

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ)**  
**BENCH AT CHENNAI**  
**Original Application No.169 of 2025**

M. Asraf Ali  
S/o.Mohammed Sharif  
12, Balaiya Avenue,  
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Chennai - 04  
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...Applicant

vs

1. Tamil Nadu Pollution Control Board,  
Rep. by District Environmental Engineer,  
Chennai South District Office,  
1<sup>st</sup> Floor, No. 14, 2<sup>nd</sup> Main Road,  
Jagannathapuram, Rajalakshmi Nagar,  
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e-mail: [deechs@tnpcb.gov.in](mailto:deechs@tnpcb.gov.in)
2. Commissioner of Police,  
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EVK Sampath Road,  
Vepery, Chennai – 600 007  
e-mail: [cop.chncity@tncctns.gov.in](mailto:cop.chncity@tncctns.gov.in)
3. The Inspector of Police  
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Kutchery Road,  
Madhavaperumalpuram,  
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e-mail: [mylaporerereps2004@gmail.com](mailto:mylaporerereps2004@gmail.com)
4. Appaswamy Real Estates  
Rep. by its authorized representative  
No.3, Mangesh Street, T.Nagar  
Chennai – 600 017  
e-mail: [info@appaswamy.com](mailto:info@appaswamy.com)

...Respondents

**INDEX**

<b>S.NO.</b>	<b>DATE</b>	<b>DOCUMENT</b>	<b>PAGE NO.</b>
1.	10.12.2025	COUNTER AFFIDAVIT FILED BY THE 4 <sup>TH</sup> RESPONDENT	<b>1-8</b>

Dated at Chennai on this the 12<sup>th</sup> day of December 2025.



**COUNSEL FOR THE 4<sup>TH</sup> RESPONDENT**

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e-mail: [info@appaswamy.com](mailto:info@appaswamy.com)

...Respondents

For APPASWAMY REAL ESTATES LTD



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**COUNTER-AFFIDAVIT FILED BY THE 4<sup>TH</sup> RESPONDENT**

I, T.V. Sathia Narayana, aged about 60 years, son of Shri. T. Venkatanarasimhan, having office at No. 3 Mangesh Street, T.Nagar, Chennai – 600 017, do hereby solemnly affirm and sincerely state as follows:

1. I am the authorized representative of the 4<sup>th</sup> Respondent Company herein, and as such well acquainted with the facts and circumstances of the present case, and thus authorized and competent to swear to this affidavit.
2. The contents of the Original Application are specifically denied except those that are expressly admitted herein. Absence of any specific denial shall not be deemed to be an admission by the Respondent.
3. The Applicant has filed the present application praying inter alia, for the following:
  - a. *“Direct the Respondents to forthwith ensure compliance with the Noise Pollution (Regulation and Control) Rules, 2000 and restrain the 4<sup>th</sup> Respondent from continuing construction activities beyond permissible noise levels and time limits;*
  - b. *Grant compensation under Section 15 of the National Green Tribunal Act, 2010 to the Applicant to the tune of Rs.10,00,000/- for the violation of his right to a noise free and healthy environment, and for the physical and mental harm caused due to the sustained noise pollution;*
  - c. *Direct the 1<sup>st</sup> Respondent to periodically monitor the construction activities of the 4<sup>th</sup> Respondent and to issue statewide guidelines to ensure adherence to the permissible noise levels prescribed under the Noise Pollution (Regulation and Control) Rules, 2000;”*
4. The 4<sup>th</sup> Respondent herein most humbly submits that the Application is ex-facie untenable and filed with the sole intention of attempting to threaten and interfere with the lawful construction activities of the 4<sup>th</sup> Respondent Company by subjecting it to vexatious litigations one after the other, and to prevent the construction set to come up at the subject site.
5. It is submitted that the reliefs prayed for are not only wholly misconceived and an abuse of process, but are also not-maintainable and ought to be dismissed *in limine* for the following reasons (a) Res Judicata, (b) Forum shopping, (c)

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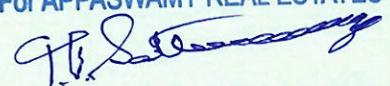
Limitation, (d) abuse of process and (e) Suppression of material facts before this Hon'ble Tribunal, apart from being untenable on merits as well.

6. The 4<sup>th</sup> Respondent's objections to the Application are as follows:-

**i. MAINTAINABILITY OF THE PRESENT APPLICATION:**

7. At the outset, it is submitted that the present Application is not the first time this dispute is being agitated by the Applicant herein. The Applicant claims to be a person resident in the vicinity of the ongoing construction activity undertaken by the 4<sup>th</sup> Respondent at Luz Church Road, Mylapore in in respect of its project "Kamadhenu".
8. It is respectfully submitted that the very same Applicant herein, had filed W.P.No.11017 of 2025 before the Hon'ble High Court of Madras, praying for writ of mandamus directing the Tamil Nadu Pollution Control Board ('**TNPCB**') to take immediate and necessary action on his Complaint dated 10.02.2025 (seeking for identical reliefs as prayed for herein) submitted by the Applicant as against the 4<sup>th</sup> Respondent herein. It is pertinent to state that the averments and grounds raised therein, and those raised herein are identical, as admitted by the Applicant himself.
9. It is most humbly submitted that the conduct of the Applicant is in complete disregard of the Order of the Hon'ble High Court of Madras and in scant respect for the same. The Hon'ble High Court, while issuing notice in the writ petition, directed the TNPCB to inspect the premises and conduct an inspection regarding the allegations made by the Applicant therein, which are similar to the present application. Based on the direction of the Hon'ble High Court, TNPCB conducted an inspection and filed its report, which categorically recorded that the 4<sup>th</sup> Respondent is not violating any rules or conditions regarding noise pollution, which was found to be well within the prescribed limits. Upon consideration of the report filed by TNPCB indicating that noise pollution were well within permissible limits, the Hon'ble High Court was pleased to record the same and dispose of the writ petition directing the TNPCB to conduct periodical inspection in accordance with law. Being so, the Applicant seeks to re-litigate and reopen an issue already settled by the Hon'ble High Court in an ill-conceived attempt to stall the construction project of the 4<sup>th</sup>

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Respondent, especially when the inspection conducted by the 1<sup>st</sup> Respondent upon the direction of the Hon'ble Court confirmed that the 4<sup>th</sup> Respondent was in strict compliance of the Noise Pollution (Regulation and Control) Rules, 2000 ('Rules').

10. The Applicant through this application is seeking to re-agitate the present dispute on the same cause of action, while no new grounds have been made out or even pleaded. By way of clever drafting, the Applicant seeks a prayer for compensation before this Hon'ble Tribunal in order to maintain the present application, which is wholly misconceived. There is no injury caused to the Applicant and the averments are totally imaginary and are denied. From the averments made in the application it is abundantly clear that the Applicant is seeking to re-agitate the very same cause of action having failed to obtain any reliefs against the 4<sup>th</sup> Respondent before the Hon'ble High Court in the aforesaid writ petition. It is also most humbly submitted that the Applicant, having not raised any objection on the report submitted by TNPCB therein and accepting the same, is now attempting to cast baseless and unfounded aspersions on the said report without providing any reasons or producing even an iota of evidence for the same. In fact, the Applicant ought to have raised all these issues before the Hon'ble Madras High Court which he failed to do, and hence, is estopped from raising the same before this Hon'ble Tribunal seeking to re-litigate the issues.
11. Even assuming without admitting that the Applicant was aggrieved by the non-compliance of the Orders of the Hon'ble High Court, then the Applicant ought to seek relief before the appropriate forum which is the Hon'ble High Court itself, and not to initiate a fresh round of vexatious proceedings based on concocted and false allegations, constituting a gross abuse of the process of the law and forum shopping.
12. Further, the Applicant, during the pendency of the writ petition had failed to produce any documentation evidencing any injury or alleged medical conditions due to the alleged (baseless and fabricated) noise pollution. Having failed to do so and not having sought any appropriate relief before the Hon'ble High Court in this regard, the Applicant is estopped from raising the same here,

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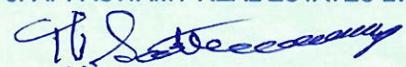


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especially when the Hon'ble High Court had not granted any liberty to the Applicant for the same. The Applicant is engaging in roving expeditions before various fora, in an attempt to bring the construction of the 4<sup>th</sup> Respondent to a standstill, by adopting devious tactics and trying to hoodwink the Courts, for reasons best known to the Applicant.

13. That apart, a bare perusal of averments regarding limitation in the Application would reveal that the cause of action admittedly first arose on 30.01.2025. Being so, the Applicant ought to have filed the present Application on or before 30.07.2025 (6 months). However, it appears from the Application, that it was executed on the 05.08.2025 and filed much thereafter, thereby clearly evincing that the Application has been filed after the statutory period of limitation of six months. Hence, the Application is liable to be dismissed on this ground also.
14. The Applicant has suppressed material facts striking at the root of the present dispute, and the Application deserves to be dismissed on this ground alone. It is submitted that a mere 2 meters away from the construction site of the 4<sup>th</sup> Respondent, across the road, the Chennai Metro Rail Limited ('**CMRL**') is building a huge metro station, the deepest underground station/line as reported, and by employing traditional heavy machinery including tunnel boring machine and such other machinery causing heavy noise and way more noise than the 4<sup>th</sup> Respondent's construction site (photos annexed). This construction of Chennai Metro Rail has been ongoing for even longer, as have some other larger constructions in the same vicinity, which is now a thriving commercial hub. However, the Applicant chose to ignore all that and has cherry picked the 4<sup>th</sup> Respondent's construction, despite being well aware that the same is being carried out in compliance with all rules and regulations, only to harass the 4<sup>th</sup> Respondent and to hold the 4<sup>th</sup> Respondent ransom to his threats and unjustified demands.
15. In fact, the Applicant has actively suppressed this crucial fact before this Hon'ble Tribunal, and has attempted to pass off any sound/noise produced by the CMRL as attributable to the 4<sup>th</sup> Respondent, for reasons best known to him, which is wholly untenable.

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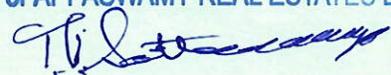


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## ii. REPLY ON MERITS

16. Without prejudice to the above submissions on the very maintainability of the Application, the 4<sup>th</sup> Respondent is setting forth below its submissions on merits, evincing its strict compliance with the applicable laws and permit conditions.
17. The 4<sup>th</sup> Respondent was established in the year 2000 in Chennai. Since its inception, it has been involved in the Hospitality and Construction business. The 4<sup>th</sup> Respondent most humbly submits that the present Application is premised on a blatant falsehood that the Applicant engages in '*continuous drilling, hammering and other high decibel construction operations*' and is bereft of any particulars that point out a violation. The 4<sup>th</sup> Respondent, in order to be with strict compliance with the applicable rules, does not use drilling machines. It is pertinent to point out that the CMRL site, 2 meters away from the 4<sup>th</sup> Respondent's construction site uses heavy drilling machinery and further, carries out operations through the night. The 4<sup>th</sup> Respondent also carries out periodical noise pollution and ambient air quality assessment and ensures that the activities are in compliance with the applicable rules.
18. It is also evident from the inspection report dated 11.04.2025 submitted by the 1<sup>st</sup> Respondent's Engineer pursuant to the Hon'ble High Court's directions (as recorded in the Order dated 30.04.2025 in W.P.No.11017 of 2025) that the noise produced in the construction site (situated in commercial zone) is well within the decibel levels, as shown from the 4<sup>th</sup> Respondent's own assessments. The 4<sup>th</sup> Respondent also strictly complies with the permit conditions and does not engage in noise producing activity before 8 AM and beyond 6 PM. On the contrary, CMRL's constructions activities go well into the evening/ night.
19. It is pertinent to place on record that the TNPCB's independent court directed assessment and the 4<sup>th</sup> Respondent's own assessments would show that the 'home-made' noise analysis report produced by the Applicant is inflated, demonstrably false and therefore denied *in toto*.
20. The 4<sup>th</sup> Respondent also employs state of the art construction equipment to ensure that sound is kept to a minimum. It employs the latest pile boring method (Rotary bored piling rig), a universally accepted standard, which hardly

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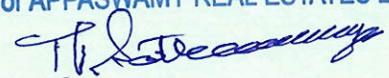


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produces any sound during boring operations and even that minimal sound is only during the removal of soil from the bucket which takes about 30 seconds. Further, even this rig has been moved much further away from the Applicant's location several months ago, and even during operations produces only 50-55 decibels noise as evident in TNPCB's inspection report. On the contrary, CMRL employs a different pile rig equipment which is understood to produce a much higher decibel output.

21. Further, the construction site utilizes Ready Mix Concrete ('RMC') for all concrete work which does not require drilling at all. In this method, the entire mixing and batching process is carried out off-site at a certified RMC plant. Consequently, no concrete mixing activities take place within the project premises. It is further submitted that, unlike concrete mixers where the mixture is prepared by churning the raw materials in large barrels at the construction site, RMC is prepared and readily brought to site in lorries for application. At the site, the RMC is only pumped and poured, which involves minimal mechanical activity and substantially lower noise levels compared to conventional on-site concrete mixing. No batching, loading, or aggregate handling occurs at the site that could contribute to noise pollution. The use of RMC significantly reduces noise generation and ensures that construction operations remain well within permissible noise limits. This entire process produces noise within permissible level and keeps the ambient noise much below the statutorily determined levels. This entire process negates the necessity for concrete mixers at the construction site. Therefore, the allegation of noise pollution alleged by the Applicant, as attributable to the 4<sup>th</sup> Respondent is wholly false and imaginary.
22. That apart, the construction has now progressed beyond the stilt floor level and there is not even a remote possibility that noise above the permissible decibel limits is produced at the site. It is submitted that the allegation of the Applicant that drilling work is going on at the construction site is false and untrue. Piling work, at the construction site have been completed several months ago and the nature of the activity that is taking place presently at the construction site is only civil construction. It is submitted that neither the

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equipment nor activities alleged by the Applicant are causing any disturbance or noise pollution and these allegations are wholly untrue, false and are denied *in toto*. The 4<sup>th</sup> Respondent reiterates that the activities undertaken by it at present do not cause any noise pollution or raise the ambient noise levels above residential standards.

23. The above apart, the Applicant has not produced any tangible evidence to show that the alleged 'migraines' suffered by him are attributable to the noise (which has been demonstrated to be false) from the 4<sup>th</sup> Respondent's construction site, which by itself is within the statutorily permissible limits.
24. It is therefore submitted that the present Application has been filed with *malafide* intention, on false, baseless and concocted allegations and has also suppressed material information before this Hon'ble Authority and deserves to be dismissed. The 4<sup>th</sup> Respondent reserves its right to file any additional reply or documents if deemed necessary at a later point in time.

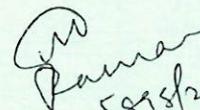
It is therefore, humbly prayed that this Hon'ble Tribunal may dismiss the present Application with costs and pass such order/orders as this Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

For APPASWAMY REAL ESTATES LTD



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**BEFORE ME**



5895/2023  
NO. 2, LAW CHAMBER,  
MADRAS HC - 104

**ADVOCATE CHENNAI**

Solemnly affirmed at Chennai  
On this the 10<sup>th</sup> day of December 2025  
and signed his name in my presence

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**COUNTER AFFIDAVIT FILED BY  
THE 4<sup>th</sup> RESPONDENT**

**M/s. Rahul Balaji**

**Vishnu Mohan**

**K.Sanjay**

**Ph.9381353434**

**COUNSEL FOR 4<sup>th</sup> RESPONDENT**