

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No. 18 of 2024

Earlier O.A. No. 473 of 2022 (PB)

Gopal
Chinna Mudalyar Chavady,
Kottakuppam Vannur Taluk,
Villupuram.

... Applicant

-Versus-

1. State of Tamil Nadu,
Through Chief Secretary,
Government of Tamil Nadu,
Secretariat, Chennai.
2. Regional Office MOEF&CC,
Integrated Regional Office,
Chennai, Tamil Nadu.
3. Tamil Nadu Pollution Control Board,
Represented by Member Secretary,
No.76, Mount Salai,
Guindy, Chennai – 600 0032.
4. District Collector,
Collector Office Road,
Moovendar Nagar,
Villupuram – 605 602.
5. M/s. Mermaid Resort -1,
No.26, South Street,
Kottakuppam,
Vanur Taluk,
Villupuram District – 605 104.

6. M/s. Mermaid Resort - 2,
No.26, South Street,
Kottakuppam,
Vanur Taluk,
Villupuram District – 605 104.
7. M/s. L-Ambay Cafe Resort -1,
D.No.06, Sengazuneer Amman Kovil Street,
Kottakuppam Village & Town,
Vanur Taluk,
Villupuram District.
8. M/s. New Building,
Kottakuppam,
Vanur Taluk,
Villupuram District.
9. M/s. L-Ambay Cafe Resort - 2,
D.No.06, Sengazuneer Amman Kovil Street,
Kottakuppam Village & Town,
Vanur Taluk,
Villupuram District.

... Respondents

REPLY AFFIDAVIT FILED BY THE 8TH RESPONDENT

I, A. Suresh, son of Arumugam, residing at No. 32, Sengeni Amman Koil Street, Chinna Mudalyar Chavady, Kottakuppam Vannur talk, District Villupuram . I am arrayed as the 8th Respondent in the above application. I am well acquainted with the facts and circumstances of the case;

A. Suresh

1. It is submitted that based on a letter petition from one Mr. Gopal, Chinna Mudalyar Chavady, Kottakuppam Vannur talk, District Villupuram, the Hon'ble Principal Bench of National Green Tribunal registered the Original Application in OA No. 473 of 2022, registering under Section 14 of the National Green Tribunal Act, vide order dt. 01.08.2022. Following which, by order dt. 15.11.2022, the Hon'ble National Green Tribunal was pleased to implead the answering Respondent, viz. "M/s. New Building under Constructions on (P4), Lease 11058'44.27" N 79 50'48.05"E" as 8th Respondent.

2. It is submitted that the answering Respondent was mentioned as a party Respondent, which was deemed necessary to be heard, based on a report filed by the Joint Committee, constituted by the Hon'ble National Green Tribunal, vide order dt. 01.08.2022. It is submitted that the said order directed the Joint Committee to meet within four weeks, to undertake site visits, look into the grievances of the applicant, verify the factual position and take requisite action by following due process of law. The State PCB was made as the Nodal agency and the other parties to the said committee are (1). Regional

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Office of MoEF, Chennai, (2). Tamil Nadu Coastal Zone Management Authority (TNCZMA), (3). State Pollution control Board (PCB) and (4). Collector, Villupuram. As the subject matter was pertaining to the South Bench jurisdiction, by order dt. 21.08.2023 the case was transferred to this Bench of Hon'ble National Green Tribunal.

3. It is submitted that the answering Respondents had the opportunity to read, the report filed by the Joint Committee. The present reply affidavit is filed, for the report filed by the Joint committee, reply of the Ministry of Environment and Forest, reply of the District collector and the report of TNPCB. At the outset, the allegations contained in the reply are denied as false and misleading. The answering Respondent reserves his right to file additional reply affidavit for any additional report or reply filed by any other authority, and denies all the allegations and observations in the reports filled already.

4. It is submitted that the Chinna Mudhaliyar Chavadi Kuppam Village is located to the North of Pondicherry Union Territory and East of Auroville. The impugned Village is a coastal village and the major part of the villagers

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reside within 500m from the High ⁵ Tide Line (HTL). The village being a coastal village has major fishermen population and the answering Respondent belongs to one of the fishermen community, who has been residing in the said Village from the time of birth.

5. It is submitted that the answering Respondent is residing in the impugned house from the day he was born and is temporarily residing in a rented house nearby, as the impugned land is under construction. It is submitted that only due to the fact that the house got into a depleted condition and the same was demolished, and the re-construction work was started after obtaining hand loans. It is necessary to state that the construction is only a small house. But due to the present litigation the construction work was immediately stopped.

6. It is submitted that the impugned area falls in Map No. 91, of the approved coastal zone management plan. The areas within 500 m are demarked as CRZ II. Hence the construction of the answering Respondent fall only in CRZ II. But the house construction of the answering Respondent is misrepresented as a resort and due to which this Respondent is put to hardship. It is pertinent to mention that the re-construction work being done, falls within the "Fishermen

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Settlement area” of the said map, showing the existence of the buildings prior to 1991.

7. It is submitted that the land of the answering Respondent is only 1730 sq. ft. in size and the house was in existence for more than seven decades in the impugned place. It is submitted that the house of this Respondent is located just West of the an existing approved concrete panchayat Road. It is submitted that, for generations, the family of the answering Respondent are living in the impugned site and only due to dilapidation of the answering respondent’s house, the new construction was taken up.
8. While that being so, upon instigation by some villagers having malafide intentions, a representation had been made to the authorities, alleging false statements and the answering Respondent was misrepresented in the report and made a party to the proceedings. It is submitted that, as per clause (8) of the CRZ Notification 2011, the activities permissible in CRZ II are;

“...II. CRZ-II,-

(i) buildings shall be permitted only on the landward side of the existing road, or on the landward side of existing authorized structures;

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(ii) buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations including the 'existing' norms of Floor Space Index or Floor Area Ratio: Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road:

(iii) reconstruction of authorized building to be permitted subject with the existing Floor Space Index or Floor Area Ratio Norms and without change in present use; ... ”

Further, as per SO. 1599 (E) dt. 16.06.2015, the same reads as follows;

“...Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the said Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the said Environment (Protection) Rules, 1986 the Central Government hereby makes the following further amendments in the Coastal Regulation Zone Notification, 2011, namely:—

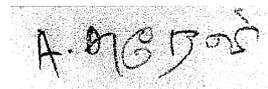
In the said notification, in paragraph 8, in sub-paragraph (i),-
(a) the Note and the entries relating thereto shall be omitted;
(b) in clause II relating to CRZ-II, for sub-clause (ii), the following sub- clause shall be substituted, namely:-

“ (ii) buildings permitted on the landward side of the existing and proposed roads or existing authorised structures shall be subject to the existing local town and country planning regulations as modified from time to time, except the Floor Space Index or Floor Area Ratio, which shall be as per 1991 level: ... ”

8. It is submitted that the house of this answering Respondent is in a permissible location of CRZ, (i.e) CRZ II. The exact site of this Respondent house is on

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the landward side of the existing road (development). In fact the building of the answering Respondent is also de-marked in the CZMP, as existing, (i.e) the Fishermen settlement area. The same cannot be termed to be illegal. It is submitted that the house of this Respondent is located in S No. 488/5 of Kottakuppam Village and Town Panchayat, vanur Taluk, Villupuram District. Apart from this Respondent's house, there are more than 700 houses which are located within 500 metres from the High Tide Line (HTL), in the CRZ II area of the impugned village. It is submitted that as per clause 6 (d) of the Notification, it is stated that the dwelling units of the traditional coastal communities including fisherfolk, tribals as were permissible under the provisions of the CRZ notification, 1991, but which have not obtained formal approval from concerned authorities under the aforesaid notification shall be considered by the respective Union territory CZMAs and the dwelling units shall be regularised. It is respectfully submitted that the house of this Respondent has been in existence for more than 60 years and this Respondent possesses valid evidence such as electricity bills, property tax receipts, etc. to establish the same. Further, the Respondent authorities have also failed to see that the land of this Respondent is a Patta land, bearing patta no. 2069. The said patta stands in the name of Mr Aarumugam, the father of the answering Respondent.



9. It is respectfully submitted that as the house of this Respondent has been in existence for more than 60 to 70 years, this Respondent possesses valid evidence such as electricity bills, property tax receipts, etc. to establish the same. Further, the Respondent authorities had also failed to see that the land of this Respondent is a Patta land, which stands in the name of Mr Aarumugam, the father of the answering Respondent herein. Therefore, this respondent is covered under the protection given under Clause 6 (d) of the Coastal Zone Regulation Notification, 2011 and the joint committee has failed to consider the same.

10. While that being so, based on a false petition by one, Mr. Gopal, who had misrepresented the facts with an intention to cause trouble and hardship to other fishermen in the area and only based on the said petition the present original application had been registered. It is to be noted that the petition which is said to be made, alleging against this answering respondent, is not produced or in hands of this Respondent. The non-disclosure of the said petition is in violation of principles of natural justice. It is submitted that the committee had picked and chosen only five buildings, including my building,

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which is under construction in the CRZ area, when there are about 700 other similar houses. The act of the committee in picking and choosing only 5 houses and terming it to be in violation of law, is arbitrary. The committee had failed to see that this Respondent house was in existence for several decades and only due to the corrosion, due to sea breeze, the re-construction work is undertaken, in the same Fishermen settlement area. But without application of mind, the committee had alleged that the house of the answering Respondent as illegal.

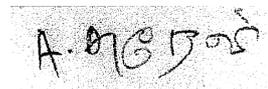
11. It is submitted that the impugned land is located in S No. 488/5 of Kottakuppam Village and Town Panchayat, Vanur Taluk, Villupuram District. It is necessary to state that the said lands fall under the land classification of “Natham”. The building is surrounded by many other buildings on the West, North and South. It is pertinent to mention that this Respondent house building is located within the “Fishermen settlement” and owned by fishermen, on the landward side of the existing Road.

12. Though the case was registered based on the letter from one Mr. Gopal and this Hon'ble National Green Tribunal was pleased to mark him as a party in

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the said case, at no instance the Applicant was present. It is only to threaten this Respondent the Applicant made such a complaint with false allegations. The case was listed on 09.02.2024 before this Hon'ble National Green Tribunal, Southern Zone, Chennai after being renumbered as O.A. No.18 of 2024. None of the hearings the Applicant (i.e) the complainant appeared before this Hon'ble National Green Tribunal, including on 16.05.2024, 05.08.2024, 05.09.2024, 03.10.2024, 19.12.2024 and 14.02.2025. The complainant used this Hon'ble National Green Tribunal as only a tool to threaten residents of the area, as majority of the village is falling under CRZ Zone. Without understanding the law, where the houses in the CRZ II area are permissible, that too being a traditional fishermen residence, the complainant had made the complaint with false allegations, without any legal advice.

13.It is submitted that after registration of the case, the authorities had issued show cause notice to the answering Respondent vide proceedings dt. 06.01.2023. The said show cause notice is an abuse of process of law, which had been issued to the answering Respondent, by the authorities to save their colour. It is necessary to state that, there are about 700 other similar houses in the locality, but the authorities had issued notice only to the buildings noted



as party Respondents in the present case. The show cause notice issued under Section 5, to this Respondent, when there are other 700 houses in the similar place would show that the authorities had done the same without application of mind and hence the same is liable to be quashed.

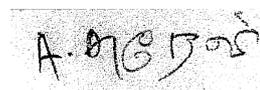
14. It is submitted that, even before the issuance of the notice on 06.01.2023, this Respondent had received a stop-work notice from the Kottakuppam Municipality, for the undergoing re-construction of the house on 29.08.2022. Immediately after the said notice the work was stopped. But without checking the status and the nature of the construction undertaken, the authorities had misled the same as a resort construction before this Hon'ble Tribunal, which has instigated the Hon'ble Tribunal to add the answering Respondent as a necessary party. On compulsion by the authorities, this Respondent being an illiterate was forced to reply immediately, without any legal advice similar to the reply given by other private Respondents. It is to be seen that the said show cause notice and the stop-work notice is made only based on the complaint made by Mr. Gopal. The said show cause notice, issued by District Level Coastal Zone Management Authority, Villupuram, has reference only to the report of the joint committee, which was constituted by this Hon'ble

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Tribunal. Though, there are about 700 other buildings located within the CRZ area, in the impugned village, the Authorities had only sent show cause notice under Section 5 of the Environmental (Protection) Act, 1986, only to Respondents 5 to 9. The said notice is nothing but the depiction of the proceedings of the present case, with a conclusion to show cause why action shall not be initiated. The authority had failed to understand that the building is not illegal as the same is in existence prior to the CRZ Notification 1991, surrounded by buildings on three sides in the Fishermen settlement zone, which is covered under clause 6(d) and 8 of the said Notification.

15. Hence in the said circumstances it is submitted that this Respondent is arrayed as a party, who is neither involved in construction of any resort nor any commercial activity. The re-construction activity undertaken is only a house which is in existence for more than 60 years in the pasta land and that too by a fisherman, on the landward side of the existing development in the fishermen settlement area.

In the above said circumstances, in the interest of Justice, it is therefore prayed that this Hon'ble National Green Tribunal may be pleased to dismiss the



application, which was registered based on the malafide and wrong allegation of a letter petition., and thus render Justice.

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Solemnly affirmed on this the : BEFORE ME

16th day of September, 2025 :

And signed his name in my presence

and explained in tamil. :

A. Dattic
(MS- 4351/2023)
(No-348, Thambu
Street, Chennai).

(ADVOCATE : CHENNAI)

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