 (h) of the NGT Act, 2010** reads as

**"16. Tribunal to have appellate jurisdiction. - Any person aggrieved by,-**

*(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);*

*..... may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:*

*Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the*

For D S PROPRTIEI



Partner

*appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days."*

**26.** I humbly submit that apart from the above provisions of NGT Act, it is just and necessary to read Section 5 of the Limitation Act, 1963:

**"5. Extension of prescribed period in certain cases:-**

*Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be, admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had **sufficient cause** for not preferring the appeal or making the application within such period".*

**27.** It is apparent from the above provisions of law that an appeal has to be filed within the period of limitation. According to the NGT Act, an appeal has to be filed before this Hon'ble Tribunal within 30 days. But the appellant with an ulterior motive wants to unsettle proceedings which have been issued in accordance with law, has approached this Hon'ble Tribunal after a period of more than two (2) years from the date of the impugned order, would reflect that the appellant is abusing the process of law for his vested interests. I state that the above appeal has to be rejected at the threshold itself, in the interest of justice.

**28.** I humbly submit that as the period of limitation for statutory appeal was expired as per Section 16 of the NGT Act, and in order to circumvent the settled position of law, the Appellant with an ill intention to establish a new cause of action in the year 2020 instead of 2019, he had sent a legal notice legal notice dated **16.04.2020** to the authorities including the Project

For D S PROPETIEI

  
Partner

Proponent, whereby requested the authorities to cancel the impugned CRZ Clearance and DTCP approval, besides restrain the project proponent from selling the plots.

**29.** I humbly submit that in the present appeal at limitation column, the Appellant has declared as follows:-

*"D. The Appellant herein had obtained the knowledge of the impugned order, when the same was given to him by a plot promoter on **14.03.2021**, after seeing the advertisements in social medias. The 5th and 6th Respondents had started to promote the lands only in the year 2021, after obtained RERA approval, on 05.11.2020, bearing reference number "TN/04/Layout/0210/2020".*

**30.** I humbly submit that in the legal notice dated **16.04.2020**, the appellant requested the authorities to cancel the impugned CRZ clearance and DTCP approval, however, in the present appeal, he declared that he had obtained the knowledge of the impugned order on **14.03.2021**, which itself proves the malafide intention of the appellant. This apart, the Appellant had already filed Original Application in OA No. 160 of 2021 (SZ) whereby challenged the impugned CRZ Clearance on **08.07.2021**.

**31.** I humbly submit that it is very clear from the above act of the appellant which is neither admissible in law nor is legal that the present is filed for vested interest and no environmental interest is shown by the appellant herein, hence the present appeal is liable to be dismissed with huge cost.

**32.** It is pertinent to note that this Respondent had already sold 75 plots to various purchasers in the subject layout which was approved by all the competent authorities, hence the present

For D S PROPRTIEI

  
Partner

attempt of the attempt is liable to be thrown away at the threshold.

**33.** I humbly submit that this apart, this Respondent has obtained all the necessary clearances from the statutory authorities for the present project as mandated under law, hence, there is neither any Environmental Violation nor any statutory violation on the part of this Respondent till.

**34.** I humbly submit that after knowing of all the above, the appellant has approached this Hon'ble Tribunal for his vested interest and there is no public or environment interest is involved in the present issue. Infact, several representatives of the Appellant claimed to be the press people have come and threatened this respondent for extraneous considerations. It is submitted that they are attempting to misuse and abuse the process of law for their personal lawful enrichment.

**35.** I submit 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 to carry dead bodies to the graveyard from the village, which was also recorded by the Joint Committee in its report.

**36.** I submit 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.

For D S PROPRTIEI

  
Partner

**37.** It is submitted that the above said statement is in consonance with the 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, i.e., 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  
5<sup>TH</sup> RESPONDENT  
  
Partner

### 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 37 are true to the best of my knowledge and paras 1 to 37 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