

IN THE NATIONAL GREEN TRIBUNAL AT CHENNAI

OA NO.106 OF 2020 (SZ)

Atana Flat Owners and Residents
Association Kancheepuram District – Applicant

Vs

The District Environment Engineer,
TNPCC Kancheepuram & Two Others

ADDITIONAL COUNTER AFFIDAVIT
FILED BY 2ND RESPONDENT

M/s.R.Kamala Rani
(1451/1992)
COUNSEL FOR 2ND RESPONDENT
98412 56181

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

Original Application No.106 of 2020 (SZ)

BETWEEN

Atana Flat Owners and Residents Association
Regn.No.80201B
Rep. by its Secretary Mrs.G.Anitha
Vandalore-Walajabad Road,
Karanithangal Village,
Kancheepuram District 602105

Applicant

AND

- 1) The District Environmental Engineer
Tamil Nadu Pollution Control Board
Plot No.CP-5B, SIPCOT, Oragadam,
Sriperumpudur Taluk,
Kancheepuram District – 602 105
- 2) M/s. Arun Excello Constructions LLP,
Represented by its Designated Partner
Mr.P.Suresh,
Bhattad Tower,
No.18, West Cott Road,
Royapettah,Chennai – 600 014.
- 3) The Chairman
State Level Environment Impact Assessment Authority (SEIAA)
Govt. of Tamil Nadu, Panagal Maligai,
3rd Floor, Saidapet,
Chennai – 600 015

Respondents

ADDITIONAL COUNTER AFFIDAVIT OF THE 2ND RESPONDENT

I, P.Suresh, Son of V.Panchapakesan, Hindu, aged about 63 years having its registered office at Bhattad Towers, 18, West Cott Road, Royapettah, Chennai – 600 014, do hereby solemnly affirm and sincerely state as follows:

- 1) I submit that 2nd Respondent herein is a Limited Liability Partnership Firm duly registered under the Limited Liability Partnership Act, 2008. I am one of the partners of the Respondent firm. I am well acquainted with the facts of the case set out hereunder.

For ARUN EXCELLO CONSTRUCTIONS LLP

Authorised Signatory

- 2) This respondent is filing this additional counter to place on record before this Hon'ble Tribunal the sequence of events that had taken place till date which will bring out the actual facts.
- 3) It is submitted that the commercial establishments situated adjacent to the said project site have lodged complaint on 3-3-2020 before the District Collector Kanchipuram with regard to letting out of untreated sewerage water in the Highway storm water drain and thereby to take action against the four resident associations. The action of the resident associations in letting out of sewerage water into highway appears to have resulted in causing health hazard and unhygienic conditions and also thereby affecting the movement of people working in the commercial establishments. The ingress and egress to the commercial establishments have also been affected due to inundation of the sewerage water on the Highway.
- 4) It is submitted that pursuant to the complaint lodged by the adjacent commercial establishments, the District Collector had deputed officers to inspect and assess the ground reality at the project site and to take suitable action. Infurtherence the BDO Kunrathur had issued a warning vide notice Na.Ka.No.1581/20/A1 dated 3-3-2020 to all the four resident associations giving a warning to stop letting out of sewerage water in to the storm water drain and also warned that a hefty penalty would be levied and appropriate action would be initiated as against them if they continue to do so.
- 5) It is submitted that despite the warning given by BDO Kunrathur, the applicant herein had been continuously letting out the sewerage water into the Highway thereby aggravating the problem. The Highways Dept authorities had to interfere on 24-8-2020 in the issue to stop the sewerage water getting into the Highway by dumping mud in the storm water drain at the entrance of the approach road leading to the four resident complexes since the inundation in the Highway was causing health hazard

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and accidents to motorists and commercial establishments situated adjacent to it.

- 6) It is submitted that despite the warning given by the BDO Kunrathur, the resident associations did not refrain from letting out the untreated sewerage water in the Highway throughout the approach road. Hence, the BDO Kunrathur was constrained to lodge a police complaint dated 9-4-2021 for which the CSR was issued and on investigation by the police the FIR was registered on 12-4-2021 on making out an offence punishable u/sec 269 and 270 of the IPC.
- 7) It is submitted that subsequent to the facts stated supra, the proceedings of the RDO Sriperumpudur vide Na.Ka.No.668/2021/A2 dated 17-4-2021 was intimated to all the four resident associations with a copy to Tahsildar, Kunrathur, Asst. Engineer, TNPCB, Oragadam, BDO Kunrathur, Inspector of Police, Oragadam, for information to District Collector, Kanchipuram and Planning Director, Kanchipuram Planning Office, Asst. Superintendent of Police, Sriperumpudur directing the resident associations to take action to rectify the defects and make the infrastructure operational within 15 days and ensure that general hygiene is maintained failing which action will be taken u/sec 133 of CRPC.
- 8) It is submitted that subsequent to the action of the Government authorities, the applicant had given an undertaking before the Superintendent of Police, Oragadam Police Station on 18-4-2021 that they will not let out the untreated sewerage water into the Highway storm water drain and also informed the police that they have filed an application before this Hon'ble Tribunal in OA No.106 of 2020 against this respondent.
- 9) It is submitted that during this period Madhulika association have restored the STP and made it operational and started operating the STP.

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- 10) It is submitted that all the associations have started collecting additional charges from the residents especially for operation and maintenance of the STP as can be seen in the notice circulated by Vasantha association, Rs.600/- per month per apartment towards drainage clearance charges. They also started maintaining schedules for rationing of water usage to specific timings and also restricted number of occupants per flat. This fact would go to prove that the STP provided by this respondent has become defunct only due to the non-maintenance of the same and not due to the inadequacy of the STP. The same has also been observed in the Joint Committee report.
- 11) It is submitted that all these period there was no change in design or alteration of the STP and the developer has not done anything adverse after handing over of the facilities to the respective associations in good operational condition and hence the developer cannot be held responsible for the commissions and omissions of the Residents Associations subsequent to the handing over.
- 12) It is submitted that now this applicant has come forward filing this application before this Hon'ble Forum only as a counter blast to the accumulated pressure mounted on them from all corners i.e. from the adjacent commercial establishments, Government authorities, and so on and so forth. Hence, this application has been filed against this respondent based on false allegations as if this respondent had not provided the required STP proportionate to the capacity required in the said project.
- 13) It is submitted that from photographs taken on 12-4-2021 and on 2-7-2021 at the site it is evident that currently there is no sewerage water being let into storm water drain leading to the Highway and there is no inundation on the Highway.

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- 14) It is respectfully submitted that the Joint Committee constituted by this Hon'ble Tribunal have not properly assessed the ground situation and have submitted a theoretical report covering points which are not relevant to this case.

In these circumstances, it is therefore prayed that this Hon'ble Tribunal may be pleased to set aside the joint committee report and thereby dismiss this application devoid of any merit with costs and direct the resident associations to follow the guidelines to bring in proper maintenance of the STP regularly to resolve the issue which is the main core of the issue in this petition and thus render justice.

For ARUN EXCELLO CONSTRUCTIONS LLP

Authorised Signatory
Before Me,

Solemnly affirmed at Chennai this the
7th day of July, 2021 and signed
his name In my presence:

Advocate : Chennai