

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI

E.A No. 01 of 2024 (SZ)

In

ORIGINAL APPLICATION NO. 130 of 2022 (SZ)

IN THE MATTER OF:

Dr. Sajida Wahab,

W/o.N.Ahkmad Ibrahim

No.S-1, Shastri Nagar,

2nd Avenue, Adyar,

Chennai- 600 020.

...APPLICANT

Versus

1. THE COMMISSIONER,

Kudrathur Municipality,

Kudrathur, Chennai - 600 069.

2. M/S. M.P. DEVELOPERS,

Represented by M. Praveen,

Managing Partner,

Plot No.2, 3/1B 2^d Floor,

Tannery Street, Somasundaram Nagar,

Pallavaram Chennai -600 043.

3. TAMILNADU POLLUTION CONTROL BOARD.

Represented by its Chairman,

Guindy, Chennai- 600 032.

... RESPONDENTS

COUNTER FILED ON BEHALF OF THE 2ND RESPONDENT

I, M. Praveen, son of Mr. M. Poornachandran, aged about 40 years,
the Managing Partner of M/s. M.P. Developers, having its registered office at Plot

For MP DEVELOPERS


Partner

No.2, 3/1B, 2nd Floor, Tannery Street, Somasundaram Nagar, Pallavaram, Chennai – 600043, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am well acquainted with the facts and circumstances of the present Execution Application and I am competent to swear to this affidavit on behalf of the 2nd Respondent.
2. I respectfully submit that the present Execution Application No. 01 of 2024 has been filed in respect of the final order dated 24.04.2023 passed by this Hon'ble Tribunal in O.A. No. 130 of 2022 titled Dr. Sajida Wahab Vs The Commissioner, Kundrathur Municipality, wherein allegations were made by the Applicant regarding discharge of untreated sewage and sullage by residential units situated in Manikandan Nagar, Kundrathur, which purportedly caused environmental degradation to the adjoining land owned by the Applicant.
3. I submit that the 2nd Respondent was unnecessarily impleaded in the Execution application as well in the original application. In this regard, the 2nd Respondent has specifically submitted in the course of original application that the Respondent No.2 had only been granted a limited Power of Attorney by the layout promoters solely for the purpose of constructing residential units on the subject property, and after the completion of construction, the residential units were sold by the landowners to independent purchasers. The 2nd Respondent has no continuing role, right, or interest in the said layout or its post-sale occupation and maintenance. Hence, no liability can be fastened upon the 2nd Respondent.
4. It was also submitted in the course of original application that the entire construction was carried out in accordance with the layout and building permissions granted by the Chennai Metropolitan Development Authority

For MP DEVELOPERS


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(CMDA) and the Kundrathur Municipality. Each individual unit was provided with an independent septic tank and soak pit as per the applicable building norms and planning regulations for small plots. These facts were independently verified by the Tamil Nadu Pollution Control Board (TNPCB). The PCB in its report has categorically stated that installation of a Sewage Treatment Plant (STP) was not mandated due to the limited number of dwelling units.

5. I respectfully submit that a joint inspection was also conducted by the TNPCB on 06.02.2023 and it was recorded therein that the sullage discharge had already been abated and the septic tanks and soak pits were found to be operational and functional. Moreover, the local municipal authorities are already in the process of setting up an underground sewage in the locality.
6. After detailed consideration of the above submissions, this Hon'ble Tribunal disposed of the Original Application No. 130 of 2022 vide final order dated 24.04.2023 with following directions that are extracted below:

“(i) The 1st respondent is directed to ensure that all the residents within the Municipality have a proper septic tank or soak pit for the disposal of the sewage/sullage water respectively till such time the STP by CMWSSB is constructed.

(ii) The 1st respondent is directed to expedite the process of completing the construction of the underground sewage system to avoid such incidents in future.

(iii) The 1st respondent is also directed to ensure that the private tankers who are clearing the sewage water do not decant the same in storm water drainage which would ultimately meet the Adyar River without being treated.

(iv) The 1st respondent is further directed to monitor the said aspects and impose heavy penalty on the violators bearing in mind that already the Municipality was issued with the notice by the Tamil Nadu Pollution Control Board.

For MP DEVELOPERS



Partner

(v) As it is found that the residents of the 2nd respondent units are responsible for letting sullage into the applicant's land, the applicant is entitled for compensation for remediation which would be assessed by the Pollution Control Board and collect the same from the residents and pay to the applicant. ””

From the bare reading of the above-mentioned order, it is crystal clear that the 1st Respondent Municipality was specifically directed to complete the underground sewerage system (UGS) within its jurisdiction. Furthermore, this Hon'ble Tribunal observed that the residents of the 2nd respondent were responsible for the pollution allegedly caused to the applicant's land. The reference to "residents" made by this Hon'ble Tribunal is general in nature and pertains to the current occupants of the residential units constructed by the 2nd Respondent since the applicant has failed to implead the necessary party in the application. It is pertinent to state that no specific or executable direction has been issued against the 2nd Respondent herein.

7. I respectfully submit that the present Execution Application has been filed contrary to the express intent and scope of Section 15 of the National Green Tribunal Act, 2010, which mandates that compensation for environmental damage shall be assessed and recovered from the actual wrongdoer or violator. The legislative intent is clear that liability cannot be imposed on a third party who had no contributory role in causing the environmental harm. The 2nd Respondent, having merely undertaken construction in accordance with statutory approvals and handed over the units upon completion, cannot be treated as a violator or wrongdoer.

For MP DEVELOPERS



Partner

8. It is further submitted that the final judgment dated 24.04.2023 does not contain any specific, operative, or enforceable direction against the 2nd Respondent. Our role was limited to construction based on valid statutory permission and the possession of the units was subsequently handed over to the layout owner and individual purchasers. The responsibility to monitor and ensure compliance with environmental norms rests with the Tamil Nadu Pollution Control Board, which is empowered to take appropriate action against the violators, i.e., the current residents. No liability or obligation has been fastened upon the 2nd Respondent by the Hon'ble Tribunal either in the Original Application or in the final order passed therein.

PRAYER

In view of the foregoing, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- I. Delete the 2nd Respondent from the array of parties in Execution Application No. 01 of 2024 as no specific or executable direction has been issued against it in the final order dated 24.04.2023 passed in O.A. No. 130 of 2022 titled Dr.Sajida Wahab Vs The Commissioner, Kundrathur Municipality;
- II. Impose exemplary costs on the Applicant for unnecessarily impleading the 2nd Respondent both in the Original Application and the present Execution Application, without any basis;
- III. Pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case, and thus render justice.

For MP DEVELOPERS



Partner

VERIFICATION

I, M. PRAVEEN, Managing Partner of M/s M.P. Developers, having office at Plot No.2, 3/1B, 2nd Floor, Tannery Street, Somasundaram Nagar, Pallavaram, Chennai – 600043, do hereby verify that the contents of the above paragraphs are true and correct to the best of my knowledge and belief, and are based on legal advice and that I have not suppressed any material fact.

Dated at Chennai on this the 5th day of June, 2025

For MP DEVELOPERS



Partner

2ND RESPONDENT

BEFORE THE NATIONAL GREEN
TRIBUNAL (SZ) BENCH
AT CHENNAI

E.A No. 01 OF 2024 (SZ)

IN

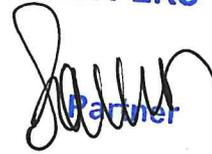
OA.No. 130 OF 2022 (SZ)

COUNTER FILED BY

2ND RESPONDENT

DATED 05.06.2025

For MP DEVELOPERS



Partner

M/S. G STANLY HEBZON SINGH

(3087/2009)

COUNSEL FOR 2ND RESPONDENT