

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN
ZONE BENCH, CHENNAI**

APPEAL NO. 39 of 2023

IN THE MATTER OF: -

Sreerosh Developers (P) LTD

.... Appellant

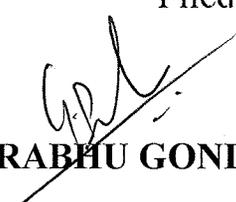
Versus

The Kerala Coastal Zone Management Authority and Ors. Respondent

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Filed by:


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Counsel for Respondent No. 1

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ZONE BENCH, CHENNAI**

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Versus

The Kerala Coastal Zone Management Authority and Ors.Respondent

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE KERALA
COASTAL ZONE MANAGEMENT AUTHORITY (KCZMA)**



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Counsel for Respondent No. 1

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN
ZONE BENCH, CHENNAI**

APPEAL NO. 39 of 2023

IN THE MATTER OF: -

Sreerossh Developers (P) LTD

Reg Off at No. 11/532A,

PK Commercial Complex, Cherooty Road,

Kozhikode, Kerala, India 673032

Rep By Its Senior Commercial Manager

Mr. D. Dhiraj, S/o. Mr. Daulath Ram

Aged about 47 Years

.... Appellant

Versus

1. The Kerala Coastal Zone Management Authority

Represented by its Member Secretary,

K. S. R. T.C. Terminal Thampanoor,

Thiruvananthapuram, Kerala 695001.

2. Kannur Municipal Corporation,

Represented by its Secretary,

P B No: 39

Kannur District, Kerala – 670001.

.... Respondent

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE KERALA
COASTAL ZONE MANAGEMENT AUTHORITY (KCZMA),
RESPONDENT -1.**

I, Mr.Suneel Pamidi, Member Secretary, The Kerala Coastal Zone Management Authority (KCZMA), Kerala having office at 4th Floor, KSRTC Bus Terminal, Thampanoor, Thiruvananthapuram-1 solemnly affirm and sincerely state as follows:



1. I am filing this counter affidavit on behalf of the 1st Respondent/KCZMA herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.
2. I deny the averments and allegations stated in this Appeal No. 39 of 2023 except those are specifically admitted hereunder and put the Appellant to strict proof of the same.
3. It is respectfully submit that; the Project Proponent, the Appellant herein has submitted an application for the NOC of Kerala Coastal Zone Management Authority for the construction of Residential Flats in the Kannur village, the application is numbered as File No. 2079/A2/2020/KCZMZ and the same is annexed herewith as Annexure No. 1.
4. It is respectfully submit that: through a letter dated 12.03.2021 requested the Appellant/Applicant to produce the following,
 - a. Form 1 Application authenticated by the Secretary, Kannur Municipal Corporation.
 - b. CRZ Status Report.
 - c. Revised plan limiting FAR as on 19.02.1991 as per clause 8.II(ii) of CRZ Notification 2011 amended vide S.O 1599 dated 19.06.2015 and the same is annexed herewith as Annexure No. 2
5. It is respectfully submit that: through Para 11(c) of the Petition the Applicant clearly accept the fact that KCZMA has requested for revised plan limiting FAR as on 19.02.1991 as per the Paragraph 8.II(ii) of CRZ Notification 2011 amended vide S.O. 1599 dated 19.06.2015, Paragraph 8.II(ii) was amended as follows,

'(ii) buildings permitted on the landward side of the existing and proposed roads or existing authorised structures shall be subject to the existing local town and country planning regulations as modified



from time to time, except the Floor Space Index or Floor Area Ratio, which shall be as per 1991 level : ‘

But the Applicant has not submitted the revised plan by limiting the FAR as on 19.02.1991. The prevailing Building Rule during 1991 is Kerala Building Rule 1984. The Applicant never showed an interest to apply the mind on the communication from the KCZMA to considering the S.O. 1599 dated 19.06.2015.

6. It is respectfully submitted that the Applicant has not applied the mind on the communication from the KCZMA dated 12.03.2021, instead the Appellant/Applicant tried to misrepresent the statutes before this Hon'ble court by just revising the FAR calculation to the comply with Kerala Municipal Building Rule as on 01.10.2020 which is not at all in the scope of the Coastal Regulation Zone Notification, 2011. Applicant relying upon only on the amendments in the Kerala Municipal Building Rules and failed to look into the CRZ notification amended through S.O. 1599 dated 19.06.2015 which is evident from Para 12 of the Petition.
7. It is respectfully submitted that the following ambiguities might have let to the erroneous orders,

- a. Year 1991

- i. The year of Coastal Regulation Zone Notification 1991
- ii. In Coastal Regulation Zone Notification 2011, under Para 8 the cut-off date is 19.02.1991

The above ambiguity was not clearly presented before this Hon'ble Tribunal in Appeal No. 42 of 2017 which was highlighted by this Hon'ble Tribunal in the Order, the same is available in the Petitioners typeset in Page 225.

- b. The meaning of the word 'existing'



- i. Dictionary or literal meaning
- ii. The meaning that should be applied in Para 8 of Coastal Regulation Zone Notification 2011 before Amendment S.O. 1599 of 2015 is in the Note just below Para 8(i). Which replaces the word existing with date 19.02.1991

This ambiguity is evident in Appeal 42 of 2017.

- c. Existing local town and country planning regulations
 - i. Kerala Building Rule 1984
 - ii. Kerala Municipality Building Rules 1999
 - iii. Kerala Municipality Building Rules 2019

Each of the above rules supercedes the previous rules and the rules were not repealed as stated by the Applicant in Para 12 of the Petition.

d. F.A.R 1.5

- i. According to Kerala Building Rules 1984 maximum allowable F.A.R limit is 1.5
- ii. According to Kerala Municipality Building Rules 1999 maximum allowable F.A.R limit without extra charge is 1.5 until amendment GO.[P] No.82/2017/LSGD Dated: 31.10.2017 increased the limit to 3.

Therefore only Kerala Building Rules 1984 should be applied as per the CRZ Notification 2011 which restrict the F.A.R to 19.02.1991 level.

e. F.A.R. 2.5

- i. According to Special G.O. for Kochi Municipal Corporation, the Maximum allowable F.A.R limit in CRZ is 2.5



- ii. According to Kerala Municipality Building Rules 1999, the Maximum allowable F.A.R limit is 2.5 until amendment GO.[P] No.82/2017/LSGD Dated: 31.10.2017

Therefore in the current petition the NOC is sought for construction in Kannur Municipal Corporation. In this case according to Kerala Building Rule 1984, only F.A.R of 1.5 is allowed not F.A.R. 2.5.

f. Applicability

- i. Local town and country planning regulations are applicable throughout the state with certain exceptions.
- ii. In CRZ unchecked development activities are not permitted, this is the main reason for setting the F.A.R to 19.02.1991 level in the Coastal Regulation Zone Notification 2011.

8. It is respectfully submitted that; all the above ambiguities were well settled by S.O. 1599 of 2015 amendment to the Coastal Regulation Zone Notification 2011 which clearly states as follows,

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

Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road :

Provided further that the construction in CRZ-II area of Goa, Kerala and Mumbai shall be governed by the provisions of Clause V of paragraph 8.”.

It is clear from the amendment that the Building rules which are applicable prior to 1991 have to be applied. Therefore Kerala Building Rule 1984 was applied and the Appellant was requested to follow the same and update the FAR in all our communications. But the Appellant showed least interest in applying the latest statute which was highlighted by us in all the communications.

9. It is respectfully submitted that; the Project Proponent was not ready to comply with the CRZ Notification 2011, therefore in 130th KCZMA it was decided not to grant CRZ clearance for the construction since the FSI/FAR of the proposed building exceeded the permissible limit, as stipulated under Para 8 II (i) of CRZ Notification. The decision was communicated to the project proponent vide letter No. 2079/A2/2020/KCZMA dated 18.09.2023.
10. It is respectfully submitted that; the CRZ is protected eco-sensitive area and the development activities which are allowed in other parts of the State cannot be applied directly. The restriction on development activity is clearly defined under the CRZ Notification 2011 which have to be applied in letter and spirit to protect the CRZ eco-sensitive area.

In light of the aforementioned circumstances, I respectfully pray that the Honorable Tribunal may dismiss the frivolous appeal with costs, as the Appellant/Applicant has intentionally omitted a crucial provision of the Coastal Regulation Zone (CRZ) Notification with the purpose of obtaining favourable orders. It is therefore pleased to pass suitable order and thus render Justice.

First Respondent

Solemnly affirmed at Thiruvananthapuram
 On this 1st day of January 2024
 & Signed his name in my presence.

Shaji
01/01/2024

SHAJI. T.S
SECTION OFFICER
KERALA COSTAL ZONE
MANAGEMENT AUTHORITY



Before Me

[Signature]

Member Secretary
 KCZMA

SHAJI.T.S
SECTION OFFICER
KERALA COSTAL ZONE
MANAGEMENT AUTHORITY



കേരള തീരദേശ പരിപാലന അതോറിറ്റി
പരിസ്ഥിതി കാലാവസ്ഥാ വ്യതിയാന വകുപ്പ് കാര്യാലയം
 നാലാംനില, കെ.എസ്.ആർ.ടി.സി. ബസ് ടെർമിനൽ, തമ്പാനൂർ, തിരുവനന്തപുരം-695
 001 ഫോൺ - +0471 2339696 (ഓഫീസ്)

നം.2079/എ2/2020/ KCZMA

തീയതി: 12.03.2021

പ്രേഷിതൻ,

മെമ്പർ സെക്രട്ടറി
 കേരള തീരദേശ പരിപാലന അതോറിറ്റി

സ്വീകർത്താവ്,

സെക്രട്ടറി,
 കണ്ണൂർ മുനിസിപ്പൽ കോർപ്പറേഷൻ
 കണ്ണൂർ

സർ,

വിഷയം:-KCZMA -വാസഗൃഹങ്ങളുടെ നിർമ്മാണം/പുന:നിർമ്മാണം/
 ക്രമീകരണം - രേഖകൾ ഹാജരാക്കുന്നത് - സംബന്ധിച്ച്.

സൂചന:- താങ്കളുടെ കാര്യാലയത്തിലെ 28.01.2021 ലെ ശ്രീ. റെജി എ പി-യുടെ
 അപേക്ഷ അടങ്ങിയ E3/BA/216/20-21 നം കത്ത്.

സൂചനയിലേയ്ക്ക് ശ്രദ്ധ ക്ഷണിക്കുന്നു. സൂചന പ്രകാരം ലഭിച്ച അപേക്ഷയോ
 ടൊപ്പം ചുവടെ രേഖപ്പെടുത്തിയിരിക്കുന്ന രേഖകൾ/പകർപ്പുകളിൽ ലഭ്യമല്ലാത്തവ ഈ
 കത്ത് ലഭിച്ച് 15 ദിവസത്തിനകം ഈ കാര്യാലയത്തിൽ ലഭ്യമാക്കേതാണ്.



ക്രമ നമ്പർ	രേഖകളുടെ വിവരം	ഹാജരാക്കേണ്ട രേഖകൾ
1	പഞ്ചായത്ത്/മുനിസിപ്പാലിറ്റി/കോർപ്പറേഷൻ	ലഭ്യമാണ്
2	വില്ലേജം സർവ്വേനമ്പരം	ലഭ്യമാണ്
3	പ്ലോട്ടിന്റെ മൊത്ത വിസ്തീർണ്ണം	ലഭ്യമാണ്
4	കെട്ടിടത്തിന്റെ മൊത്ത വിസ്തീർണ്ണം	ലഭ്യമാണ്
5	നിർമ്മാണത്തിന്റെ തരം/ആവശ്യം	ലഭ്യമാണ്
6	പുനർ നിർമ്മാണമാണെങ്കിൽ നിലവിലുള്ള കെട്ടിടത്തിന്റെ വിസ്തീർണ്ണം, കെട്ടിട നമ്പർ, നിർമ്മിച്ച വർഷം	ലഭ്യമാണ്
7	മുനിസിപ്പാലിറ്റി/കോർപ്പറേഷൻ/ആണെങ്കിൽ നിർമ്മിക്കാൻ ഉദ്ദേശിക്കുന്ന കെട്ടിടത്തിന്റെയും, കായൽ/കടൽ/നദിയുടെയും ഇടയിൽ അംഗീകൃത കെട്ടിടമോ റോഡോ ഉണ്ടെങ്കിൽ അവയുടെ വിശദാംശങ്ങൾ വ്യക്തമാക്കുക. <ul style="list-style-type: none"> അംഗീകൃത കെട്ടിടം (കെട്ടിട നമ്പർ, നിർമ്മിച്ച വർഷം) റോഡ് (നിർമ്മിച്ച വർഷം) 	ലഭ്യമാണ്
8	അപേക്ഷകൻ ഏതു വിഭാഗത്തിൽ പെടുന്നു. (Certificate)	ലഭ്യമാണ്
9	നിർമ്മാണ സ്ഥലം ഏതു വിഭാഗത്തിൽ പെടുന്നു	ലഭ്യമാണ്
10	കടൽ/കായൽ/നദി/തോട്/പൊക്കൊളിപാടം ഇതിൽ നിന്നുള്ള ദൂരം	ലഭ്യമാണ്
11	നദി/തോട് ആണെങ്കിൽ അതിന്റെ വീതി	ലഭ്യമാണ്
12	വേലിയേറ്റ രേഖയിൽ നിന്നുള്ള ദൂരം	ലഭ്യമാണ്
13	ധന സഹായം ലഭിക്കുന്ന പദ്ധതി വിവരം	ലഭ്യമാണ്
14	തറ വിസ്തൃതി സൂചിക (F.A.R)	ലഭ്യമാണ്
15	നിർമ്മാണസ്ഥലം ഏതു കാറ്റഗറിയിൽ പെടുന്നു.	ലഭ്യമാണ്
16	അപേക്ഷയിൽ രേഖപ്പെടുത്തിയിട്ടുള്ള ദൂരങ്ങൾ, സാക്ഷ്യപ്പെടുത്തിയ പ്ലാൻ	ലഭ്യമാണ്
17	സാക്ഷ്യപ്പെടുത്തിയ അപേക്ഷ	ലഭ്യമാണ്
18	മറ്റൊന്നെങ്കിലും	1. Form I application authenticated by the secretary, Kannur municipal Corporation 2. CRZ status report 3. Revised plan limiting the FAR as on 19/02/1991 as per clause 8.11(ii) of CRZ amendment vide S.O 15990 dated 16.06.2015

നിശ്ചിത സമയത്തിനുള്ളിൽ ബന്ധപ്പെട്ട രേഖകൾ ലഭ്യമാക്കാത്തപക്ഷം അപേക്ഷ ഇനിയൊരി യിപ്പില്ലാതെ നിരസിക്കുന്നതാണെന്ന വിവരം അറിയിക്കുന്നു.

ഒപ്പ്/-
സുനിൽ കെ ബാബു
ജോയിന്റ് സെക്രട്ടറി
കേരള തീരദേശ പരിപാലന അതോറിറ്റി

അംഗീകാരത്തോടെ



ബഷീർ ഓഫീസർ

പകർപ്പ്:

- ശ്രീ. റെജി എ പി & മുതൽപേർ, ശ്രീറോഷ് ഡവലപ്പ്മെന്റ്സ്(പ) ലിമിറ്റഡ്, ശ്രീറോഷ് സെന്റർ, അശോക ഹോസ്പിറ്റലിനു സമീപം, സൗത്ത് ബസാർ, കണ്ണൂർ- 670002
- കരുതൽ കോപ്പി



॥



भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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No. 1244]

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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 16 जून, 2015

का.आ. 1599(अ).— संख्या का.आ. 19(अ) तारीख 6 जनवरी, 2011 द्वारा जारी तटीय विनियमन जोन अधिसूचना, 2011 में कतिपय संशोधन करने के लिए, पर्यावरण (संरक्षण) अधिनियम, 1986 के नियम 5 के उपनियम (3) के अधीन भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) में सं. का.आ. 937(अ) तारीख 31 मार्च, 2015 द्वारा एक प्रारूप अधिसूचना प्रकाशित की गई थी, जिसमें उन सभी व्यक्तियों से, जिनके उससे प्रभावित होने की संभावना थी, उस तारीख से, जिसको भारत के राजपत्र में प्रकाशित रूप में उक्त अधिसूचना की प्रतियां जनता को उपलब्ध करा दी गई थीं, साठ दिन की अवधि के भीतर आक्षेप और सुझाव मांगे गए थे;

और, उक्त अधिसूचना की प्रतियां तारीख 31 मार्च, 2015 को जनता को उपलब्ध करा दी गई थीं;

और, उपर्युक्त वर्णित प्रारूप अधिसूचना के उत्तर में प्राप्त आक्षेपों और सुझावों का केन्द्रीय सरकार द्वारा परीक्षण कर लिया गया है;

अतः, अब, केन्द्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उप-धारा (1) और उप-धारा (2) के खंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तटीय विनियमन जोन अधिसूचना, 2011 में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिसूचना के पैरा 8 के उप पैरा (i) में,-

(क) टिप्पण और उससे संबंधित प्रविष्टियों का लोप किया जाएगा;

(ख) सी आर जेड- II से संबंधित खंड 2, के उपखंड (ii) के स्थान पर, निम्नलिखित उपखंड रखा जाएगा, अर्थात्:-

“(ii) विद्यमान और प्रस्तावित सड़कों के सड़क हलके की ओर अनुज्ञात भवन या विद्यमान प्राधिकृत संरचनाएं, तल स्थान सूचक या तल क्षेत्र अनुपात जो 1991 स्तर के अनुसार होंगे, के सिवाय समय-समय पर यथा संशोधित विद्यमान स्थानीय नगर और ग्राम के योजना विनियम के अधीन होंगे;

परंतु किन्हीं नई सड़कों जो किसी विद्यमान सड़क के समुद्र हलके की तरफ सन्निर्मित की जाती है, के भूमि हलके की ओर भवनों के सन्निर्माण की अनुज्ञा नहीं दी जाएगी;

परंतु यह और कि गोवा, केरल और मुंबई के सीआरजेड-2 क्षेत्र में सन्निर्माण पैरा 8 के खंड V के उपबंधों से शासित होंगे।”।

[फा.सं.जे-17011/18/96-आईए-III]

विश्वनाथ सिन्हा, संयुक्त सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) में अधिसूचना संख्यांक का.आ.19(अ), तारीख 6 जनवरी, 2011 द्वारा प्रकाशित की गई थी और तत्पश्चात् उसमें संख्या का.आ. 651(अ), तारीख 29 मार्च, 2011 के शुद्धिपत्र द्वारा और निम्नलिखित पश्चात्तवर्ती अधिसूचनाओं द्वारा संशोधन किए गए थे :

1. का.आ.2557 (अ), तारीख 22 अगस्त, 2013 ;
2. का.आ.1244 (अ), तारीख 30 अप्रैल, 2014 ;
3. का.आ.3085 (अ), तारीख 28 नवंबर, 2014 ;
4. का.आ.383 (अ), तारीख 4 फरवरी, 2015 ;
5. का.आ. 556 (अ), तारीख 17 फरवरी, 2015 ; और
6. का.आ. 938 (अ), तारीख 31 मार्च, 2015 ।

MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 16th June, 2015

S.O. 1599 (E).— Whereas, a draft notification under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 for making certain amendments in the Coastal Regulation Zone Notification, 2011, issued vide number S.O. 19(E), dated the 6th January, 2011, was published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) vide number S.O. 937 (E) dated the 31st March, 2015 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 31st March, 2015;

And whereas, the objections and suggestions received in response to the above mentioned draft notification have been examined by the Central Government;

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

In the said notification, in paragraph 8, in sub-paragraph (i),-

(a) the Note and the entries relating thereto shall be omitted;

(b) in clause II relating to CRZ-II, for sub-clause (ii), the following sub-clause shall be substituted, namely:-

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

Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road :

Provided further that the construction in CRZ-II area of Goa, Kerala and Mumbai shall be governed by the provisions of Clause V of paragraph 8.”.

[F. No. J-17011/18/96-IA-III]

BISHWANATH SINHA, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O 19 (E), dated the 6th January, 2011 and subsequently by Corrigendum vide S.O 651(E), dated the 29th March, 2011 and subsequently by—

1. S.O. 2557 (E), dated the 22nd August, 2013;
2. S.O. 1244 (E), dated the 30th April, 2014;
3. S.O. 3085 (E), dated the 28th November, 2014;
4. S.O. 383 (E), dated the 4th February, 2015;
5. S.O. 556 (E), dated the 17th February, 2015; and
6. S.O.938 (E), dated the 31st March, 2015.

14

GOVERNMENT OF KERALA
Local Administration and Social Welfare (D) Department

*NOTIFICATION

G.O. Ms. 127/84/LA & SWD.

Dated, Trivandrum, 14th May, 1984

S.R.O. No. 486/84.—In exercise of the powers conferred by section 344 read with section 222 of the Kerala Municipalities Act, 1960 (14 of 1961), and section 367 read with section 238 of the Kerala Municipal Corporations Act, 1961 (30 of 1961) and in supersession of the Kerala Municipal Building Rules, 1968 issued in Notification G.O.Ms. No. 110/68/DD dated the 24th February, 1968, and published as S. R. O. No. 83/68 in Part I of the Kerala Gazette No. 11 dated the 12th March 1968, the Government of Kerala hereby make the following rules, the same having been previously published as required by section 345 of the Kerala Municipalities Act, 1960 (14 of 1961) and section 368 of the Kerala Municipal Corporations Act, 1961 (30 of 1961), namely:—

KERALA BUILDING RULES, 1984

CHAPTER I

1. *Short title extent and commencement.*—(1) These rules may be called the Kerala Building Rules, 1984.
- (2) These rules shall apply in all Municipal Corporations and Municipalities in the State of Kerala.
- (3) They shall come into force at once.
2. *Definitions.*—In these rules unless the context otherwise requires,—
 - (1) “accessory building” means a building separated from the main building on a plot, and containing one or more accessory uses;
 - (2) “accessory use” means any use of the premises, subordinate to the principal use, and customarily incidental to the principal use;
 - (3) “advertising sign” means any sign, either free, supported or attached to a building or other structure which advertises an individual, a firm, a society, or an establishment but does not include name signs of size 0.30 sq. m. or less;

*Published in Gazette Extraordinary No. 403 dated 15th May, 1984 Vol. XXIX.

17. *Coverage and floor area ratio (F.A.R.)* (1) *General*.—Maximum percentage coverage permissible for each occupancy shall limit the plinth area of a building. The floor area ratio or F.A.R. value shall limit the total floor area. F.A.R. shall be calculated as below:—

Total floor area on all floors

F.A.R. = $\frac{\text{Total floor area on all floors}}{\text{Plot area}}$

(2) Notwithstanding the provisions of rule 15, the percentage of coverage and the F.A.R. value of buildings under different occupancies shall not exceed the maximum permissible values stipulated in table below. Provided that the F.A.R. values so specified may be exceeded only in cases where there are specific provisions or otherwise contained in the development plan of the town or city or in the detailed town planning scheme for the locality:

Provided further that in case of buildings with more than one occupancy, the most restrictive value of these occupancies shall apply.

TABLE

Coverage and Floor area ratio (F.A.R.)

Sl. No.	Building use of occupancy	Maximum permissible (Coverage per centage of plot area)	Maximum Permissible F.A.R.
(1)	(2)	(3)	(4)
1	Residential	50	1.50
2	Special Residential	30	1.50
3	Educational	30	1.20
4	Institutional (Medical)	25	1.00
5	Assembly	40	0.70
6	Governmental or semi-public business	30	1.50
7	Mercantile (Commercial)	60	2.00
8	Industrial	40	1.20
9	Storage	70	2.00
10	Hazardous	25	0.70

Note:—1 For the purposes of F.A.R. calculation, the area left behind after accounting for the exterior open spaces (front, side rear) and interior open spaces depending upon the height buildings shall be the permissible coverage of the plot.

Note 2:—The authority shall fix different of F. A. R. for different localities of City/Town depending upon nature of occupancy and density of population in the area within the over all frame-work of the Master Plan for the City/Town and in consultation with the Chief Town Planner.

Note 3:—Basement or cellar floors and area between stalls used for parking or plant room need not be reckoned as floor area in F.A.R. calculation.

18. *Height of Building*—(1) The maximum height of any building or part thereof shall be limited according to the width of the street as follows:—

(a) The maximum height of the building shall not exceed 1.5 times the width of the street abutting plus 1.5 times the front yard:

Provided that this height may further be exceeded to the extent of 3 metre for every 1 m. by which the corresponding portion/floor of the building is set back from the building line.

(b) If a building abuts on two or more streets of different widths, the building shall be deemed to face upon the street that has the greater width and the height of the building shall be regulated by the width of that street and may be continued at this height along the narrower street.

(2) *Aerodrome Vicinity height restrictions*—(a) For buildings, structures and installations in the vicinity of Airports or Aerodroms, the maximum height allowable shall be as stipulated in Table below:

(b) Irrespective of their distances from the Aerodrome, even beyond the 22 km. limit from the Aerodrome reference point no radio masts or similar type of installations exceeding 152 m. in height should be erected without the prior permission of the Director General of Civil Aviation.

(c) No building, structure or installation exceeding the height specified in Table below shall be permitted without prior, concurrence of the concerned Civil or Military Aerodrome Authority.

(d) The location of slaughter house/butcher house and other areas for activities like depositing of garbage dumps which would generate the collection of high flying birds like eagles/hawks etc., shall not be permitted within a radius of 10 km. from aerodrome reference point.

No.19-11/2016-I.A.II
Ministry of Environment, Forest & Climate Change
Government of India
(I.A.II Division)

Indira Paryavaran Bhavan
 Jor Bagh,
 New Delhi-110003
 Dated 28 June, 2016

To

The Member Secretary,
 KCZMA,
 Science & Technology (A) Dept.,
 Sasthra Bhavan, Pattom P.O.,
 Thiruvananthapuram - 4.

Subject: S &TD – KCZMA-CRZ Clearance for the construction of residential Apartment project "Kent Bay Watch Edakochi"

Reference: KCZMA letter No.6903/A2/14/KCZMA/S & TD dated 14.06.2016.

Sir,

In consideration of the communication dated 14.06.2016 received from KCZMA enclosing therewith letters from Cochin Municipal Corporation dated 06.05.2016 and Chief Town Planner Kerala dated 25.05.2016, the following facts are evident.

(a) Kerala Building Rules 1984 was in force at the time when CRZ Notification 1991 came into force and FAR in General for entire State of Kerala was 1.5 and Cochin Corporation was provided special dispensation of FAR upto 2.5 by the exemption orders of the State Government applicable in entire territorial jurisdiction of Cochin Corporation.

(b) In the specific case for CRZ clearance and permissible FAR in 1991, Chief Town Planner, Kerala has informed that the said property owned by Smt. Annie, Premi, Smt. Isabella located in Edakochi Village of Kochi Corporation



was 2.0. However as per general provisions of Kerala Building Rules the allowed FAR was 1.5 for residential purposes.

In having taken note of the above with reference to the restrictions imposed by CRZ Notification 1991 in having limited the permissible FSI/FAR in CRZ areas to the level of general and specific provisions of the Government Orders, ubiquitously and without any prejudice it is clear that the Kerala Building Rules, 1984 allowed FAR upto 1.5 and Government general exemption for the entire territory of Cochin Corporation permitted grant of FAR upto 2.5 without any overriding restrictions.

Accordingly in this present case where the property is located in the territorial jurisdiction of Cochin Corporation, a minimum of 2.5 FAR is permissible as defined within the provisions of CRZ notification 1991 and 2011.

Yours faithfully,

(S.K.Sreedharan)
Secretary

Copy to:

The Managing Director, Kent Construction Pvt. Ltd.,
Door No.53/3441, A1-56, Kent Hail Garden, 1st Floor,
Stadium Link Road, Near Jawaharlal Nehru
International Stadium, Palarivattam P.O., Cochin - 682025.

This is the true copy of document
marked Exhibit P17 referred to in
the writ petition. Affidavit.



ADVOCATE