

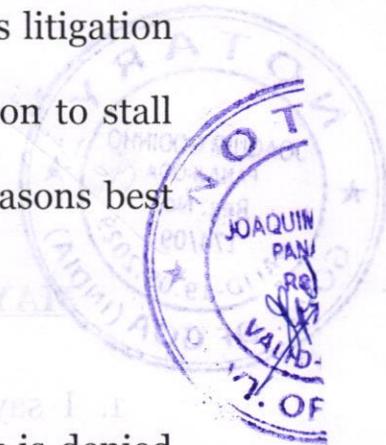


Respondent No. 2 specifically denies each and every averment contained in the additional affidavit under reply filed on behalf of the Appellants.

3. With regards to the contents of para 6, the Respondent No. 2 states that the Appellant, in terms, have acknowledged the fact that the Appellants are in tourism related business, which fact has all these whiles been withheld by the Appellants from this Hon'ble Court. Said fact itself establishes that the Appellants are busy body and has filed this litigation with oblique motives, only with an intention to stall the project of the Respondent No. 2 for reasons best known to the Appellants.

4. With regards to the contents of para 6a, it is denied that the Appellants are local residents from indigenous fishing and farming communities fully committed to defending the environmental for the future generations as alleged. The perusal of the photographs annexed by the Appellants to the affidavit dated 29/05/2024 at least do not fortify the said claim made

*Manoj Mehta*



by the Appellants. It is denied that the Appellants have knowledge about the said land, the coast and the natural process and the alleged danger faced by their coast as alleged. It is stated that the Appellants are for the first time coming up with the said claim which otherwise to the knowledge of the Appellants is false. It is denied that the Appellant have personally ploughed filed adjoining the land on which the hotel project is proposed, grazed cattle on the sand dunes and in the low lying fields, faced storms and floods and have watched and protected fish breeding and biodiversity in the low lying area all their lives as alleged. The insinuation made in para 6 are false to the knowledge of the Appellants and are specifically denied. It is denied that the Appellants have faced multiple threats from climate change in the past and have knowledge of the importance of sand dunes and lying areas to prevent floods and destruction due to storms as alleged, the vagueness in the contents of para 6a itself falsity the claim of the Appellants made therein. The Appellants themselves are engaged in the tourism related business for all these years which has



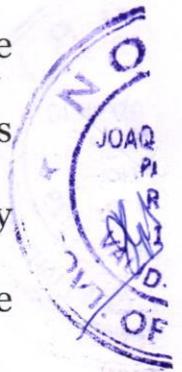
*Mansojan Mehani*

been duly acknowledged by the Appellants themselves. It is denied that the sole intent is to protect the environment, especially in view of rising sea levels and other dire threats they can foresee as alleged. The claim raised by the Appellants in para 6a are specifically denied.

5. With regards to the contents of para 6b, it is denied that the Appellant No. 1 is a traditional fisherman who fishes with traditional methods on the coast as alleged. It is stated that the present affidavit is not sworn by the Appellant No. 1 as alleged. It is denied that the Appellant No. 2 is a retired man who is a farmer as alleged. It is stated that the Appellants are admittedly engaged in tourism related activities and are interested to see that the project which this Respondent No. 2 is undertaking should not see the light of the day. It is denied that the Appellants have no motivation beyond environmental preservation in filing the present appeal and have been trying to protect the land upon which the hotel of the Respondent No. 2 is to be constructed as alleged. It is



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denied that the Appellant No. 3 is a daily wage worker who also rents bikes for his sustenance as alleged. It is denied that the Appellant No. 4 is a retired rig worker who has nothing to do with tourism activities at all and is fully committed to social and environmental development causes as alleged. The composite reading of the para 6 of the Affidavit dated 29/05/2024 filed by the Appellants makes it very obvious that the present lis is filed with malafide and oblique motives.

6. With regards to the contents of para 6c, it is respectfully stated that the wife of the Appellant No. 1 being the deputy sarpach of the village panchayat is very well conversant with the locality and the fact of the present case. It is denied that she is not conversant with reading plans and technical papers and was under the impression that the hotel project proponent had given assurance not to interfere with sand dunes lowlying areas and floor drainage and to restore the sand dunes cut earlier as alleged. It is denied that any sand dunes has been cut for proposed project as alleged. The question of wife of the Appellant No. 1



*Manoj Mehani*

gaining any such alleged impression does not arise.

The wife of Appellant No. 1 is fully aware of the fact that the site was inspected by the panchayat before granting approval and that after being satisfied, that the project is as per all the norms and in accordance with law, panchayat granted the permissions. It is denied that the Appellants are before this Tribunal on purely environmental grounds and have not challenged the construction license as the license is based on and subject to the decision of GCZMA and this Tribunal as alleged. Contents of para 6 c are specifically denied in any event such an attitude adopted by the Appellants is not tenable in law.

7. With regards to the contents of para 7, it is reiterated and stated that in the plan annexed to the affidavit filed by the Respondent No. 2, the CZMP Plan and the sand dunes lines has been super imposed as regards project area visa vis the original plan approved granted by the GCZMA and the revised approvals granted by the competent authorities. It is denied that the plan attached by the Respondent No. 2 to the affidavit in



*Manoj Mehari*

rejoinder filed do not depict the factual situation. It is denied that there is any ongoing and proposed constructions on sand dunes as alleged. The Respondent No. 2 reiterate that there are no sand dunes in the area where the project has been approved by virtue of a revised plan. Contents of para 7 are therefore specifically denied.

8. With regards to the contents of para 8, it is reiterated and stated that there are contradictions in the prayers and the reliefs sought for by the Appellants. The so called justifications sought to be given by the Appellant in para 8 would not constitute a valid justification in the eyes of law. Contents of para 8 are therefore denied.

9. With regards to the contents of para 9, it is stated that the Appellants are trying to read beyond the scope of the impugned order. It is stated that the directions issued by the Respondent No. 1 has been duly complied with. The Appellants are intentionally misconstruing the impugned order and trying to read things which are not forming part of the impugned



*Manoj Melani*

order. It is denied that the access road, compound wall and the structure constructed would have to be removed as alleged. The Respondent No. 2 reiterate and state the directions issued by the GCZMA has been duly complied with. It is specifically denied that the construction has not been removed as wrongly claimed by the Appellants in para 9, the directions issued by the GCZMA has been duly complied with to the knowledge of the Appellants. Contents of para 9 are therefore denied.

10. Contents of para 10 are specifically denied. It is stated that upon application of mind to the facts of the case the GCZMA has issued directions which has been duly complied by the Respondent No. 2. The interpretation which is sought to be given by the Appellant to the impugned order is totally erroneous. It is denied that the GCZMA has grossly erred in its conclusion as alleged. It is stated that the GCZMA has considered all the permissions and all the relevant material hence the contention of the appellants that the Respondent No. 1 has failed to consider the special conditions laid



*M. Anand Mehan*

down in permissions granted are specifically denied.

Contents of para 10 are specifically denied.

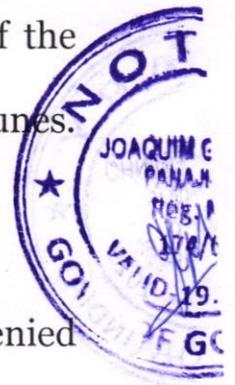
11. With regards to the contents of para 11 and 12, I deny that there is any collusion or any malafides of the Respondent No. 1 in how it has dealt with the complaints of the Appellants and has wrongfully permitted the project of the Respondent No. 2 as alleged. It is denied that any construction is permitted by the Respondent No. 1 in sand dunes and in low lying areas as alleged. It is to the knowledge of the Appellants that there are approvals by the MOEF way back in 28<sup>th</sup> June 2022. It is specifically denied that the GCZMA has illegally granted CRZ clearance as alleged. It is denied that the project of the Respondent No. 2 cannot be proceed as alleged. It is reiterated and stated that the approvals and permissions granted by all the competent authorities including ministry of environment and forest are in accordance with the provisions of law. Contents of para 11 and 12 are specifically denied.



*Manoj Mehra*

12. With regards to the contents of para 13, it is denied that at para 24 of its affidavit the Respondent no. 2 falsely stated that the revised plan is superimposed on the plan prepared by the authority identifying sand dunes at Annexure C of the affidavit as alleged. It is stated that if one peruses the plan it becomes very apparent that the Respondent has superimposed the revised plan on the CZMP Plan. The Google earth images sought to be relied on by the Appellants in the affidavit at annexure 2 are misleading and cannot form basis for claiming any reliefs against the Respondent No. 2. It is stated that the perusal of the photographs produced by the Appellants at annexure 2 its self makes it very clear that the project of the Respondent No. 2 falls beyond the sand dunes. Contents of para 13 are specifically denied.

13. With regards to the contents of para 14, it is denied that the perusal of the revised map and the superimposed CZMP attached to the affidavit as annexure A2 makes it evident that entire parking (at the western end of the approved plan) is proposed on



*M. P. Mehmood*

a high sand dunes at the western end of the project as alleged. It is denied that the road to the parking (at the western end of the project site) is also proposed on the sand dunes as alleged. It is denied that the entire road on the eastern side which is the only access to the hotel project is constructed by the destroying 1100 sq mts of sand dunes as admitted by the GCZMA experts in their inspection report dated 17/11/2021 as alleged. It is denied that the sand dunes must be restored which would then make the project site totally inaccessible as alleged. The project which is being undertaken by the Respondent No. 1 is as per the approvals granted by the competent authorities and there are no sand dunes in the area where the project is approved by the Competent authorities. Contents of para 14 are therefore denied.

14. With regards to the contents of para 15, it is denied that at least 3 structure on the western end of the project are proposed partially or fully on sand dunes as alleged. It is denied that at least 4 structures on the eastern end of the project are proposed partially or



*Manoj Meher*

fully on sand dunes as alleged. It is denied that alleged low lying area in the middle of the construction site (as identified at page 113 photo 5 of the inspection report date 17/11/2021) prepared by the GCZMA experts) has been filled up and is being constructed upon as alleged. It is denied that there is any low-lying area in the middle of the construction as alleged. There is no construction activity undertaken by the Respondent No. 2 at the area depicted at page 113 photo 5. The area shown in the photograph show at page 113 is not forming part of the project and is a different property not belonging to the Respondent No. 2, the attributions made by the Appellant in the said para is false and misleading. The area depicted at page 113 more particularly in photo 5 is not a land relatable to the project, the said land is not forming part of the survey no. 134/3 of village cavelossim owned and possessed by the Respondent No. 2. The Appellants are bent upon to mislead this Hon'ble Court by making allegations which are false. All the contention urged by the Appellants in that regard are misleading and are specifically denied. Contents of para 15 are denied.

*Manoj Melan*



15. With regards to the contents of para 16, it is denied that the security cabin, office and compound walls constructed on the eastern end of the project site are built on a sand dune demarcated on CZMP 2011 and must be demolished for restoration of the sand dunes as alleged. Contents of para 16 are denied. The construction undertaken by the Respondent No. 2 is as per the approved revised plan which are not subject matter of challenge before this Hon'ble tribunal and rightly so.

16. With regards to the contents of para 17, it is denied that the Respondent No. 3 has conceded in para 4 of its affidavit dated 23.11.2023 that it has based its understanding of the region on survey maps do not demarcate low lying areas as alleged. It is denied that the Respondent No. 3 could have relied upon only google earth images to verify the submissions of the appellants that low lying areas and flood prevention infrastructure are present in the project site as alleged. The authorities have upon due consideration of material on record and applicable provisions of law

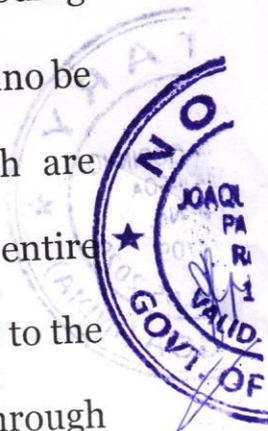


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and after having applied its mind to the facts has granted permissions to the Respondent No. 2, which permissions are otherwise also not subject matter of challenge. Contents of para 17 are denied.

17. With respect to the para number as para 7 at page 1196, it is denied that the Respondent No. 3 has failed to consider and has conspicuously not denied in its affidavit the google earth images attached by the Appellant on page 158A of the memo of appeal which shows that the entire low lying area within sy no. 134/3 cavelossim village is only 2 m above sea level which makes it extremely low lying and a critical flooding basin as alleged. It is reiterated that the relief cannot be claimed on the basis of google images which are otherwise also not reliable. It is denied that the entire flood water from the large sand dune complexes to the south, west and east of this low lying area pass through this low lying area making it a critical drainage channel also as alleged. It is denied that the site inspection report dated 17/11/2021 annexed to the memo of the appeal on page 113 as photo 5 shows this

*Manoj Melani*



drainage through the low lying parts of the project site as alleged. It is denied that it can be seen from this image and the google earth images at page 158A of the memo of appeal the flood waters from the sand dunes collect in the large low lying area to the south of Sy no. 134/3 cavelossim village and then drain through the low lying area within the project site to adjoining lands on the northern side to eventually empty into the sea to the west alleged.

18. With regards to the contents of para numbered as 8 at page 1197, it is denied that the site inspection report dated 17/11/2021 which albeit severely flawed mentions at sr no. 1 of the table on page 107 as alleged. It is denied that it is clear that the inspection report despite numerous other flaws and errors records the filing of low lying areas as alleged. It is denied that the construction debris has been used by the Respondent No. 2 to cover the sand extracted from the sand dunes that was dumped earlier and that this was pointed out to the experts from the GCZMA during the inspection but the expert members did not record this



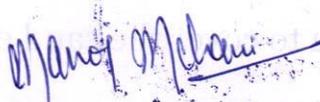
*Manoj Mehani*

submissions no did they investigate the same as alleged. It is stated that all the competent authorities including the MOEF, have granted approvals to the project of the Respondent No. 2, besides that the Town and Country Planning Department, Village Panchayat and Health Department upon verification of site has granted approvals which cannot be said to be illegal. The grounds sought to be urged by the Appellant are not tenable. The Respondents are trying to urge new ground which are never pleaded. Contents of para numbered as 8 at page 1197 are denied.

19. It is denied that the Appellants are entitled for any reliefs as prayed for in the appeal 20/2022. Contents of the affidavit dated 29/05/2024 filed by the Appellants which are not admitted and what is contrary to the affidavit dated 27/05/2024 be taken as specifically denied.

Place: Panaji, Goa

Date: 30.05.2024

  
**RESPONDENT NO 2**

  
**ADV FOR RESPONDENT NO 2**



**AFFIDAVIT**

I, Manoj Kumar Mehani, authorised representative of the Respondent No. 2, being conversant with the facts and circumstances of the present case on solemn affirmation do hereby state that contents of the foregoing paragraph no. 1(Part), 2, 3, 4(Part), 5(Part), 6, 7, 8, 9, 10(Part), 11, 12(Part), 13(Part), 14(Part), 15, 16(Part), 17(Part), 18 and 19 are true to my personal knowledge and contents of paragraph no. 1(Part), 4(Part), 5(Part), 10(Part), 12(Part), 13(Part), 14(Part), 16(Part) and 17(Part) are legal submission which I believe to be true and correct.



Solemnly affirmed at Panaji on 30<sup>th</sup> May 2024

Identified by: Adv. S. Valganbar

*Manoj Mehani*  
**DEPONENT**

SOLEMNLY AFFIRMED AND VERIFIED BEFORE ME  
Mr. Manoj Kumar Mehani

WHO IS IDENTIFIED BEFORE ME

BY ADV. S. Valganbar

WHOM I KNOW

SERIAL NO: 03 DATED: 30/05/2024

VALID UPTO 19.05.2029

JOAQUIM GODINHO NOTARY PANAJI-GOA



*J Godinho*  
30/05/2024

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