

BEFORE THE NATIONAL GREEN TRIBUNAL

EXECUTION APPLICATION NO. 05/2024

IN

ORIGINAL APPLICATION NO. 27 of 2022

Shri. Balavant Murlidhar Parchure

Applicant

v/s

State of Maharashtra and others

Respondents

INDEX

Sr. No.	Exhibit No.	Particulars	Pages
1	—	Additional Affidavit on behalf of Respondent No. 1 and 2	
2	1	copy of N.A. permissions colly	
3	2	copies of order of Additional Collector and Additional Commissioner colly	
4	3	Copy of notices under Maharashtra Regional and Town Planning 1966 act, section 52 and 53 and under Maharashtra Land Revenue code 1966 section 45(2)	
5	4.	copy of Status quo order passed by Hon'ble Civil Court, Khed along with copy of Civil Suit filed by Shri Ambrule	
6	5.	Copy of letter to AGP B. H Court	
		Last Page	

of SDO had issued N.A. permission by order vide No/LNA/SR 43/2016 Dated 24/10/2016. Then after the N.A. permission has also been revised by order dated 17/03/2017. Hereto annexed and marked as **Exhibit R 1** is the copy of both N.A. permissions colly.

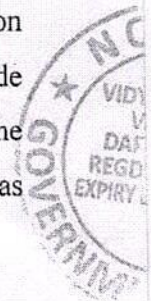
4. I say that, the N.A. orders have been challenged by one Shri Husainmiya Tajuddin Jamandar through its power of attorney Akhter Husainmiya Jamadar before the Additional Collector Ratnagiri. After hearing both of the parties, the Additional Collector Ratnagiri passed an order on 28/11/2018 and cancelled both N.A. permissions issued by then SDO Dapoli.

5. I say that, against the above rejection order, Smt. Amburle has filed appeal before Additional Commissioner Kokan Division. The Hon'ble Additional Commissioner Kokan Division has rejected the same on 10/02/2020 and confirmed the order passed by Additional Collector Ratnagiri. Hereto annexed and marked as **Exhibit R 2** are the copies of both orders colly.

6. I say that, as the N.A permission given by SDO has been cancelled by all revenue authorities, the construction thereupon became illegal and hence the office of SDO Dapoli has issued notice on 01/09/2020 under the provisions of Maharashtra Regional and Town Planning Act 1966, section 52 and 53 and also under the provisions of Maharashtra land revenue code 1966 under section 45 (2) to Smt. Amburle and directed to remove the illegal construction upon the suit property. Hereto annexed and marked as **Exhibit R 3** is the copy of notice dated 01/09/2020.

7. I say that, against the above show cause notice smt. Archana Ashok Amburle and Shri. Mayuresh Ashok Amburle through its power of attorney Shri. Naved Najir Syed has filed a civil suit no 13/2020 before the court of Senior Division Khed, Dist. Ratangairi. The Hon'ble Civil Court has passed **Status Quo** order on 16/01/2021 thereby directed to maintain status quo in respect of suit property. Hereto annexed and marked as **Exhibit R 4** is the copy of Status quo order passed by Hon'ble Civil Court, Khed along with copy of Civil Suit filed by Shri Ambrule.

Sub Division
Dapoli, Div



8. I say that, against the above mentioned order the SDO office Dapoli has filed Revision application No. CRAFT/9787/2022 before the Hon'ble High Court Mumbai thereby prayed to vacate the status-quo order in the civil suit. Further in view of the order passed by this Hon'ble Tribunal dated 27.04.2023 in O.A. no. 27/2022, SDO office Dapoli by letter dated 14.01.2024 requested to learned AGP, Bombay High Court to place the Revision application for expedite hearing. The office of SDO Dapoli urged AGP office to expedite the matter so that the order of this Hon'ble Tribunal can be implemented. Hereto annexed and marked as **Exhibit R 5** is the copy of letter dated 14.11.2024.

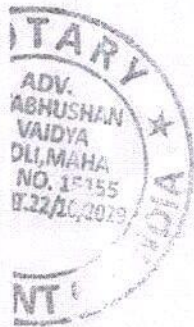
Sub Divisional Officer
Dapoli

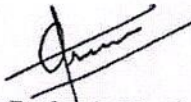
9. I say that, this Hon'ble Tribunal considered the affidavit filed by this office in O. A. no. 27/2022 and after considering the submission, directed as under,

“ We find that it is admittedly a case of violation on the part of respondent no. 1 and 2, as they have gone beyond the permission granted by the MCZMA to raise construction of ground+2 floor, though they were granted permission to construct only G+ 1 floor and that too was granted only residential purpose. Therefore, 2nd floor, which has been made illegally, needs to be demolished in accordance with law, subject to the final decision to be delivered by the Hon'ble High Court of Bombay in case any matter is pending before it, related to the present construction in question.”

10. I say that, this Hon'ble Tribunal stated that the said construction needs to be demolished subject to final outcome of order of Hon'ble High Court Mumbai. There is no any willful delay to execute the order passed by this Hon'ble Tribunal. In the above circumstances, the order of Hon'ble Tribunal cannot be implemented.

In view of the above stated facts and circumstances appropriate order may be passed.




(Dr. Ajit Prakash Thorbole)
on behalf of respondent no 1 and 2
Sub Divisional Officer, Dapoli
Sub Divisional Officer
Dapoli, Division Dapoli

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VERIFICATION

I Dr. Ajit Prakash Thorbole, age, 39 yrs, working as Sub Divisional Officer, Dapoli, Dist. Ratnagiri do hereby state on affirmation that whatever stated here in above is true to the best of my knowledge and based upon the information derived from the official records available to me and the contents there in are as per my information are true and correct.

Solemnly affirmed at-)

This 13th day of December 2024)

(Dr. Ajit Prakash Thorbole)
on behalf of respondent no 1 and 2
Sub Divisional Officer, Dapoli

DEPONENT
Sub Divisional Officer
Dapoli, Division Dapoli

Identify the Deponent
(Adv.S.B. Vaidya- Pandit)

BEFORE ME

ADV. VIDYABHUSHAN V. VAIDYA
NOTARY, GOVT. OF INDIA
DAPOLI, Dist. Ratnagiri

Solemnly affirmed before me by
Shri/Smt. Dr. Ajit Prakash Thorbole Sub Divisional
Who is identified by Shri. officer Dapoli
me.
Whom I Personally Know

ADV. VIDYABHUSHAN V. VAIDYA
NOTARY, GOVT. OF INDIA
DAPOLI, Dist. Ratnagiri

ADV. VIDYABHUSHAN V. VAIDYA
B.SC., L.L.B.
(NOTARY, GOVT. OF INDIA)
AT. DAPOLI, TAL. DAPOLI
DIST. RATNAGIRI - 415712 (M.S.)
Mob.: 8888646464 / 9422393118

Noted & Registered	
At Serial No.	Date
337	13/12/2024

This Document Content
Four Pages.



Kramank/LNA/SR/43/2016
Office of Sub-Divisional Officer
Dapoli Date:- 24/10/2016

Read:

1. Application of Smt. Archana Ashok Aamburle & 2 others through power of attorney holder Mr. Naved Najir Sayyad Res. at Harne, Ta. Dapoli dated 03/06/2016.
2. Report No./LNA/Kavi/1154/16 dated 13/10/2016 issued by Tahsildar Dapoli.
3. Sec. 44 of Maharashtra Land Revenue Code 1966 and Maharashtra Land Revenue(Change in use of land and non-agricultural assessment.) Rules 1969.
4. Order No./Mahsool/Karya6A/E.Bandh.Par/LNA/SR/2016 dated 08/02/2016 issued by Hon'ble Collector, Ratnagiri.

Order:

1. Land admeasuring 1358 Sq.mtrs. out of land bearing Survey No. 215 Hissa No. 13A situated at village Harne Dapoli is owned by Smt. Archana Ashok Amburle & 2 others. Smt. Archana Ashok Ambule & 2 others through power of attorney holder Mr. Naved Najir Sayyad Resi. at Harne had given application seeking permission to use the land admeasuring 1358 sq.mtrs. for residential and commercial non-agricultural purpose.
2. In the investigation of this application it is found that,
 1. Applicant himself is the owner and occupier of the said land and has no co-sharer with co-occupiers or other persons entitled to any interest in the said land.
 2. Said referred land is created by way of new indivisible entity type or it was purchased from the owner according to Ku Ka K 32G. Also the owner has obtained the prior permission of Sub-Divisional officer Dapoli for non-agricultural use of the land or has changed the land type and paid the maintenance/royalty amount.
 3. The co-sharers and senior clan people having interest in the land have given written consent for no objection to allowing permission to use land for non-agricultural purpose.
 4. The said land is not acquired or not likely to acquired in the near future for government or public use.
 5. Said land is suitable/appropriate to use for non-agricultural purposes from the point of view of sanitation and public health. The District Health Officers are pleased to inform that they have no objection in this regard.
 6. The applicant should submit the building plan approved by the Town Planning and Valuation Department.
 7. Plan submitted by the applicant, map of the building is according to the provisions mentioned in the para. 2 and 3 enclosed with the Maharashtra Land Revenue (Conversion of Land Use and Non-Agricultural Tax) Rules, 1968. As per the provisions of 2 and 3. The applicant shall construct the building as shown in the map and shall not alter it without prior permission.
 8. The applicant has kept sufficient space on both sides of the electric wire passing near the said land.

9. The applicant has complied with the Building Regulations and Prevention of Ribbon Development Rules.
10. People having other interest in the said land have no objection to allowing non-agricultural permission.
11. The applicant has agreed to abide by the conditions on which non-agricultural permission may be granted.

Remarks:- If conditional no objection certificate has been issued by the qualified authority mentioned above or if suggested to mention any specific condition in the approval order, then the said condition should be mentioned in para. 5 of the following order. Taking into consideration the above remarks, there is no objection to approve the construction of the building according to the non-agricultural and approved plan as per the request of the applicants.

3. Sub-Divisional Officer is granting permission on the following conditions to Smt. Archana Ashok Amburle & 2 others through power of attorney holder Mr. Naved najir Sayyad Resi. at Harne, Ta. Dapoli for construction of the building upon land admeasuring 1358 sq.mtrs. out of land bearing survey no. 215 and hissa no. 13A according to the non-agricultural and approved plan for non-agricultural residential and commercial purpose according to Sec. 44 of Maharashtra Land Revenue Code 1966 and by way of using power awarded according to S.R. no. 5 of preface.
 1. Said permission is granted subject to the provisions of Revenue Code and the rules mentioned thereunder.
 2. Said land and construction on the said land should be use only for the reason for which permission has been granted. No part of that area or the area shall be use for any purpose other than the purpose for which permission has been granted without the permission of the Collector - Sub-Divisional Officer. The purpose for which the land is being used will determine on the ground for what purpose the land is being used.
 3. The licensee shall not make any subdivision of the area concerned or of the consumable unless the said sub-division is approved by the Permitting Authority.
 4. According to the plan approved by the licensee, the concerned land should be developed strictly within 1 year from the date of the order by constructing roads and constructing sewerage pipes in such manner as the Collector-Sub-Divisional Officer thinks fit, after making measurements from the Land Survey Department and altering the sections accordingly and till such development is not done in the said area no section in the said area should not be transferred in any way.
 5. If the licensee sells or otherwise transfers the said land, said sale or transfer should be in accordance with the conditions mentioned in this order and the same should be clearly mentioned in the said Purchase Deed.
 6. The area is classifying as Non-Agricultural as shown in the plan of land.

	AREA STATEMENT	Sq.Mtrs.
1.	AREA OF PLOT (AS PER 7/12)	1358.00
2.	DEDUCTIONS FOR	
	a. ROAD ACQUISITION AREA(WIDENING)	-
	b. PROPOSED ROAD	-
	c. ANY RESERVATION	-

	TOTAL (a+b+c)	-
3.	NET GROSS AREA OF PLOT(1-2)	1358.00
4.	DEDUCTIONS FOR	NIL
	a. RECREATION GROUND (OPEN SPACE)	-
	b. INTERNAL ROAD	-
	TOTAL(a+b)	-
5.	PLOT AREA AS PER T.P.	1358.00
6.	NET PLOT AREA FOR N AN	1358.00
7.	F.S.I. PERMISSIBLE (a) $1358.00 \times 0.90\% = 1222.20$ (b) $1222.20 \times 0.20\% = 244.44$	1.10
8.	TOTAL PERMISSIBLE AREA (a+b)	1466.64
9.	PERMISSIBLE BUILT-UP AREA	1466.64
10.	EXISTING BUILT UP AREA	-
11.	PROPOSED BUILT UP AREA A TYPE BUILDING	
	(a) PROPOSED GROUND FLOOR AREA	54.34
	(b) PROPOSED FIRST FLOOR AREA	238.27
	(c) PROPOSED SECOND FLOOR AREA	238.27
	(d) PROPOSED THIRD FLOOR AREA	238.27
	TOTAL PROPOSED BAJ AREA (a+b+c)	769.15
12.	PROPOSED B TYPE BUILDING	
	(a) PROPOSED UPPER STILT FLOOR AREA	232.25
	(b) PROPOSED FIRST FLOOR AREA	232.25
	(c) PROPOSED SECOND FLOOR	232.25
	TOTAL PROPOSED B/U AREA	696.75
13.	TOTAL BUILT UP AREA(11-13)	1465.90

7. The licensee should get approved the building plan from the appropriate authority having his jurisdiction in the area of building and in other matters he should create building plans by making strict compliance of provisions mentioned in Appendix 2 of Maharashtra Land Revenue Rules (Conversion of Land Use and Non-Agricultural) 1938 and should be approved by the Collector-Tehsildar and should construct according to approved plan.
8. Licensee should kept adequate open distance from the road having National State Major District - Other District Road. It should be written according to provisions mentioned in Appendix 3 of The Maharashtra Land Revenue (Conversion of Land Use and Non-Agricultural Duties) Rules 1668.
9. The licensee shall commence non-agricultural use of the land within one year from the date of this order. If non-agricultural use is not commenced without extending said period, the said permission shall deemed cancelled.
10. The date of commencement of the said non-agricultural use by the licensee or in case of change in use, the same date should be reported to the Tehsildar through Talathi within one month. Failure to do so would make him eligible for further proceedings under Rule 6 of the Maharashtra Land Revenue (Conversion of Land Use and Non-Agricultural Tax) Rules, 1968.
11. From the date of commencement of non-agricultural use of the said land for the purpose for which the permission has been granted, the licensee should give non-agricultural Tax of the said land at Government's revised rate per square meter. Non-agricultural duty shall be levied at the flat rate irrespective of the expiry of the guaranteed period of non-agricultural duty levied earlier in case of change in land use.
12. The Non-Agricultural tax shall remain guaranteed for the period ending on 31/07/2017, thereafter the said Non-Agricultural tax shall be eligible for amendment according to any revised rate.

13. The licensee should pay the amount of expenses for assessment within one month of commencement of non-agricultural use of the land.
14. The area specified in this order and license and the non-agricultural tax, will be corrected/amended according to area actually found after the assessment of land, etc. by land survey department. In case of alteration in the plot area as per the standard calculation of non-agricultural plots, it will be mandatory for the applicant to take permission accordingly.
15. The licensee shall complete three years of permanent construction and or other construction, if any, from the commencement of non-agricultural use of the land. This period may be extended by the Sub-Divisional Officer if feels necessary, after licensee make payment of the penalty imposed as per Government order.
16. The licensee shall not make any addition or improvement in the building as per the approved plan without obtaining prior permission of the Sub-Divisional Officer Municipal Council Municipal Corporation (as the case may be) and approval of the plan thereof.
17. The licensee shall be bound to complete the license within 1 month from the commencement of non-agricultural use of the land by mentioning all the conditions mentioned in Annexure 4 or in the form attached to the Maharashtra Land Revenue (Land Use Conversion and Non-Agricultural Tax) Rules, 1969 in the said license.
18. If applicant has acquired the said land under the Tenancy Act if he wants to transfer the said land he cannot do the same without prior permission of the concerned authorities.
19. The applicant is bound to make arrangements for sewage system in the said non-agricultural plot only.
20. On the condition that if there is a complaint regarding the respected plot, the landlord will redress it at his own expense.
22. Total area of planned construction in the plot and existing constructions should remain at least of the net area of the plot.
23. The above land and proposed building shall be used only for residential and commercial use as shown in the map and construction shall be as per the sanctioned map.
24. The construction of the building should be done maintaining the same distance from the plot boundary as shown on the site map.
25. Total area and scope of construction of planned and existing buildings together shall be permissible in proportion to net plot area and as per development control rules. Architects and developers should ensure that the plot area, construction area, calculation tables and figures shown on the building map are accurate. If any dispute arises out of this, the applicant will be solely responsible thereof.
26. Construction of planned A type building should not exceed Upper Stilt + Two Floors and construction of B type building should not exceed Upper stilt + two floors.
27. The applicant will be solely responsible, if any dispute arises regarding the right, the boundary of the plot for construction and regarding the Easement right.

- 28.If the plot to be constructed and its access road faces a classified road, it will be mandatory for the applicant to obtain the permission of the concerned highway authority.
- 29.It is the responsibility of the applicant not to obstruct the drains, power lines, river, drains, rain water flow, etc. due to the proposed construction and to leave proper clear distances from the same.
- 30.The applicant should make such required provision of water supply, sewage and sewage disposal for the planned building Before its actual use and such arrangements should be at least 18 meters away from the nearest well. Only after that the applicant should apply for the certificate of usage and the authority should issue the certificate after inspecting all the above points as well as the construction as per the given construction permission. The concerned authority has to ensure that the applicant does not using the said building without the certificate of usage.
- 31.If you want to cut down the trees inside the plot, you have to take prior permission of the concerned authority and also new trees have to be planted as one for per 100 sq.
- 32.It is mandatory for the applicant to take prior permission if he wants to make changes in the planned construction other than what is approved.
- 33.If the information and documents given by the applicant in the said case are found to be incorrect and false, the permission given will be held cancelled.
- 34.While constructing in the subject area, it is necessary to design of the construction component as per IS Code 13920-1893 Earthquake Resistant RCC Design should get done by a qualified structural engineer and it will be mandatory for the applicant / developer to complete the construction of the planned building under their supervision.
- 35.If any dispute arises regarding the road leading to and from the non-agricultural area, it should be settled by the applicant at his own cost.
- 36.If there is an underground gas pipe line or electricity line passing through the said place, is the said gas pipe line crossing the control line prescribed by the concerned authority affecting the said constructions or how? According to the no objection certificate from the concerned authority, the said construction permission will be permissible.
- 37.During the construction of building, the applicant is bound to construct in accordance with the provisions of Part IV of National Building Code of India and Part VI of the Revised Development Control Rules enacted by the Government for the Municipal Council and Municipal Panchayat for fire extinguisher and for safety from fire.
- 39.No construction can be carried out in the said plot unless the vacant land mentioned in the Non-Agricultural order is handed over to the Local Authority of roads/Government of Maharashtra.
- 40.In the said case, as Town Planning Authority Ratnagiri has recommended according to the provisions of certified development control and promotion manual, if the applicant violates the provisions of the Development Control Regulations during the actual construction or after the completion of construction, action will be taken against the concerned persons as per Rule No.10.1 of the said regulations.

41. It is mandatory for the applicant to submit the structural plan and structural stability certificate of the proposed building acquired from the concerned structural engineer to this office. If the certificate is not submitted, the said order will be cancelled.
42. According to order No./Mahsool/Karya6A/E.Bandh.Par/LNA/SR/2016 dated 08/02/2016 issued by Collector Ratnagiri, permission is being given for construction of building as per the approved plan.
43. No Development Zone is planned for the first 200 m as per the provisions of CRZ-III and no development of any kind is permitted in this section.
- 44.(a) If the licensee acts contrary to the terms of this order, the said premises may come into the possession of the applicant on payment of such fine and penalty by the licensee as the Sub-Divisional Officer of the Collector may order without prejudice to such other penalties as may be inflicted on him under the Act.
- 44.(b) Notwithstanding anything contained in abovementioned (a), the Collector - Sub-Divisional Officer shall have power to remove or repair any building or structure if it is noticed that, such building or structure constructed or being used in contravention of the provisions of this order within such time, and if the construction is not removed or modified within the given time, the said officer will take action by removing the construction and will recover the expenses incurred from the licensee as arrears of revenue.
4. This permission is subject to the provisions of other laws then existing and this permission will continue to apply to other relevant matters. E.g. Mumbai Tenancy and Agricultural Lands Act 1948. Mumbai Gramampchayat Act 1958 - Maharashtra Municipal Corporation Act 1965 etc.

S/d

Sub-Divisional Officer
Dapoli Division Dapoli

Copy :- Smt. Archana Ashok Amburle & 2 others through their power of attorney holder Mr. Naved Najir Sayyad Res. at Harne, Ta. Dapoli with a plan.

Copy :- To Tehsildar Dapoli.

2/-The records of the said agricultural plant should be kept at Ga. No. 2. No. No. 2 and their records should be brought here in sequence and after the agricultural use is started, list of panchas will be made and it will be included in the work.

Copy:- Forwarded to Deputy Superintendent of Land Records, Dapoli for information.

Copy:- To Talathi at Harne.

S/d

Sub-Divisional Officer
Dapoli Division Dapoli


Kramank/LNA/SR/43/2016
Office of Sub-Divisional Officer
Dapoli Date:- 17/03/2017

Read:

1. Application of Smt. Archana Ashok Aamburle & 2 others through power of attorney holder Mr. Naved Najir Sayyad Res. at Harne, Ta. Dapoli dated 14/03/2017.
2. Order Kramank/LNA/SR/43/2016 dated 24/10/2016 issued by this office.
3. Sec. 44 of Maharashtra Land Revenue Code 1966 and Maharashtra Land Revenue(Change in use of land and non-agricultural assessment.) Rules 1969.
4. Order No./Mahsool/Karya6A/E.Bandh.Par/LNA/SR/2016 dated 08/02/2016 issued by Hon'ble Collector, Ratnagiri.

Order:

1. Land admeasuring 1358 Sq.mtrs. out of land bearing Survey No. 215 Hissa No. 13A situated at village Harne, Ta. Dapoli is owned by Smt. Archana Ashok Amburle & 2 others. Smt. Archana Ashok Ambule & 2 others through power of attorney holder Mr. Naved Najir Sayyad Resi. at Harne have obtained non-agricultural permission according to reference no. 2 to use for residential and commercial purpose. However applicant has applied for seeking permission for revised plan.
2. In the investigation of this application it is found that,
 1. Applicant himself is the owner and occupier of the said land and has no co-sharer with co-occupiers or other persons entitled to any interest in the said land.
 2. Said referred land is created by way of new indivisible entity type or it was purchased from the owner according to Ku Ka K 32G. Also the owner has obtained the prior permission of Sub-Divisional officer Dapoli for non-agricultural use of the land or has changed the land type and paid the maintenance/royalty amount.
 3. The co-sharers and senior clan people having interest in the land have given written consent for no objection to allowing permission to use land for non-agricultural purpose.
 4. The said land is not acquired or not likely to acquired in the near future for government or public use.
 5. Said land is suitable/appropriate to use for non-agricultural purposes from the point of view of sanitation and public health. The District Health Officers are pleased to inform that they have no objection in this regard.
 6. The applicant should submit the building plan approved by the Town Planning and Valuation Department.
 7. Plan submitted by the applicant, map of the building is according to the provisions mentioned in the para. 2 and 3 enclosed with the Maharashtra Land Revenue (Conversion of Land Use and Non-Agricultural Tax) Rules, 1968. As per the provisions of 2 and 3. The applicant shall construct the building as shown in the map and shall not alter it without prior permission.
 8. The applicant has kept sufficient space on both sides of the electric wire passing near the said land.

9. The applicant has complied with the Building Regulations and Prevention of Ribbon Development Rules.
10. People having other interest in the said land have no objection to allowing non-agricultural permission.
11. The applicant has agreed to abide by the conditions on which non-agricultural permission may be granted.

Remarks:- If conditional no objection certificate has been issued by the qualified authority mentioned above or if suggested to mention any specific condition in the approval order, then the said condition should be mentioned in para. 5 of the following order. Taking into consideration the above remarks, there is no objection to approve the construction of the building according to the non-agricultural and approved plan as per the request of the applicants.

3. Sub-Divisional Officer is granting permission on the following conditions to Smt. Archana Ashok Amburle & 2 others through power of attorney holder Mr. Naved najir Sayyad Resi. at Harne, Ta. Dapoli for construction of the building upon land admeasuring 1358 sq.mtrs. out of land bearing survey no. 215 and hissa no. 13A according to the non-agricultural and approved plan for non-agricultural residential and commercial purpose according to Sec. 44 of Maharashtra Land Revenue Code 1966 and by way of using power awarded according to S.R. no. 5 of preface.

1. Said permission is granted subject to the provisions of Revenue Code and the rules mentioned thereunder.
2. Said land and construction on the said land should be use only for the reason for which permission has been granted. No part of that area or the area shall be use for any purpose other than the purpose for which permission has been granted without the permission of the Collector - Sub-Divisional Officer. The purpose for which the land is being used will determine on the ground for what purpose the land is being used.
3. The licensee shall not make any subdivision of the area concerned or of the consumable unless the said sub-division is approved by the Permitting Authority.
4. According to the plan approved by the licensee, the concerned land should be developed strictly within 1 year from the date of the order by constructing roads and constructing sewerage pipes in such manner as the Collector-Sub-Divisional Officer thinks fit, after making measurements from the Land Survey Department and altering the sections accordingly and till such development is not done in the said area no section in the said area should not be transferred in any way.
5. If the licensee sells or otherwise transfers the said land, said sale or transfer should be in accordance with the conditions mentioned in this order and the same should be clearly mentioned in the said Purchase Deed.
6. The area is classifying as Non-Agricultural as shown in the plan of land.

	AREA STATEMENT	Sq.Mtrs.
1.	AREA OF PLOT (AS PER 7/12)	1358.00
2.	DEDUCTIONS FOR	
	a. ROAD ACQUISITION AREA(WIDENING)	-
	b. PROPOSED ROAD	-
	c. ANY RESERVATION	-

	TOTAL (a+b+c)	-
3.	NET GROSS AREA OF PLOT(1-2)	1358.00
4.	DEDUCTIONS FOR	NIL
	a. RECREATION GROUND (OPEN SPACE)	-
	b. INTERNAL ROAD	-
	TOTAL(a+b)	-
5.	PLOT AREA AS PER T.P.	1358.00
6.	NET PLOT AREA FOR N AN	1358.00
7.	F.S.I. PERMISSIBLE (a) $1358.00 \times 0.90\% = 1222.20$ (b) $1222.20 \times 0.20\% = 244.44$	1.20
8.	TOTAL PERMISSIBLE AREA (a+b)	1629.60
9.	PERMISSIBLE BUILT-UP AREA	1629.60
10.	EXISTING BUILT UP AREA	NIL
11.	PROPOSED BUILT UP AREA A TYPE BUILDING	
	(a) PROPOSED GROUND FLOOR AREA	54.34
	(b) PROPOSED FIRST FLOOR AREA	238.27
	(c) PROPOSED SECOND FLOOR AREA	238.27
	(d) PROPOSED THIRD FLOOR AREA	238.27
11.	TOTAL PROPOSED BAJ AREA (a+b+c)	769.15
12.	PROPOSED B TYPE BUILDING	
	(a) PROPOSED GROUND FLOOR AREA	134.28
	(b) PROPOSED FIRST FLOOR AREA	232.25
	(c) PROPOSED SECOND FLOOR AREA	232.25
	(d) PROPOSED THIRD FLOOR AREA	232.25
13.	TOTAL PROPOSED B/U AREA	831.03
14.	TOTAL BUILT UP AREA(11-13)	1600.18

7. The licensee should get approved the building plan from the appropriate authority having his jurisdiction in the area of building and in other matters he should create building plans by making strict compliance of provisions mentioned in Appendix 2 of Maharashtra Land Revenue Rules (Conversion of Land Use and Non-Agricultural) 1938 and should be approved by the Collector-Tehsildar and should construct according to approved plan.
8. Licensee should kept adequate open distance from the road having National State Major District - Other District Road. It should be written according to provisions mentioned in Appendix 3 of The Maharashtra Land Revenue (Conversion of Land Use and Non-Agricultural Duties) Rules 1668.
9. The licensee shall commence non-agricultural use of the land within one year from the date of this order. If non-agricultural use is not commenced without extending said period, the said permission shall deemed cancelled.
10. The date of commencement of the said non-agricultural use by the licensee or in case of change in use, the same date should be reported to the Tehsildar through Talathi within one month. Failure to do so would make him eligible for further proceedings under Rule 6 of the Maharashtra Land Revenue (Conversion of Land Use and Non-Agricultural Tax) Rules, 1968.
11. From the date of commencement of non-agricultural use of the said land for the purpose for which the permission has been granted, the licensee should give non-agricultural Tax of the said land at Government's revised rate per square meter. Non-agricultural duty shall be levied at the flat rate irrespective of the expiry of the guaranteed period of non-agricultural duty levied earlier in case of change in land use.
12. The Non-Agricultural tax shall remain guaranteed for the period ending on 31/07/2017, thereafter the said Non-Agricultural tax shall be eligible for amendment according to any revised rate.

13. The licensee should pay the amount of expenses for assessment within one month of commencement of non-agricultural use of the land.
14. The area specified in this order and license and the non-agricultural tax, will be corrected/amended according to area actually found after the assessment of land, etc. by land survey department. In case of alteration in the plot area as per the standard calculation of non-agricultural plots, it will be mandatory for the applicant to take permission accordingly.
15. The licensee shall complete **three years** of permanent construction and or other construction, if any, from the commencement of non-agricultural use of the land. This period may be extended by the Sub-Divisional Officer if feels necessary, after licensee make payment of the penalty imposed as per Government order.
16. The licensee shall not make any addition or improvement in the building as per the approved plan without obtaining prior permission of the Sub-Divisional Officer Municipal Council Municipal Corporation (as the case may be) and approval of the plan thereof.
17. The licensee shall be bound to complete the license within 1 month from the commencement of non-agricultural use of the land by mentioning all the conditions mentioned in Annexure 4 or in the form attached to the Maharashtra Land Revenue (Land Use Conversion and Non-Agricultural Tax) Rules, 1969 in the said license.
18. If applicant has acquired the said land under the Tenancy Act if he wants to transfer the said land he cannot do the same without prior permission of the concerned authorities.
19. The applicant is bound to make arrangements for sewage system in the said non-agricultural plot only.
20. On the condition that if there is a complaint regarding the respected plot, the landlord will redress it at his own expense.
22. Total area of planned construction in the plot and existing constructions should remain at least of the net area of the plot.
23. The above land and proposed building shall be used only for residential and commercial use as shown in the map and construction shall be as per the sanctioned map.
24. The construction of the building should be done maintaining the same distance from the plot boundary as shown on the site map.
25. Total area and scope of construction of planned and existing buildings together shall be permissible in proportion to net plot area and as per development control rules. Architects and developers should ensure that the plot area, construction area, calculation tables and figures shown on the building map are accurate. If any dispute arises out of this, the applicant will be solely responsible thereof.
26. Construction of planned A type building should not exceed Upper Stilt + Two Floors and construction of B type building should not exceed Upper stilt + Three floors.
27. The applicant will be solely responsible, if any dispute arises regarding the right, the boundary of the plot for construction and regarding the Easement right.

- 28.If the plot to be constructed and its access road faces a classified road, it will be mandatory for the applicant to obtain the permission of the concerned highway authority.
- 29.It is the responsibility of the applicant not to obstruct the drains, power lines, river, drains, rain water flow, etc. due to the proposed construction and to leave proper clear distances from the same.
- 30.The applicant should make such required provision of water supply, sewage and sewage disposal for the planned building Before its actual use and such arrangements should be at least 18 meters away from the nearest well. Only after that the applicant should apply for the certificate of usage and the authority should issue the certificate after inspecting all the above points as well as the construction as per the given construction permission. The concerned authority has to ensure that the applicant does not using the said building without the certificate of usage.
- 31.If you want to cut down the trees inside the plot, you have to take prior permission of the concerned authority and also new trees have to be planted as one for per 100 sq.
- 32.It is mandatory for the applicant to take prior permission if he wants to make changes in the planned construction other than what is approved.
- 33.If the information and documents given by the applicant in the said case are found to be incorrect and false, the permission given will be held cancelled.
- 34.While constructing in the subject area, it is necessary to design of the construction component as per IS Code 13920-1893 Earthquake Resistant RCC Design should get done by a qualified structural engineer and it will be mandatory for the applicant / developer to complete the construction of the planned building under their supervision.
- 35.If any dispute arises regarding the road leading to and from the non-agricultural area, it should be settled by the applicant at his own cost.
- 36.If there is an underground gas pipe line or electricity line passing through the said place, is the said gas pipe line crossing the control line prescribed by the concerned authority affecting the said constructions or how? According to the no objection certificate from the concerned authority, the said construction permission will be permissible.
- 37.During the construction of building, the applicant is bound to construct in accordance with the provisions of Part IV of National Building Code of India and Part VI of the Revised Development Control Rules enacted by the Government for the Municipal Council and Municipal Panchayat for fire extinguisher and for safety from fire.
- 39.No construction can be carried out in the said plot unless the vacant land mentioned in the Non-Agricultural order is handed over to the Local Authority of roads/Government of Maharashtra.
- 40.In the said case, as Town Planning Authority Ratnagiri has recommended according to the provisions of certified development control and promotion manual, if the applicant violates the provisions of the Development Control Regulations during the actual construction or after the completion of construction, action will be taken against the concerned persons as per Rule No.10.1 of the said regulations.

41. It is mandatory for the applicant to submit the structural plan and structural stability certificate of the proposed building acquired from the concerned structural engineer to this office. If the certificate is not submitted, the said order will be cancelled.
42. According to order No./Mahsool/Karya6A/E.Bandh.Par/LNA/SR/2016 dated 08/02/2016 issued by Collector Ratnagiri, permission is being given for construction of building as per the approved plan.
43. No Development Zone is planned for the first 200 m as per the provisions of CRZ-III and no development of any kind is permitted in this section.
44. (a) If the licensee acts contrary to the terms of this order, the said premises may come into the possession of the applicant on payment of such fine and penalty by the licensee as the Sub-Divisional Officer of the Collector may order without prejudice to such other penalties as may be inflicted on him under the Act.
45. (b) Notwithstanding anything contained in abovementioned (a), the Collector - Sub-Divisional Officer shall have power to remove or repair any building or structure if it is noticed that, such building or structure constructed or being used in contravention of the provisions of this order within such time, and if the construction is not removed or modified within the given time, the said officer will take action by removing the construction and will recover the expenses incurred from the licensee as arrears of revenue.
5. This permission is subject to the provisions of other laws then existing and this permission will continue to apply to other relevant matters. E.g. Mumbai Tenancy and Agricultural Lands Act 1948. Mumbai Gramampchayat Act 1958 - Maharashtra Municipal Corporation Act 1965 etc.

S/d

(Jayram Deshpande)
Sub-Divisional Officer
Dapoli Division Dapoli

Copy :- Smt. Archana Ashok Amburle & 2 others through their power of attorney holder Mr. Naved Najir Sayyad Res. at Harne, Ta. Dapoli with a plan.

Copy :- To Tehsildar Dapoli.

Copy:- To Talathi at Harne.

S/d

(Jayram Deshpande)
Sub-Divisional Officer
Dapoli Division Dapoli



In the court of Mr. Babasaheb Ja. Beldar, Additional Collector, Ratnagiri
Binsheti/Appeal/Kra. 01/2018
Computer No. /

Hussainmia Tajuddin Jamadar through
power of attorney holder Akhtar Hussainmia Jamadar
Resi. at Po. Harne, Ta. Dapoli, Dist. Ratnagiri.

Appellant

against

1) Smt. Archana Ashok Ambule and
Mayuresh Ashok Amburle through
power of attorney holder Mr. Naved Najir Sayyad,
Resi. at Po. Harne, Ta. Dapoli, Dist. Ratnagiri.

2) Hon.ble Sub Divisional Officer, Dapoli,
Ta. Dapoli, Dist. Ratnagiri.

Defendants

Adv. Me. U. Karle for Appellant.

Adv. Ni. Ga. Shinde for Respondent no. 1

(According to Sec. 247 of Maharashtra Land Revenue Code 1966)

JUDGEMENT

Appellant has filed an appeal in this court against non-agricultural order Kramank/LNA/SR/43/2016 dated 24/10/2016 issued by Sub Divisional Officer, Dapoli Village Harne, Ta. Dapoli, Dist. Ratnagiri for Residential and commercial non-agricultural use of Landed property admeasuring 1358 sq.mtrs. out of land bearing S.No.215, H.No.13A situated at village Harne Ta. Dapoli, Dist. Ratnagiri of Smt. Archana Ashok Amburle & 2 others through power of attorney holder Mr. Naved Najir Sayyad, Res. at Harne.

Description of Property in appeal is as follows.

Sr No.	Village	Survey No.	Hissa No.	Area
1	Village Harne, Ta. Dapoli, Dist. Ratnagiri	215	13A	1358

Adequate and fair opportunity for hearing was given to the appellants and defendants by being duly served with notices. Adv. M. U. Karle for appellant and Adv. N. G. Shinde for defendant no. 1 has performed proceedings of the case.

Following submissions were made in the written argument filed by the appellant

- 1) Appellant has filed said appeal against the original and revised non-agricultural order passed for the land bearing Survey no. 215, Hissa No. 13A situated at Village Harne, Ta. Dapoli, Dist. Ratnagiri.
- 2) Smt. Archana Ashok Ambule and Mr. Mayuresh Ashok Ambule, the present owners of the land i.e. Plot bearing Survey No. 215, Hissa No. 13A at village

Harne, Ta. Dapoli, Dist. Ratnagiri have planned Development of the said plot by giving power of attorney in the name of/to Mr. Naved Najir Sayyad.

- 3) The disputed property is included in CRZ-3 as per CRZ map and as it is 200 - 500 m from the highest tide line of the sea, prior approval of Maharashtra Coastal Zone Authority and Maharashtra Maritime Board is necessary before carrying out the said construction such recommendation is given by Town planner, Ratnagiri while giving their opinion for said development.
- 4) Town Planner, Ratnagiri had informed that as per Coastal Boundary Area Notification, it will be necessary for defendant No.1 to take the prior permission of No.1 and take the permission of No.3 for the development work in the said land.
- 5) Appellant has filed a suit bearing no. 62/2017 in the court of Hon'ble Civil Judge, Dapoli against defendant no.1 and in the order dated 02/05/2017 made on the interim injunction application, it is mentioned that, temporary injunction has been given to the defendants i.e. construction should not be made in the said property i.e. Survey no. 215/13A by themselves or by others without permission of environment department and Maritime board. The said suit is pending and the order is still existing and continuing.
- 6) The defendants have made false and fraudulent maps by making illegal measuring in the disputed property. Also, due to the construction of the defendants, the land of the appellant is being encroached. Required distance as required by law has not been left from the boundary line. The defendants have blocked the road leading to the land of the appellant.
- 7) According to the letter of the Maharashtra Maritime Board, permission for the development works in the disputed property and no objection to the non-agricultural order has been given and it is mentioned that the said land is at a distance of 500 meters from the high tide line, but this is not the reality. The said area is included within a distance of 200 to 500 m from the high tide line.
- 8) It is clearly mentioned in the letter given by Town planner, Ratnagiri that property bearing Survey no. 215 Hissa no. 13A situated at Village Harne, Ta. Dapoli, Dist. Ratnagiri is within 200 to 500 meters from the HTL line. There also it is mentioned that prior permission must be taken from the Maharashtra Maritime Board office.
- 9) The defendants have misled the Maharashtra Coastal Zone Management Authority and obtain Recommendation letter vide Ja.Kra./CRZ 2017/CR 26/TC 4 dated 07/12/2017 from it too.
- 10) As per recommendation letter only planning authorities were recommended for residential construction only. A maximum height of 9 meters is recommended for residential purpose only and ground floor and one floor above. The sub-divisional officer has illegally made non-agricultural order. Therefore, the said permission is void and illegal by law as it is against the conditions laid down by the Maharashtra Coastal Zone Management Authority.
- 11) It is suspicious that, the application made by the defendants for getting permission for revised plan was made on 14/3/2017 and despite the fact that it was a casual and general application, immediately and without any legal process or inquiry, Sub Divisional Office, Dapoli has hurriedly made a revised order within a period of only 3 days on 17/3/2017.
- 12) Naved Nazir Syed (Power of attorney holder of Smt. Archana Ashok Amburle) has acted as misled the government system by obtaining wrongful certificates by

giving false and misleading information and misusing and narrating against the recommendation letter and violating the court order.

Appellant has requested that, Non-Agricultural Order No. LNA/SR/43/2016 dated 24/10/2016 and revised Non-Agricultural Order No. LNA / SR/ 43/2016 dated 14/03/2017 both the orders issued by Sub-Divisional Officer, Dapoli should be cancelled and Naved Nazir Syed (Power of attorney holder of Smt. Archana Ashok Amburle & others) and all concerned offices should be informed and for doing illegal activities, proceedings be ordered against Naved Nazir Syed (Power of attorney holder of Smt. Archana Ashok Amburle & others) and against the Sub-Divisional Officer, Dapoli and all the concerned staff in his office.

Following submissions were made in the written argument filed by Defendant no. 1

- 1) The present appeal filed by the appellant is liable to be dismissed with costs as it is contrary to facts provisions of law.
- 2) Landed property bearing S. No. 215 H. No. 13A situated at village Harne, Ta. Dapoli, Dist. Ratnagiri is owned and occupied by the defendants Archana Ashok Amburle and Mayuresh Ashok Amburle and they have hired the builder developer Mr. Naved Najir Sayyad for development of said landed property by giving power of attorney to him.
- 3) Mr. Naved Najir Sayyad Resi. at Harne has made an application on 3/6/2016 for obtaining non-agricultural permission for residential and commercial non-agricultural use of land admeasuring 1357 sq.mtrs. out of disputed property. According to said application order bearing No./LNA/SR/43/2016 dated 24/10/2016 for building construction as per approved plan issued by the office of Sub Divisional Officer Dapoli has been passed according to order bearing No./Mahsool/Karya6A/E.Bandh.Par/LNA/SR/2016 Dated 8/2/2016 passed by Hon. Collector, Ratnagiri, non-agricultural order has been passed by mentioning other terms and conditions with the fact that Construction of A type building should not be more than upper stilt + two floors and construction of B type building should not be more than upper stilt + two floor.
- 4) After that Mr. Naved Najir Sayyad Resi. at Harne has applied on 14/3/2017 for getting permission for the revised plan, and accordingly non-agricultural order has been passed by mentioning other terms and conditions with the fact that Construction of A type building should not be more than upper stilt + two floors and construction of B type building should not be more than upper stilt + two floor.
- 5) The authority has mentioned that the residential and commercial building is in CRZ-III area & within 200m 500m from HTL of Arabian sea and thus the authority has mentioned that Regarding the suit before Civil Judge, Dapoli.
- 6) According to that by mentioning terms and conditions the Member Secretary (MCZMA) has granted permission to the defendants subject to terms and conditions vide Ja.Kra.CRZ2017/CR26/TC-4 Office of the Maharashtra Coastal Zone Management Authority/Environment Department Date 7th December 2017.

Hence, contestant no.1 has pleaded that the appeal to be dismissed.

I have perused the appeal memo, written arguments of both the appellants and defendants, documents attached with appeal & legal provisions and my findings are as follows.

- 1) The appellant has filed the present appeal against the cancellation of the non-agricultural order dated 24/10/2016 passed by the Sub Divisional Officer, Dapoli vide No. LNA/SR/43/2016.
- 2) The order dated 24/10/2016 of the Sub Divisional Officer, Dapoli is that it appears that According to the application made by the applicant for non-agricultural purposes for residential or commercial use of land admeasuring 1358 sq.mtrs. out of land bearing survey no.215 Hissa no. 13A of the contestants is out of share no.13A permission has been given for building and construction as per approved plan.
- 3) Tehsildar, Dapoli has submitted a report to the Sub-Divisional Officer, Dapoli on 29/12/2017 regarding the said matter, in which suit has been filed in Hon'ble civil court in respect of said construction and the Hon'ble civil court on 02/05/2017 has given a temporary injunction that no construction should be done on the said property without obtaining the permission of the Environment Department and the Maritime Board for the construction by themselves or through others.
- 4) Maharashtra Maritime Board, Mumbai have vide letter No. Ja.Kra./MMB/Mahsool/Nahada/2017-18/4918 dated 10th October 2017 given No Objection Certificate to Mr. Naved Nazir Syed power of attorney holder of defendant on certain terms and conditions.
- 5) According to letter No. Zone Dakhla/Mauje-Harne/Ta.Dapoli/Narratna/1710 dated 03/09/2016 from Assistant Town Planner, Ratnagiri it is clarified regarding the zone certificate of Survey No. 215/13-A that, Survey no, 215 situated at village Harne Ta. Dapoli, Dist. Ratnagiri is within a distance of 200 to 500 meters from HTL. Hence, under the terms of the Marine Coastal Zone Code mentions that it is mandatory to take development permission from Hon'ble Collector, Ratnagiri after taking prior permission of the Maharashtra Coastal Zone Management Authority and Department of Environment.
- 6) No Objection Certificate vide Letter No. Ja.No./Mamebo/Mahsool1/Na.Ha.Dakhla/(S.No.215/13-A) /2018/3510 dated 19th July 2018 given to defendant by Maharashtra Maritime Board, Mumbai has been cancelled in which Mr. Hussainmia Jamadar submitted an objection application and it is mentioned that, permission has been taken by mentioning in the division that the site is 500 meters away from the high tide line. It has been mentioned in the complaint application that the said place is not 500 meters away but 200 to 500 meters away. As it is not a reality that the said place is 500 meters away from Maritime Tide line, the no objection certificate issued by this office is being cancelled. However, vide letter dated 18 September 2018, the said under construction area is outside the jurisdiction of Maharashtra Maritime Board up to 50 yards from the highest tide line of the sea. Therefore, it is stated that no permission is required from this department.
- 7) According to application for permission for residential and commercial use in the disputed division Maharashtra Coastal Zone Management Authority has sanctioned the your proposal subject to certion conditions on 7th December,

2017, in which condition No. 5 states that the ground floor plus the first floor for construction must be maximum 9 meters high and for residential purposes only. It shows that the permission of Maharashtra Coastal Zone Management Authority is only for residential purpose and limited to ground floor and first floor.

- 8) It is also mentioned that, Permission for construction of building as per sanctioned plan is granted according to the order Kramank/Mahsool/Karya6A/E.Bandh.Par/LNA/SR/2016 dated 08/02/2016 issued by Collector, Ratnagiri by mentioning terms and conditions no. 42 of disputed order in which order issued by Hon'ble Collector Ratnagiri is mentioned and said order is also mentioned in Issue no. 4 mentioned in order issued by Sub Divisional Officer, Dapoli. But, The order is stating only the authority of the Collector has been given to the concerned Tehsildar and Sub Divisional Officer and no plan has been approved by the order issued by Hon'ble Collector, Ratnagiri. Therefore, matter mentioned as per sanctioned plan in condition no.42 by Sub-Divisional Officer, Dapoli wrongful.
- 9) As the Maharashtra Coastal Zone Management Authority has given permission only for residential purpose and ground floor and first floor, it is clear that, permission given to the defendant by Sub Divisional Officer, Dapoli for upper stilt + 2 floors is not as per the conditions of Maharashtra Coastal Zone Management Authority.
- 10) Sub-Divisional Officer, Dapoli has issued revised order Kramank/LNA/SR/43/2016 dated 17/03/2017 also vide condition no. 26 has been given permission for residential and commercial purposes by specifying that the floor plan of A type building should not exceed Ground + two floors and the floor plan of B type building should not exceed Ground + three floors. It is clear that the said order is not in accordance with condition No. 5 ground floor + first floor and residential purpose of dated 7th December 2017 of Maharashtra Coastal Zone Management Authority.
- 11) Also it is clear that according to the order of the Hon'ble Civil Court, the permission of the Environment Department has not been taken.
- 12) According to the order given by Hon'ble Civil Court on 02/05/2017 in Suit No.62/2017, it is seen that the defendants have done the construction despite being warned not to do any construction work without obtaining the permission of Environment Act and Maritime Board. This appears that it is against the order of the Civil Court. Therefore, I have come to the conclusion that, order bearing Kra./LNA/SR/43/2016 dated 24/10/2016 and revised order bearing Kramank/LNA/SR/43/2016 dated 17/03/2017 issued by Sub Divisional Officer, Dapoli should be quashed. Hence, I Babasaheb Ja. Beldar, Additional Collector, Ratnagiri is passing the order as follows.

Order

- 1) The appeal is allowed.
- 2) Non-agricultural order KramankLNA/SR/43/2016 dated 24/10/2016 and revised non-agricultural order Kramank/LNA/SR/43/2016 dated 17/03/2017 issued by Sub-Divisional Officer, Dapoli is cancelled.
- 3) The Sub Divisional Officer, Dapoli is being ordered to take further action as per rules.

- 3) No order regarding cost.
- 4) The order should be communicated to all concerned parties.

Place – Ratnagiri
Date – 28/11/2018

S/d
(Babasaheb Ja. Beldar)
Additional Collector, Ratnagiri.

- Copy- 1) For information and proceedings to Sub-divisional officer, Dapoli.
2) For information and proceedings to Tahsildar, Dapoli.



In the Court of Additional Commissioner, Konkan Division, Mumbai
No. APPEAL/DESK/LND/271/2019

1. Late Archana Ashok Amburle (deceased) heir Applicant
 11. Mr. Ashok Sadashiv Amburle
 Res. at Bhavani Residency, New Market, Harne, Ta. Dapoli, Dist. Ratnagiri 415 713
 1.2. Minal Ashok Ambule (Name before marriage)
 Mrs. Minal Santosh Butala (Name after marriage)
 Res. at 304/B Wing, Mahabali Complex, Kakartale, Ta. Mahad, Dist. Raigad
 1.3. Rashmi Ashok Ambule (Name before marriage)
 Mrs. Rashmi Prakash Sali (Name after marriage)
 Res. at MORYA GENERAL STORES HOUSE NO. 68
 Ambewadinaka, Ambewadi, P.O. Kolhad, Ta. Roha, Dist. Raigad
 Against

1. Mr. Hussainmia Tajuddin Jamadar
 Through power of attorney holder Akhtar Hussainmia Jamadar
 Res. at Harne, Ta. Dapoli, Dist. Raigad
 Additional Collector, Ratnagiri
 Sub Divisional Officer, Dapoli Respondent

Appellate application under section 247 of the Maharashtra Land Revenue Code, 1966

1. Applicant has challenged in this court the order issued by additional Collector, Ratnagiri Binsheti/Appeal/No.01/2018 dated 28/11/2018.
2. In the case of the appeal of the applicant, as indicated in the journal maintained by court daily, hearings were held time to time. During the hearing, the Applicant and the Respondent have filed their arguments. The matter was then closed for decision.
3. A summary of the applicant's application and argument is as follows-
 - 3.1 Fun, h. Dapoli, Dist. Survey No. of Ratnagiri. 215/13A is in the possession of the appellant and he has transferred the said income. Naved Builders and Developers is for development. Also the appellant Mr. Naved Nazir Syed has been given a registered power of attorney and based on that he has filed an appeal.
 - 3.2 The Sub Divisional Officer has passed order No./LNA/SR/43/2016 dated 24/10/2016 after verifying the application of the appellant.
 - 3.3 According to Government Circular No. Sankinrna 02/2012 Pra.No.43/E-1, Government of Maharashtra empowered the Sub Divisional Officer to pass non-agricultural order for village Harne. The respondent have no locus standi against the said order. However, he filed an appeal after the deadline of 60 days. Also the application for condonation was not submitted along with the appellate application.
 - 3.4 However the above facts, the respondent had filed an appeal in the court of the Additional Collector. The Additional Collector admitted said appeal of respondent by order dated 28/11/2018 and cancelled the original order dated 24/10/2016 and the revised non-agricultural order dated 17/3/2017 issued by Sub Divisional Officer, Dapoli.

- 3.5 An order passed in violation of the said orders is not legal. Also as said order is invalid as it is without jurisdiction. Maritime Board vide their letter Ja.Kra.Mameyo/Mahsool-1/Na.Ha.Dakhal/Naved Sayyad/Harne-Dapoli/5 826 dated 18/09/2018 have informed that no permission of the Maritime Board is required in the case of the appellant. Also Maharashtra Coastal Zone Management Authority has given permission to appellant vide letter dated 07/12/2017. The applicant has taken legal construction permission and the appellant is constructing the construction by following rules and conditions given as per the approved map.
- 3.6 Respondent no. 1 has filed suit bearing R.C.S. No. 42/2017 in the Civil Court at Ratnagiri against the appellant and during the pendency of the said suit, said orders has been passed by the Additional Collector.
- 3.7 Referring to all the abovementioned points, the Appellant requested that his appeal be allowed and the challenged orders passed by the Additional Collector be set aside and the Sub Divisional Officer's original order dated 24/10/2016 and revised order dated 17/3/2017 be upheld.
4. Summary of the argument of Respondent no. 1-
- 4.1 The disputed area at village Harne is included in CRZ-3 as per CRZ map and falls within 200-500 meters from the high tide line of the sea. Therefore, It is required to take permission of Maharashtra Coastal Zone Authority and Maharashtra Maritime Board before construction.
- 4.2 However the abovementioned circumstances, the Sub-Divisional Officer had unlawfully permitted non-agricultural use of the disputed land and residential and commercial construction therein. After the said permission, the appellant encroached on the adjoining property of the respondent and started the construction work. Therefore, the respondent had filed a suit bearing regular civil suit no. 62/2017 in the court of Hon'ble Civil Judge (Junior Division), Dapoli. Hon'ble court passed an order against the appellant that, "Temporary injunction is given that the respondents without obtaining the permission of the Environment Department and the Maritime Board for survey no. 215/13A they are forthwith hereby admonished not to carry out any construction." The said suit is pending and the temporary injunction order is existing and continuing.
- 4.3 The appellant had obtained the certificate by misrepresenting that the disputed property was 500 meters from the high tide line. The Town Planner has mentioned in his letter that the said land is within 200 to 500 meters from the HTL line. It is mentioned in the said letter that prior approval from Maharashtra Maritime Board is required.
- 4.4 In the case of the appellant, considering the recommendations of the Maharashtra Coastal Zone Management Authority, the Sub-Divisional Officer has given wrong permission when it was expected to give non-agricultural and construction permission.
- 4.5 The Additional Collector, Ratnagiri has considered all this points and has cancelled the original and revised orders of sub-divisional officer. As the order passed by the Additional Collector is correct, the respondent has requested to dismissed appellant's appeal with expenses.
5. I have perused the application of the applicant, the arguments of the applicant and the respondent, the challenged orders and the documents involved in the case. My findings in the present case are as follows-

- 5.1 The subject matter of the present appellate application is that order passed by Sub-Divisional officer for non-agricultural use of the property bearing Survey No. 251/13A situated at village Harne.
- 5.2 The applicant has applied to the Sub Divisional Officer, Dapoli to get permission for construction as per the sanctioned plan and to use the disputed property for residential and commercial non-agricultural purpose and accordingly Sub-Divisional Officer have passed an order on 24/10/2016. Tahsildar, Dapoli submitted a report to the sub-divisional officer regarding the said case in which suit has been filed in the civil court regarding the disputed property and It is appearing that the court on 02/05/2017 has mentioned about giving an temporary injunction that no construction should be done in the property without taking the permission of Environment Department and Maritime Board for the construction.
- 5.3 It appears that, when the parties (adjacent holders) in the present case challenged the non-agricultural order of the Sub-Divisional Officer in the court of the Additional Collector, said non-agricultural order has been cancelled vide order dated 28/11/2018.
- 5.4 Clarification given by the Additional Collector in his order regarding the zone certificate by the Assistant Town Planner, letter by which the no objection certificate issued by the Maharashtra Maritime Board bearing Kra.Ja.Kra./Mmebo/Mahsool-1/Na.Ha. Dakhla/(S.No. 215/3-A)/2018/350 dated 19 July 2018 has been cancelled, wrong point mentioned by Sub Divisional Officer, Dapoli in condition no. 42, Granting the permission for residential and commercial purpose moreover what is supposed to be granted i.e. permission only for ground floor and first floor for residential purpose and it appears that the challenged order have been passed by referring the order passed on 02/05/2017 by Hon'ble Civil Court. After discussing all the above points in detail it appears that, there is no need to make any change in the order as the order is passed by the Additional Collector.
- 5.5 The appellant in his application had raised the issue that respondent no. 1 has not appealed within limitation in the court of Additional Collector and that no application was made for condonation of delay. However, it is evident from the record that the appellant did not raised this issue at the time of hearing before the lower court. Also, it is inappropriate to raise the issue of delay in the said matter as regarding order passed by the Additional Collector and opinions and letters given by various competent authorities, ignorance by Sub-Divisional Officer in respect of the technical opinions regarding the order passed by the Hon'ble Civil Court.
- 5.6 In view of the above, it seems appropriate and necessary to uphold the orders passed by the Additional Collector, Ratnagiri. Accordingly, the following orders are being passed in the matter-

Order

1. For the reasons mentioned in the decision/judgement, the application of the applicant is rejected.
2. For the reasons stated in the decision/judgement, order issued by the Additional Collector, Ratnagiri bearing Binsheti / Appeal / No. 01/2018 dated 28/11/2018 is upheld.

3. The said orders are being passed subject to the final decision of the civil suit pending in respect of the disputed property.
4. No order regarding expenses.
5. The decision should be communicated to all interested people.

Place: Mumbai

(Rajendra Kshirsagar)

Date: 10/02/2020

Additional Commissioner, Konkan Division

For information send to Collector, Ratnagiri

2/- alongwith original file is appended.

For information to Sub-Divisional Officer, Dapoli

2/- along with original is appended.

SATYAMEV JAYATE
MAHARASHTRA GOVERNMENT
REVENUE AND FOREST DEPARTMENT
SUB-DIVISIONAL OFFICER (REVENUE) AND SUB-DIVISIONAL
MAGISTRATE, DAPOLI

Near Panchayat Samiti Dapoli Ta. Dapoli Dist. Ratnagiri

Phone & Fax No.: 02358-282031, E-Mail: sdo_dapoli@rediffmail.com

NOTICE/SARANG/TAKRAR/2020

Date-01/09/2020

Smt. Archana Ashok Amburle and
 Mayuresh Ashok Ambule
 through power of attorney holder
 Mr. Naved Najir Sayyad
 Resi. At Post Harne

Subject- Regarding conducting proceedings according to the order bearing Binsheti Appeal Kra/01/2018 dated 28/11/2018 issued by Hon'ble Additional Collector, Ratnagiri in respect of Survey No. 215 Hissa No. 13A situated at village Harne, Ta. Dapoli.

- Reference- 1) Order bearing RTS/Binsheti Appeal Kra/01/2018 dated 28/11/2018 issued by Hon'ble Additional Collector, Ratnagiri cancelling non-agricultural use.
- 2) Letter No./Jababi/Sarang Uposhan/Bandhkam/2020 dated 14/08/2020 issued by this office.
- 3) Section 52, 53 of Maharashtra Regional and Town Planning Act 1966.
- 4) Section 45(2) of Maharashtra Land Revenue Act 1966.

According to order in abovementioned reference no. 1 the non-agricultural order bearing Kramank/LNA/SR/43/16 dated 24/10/2016 and revised non-agricultural order bearing Kramank/LNA/SR/43/16 dated 17/03/2017 issued by this office in respect of land admeasuring 1358 sq.mtrs. out of land bearing Survey no. 215/13A situated at village Harne, Ta. Dapoli, Dist. Ratnagiri has been cancelled by Hon'ble Additional Collector, Ratnagiri according to below mentioned findings. Also instructions have been given to take further action according to said order.

- 1) The order dated 24/10/2016 issued then Sub-Divisional Officer, Dapoli to be seen. It appears that according to your application residential and commercial non-agricultural permission and permission for construction of building as per sanctioned plan has been granted in respect of land admeasuring 1358 sq.mtrs. out of land bearing Survey no. 215 Hissa no.13A.
- 2) On 29/12/2017 a report has been submitted by Tehsildar Dapoli in respect of said case to then Sub-Divisional Officer that temporary injunction have been given in the said report that there is a suit filed in the Hon'ble Civil Court and Hon'ble Civil Court have on 02/05/2017 construction should not be made in

- the said property by themselves or by others without permission of environment department and Maritime board.
- 3) Maharashtra Maritime Board, Mumbai have vide letter No. Ja.Kra./MMB/Mahsool/Nahada/2017-18/4918 dated 10th October 2017 given No Objection Certificate to Mr. Naved Nazir Syed power of attorney holder of defendant on certain terms and conditions.
 - 4) According to letter No. Zone Dakhla/Mauje-Harne/Ta.Dapoli/Narratna/1710 dated 03/09/2016 from Assistant Town Planner, Ratnagiri it is clarified regarding the zone certificate of Survey No. 215/13-A that, Survey no, 215 situated at village Harne Ta. Dapoli, Dist. Ratnagiri is within a distance of 200 to 500 meters from HTL. Hence, under the terms of the Marine Coastal Zone Code mentions that it is mandatory to take development permission from Hon'ble Collector, Ratnagiri after taking prior permission of the Maharashtra Coastal Zone Management Authority and Department of Environment.
 - 5) No Objection Certificate vide Letter No. Ja.No. /Mamebo /Mahsool-1/Na.Ha.Dakhla / (S.No.215/13-A) / 2018 /3510 dated 19th July 2018 given to defendant by Maharashtra Maritime Board, Mumbai has been cancelled in which Mr. Hussainmia Jamadar submitted an objection application and it is mentioned that, permission has been taken by mentioning in the division that the site is 500 meters away from the high tide line. It has been mentioned in the complaint application that the said place is not 500 meters away but 200 to 500 meters away. As it is not a reality that the said place is 500 meters away from Maritime Tide line, the no objection certificate issued by this office is being cancelled. However, vide letter dated 18 September 2018, the said under construction area is outside the jurisdiction of Maharashtra Maritime Board up to 50 yards from the highest tide line of the sea. Therefore, it is stated that no permission is required from this department.
 - 6) According to application for permission for residential and commercial use in the disputed division MCZMA has sanctioned the your proposal subject to certion conditions on 7th December, 2017, in which condition No. 5 states that the ground floor plus the first floor for construction must be maximum 9 meters hight and for residential purposes only. It shows that the permission of MCZMA is only for residential purpose and limited to ground floor and first floor.
 - 7) It is clear that, As MCZMA has given permission only for residential purpose and limited to ground floor and first floor, permission for Upper Stilt + 2 Floors given by this office to you is not according to the conditions of MCZMA.
 - 8) It is also clear that the permission of the Environment Department was not taken as per the order of Hon'ble Civil Court.
 - 9) According to the order given by the Hon'ble Civil Court on 02/05/2017 in Suit No. 62/2017, it appears that even after giving warning that do not carry out any construction without taking the permission of the Environment Act and the Maritime Board, the said construction has been done. It appears that said points are against the order of the Hon'ble Civil Court. therefore non-agricultural order dated 24/10/2016 and revised non-agricultural order dated 17/03/2017 issued by the then Sub-Divisional Officer from this office are cancelled as it is conclude that, order bearing No. LNA/SR/43/2016 dated 24/10/2016 issued by then Sub-Divisional Officer dapoli and the revised order

bearing No. LNA/SR/43/2016 dated 17/03/2017 issued by then Sub-Divisional Officer, Dapoli are required to be cancelled.

Accordingly, as per the order dated 28/11/2018 of Hon'ble Additional Collector Ratnagiri having reference no. 2, construction done in the land admeasuring 1358 sq.mtrs. out of land bearing Survey no. 215/13A situated at village Harne, Ta. Dapoli Dist. Ratnagiri should be demolished. Otherwise, it has been informed that the said construction will be removed by the government authorities and the cost incurred will be recovered from you. However, you have not yet taken any proactive action to remove the construction.

Therefore according to reference no. 3 The permission granted to you by this office to remove the construction as per the letter dated reference No. 2, is expiring on 14/09/2020 according to provisions of sec. 53 of the Maharashtra Regional and Town Planning Act 1966. Hence, you should obtain revised permission for construction in the said property from competent authority as per prevailing rules by fulfilling all the required details according to sec. 44 of the Maharashtra Regional Town Planning Act, 1966.

It is noted that, if not done as above mentioned according to the provisions of sec. 52, 53 of Maharashtra Regional Town Planning Act, 1966 and sec. 45(2) of Maharashtra Land Revenue Code 1966 further appropriate proceedings will take place. It is also noted that criminal proceedings as per Rule 188 of Indian Penal Code 1860 will be conducted against you for violation of order.

(Sharad Pawar)
Sub-Divisional Officer Dapoli
Sub-Division Dapoli

Copy: For information and for required proceedings to Tahsildar Dapoli



-1-

Reg.Civil Suit No.13/2020
(CNR NO.:MHRT020001302020)
Mayuresh Ashok Amburle + 4
Vs.
Upvibhagiya Adhikari,Dapoli+ 2

ORDER BELOW EXH. 42
(Passed on : 16/01/2021)

1. The plaintiff has filed the application and averred that the defendants have not filed their say and written statement till today and this Court has granted status quo order till today vide Exh.41. The plaintiff has prayed that the status quo order may kindly be continued.
2. Defendant nos. 1 to 3 are repeatedly called for filing their say and written statement on this application, but remain absent. The learned A.G.P. Sou.M.M.Jadkar is also called for filing their say on this application, but remain absent.
3. Considering the application and hearing, this Court do found merit in the application. In the result, this Court pass the following order :-

ORDER

Defendant nos. 1 to 3 are hereby directed to maintain status quo regarding the suit property until further orders.

Gabriel Joseph Shrisunder
Digitally signed by Gabriel Joseph Shrisunder
Date: 2021.01.18 10:57:53 +0530

Date : 16/01/2021,
Place:Khed.

(G. J. Shrisunder)
Civil Judge S.D., Khed.
Dist.Ratnagiri.

Judgment/order in Regular Civil Suit No. 13/2020

I affirm that the contents of this Pdf file judgment/order are same words as per original judgment/order.

Name of Stenographer :- S. M. Jadhav

Court Name :- Civil Judge S.D., Khed, Dist. Ratnagiri

Date of Decision :- 16.01.2021

Judgment/order signed by P.O. on :- 16.01.2021

Judgment/order uploaded on :- 18.01.2021



IN THE COURT OF HON'BLE CIVIL JUDGE SENIAR DIVISION AT KHED

Regular civil suit no 13/2020

1. Mr. Mauresh Ashok Amburle.
Age. 27 yr, occupation. Trade and agriculture
Res. Bhawani residency, navi bazaar peth,
At,post. Harnai Tal. Dapoli, Dist. Ratnagiri.
2. Mrs. Milnal santosh butala.
Age. 40 yr, occupation. housework and agriculture
Res. 304 (B) Wing, mahabali complex,
Tal. Mahad, Dist. Raigad.
3. Mrs. Rashmi prakash sali.
Age. 40 yr, occupation. housework and agriculture ----- palaintiff- plaintiff.
Res. House No. 68, Aambewadi Naka,
At,post. Koad Tal. Roha, Dist. Raigad.
4. Mr. Naved Nazir Sayad.
Age. 40 yr, occupation. Business,
At,post. Harnai Tal. Dapoli, Dist. Ratnagiri.
5. Proprietor for Naved Builders and Developers
Mr. . Naved Nazir Sayad.
Age. 40 yr, occupation. Business,
At,post. Harnai Tal. Dapoli, Dist. Ratnagiri.

(Plaintiff no. 4 for himself and plaintiff no. 1 to 3 as attorney)

Against

1. Sub-Divisional Officer Dapoli
Office of the Sub-Divisional Officer
At.Post. Dapoli. Dist. Ratnagiri.
2. Tehsildar Dapoli
Office of Tehsildar Dapoli. ----- defendant
At.Post. Dapoli. Dist. Ratnagiri.
3. For Government of
Mah. Hon. District Collector Sao
Ratnagiri District Collector office
MPO. Dist. Ratnagiri.

Suit valuation is Rs. 2000/- for seeking declaration and permanent injunction under Sec. 34 and 38 of the Specific Relief Act

Plaintiff Humbly submits as follows :-

1. The property in respect of which and the grounds for which the Plaintiffs are filling the present suit is described as follow –
At village Harnai, Tal. Dapoli, Dist. Ratnagiri.

Survey No.	Hissa No.	Area (sq.m)	Assessment (Rs.pai.)
215	13A	1358 Sq.M.	2.75₹.

The building which has been constructed by the plaintiffs no. 4 and 5 on the basis of the registered development agreement of the said land is the subject of the present suit, henceforth it is briefly referred to as 'suit property'. Against the suit property defendant no. 1 respectively issued notices viz.No./JABABI/ A.N.BA/ SARANG/ UPOSHAN/ BANDHAKAM/ 2020 dated 14/08/2020 and No./JABABI/ A.N.BA/ NOTICE/SARANG TAKRAR/ 2020 dated 1/09/2020 and particularly notice issued to plaintiffs viz. No./JABABI/ A.N.BA/ PRADHIKRUT TAH/DAPOLI/ 2020 dated 15/09/2020 and the action initiated by the defendants pursuant thereto is the cause of the present suit.

2. The property which is the subject of the suit is initially recorded in the names of Archana Ashok Amburle and Plaintiff no.1 as owner to revenue record. After death of Archana Ashok Amburle, she was succeeded by plaintiff no.1 along with plaintiff no.2 and 3 and became the rightful owners of the suit property. Mr. Amburle family was interested in developing the suit property but as they had no personal experience in the matter of development, they decided to develop the property from experienced developers and accordingly meet to plaintiff no.4 and 5 and had business talks. Thereafter, between the two parties, the development agreement was registered at Dapoli on 05/01/2017 And M/s. Naved builders and developers is the proprietor firm i.e. plaintiff no.5 was empowered to develop the suit property. plaintiff no 1 to were accordingly given the necessary Power Of Attorney to plaintiff no.4. In such a situation plaintiff no. 4 as the attorney holder and the same plaintiff no. 5 being the proprietor of proprietary firm have been refferes as plaintiff no 4 and 5. In such a case the on the basis of development agreement and power of attorney plaintiff no. 4 and 5 started the development of the property and before starting the development also started the necessary

proceedings to obtain permission from the concerned departments of the government of Maharashtra as required and intended by law. all the necessary documents, necessary map along with signature, were submitted by plaintiff no. 4 and 5 In order to get non-agricultural use permission and construction permission respectively to defendant no. 1's office initially i.e. in the year 2016 and on the basis of that filed documents and for said reasons defendant no. 1's office gave permission on 24/10/2016. However, as it became necessary and necessary to make some difference in the construction of the suit property and at the same time for some other reasons, there was a need for permission to be corrected, and plaintiff No. 4 and 5 filed such documents and started the proceedings accordingly.

3. In the specific circumstances stated above, after submission of such documents to defendant no. 1, the relevant documents were verified by the concerned officers of his office. The actual site was inspected, everything including the plan of the planned construction was verified and finally plaintiff no. 4 and 5 were given permission by the defendant no. 1's office for non-agricultural use of the land and for construction on 17/03/2017 and on the basis of that permission plaintiff no. 4 and 5 were granted permission to construct buildings for residential and commercial use. Before granting the relevant permission the respondent no.1 concerned officers verified in all aspect that if suit property was used for non-agricultural purposes and construction of buildings thereon, C.R.Z. rules and also the provisions of other laws were violated or not and after being convinced that no objection would arise in the future, the defendant no 1 office has granted the above permission.

4. Plaintiff 4 and 5 after getting the proper permission, they immediately started the development work at that place for the purpose of development of suit property. When it was pointed out that the related suit property would be developed, the neighboring land owner of plaintiff no. 1 and 3 shri. Hussainmia Tajuddin Jamdar has raised only false, and frivolous complaints regarding the development of the suit property without any proper, just and resonable cause and at the same time raising the issues of hostile interests of the villages of the plaintiffs no.1 to 3 and part of that one Villager Mr. Hanumant Tukaram Sarang of village Harnai threatened the concerned government officials with a hunger strike to take action regarding the suit property and to initiate demolition action by raising the unnecessary dispute. Mr. Jagawar and Mr. Sarang and some other congregations , also In respect of plaintiff no. 4 and 5 the former showed hostility and started harassing all the plaintiffs in this or that manner using pressure techniques.

5. Not only this, Mr. Hussainmia Tajuddin Jamdar filed a suit R.C.S. No. 62/2017 in the hon'ble. civil court at dapoli and made a false complaint that the plaintiff has encroached on his adjutant land and built construction. and also raised the objection that the plaintiffs did not take permission from the Environment Department and the Maritime Board. Hon'ble civil court passed the interim order not to construct without above said permission. However, the plaintiffs have taken the relevant permission for the reasons stated elsewhere in the suit and that list of documents has been presented in this suit. Due to some misunderstanding Mr. Hussainmia Tajuddin Jamdar have raised their complaints, which has been solved for sure as per information of plaintiff.

6. In the circumstances as stated elsewhere above, Mr. Hussainmia Tajuddin Jamdar Filed appeal no. 1/2018 in the court of Additional collector Ratnagiri and made false complaint that given permission by the defendant no. 1's office for non-agricultural use of the land and for construction is not proper and correct and sought the cancellation of the said permission . said appeal was allowed by Additional collector Ratnagiri and permission got cancelled. By disappointing with the said order plaintiff filed an appeal no. 271/2019 to Uppar Ayukta Kokan Division. Unfortunately plaintiff got unsuccessful in the said appeal. A revision application has been filed by plaintiff in court of the revenue minister of Maharashtra on 10/02/2020 as per the provisions of the relevant law and suggestion. In the said revision above said both orders cancelling the permission has been challenged the said revision application is still pending.

7. the permission given to Plaintiff by Defendant no. 1's office for non-agricultural use and building construction, considering the reasons for the cancellation of permission by the said two officers, the relevant construction is not permitted by the environment department and the maritime board, The aforesaid suit is pending in the court and at the same time it seems that the relevant permission has been canceled by concluding that there are some errors as per the Maharashtra land revenue code and in the building rules and byelaws. However, by adopting all the provisions of the law, the permission has not been canceled permanently and since the court case in that matter is still pending and as the right of the plaintiffs to seek appropriate relief in competent civil court or in the high court of Bombay is still intact, in present situation it is humble submission of the plaintiff that there is no principle of law to decide that the construction which is the subject of the suit is without license or is going to be without license.

8. the points of objection raised by Mr. Hussainmia Tajuddin Jamdar and shri. Hanumant Tukaram Sarang were baseless and unjustly supported by the relevant authorities of the defendants in an arbitrary manner and the defendant no. 1 office issued notices which are the subject matter of the suit and also the inferences made by the relevant authorities of the defendants while cancelling the aforesaid permission order, it is mainly concluded that the construction in question has been carried out in violation of CRZ rules and is not in accordance with the permission of MCZMA, without the permission of environment department. Overall, it seems that all actions have been taken to rule out the possibility of non-permission. Of course, the plaintiffs have further elaborated their overall contention. In the suit as to how it is wrong and inappropriate to rely on the current state of affairs in the CRZ rules. However, despite this, only technical defects should not arise and The interim order passed by the hon'ble court at dapoli in the beginning, so that the development should not be hampered and also for other reasons, the plaintiff filed the documents accordingly in the office of maritime board and M.C.Z.M.A. after scutinizing the documents by concerned officers appropriate permissions were given to plaintiff and their Implementation is still on going and it has not been challenged yet. The relevant permissions were separately attached with list of documents for court's perusal.
9. The inquiry taken by the concerned authorities of the respondents after raising he so called complaints mentioned above was and is required to be carried out in accordance with the legal process as required and intended by law. But while making such inquiry and visiting the site of the disputed construction the owner or occupier in the said case was not given prior notice to the plaintiffs or was not acknowledged by giving advance notice as required and intended by law. Also, the so-called reports that were made in that regard, especially the reports of the

controversial construction, have not been filed by the appropriate experts and the experts have not even inspected the site. Also, in any of the related so-called report and so-called panchayadi and the proceedings initiated on the basis of that, no statement or say of any plaintiff has been taken and no documents have been accepted for his defense. As a result, the action initiated by the defendants from the very beginning i.e. from the so-called inquiry is fundamentally wrong and unenforceable and it is humble submission of plaintiff that the concerned authorities of the government have relied on such fundamentally wrong documents while accepting the aforesaid appeals and decisions against the plaintiffs.

10. As stated elsewhere in the suit, it seems that the action was started in the matter of the buildings of the plaintiffs in Harne only on the basis of the mischievous complaint of Mr. Hussainmia Tajuddin Jamdar and shri. Hanumant Tukaram Sarang. Mr. Hussainmia Tajuddin Jamdar and shri. Hanumant Tukaram Sarang in their complaint have challenged the CRZ rules and the provisions of non-agricultural use. and the same the relevant permission appears to have been based on the orders of the authorities which canceled it as stated above. But even so, the relevant orders have been challenged and the relevant matter is pending before the minister and also the plaintiffs have not violated any provisions of the CRZ rules. Also, as expected and intended by the law, as directed by the hon'ble supreme court, the coastal management plan of the state of Maharashtra has not been drafted and approved by the Maharashtra government and the central government has not yet approved such a plan.
11. Also, as stated above, as the boundary lines of high and low tides, respectively, along the entire coastline, as per the relevant notification, have not yet been fixed

and approved for the state of Maharashtra, there is actually no truth in saying that a construction comes at a specific distance from those lines and from it. Plaintiffs submission is that there is no explanation and it all depends on the logic of the vendors. Also, the so-called report filed in respect of the relevant distance has not been given by the expert persons, and the manner in which the satellite and hydrographical survey was done to determine the relevant distance has not been mentioned in the information of the plaintiffs.

12. The suit property is within the limits of Harnai Grampanchayat, most of the villages in the entire dapoli taluka have existed for many years along the sea coast along with village Mouje Harnai. The place has been heavily populated along the sea coast for many years and have history of more than 300 years. The place of dapoli taluka means the various villages that come under dapoli taluka most of the area within the limits of the village panchayat has been inhabited for more than 300 years as mentioned above. Many peoples houses or industrial places have existed in this area since many years. Sea coast existed Further.
13. From the year 1985-86, the traffic of many people began to increase in the area of suit property and neighboring villages for tourism. In order to develop tourism in the state of Maharashtra, the government has also implemented many types of schemes and plans to provide financial assistance for the same have been implemented through various banks. In such a situation, keeping in mind the increased importance of dapoli taluka and its villages from the point of view of tourism, the tourists outside dapoli decided to stay in dapoli and other villages of that taluka as a matter of course, On realizing plaintiff no. 1 to 3 they decided to construct residential and commercial buildings in the suit property. As stated elsewhere above plaintiff no. 1 to 3 did not have the experience required for it

and accordingly they entrusted plaintiff no 4 to 5 to construct in suit property. In that respect plaintiff no 4 to 5 also obtained all necessary departmental permissions as mentioned above. Thus the construction of the respective building was mostly completed. For the construction of the present building, he has invested heavily and has taken loans from banks. Also, at the beginning in the suit property, Mr. Mohite's house no. 1980 was in existence and electricity supply was given to it from that time and also shri. Mohite obtain necessary N.A.permission to utilized suit property for non-agricultural purposes from sub-divisional officer dapoli which was passed on 18/04/1979 and its execution continued till the plaintiffs purchased the property and in such a situation shri. Mohite's earlier electricity supply was continued as it was and the plaintiff continued to use that meter. The concerned officials of the defendants were and are fully aware of all these things. Till the year 2018, in respect of the building or construction of the plaintiffs, the concerned authorities of the government have never raised any objections or Regarding the demolition of the construction.

14. The union government has enacted the environment protection act 1986. Under section 25 of the said act, the central government has the authority to make regulations for the implementation of the work and in that authority, the central government has prepared environment (protection regulations 1986) on 19/02/1991. Based on the said rules the relevant authorities have to implement the rules therein. In the state of Maharashtra, the powers to implement these regulations have now been given to newly constituted committees. When considering Maharashtra Government CRZ I, CRZ II, and CRZ III categories are implemented at that place. As mentioned above, since the entire harne village or mostly Dapoli taluka is located on the sea coast with many residential houses for the past many years, the state government should take action in the matter of

construction there, considering all these things and considering the traditional needs of all the matter of construction there, considering all these things of considering the traditional needs of all the people there. Also in supreme court writ petition no.664/1993 the guidelines passed under act are self explanatory. Implementation of CRZ rules was started in the year 1991 on behalf of Maharashtra government as mentioned above. However, like the construction of the plaintiff, the construction of many other people have existed in such a specific area for many years before the year 1991. Based on the relevant rules, it is not appropriate to take action under the CRZ rules in the case of such constructions. Also, as mentioned above, the coastal management plan of the government of Maharashtra has not yet been prepared.

15. *Of course, despite the true facts and circumstances as stated above, in order to prevent any issues or complaints from arising and doubt in the future, the plaintiffs sought the permission of the maritime board and MCZMA department as a precautionary measure and taken as per court order.*
16. *After the relevant authorities of the defendants were convinced that it was impossible to prove that the CRZ regulations had been violated by the plaintiffs, a mischievous attempt was made to invoke other legal provisions in the matter only arbitrarily and without reason and as a part of that the Maharashtra regional and town planning act 1966 the fraudulent reliance on the provisions of the respondent's respective office was decided in an inexplicable manner and as a part of the claim notice bearing the subject defendant no.1 was given to the plaintiffs through the office . In fact, the respondents have to submit their draft development plan to the relevant department or department of the government and take its approval. It is also necessary to take approval of the development*

plans implemented or proposed. Also according to the provisions of the law which is called as development plan and proposed plan for the purpose of town planning in the case of special provisions of the law, the comments and objections of the residents are invited within a specific time limit and the concerned authorities have to consider it. As the plaintiff has been a resident of harne for many years, to the knowledge of the plaintiff no such sanctioned plan has been prepared till now. At the time when such a plan is prepared with necessary approvals, at the same time and thereafter the provisions of the Maharashtra regional and town planning act 1966 shall come into force and only thereafter the relevant appropriate and necessary provisions may be relied upon as per the provisions off that act. In such a situation, since the overall implementation of the MRTTP act, 1966 is premature and not applicable in the present situation the relevant notices for such special reason and for the said other reasons are completely wrong, inapplicable, illegal, unenforceable and also respondent no. 1 is outside the jurisdiction of the concerned officer and office (ultravirus the powers) of the plaintiffs.

17. Also as part of the suit the on perusal of the subject notices given by the office of defendant no. 1, it is easily clear even on the face of it that those notices are ambiguous, misleading and inconsistent with the facts. In fact, the plaintiffs obtained all the necessary permission for suit property before starting the construction. In the same way, mentioned elsewhere above, to avoid technical deficiency, permissions have been obtained from Maharashtra coastal zone management authority on 07/12/2017 and from maritime board on 10/10/2017 and 18/19/2018. Though these facts and circumstance known by concern defendants officers. but even though notices which are part and subject of the suit issued by defendant no.1's office, on perusal of the notices issued on

01/09/2020 and 14/08/2020, the notices are clearly ambiguous, misleading and inconsistent with the facts it is also easily explained. But only on the conclusion that plaintiff started development, started development work in the property, completed the work or change in use of land even after upper collector ratnagiri and upper commissioner konkan division, Mumbai cancelled the non-agricultural permission given by sub-divisional officer dapoli,. The defendant no.1 through the office issue the notices which are the subject matter of the suit . notices sent from the office of Defendant no. 1 , how the notices sent on that basis are incorrect, ambiguous, illegal, unenforceable, inconsistent with fact and arbitrary. This is easily explained. In such a, the plaintiff submits that it is clear on the face of it that the provisions of the MRTP Act, 1996 would not come in the way of appealing against such illegal notice.

18. After considering all the matters and issues involved in the suit, the mischievous complaints raised by Mr. Hussainmia Tajuddin Jamdar and shri. Hanumant Tukaram Sarang regarding the constructions of the plaintiff, in fact, after intelligence, without any proper, just and joint cause and also only on purpose and with the full knowledge and idea of the defendant no. 1 in spite of him taking the support and consideration that the mischievous complaints are true and bona fide and may from dapoli. It is the honest opinion of the plaintiffs that taking the support and considering that the mischievous complaints are true and bona fide and wrongly taking in to account the interim order passed by hon'ble civil court at dapoli and the non-agricultural permission canceled by the upper collector ratnagiri and the upper commissioner konkan division Mumbai, the relevant authorities of the defendants have maliciously initiated proceedings or proceedings on the basis of different laws regarding the construction of the plaintiffs. In fact there is no truth in fact and reality and no legal action has been

taken so far by the relevant authorities of the respondents themselves or under the search drive as the construction in suit property is illegal or irregular. Only sarang's hunger strike and complaint made by the adjoining occupier shri. Jamdar, is also easily clear that all the actions have been taken to create an appearance of taking cognizance of the complaint made even with the numbers on the notices prima facie explains it.

19. As stated elsewhere above, the plaintiffs have not violated the CRZ regulations in any way or manner. However, despite the fact that the situation is as mentioned elsewhere in the suit and there is no hindrance to the disputed construction of the plaintiffs under the CRZ regulations, the permission of the Maharashtra coastal zone management authority and the maritime board has been sought so as not to raise mere technical defects or objections. Taking serious consideration of the complaint filed by Mr. Hussainmia Tajuddin Jamdar and shri. Hanumant Tukaram Sarang, without any reasons and indiscriminately, the relevant authorities of the defendants are unnecessarily obstructing the just rights of the plaintiffs by creating a mischievous impression that they are taking action in the case of the plaintiffs by creating mischievous impression that they are taking action in the case of the construction of the plaintiffs. By adopting an arbitrary method, the concerned authorities went against the principles of justice and natural justice. The concerned authorities violates the plaintiffs right to justice by going against the principles of justice of the plaintiffs. Before proposing the relevant action, the relevant so called report is questionable and has not been given by the proper expert persones, and also the relevant coastal management plan has not been prepared, the relevant proposed action has not been adopted without due process of law and it is plaintiffs contention that it is basically illegal and unenforceable is arbitrary. Also even if it is considered that the plaintiff have been

constructed in excess of the sanctioned permission, it may be sanctioned or regularize according to the provisions of the Maharashtra land revenue code it hunger strike, by going under the pressure technique to show that we are taking action in the case of suit property, without any reason the whole of the plaintiffs in the case of construction by wrongly implementing the provisions of the act. The notices which are the subject matter of the suit have been passed. Actually the proper reason for that has not happened in reality.

20. Taking into account all the premises in harne gram panchyat, the concerned village as stated in the above suit and mostly the entire dapoli taluka is situated on the sea coast and has a history of more than 300 yr and such a situation has been largely considered while implementing the provisions of CRZ. Assuming that the frivolous complaints filed by Mr. Hussainmia Tajuddin Jamdar and shri. Hanumant Tukaram Sarang are true and correct if action is taken against the construction of the plaintiffs there, the construction of the plaintiffs is going to be completely demolished. Consequently, there is no provision in any law to implement such a legal process, nor is even remotely the purpose of any law. As a result, there was no proper just and compound reason in reality and in reality for giving importance to the called complaint in this manner.

21. In this way, in the case of the suit of the plaintiffs if the defendant, after intelligently and arbitrarily, takes action and demolishes the construction there, it will cause immense loss to the plaintiffs and they will have to be deprived of justice and their just rights will be hindered. Similarly under the sign. Of Mr. Hussainmia Tajuddin Jamdar and shri. Hanumant Tukaram Sarang the arbitrariness and wrongdoing of the concerned officers of the defendants will be further encouraged. Also plaintiffs have made huge financial investment by taking

loans from banks for the claim income and construction. There he has also provided employment to the local people in the plaintiffs business. In such a situation, as stated in the plaint, against the defendant no 1 if any other action is taken by the other defendants including demolition of the building, the plaintiff will suffer immeasurable loss. Their fair rights will be affected and they have to be deprived of justice. And their right to justice will be affected

22. We do not think it is desirable to continue this fact or situation as it is. As a result it become imperative to file a writ petition for the matters mentioned in the claim clause, and the plaintiffs are filing petitions in this hon'ble court.

23. As the action initiated by the defendants is inherently wrongful, illegal, unenforceable and outside his jurisdiction, in fact he is not required to give a pre suit notice as per section 80 of the code of civil procedure and the provisions of relevant special laws. But defendant no. 1 after receiving the notices given under the provisions of MRTP act and Maharashtra land revenue code 1966, after collecting the necessary documents and getting proper information the plaintiff no 4 by defendant no 1 meet the concerned authorities and tried to convince them that their construction was not unauthorized and illegal, but the respondent no 1 the concerned authorities refused to listen to the plaintiffs and as mentioned in the notice It has been ordered to demolish the construction till 30/09/2020 in such a situation if the pre claim notice period expires and the claim is filed it will take about 60 days. Plaintiffs are apprehensive that during the intervening period the respective defendants will demolish the disputed construction and if this happens the cause of the suit will be destroyed. Plaintiffs have filed a separate application for dispensation of pre suit notice to be given to defendants.

24. on. 14/08/2020 respondent no. 1st and 2nd took the first notice and started the action regarding the demolition of the disputed construction first cause of action for suit arise and thereafter from time to time and continuously it has happened and is happening in the area of special jurisdiction of this hon'ble court. Consequently the present suit is within limitation.

25. The hon'ble court has the right to enter and process the present suit as the place of residence and business of the plaintiffs the place of office of the defendants, the suit property and cause of action has occurred and is occurred within the exclusive jurisdiction of this hon'ble court.

26. For prayer no.1 of the present suit, the plaintiff has valued the suit as per sec. 6 (iv)(j) of the Maharashtra court fees act Rs. 1000 /- and court fee stamp of Rs 200/- has been paid by the plaintiffs.

For prayer no.2 of the present suit, the plaintiff has valued the suit as per sec. 6 (iv)(j) of the Maharashtra court fees act Rs. 1000 /- and court fee stamp of Rs 200/- has been paid by the plaintiffs.

prayer no.3 is subsumed in prayer no. 1 and 2 so no separate court fee stamp has been given by the plaintiff.

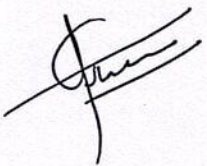
For advocate fees, process fees, court jurisdiction etc. plaintiff valued the suit in the total sum of Rs. 2000/-

27. the plaintiff prays as follows,

1. notices issued by Defendant no 1 office respectively No./JABABI/ A.N.BA/ SARANG/ UPOSHAN/ BANDHAKAM/ 2020 dated 14/08/2020 and No./JABABI/ A.N.BA/ NOTICE/SARANG TAKRAR/ 2020 dated 1/09/2020

and particularly notice issued to plaintiffs viz. No./JABAB PRADHIKRUT TAH/DAPOLI/ 2020 dated 15/09/2020 and the action on the basis of the same should be declared to be fundamentally illegal and unenforceable.

2. Also defendant no. 1 to 3 on the basis of the provisions of Civil Code also assuming that the non agricultural use permission has been canceled by the authorities concerned after the initial permission granted, on the basis of the frivolous complaints lodged with the proposed action or proceedings for the demolition of the building the subject of the plaintiffs suit and accordingly all the relevant reports and other proceedings prepared are fundamentally wrong, illegal, unenforceable and outside their jurisdiction and it should be resolved that it is arbitrary and has not been proposed without due process of law.
3. In the relevant suit named defendant no1 on the basis of the notices sent to the plaintiffs by office of 1 and also on the basis of the facts and reasons stated in the plaint, a continuous injunctions should be issued against all the defendants not to demolish the construction in the suit property by themselves or through any other person except by resorting to legal process in other cases.
4. The entire costs of this suit should be recovered from the appropriate defendants.
5. Plaintiffs should be allowed to amend the plaint if necessary.
6. All other orders necessary in view of justice may be made by the hon'ble court from time to time should do.



SATYAMEV JAYATE
 MAHARASHTRA GOVERNMENT
 REVENUE AND FOREST DEPARTMENT
 OFFICE OF SUB-DIVISIONAL OFFICER AND SUB-DIVISIONAL
 MAGISTRATE DAPOLI, DIST. RATNAGIRI

Sub Divisional Officer & Sub Divisional Magistrate Dapoli Division Dapoli

Phone No.: 02358-282031, E-Mail: sdo_dapoli@rediffmail.com

NO/LNA/CRZ/KAVI /AABURLE CLAIM

Date 14/11/2024

To,

Hon'ble Chief Government Counsel
 Appellate Branch, 1st Floor,
 High Court Mumbai-400032

Subject:- Regarding the appeal pending in the court of Hon'ble High Court of Bombay

- References:- 1. Filed under Appeal No. CRA/ST No. 9787/2022 in the court of Hon'ble High Court of Bombay
 2. Hon'ble National Green Arbitration Pune Execution Application No. 05/2024 (Execution Application No. 05/2024)

Sir,

Property bearing Survey no. 215, Hissa No. 13A situated at Village Harne, Ta. Dapoli, Dist. Ratnagiri is owned by Smt. Archana Ashok Aamburle and Mr. Mayuresh Ashok Aamburle. As per Application given by Smt. Archana Ashok Aamburle & 2 others through their power of attorney holder Mr. Naved Najid Sayyad resi. at Harne, Ta. Dapoli Non-Agricultural Order have been passed by this office according to Non-Agricultural Order bearing No./LNA/SR/43/2016 dated 24/10/2016. By amending the construction plan in the said order applicant revised Non-Agricultural Permission has been sought by the applicant according to which Revised Non-Agricultural Order has been passed by Revised Non-Agricultural Order bearing No./LNA/SR/43/2016 dated 17/03/2017. According to Appeal bearing No. Binsheti/Appeal/No. 01/2018 filed by Mr. Husainmiya Tajuddin Jamadar through Mr. Akhtar Husainmiya Jamadar Resi. at Harne in the court of Hon'ble Additional Collector Ratnagiri both the abovementioned Non-Agricultural orders have been cancelled by allowing the said appeal. Against which Mr. Aamburle had filed an Appeal in the court of Hon'ble Additional Commissioner Konkan Division bearing no. Appeal/Desk/LND/271/2019 dated 10/02/2020. By

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dismissing the said Appeal order passed by Hon'ble Additional Collector Ratnagiri have been upheld. Notice has been issued to Mr. Aamburle regarding removal of said construction due to cancellation of Non-Agricultural Order given by this office to Mr. Aamburle for construction in non-agricultural order permitted area. Notice has been also issued according to Sec. 52,53 of Maharashtra Regional and Town Planning Act 1966 & Sec. 45(2) of Maharashtra Land Revenue Act 1966 as per the complaint of Mr. Hanumant Tukaram Sarang received by this office bearing Letter No./Jababi/A.Na.Ba./Notice/Sarang Takrar/2020 dated 01/09/2020. Against said notice said Smt. Archana Ashok Aamburle and Mr. Mayuresh Ashok Aamburle through their power of attorney holder Mr. Naved Najir Sayyad Resi, at Harne, Ta. Dapoli have filed a suit bearing R.C.S. No. 13/2020 in the court of Hon'ble Civil Court Khed and in the said suit court issued order dated 23/04/2021 saying pending till the final decision. Against said order appeal has been filed by this office in the court of Hon'ble High Court of Mumbai bearing Appeal No. C.R.A/S.T. No. 9787/2022. Said appeal is pending in the court of Hon'ble High Court of Mumbai.

Mr. Balwant Parchure has filed a suit against Mr. Mayuresh Ashok Aamburle & 5 according to Original Application No. 27/2022 in the court of Hon'ble National Green Arbitration Western Division Bench Pune. An Affidavit has been filed by this office on behalf of defendants no. 3 to 5 (Sub-Divisional Officer Dapoli Defendant no. 3, Hon'ble Collector, Ratnagiri Defendant no. 4, Hon'ble Director and Member Secretary MCZMA Defendant no. 5) in the said suit. The Hon'ble court have passed Suit Disposed order in the said suit on 27/04/2023.

In the case of said suit Mr. Balwant Murlidhar Parchure has filed Execution Application No. 05/2024 in the court of Hon'ble National Green Arbitration Pune. On the said application date of hearing of the case in the court of Hon'ble National Green Arbitration Pune is mentioned as 21/11/2024. Thus in the said case Appeal No. C.R.A/S.T. No. 9787/2022 is pending for hearing in the court of Hon'ble High Court of Mumbai. Execution Application No. 05/2024 is also pending in the court of Hon'ble National Green Arbitration Pune.

Thus It is requested to take further appropriate action at your level in the context of hearing in the matter of suit bearing Appeal No. C.R.A/S.T. No. 9787/2022 in your Hon'ble High Court of Mumbai.

Yours Faithfully,


(Dr. Ajit Thorbole)
Sub-Divisional Officer
Dapoli Division Dapoli

Copy :- Humbly presented to Hon'ble Collector Ratnagiri (Revenue Department)
Copy :- Presented to Adv. Mrs. Swati Vaidya Pandit, Collector Office Pune Care of Hon'ble National Green Arbitration Court, Western Division Bench Pune

