

IN THE ENVIRONMENT AND LAND USE APPEAL TRIBUNAL

ELAT 1063/16

In the matter of:

Leeladeo Totoo

Appellant

v/s

District Council of Pamplemousses

Respondent

IPO

Kavenit Company Ltd

Co respondent

DETERMINATION

1. The present appeal is against a decision of the District Council of Pamplemousses ("the Council"), for having granted a Building and Land Use Permit ("BLUP") to the Co-respondent for the construction of a one storeyed building to be used as aluminium workshop and showroom at ground floor and general retailer, victualler and billiard/snooker house at first floor with the authorization to install 1 cut off machine (540 W) and 1 drilling machine (380W) at Shivala road, Mon Gout. The Appellant who had objected against the development before the Council lodged the present appeal following the decision of the Respondent.
2. Following the judgment in the case of **Baumann v/s District Council of Riviere de Rempart IPO Syndicats des Co-Proprietaires de Savannah Sparrow Residence and Ors [2019] SCJ 311** whereby the Supreme Court made a pronouncement on who is "an aggrieved person" within the meaning of **section 117(14) of the Local Government Act 2011**, and whereby their Lordships stated "*the Tribunal [which] does not have the*

jurisdiction to consider and determine complaints from persons who are not “aggrieved persons” within the definition of the Local Government Act 2011.”, the Tribunal has decided that it, being of inferior jurisdiction to the Supreme Court, is bound and must abide by the decision of the Supreme Court. This being the position adopted by the Tribunal, it cannot entertain any appeal from persons other than “aggrieved persons” within the meaning of **section 117(14) of the Local Government Act 2011**, as per the interpretation of the Supreme Court, for want of jurisdiction.

3. On the facts of the present case, the appellant is an objector to the proposed development and therefore based on the ratio in the case of *Baumann*, does not fall in the category of “aggrieved person” within the meaning of **section 117(14) of the Local Government Act 2011**. The appeal is therefore dismissed. No order as to costs.

Determination delivered on 11th November 2020 by

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Mrs. J. RAMFUL

Vice Chairperson

Me. R. SEETOHUL

Member

Mr. R. GUITON

Member