

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

ORIGINAL APPLICATION NO. 127 of 2024 (SZ)

IN THE MATTER OF

Mrs. Neena.S,
No.23-9-744/3, Premier Aristo Apartments,
Flat No. 02, Ground Floor,
Mangaluru Thota Village,
Mangalore – 575 001 and 4 others ... Applicants

and

The Joint Chief Controller of Explosives,
South Circle, Chennai,
Petroleum and Explosives Safety Organisation (PESO),
A and D Wing, Block 1-8, 2nd Floor,
Shastri Bhawan, No.26, Haddows Road,
Nungambakkam, Chennai – 600 006 and 3 others ... Respondents.

I N D E X

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1	Rejoinder Affidavit dated 15.01.2025 in Response to the Reply Statement filed by the 4 th Respondent.	1 - 7
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Place : Chennai
Date : 16.01.2025

Filed by :



V.B.R. MENON
COUNSEL FOR APPLICANTS
Mobile : 9384762930
E-mail : vbrmenon@gmail.com

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

ORIGINAL APPLICATION NO. 127 of 2024 (SZ)

1. Mrs. Neena.S,
No.23-9-744/3, Premier Aristo Apartment,
Flat No. 02, Ground Floor,
Mangaluru Thota Village, Mangaladevi,
Mangalore – 575 001
2. Mrs. Vimala,
No.23-9-754, Krishnappa Compound,
Mangaladevi, Mangalore – 575 001
3. Mrs. Chitrarekha,
No.23-9-753, Krishnappa Compound,
Mangaladevi, Mangalore – 575001
4. Mrs. Gunavathi
No.23-9-752, Krishnappa Compound,
Mangaladevi, Mangalore – 575001
5. Mrs. Shashikala,
No.23-9-751, Krishnappa Compound,
Mangaladevi, Mangalore – 575001

... Petitioners

and

1. The Joint Chief Controller of Explosives,
South Circle, Chennai,
Petroleum and Explosives Safety Organization (PESO),
A and D Wing, Block 1-8, 2nd Floor,
Shastri Bhawan, No.26, Haddows Road,
Nungambakkam, Chennai – 600 006
2. The Commissioner of Police,
Mangaluru City,
Near Police Training School,
Pandeshwar, Mangaluru ,
Karnataka – 575 001



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15 JAN 2025

Errors/Corrections Etc.

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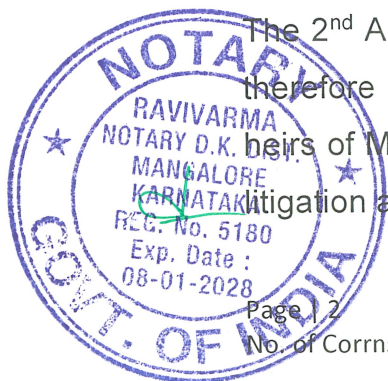
3. The Senior Environmental Officer,
Karnataka Pollution Control Board,
Plot No.10B, Parisara Bhavana, Baikampady,
Industrial Area, Mangaluru – 575 011
4. The Chief Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Mangaluru Retail Regional Office,
First Floor, Deo Gratias Building,
Chilimbi, Urwa Stores, Mangaluru – 575 006 ... Respondents.

**REJOINDER AFFIDAVIT FILED TO THE REPLY STATEMENT FILED
BY THE 4th RESPONDENT**

We, (i) Mrs. Neena.S, W/o Sameer.R, aged 66 years, residing at No. 23-9-744/3, Premier Aristo Apartment, Flat No. 02, Ground Floor, Mangaluru Thota Village, Mangaladevi, Mangalore – 575 001 , (ii) Mrs. Chitrarekha , W/o. B. Sudesh Kumar Rao, aged 49 years , residing at No.23-9-753, Krishnappa Compound, Mangaladevi, Mangalore – 575001 (iii) Mrs. Gunavathi, W/o.Udayakumar, aged 56 years, residing at No. 23-9-752, Krishnappa Compound, Mangaladevi, Mangalore – 575001 and (iv) Mrs. Shashikala, D/o. B. Vasantha, aged 61 years, , residing at No.23-9-751, Krishnappa Compound, Mangaladevi, Mangalore – 575001, do hereby solemnly affirm and sincerely state as follows :

1. We are the 1st, 3rd to 5th Applicants in the instant Original Application No. 127 of 2024 (SZ) and as such we are well acquainted with the facts and circumstances of the case and competent to swear this Rejoinder Affidavit to the Reply statement filed by the 4th Respondent.

The 2nd Applicant, Mrs. Vimala, has unfortunately died on 06.01.2025 and therefore not included in filing the instant Rejoinder Affidavit . The legal heirs of Mrs. Vimala are yet to confirm their willingness to join the present litigation as Petitioner/s.



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2. We have read the above Reply statement filed by the 4th Respondent and we are filing this Rejoinder Affidavit against the same and seek liberty from this Hon'ble Tribunal to file further affidavit / affidavits , if found necessary later.

3. We deny all the averments made by the 4th Respondent in the Reply statement except those which are specifically admitted herein and the 4th Respondent is put to strict proof of the rest.

4. We state that we have filed the above Application seeking to :

A. permanently forebear the 4th Respondent from commissioning and operating the new Petroleum Retail Outlet -Cum- Auto LPG Dispensing Station at Survey No. 644, Mangaluru Thota Village, Mangaluru Taluka , Dakshin Kannada District, Karnataka State, in gross violation to the Siting Criteria prescribed by the Central Pollution Control Board (CPCB) in Clause "H" of the Office Memorandum No. B-13011/1/2019-20/AQM/10802-10847 dated 07.01.2020 and thereby pose serious threats to the health and safety of the Applicants who reside in the adjacent approved residential premises.

and

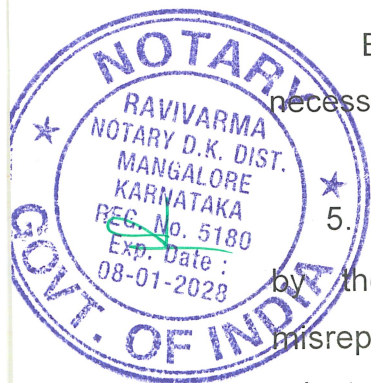
B. pass such further order or orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.

5. We further state **at the outset** that the Reply statement filed by the 4th Respondent is a bundle of lies, falsehood and misrepresentations aimed to mislead this Hon'ble Tribunal from arriving at a just and correct decision in the pending dispute. He had initially got the layout approval from PESO by showing the surrounding residential buildings as just "buildings" and changed those to "Residential buildings" in the revised Site Layout Drawing only after the

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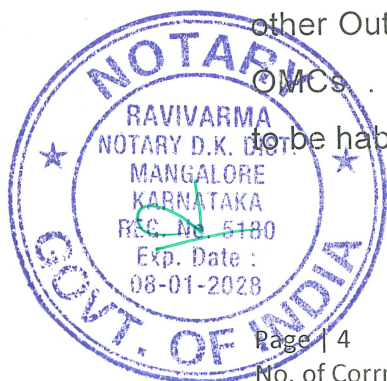
Applicants had submitted their objections to PESO . The following submissions shall further fortify the untrustworthy conduct of the 4th Respondent during the entire approval/ licence process .

6. The para-wise responses to the reply statement submitted by the 4th Respondent are as under ;

7. Regarding Para Nos. 1 to 8 , there are no repartee to make by the Applicants .

8. Regarding Para No.9 (4) , the Google Earth photographs submitted herein shall expose the falsity of the assertion of the 4th Respondent that the Civil works had commenced at site on 10.12.2019 as the Site had been lying as a virgin plot without any site development at least up to March, 2022. Further the contention in Para No. 9(5) reveals that the Site was under Residential category when the Prior Site Approval was applied and obtained . Further , Para Nos.9(9) and 9(11) shall reveal that the application for tree cutting at the site was submitted only on 04.05.2022 and the NOC obtained from Forest Dept. was obtained only on 22.02.2023 , without which no site development works could have commenced.

9. Regarding Para No.10 , there is nothing to show that the instant Petroleum Outlet is unique in any manner as compared to all the other Outlets being established presently by the 4th Respondent or other OMCs . It is just another bald claim which the 4th Respondent appears to be habituated to .



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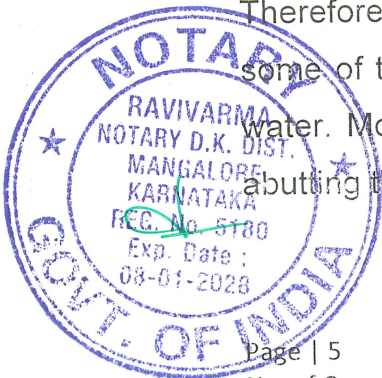
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10. Regarding Para Nos.11 to 14(i) , the previous submissions in Para No.8 shall be sufficient to prove that the contentions of the 4th Respondent in Para Nos.11 to 14(i) regarding the commencement of construction works prior to 07.01.2020 are totally false and motivated as no construction works had commenced at the site prior to the year 2023.

11. As regards the Contentions in Para No. 14(ii) , copies of the area Master Plan and other Aerial Photos ,submitted by the Applicants , shall unequivocally show that the adjacent premises owned by the Applicants are still under residential classification as per local laws. By obtaining reclassification of only the Petrol Pump Site into commercial category, CPCB Siting Criteria in respect of the adjacent/ surrounding residential premises would still survive . The present or past classification of the Petrol Pump Site is immaterial to the present dispute . Finally the Contention of the 4th Respondent that the Town Planning and Corporation laws permit operation of the Petrol Pump in a residential area shall also fail in view of the law settled by the Hon'ble Apex Court in the case of Mantri Techzones Case wherein it has been held that the CPCB/NGT guidelines shall have an overriding effect over State Laws. As regards Para No.14(iii), it merits no response in view of the above facts

12. As per bye laws of Mangalore City Corporation, a building is classified as residential if the area used for residential purposes is more than the area used for commercial use in the ground floor of the building . Therefore, the contentions of the 4th Respondent that some portions of some of the adjacent buildings are used for commercial use also hold no water. Moreover , apart from those buildings , there are 4 other houses abutting the retail outlet and used exclusively for residential houses only .



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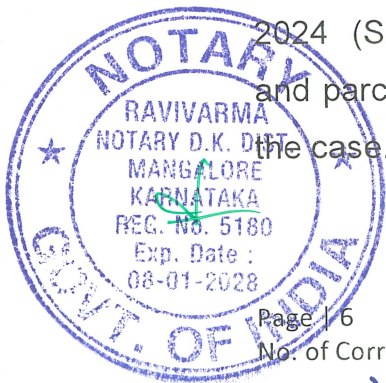
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13. Regarding Para Nos.15 to 17 and 20 to 24 , the submissions of the 4th Respondent are irrelevant to the dispute on hand and therefore do not deserve any response from the Applicants except that the officials who had taken the decision to establish the Petrol Pump in the above prohibited location shall be held liable for the huge monetary loss that they have caused to HPCL, a PSU run on state funds, due to their thoughtless and negligent actions.

14. Regarding Para No.18 and 19, the question of providing Additional safety measures do not arise in this case as the minimum distances of the Vent Pipes, Filling Points and Dispensing Units from the nearest residential areas are much less than even the concessionary minimum distance of 30 M prescribed under the CPCB Norms. As of now the Petrol Pump-Cum-Auto LPG Dispensing Station is just 4 Mtrs. and the Dispensing units are about 15 Mtrs. from the nearest residential premises . The Vent pipe as per final license copy is yet to be installed at site.

15. Regarding Para No.24 , the 4th Respondent shall be free to make changes and submit revised plans to the Authorities for their approval even though such an exercise shall be futile in the instant case as no permutations and combinations shall be possible to meet the CPCB Siting Criteria as the width of the Site is only 33 M and residential premises are situated on either sides of the Site..

16. The averments made in the Original Application No. 127 of 2024 (SZ) , Additional Documents Nos.1, 2 and 3, may be read as a part and parcel of this Rejoinder Affidavit for better appreciation of the facts of the case.



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It is therefore prayed that this Hon'ble Tribunal may be pleased to reject the Reply statement filed by the 4th Respondent being devoid of any merit and full of lies and falsehood and allow the above Original Application as prayed for and thus render justice .

Counsel for the Applicants

Applicants

VERIFICATION

The Applicants (i) Mrs. Neena.S, (ii) Mrs. Chitrarekha , (iii) Mrs. Gunavathi, and (iv) Mrs. Shashikala, do hereby verify that the contents of paras 1 to 16 are true to our personal knowledge and that we have not suppressed any material fact .

Applicants

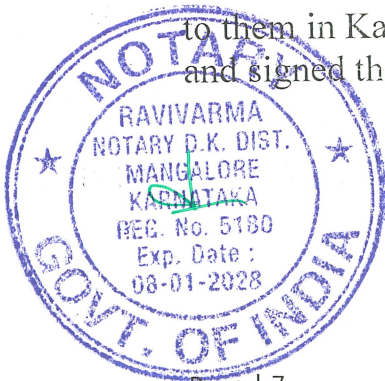
Solemnly affirmed at Mangaluru on this the 15th day of January, 2025 and the contents of the Rejoinder Affidavit are read out and explained to them in Kannada and they understood and signed their names in my presence

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GURUPRASAD
B.A., (Law) LL.B.
Roll No. KAR321/97
ADVOCATE
1st Floor, "Vijayashree Chambers"
Near Karangalpady Market
Karangalpady, MANGALORE - 575 003

ADVOCATE ::: MANGALURU

Sworn / Solemnly affirmed and Signed Before me this 15th day of Jan 2025 at Mangalore



NOTARIAL REGISTER No. 144/2025

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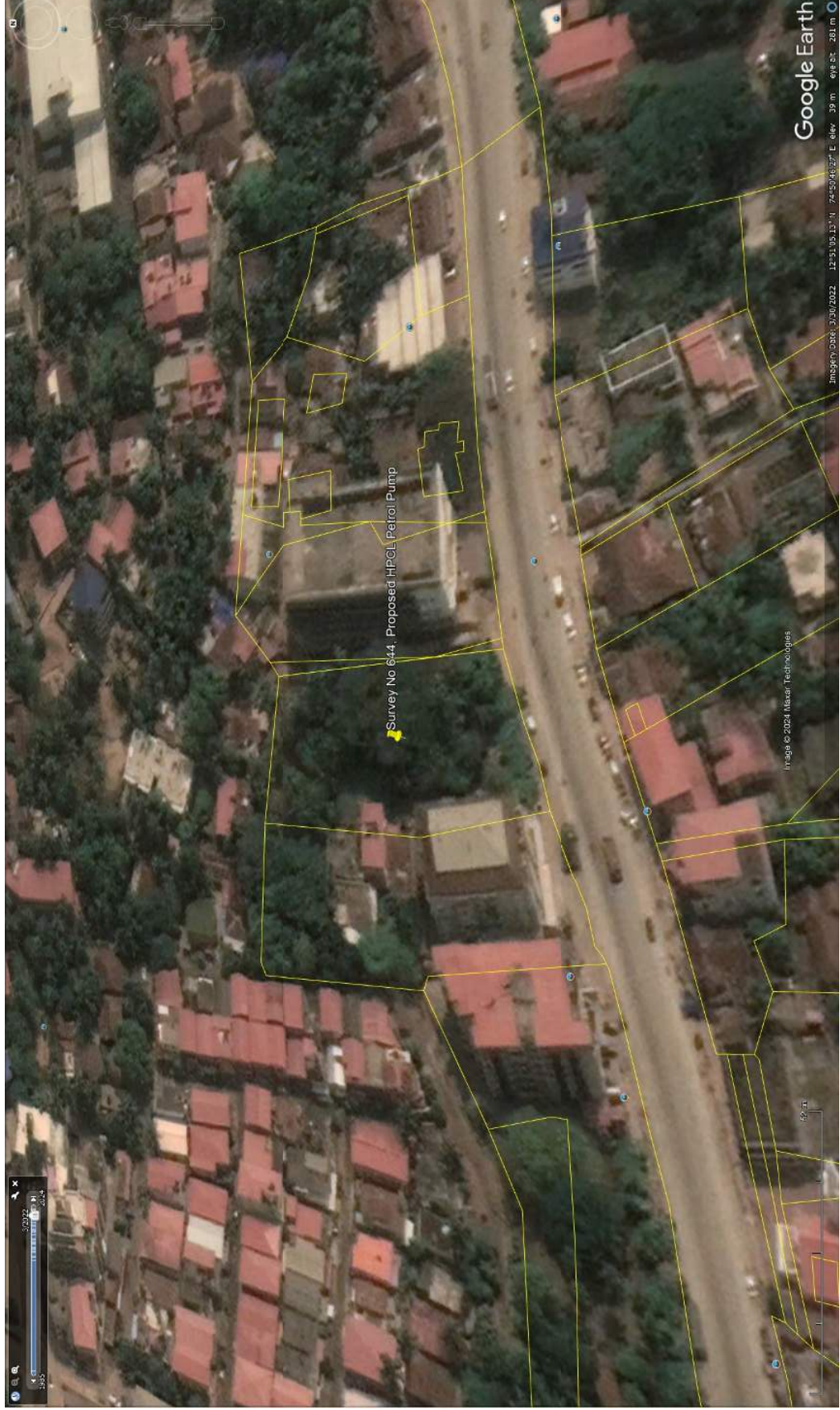
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15/1/2025
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MANGALORE

Errors/Corrections Etc. *with*

STATUS OF THE PROPOSED SITE AS ON 30.03.2022



STATUS O THE PROPOSED SITE AS ON 15.11.2023



Serving of Rejoinder Affidavit in OA No. 127 of 2024 (SZ)

V B R MENON <vbrmenon.office@gmail.com>

Thu, Jan 16, 2025 at 10:45 PM

To: "Joint Chief Controller of Explosives Chennai, PESO" <jtccechennai@explosives.gov.in>, compolmgc@ksp.gov.in, mangalore@kspcb.gov.in, saravanansenniyan@gmail.com

V.B.R. Menon, B.E(Mech), MBA (IIMA), LL.B.**ADVOCATE****Resi****: Flat No.4B, Brook Dale Apartments,****HIGH COURT OF MADRAS****No.12, P.T. Rajan Salai, K.K. Nagar,****CHENNAI****Chennai – 600078****Mobile : 9384762930****E-mail : vbrmenon@gmail.com**

Date : 16.01.2025

To,

1. The Joint Chief Controller of Explosives,
South Circle, Chennai,
Petroleum and Explosives Safety Organization (PESO),
A and D Wing, Block 1-8, 2nd Floor,
Shastri Bhawan, No.26, Haddows Road,
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2. The Commissioner of Police,
Mangaluru City,
Near Police Training School,
Pandeshwar, Mangaluru ,
Karnataka – 575 001
3. The Senior Environmental Officer,
Karnataka Pollution Control Board,
Plot No.10B, Parisara Bhavana, Baikampady,
Industrial Area, Mangaluru – 575 011
4. The Chief Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Mangaluru Retail Regional Office,
First Floor, Deo Gratias Building,
Chilimbi, Urwa Stores,
Mangaluru – 575 006 -- Through Mr.M. Saravanan, Standing Counsel

Sirs / Madam,

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Sub: Serving of Rejoinder Affidavit in OA No. 127 of 2024 (SZ) - Reg.

Attached please find a soft copy of the Rejoinder Affidavit to be filed in OA No. 127 of 2024 (SZ) (Mrs. Neena.S and Ors., Vs.. The Joint Chief Controller of Explosives, Chennai and ors) . The matter has been posted for further hearing on 23.01.2025

Kindly acknowledge receipt.

Yours faithfully,



V.B.R. MENON
Counsel for Applicants.

Encl : As above.

 OA 127 OF 2024 REJOINDER AFFIDAVIT1.pdf
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**BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL SOUTHERN ZONE
SITTING AT CHENNAI**

Original Application No. 127 of 2024

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A and D Wing, Block 1-8, 2nd Floor,
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No.26, Haddows Road,
Nungambakkam,
Chennai – 600 006
and 3 others... Respondents.

**REJOINDER AFFIDAVIT
TO 4th RESPONDENT**

**V.B.R Menon, B.E, MBA(IIMA), LLB,
(Ms – 23 / 2012)
Counsel for Applicants
Ph: 9384762930**