

BEFORE THE NATONAL GREEN TRIBUNAL (SZ) CHENNAI

APPLICATION NO.12/2013 (SZ)

BETWEEN:

ENVIRONMENT SUPPORT GROUP.

APPLICANT

AND:

UNION OF INDIA AND OTHERS.

RESPONDENTS

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Chennai,

Dated- 21-03-2013. Advocate for Respondent No.18.

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The 18th Respondent in the above Application begs to file the following Objections to the Application filed by the Applicant.

1. At the outset it is submitted that the proceedings initiated against the 18th respondent in the above Application are not maintainable in law and on facts, as such, the same are liable to be dismissed against the 18th respondent. The Application is barred by time as such, the same is liable to be dismissed.

2. The 18th respondent, Karnataka Housing Board is functioning as per the Statute called "The Karnataka Housing Board Act, 1962" which has come into existence with the object of providing Housing for the public through its Schemes approved by the State of Karnataka. The Karnataka Housing Board is a Statutory Board consisting of Chairman and 15 Members appointed by the Government. The main objective of the 18th respondent-Board is to provide House sites and Houses to weaker sections of the society i.e., Economically Weaker Sections, Low Income and Middle Income Groups on no loss and no profit basis. Section 18 of the Karnataka Housing Board Act provides the power to the Karnataka Housing Board to acquire, purchase, exchange or otherwise any property for execution of the schemes as enshrined under Section 18 of the Act with approval of the State Government.

3. Chitradurga District in the State of Karnataka is one of the Backward Districts in the State having no perennial

irrigational facilities, consisting of dry lands having large pasturage. In order to help the weaker sections of the society, the Karnataka Housing Board thought of implementing Housing Scheme in which direction, sought for allotment of 400 acres of land and requested the Deputy Commissioner, Chitradurga District to provide same in Sy.No.47 of Kudapura Village of Nayakanahatti Hobli, Challakere Taluk. Chitradurga District which is a Government land categorized to be a Gomal land called as "Amrutha Mahal Kavalu". A copy of the requisition dated 3-3-2010 is herewith produced as **ANNEXURE-R.-1.** In pursuance of the requisition, the Deputy Commissioner, Chitradurga District, by getting the report from the Tahsildar, Challakere Taluk, recommended for grant of land, sent the proposal to the government for further action. A copy of the letter dated 30-8-2010 addressed to the Principal secretary, Revenue Department, Government of Karnataka, is herewith produced as **ANNEXURE-R.2.** In pursuance of the report and recommendation made by the Deputy Commissioner, the Government of Karnataka, by its Order No. RD 81 LGC 2010 dated 10-12-2010 granted only 50 acres of land in Sy.No.47 of Kudapura Village out of 479.23 acres of "Amrutha Mahal Kavalu" by reducing the extent of Gomal land under Rule 97(4) of the Karnataka Land Revenue Rules, 1966 at the rate of Rs.35,000/- per acre, in consultation with the Department of Animal Husbandry and Fisheries. A copy of the said Government Order dated 10-12-2010 is herewith produced as **ANNEXURE-R.3.** In pursuance of the Government order, the Deputy Commissioner, Chitradurga District, issued Official Memorandum dated 15-12-2010 granting 50 acres of land in favour of the Karnataka Housing Board. A copy of the said Official Memorandum dated 15-12-2010 is herewith produced as **ANNEXURE-R.4.** on the condition that within one year from the date of the grant, the land should be utilized for Housing purpose, otherwise, the grant would be lapsed.

4. It is further humbly submitted tat the Karnataka Housing Board did not get the environmental clearance as the Housing Scheme is being implemented is less than 50 Hectares. The Karnataka housing Board, after the land was handed over the authority, formed the layout, constructed the buildings, drains, electricity and water lines, constructed metal roads and more than 90% of the work is completed. The copies of the photographs showing the progress of the work and situation of the property, are herewith produced as ANNEXURE-R5. The 18th respondent has issued Work Order to the contractor for completing the work for a sum of Rs.11,23,10,891/- to M/s Shree Builders. A copy of the Work Order issued by the Chief Engineer, Karnataka Housing Board in favour of the contractor M/s Shree Builders is herewith produced as ANNEXURE-R.6. It is further humbly submitted that the land granted in favour of the Karnataka housing Board by the government of Karnataka is situated abutting the State Highway No.45 in Kudapura village which is adjacent to the village on the outskirts of Kudapura and Gowripura. The Layout formed by the Karnataka Housing Board has connected both the villages with proper roads. A copy of the Map showing the location of the land granted in favour of the Karnataka Housing Board by the Government of Karnataka is herewith produced as ANNEXURE-R.7. The area of 50 acres granted in favour of the Karnataka Housing Board is clearly marked which is located abutting the State Highway No.45. The Village Map showing the location of land is herewith produced as ANNEXURE-R.8. It is clear from the map that the land granted in favour of the Karnataka Housing Board is adjacent to the villages Kudapura and Gowripura in the route from Nayakanahatti to Challakere. A copy of the layout plan made by the Housing Board in Sy. No.47 showing the formation of sites, parks, roads and construction of houses etc., with all civic amenities is herewith produced as ANNEXURE-R.9.

5. It is not correct to state that the land of "Amrutha Mahal Kavalu" in Challakere Taluk, Chitradurga District, is designated as District Forest. It has been treated as Gomal Land. As such, the provisions of the Forest conservation Act do not apply. The land granted in favour of the 18th respondent is not in contravention of any of the provisions of the Environment Protection Act 1986, Forest Conservation Act, 1980 or Water (Prevention and Control of Pollution) Act, Air Prevention and Control of Pollution) Act, Biological Diversity Act and other Statutes as contended by the Applicant. The Housing Project undertaken by the 18th respondent is not in contravention of any of the above said provisions. The grant of land in favour of the 18th respondent in no way infringes any of the fundamental rights as contended by the Applicant. The contention of the Applicant that the transfer of land was done for monetary consideration and these decisions were fraught with a variety of illegalities, are hereby denied as false and in correct.

6. It is further relevant to submit that the Karnataka Housing Board while implementing the Scheme and forming the Layout has taken precautionary measures for harvest of rain water by constructing Sump Tanks for storage of water for recharge of surface water so as to enable the water to percolate inside the earth's crest. The area earmarked for establishment of parks and other civic amenities would certainly protect the ecology. The 18th respondent Housing board has already requested the Forest Department to plant at least more 2000 plants in the layout.

7. It is further humbly submitted that the Government of Karnataka by exercising its power under Rule 97 of the Karnataka Land Revenue Rules, has granted 50 acres of land. as such, the grant is in accordance with law. The Deputy Commissioner, by order dated 15-12-2010 has earmarked 343 acres of land in Nelagettanahatty village and 656 acres at Ramadurga of Nayakana Hatti Hobli for the purpose of

pasturage and establishment of Sheep Farm in lieu of the land reserved for sheep farm in Sy.No.47. As such, the contention of the Applicant that the grant of land in favour of the 18th respondent is coming in the way of pasturage and sheep development, is not correct.

8.It is further humbly submitted that the contention of the Applicant that there are wild life in Amrutha Mahal Kavalu, is factually not correct. The entire land in Amrutha Mahal Kavalu is surrounded by villages. The villagers are tethering their cattle as it is a wide pasturage Gomal land. Having regard to the number of cattle and the available pasturage land, the Deputy Commissioner has recommended for the grant by following Rule 97 of the Karnataka Land Revenue Rules. The Government of Karnataka being satisfied about the report submitted by the Deputy Commissioner and the purpose of the grant for which the 18th respondent has sought for, the Government of Karnataka granted the land for the Housing Board. In that direction, the 18th respondent-Board has completed more than 90 percent of the work and only 10 percent of work is left out. The land is ready for allotment by the Board. The intervention at this juncture would cause irreparable loss to the 18th respondent-Board as Crores of rupees are spent.

9. The request of the Applicant for grant of injunction so far as 18th respondent is concerned, can not be considered for the reason that more than Rs. 12 Crores has been spent for development of land, construction of buildings and Roads and trenches etc., and the lay out is ready for allotment. Since 90% of the work is completed and the finishing work is in progress, at this juncture, it is just and necessary for this Hon'ble Tribunal not to grant any interim order of injunction as sought for by the Applicant so far as the 18th respondent is concerned. Otherwise, the Board would be put to irreparable

loss and injury and great hardship would be caused. As the work is under completion, the Board is trying to allot house sites for economically weaker sections of the society and Low Income Group and Middle Income Group for providing shelter under the Housing Scheme envisaged by the Karnataka Housing Board.

10. The grant of land and developmental activities done by the 18th respondent at "Amrutha Mahal Kavalu" in Sy. No.47 of Kudapura Village is not opposed to ecological, cultural or economic significance. More over, the Board is serving the public purpose in providing shelter for economically weaker sections of the society.

WHEREFORE, for the aforesaid reasons, the 18th Respondent humbly prays that this Hon'ble Court be pleased to dismiss the Application against the 18th respondent, in the interest of justice and equity.

Bangalore

Dated- -03-2013


Advocate for Respondent No.18.

Verification

I, Siddalinga Swamy, S/o late N.R. Shivanna, aged about 49 years, working as Assistant Executive Engineer, Karnataka Housing Board, District Unit, Chitradurga, Verify that the contents of paras 1 to 10 are true to the best of my knowledge, information and belief.

Bangalore

Dated- 13-03-2013


Deponent
Assistant Executive Engineer
Karnataka Housing Board
District Unit
CHITRADURGA

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

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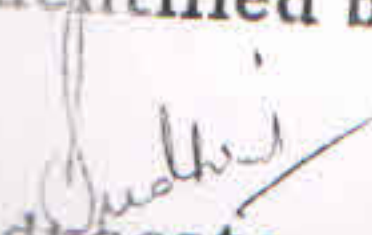
RESPONDENTS

VERIFYING AFFIDAVIT

I, **Siddalinga Swamy**, S/o late N.R. Shivanna, aged about 49 years, working as Assistant Executive Engineer, Karnataka Housing Board, District Unit, Chitradurga, today at Bangalore, do hereby solemnly affirm and state on oath as follows:

1. I am the 18th Respondent in the above case and well conversant with the facts of the case. Hence, I am swearing to this Affidavit.
2. The statements and averments made in para 1 to 10 of the accompanying statement of objections are all true and correct to the best of my knowledge information and belief.
3. I further state that Annexure-R1 to R9 are the true copies of the originals.
4. What is stated above in Para 1 to 3 is true to best of our knowledge information and belief.


Identified by me


Advocate

Bangalore

Date- -03-2013

No. of corrections


Deponent.
Assistant Executive Engineer,
Karnataka Housing Board
District Unit
CHITRADURGA