

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 473/2022

IN THE MATTER OF:

Gopal Chinna Mudalyar Chavady

...Applicant

Versus

State of Tamil Nadu & Ors.

...Respondent

AFFIDAVIT

Dr. Saranya P, D/o Mr. P.K. Narasimman aged 34 years,
Scientist 'D'
Ministry of Environment, Forest and Climate Change
Integrated Regional Office,
1st Floor, Adil. Office Block for GPOA,
Shastri Bhawan, Haddow Road,
Mungambakkam, Chennai - 600 006

1. That the deponent is authorized and acquainted with the facts of the matter and have gone through the O.A. and also the Joint Committee Report dated 10.11.2022 being part of the present case and filed before this Hon'ble Tribunal, and as such is competent to swear this Affidavit on behalf of Respondent No.2.
2. That the contents in Affidavit are based on the documents filed before this Hon'ble Tribunal and facts on record.
3. That the contents of the accompanying reply shall be treated as part and parcel of this Affidavit and the same has not been repeated here for the sake of brevity.



Saranya

DEPONENT

Dr. P. Saranya
Scientist 'D'
Government of India
Min. of Environment Forest and Climate Change
Integrated Regional Office,
1st Floor, Adil. Office Block for GPOA,
Shastri Bhawan, Haddow Road,
Mungambakkam, Chennai - 600 006.

VERIFICATION

Verified at Chennai on this 14th day of February, 2023 that the contents of this Affidavit are true and correct to the best of my knowledge derived from the record and nothing has been concealed therefrom.



10/2/2023
K.S. VIJAYAKUMAR, M.A., B.L.
ADVOCATE & NOTARY PUBLIC
GOVERNMENT OF INDIA
4/7, IBRAHIM 1st STREET, CHENNAI-1
Mobile : 98413 73276

DEPONENT

Dr. P. Saranya
Scientist 'D'
Government of India
Min. of Environment Forest and Climate Change
Integrated Regional Office,
1st Floor Adm. Office Block for GPOA,
Shastri Bhawan, Haddow's Road,
Mungambalam, Chennai - 600 006.

Dr. P. Saranya
Scientist 'D'
Government of India
Min. of Environment Forest and Climate Change
Integrated Regional Office,
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Mungambalam, Chennai - 600 006



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ORIGINAL APPLICATION NO. 473/2022

IN THE MATTER OF:

Gopal Chinna Mudalyar Chavady ...Applicant

Versus

State of Tamil Nadu & Ors. ...Respondent

REPLY/ RESPONSE ON BEHALF OF RESPONDENT NO.2
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE
CHANGE (MoEF&CC), INTEGRATED REGIONAL OFFICE,
CHENNAI, TAMIL NADU

MOST RESPECTFULLY SHOWETH:-

1. That the above Original Application is pending before this Hon'ble Tribunal for adjudication.
2. That on last date of hearing dated 15.11.2022, this Hon'ble Tribunal was pleased to direct respondents to file their reply/ response in view of the averments in the above original application and observations in the report of Joint Committee dated 10.11.2022 filed before this Hon'ble Tribunal by Tamil Nadu Pollution Control Board. Hence, the present reply on behalf of Respondent No.2 is as under.
3. That the answering respondent submits, that on behalf of the Respondent No.2, Dr. Saranya. P, Scientist 'D', MoEF&CC, Integrated Regional Office, Chennai was deputed as member to join the Joint Committee constituted pursuant to the order dated 01.08.2022 passed by this Hon'ble Tribunal. The said Joint Committee also comprised of members from Tamil Nadu Coastal Zone Management Authority (TNCZMA), The Tamil Nadu Pollution Control Board and the District Collector, Villupuram.

4. That the answering respondent submits the above named Dr. Saranya. P, Scientist 'D', MoEF&CC, in compliance of the directions dated 01.08.2022 of this Hon'ble Tribunal, undertook site inspection at Chinna Mudalyar Chavday, Kottakuppam, Vannur Taluk, Villupuram District on 22.09.2022 along with other above Committee members, to verify the factual position at the area/ site as directed by this Hon'ble Tribunal wherein violation of environmental laws of Coastal Regulation Zone (CRZ) Notification was complained in the Original Application by the applicant.
5. That the answering respondent submits the provisions of the extant norms of CRZ Notification, 2011 applicable in the present matter are as follows:-

“Extant norms of CRZ Notification, 2011:

- (i) *In exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, Ministry of Environment, Forest and Climate Change had notified the Coastal Regulation Zone Notification in 1991. Further, in supersession of the CRZ Notification, 1991, the Coastal Regulation Zone Notification, 2011 was notified and thereafter Coastal Regulation Zone Notification, 2019 was notified in supersession of CRZ Notification, 2011 for regulation of developmental activities along the coastal stretches and to ensure the livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches, specifically focused on conservation and management plans of Ecologically Sensitive Areas (ESAs) which did not feature in the CRZ Notification, 2011.*
- (ii) *As per CRZ Notifications of 1991, 2011 and 2019 any activity falling within the CRZ area requires Prior Clearance/ Approval from the Ministry of Environment, Forests and Climate Change for construction and*

commencing of any activity within CRZ Zone. Without such approval/ clearance from the Ministry will be violation of CRZ norms and punishable under section 15 of Environment (Protection) Act, 1986 which provides penalty for failing to comply with or contravenes any of the provisions of the Act or Rules/Notification, orders etc.

- (iii) *The Coastal Zone Management Authorities (CZMAs) are notified in all coastal states/UT for the purpose of implementation and enforcement of the provisions the CRZ Notification, 2011 and compliance with the conditions stipulated there under, the powers either original or delegated are available under the Environment (Protection) Act, 1986.*
- (iv) *The Coastal Zone Management Plans (CZMPs) are plans prepared to preserve, protect, develop, enhance, and restore where possible, the coastal resources including livelihood security to the fishing communities and other local communities living in the coastal areas. These plans are required to be prepared by the coastal State Government or Union territory administrations and approved by the Ministry of Environment, Forest and Climate Change. The CZMPs of all coastal state/UTs are under the custody of the SCZMAs.*
- (v) *Further, the validity of the CZMPs approved under CRZ Notification, 1991 was extended from time to time, the last such extension being upto 31.07.2018, pending preparation and subsequent approval of fresh CZMPs under the CRZ Notification, 2011. The CZMPs prepared under CRZ Notification, 2011, was accorded approval by Ministry of Environment, Forest and Climate Change vide its letter dated 24.10.2018.*
- (vi) *It is pertinent to note that, in the State of Tamil Nadu, CRZ Notification, 2011 is being implemented as on date, pending revision/updation of the CZMPs as per provisions of the new CRZ Notification, 2019.*
- (vii) *As per Annexure-III of the CRZ Notification, 2011, the*

guidelines for development of beach resorts or hotels in the designated areas of CRZ-III and CRZ-II for occupation of tourist or visitors are stipulated and require prior approval of the Ministry.”

6. That the answering respondent further submits that **Ministry of Environment, Forest and Climate Change vide its Office Memorandum No. IA3-2/11/2021-IA.III dated 22.08.2022 has directed CZMAs in States/ Union Territories to take action against any violation of the provisions of the CRZ Notifications (2011/2019).** Thus, in the State of Tamil Nadu, TNCZMA is liable to take action against any violation of the CRZ Notification, 2011.
7. **That the factual observations made by the answering respondent on site inspections are as follows:-**
 - (i) That the answering respondent observed that there were five commercial buildings on the site at Chinna Mudalyar Chavday, Kottakuppam, out of which four buildings/ resorts i.e. Respondent No. 5, 6, 7 and 9 are operational and Respondent No. 8 is under construction within Chinna Mudalyar Chavday, Kottakuppam as per the Annexure 1 & 2 (Photos).
 - (ii) That the answering respondent submits that Mermaid Resort-1 (Respondent-5), Mermaid Resort-2 (Respondent-6), L Ambay Café Resort-1 (Respondent-7) and the Respondent No.8 i.e. New Building under construction falls in CRZ-II area and L Ambay Café Resort-2 (Respondent-9) falls in Intertidal area and CRZ-II area.
 - (iii) That the answering respondent submits that as per Annexure-III of the CRZ Notification, 2011, the guidelines for development of beach resorts or hotels in the designated areas of CRZ-II and CRZ-III for occupation of tourist or visitors are stipulated and it requires prior approval of the Ministry of Environment, Forest and Climate Change.
 - (iv) That the answering respondent submits that the respondent no.5, 6 and 7 constructed in CRZ-II area at Chinna Mudalyar Chavday,

Kottakuppam, as complained in the OA, though being permissible activity in view of Annexure-III of the CRZ Notification, 2011 and requires prior CRZ clearance from Ministry of Environment, Forest and Climate Change, however in the present matter, these respondents have not obtained prior clearance from Ministry of Environment, Forest and Climate Change as per Coastal Regulation Zone (CRZ) Notification, 2011, which is blatant violation of the said notification and environmental laws.

- (v) That the answering respondent submits that the Respondent No.8 i.e. New Building is in half-way under construction and falls within CRZ-II as per approved CZMP. Further, it is submitted that Respondent No.8 also requires prior CRZ clearance/ approval from the Ministry of Environment, Forests and Climate Change for operation of any activity within the CRZ area, however in the present case, Respondent No.8 has not obtained prior clearance from Ministry of Environment, Forests and Climate Change as per Coastal Regulation Zone (CRZ) Notification, 2011, which is blatant violation of the said notification.
- (vi) That the Respondent No.9 L-Ambay Café Resort-2 which is currently operational and falls within intertidal area (CRZ-1B) and CRZ-II as per approved CZMP and as per CRZ Notification, 2011, no construction of hotels/ buildings/ resorts are permissible within CRZ-1B, intertidal areas, hence the answering respondent submits that Respondent No.9 is in utter violation of the CRZ Notification, 2011 and strict action is contemplated against the Respondent No.9.
- (vii) That the answering respondent submits that it is also observed that the drinking water for the above respondent's resorts/ buildings is sourced by their owners through bore well within CRZ area and the Respondents are drawing ground water within 200 m from HTL through borewell, which is prohibited activity and is in violation of CRZ Notification 2011.
- (viii) That para 3(xi) of CRZ Notification, 2011, drawl of groundwater and construction related thereto, within 200 mts of HTL is a prohibited activity and is found to be in violation of CRZ

Dr. P. Srinivas
 Minister, P.
 Government of India
 Ministry of Environment and Climate Change
 Integrated Regional Office
 1st Floor, Addl. Office Block for CPWA,
 Anna University, Madhav Road,
 Madhavakkam, Chennai - 600 006

Notification, 2011, except the following reproduced below for the ready reference of this Hon'ble Tribunal:-

- "a) In the areas which are inhabited by the local communities and only for their use.*
- b) In the area between 200mts-500mts zone the drawal of groundwater shall be permitted only when done manually through ordinary wells for drinking, horticulture, agriculture and fisheries and where no other source of water is available.*

Note:-Restrictions for such drawl may be imposed by the Authority designated by the State Government and Union territory Administration in the areas affected by sea water intrusion."

8. That the answering respondent further submits that CZMAs are notified in all coastal states/UT for the purpose of implementation and enforcement of the provisions of the CRZ Notification, 2011/2019 and compliance with the conditions stipulated thereunder, the powers either original or delegated are available under the Environmental (Protection) Act, 1986. Ministry vide Office Memorandum No. IA3-2/11/2021-IA.III, dated 22.08.2022 has directed CZMAs in States/UTs to take action against any violation of the provisions of the CRZ Notifications (2011/2019).

In the premises setforth above, the factual position has been brought before this Hon'ble Tribunal and the Hon'ble Tribunal may be pleased to pass appropriate order(s)/ direction(s) as deemed fit.


RESPONDENT NO.2

Dr. R. Saranya
Scientist 'D'
Government of India
Min. of Environment Forest and Climate Change,
Integrated Regional Office,
1st Floor, Addl. Office Block for GPOA,
Shastri Bhawan, Haddows Road,
Mungambakkam, Chennai - 600 006.

Annexure-1

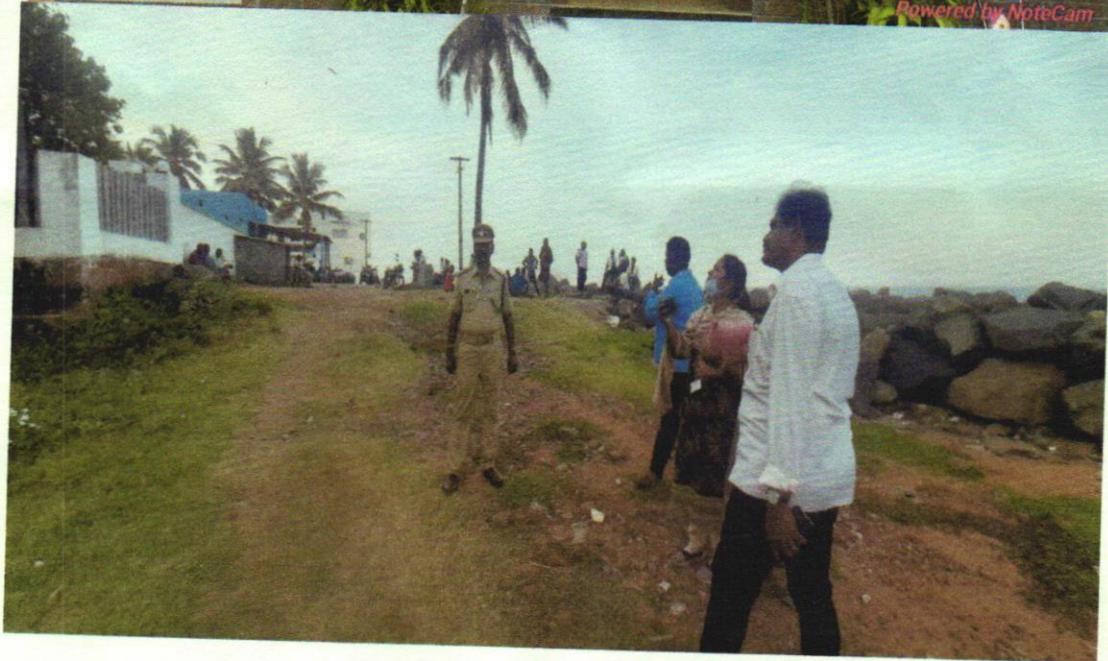
Location of resorts/buildings in ChinnaMudalyarChavday, Kottakuppam and their distance from HTL as per approved CZMP



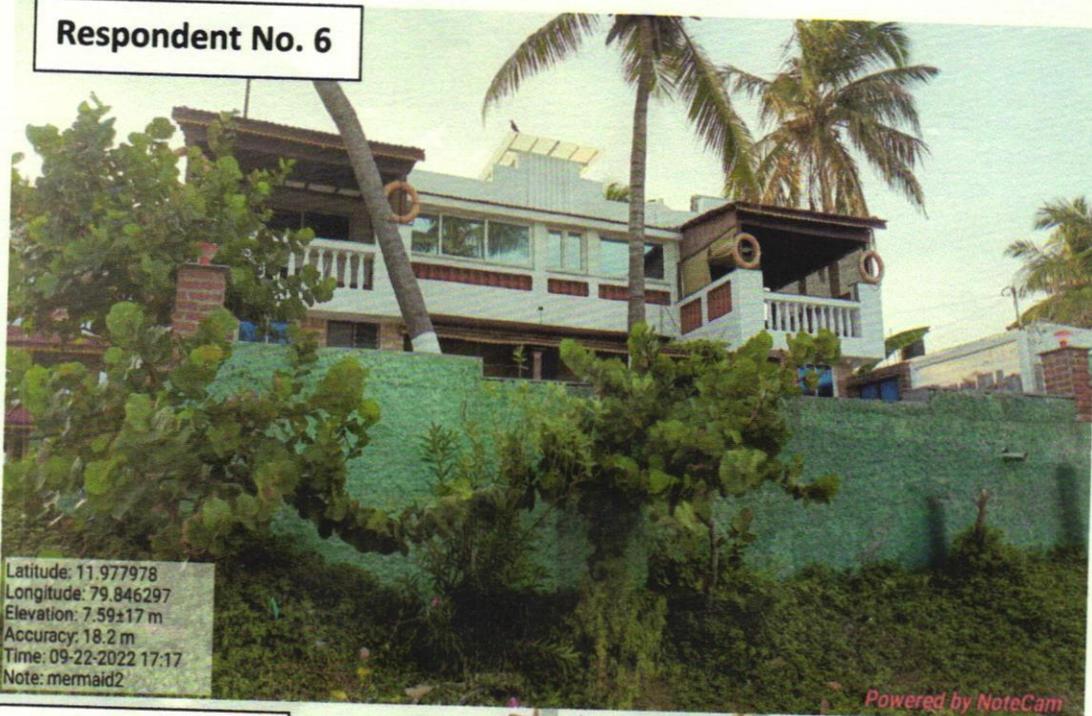
Annexure-2

Photos taken during site inspection on 22.09.2022

Respondent No. 5



Respondent No. 6



Latitude: 11.977978
Longitude: 79.846297
Elevation: 7.59±17 m
Accuracy: 18.2 m
Time: 09-22-2022 17:17
Note: mermaid2

Powered by NoteCam

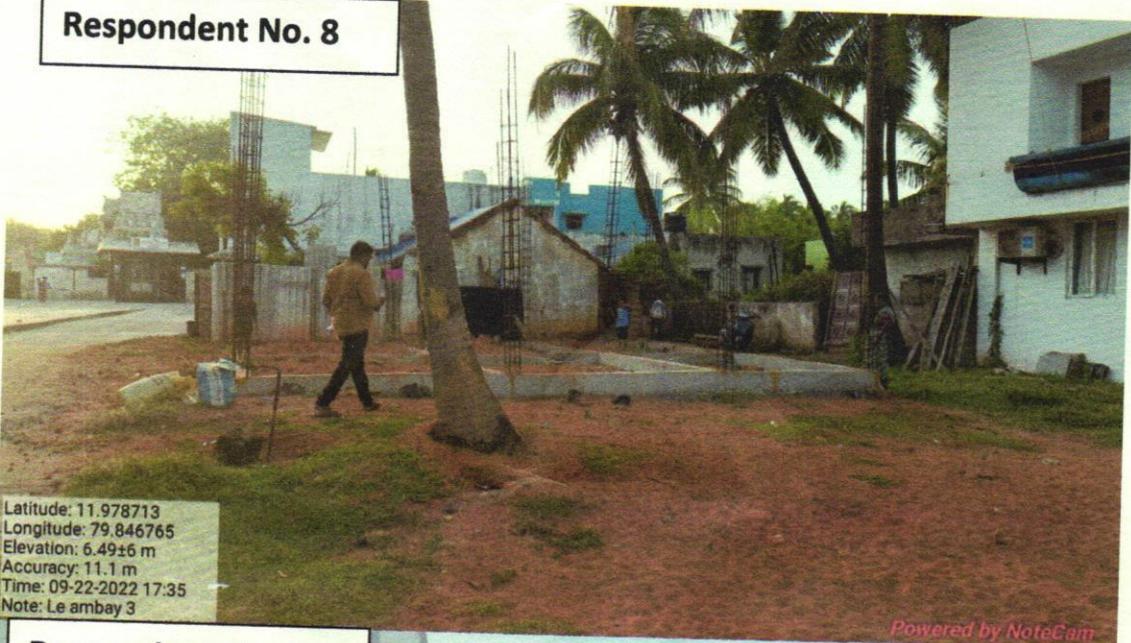
Respondent No. 7



Latitude: 11.978401
Longitude: 79.846612
Elevation: 6.48±6 m
Accuracy: 16.1 m
Time: 09-22-2022 17:31
Note: Le ambay

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Respondent No. 8



Latitude: 11.978713
Longitude: 79.846765
Elevation: 6.49±6 m
Accuracy: 11.1 m
Time: 09-22-2022 17:35
Note: Le ambay 3

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Respondent No. 9

