

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE**

Appeal No. 51/2022 (WZ)

The Colva Civic and Consumer Forum

... Appellant

Versus

The Goa Coastal Zone Management Authority & Ors.

... Respondents

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(Additional Affidavit)

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Date: 4 September 2023



Advocate for the Respondent No. 4



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ADDITIONAL AFFIDAVIT

Additional affidavit of the Respondent No. 4 (Shamiraj Hotels Pvt. Ltd.) is as under:

I, Mr. Sanjay Selukar, age: 57 years, the Director and authorised representative of the Respondent No. 4, having address at H. No. 432/1, 4th Ward, Colva Beach Road, Colva, Salcete, Goa – 403708, am aware of the facts in the matter and do hereby state on solemn affirmation as under:

1. I hereby state that I am filing this additional affidavit to bring on record certain facts and documents which have taken place after filing of my last affidavit.

Sanjay Selukar

- 
2. I state that during the last hearing on 4 July 2023, the Appellant appeared in the matter. During the course of the hearing, the Appellant verbally requested the Hon'ble Tribunal to allow the Appellant to take personal inspection of the site/ premises of the Respondent No. 4. The Hon'ble Tribunal orally remarked that this would not be permitted, and the Hon'ble Tribunal would consider directing the GCZMA to take inspection as and when necessary.
 3. It is humbly submitted that despite the subject matter of alleged unauthorised construction being *sub-judice* before the Hon'ble Tribunal, the Appellant addressed a complaint to the Village Panchayat of Sernabatim, Vanelim, Colva and Gandaulim at Goa by way of letter dated 31 July 2023.
 4. In view of this, the Village Panchayat of Sernabatim, Vanelim, Colva and Gandaulim addressed a letter dated 23 August 2023 to the Respondent No. 4 scheduling a site inspection on 28 August 2023.

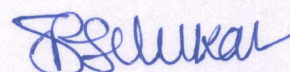
A copy of the letter from the Village Panchayat along with the enclosed complaint of the Appellant is collectively annexed herewith at **Annexure 1**.

5. The Respondent No. 4 was shocked at receiving this letter, and was further surprised that the Appellant had made this complaint to the Village Panchayat, despite the same subject matter being *sub-judice* before this Hon'ble Tribunal.
6. The Respondent No. 4 got an intimation that the site inspection stood rescheduled on the request of Ms. Judith Almeida due to her unavailability. Even so, the Appellant addressed letter dated 29 August 2023 to the Village Panchayat *inter alia* setting out the fact that the matter was sub-judice before this Hon'ble Tribunal and hence, denied the Panchayat and Ms. Almeida permission for the site inspection.

A copy of the response of the Respondent No. 4 to the Village Panchayat is annexed herewith at **Annexure 2**.

7. The Respondent No. 4 submits that the Appellant, by addressing such letter to the Village Panchayat, behind the back of the Hon'ble Tribunal, despite the same subject matter being sub-judice before the Hon'ble Tribunal amounts to an abuse of the process of the law and also amounts to forum shopping. It seems that since the Appellant was no successful in getting a site inspection through the Hon'ble Tribunal, the Appellant approached the Village Panchayat and filed this complaint.

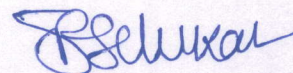
8. The Hon'ble Tribunal may kindly make a note of such conduct of the Appellant and take appropriate and stringent action against the Appellant. The Appellant has not approached the Hon'ble Tribunal with clean hands. In fact, on this ground itself, the Appellant's appeal ought to be dismissed summarily.
9. The Respondent No. 4 would also like to place on record that the Respondent No. 4 has, through its earlier affidavits, given certain undertakings to this Hon'ble Tribunal, which are summarised below:
- (i) By way of the Limited Affidavit dated 6 April 2023, in paragraph 11 therein, the Respondent No. 1 undertook to demolish the restaurant 49ers which is marked/ identified as structure 'X' by the Appellant within a period of 180 days from the date of filing the affidavit i.e, 180 days from 6 April 2023 which would be **3 October 2023**.
- (ii) By way of the Limited Affidavit dated 6 April 2023, in paragraph 12 therein, the Respondent No. 1 undertook to remove the temporary structure/shed which is marked/ identified as structure 'Y' by the Appellant within a period of 180 days from the date of filing the



affidavit i.e, 180 days from 6 April 2023 which would be **3 October 2023**.

(iii) According to the Detailed Affidavit dated 6 June 2023 the Respondent No. 4 undertook in Paragraph 23 that it is in the process of removing the restaurant and the kitchen from the stilt area of the Hotel and that it should be removed within a period of 180 days, i.e, 180 days from 6 June 2023 which would be **3 December 2023**.

10. The Respondent No. 4 hereby humbly states that the Respondent No. 4 has completed each of the works set out above and has complied with its undertaking. The Respondent No. 4 is also filing on record architect certificate which is at **Annexure 3**.
11. The Respondent No. 4 submits that the Hon'ble Tribunal may kindly direct the GCZMA (Respondent No. 1) to conduct a site inspection at the premises of the Respondent No. 4 to verify the compliance of the above undertakings, and submit a report of the same to the Hon'ble Tribunal.
12. The Respondent No. 4 is filing this additional affidavit to bring on record these facts and documents.



Whatever stated above is true to the best of my knowledge, information and belief, and I believe the same to be true, and in witness whereof I have signed on this ~~27~~^{1st} day of September 2023 at Mumbai.

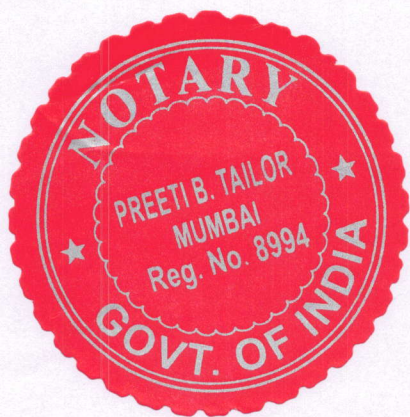


Sanjay Selukar

Mr. Sanjay Selukar

Director, Shamiraj Hotels Pvt. Ltd.

Respondent No. 4



BEFORE ME

Preeti B. Tailor

PREETI B. TAILOR

ADVOCATE & NOTARY (GOVT. OF INDIA)
B-5, MILAN APTS., RAMCHANDRA LANE
MALAD (WEST), MUMBAI - 400 064.

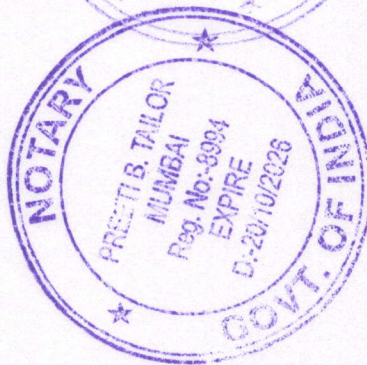
1 SEP 2023



NOTED & REGISTERED

Gr. No. 1634 Reg. No. 51
Date: 1 SEP 2023 35

THE NOTARY PUBLIC DOES NOT ASSUME ANY RESPONSIBILITY/LIABILITY FOR LEGALITY OF ANY CONTENTS OF DOCUMENTS/WITNESSES/IDENTIFIERS AND FULFILLMENT OF ANY LEGAL REQUIREMENTS





Office of the Village Panchayat
Sernabatim, Vanelim, Colva & Gandaulim

Salcete - Goa Pin Code 403 708

Ph: 0832-2788485

Email: vpcolva@gmail.com

www.colvapanchayat.in

Ref. No.: VP/SVCG/ 930/2023-2024

Date 23/8/2023

To,
The Director

1) M/s. Shamiraj Hotel Pvt. Ltd/

2) Sea Coin Hotel

4th ward Colva, Salcete Goa

Sub: Site inspection fixed regarding complaint received Judith Almeida for illegal restaurants spa and guest house in property bearing sy no.24/1 of M/s Shamiraj Hotels Pvt Ltd/Sea Coin Hotel of Colva Village.

Sir/Madam,

With reference to the above cited subject this is to inform you that this panchayat has call upon for site inspection on 28/8/2023 at 12:15 pm onwards to inspect the site. Copy of the complain is enclosed.

So, in this connection, you are hereby requested to be present at the site on above mentioned date & time.



Yours faithfully,

Fernandes
(SUZIE FERNANDES)

SARPANCH
VILLAGE PANCHAYAT
SERNABATIM, VANELIM
COLVA & GANDAULIM

Copy to: 1) Mrs. Judith Almeida (President)

Colva Civic and Consumer Forum

2) Mrs. Teresa Silva

V.P Member of Colva with a request to be present aforesaid date & Time

3) Mr. Pio Furtado

V.P Member of Colva with a request to be present aforesaid date & Time

COLVA CIVIC AND CONSUMER FORUM

Reg No 268/Goa/2009

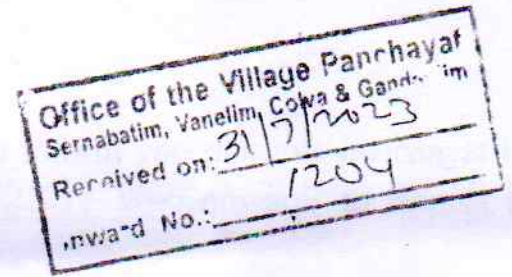
House No 257/1, Bagdem, Ward 3, Colva, Salcete-GOA 403708 Mob: 9823085206

Ref: CCCF/VPColva/16/2023-24
CCCF/BDO-1/16-A/2023-24
CCCF/DDPS/16-B/2023-24

Date: 31-07-2023

To,

1. Sarpanch/ Secretary,
Village Panchayat of Sernabatim, Vanelim Colva & Gandaulim,
Colva, Salcete, Goa 403 708.
2. The Block Development Officer – I
2nd Floor, M.S. Admin. Complex,
Margao, Salcete, Goa 403601,
3. The Dy. Director of Panchayat, South Goa
2nd Floor, M.S. Admin. Complex,
Margao, Salcete, Goa 403601



Sub : Illegal restaurants. Spa and Guest house in property bearing Sy. No. 24/1 of M/s Shamiraj Hotels Pvt. Ltd/Sea Coin Hotel of Colva village, Salcete.

Madam/ Sirs,

This is to complain that in the property of M/s Shamiraj Hotel Pvt. Ltd/Sea Coin Hotel, Sy. No 24/1 Colva village in the NDZ of CRZ III there are a total no of three restaurants and one Spa and a Guest House without permissions from the Goa Coastal Zone Management Authority or the erstwhile Goa State Committee for Coastal Environment (GSCCE) in permanent structures for several years now. Surprisingly the Village Panchayat has issued trade licence to one guest house, in the stilt parking to house a Spa and a restaurant in the main structure. Recent documents in possession of this forum show that there is a second restaurant being run in the stilt parking and one ground + one restaurant in the name and style of 49ers in the northern part of the property.

Keep site inspection. *[Signature]*

Shockingly the village Panchayat which is aware of these commercial establishments being run illegally for several years now has done nothing to take action against the same which smacks of collusion, it is also apparent that no taxes are paid/collected. 49ERs one of the restaurants has been running without even a consent to operate for the last several years which is violative of the Air & Water Act.

This Forum calls upon all the relevant authorities to conduct a thorough inquiry and take action immediately as per laws in force.

Thanking You,
Sincerely,



Judith Almeida (President)



Date: 29th August 2023

To,
The Office of the Village Panchayat,
Sernabatim, Vanelim, Colva and Gandaulim,
Salcete,
Goa – 403708.

Kind attn.: Sarpanch / Secretary

Re.: Your letter dated 23 August 2023 bearing reference no. VP/SVGC/930/2023-2024 addressed to us.

Dear Sir/ Madam,

We are in receipt of your captioned letter. We are quite shocked and surprised by the contents of the letter.

Along with your letter, you have enclosed the letter from Ms. Judith Almeida, based on which you have addressed your letter to us.

It is quite concerning that Ms. Almeida has failed to inform you about the subject matter ongoing before the Hon'ble National Green Tribunal, which has been filed by her. The issue of alleged unauthorised construction at our site is *sub-judice* before the Hon'ble NGT.

During the previous hearing, Ms. Almeida had verbally asked the Hon'ble NGT that an inspection be conducted at our site and that she be allowed to remain present. However, the Hon'ble NGT had disallowed her request. Now, by addressing this letter to you, Ms. Almeida is circumventing the Hon'ble NGT, despite being fully aware that her request was disallowed and that the matter is presently pending. Ms. Almeida is attempting to go behind the back of the Hon'ble Tribunal, and in her letter has not even disclosed about the ongoing matter before the Hon'ble Tribunal. We are quite shocked by this conduct of Ms. Almeida – which we will be bringing to the attention of the Hon'ble NGT on the next scheduled date – being **6 September 2023**.

We state that these deliberate actions of Ms. Almeida amount to forum shopping, and are attempts being made to illegally pressurise us.

Please note, in the mean time, we are not in a position to grant you or Ms. Almeida any such inspection. We have filed detailed pleadings and documents before the Hon'ble NGT, which are under consideration before the Hon'ble Tribunal, and are subject to their final orders. Further, as part of the pleadings filed before the Hon'ble Tribunal, we have ourselves offered inspection of our premises to the GCZMA upon completion of certain works. This would be appropriately considered by the Hon'ble Tribunal in due course.



As such, and under the circumstances, and especially in view of the matter being sub-judice before the Hon'ble NGT, we do not grant the Panchayat or Ms. Almeida consent for the inspection as sought.


Please note that we will be placing on record of the Hon'ble Tribunal a copy of the letter addressed by you (along with the enclosure of Ms. Almeida's letter) and our reply.

This is for your information and record.

For Shamiraj Hotels Pvt. Ltd.


Director



Received by: 
V.P. Colva
Date: 29/8/2023

ANNEXURE 3

REENOWNED ARCHITECTS

📍 B208, ROLEX SHOPPING CENTRE, STATION ROAD, GOREGAON (WEST), MUMBAI - 400 104 ✉ reenownedarchitects@gmail.com
☎ +91-9820365577, +91-9820284019

SC-O/RS0517/A03
1 September 2023

REPORT

Sub.: "Hotel Krishna Sea Coin" on property bearing S. No. 24, H. No. 1 of Village –Colva, Taluka – Salchete, Goa, belonging to M/s. **Shamiraj Hotels Pvt. Ltd.**

Ref.: "Existing Status" of the above mentioned Hotel building as of date.

I, Ar. **Sunil Magdum**, practising Architect having local Office at Villa No. 1, Jardim De Amor, SY no. 236/15, 16 of Village –Assagao, Bardez Goa – Mapusa, Pin – 403509, being requested by Mr. **Sanjay Selukar**, Director, M/s. Shamiraj Hotels Pvt. Ltd., to inspect the above mentioned subject site for ascertaining the 'removal of useable constructed areas' in the Stilt portion of the existing Hotel main building which was originally comprising of Stilt and Two upper floors.

Accordingly, we inspected the referred site and the observations to this effect are as below-

A. "Before":

01. The 'front' portion abutting to main Road was having temporary structures.
02. In the main existing building ('rear' portion), the Stilt area was being constructed with Restaurant & Kitchen. Hence, this building was converted to Ground and Two upper floors.

B. "After":

01. Front temporary structures (abutting main Road) are fully demolished and this portion is 'cleared'.
02. The existing building which was Stilt and Two upper floors and was converted to Ground and Two upper floors, is restored to 'Stilt and Two upper floors', that is the additional constructed work (Restaurant and Kitchen portions) are fully and completely removed and demolished. The Stilt portion is 'restored' for parking purpose.

C. Accordingly:

The area of the plot of the referred subject is 3055.00 square meters and as on date, the existing built up area is:



REENOWNED ARCHITECTS

📍 B208, ROLEX SHOPPING CENTRE, STATION ROAD, GOREGAON (WEST), MUMBAI - 400 104 ✉️ reenownedarchitects@gmail.com

☎️ +91-9820365577, +91-9820284019

- (i) Ground floor: Nil.
- (ii) First floor: 428.21 square meters.
- (iii) Second floor: 428.21 square meters.
- (iv) **Total built up area: 856.42 square meters.**

The referred Hotel Building consists of Stilt and Two upper floors. The Ground floor is used for parking, and hence, not considered in the computation of building height or computation of built up area. Accordingly, the height of the useable floors – being the First and Second floor, is 5.88 meters. This height is excluding the parapet wall and elevation features.

D. In view of the above, the summary of the status of the said Hotel is as follows:

- (i) Area of plot: 3055.00 square meters
- (ii) Built up area: 856.42 square meters
- (iii) FSI consumed: 0.28
- (iv) Useable floors: 2
- (v) Height of useable floors: 5.88 meters

The above summary (in table above) is also forming part of our earlier report dated 29 May 2023.




Ar. Sunil Magdum, G.D.H., G.D. Arch., B.Arch., M.Arch.(Environmental), F.I.I.A.

Council Registration No. CA/1984/08793

Principal Architect – M/s. Reenowned Architects (Architecture-Interior-Valuation-Project Management)

Panel Architect – Grade I category, Housing Panel, M.H.A.D.A., Mumbai Board.

Fellow Member – Indian Institute of Architects.

Life Member – Practicing Engineers Architects & Town Planner Association, Mumbai.

Patron Member – Architects Engineer & Surveyors Association, Pune.

Principal – Dr. Baliram Hiray College of Architecture, Bandra East, Mumbai (Architecture & Interior Design –U.G. & P.G.)

Mentor – Nirmaan School of Design & Arts, Andheri West, Mumbai.

Editorial Board Member– International Journal of Expressions, Emotions & Dimensions