



1. I am the Secretary of the 4th Respondent Association (hereinafter "the Association") and as such, I am well-acquainted with the facts and circumstances of this case. I am duly authorized and empowered to swear this affidavit on behalf of the Association.
2. I have read the Memorandum of Appeal filed by the Appellant (hereinafter "the Promoter"). I deny all averments, allegations, and contentions raised in the appeal that are contrary to the facts stated herein, save those that are specifically admitted, and put the Promoter to the strict proof thereof.
3. I state that the 4th Respondent Association is a registered association, bearing Reg. No. SRG/Chennai Central/16/2022, and is a legally elected body functioning and discharging its duties as per its bye-laws.
4. It is humbly submitted that the present appeal is devoid of merit, manifestly frivolous, vexatious, and constitutes a gross abuse of the process of this Hon'ble Tribunal. The appeal is a calculated and disingenuous attempt by the Promoter to protract litigation and, more critically, to evade binding statutory responsibilities that it solemnly undertook as a *quid pro quo* for securing the Environmental Clearance (EC) for the project "Radiance Icon".
5. The primary grounds of the appeal are predicated on a deliberate falsehood—the denial of a sworn undertaking to operate and maintain the Sewage Treatment Plant (STP) for a period of 10 years—a commitment that is a matter of undisputed record. The Promoter's reliance on a selective and misleading reading of an order from the Tamil Nadu Real Estate Regulatory Authority (TNRERA) while conveniently ignoring the parts of the very same order that reaffirm its liability further underscores the frivolous nature of this appeal. This appeal is not a genuine legal grievance but the culmination of a clear strategy to unlawfully externalize statutory liabilities and financial responsibilities onto the residents.
6. It is a settled principle of law that a party seeking equitable relief must approach the forum with clean hands. The Promoter has fundamentally failed this test by actively suppressing material facts and making misleading statements before this Hon'ble Tribunal.
7. The Promoter has consistently and deliberately misrepresented its obligations by denying the very existence of its 10-year STP maintenance undertaking, not only in the present appeal (Grounds 6(b), 6(l)) but also in prior

proceedings. This act of suppressing its own sworn affidavit, the very document that formed the basis for the grant of the EC, demonstrates a pattern of conduct that disentitles the Promoter from any relief.

8. This Respondent, the Association, has perused the detailed Counter Affidavit filed by the 3rd Respondent, Mr. Selvaraju Duraisamy. This Respondent fully adopts and reiterates all facts, legal contentions, and arguments raised in the 3rd Respondent's Counter Affidavit as if they were set forth herein *verbatim*. This is done to avoid prolixity and repetition, as the 3rd and 4th Respondents share a common interest in upholding the impugned order. This Respondent, however, craves leave to amplify the facts that are especially and uniquely within its knowledge.

#### **FACTUAL MATRIX SPECIFIC TO THE 4TH RESPONDENT ASSOCIATION**

##### **A. The 10-Year Undertaking: The Core, Unfulfilled Obligation**

9. This Respondent confirms and relies upon the Promoter's sworn affidavit submitted to the 2nd Respondent (SEIAA), which formed the legal bedrock for the grant of the Environmental Clearance (EC) dated 14.07.2017.
10. As correctly stated in the 3rd Respondent's Counter Affidavit and in this Association's own previous pleadings, Point 4 of the said affidavit (titled "Annexure 2- Affidavit") explicitly and unambiguously states: **"We are liable for operation and maintenance of STP for 10 years from the date of operation of the project"**. This was a solemn, non-negotiable statutory commitment. The Promoter has willfully flouted this undertaking.

##### **B. The Fraudulent Procurement of the Consent to Operate (CTO)**

11. The Promoter's primary defense, as seen in Grounds 6(f) and 6(g) of the Appeal, is that the Association "applied and obtained" the CTO and is therefore solely responsible for its operation. This averment is false, misleading, and deliberately conceals a fraudulent act.
12. It is submitted that the Promoter **"fraudulently applied for renewal of the CTO in the name of the Secretary, Radiance Icon Owners Association"**. This was done **"without the knowledge or authorization"** of the Association's office-bearers. It is further submitted that the requisite fees for this renewal were paid by the Promoter, not the Association.
13. This act was a calculated maneuver to **"hoodwink the competent authorities"** and create the very **"legal shield"** that the Promoter now

For Radiance Icon Owners Association

  
Secretary

attempts to use before this Hon'ble Tribunal. A CTO obtained by fraud is a nullity and cannot be used as an instrument to transfer the Promoter's primary, pre-existing statutory liability.

### C. Abandonment, Compulsion, and Financial Duress

14. The Promoter, having created its "legal shield" via the fraudulent CTO, executed a **"sudden abandonment"** of the project's maintenance, particularly the STP. This Association states that at the time of this abandonment on or around March 15, 2022, the STP **"was not in a proper working condition"**.
15. Faced with a non-operational STP, the associated environmental and health hazards, and the threat of regulatory action from the 1st Respondent (TNPCB) (who was misled by the fraudulent CTO), the Association was **"compelled"** to take over the operation of the STP. This was not a "handover" or an "acceptance" of liability as the Promoter falsely claims; it was an act of *necessity* forced upon the residents by the Promoter's willful dereliction of duty.
16. As a direct result of the Promoter's default and abandonment, this Association is now **"incurring enormous expenses"** to refurbish, operate, and bring the defunct STP into compliance, which must be reimbursed by the Promoter.

### PARA-WISE REPLY TO THE MEMORANDUM OF APPEAL

17. The following submissions are made in response to the specific "Grounds of Appeal" raised by the Appellant Promoter, without prejudice to the preliminary objections raised above.
18. **Re: Grounds 6(a), 6(c), 6(e):** The averments in these grounds are denied. The impugned order of the 1st Respondent is just, legal, and correctly identifies the Promoter as the party with the primary, statutory, and unfulfilled liability.
19. **Re: Grounds 6(b), 6(d), 6(l):** The averments in these grounds are vehemently denied as being patently false and perjurious. The claim that the Promoter "had not given any such undertaking... for 10 years" is a direct falsehood, contradicted by the Promoter's own sworn affidavit ("Annexure 2- Affidavit"). The Promoter's reliance on Clause 10(f) of the private Construction Agreement is misplaced and legally untenable. It is settled law that a private contract between a builder and an allottee cannot supersede, nullify, or

For Radiance Home Owners Association

  
Secretary

extinguish a mandatory statutory condition (the 10-year undertaking) given to a public authority (SEIAA) as a pre-condition for the Environmental Clearance.

20. **Re: Grounds 6(f), 6(g), 6(h):** The averments in these grounds are categorically denied. The Promoter's entire defense of a completed "handover" is legally incomplete and **void ab initio**. The Environmental Clearance (EC) itself creates a *condition precedent* to any valid handover. Part C, Clause (i) of the EC is unequivocal:

**"The Project Proponent shall ensure compliance with EC conditions related to Pre construction and Construction phases before the facility is handed over for occupancy..."**

A critical, unfulfilled EC condition was securing the CMWSSB water and sewer connections "before handing over". As confirmed by CMWSSB, as of 21.11.2023, **"no application was ever registered by the Promoter"** for this connection. Since the Promoter failed to meet this mandatory statutory pre-condition, the purported "handover" on 17.06.2022 is a legal nullity. Furthermore, the CTO is invalid as it was obtained by fraud, as detailed in Paras 11-13 *supra*.

21. **Re: Grounds 6(i), 6(j), 6(k):** The averments in these grounds are denied. The Promoter's reliance on the TNRERA order dated 02.03.2023 is "selective and misleading". While the Promoter highlights the portion discussing the Association's responsibility for common area maintenance, it "deliberately omits" the fact that the *very same order* affirmed the Promoter's primary and unfulfilled liabilities. This Association correctly pointed out to the TNPCB that the said TNRERA order in C Nos. 88 & 90 to 92/2022 **"explicitly directed the Promoter to file applications and obtain the connections on or before 30.06.2023"**.

22. **Re: Grounds 6(m), 6(n):** The averments in these grounds are denied as self-serving. The Promoter's obligation was to secure these connections *before* project completion and handover. The Promoter's failure **"to even apply for the connection for several years"** is the sole cause of any subsequent procedural hurdles.

23. It is submitted that the impugned order of the 1st Respondent (TNPCB) dated 13.08.2024 is a just, lawful, and necessary regulatory action that correctly pierces the procedural veil created by the Promoter.

24. The 1st Respondent followed due process. The Board initially issued

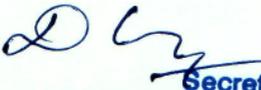
directions to the Association on 20.11.2023, as it was the apparent holder of the (fraudulent) CTO. However, upon receiving a detailed representation from this Association (vide letter dated 20.12.2023), which furnished irrefutable evidence of the Promoter's primary and unfulfilled liabilities (including the 10-year EC affidavit and the TNRERA order), the TNPCB rightly re-evaluated the matter.

25. After conducting a personal hearing with all stakeholders, the Board correctly identified the party with the ultimate *statutory* obligation: the Promoter. The impugned order is a moment of regulatory clarity that upholds the sanctity of the Environmental Clearance process over a private entity's fraudulent maneuvers. The order must be upheld in its entirety.

In light of the foregoing submissions, facts, and circumstances, it is most humbly prayed that this Hon'ble Tribunal may be pleased to:

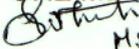
- a) **Dismiss** the present Appeal No. 70 of 2024 in its entirety as being frivolous, vexatious, and an abuse of the process of this Hon'ble Tribunal;
- b) **Uphold** the directions issued by the 1st Respondent (Tamil Nadu Pollution Control Board) in Proceeding No. T2/TNPCBd/F.004791/CHN/W&A/2023 dated 13.08.2024 as being just, legal, and proper; and
- c) Pass such other or further orders as this Hon'ble Tribunal may deem fit and proper in the interests of justice and environmental protection.

For Radiance Icon Owners Association

  
Secretary

Solemnly affirmed the contents )(   
Of this affidavit at Chennai on )(   
This 6<sup>th</sup> day of November 2025 & )(   
Signed his name in my presence )(

BEFORE ME

  
Ms: 13/01/24

ADVOCATE:: CHENNAI

No. 22 Ethiraj Sani Salai  
Evelkanchy ch-118.

TRIBUNAL, SOUTH ZONE, CHENNAI  
Appeal No.70 of 2024  
(Against the Proceeding  
No.T2/TNPCBd/F.004791/CHN/W&A/2023  
dated 13.08.2024 passed by the Tamil Nadu  
Pollution Control Board)

Between :  
M/s Radiance Realty Developers India Limited  
Represented by its Authorized Signatory  
Mr. K. Kannadasan  
...Appellant

-Vs-

Tamil Nadu Pollution Control Board,  
No.950/1, P.H. Road, 2<sup>nd</sup> Floor  
Arumbakkam, Chennai – 600 106.  
Represented by its Chairperson & others  
(Respondents)

COUNTER AFFIDAVIT OF  
4<sup>TH</sup> RESPONDENT ASSOCIATION

M/s. TERRY CHELLA RAJA  
COUNSEL FOR 4<sup>TH</sup> RESPONDENT  
ASSOCIATION  
MOB: 9840168603  
Email Id: terrychellaraja@gmail.com