

**Item No.1:-**

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

***Saturday, the 08<sup>th</sup> day of February 2025.***

[Through Physical Hearing (Hybrid Option)]

**Original Application No.171 of 2023 (SZ)**

IN THE MATTER OF

**R. Kalyanaraman**

S/o. Rangasamy  
No.44, Brindavanam, 1<sup>st</sup> Cross,  
Pondicherry – 605 013 – 628 601.

...Applicant(s)

***Versus***

**Union of India**

Rep. by its Secretary to Government,  
Ministry of Environment and Forests and Climate Change,  
Government of India, Paryavaran Bhavan,  
New Delhi and Ors.

...Respondent(s)

For Applicant(s): Mr. S. Ravi, Sr. Adv. a/w.  
M/s. A. Thirumalai Raja, V. Ramasubbu &  
M. Kirubaharan.

For Respondent(s): Mr. G.M. Syed Nurullah Sheriff for R1.  
Mr. Meyappan represented  
Mrs. Me. Sarashwathy for R2.  
Dr. D. Shanmuganathan for R3, R6 & R7.  
Mr. S. Sai Sathya Jith for R4 & R5.  
Mr. Harishankar a/w.  
M/s. K. Surendar, Chenthoori Pugazendhi &  
B. Sasidaran for R8.

**CORAM:**

**HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER**

**HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER**

**ORDER**

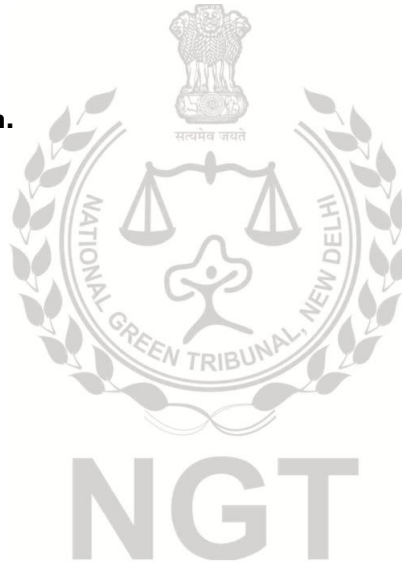
**1.** As there is a conflict in verdict among us, the matter has to be referred to the Hon'ble Chairperson, as provided under Section 21 of the National Green Tribunal Act, 2010.

**2.** Accordingly, the Registry is directed to place the final orders passed in O.A. No.171 of 2023 (SZ) before the Hon'ble Chairperson.

**Sd/-**  
**Smt. Justice Pushpa Sathyanarayana, JM**

**Sd/-**  
**Dr. Satyagopal Korlapati, EM**

**O.A. No.171/2023 (SZ)**  
**08<sup>th</sup> February, 2025. Mn.**



**Item No.1:-**

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

***Saturday, the 08<sup>th</sup> day of February 2025.***

[Through Physical Hearing (Hybrid Option)]

**Original Application No.171 of 2023 (SZ)**

IN THE MATTER OF

**R. Kalyanaraman**

S/o. Rangasamy  
No.44, Brindavanam, 1<sup>st</sup> Cross,  
Pondicherry – 605 013 – 628 601.

...Applicant(s)

***Versus***

**1) Union of India**

Rep. by its Secretary to Government,  
Ministry of Environment and Forests and Climate Change,  
Government of India, Paryavaran Bhavan,  
New Delhi – 110 003.

**2) The Member Secretary**

State Level Environmental Impact Assessment Authority –  
Tamil Nadu  
3<sup>rd</sup> Floor, Panagal Maligai, No.1, Jeenis Road,  
Saidapet, Chennai – 15.

**3) The State of Tamil Nadu**

Rep. by the Secretary to Government,  
Department of Environment and Forest,  
Government of Tamil Nadu,  
Fort St. George, Chennai – 600 003.

**4) The Chairman**

Tamil Nadu Pollution Control Board  
76, Mount Salai, Guindy,  
Chennai – 32.

**5) The District Environmental Engineer**

Tamil Nadu Pollution Control Board  
42-D, S.N.R., College Road,  
Peelamedu, Coimbatore – 641 004.

**6) The Director**

Directorate of Town and Country Planning  
2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Floor, CMDA Campus,  
E & C Market Road, Koimbedu,  
Chennai – 600 107.

**7) The Member Secretary**

Coimbatore Local Planning Authority  
Coimbatore Corporation, Coimbatore.

**8) M/s. G Square Realtor Private Limited**

G Square #14, 3<sup>rd</sup> Floor,  
Harrington Apartment,  
#98, Harrington Road, Chetpet,  
Chennai – 600 031.

...Respondent(s)

For Applicant(s): Mr. S. Ravi, Sr. Adv. a/w.  
M/s. A. Thirumalai Raja, V. Ramasubbu &  
M. Kirubaharan.

For Respondent(s): Mr. G.M. Syed Nurullah Sheriff for R1.  
Mr. Meyappan represented  
Mrs. Me. Sarashwathy for R2.  
Dr. D. Shanmuganathan for R3, R6 & R7.  
Mr. S. Sai Sathya Jith for R4 & R5.  
Mr. Harishankar a/w.  
M/s. K. Surendar, Chenthoori Pugazendhi &  
B. Sasidaran for R8.

**Judgment Reserved on: 31<sup>st</sup> July, 2024.**

**CORAM:**

**HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER**

**HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER**

**NGT**  
**JUDGEMENT**

***Delivered by Smt. Justice Pushpa Sathyanarayana, Judicial Member***

**1.** The challenge in this Original Application is to the development of the township project and the construction of buildings without the Environmental Impact Assessment (EIA).

**2.** The applicant claims himself to be the observer of a political party and states that the 8<sup>th</sup> Respondent viz., M/s. G Square Realtor Private Limited has developed the township project in Pattanam Village of Sulur Taluk in Coimbatore District in the name of 'G Square City'. It is alleged that the project has two phases viz., 'G Square City' and 'G Square City 2.0'. According to the applicant, it was advertised that the project has

240 amenities such as an open air drive in theatre, clubhouse, swimming pool, gymnasium, parks, library, etc.

**3.** Originally, the project was proposed by one M/s. Emaar MGF Land Limited in various survey numbers with an extent of 120.406 Acres (i.e. 48.73 Hectares), for which, the Directorate of Town and Country Planning, who is the 6<sup>th</sup> Respondent, had issued layout approval by letter dated 30.03.2021. Later, the Local Planning Authority, Coimbatore, who is the 7<sup>th</sup> Respondent, also granted final approval for the said layout to M/s. Emaar MGF Land Limited on 04.02.2022. The said project was acquired by the 8<sup>th</sup> Respondent in the name of 'G Square City' under Section 5 of the Real Estate (Regulations and Development) Act, 2016 on 25.02.2022 for the layout of house sites with 1107 regular plots + 556 EWS plots + 14 commercial sites + owner use. After the completion of the project, a completion certificate was issued to the 8<sup>th</sup> Respondent by registered engineer viz., Santhosh Kumar on 14.03.2022.

**4.** In the meanwhile, there was a modification in the layout plan by increase in the house sites to 1958 plots, 15 commercial sites, and owner use. The revised layout was also registered with the Tamil Nadu Real Estate Regulatory Authority (**TNRERA**) under Section 5 of the Act, which cancelled the earlier registration dated 25.02.2022. The revised layout was registered on 11.08.2022. It is alleged that based on the TNRERA registration, advertisements were made. While so, it is alleged that the 8<sup>th</sup> Respondent had launched Phase – 2 of the project with an extent of 110 Acres in the name of 'G Square City 2.0'. As per the advertisement, the Phase – 2 is adjacent to Phase – 1.

**5.** It is pointed out that the total amenities available in both phases of the alleged project are 240 plus, out of which, Phase – 1 has 150 plus amenities and Phase – 2 has 90 plus amenities. According to the applicant, the total area of the extent of the project (Phase – 1 and 2) amounts to 93.28 Hectares. Hence, alleging that the project comes under the purview of Item 8 (b) of the schedule to the EIA Notification, which requires the prior Environmental Clearance.

6. The grounds alleged are:-

- i. The project being a township one requires prior Environmental Clearance.
- ii. As both Phase 1 and 2 are integrated projects and the total area of the project is more than the threshold limit of 50 Hectares, it comes under the purview of the EIA Notification.
- iii. Without obtaining prior Environmental Clearance, the 8<sup>th</sup> Respondent had started construction works and completed the same, which is violative of environmental laws and regulations.
- iv. The project area has a natural stream and natural rainwater collection system, which is concealed by the 8<sup>th</sup> Respondent by not obtaining Environmental Clearance.
- v. It is further alleged that the Cochin – Coimbatore – Karur (CCK) pipeline of M/s. Petronet Company is passing through the project's survey field carrying the refinery from BPCL Kochin to Karur. The said aspect is not disclosed, the same being inflammable material.

7. The 2<sup>nd</sup> Respondent/State Environmental Impact Assessment Authority (SEIAA) – Tamil Nadu, in its reply, had stated that already the applicant had sought for information under the RTI Act regarding the Environmental Clearance issued covering survey numbers mentioned in the application and an appropriate reply was sent stating that no such Environmental Clearance was issued by the authority. As per the EIA Notification, Schedule 8 (a) – Building and Construction Projects having a built-up area of greater than or equal to 20,000 Sq. Meters and less than or equal to 1,50,000 Sq. Meters and Schedule 8 (b) which is a townships and area development project covering an area greater than or equal to 50 Hectares or a built-up area greater than or equal to 1,50,000 Sq. Meter shall attract the provision of the EIA Notification requiring prior Environmental Clearance. So far as the

residential layout in dispute is concerned, it was originally developed by one M/s. Emaar MGF Land Limited in Pattanam Village, Suler Taluk. The said M/s. Emaar MGF Land Limited has not applied for prior Environmental Clearance for the proposed residential layout, as the total extent was only 48.73 Hectares, which is less than 50 Hectares. Later, the said proposal was registered in the name of 'G Square City', taking over the above-mentioned activity and completing the project. Further, the 8<sup>th</sup> Respondent also launched the Phase – 2 project covering an extent of 44.33 Hectares, which is also less than 50 Hectares. Further, it is stated that the Project Proponent had not obtained Consent from the State Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

**8. The 7<sup>th</sup> Respondent/Member Secretary – Town and Country Planning Office/Local Planning Authority, Coimbatore District,** in its reply, stated that one Mr. C. Sivamanickam representing M/s. Emaar MGF Land Limited had approached this respondent for obtaining a change of land use to form a layout in Pattanam Village for an extent of 48.72 Hectares. Therefore, objections were called for from the general public with regard to the change of land use from agricultural to commercial vide publication in Malai Murasu dated 10.01.2020 and Trinity Mirror dated 11.01.2020. There were no objections raised by the general public and the site was inspected on 04.03.2020. The Local Planning Authority's Resolution dated 10.03.2020 was passed by the District Collector – Coimbatore District for change of land use from agricultural to commercial and the same was forwarded to this respondent on 20.03.2020. Thereafter, the said application was forwarded to the Government for passing orders. The Government of Tamil Nadu represented by Tamil Nadu Housing and Urban Development Department by G.O. (2D) No.179 dated 22.06.2020 had passed orders to change the land use from agricultural to commercial with conditions. Then the M/s. Emaar MGF Land Limited transferred the possession to the 8<sup>th</sup> Respondent on 10.02.2022. Thereafter, the 8<sup>th</sup> Respondent had applied for layout approval followed by technical sanction which was accorded by this

respondent vide approval dated 30.03.2021. The final approval was also granted on 31.01.2022 in the name of 'G Square City'. The 8<sup>th</sup> Respondent also had approached the Joint Director of Town and Country Planning Authority, Coimbatore vide application dated 24.06.2022 seeking for change of land use from agricultural to residential for the property situated in Pattanam Village, Sulur Taluk for those survey numbers mentioned in Phase -2 for an extent of 44.33 Hectares. A similar exercise was taken up by this respondent by issuing a paper publication dated 28.06.2022. As there were no objections raised by the general public, the sites were inspected on 24.08.2022. At the time of inspection, the authority found that there was a patta channel in the above said land. Vide Resolution No.20 dated 10.09.2022, the District Collector – Coimbatore passed an order for change of land use from agricultural to residential and the same was forwarded to the 6<sup>th</sup> Respondent on 13.10.2022. Later, the Government of Tamil Nadu represented by Tamil Nadu Housing and Urban Development Department vide G.O. (2D) No.298 dated 02.12.2022 passed orders to change the land use from agricultural to residential with conditions. Regarding the patta channel running across the layout, a specific condition was enforced by the Government, directing the 8<sup>th</sup> Respondent to follow the rules illustrated in Tamil Nadu Combined Building and Development Rules, 2019 with reference to Rule 55 (2). Accordingly, the Project Proponent was directed to protect the water channel in as is where is condition and directed not to realign the water channel. Thereafter, technical sanction was accorded by this Respondent vide approval dated 13.03.2023 and planning permission was issued on 21.03.2023 in the name of 'G Square City 2.0'.

**9.** It is specifically stated by the 7<sup>th</sup> Respondent that two layouts are distinct properties and there are other lands owned by private parties segregating both layouts. As each of the layouts is measuring about 48.72 Hectares in G Square City and 44.33 Hectares in G Square City 2.0, which is less than the threshold limit of 50 Hectares, the Environmental Clearance is not required. The 7<sup>th</sup> Respondent also relied on the Circular in



ROC No.23564/2012 and Na. Ka. No.21834/2012/CB dated 31.05.2023 which was issued in consonance with the EIA Notification in S.O.3067 (E) dated 01.12.2009, wherein the developer who is developing the land measuring below 50 Hectares is not required to obtain Environmental Clearance. In this case, both the phases measured less than 50 Hectares and there is no common boundary shared between both the layouts and the approach roads are also separate for each layout.

**10.** Regarding the allegation that the Cochin – Coimbatore – Karur (CCK) pipeline running through the project site is incorrect and false. The said CCK pipeline runs on the NH 544 and thereafter, there is a service lane measuring about 7 meters and only thereafter, the layout starts. It is stated that the layout facing national highways are commercial plots. Hence, they have to necessarily leave 6 meters set back from the service lane. Hence, the question of damaging the CCK pipeline will not arise at all.

**11.** The **8<sup>th</sup> Respondent, who is the Project Proponent**, in its original counter affidavit, has stated that the application itself is misconceived, as the applicant has assumed that the 8<sup>th</sup> Respondent has developed the project in an extent of more than 50 Hectares of land. It is stated that the Phase- I was developed in the year 2022 and it was completed as early as in March 2022. The original application having been filed on 05.10.2023 is clearly barred by limitation, so far as the Phase I is concerned. The original application relates to the layout viz., G Square City developed by the 8<sup>th</sup> Respondent in an extent of 48.7 Hectares in various survey numbers in Pattanam Village, Sulur Taluk. The said lands originally belonged to **(i)** Crocus Builders Private Limited, **(ii)** Gems Buildcon Private Limited and **(iii)** Deep Jyoti Projects Private Limited, who had entered into a joint venture with M/s. Emaar India Limited for developing the said lands into a layout. Accordingly, the layout was developed in the said lands by the other said companies, for which, technical sanction was also accorded by the Director – Town and Country Planning on 30.03.2021 and the final approval of the layout was issued on 31.01.2022.

**12.** Meanwhile, the project developed on 48.7 Hectares was taken over by the 8<sup>th</sup> Respondent and the power of attorney deed was executed on 09.02.2022. Thereafter, the layout was rechristened as 'G Square City' and was accordingly registered with the TNRERA on 25.02.2022. Subsequently, the layout plan was revised without modifying the total extent of the project land which was also approved by the Local Planning Authority on 20.07.2022 and was once again registered with TNRERA on 11.08.2022. It is stated further that immediately after launching of the project, plots were sold out and at no point of time, the extent of the said project crosses the threshold limit of 50 Hectares, requiring prior Environmental Clearance.

**13.** While so, the 8<sup>th</sup> Respondent was approached by various other landowners for the development of layouts. Accordingly, the 8<sup>th</sup> Respondent had developed another layout viz., 'G Square City 2.0' in an extent of 44.33 Hectares in the very same Pattanam Village, Sulur Taluk. In this project also, originally the lands belonged to (i) Ethnic Properties Private Limited, (ii) Futuristic Buildwell Private Limited, (iii) Authentic Properties Private Limited, (iv) Rudraksha Realtors Private Limited, (v) Deep Jyoti Projects Limited, (vi) Garuda Properties Private Limited, (vii) Pukhraj Realtors Private Limited and (viii) Dove Promoters Private Limited, who had entered into a joint venture with the 8<sup>th</sup> Respondent for developing lands into the layout and accordingly, appointed the 8<sup>th</sup> Respondent as power of attorney agent on 17.03.2023. The layout was developed in the said lands which was duly approved by the Local Planning Authority on 21.03.2023 and registered with the TNRERA on 30.03.2023. Admittedly, the projects in both phases are less than 50 Hectares. It is also clear that the 8<sup>th</sup> Respondent is not carrying on any construction activity causing damage to the environment, but he is only laying out by developing the dry barren lands. Therefore, the question of environmental damage as alleged in the application is not correct.

**14.** The 8<sup>th</sup> Respondent has clearly stated that the project viz., 'G Square City' and 'G Square City 2.0' are independent layouts developed in different survey numbers of

Pattanam Village. The layouts are not adjacent to each other and are separated by public roads and other private lands lie in between two layouts. These two layouts do not even share a common boundary. Both the layouts have been developed on different land parcels with independent access and there is no iota of truth in alleging that they constitute a single project. It is also clear from the records that the land parcels for both the projects were owned originally by different entities and the 8<sup>th</sup> Respondent had commenced the development of the Phase-2 after the completion of the Phase-1. Regarding the allegation of developing on water body, the same is factually incorrect and already while granting conversion, the patta channel in the land was directed to be retained in an '*as is where is*' condition.

**15.** In the **additional counter filed by the 8<sup>th</sup> Respondent**, it is pointed out that the extent of Phase-2 viz., G Square City 2.0 is only 44.33 Hectares and not 93.28 Hectares, as mentioned in the counter affidavit of the SEIAA – Tamil Nadu. Further, it was made clear that both layouts are separated by more than 15 Acres of intervening space that includes pre-existing public road, water body, and other private lands. It is very clearly and categorically denied by the 8<sup>th</sup> Respondent that Phase-2 is the expansion of Phase-1. Therefore, the 8<sup>th</sup> Respondent sought for dismissal of the application.

**16.** Heard the learned Senior Advocate appearing for the applicant as well as the learned counsel appearing for the respondents.

**17.** The questions that arise for determination are:-

- i. Whether the alleged projects (Phase 1 and 2) require Environmental Clearance?**
- ii. Whether the Project Proponent had violated any of the environmental laws while developing the projects (Phase 1 and 2)?**
- iii. Any other relief?**

**18.** The learned Senior Advocate, Mr. S. Ravi, appearing on behalf of the applicant would submit that the Project Proponent had developed two phases and they had split the projects to avoid obtaining the Environmental Clearance. Both phases are developed in adjacent lands.

**19.** In this regard, he invited our attention to the communication from the DTCP, Chennai (6<sup>th</sup> Respondent) to the Joint Director – Coimbatore District (7<sup>th</sup> Respondent) dated 30.03.2021. A perusal of the same shows that the application for layout approval was preferred by M/s. Emaar MGF Land Limited, on 04.12.2019, for the development of 120.406 Acres of land belonging to **(i)** Crocus Builders Private Limited, **(ii)** Gems Buildcon Private Limited and **(iii)** Deep Jyoti Projects Private Limited. The same was considered and approval was granted on 30.03.2021 and final approval was given on 31.01.2022. So, the approval was granted only for 48.73 Hectares. The approval by Sulur Panchayat Union was granted on 04.02.2022. The layout developed in 48.73 Hectares was taken over by the 8<sup>th</sup> Respondent and power of attorney was executed in favour of the 8<sup>th</sup> Respondent on 09.02.2022. Later, the layout was registered with TNRERA as 'G Square City' on 25.02.2022. Thereafter, there was a revised layout approval granted by the Member Secretary – Coimbatore Local Planning Authority for modification of the layout developed in 120.406 Acres (48.73 Hectares) without any change in the total extent. The said revised layout was once again registered with the TNRERA as 'G Square City' on 11.08.2022. The entire project was sold out on 29.11.2022.

**20.** Therefore, it is evident from the above documents that for the Phase – 1, though approval was originally preferred in the name of M/s. Emaar MGF Land Limited, subsequently it was taken in the name of 'G Square City' registered with TNRERA. Admittedly, the extent of land developed is 48.73 Hectares which is less than the threshold limit of 50 Hectares requiring prior Environmental Clearance.

**21.** Regarding the 'G Square City 2.0', which is prescribed as Phase - 2 is concerned, it is alleged to be an independent layout developed in different survey numbers, however, in the same Pattanam Village. The Project Proponent derives its right for the above project on 17.03.2023 by way of power of attorney executed in their favour by **(i)** M/s. Ethnic Properties Private Limited, **(ii)** M/s. Futuristic Buildwell Private Limited, **(iii)** M/s. Authentic Properties Private Limited, **(iv)** M/s. Rudraksha Realtors Private Limited, **(v)** M/s. Deep Jyoti Projects Private Limited and **(vi)** M/s. Garuda Properties Private Limited together being absolute owners of 72 Acres 58.5 Cents and **(vii)** M/s. Pukhraj Realtors Private Limited and **(viii)** M/s. Dove Promoters Private Limited together being absolute owners of 37 Acres, totalling to an extent of 109 Acres 55 Cents. The Special PoAs, referred to in the General Power of Attorney dated 17.03.2023, appear to be independent agreements for specific land parcels, as inferred from their mention in the General PoA dated 17.03.2023. However, their exact content is unknown since copies are unavailable and they were not brought up by the applicant. There is nothing to indicate that these Special PoAs established a joint plan or coordinated development framework for Phase - 2. In contrast, the General PoA of 17.03.2023 reflects a formal alignment of interests among all landowners and the developer, signalling a shift to an organized and coordinated development strategy. Therefore, it is this document that governs the development of Phase - 2, and reliance on the Special PoAs dated 09.02.2022 is neither warranted nor relevant.

**22.** It is categorically pleaded by the learned counsel appearing on behalf of the 8<sup>th</sup> Respondent that the said land admeasuring 109.55 Acres is not adjoining the Phase- I viz., G Square City layout and it is separated by more than 15 Acres of space in between which also includes a public road and water body and other private lands. There is also no common access road or common boundary for two layouts. The layout developed in the above-mentioned 109.55 Acres was approved by the Joint Director of Town and Country Planning on 21.03.2023 in the name of 'G Square City Realtors Private Limited'. The layouts are also registered with TNRERA on 30.03.2023.

**23.** Although the applicant submitted that the execution of the power of attorney for Phase I and the land agreements for Phase II coincided on 09.02.2022, this does not indicate simultaneous development. Phase I had already been finalized, with approvals and planning completed prior to this date. Phase II's planning and permissions only began in 2023, after Phase I was fully executed and sold. The distinct approvals for each phase and the lack of overlapping activities negate the claim that the phases were part of a single integrated development.

**24.** The applicant's reliance on promotional materials and layout applications to establish a unified project lacks merit. Branding strategies cannot imply legal or operational integration. Approvals for Phase I (finalized in 2022) and Phase II (initiated in 2023) are temporally and procedurally distinct. The operational independence of the two phases is further underscored by their separate planning timelines and distinct extents, which are below the thresholds prescribed under the EIA Notification.

**25.** Thus, it is evident from the records available with respect to Phase - 1 and 2, that both phases are independent and they are of an extent of 48.7 Hectares and 44.3 Hectares respectively, which are well within the threshold limit of 50 Hectares prescribed by the EIA Notification. It is also to be noted that on the date when the planning permission was granted, the 8<sup>th</sup> Respondent had become the Project Proponent by virtue of the power of attorney. Admittedly, it is only a development of layout of barren lands and there is no environmental damage caused.

**26.** Regarding the allegation of a natural stream and natural rainwater collection system in the project land, as alleged in the application, it is said to be passing through the Field Sy. No.95/2B, 97/2B and 98/1A. The applicant had produced the FMB Sketch to substantiate his claim. Excepting the same, there is no other evidence in this regard. However, when the conversion of lands was sought for from the Government for both projects, specific G.Os. were passed in that regard. G.O. (2D) No.179 Tamil Nadu Housing and Urban Development

Department dated 22.09.2020 was passed to change the land use from agricultural to commercial with conditions so far as the project of G Square City is concerned.

**27.** The present application is confined to examining whether the projects in question required prior EC under the EIA Notification, based on their extent and built-up area thresholds. Issues that fall within the domain of local planning and municipal authorities, including operational or infrastructural aspects of project execution, do not come under the purview of this proceeding. Established legal principles further dictate that judicial forums must limit their consideration to matters specifically raised in the pleadings, ensuring fairness to all parties and avoiding overreach. In this case, the applicant's claims primarily pertain to the applicability of the EIA Notification thresholds, and the Tribunal's analysis remains confined to this legal question.

**28.** In this context, reliance is placed on the Hon'ble Supreme Court's ruling in **Bachhaj Nahar Vs. Nilima Mandal & Ors. (2008) 17 SCC 491**, which states that

"**9.** The object and purpose of pleadings and issues is to ensure that the litigants come to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. Its object is also to ensure that each side is fully alive to the questions that are likely to be raised or considered so that they may have an opportunity of placing the relevant evidence appropriate to the issues before the court for its consideration. This Court has repeatedly held that the pleadings are meant to give to each side intimation of the case of the other so that it may be met, to enable courts to determine what is really at issue between the parties, and to prevent any deviation from the course which litigation on particular causes must take.

**10.** The object of issues is to identify from the pleadings the questions or points required to be decided by the courts so as to enable parties to let in evidence thereon. When the facts necessary to make out a particular claim, or to seek a particular relief, are not found in the plaint, the court cannot focus the attention of the parties, or its own attention on that claim or relief, by framing an appropriate issue. As a result the defendant does not get an opportunity to place the facts and contentions necessary to repudiate or challenge such a claim or relief. Therefore, the court cannot, on finding that the plaintiff has not made out the case put forth by him, grant some other relief. The question before a court is not whether there is some material on the basis of which some relief can be granted. The question is whether any relief can be granted, when the defendant had no opportunity to show that the relief proposed by the court could not be granted. When there is no prayer for a particular relief and no pleadings to support such a relief, and when defendant has no

opportunity to resist or oppose such a relief, if the court considers and grants such a relief, it will lead to miscarriage of justice. Thus it is said that no amount of evidence, on a plea that is not put forward in the pleadings, can be looked into to grant any relief."

**29.** Regarding the Phase – 2, G.O. (2D) No.298 Tamil Nadu Housing and Urban Development Department dated 02.12.2022 was passed to change the land use from agriculture to residential with conditions. In G.O. (2D) No.298, which relates to the second phase, there is a patta channel running across the layout. Therefore, in the said G.O., the Government has specifically imposed a condition directing the 8<sup>th</sup> Respondent to follow the rules illustrated in Tamil Nadu Combined Building and Development Rules, 2019, more particularly, Rule 55 (2) which reads as follows:-

"55. Storm Water Drainage:-

(2) No existing natural or man-made drainage system such as channel, canal, nalla, etc. passing through the site shall be closed. When it is realigned with the site optimising the usability of the site, due care shall be taken that its carrying capacity and velocity of flow is not reduced affecting the upstream and downstream sites and such a realignment shall be done only with prior approval of the Executive Authority of the Local Body"

**30.** So, in view of the above, the G.O. has specifically directed the 8<sup>th</sup> Respondent to protect the water channel in an 'as is where is' condition and was further directed to not to realign the water channel. Only thereafter, the technical sanction was accorded on 13.03.2023 and based on which, the planning permission was granted on 21.03.2023 in the name of 'G Square City 2.0'. Hence, the allegation that the water stream being obliterated in the project site does not hold water.

**31.** The next allegation of the applicant is that the Cochin – Coimbatore – Karur (CCK) pipeline of M/s. Petronet Company passing through the project site is also addressed suitably by the Coimbatore Local Planning Authority. It is pointed out that the said CCK pipeline runs on the NH 544 and thereafter, there is a service lane measuring about 7 Meters, and only thereafter the layout starts. It is further pointed out that those plots facing national highways are commercial. Hence,



they have to leave 6 Meters set back from the service lane. In view of that, the allegation that the CCK pipeline will be damaged is not correct and the same is answered accordingly.

**32.** In determining whether two phases constitute a single integrated project or independent developments, judicial precedents have emphasized examining the intent and sequence of activities. Precedents like *Keystone Realtors Pvt. Ltd. Vs. Anil V. Tharthare (2020) 2 SCC 66* highlight instances where projects were split deliberately to evade compliance thresholds under environmental laws. However, in the present matter, such circumstances are absent. The evidence establishes that Phase I and Phase II were developed sequentially, with distinct timelines, approvals, and ownerships. Phase I was completed, sold, and closed before any steps for Phase II were initiated, ensuring no overlapping activities or shared operational elements. Additionally, the approvals for Phase II were obtained independently and well after the completion of Phase I, negating any suggestion of concurrent planning or execution. The physical separation of over 15 acres between the two phases, comprising public roads, water bodies, and other privately owned lands, further reinforces their operational independence. Unlike cases involving artificial splitting or concealed integration, the present case reflects independent development, both in intent and execution. Therefore, applying the principles from precedents like *Keystone Realtors* to the facts at hand is not appropriate, as the circumstances here are clearly distinguishable.

**33.** From the above conspectus of the facts, it is clear that the applicant has combined both projects and added the total extent and come to a wrong conclusion that it exceeds the threshold limit of 50 Hectares as per Schedule (8) of the EIA Notification and alleged that the project has been commenced and completed without obtaining prior Environmental Clearance.

**34.** Further, it is clear that both the projects are independent of each other, as on the date of completion of the first phase, the second phase was not even visualized by the 8<sup>th</sup> Respondent. When the projects are dealt with independent of each other and it is not an expansion as alleged by the applicant,

it will not come within the purview of the EIA Notification. The entry 8 (b) of the EIA Notification which deals with the 'Townships and Area Development projects' prescribes an area greater than or equal to 50 Hectares or built-up area greater than or equal to 1,50,000 Sq. Meters would be appraised under the "B1" category. Therefore, only when situations where the project crosses the lower or upper threshold limits stipulated in the schedule, the environmental impact assessment to be done and the Environmental Clearance to be obtained. When the projects are independent of each other and do not constitute expansion to make it a single project, it does not require the compliance of obtaining the Environmental Clearance. Mr. S. Ravi, the learned Senior Advocate appearing for the applicant fairly conceded that if the two projects in question are independently and separately developed by two different developers, the projects do not require prior Environmental Clearance, as the extent is within the threshold.

**34.1** The Supreme Court in *Rajeev Suri Vs. Development Authority & Ors. (2022) 11 SCC 1* held that the basic purpose of an EIA is to assess the cumulative impact of a project, provided it involves interlinked components planned to commence development together or within a reasonable timeframe. The Court clarified that **the term "cumulative impact" does not imply combining independent projects solely based on geographical proximity.** Applying this reasoning, the claim that "G Square City" and "G Square City 2.0" constitute a single project merely because they are located in the same village is untenable. These layouts are distinct, with no functional integration or interlinked timelines. The relevant paragraph of the Judgment cited supra is usefully extracted below:-

**"486.** It is true that the 2006 Notification prescribes for a cumulative impact assessment. We are in agreement with the proposition that the basic purpose of an environmental impact assessment is to determine and mitigate the cumulative impact of a project - if the project proponent intends to commence development together or within reasonable time space. However, the meaning of the expression "cumulative impact/effect" is not to be understood as an expression of art. It does not shun segregating an independent project. In an examination of this nature, the foremost requirement is to identify the

precise expanse of a project. For this purpose, the first source is the information supplied by the project proponent in Form I as it expressly requires information on any interlinked projects. Upon the receipt of that information, it falls upon the EAC to check and scrutinize whether there is more to the project which has been left out of its scrutiny. This latter scrutiny is dependent upon the nature of the project as it would involve collective consideration of all operational aspects of a project. It does not mean connecting independent projects upon a subjective notion that it is necessary to do so for a collective appraisal merely because such projects fall in the same region. The word 'cumulative' is to be read in conjunction with the word 'project' and idea behind examination of cumulative impact is to assess the impact of the project including all its functional components, and not of all development activities going on in a region."

**34.2** Expanding on this, the Hon'ble Supreme Court further held that,

"**488.** Once the project proponent frames a conscious timeline of completion of various projects which broadly fall under the umbrella of a common vision for the region, the same cannot be disturbed on the notion that the whole vision should go through the regulatory compliances at once. That would defeat the whole purpose of advance planning of a development activity. Planning involves in-depth consideration of a wide range of concerns including regulatory requirements. The decision to attribute different timelines and purposes to different projects is a domain of planning and the Court cannot readily attribute the label of mala fides to such informed decision until and unless there is a clear attempt to evade the requirements of law. Noticeably, the Parliament project involves two components – renovation of existing building and construction of new building on adjacent plot – and both these components have been submitted for collective assessment by the project proponent. If these components would have been separated and submitted for clearance in a piece-meal manner, it would have been a case of "cake-slicing" the project. For, these two components are functionally and intrinsically connected and must be considered cumulatively."

**34.3** From the above, it is explained that attributing different timelines and purposes to separate projects falls within the purview of planning and does not inherently indicate evasion of regulatory requirements. The Court stressed that such planning decisions cannot be labelled as mala fide unless there is clear evidence of intent to circumvent legal compliance. Here, the 8<sup>th</sup> Respondent has followed distinct planning and approval processes for Phase 1 and Phase 2, indicating separation and independent timelines for development.

**34.4** In the below extracted para, the Hon'ble Supreme Court provided further guidance by stating that scattered plots developed by a common builder do not warrant cumulative assessment unless they are functionally integrated and involve multi-sectoral components. In the present case, the Supreme Court's reasoning affirms that the absence of functional interdependence or proximity between the two layouts precludes the requirement for a cumulative environmental clearance.

"**490.** Irrefutably, any exposition on what could amount to an integrated project, thereby calling for a cumulative assessment, has to be done with circumspection. For, the 2006 Notification would apply equally to other public projects including private projects without variation in the legal standard. The question here is whether a common builder/developer undertaking construction work on ten different plots totalling upto thousand acres scattered in different areas of a region/state/country and not adjoining or contiguous could be subjected to the rigours of cumulative assessment equivalent to an integrated project merely because the total area across which the projects are spread, when added up, turns out to be beyond permissible limits warranting such assessment. That is not the dispensation prescribed by law as of now. In our considered opinion, this interpretation would be counter-productive to the very idea of sustainable development. To be considered as integrated, the plots must involve multi-sectoral components in close proximity if not contiguous and fulfil other specifications under the notification."

**34.5** The Hon'ble Supreme Court also underscored that land ownership is a key factor in determining whether projects are interlinked. If ownership is vested in different entities, merely involving a common developer does not transform independent projects into an integrated one. Here, the ownership of land for "G Square City" and "G Square City 2.0" rested with different entities before being developed by the 8<sup>th</sup> Respondent, further supporting the conclusion that these projects are independent. The relevant paragraph of the Judgment is reproduced as follows:-

"**492.** As discussed above, the factum of land ownership is equally pertinent in such enquiry. If ownership or control over the land to be developed vests in different entities, then merely because the common builder (CPWD) is developing different projects, cannot be assessed as a uniform or as an integrated/interlocked project. It would be anomalous to press different owners for a collective environmental appraisal (of higher standard) merely due to location of their sites in close proximity despite the fact that development thereof is yet

to commence and do not involve multi- sectoral components.”

**35.** In such circumstances, whether it can be stated that these kinds of projects would defeat the entire scheme of the EIA Notification which ensures the Environmental Impact Assessment, the answer would be in the negative for the reason that if the above-referred Phase 1 and 2 are developed and promoted by the two individual developers, then they would come within the threshold limit and may not require obtaining of Environmental Clearance after environmental impact assessment study. In the instant case also, both Phases 1 and 2 were originally owned and developed by two sets of developers. It is initially the Phase - 1 was taken over by the Project Proponent, developed and sold within a short time. Thereafter, the set of promoters had approached the 8<sup>th</sup> Respondent for taking over their project also. Hence, it cannot be stated that on the date when the 8<sup>th</sup> Respondent got the right by virtue of the power of attorney dated 09.02.2022 and completed the project by the end of the year, it had not obtained any right in Phase - 2.

**35.1** On the broader scope of judicial review in environmental matters, the Hon’ble Supreme Court highlighted the need for a project-specific approach and held that,

“**525.** In matters of balancing between competing environmental and development concerns, the Court has to be project-specific. In environmental matters, even one fact here or there may have the effect of attributing a totally distinct character to the project and accordingly, the scope of judicial review may vary. This sentiment is best reflected in the following words of **Professor Schotland**<sup>1</sup> who proposed ranking of standards of judicial review according to strictness:

“3. .... I have always thought of scope of review as a spectrum, with de novo at one end, with unconstitutionality at the other end, and in between a number of what I will call “mood-points” or degrees of judicial aggressiveness or restraint, such as preponderance of the evidence, clearly erroneous, substantial evidence on the whole record, scintilla of evidence, abuse of discretion and last, right next to or even into unconstitutionality, arbitrary and capricious. And since these are only “mood-points”, there is considerable room within each for difference.”

<sup>1</sup> D.C. Circuit Judicial Conference, Environmental Protection: Law and Policy, 2<sup>nd</sup> Edn. (Cambridge: Cambridge University Press, 2007) Pg.122.

**35.2** Even minor factual variations can attribute a distinct character to a project, necessitating tailored judicial scrutiny. This principle applies directly to the present case, where the facts surrounding the development timelines, layout approvals, and functional independence of the two phases shape the analysis under the EIA Notification.

**35.3** The Hon'ble Supreme Court acknowledged the complexity of balancing competing environmental and developmental concerns, quoting Wright, J. in *Ethyl Corporation v. EPA*. The Court emphasized that judicial review must involve a close examination of evidence to understand the agency's decision-making process, but without assuming the role of a "super-agency." Similarly, the review of the SEIAA determination here must focus on whether its conclusion that the projects are independent was rational and based on relevant considerations. The relevant portion of the Judgment is as follows:-

"526. The proper balance of judicial review in environmental matters in a constantly developing society is a matter of great debate across all jurisdictions. In ***Ethyl Corporation v. Environmental Protection Agency***<sup>2</sup>, the observations of Wright, J. present a just balance. He observed thus:

"There is no inconsistency between the deferential standard of review and the requirement that the reviewing court involve itself in even the most complex evidentiary matters; rather, the two indicia of arbitrary and capricious review stand in careful balance. The close scrutiny of the evidence is intended to educate the court. It must understand enough about the problem confronting the agency to comprehend the meaning of the evidence relied upon and the evidence discarded; the questions addressed by the agency and those bypassed; the choices open to the agency and those made. The more technical the case, the more intensive the court's effort to understand the evidence, for without an appropriate understanding of the case before it the court cannot properly perform its appellate function. ..."

---

<sup>2</sup> 426 US 941 (1976). Ed.: Cert. denied in *Ethyl Corpn. V. Environmental Protection Agency*, 426 US 941 (1976) against *Ethyl Corpn. V. Environmental Protection Agency*, 541 F 2d 1 (DC Cir. 1976).

**35.4** The Hon'ble Supreme Court further noted, in the below extracted para, that judicial intervention must respect the expertise of regulatory agencies, affirming decisions that are rational, even if controversial.

"**527.** Wright, J. in *Ethyl Corporation* then notes the need for realising the limits of judicial function thus:

"But the function must be performed with conscientious awareness of its limited nature. The enforced education into the intricacies of the problem before the agency is not designed to enable the court to become a superagency that can supplant the agency's expert decision-maker. To the contrary, the court must give due deference to the agency's ability to rely on its own developed expertise. The immersion in the evidence is designed solely to enable the court to determine whether the agency decision was rational and based on consideration of the relevant factors. It is settled that we must affirm decisions with which we disagree so long as this test is met . . ."

**35.5** In this case, the SEIAA's decision that "G Square City" and "G Square City 2.0" do not constitute a single project is consistent with regulatory standards and supported by factual evidence, warranting judicial deference.

**36.** On 17.03.2023, the power of attorney for Phase 2 was executed in favor of the 8<sup>th</sup> Respondent. The State of Tamil Nadu treated both phases independently with separate proceedings. When individual developers can independently promote projects within legal limits, the combined development by the 8<sup>th</sup> Respondent should not be treated as a single project.

**37.** The Hon'ble Supreme Court's decision in ***Civil Appeal No.15 – 16 of 2020 [Hindalco Industries Limited Vs. Ashwani Kumar Dubey & Ors.] dated 04.07.2023*** provides important guidance on maintaining uniformity in environmental regulation. This case arose from an appeal against an NGT order that accepted the Core Committee's recommendation to impose stricter emission norms for Hindalco's Renukoot Plant, requiring the reduction of particulate matter emissions from 150 mg/Nm<sup>3</sup> to 50 mg/Nm<sup>3</sup>, along with limits for SO<sub>2</sub> and NO<sub>x</sub> emissions. The Supreme Court emphasized that such enhanced standards, although well-intentioned, must not

create arbitrary distinctions or unequal treatment without a clear statutory mandate. The judgment reiterated that environmental regulations must be applied uniformly, irrespective of the identity of the project proponent. Applying this reasoning to the present case, each phase, being below the 50-hectare threshold, would not require Environmental Clearance if developed separately. Treating the combined development differently solely because the same entity completed both phases would be arbitrary and inconsistent with the principle of uniform application emphasized by the Hon'ble Supreme Court. Therefore, the two phases should be assessed independently based on their environmental impact.

**38. To sum up,**

**38.1** The 8<sup>th</sup> Respondent's action regarding Phase - 1 are in compliance with law. The sequential approval/ technical sanction on 30.03.2021, layout approval on 31.01.2022 and the TNRERA Registration on 25.02.2022, demonstrate orderly development. As referred supra, the total extent is only 48.73 Hectares which remains below 50 Hectares threshold, confirming Phase - 1's independence.

**38.2** The assertion that Phase-2 constitutes an extension of Phase-1 is factually incorrect. Phase-2's development commenced only after the 8<sup>th</sup> Respondent obtained a separate power of attorney on 17.03.2023 and secured layout approval on 21.03.2023, and registered it with TNRERA on 30.03.2023. These actions, as referenced earlier, occurred well after the completion and sale of Phase-1.

**38.3** The claim that Phase-2 followed the successful completion of Phase-1 is consistent with the records. It is already held that only after the Phase-1's completion, Phase-2 was conceptualized. Further, the physical separation of 15 Acres, comprising of public roads, water bodies, and private lands, proves the lack of contiguity between the two phases.



- 38.4** The coincidence of power of attorney dates for Phase-1 and land agreements for Phase-2 on 09.02.2022 does not imply simultaneous development, as it is evident from the fact that Phase-2's planning and permissions began only in 2023. Sequential development, substantiated by distinct approvals, negates claims of integration.
- 38.5** The applicant's reliance on promotional materials and layout applications to establish a unified project lacks merit. Branding strategies could not be applied legal or operational integration. Approvals for Phase-1 was finalized in 2022 and Phase-2 was initiated in 2023 and there are temporally and procedurally distinct. Promotional developments are short-term marketing strategies that businesses used to boost their sales of certain product or service.
- 38.6** Unified branding, such as calling Phase-2 (G Square City 2.0) is a marketing tool and does not imply legal integration. The determinants for Environmental Clearance are operational thresholds and compliance, not promotional language.
- 38.7** The claim that physical separation is artificial also is misleading on facts. The barriers between phases viz., public roads and water bodies are not constructs of evasion but intrinsic to the site. Even presuming these barriers were created to evade clearances risks, misinterpreting genuine separations as artificial.
- 38.8** The EIA Notification mandates prior clearance only when the built-up area exceeds 1,50,000 Sq. Meters or the total area surpasses 50 Hectares. Both Phase-1 (48.73 Hectares) and Phase-2 (44.33 Hectares) were independently approved and developed under these thresholds Notification. Phase-2 was initiated a year after Phase-1's completion, with entirely separate ownership, approvals, and planning permissions. Combining or conflating the built-up areas of two legally distinct projects might undermine the statutory framework, as it

evaluates projects based on their individual compliance with thresholds, not assumptions about their aggregate size.

**38.9** If one would speak about the Solid Waste Management, sewage treatment facilities and water supply in this project, they are outside the scope of the present Original Application and the pleadings. Nonetheless, these matters, while important for project execution, fall under the jurisdiction of Local Planning Authorities and are governed by municipal regulations rather than the EIA Notification.

**38.10** We are also aware of the facts that the Courts are bound by the principle that they cannot address issues not raised in the pleadings or grant reliefs not sought by the parties. This principle is firmly established in ***Bachhaj Nahar v. Nilima Mandal & Ors. [(2008) 17 SCC 491]***, where the Supreme Court held that the Courts cannot grant reliefs not specifically pleaded or prayed for. No amount of evidence can be considered on an issue that does not arise from the pleadings. Judicial overreach in addressing unpleaded issues constitutes a miscarriage of justice.

**38.11** Therefore, it is an established principle that judicial intervention must be restricted to the scope defined by the pleadings, ensuring fairness to all parties. In this case, the applicant's primary contention pertains to Environmental Clearance under the EIA Notification, specifically regarding thresholds for built-up area and project extent. Operational aspects such as waste management, water supply, etc. are neither raised in the pleadings nor relevant to the question of whether the projects require prior Environmental Clearance. Introducing these issues at this stage transgresses the legal boundaries of the Original Application and contravenes established procedural norms.

**38.12** The reliance on the *Keystone Realtors* and other judgments regarding project splitting is misplaced. Unlike the facts of those cases, the instant case involves two distinct phases with separate approvals, owners, and timelines. The phases were not part of a deliberate strategy to evade Environmental Clearance but sequentially and factually independent projects.

**39.** In the light of the above discussions, it is held that the projects mentioned in the application developed by the 8<sup>th</sup> Respondent are independent projects having an extent within the permissible threshold and do not require Environmental Clearance. As the lands are developed on barren sites, the environmental damages as alleged are not proved by the applicant.

**40. In the result, the Original Application [O.A. No.171 of 2023 (SZ)] is dismissed with costs of Rs.1,00,000/- (Rupees One Lakh only). The applicant is directed to pay the said amount to the Tamil Nadu Pollution Control Board within a period of 2 (Two) weeks. As and when such a deposit is made, it may be used for the purpose of developing a green belt in the project area.**

**Sd/-  
Smt. Justice Pushpa Sathyanarayana, JM**

**O.A. No.171/2023 (SZ)  
08<sup>th</sup> February, 2025. Mn.**

**I have perused the comprehensive opinion delivered by the Hon'ble Smt. Justice Pushpa Sathyanarayana, Judicial Member of this Bench on the questions referred to in this Original Application. However, I respectfully dissent from the said opinion and furnish reasons below.**

**1.** The challenge in this Original Application is to the development of the township project and the construction of buildings without the Environmental Impact Assessment (EIA). The applicant claims himself to be a social activist and observer of a political party and states that the 8<sup>th</sup> Respondent viz., M/s. G Square Realtor Private Limited has developed the township project in Pattanam Village of Sulur Taluk in Coimbatore District in the name of '*G Square City*'. It is alleged that the project has two phases viz., '*G Square City*' and '*G Square City 2.0*'. According to the applicant, it was advertised that the project has 240 amenities such as an open air drive in theatre, clubhouse, swimming pool, gymnasium, parks, library, etc.

**2.** It is pointed out that the advertisements published by the 8<sup>th</sup> Respondent reveal that the total amenities available in both phases of the alleged project are 240 plus, out of which, Phase - 1 has 150 plus amenities and Phase - 2 has 90 plus amenities. It is alleged that the Project was split into Phase-1 and Phase -2 to evade requirement of prior environmental clearance. According to the applicant, the total area of the extent of the project (Phase - 1 and 2) amounts to 93.28 Hectares. The Counsel for the applicant also contended that the 8<sup>th</sup> Respondent entered into an agreement with different firms on 09.02.2022 itself for development of lands admeasuring an extent of 109 Acres 55 Cents comprised in various survey numbers forming part of Phase-2 in Pattanam village. Hence, it is claimed that the project comes under the purview of Item 8 (b) of the schedule to the EIA Notification, which requires the prior Environmental Clearance.

**3.** The 8<sup>th</sup> Respondent states that they took over a project being developed by a joint venture promoted by M/s. Emaar India Private Limited in an extent of 120.406 Acres, for which, technical sanction was accorded by the Directorate of

Town and Country Planning on 30.03.2021 and the layout was approved on 31.01.2022. In this regard, the power of attorney deed was executed in favour of the Project Proponent/8<sup>th</sup> Respondent on 09.02.2022 and registered with TNRERA vide TN/11/Layout/0775/2022 dated 25.02.2022. It was also stated that subsequently the layout plan was revised without modifying the total extent of the project land, for which, the approval was granted by the Local Planning Authority - Coimbatore on 20.07.2022 and registered with the TNRERA vide TN/11/Layout/6742/2022 dated 11.08.2022.

**4.** It was further stated that the plots were sold out fully and at no point of time, the extent of the said project crossed the threshold limit of 50 Hectares so as to require the prior Environmental Clearance, as claimed by the applicant. It was also claimed that following successful implementation of Phase - 1 (G Square City), the 8<sup>th</sup> Respondent was approached by the various other landowners for development of layouts. They also stated that the 8<sup>th</sup> Respondent had developed another layout viz., 'G Square City 2.0' in an extent of 109.55 Acres in the same Pattanam Village, Sulur Taluk, Coimbatore District. This land originally belonged to eight firms who entered into a joint venture with the 8<sup>th</sup> Respondent for developing the said lands into a layout and accordingly, appointed the 8<sup>th</sup> Respondent as their power of attorney agent on 17.03.2023 vide Document Nos.3529 and 3530 of 2023 on the file of Sub Registrar, Singanallur. The said layout was approved by the Local Planning Authority - Coimbatore on 21.03.2023 and was also registered with the TNRERA vide TN/11/Layout/1129/2023 dated 30.03.2023.

**5.** The following assertions have also been made by the Project Proponent:-

- (i)** Following the successful implementation of 'G Square City', the 8<sup>th</sup> Respondent was approached by various landowners for development of layouts. Accordingly, the 8<sup>th</sup> Respondent had developed another layout viz., 'City 2.0'.

- (ii) There is no material on record to even remotely suggest that the said two layouts constitute a single project.

6. The documents produced by the applicant and the respondents reveal that the joint venture project of M/s. Emaar India Private Limited and others developed in an extent of 120.406 Acres of land (48.7 Hectares) was taken over by the 8<sup>th</sup> Respondent and the power of attorney deed was executed in favour of the 8<sup>th</sup> Respondent on 09.02.2022. On the very same day i.e. 09.02.2022, M/s. Ethnic Properties Private Ltd. and seven other firms have also appointed the 8<sup>th</sup> Respondent (G Square Realtors Private Limited) as their Power of Attorney under the Deeds of Special Power of Attorneys and registered the same to deal with and develop the lands in an area of 109.5 Acres.

7. A perusal of the General Power of Attorney Deed dated **17.03.2023** (Page No.6 of the Deed) reveals that the various landowners viz., (i) Ethnic Properties Private Limited, (ii) Futuristic Buildwell Private Limited, (iii) Authentic Properties Private Limited, (iv) Rudraksha Realtors Private Limited, (v) Deep Jyoti Projects Limited, (vi) Garuda Properties Private Limited, (vii) Pukhraj Realtors Private Limited and (viii) Dove Promoters Private Limited) with an intention to develop the lands in various survey numbers (Sy. Nos.107, 108, 112, 113, 114, 116, 120, 121, 139, 140, 142, 143, 144, 146 to 150, 153 and 154) have appointed the 'G Square Realtors Private Limited' as their Power of Attorney under the Deeds of Special Power of Attorneys registered as Document Nos.1921/2022, 1915/2022, 2425/2022, 1922/2022, 1919/2022, 1914/2022, 1920/2022 and 1918/2022, **all dated 09.02.2022**, on the files of the SRO - Singanallur, to deal with and develop the lands in the said survey numbers.

8. The documents filed by the 7<sup>th</sup> Respondent on behalf of the 6<sup>th</sup> Respondent reveals that the Board Directors of G Square Realtors Private Limited held at its office on 28.01.2022 resolved to acquire the lands to a total extent of 280 Acres approximately comprised in several survey numbers situated at

Pattanam Village No.16, Suler Taluk (Earlier Palladam Taluk), Coimbatore District, owned by several companies of the group of Emaar India Limited, a company registered under the provisions of the Companies Act, 1956, and governed by the Companies Act, 2013, having its registered office at 306-308, Square One, C-2, District Centre, Saket New Delhi. *(Certified true copy of the extract of the Board Resolution –furnished on Page No.131 of the report filed by the 7<sup>th</sup> Respondent)*

**9.** However, for business or other reasons whatsoever, the said purchase was dropped, and the 8<sup>th</sup> Respondent took over the project for being developed **by a joint-venture promoted** by M/s. Emaar India Private Limited in an extent of 120.406 Acres, for which, the General Power of Attorney was executed in favour of the 8<sup>th</sup> Respondent on 09.02.2022. **The Special Power of Attorney Deeds with all the land owners of Phase – 2 viz., (i) Ethnic Properties Private Limited, (ii) Futuristic Buildwell Private Limited, (iii) Authentic Properties Private Limited, (iv) Rudraksha Realtors Private Limited, (v) Deep Jyoti Projects Limited, (vi) Garuda Properties Private Limited, (vii) Pukhraj Realtors Private Limited and (viii) Dove Promoters Private Limited were also executed on 09.02.2022 itself** and appointed the 8<sup>th</sup> Respondent (G Square Realtors Private Limited) as their Power of Attorney to deal with and develop the lands comprised in Sy. Nos.107, 108, 112, 113, 114, 116, 120, 121, 139, 140, 142, 143, 144, 146 to 150, 153 and 154 which form part of Phase-2 project.

**10.** The 7<sup>th</sup> Respondent in his report filed on behalf of the 6<sup>th</sup> Respondent has also stated that the 8<sup>th</sup> Respondent filed an application on 24.06.2022 before the Joint Director – Directorate of Town and Country Planning for change of land use from agricultural to residential for the properties situated at various survey numbers (Sy. Nos.107, 108, 112, 113, 114, 116, 120, 121, 139, 140, 142, 143, 144, 146 to 150, 153 and 154), which are part of the Phase - 2 project.

**11.** The 7<sup>th</sup> Respondent immediately on 28.06.2022 has sought for objections from the general public with regard to change of land use from agricultural to residential by paper

publication. The Government granted approval for conversion of change of land use on 02.12.2022 vide G.O. (2D) No.298 dated 02.12.2022.

**12.** From the above, it is evident that,

- (a)** The 8<sup>th</sup> Respondent (G Square Realtors Private Limited) was appointed as their Power of Attorney under the Deeds of Special Power of Attorneys by M/s. Ethnic Properties Private Limited and seven others on 09.02.2022 itself for development of land forming part of Phase-2 on the very same day the General Power of Attorney was executed in favour of the 8<sup>th</sup> Respondent by M/s. Emaar India Private Limited in an extent of 120.406 Acres which was developed as Phase-1.
- (b)** The 8<sup>th</sup> Respondent has submitted an application before the Joint Director – Directorate of Town and Country Planning, Coimbatore vide Application No.5976/2022 dated 24.06.2022, for change of land use from agricultural to residential for the property which are part of Phase – 2, which is much before the approval of the revised layout plan of Phase – 1 (G Square City) on 20.07.2022 and registration with the TNRERA on 11.08.2022;
- (c)** The Joint Director called for objections from the general public with regard to change of land use from agricultural to residential by paper publication on 28.06.2022;
- (d)** Approval for change of land use was granted by the Tamil Nadu Housing and Urban Development Department vide G.O. (2D) No.298 dated 02.12.2022; and
- (e)** Layout application for Phase – 2 was made before the Directorate of Town and Country Planning on 07.12.2022, even before the 8<sup>th</sup> Respondent was appointed as Power of Attorney Agent on 17.03.2023.



**13.** From the facts indicated supra, it would be clear that the 8<sup>th</sup> Respondent had a clear intention of developing both the Phase – 1 and Phase – 2 projects right from 09.02.2022 and was parallelly processing both phases by slicing them to less than 50 hectares each to avoid the need for obtaining prior Environmental Clearance.

**14.** The 8<sup>th</sup> Respondent's claim that following successful implementation of Phase-1 project they were appointed as Power of Attorney Agent only on 17.03.2023 for development of Phase-2 project and only after which activities for Phase-2 were initiated is untenable as the 8<sup>th</sup> Respondent has initiated action for Phase-2 project as stated supra and also secured approval for conversion of land forming part of Phase – 2 on 02.12.2022 and also filed an application for layout approval for Phase – 2 on 07.12.2022.

**15.** It is also to be noted that the layout approval was granted on 21.03.2023 i.e. within four days after the 8<sup>th</sup> Respondent is said to have been appointed as Power of Attorney by various landowners on 17.03.2023. Unless action has been initiated much earlier as noted supra, it would not have been possible for the Project Proponent to prepare a layout of the lands, obtain orders for change of land use from agricultural to residential from the Government and secure layout approval from the competent authority, within 4 days. The records clearly establish that after getting necessary change of land use, application for layout (Phase – 2) was filed on 07.12.2022 itself.

**16.** The Project Proponent also claimed that Phase – 1 (G Square City) and Phase – 2 (G Square City 2.0) are separate and independent projects and that both layouts are separated by more than 15 Acres of intervening space, that includes a pre-existing public road, a waterbody and other private lands. It was also contended that there is no common access road or common boundary for two layouts. The 7<sup>th</sup> Respondent, in his report, stated that no common boundary is shared between the both layouts and separate approach roads exists for each layout.

**17.** The contention that the properties are separate and independent projects, in view of the pre-existing public road (Sy. No.100), waterbody (Sy. No.106) and other private lands, is not sustainable, since this division is artificial, deliberate and intentional only to evade the requirement of obtaining prior Environmental Clearance. If such an argument is accepted, it will defeat the very objects and purpose of Environmental laws and nothing prevents the project proponents of various projects from creating artificial barriers like roads, compound walls, deliberately by avoiding the purchase of a few lands in the middle of a project, or create other artificial barriers to intentionally escape the threshold fixed to assess the environmental impact of the projects specified in the schedule. It is also to be noted that such barriers do not reduce the impact of the project on the environment and if the contention is accepted projects such as the impugned projects will have a serious environmental impact in the absence of environmental impact assessment and environmental management plan.

**18.** The contention that some patta lands also separate two phases cannot be sustained because in both layouts approved, in between the approved plots, there are private lands, which separate some of the plots within the layout, which indicates that it is quite natural to have some parcels of the land within the layout not sold by some landowners. In such cases, the layout can at best be irregular in shape, as is the case in respect of the Phase – 2 layout when compared with the Phase – 1 layout.

**19.** This Tribunal, in **Original Application No.106 of 2020 (SZ) [Atana Flat Owners and Residents Association Vs. District Environmental Engineer, TNPCB & Ors.]** vide Judgment dated 14.07.2022, has held as follows:-

"**45.** It is also seen from the counter affidavit filed by the 2<sup>nd</sup> Respondent regarding the date of completion of each project which was extracted in the counter in a tabular form that the first project approval was obtained on 10.10.2013 and the project completed on 12.01.2015. As regards other three projects viz., Megha, Madhulika and Atana are concerned, approvals were obtained on 14.03.2014, 29.01.2015 and 15.05.2015 respectively and construction completed on 29.02.2016, 26.08.2016 and 02.09.2016 respectively. So, it is clear from this that during the project of 'Vasantha' was in

progress, he had obtained the subsequent plots though by different separate documents and simultaneously applied for building permit and obtained approvals and started the construction also simultaneously. So, when the construction of one project was in progress, other projects were also started and constructions were simultaneously going on during certain period and then it can only be stated as an expansion of the earlier project.

... ..

**49.** If the 2<sup>nd</sup> Respondent claim is accepted, then there is a possibility of misuse by the builders who can reduce the extent of construction to less than 20,000 Sq.M. for each block, though the blocks are adjacent to each other to escape the need for applying for Environmental Clearance (EC) for commencement of the new blocks along with the first block as part of the expansion, without any environmental impact assessment of such construction which cannot be permitted. Since the Hon'ble Apex Court had even set aside the amendment of Environmental Clearance (EC) granted for the expansion and insisted for fresh study to be conducted, even though the upper limit in the slab of 20,000 Sq.M. to 1,50,000 Sq.M. was not breached. Since the environment impact of construction of 1,50,000 Sq.M. Project will be drastically more than the construction of 20,000 Sq.M. The above orders were intended for the purpose of protecting the environment against the exploitation of environment by project proponents and it was held that splitting of projects to 20,000 Sq.M. and increasing the project area in piecemeal by obtaining amendment of Environmental Clearance instead of subjecting them to holistic environment impact assessment is not valid.

... ..

**54.** ... .. The Tribunal applying the principles of "Precautionary Principle" and "Sustainable Development" has got power to expand the jurisdiction to consider the question of impact of such construction as carried out by the 2<sup>nd</sup> Respondent on the environment and whether that can be brought within the purview of the Environmental Clearance (EC) to ensure that builders do not misuse the provisions by dividing the projects in such a way to avoid getting Environmental Clearance (EC).

... ..

**56.** The attempt of the builder is to evade from obtaining Environmental Clearance (EC) in an illegal manner and divided the project in such a way to make it appear that they are independent project, though the same Project Proponent had envisaged all these projects to be implemented in his mind at the time of starting the first project i.e. Vasantha Project and other three projects can only be treated as expansion of the earlier project. Merely because, he has provided independent compound walls will not in our opinion be sufficient to make it an independent projects by which he can avoid obtaining Environmental Clearance (EC)."

**20.** In this regard, it is to be noted that, in **Keystone Realtors Private Limited Vs. Anil V Tharthare & Ors.** reported in **(2020) 2 SCC 66**, the Hon'ble Supreme Court of India has emphasized that "*A core tenet underlying the entire scheme of the EIA Notification is that construction should not be executed until ample scientific evidence has been compiled so as to understand the true environmental impact of a project*".

**21.** It was also held that *"In a case where the text of the provisions requires interpretation, this Court must adopt an interpretation which is in consonance with the object and purpose of the legislation or delegated legislation as a whole. The EIA Notification was adopted with the intention of restricting new projects and the expansion of new projects until their environmental impact could be evaluated and understood. It cannot be disputed that as the size of the project increases, so does the magnitude of the project's environmental impact"*.

**22.** Relying on the observations of the Hon'ble Supreme Court of India in ***Keystone Realtors Private Limited's*** case (supra), wherein the practice of splitting the project within the threshold limit and after that, increasing the extent of the project was deprecated, it was held by this Tribunal in **(i) Original Application No.149 of 2016 (SZ) [V. Ramasubbu Vs. Union of India & Ors.]** vide Judgment dated 01.08.2022, **(ii) Original Application No.106 of 2020 (SZ) [Atana Flat Owners and Residents Association Vs. District Environmental Engineer, TNPCB & Ors.]** vide Judgment dated 14.07.2022 and **(iii) Appeal No.05 of 2020 (SZ) [Shaji A.K. Vs. MoEF&CC & Ors.]** vide Judgment dated 11.09.2023 held that splitting of projects will not exempt the Project Proponent from seeking prior Environmental Clearance.

**23.** In the decision reported in ***Deepak Kumar Vs. State of Haryana (2012) 4 SCC 629***, though it was related to sand mining of smaller extent, the Hon'ble Apex Court deprecated the practice of dividing the plots either by the Mining Department or by the owners of the land for the purpose of avoiding obtaining Environmental Clearance (EC) as on that date, making it less than 5 Hectare. The Hon'ble Apex Court, later came to the conclusion that irrespective of the extent of the land, Environmental Clearance (EC) will have to be obtained and even if the smaller extents, on exceptional circumstances, mining activity will have to be permitted, then there must be a cluster environment impact assessment study to be conducted and environment management plan will have to be prepared and only thereafter, the mining license can be granted after insisting for Environmental Clearance (EC).

**24.** This Tribunal, in **V. Ramasubbu Vs. Union of India & Ors. [Original Application No.149 of 2016 (SZ)] vide Judgment dated 01.08.2022**, has held as follows:-

"57. ... .. So, it is clear from this that though they envisaged the project of more than 50 Ha. of township project, subsequently with an intention to evade obtaining Environmental Clearance (EC), they have reduced the extent marginally namely 49.31 Ha. to the extent of 120 Ac. and applied for layout permission from the Planning Authority and obtained the same and proceeded with the project without obtaining Environmental Clearance (EC). Further, subsequently when this was pointed out, they made an application for Environmental Clearance (EC) before the SEIAA showing the total extent of the development area as 80 Ha. which is also more than 50 Ha. threshold provided under the EIA Notification, 2006. When the application for Environmental Clearance (EC) was filed by the project proponent viz., the 9<sup>th</sup> Respondent had clearly mentioned his vision for launching the project covering an extent of 80 Ha. providing facilities like hospital, educational institution and other facilities of gymnasium, play area, golf ground, library, resort, restaurant, etc. Further, it was also mentioned in the same that it was a composite project envisaged by the project proponent spreading over an extent of 80 Ha. in two phases. If it is treated as an integrated project, then they will have to apply for Environmental Clearance (EC) for the entire project and they could not confine to Phase – I alone reducing the extent marginally less than 50 Ha. so as to avoid applying for Environmental Clearance (EC). This is nothing but an illegal evasion and it cannot be treated as legal avoidance known to law."

**25.** Aggrieved by the above-said final order i.e. O.A. No.149 of 2016 (SZ), the Project Proponent therein preferred an appeal before the Hon'ble Supreme Court of India as **Civil Appeal Diary No. 42311 of 2022**. The said appeal was dismissed on 25.01.2023 by the Hon'ble Supreme Court, noting that

"2. We find no reason to interfere with the impugned judgment and order dated 1<sup>st</sup> August 2022 in Original Application No.149 of 2016 (SZ) and 30<sup>th</sup> September 2022 in Review Application No.14 of 2022 (SZ) in Original Application No.149 of 2016 (SZ) passed by the National Green Tribunal, Southern Zone, Chennai.

3. The Civil Appeals are accordingly dismissed."

**26. Rajeev Suri Vs. Development Authority & Ors. (2022) 11 SCC 1**, relates to a case where the Project Proponent has obtained the Environmental Clearance for a parliament

project involving two components viz., **(a)** renovation of the building and **(b)** construction of a new building on the adjacent plot. Both the components have been submitted by the Project Proponent for collective assessment. The issue raised therein was that cumulative impact assessment has not been done by the competent authority. While examining the case, the Hon'ble Supreme Court has observed that,

**"488.** ... .. If these components would have been separated and submitted for clearance in a piece-meal manner, it would have been a case of "cake-slicing" the project. For, these two components are functionally and intrinsically connected and must be considered cumulatively."

**27.** In the instant case, both Phase – 1 and Phase – 2 relate to residential plots and they have been separated and submitted for clearance from the DTCP, in a piece-meal manner, which amounts to cake-slicing the project only to avoid the requirement of prior Environmental Clearance.

**28.** The SEIAA – Tamil Nadu in their counter has specifically stated that

"The project proponent of M/s. Emaar MGF Ltd has not applied for prior EC for the proposal of residential layout in an extent of 120.406 acres i.e. 48.73 hectares which is less than 50 hectares".

"It is respectfully submitted that the 8<sup>th</sup> respondent registered the same in the name of M/s. G Square City take over the above said activity and completed the project. Further the 8<sup>th</sup> Respondent has launched Phase – 2 project covering the total area of extent of the project 230.4065 Acres i.e. 93.28 Hectares which attracts the provisions of the EIA Notification, 2006 as amended, since the proposed layout area is more than 50 Hectares".

**29.** For the reasons stated supra, it is held that the 8<sup>th</sup> Respondent had deliberately and intentionally sliced the project to avoid obtaining prior Environmental Clearance, by splitting the land undertaken for development within the same Pattanam Village into Phase – 1 (G Square City) and Phase – 2 (G Square City 2.0).

**30.** In the result, it is held that Phase – 1 (G Square City) and Phase – 2 (G Square City 2.0) are not separate and independent projects and that the project was split into two phases each slightly less than 50 Hectares to evade the provisions of the EIA Notification, 2006 as amended, as the proposed layout area of Phase – 1 and Phase – 2 put together is 93.28 Hectares, attracting the provisions of the EIA Notification, 2006.

**31.** Additionally, it is to be noted that the Planning Authority as well as Local Bodies are also duty-bound to implement the Solid Waste Management Rules, 2016 and more particularly, Rule 11 (g), which is as follows:-

“(g) direct the town planning department of the State and local bodies to ensure that a separate space for segregation, storage, decentralised processing of solid waste is demarcated in the development plan for group housing or commercial, institutional or any other non-residential complex exceeding 200 dwelling or having a plot area exceeding 5,000 Sq. Meters”

**32.** It is noted that the DTCP has failed to assess the requirement of earmarking a separate space for the segregation, storage and decentralized processing of solid waste as per Rule 11 (g) of the Solid Waste Management Rules, 2016. No condition was imposed to ensure that a separate space is earmarked for segregation, storage and decentralized processing of solid waste.

**33.** Therefore, it is essential for **(i)** the Secretary to Government, Tamil Nadu Housing and Urban Development Department having jurisdiction over the Planning Authorities; **(ii)** the Secretary to Government, Department of Municipal Administration and Water Supply having jurisdiction over the Urban Local Bodies, and **(iii)** the Secretary to Government, Department of Rural Development and Panchayat Raj having jurisdiction over the Rural Local Bodies, to reiterate the need for following the provisions of the Solid Waste Management Rules, 2016, more particularly, Rule 11 (g) of the said Rules, while granting approval of the layout, area development/ township and building projects.

**34. In the result, the Original Application [O.A. No.171 of 2023 (SZ)] is disposed of, holding that the project requires prior Environmental Clearance and the following directions are issued:-**

- i.** The SEIAA – Tamil Nadu is directed to take action against the 8<sup>th</sup> Respondent for having violated the provisions of environmental laws following due process of law.
- ii.** The SEIAA – Tamil Nadu is also directed to stop on going constructions, if any, in the project site.
- iii.** The Secretary to Government - Tamil Nadu Housing and Urban Development Department to reiterate the need for following the provisions of the Solid Waste Management Rules, 2016, more particularly, Rule 11 (g) of the said Rules, while granting approval of the layout, area development/ township and building projects by the Planning Authorities.
- iv.** The Secretary to Government - Department of Municipal Administration and Water Supply and the Secretary to Government - Rural Development and Panchayat Raj Department to reiterate the need for following the provisions of the Solid Waste Management Rules, 2016, more particularly, Rule 11 (g) of the said Rules, while granting approval of the layout, area development/ township and building projects by the Local Bodies.
- v.** The TNPCB is directed to levy environmental compensation on the 8<sup>th</sup> Respondent for commencement of the project without prior Environmental Clearance, following due process of law.



**35.** The Registry is directed to communicate this order to the officials stated supra for complying with the directions issued and for filing the compliance report within three months.

**Sd/-  
Dr. Satyagopal Korlapati, EM**

**O.A. No.171/2023 (SZ)  
08<sup>th</sup> February, 2025. Mn.**

