

BEFORE THE NATIONAL GREEN TRIBUNAL

SITTING AT PUNE

APPEAL NO. 20 OF 2022

Paul Lobo and Ors

)... Appellants

Versus

Goa Coastal Zone Management Authority and Ors)...Respondents

INDEX

SR NO	PARTICULAR	PAGE NO.
1	Additional Affidavit in Rejoinder on behalf of the Appellants	1208 - 1214
2.	ANNEXURE A-1 - A copy of the RTI Application dated 26.08.2024	1215 - 1216
3.	ANNEXURE A-2 -A copy of the inspection report of the Respondent No. 1 dated 17.11.2021 obtained by vide RTI Application dated 26.08.2024	1217 - 1227

The index is filed on the 12th day of October at Goa

 Appellant No 4




Through

RONITA BHATTACHARYA

Advocate for the Applicant
17, 1st Floor, Rohit Chambers
Janmabhoomi Marg, Fort,
Mumbai – 400 001.
Email: ronita.b6@gmail.com



Handwritten signature in blue ink.

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT

PUNE

APPEAL NO. 20 OF 2022

Paul Lobo and Ors

)... Appellants

Versus

Goa Coastal Zone Management Authority and Ors)... Respondents

ADDITIONAL AFFIDAVIT IN REJOINDER ON BEHALF OF

THE APPELLANTS

1. I, Antonio Vital Luis, H. No. 687/3 Zalor, Carmona, Salcete, Goa, - 403714, the Appellant No.4 above named herein, do hereby state on solemn affirmation.



2. I say that I have read the present Appeal No 20 of 2022 and am therefore conversant with its contents. I have also read the affidavits on the behalf of the Respondents filed in the present petition (hereinafter referred to as the "said Affidavit") and am conversant with the contents of the said Affidavits. Thus, I am competent to depose by way of the present affidavit on behalf of the Applicants in the said matter.

Antonio Vital Luis

3. I say that I am filing the present affidavit to put on record a brief explanation as to the contents and markings on the image constituting part of the GCZMA inspection report dated 17.11.2021 at page 118 of the Appeal Paperbook.
4. I say that during the hearing dated 22.08.2024 of the captioned matter, any issue was raised regarding the contents and markings of the said image at page 118 of the Appeal Paperbook.
5. I say that I therefore made enquiries to verify the contents of the said page/image, by seeking a fresh copy of the inspection report of the GCZMA dated 17.11.2021 through an RTI Application. Accordingly, I submitted an RTI Application dated 26.08.2024 before the Respondent No. 1 for a copy of the said report. A copy of the said RTI Application dated 26.08.2024 has been annexed hereto and marked as **Annexure A -1**. A copy of the inspection report of the Respondent No. 1 dated 17.11.2021 obtained by me vide my RTI Application dated 26.08.2024 has been annexed hereto and marked as **Annexure A-2**.
6. Accordingly, a perusal of the inspection report dated 17.11.2021 that I received vide RTI application showed that the image at page 118 of the paperbook of the present Appeal, is part of the



u
Ume

inspection report officially maintained by the Respondent No. 1 GCZMA, however the notings in red ink made on the said page were not present in the copy of the report maintained by the Respondent GCZMA.

7. I say that I have made enquiries amongst the Appellants of the present Appeal, and the Applicants in Original Application 28 of 2021, of which I was one, and it appears that the notings/markings in red were made as an illustrative tool to demarcate destruction of sand dunes at the project site by one of the parties pursuing the complaint of environmental destruction and sand dune damage caused by the Respondent No. 2.
8. I say that due to my inadvertence, the marked-up copy of the inspection report dated 17.11.2021 was passed on to the advocate-on-record in the present Appeal to be used as an Annexure, instead of the unmarked/unedited copy of the inspection report dated 17.11.2021. I say that I am profusely apologetic for this act of submitting the wrong, marked up copy of the inspection report to this Hon'ble Tribunal. I say that I also apologise for not instructing or advising my advocate on record not to rely on this marked up image, and for failing to clarify to my advocate that this is a marked up/edited image which is



Subhash Kanekar

different from the way the image was included in the inspection report dated 17.11.2021 of the Respondent No. 1. I deeply regret the confusion caused to all parties, including the Respondents, and most importantly to this Hon'ble Tribunal for my inadvertence and mistake.

9. I also wish to state that the fact that sand dunes were cut and destroyed by the Respondent No. 2 is borne out by the contents of the inspection report at page 106-119 of the Appeal Paperbook, wherein the table at page 107 lists the observations of the officers of the Respondent No. 1. I say that it is clearly noted under Sr No 02, *"It appears that a portion of the sand dune identified by NCSCM in the Draft CZMP has been cut along the edge for widening of existing road."* While the expert members have put forth a blatant falsehood that there was an existing road since there is no road existing even today, the expert members have admitted to the cutting of sand dunes. The expert members further observe, *"Likewise, another portion of the sand dunes has been cut to enable construction of public access to the beach. The total area of sand dune affected is 1100 mtr. Sq."*



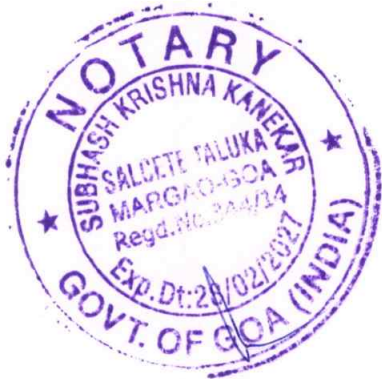
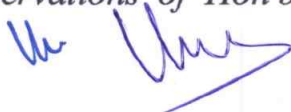
[Handwritten signature]

10. Similarly a perusal of the minutes of the 299th meeting of the GCZMA on 19.04.2022 (page 166-186, relevant page is page 182 of the Appeal Paperbook) notes that,

“A substantial portion of the property under Sy no. 134/3 is covered by sand dunes as per Draft CZMP for Goa prepared by NCSCM Chennai. A geo referenced map with Draft CZMP map and site plan submitted by PP superimposed on Google Earth hybrid layer is attached² Hence, plan would need to be revised to exclude any construction on the sand dunes indicated on the Draft CZMP ..

The sand dune indicated on Draft CZMP has been cut by the PP for construction/widening of approach access road and public beach access This issue is part of the matter referred to the Authority by Hon'ble NGT vide its order dated 16.06.2021 in OA no. 28/2021. The total area of sand dune damaged by the PP is about 1100 m². We have given our observations thereon in our report dated 17.11.2021 that may be perused. These sand dune areas are shown as access approach road and public beach access road on the approved plan and have been damaged in course of their development.

8. In the peculiar facts and circumstances of the case and keeping in mind the observations of Hon'ble Supreme Court in Goa



Foundation v. Diksha Holdings (2001) 2 SCC 97, we recommend that the said area of 1100 m² be compensated within the PP's property under Sy no. 134/3 on the north eastern side at the location indicated on annexed plan. This area of 1100 m² meets the criteria of sand dune agreed by NCSCM experts and must be preserved as sand dune alongwith those shown on Draft CZMP. However, the structures constructed in pursuance of approved plan (Le.. security cabin and laterite masonry compound wall on eastern side) may be exempted.

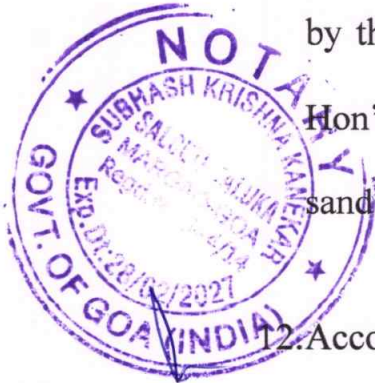
Decision: The Authority discussed and deliberated on the Revised Plan and the Expert Members report. The Authority decided to ask the Project Proponent to submit the revised plan after taking into consideration the report of Expert Members and deferred the matter.



11.I therefore say that the factum of sand dune destruction at the hands of the Respondent No. 2 is evident from the site inspection report dated 17.11.2021 as well as the 299th meeting of the GCZMA on 19.04.2022, and should not only be inferred from the markings made to the image at page 118 of the Appeal Paperbook. I apologise once again for inadvertently including the marked up image at page 118 of the Appeal Paperbook, but would humbly request that this Hon'ble Tribunal consider the

U *U*

observations of the officers of the GCZMA in the site inspection report dated 17.11.2021 as well as the 299th meeting of the GCZMA on 19.04.2022, as well as any further report prepared by the specially constituted committee as per the order of this Hon'ble Tribunal on 26.08.2024 as proof of the destruction of the sand dunes at the project site of the Respondent No. 2.



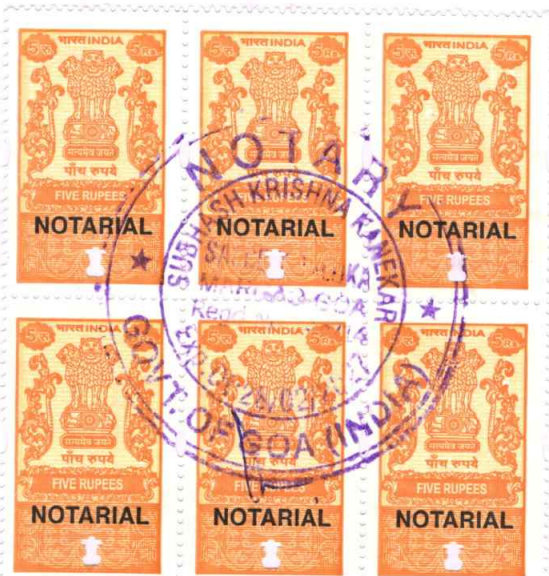
Accordingly, I say that the prayers sought by the Appellants in Appeal 20/2022 deserve to be allowed and made absolute.

Solemnly Affirmed at Goa)

Dated this 12^m Day of October 2024)

[Signature]
Deponent

Identified by me *[Signature]*



Solemnly affirmed before me by
Shri/Smt. Antonio Vidal Luis
Who is identified to me by Wife
Shri/Smt. Aradhna 6493 2599 8127
Who is personally known to me
this 12th day of Oct. 2024
Reg. No. 1517/2024

[Signature]
12/10/2024
SUBHASH KRISHNA KANEKAR
NOTARY
SALCETE TALUKA
STATE OF GOA (INDIA)

From,
Antonio Vital Luis,
House No. 687/3, Zalor,
Carmona, Salcete, Goa
Phone-9850091264

Date: 26/08/2024



To
The Public Information Officer,
Office of the Member Secretary, Goa Coastal Zone Management Authority,
4th Floor, Dempo Towers, Patto Plaza, Panaji- Goa

Subject- Application under RTI Act 2005

Kindly provide me with the following information under the RTI Act 2005:

Subject Matter: Request for inspection of files and grant of certified copies of documents identified

Period: 1st January 2020 to date

Information requested: (1) Inspection of all the files and records related to File No. GCZMA/NGT matter/O.Appl. No. 28/2021/21-22/04, File No. GCZMA/S/Ille-Compl/2021/56 and File No. GCZMA/N/Ille-Compl/2021/56. (2) Certified copies of pages, documents and records identified during inspections under (1) above.

I am a citizen of India and am asking for this information as a citizen.
I agree to pay the prescribed charges for the information requested.
Rs.10/- court fee stamps are attached as application fees.

Thanking you,

Antonio Vital Luis

APB
26/08/2024



O/o Member Secretary
Goa Coastal Zone Management Authority
C/o Department of Environment & Climate Change
Dempo Tower 4th Floor,
Patto Plaza Panjim-Goa. 403001

1260

1216

From,
Antonio Vital Luis,
House No. 687/3, Zalor,
Carmona, Salcete, Goa
Phone-9850091264

Date: 20/05/2024

To,
The Public Information Officer,
Office of the Member Secretary, GCZMA,
4th Floor, Dempo Towers, Patto Plaza, Panaji, Goa

Subject- List of documents required - Application under RTI Act 2005 dated 26/8/2024

Dear Sir,

Further to my RTI application dated 26/8/2024 and the inspection of the file carried out on 05/06/2024, kindly provide me with certified copies of the following documents:

File No GCZMA/NGT Matter/O. Appl. No 28/2021/21-22/04

File Name: Paul Lobo & Ors. v/s GCZMA & Ors. (Nova Goa)

1. Page Nos 152/C to 227/C (coloured copies of coloured pages)

I agree to pay the prescribed charges for the information requested.

Thanking you,

Yours Sincerely,



Antonio Vital Luis



Handwritten signature and date: 17/09/2024

O/o Member Secretary
Goa Coastal Zone Management Authority
C/o Department of Environment & Climate Change
Dempo Tower 4th Floor,
Patto Plaza Panjim-Goa 403001



and for restoration of sand dunes. Hon'ble Principal Bench NGT, while disposing the matter vide order dated 16.06.2021, confined itself to the prayer for revocation of permission on account of violations in last five years and directed this Authority to determine whether the alleged violations warrant revocation of permission granted on 20.10.2015.

III. VIOLATIONS ALLEGED BY COMPLAINANTS.



6. The alleged violations as culled out from the OA and submissions of the complainants during inspection, and our observations are tabulated below.

Sr no.	Summary of alleged violation	Observations
01	Flattening of sand dunes for filling low-lying areas.	No filling of low-lying area with sand extracted from dunes was noted. The spot indicated by the complainants was filled with construction debris.
02	Cutting and damaging of sand dune for construction of road.	It appears that a portion of the sand dune identified by NCSCM in Draft CZMP has been cut along the edge ² for widening of existing road. Incidentally, an approx. 5-metre wide road is shown on Draft CZMP from the village road through the property upto 260 metres from HTL. Oldest available historical Google Earth imagery also suggests that a <i>kutch</i> road existed at the spot prior to December 2002. A 10-metre wide access road is shown on plans approved by the Authority. Likewise, another portion of the sand dune has been cut to enable construction of public access to the beach. The total area of sand dune affected is 1100 m ² . ³
03	(a) Construction of retaining wall has blocked the path of natural storm water. (b) The said natural storm water drain drains all the rainwater from the village into the sea. Blockage will cause massive flooding.	(a) The complainants are referring to the laterite masonry wall constructed on the southern side ⁴ . However, the wall is part of the compound wall shown on the approved plan. We could not locate any natural storm water drain at the spot indicated by the complainants at the time of inspection. Nonetheless, as a preventive

² See Photograph 1.

³ Approximate location of parts of dune affected by widening of access road and providing public beach access and total area is shown hatched in blue in annexed georeferenced map.

⁴ See Photograph 2.

		<p>measure, the PP could be asked to maintain a cross storm water drain at the spot⁵ that would mitigate possibility of water-logging of paddy fields on southern side as well as cater to surface runoff from PP's property.</p> <p>(b) The claim that the alleged natural storm water drain drains all the rainwater from the village into the sea does not appear to be correct. There is a low lying area/field admeasuring about one ha. in the adjoining property under Sy. no. 134/4 on the southern side that is surrounded on three sides by sand dunes. Except for this catchment area, there is no possibility of rainwater overflow through Sy no. 134/3 towards the sea from any other direction. A Google Earth image showing the low-lying area and the direction of overflow towards the sea is attached⁶.</p>
<p>04</p>	<p>Erection of metal sheet fencing in NDZ area.</p> 	<p>MS sheet fencing supported on MS channels etc. has been erected enclosing the eastern side of the property⁷. The height is about 3 metres. The fence has collapsed at some places. Presence of cement concrete at the base of the collapsed portions points to its use in the foundations. This portion is between about 230 metres to 500 metres from HTL.</p> <p>Between HTL and 230 metres, MS channels (without MS sheets) have been erected along the northern and southern boundaries and embedded in the NCSCM identified sand dune⁸.</p> <p>We were informed by PP's representatives that it was erected temporarily to last only during construction phase.</p>

⁵ Indicated in annexed georeferenced map.
⁶ See Annexure.
⁷ See Photographs 3 and 4.
⁸ See Photographs 5 and 6.

[Handwritten signatures and initials]



		No prior permission of the Authority is taken for the said fencing. Besides, the fencing on the southern side obstructs the public access to the beach as shown on the approved plan.
05	Blockage of traditional access paths to the beach.	There is no documentary evidence of traditional access through the property to the beach available in the files. The road on Draft CZMP ends about 250 metres from HTL. However, public beach access has been shown in the approved plan and maintained on site along the southern boundary ⁹ .
06	Only such construction may be permitted on the property that does not, in any way, affect the sand dune and other natural coastal features.	This aspect may be dealt while processing the revised plan submitted by the PP.

IV. FINDINGS & RECOMMENDATIONS.

7. In our considered opinion, the aforesaid violations do not warrant revocation of permission granted to the PP.

8. The portion of sand dunes cut by the PP for construction of approach road and public beach access road are marked for said purposes on the approved plan. The Panchayat licence permits the PP to develop the internal access roads. The permanent works (i.e., laterite masonry compound wall on southern and eastern sides and security cabin) constructed as on date are as per approved plan.

9. The PP has paid around Rs. 1.24 Cr. to various licensing authorities towards license fees, infrastructure tax etc.¹⁰.

9. The erection of temporary MS sheet fencing on the eastern side of the property under Sy no. 134/3 is in violation and must be removed and the land restored to its original condition.

10. Likewise, the MS channels (without MS sheets) erected on the western side of the property under Sy no. 134/3 embedded in the sand dune along the northern and southern boundaries are also in violation and must be removed and the dune restored to its original condition.

⁹ See Photograph 2.

¹⁰ Information obtained from File no. GCZMA/S/15-16/09.

Handwritten signature

Handwritten signatures

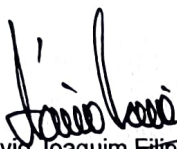
11. A cross storm water drain of adequate capacity to be provided at the spot shown in annexed georeferenced map.

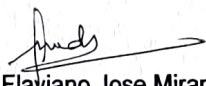
12. The access road to the property and the public beach access as shown on plan must be always kept open for the public including during construction phase.

13. The recommendations made in our report dated 22.11.2021 on PP's application dated 18.10.2021 for approval of revised plans and renewal of permission¹¹ may also be read with the foregoing.

However, Authority may decide as deemed fit.

Submitted.


 Sávio Joaquim Filipe Correia
 Expert Member, GCZMA.


 Flaviano Jose Miranda
 Expert Member, GCZMA.



Enclosures:

1. Photographs.
2. Georeferenced map.





¹¹ File no. GCZMA/S/15-16/09.



INFORMATION ISSUED UNDER RTI ACT, 2005

1266

1222

Photographs



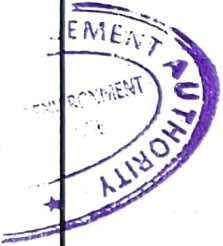
Photograph 1



Photograph 2

Handwritten signature

Handwritten mark





1267

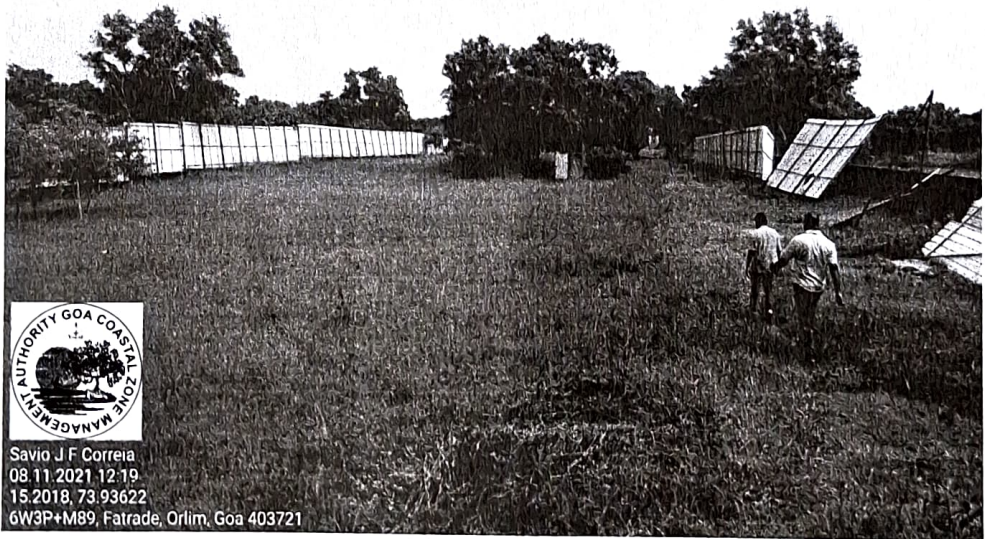
INFORMATION ISSUED UNDER RTI ACT, 2005

1223

2



Photograph 3



Photograph 4

Handwritten signature



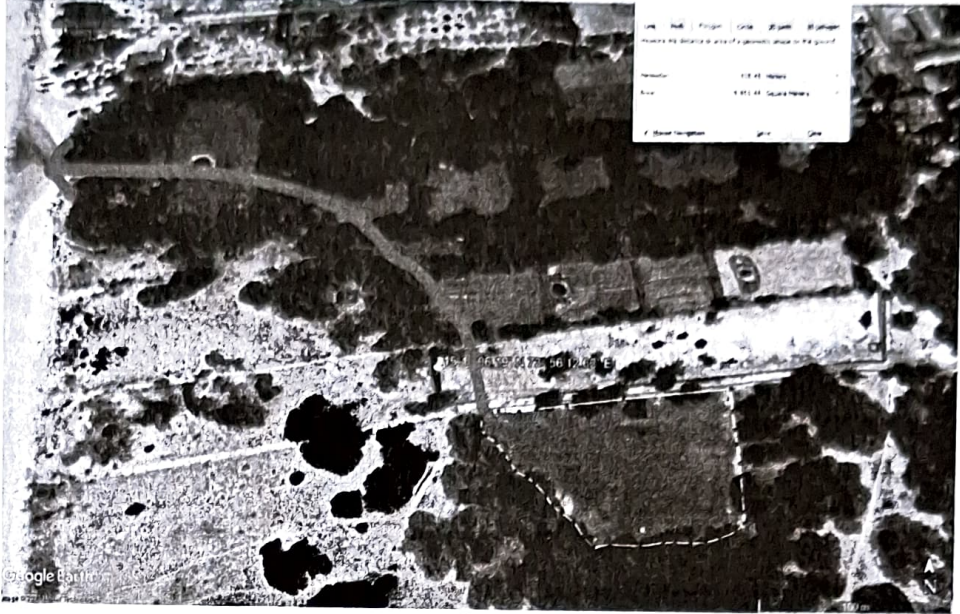
Savio J F Correia
 08.11.2021 12:17
 15.20179, 73.9362
 6W3P+M89, Fatrade, Orlim, Goa 403721



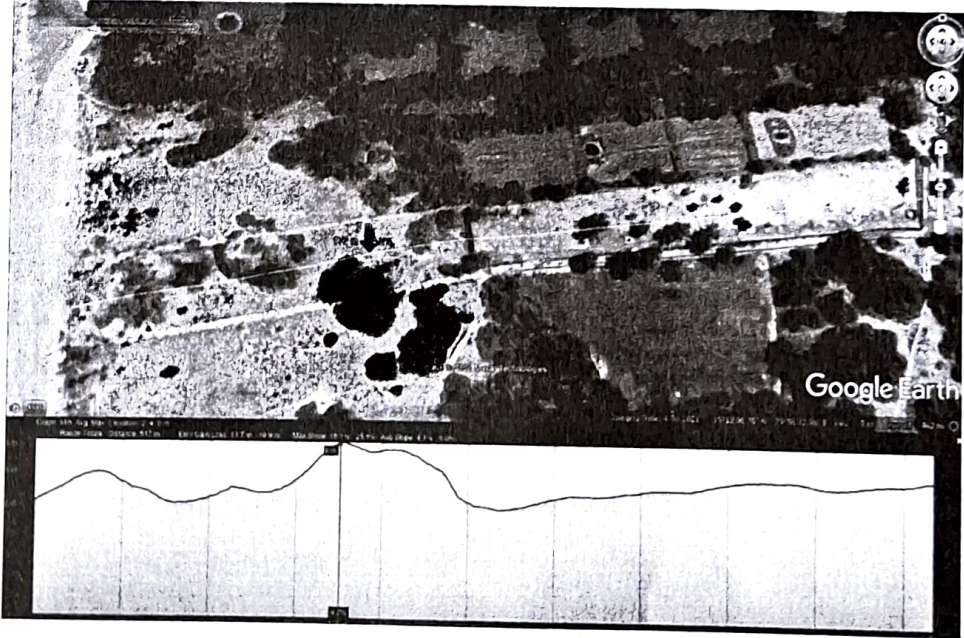
Savio J F Correia
 08.11.2021 12:16
 15.20147, 73.93662
 6W3P+M89, Fatrade, Orlim, Goa 403721

Photographs 5 & 6

Handwritten signature in blue ink.



GE Image showing low-lying field and probable direction of rainwater overflow into the sea.

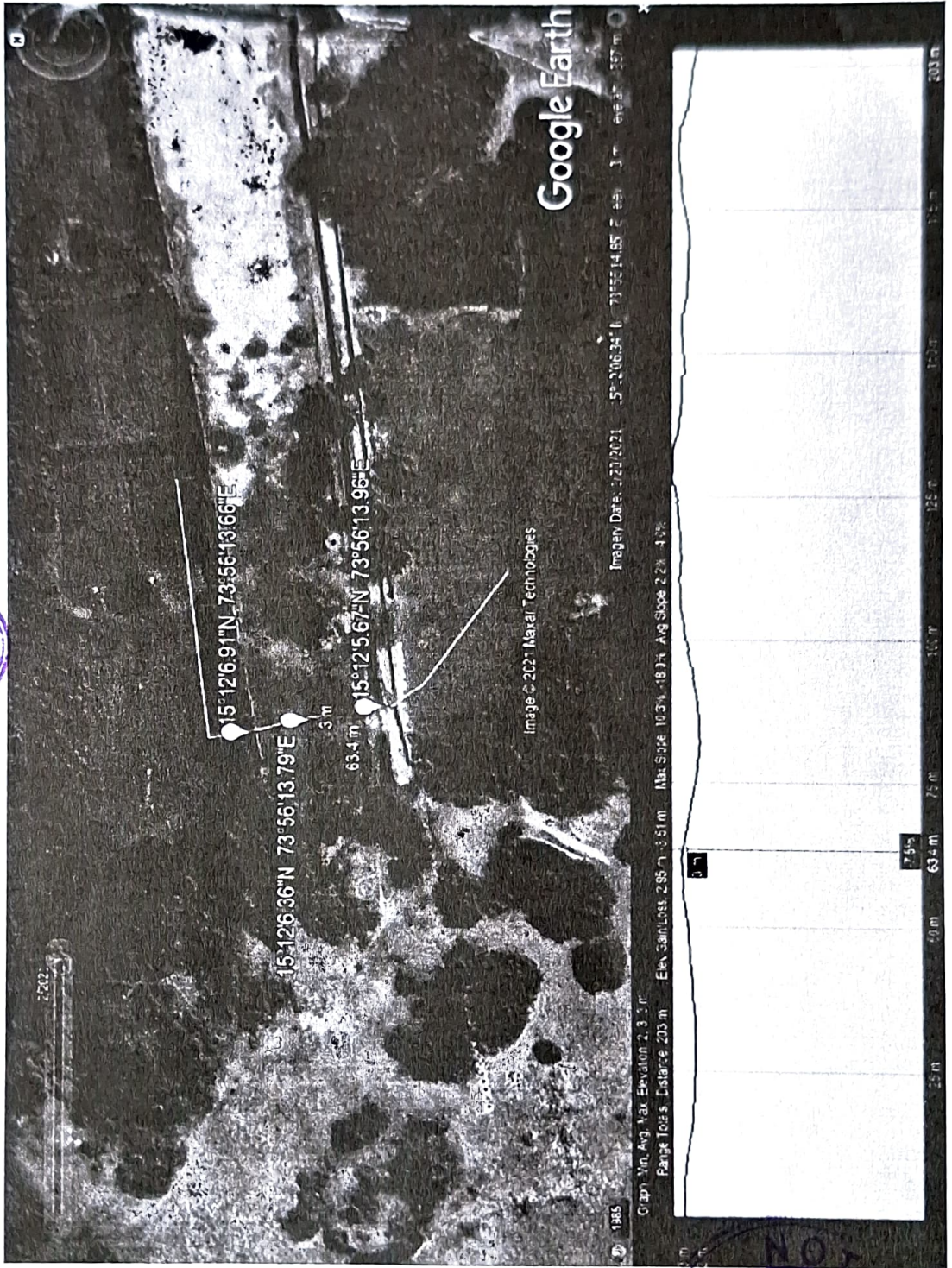


Longitudinal Profile through Sy no. 134/3 of Cavelossim.



u

Proposed location of storm water drain through property



ADHOPIN

Handwritten signature

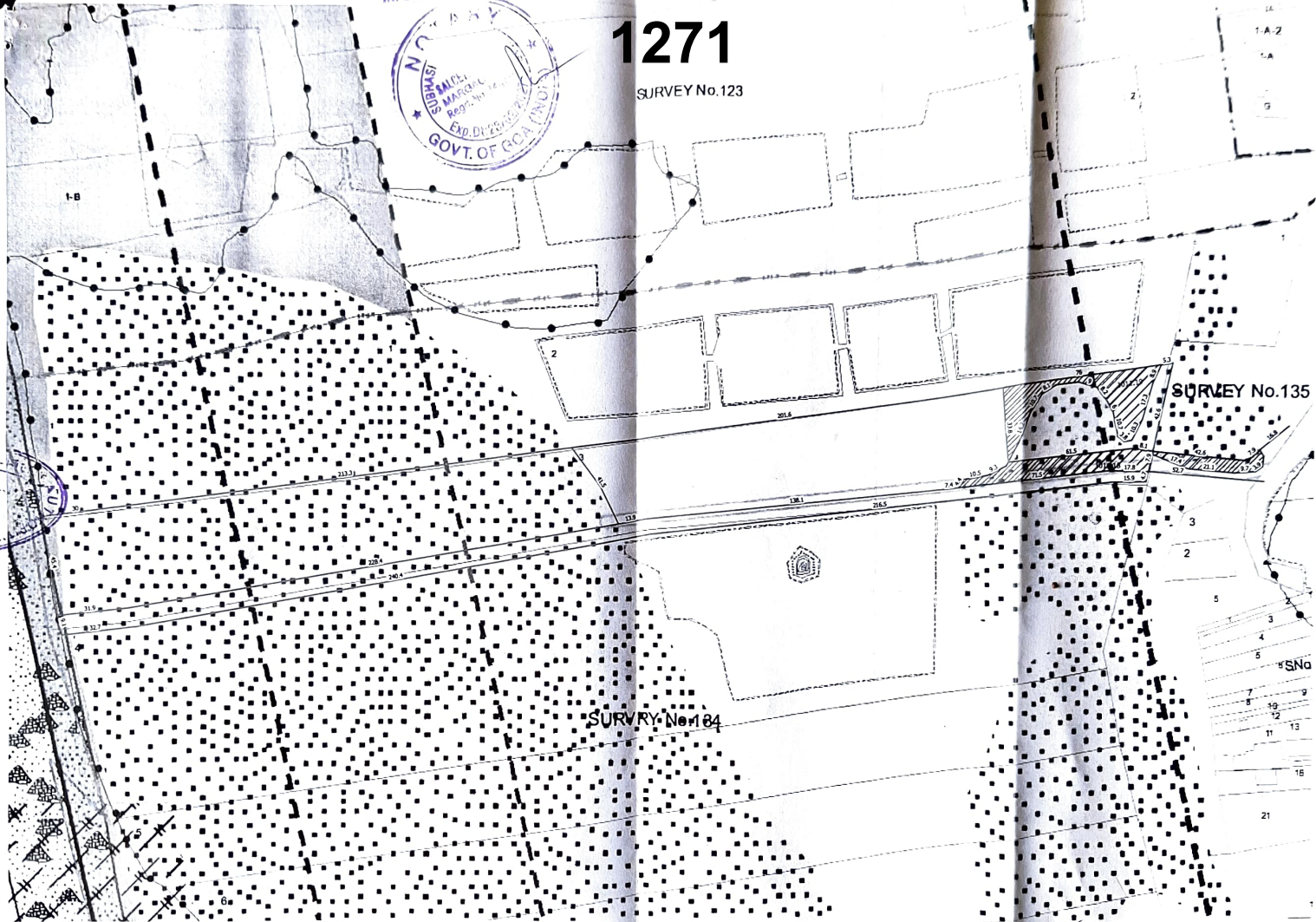
NOTARY
 SUBHASH KRISHNA KAMBER
 SUBSALCETE TALUKA
 MARGAO-GOIA
 Regd. No. 111/A
 EXP. DATE: 26/02/2027
 GOVT. OF GOA (INDIA)



1271

SURVEY No.123

1227



SURVEY No.135

SURVEY No.184

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	

Handwritten signature or initials