



**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.**

Appeal No. 09/2022(WZ)

a/w

I.A. No. 22/2022(WZ)

Agnelo Fernandes & Anr. ...Appellant

Versus

GCZMA & Ors. ...Respondents

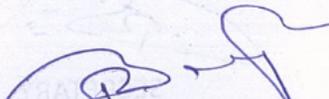
AFFIDAVIT-IN-REPLY OF THE RESPONDENT NO. 3.

I, Raghuvir Bagkar, major of age, Indian National, Secretary of the Village Panchayat of Calangute, Respondent No. 3 herein, having office at Calangute, Bardez, Goa, do hereby say on oath and solemn affirmation as under:

1. I say that I have read and perused the captioned appeal & its accompaniments and understood the contents thereof. I say that I am filing present reply for the limited purpose of clarifying certain facts and dealing-with certain findings rendered by the Respondent No. 1 (GCZMA) in the impugned order dated 11/02/2022, in so far as they pertain to this Panchayat.


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2. I say that in view of the limited role of this Panchayat as aforesaid, I am not adverting-to and/or dealing-with the other contentions/submissions urged by the Appellant to defend the legality of the impugned structure.
3. Any statement made in the present appeal, if not specifically dealt-with and/or denied by me herein, may therefore not be deemed to be admitted. I crave leave to file a further and more detailed reply in case the facts and circumstances of the present case, so warrant.
4. I say that from the records maintained by this Panchayat, it is found that structure bearing House No. 7/3 situated at Sauntawaddo-Calangute (hereinafter referred to as the "**impugned structure**"), is found assessed to house tax and recorded in the name of Mrs. Conceicao Fernandes, the Appellant No. 2 herein, since the year 1992.
5. I say that the impugned structure was originally recorded in the name of Mr. Emiliano Fernandes since the year 1970-71 and upon his death the same came to be transferred in the name of the Appellant No. 1 (Albert Fernandes) sometime in 1988-89 and thereafter with effect from the year 1992-93, the same has been transferred in the name of Appellant No. 2 (Conceicao





Fernandes). Hereto annexed and marked as Exhibit A is a copy of the Certificate dated 07/04/2022 issued by the Secretary, V.P. Calangute, stating about the aforesaid facts.

6. From the records maintained by this Panchayat, it is further seen that, pursuant to the application made by the said Smt. Conceicao Fernandes, seeking permission for carrying-out repairs and renovations to the existing floors of the guest rooms/kitchen situated in property bearing Survey No. 243/13 i.e. the impugned structure, a resolution bearing Resolution No. 4(VII)(3) came to be passed at the monthly meeting of the Panchayat Body held on 26/02/1990 under the Chairmanship of Shri J.M. Lobo, Sarpanch.
7. By the said Resolution dated 26/02/1990, the application preferred by Smt. Conceicao A. Fernandes r/o Sauntawaddo-Calangute, seeking permission to repair and renovate the existing floors of the guest rooms and kitchen of the impugned structure, came to be granted.
8. Accordingly, a Repair Licence bearing Reference No. VIP/CVP/CAL/F-62/89-90/2018 dated 31/03/1990 came to be issued by this Panchayat to the said Smt. Conceicao

A. Fernandes, r/o House No. 7/3, Sauntavaddo, Calangute, informing her that the Panchayat had no objection to her carrying-out the said works without extending the plinth area.

9. Since the repair sanctioned was to be undertaken without extending the existing plinth area, there was no question of sanctioning or approving any building plan from the said applicant.

10. In this connection, I say that the afore-referred Resolution No. 4(VII)(3) dated 26/02/1990 stands duly recorded in the Register/Minute Book of the Monthly Meetings of the Panchayat Body, maintained by this Panchayat. Similarly, copy of the Repair Licence bearing Ref. No. V/P/CVP/CAL/F-62/89-90/2018 dated 31/03/1990 also exists in the records of this Panchayat. Hereto annexed and marked as Exhibit B and Exhibit C are the Certified True Copy of the Extract of the Resolution No. 4(VII)(3) and also the Certified True Copy of the Repair Licence dated 31/03/1990, respectively.

11. From the perusal of documents annexed to the present appeal, it is seen that there is reference made to two other documents pertaining to this Panchayat viz.



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- (i) NOC dated 10/08/1992 issued by this Panchayat to Smt. Conceicao Fernandes r/o House No. 7/3, Sauntawaddo, Calangute, for running a paying guest house in House No. 7/3 situated at Sauntawaddo-Calangute and;
- (ii) Reference is also made in the impugned order dated 11/02/2022, to House Tax Receipts bearing Receipt No. 8 of Receipt Book No. 622 and Receipt No. 22 of Receipt Book No. 695.

12. With reference to the NOC dated 10/08/1992, I say that original of the said NOC is presently not traceable in the records of the Panchayat since the document in question are old but a copy of the same is available in the records of the Panchayat. Also, from a perusal of the said NOC, which is annexed to Pg. No. 51 of the Appeal Paper-book, it is seen that the said document has been obtained under the Right to Information Act, from the Public Information Officer attached to the Department of the Tourism, Government of Goa.

13. In view of the aforesaid facts, it appears that the NOC dated 10/08/1992, though not presently traceable in the office of this Panchayat, is available in the office of the Department of Tourism.



14. With reference to the afore-referred House tax Receipts, I say that the record of the same is available with the Panchayat and the same pertains to the impugned structure bearing House No. 7/3, for different years covering the period 1983-84 to 1987-88.

15. Considering the aforesaid facts and circumstances as well as the records maintained by this Panchayat, the findings rendered by the Respondent No. 1 in the impugned order that the Repair Licence dated 31/03/1990 is not authentic or that the same does not pertain to the impugned structure, do not appear to be factually correct.

16. I say that although the reference to the survey number made in the said Repair Licence reads as Sy. No. 243/13 (and not Sy. No. 243/13-A), it is common understanding that such a survey number 243/13-A has come to be carved-out pursuant to partition of the larger property Sy. No. 243/13 and that the licence in question was issued pre-partition.

17. In the impugned order, the Respondent No. 1 has also disregarded the NOC dated 10/08/1992 on the ground that


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the same is not drawn on the letter-head of the Village Panchayat of Calangute.



18. In response to the said finding, I say that I have served as the Secretary of Village Panchayat of Calangute for almost five years and in the ordinary course of discharge of my official duties and functions, although it is seen that correspondence from the Panchayat addressed to third parties, is usually drawn on the letter-head of the Panchayat, I have also come across several old correspondence/letters addressed otherwise than on letter-heads, and on normal paper. However, suffice it to note that the NOC dated 10/08/1992 does carry the signature of the then Sarpanch late Mr. J.M. Lobo and also carries the Panchayat stamp/seal.

19. In view of the above, the impugned finding rendered by the Respondent No. 1, doubting the authenticity/genuineness of the said NOC, does not appear to be factually correct and/or warranted.

20. As far as the finding of the Respondent No. 1 contained in the impugned order that the letter dated 31/03/1990 is only a resolution and not a permission and further that the same does not contain accompanying approved building

A handwritten signature in blue ink, appearing to be a stylized name or initials.

plan, the same appears to be based on misunderstanding of the nature of the document.

21. I say that the letter dated 31/03/1990 is itself a Repair Licence and not a Resolution. The Resolution pursuant to which the Repair Licence dated 31/03/1990 is issued, is dated 26/02/1990. Further there was no requirement for sanctioning of a building plan at the time of approving the said repair because the licence was only restricted to repair and renovation of the '*existing*' floors of the guest-rooms and kitchen situated in the impugned structure '*without extending the plinth area*'.

22. In view of the above, I respectfully submit that this Hon'ble Tribunal may pass appropriate orders in the present appeal as deemed fit, after considering the aforesaid clarifications offered by the Panchayat.

23. I say that the contents of paragraphs 4 to 8, 10 to 12, 14, 17, 18, 20 and 21 of the foregoing affidavit-in-reply are based on records; the contents of paragraphs 9, 13, 15, 16 and 19 thereof are based on information & belief; and the contents of the remaining paragraphs 1, 2, 3 and 22 thereof, are based on legal submissions which I believe to be true and correct.



SECRETARY



Solemnly affirmed at Mapusa, Goa, on this 11th day of April, 2022.



[Signature]
DEPONENT

SECRETARY
VILLAGE PANCHAYAT CALANGUTE



Certified True Copy
[Signature]
N.C. GAONKAR
Advocate & Notary
Mapusa Bardez - Goa
Sr. No. 8555/22

11 APR 2022

Exhibit A

Ph.: 2276016

**OFFICE OF THE VILLAGE PANCHAYAT
CALANGUTE
Bardez - Goa 403516**

V.P/Cal/F-18/22-23/030

Dated : 07/04/22

TO WHOMSOEVER IT MAY CONCERN

This is to certify that as per the house tax records maintained by this office, house bearing H. No. 7/3 situated at Saunta Vaddo, Calangute is registered in the name of Emiliano Fernandes since the year 1970-71 and it is transferred in the name of Albert Fernandes in the year 1988-89 and later it is transferred in the name of Conceicao Fernandes in the year 1992-93 and is in the name of Conceicao Fernandes till date.

This certificate has been issued at the written request of Conceicao Fernandes.

(Shri. Raghuvir Bagkar)
Secretary
V.P. Calangute



Exhibit B.

Ph.: 2276016

**OFFICE OF THE VILLAGE PANCHAYAT
CALANGUTE
Bardez - Goa 403516**

**CERTIFIED TRUE COPY OF THE EXTRACT OF RESOLUTION
NO. 4(VII)(3) PASSED BY THE VILLAGE PANCHAYAT OF
CALANGUTE AS ITS MONTHLY MEETING HELD ON 26/02/1990
AT 4:15PM IN THE OFFICE OF THE V.P.CALANGUTE UNDER
THE CHAIRMANSHIP OF SHRI. J.M.LOBO, SARPANCH**

"Resolution No. 4(VII) It was unanimously decided to issue the necessary permission to the following persons.

- 1) Jose Fernandes Sauntawado for repairs of house walls
- 2) Graciana Andrade Sauntawado to put the tiles for the roofing.
- 3) Conceicao A. Fenandes Sauntawado to repair and renovate the existing floors of guest rooms & kitchen in S.No. 243/13.
- 4) Maria Fernandes Sauntawado to plaster and to put floor tiles"

Certified to be the transcribed copy of the original.

Secretary
V.P. Calangute



Exhibit C

V. P. CALANGUTE

BARDEZ - GOA

Ref. No.: V/P/C VP/CAL/F-62/89-90/2018

Date 31st March, 1901

To,
Smt. Conceicao A. Fernandes,
H. No. 7/3, Sauntavaddo,
Calangute, Bardez-Goa.

Madam,

Your application dated 17/1/90 was placed in the monthly meeting held on 26/02/90 and it is unanimously resolved vide Resolution No. 4 (VII) 3 to issue you permission for Repairs & Renovation of existing floors of guest Rooms & Kitchen in Survey No. 243/13.

Therefore, this Panchayat has No objection to carry out the above mentioned work without extending the Plnth area.



Yours faithfully,

Jess Antonio
Sarpanch
V.P. Calangute.

Certified True Copy
of Original

[Signature]

SECRETARY
VILLAGE PANCHAYAT CALANGUTE

