

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT

PUNE

INTERIM APPLICATION NO 64 OF 2022

IN

APPEAL NO. 20 OF 2022

Paul Lobo and Ors

).... Appellants

Versus

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

INDEX

SR NO	PARTICULAR	PAGE NO.
1	Additional Affidavit in Rejoinder on behalf of the Appellants	719-730
2.	ANNEXURE A-1 - A copy of the screenshot of the relevant text on the official website of the Respondent Water Resources Department	731-
2.	ANNEXURE A-2 - Copies of recent photographs of the condition on the site of the construction of the hotel property of the Respondent no. 2, final CZMP extract and satellite images showing demarcation of the plot	732- 738




T18

885

This index is filed on the 9<sup>th</sup> day of January 2023 at Goa

Through

**RONITA BHATTACHARYA**  
Advocate for the Applicant  
1<sup>st</sup> Floor, Masjid Manor Building  
16, Homi Modi Street, Fort,  
Mumbai – 400 023.  
Email: [ronita.b6@gmail.com](mailto:ronita.b6@gmail.com)



11-12-20

131

135-138

*Handwritten signature*

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT**

**PUNE**

**INTERIM APPLICATION NO 64 OF 2022**

**IN**

**APPEAL NO. 20 OF 2022**

Paul Lobo and Ors ).... Appellants

Versus

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

**ADDITIONAL AFFIDAVIT IN REJOINER ON BEHALF OF**

**THE APPELLANTS**



1. I, Antonio Vital Luis, s/o Joao Minguel Luis, R/o House No. 687/3, Zalor, Carmona, Salcete, Goa, 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 Respondent No. 1 dated

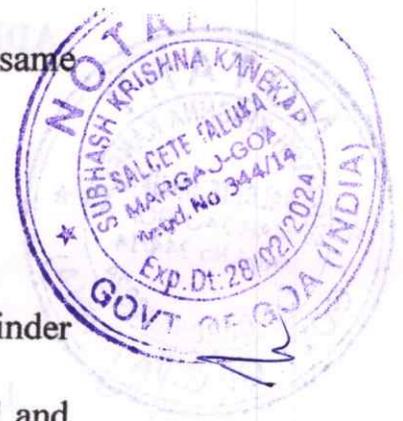
A handwritten signature in blue ink, appearing to be "Antonio Vital Luis".

P20

22.11.2022 which was served on my advocate on 20.12.2022 as well as the Affidavit filed by the Respondent No. 3 Water Resources Department dated 23.11.2022 (hereinafter collectively referred to as the "said Affidavits") 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.

3. At the outset, I deny each and every averment, contention, allegation and/or submission made by the Respondents in the said Affidavits in Reply. I say nothing should be deemed to have been admitted by me for lack of specific denial unless the same is specifically admitted by me hereinafter.

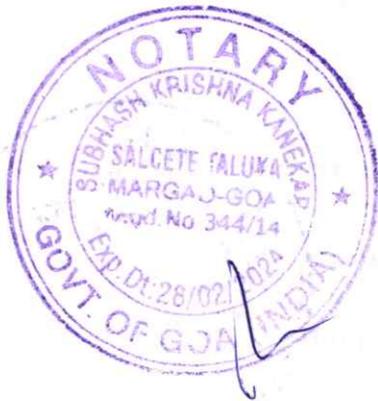
4. That the present Affidavit is being filed as a conjoint Rejoinder to the two Affidavits in Reply filed by the Respondent No. 1 and Respondent No. 3 respectively. I say that I will first deal with the averments raised by the Respondent No. 3 in its Affidavit, and then with the Affidavit of the Respondent No. 1 GCZMA.



**WATER RESOURCES DEPARTMENT**

*[Handwritten Signature]*

5. I deny the statement at para 4 of its Affidavit made by the Respondent No. 3 Water Resources Department, that it *“has limited jurisdiction, to the extent of protecting existing water bodies and creeks within the coastal regulation zone ...”*. This is completely incorrect, as the WRD is the only authority in Goa that has a duty to prevent flooding and maintain drainage systems. I say that the website of the Respondent No. 3 GCZMA states that its duties include *“Flood Control, Anti-Sea Erosion and Drainage Works”*. I accordingly say that the rising sea levels and increased flooding in coastal areas makes this role even more critical in the present times. I say a screenshot of the said text on the official website of the Respondent Water Resources Department has been annexed hereto and marked as **Annexure A - 1**.



6. I say that it is pertinent to note that the Respondent No. 3 has conceded in paragraph 4 that its submissions are based only on survey maps and google earth images. As survey maps do not demarcate low-lying areas, I say that the Respondent No. 3 could have relied upon only google earth images to verify the submissions of the appellant that low-lying areas and flood prevention infrastructure are present in the project site.

LSE  
T22

7. I deny the statement of the Respondent No. 3 at paragraph 4 of its affidavit that , “*There are no apparent water bodies or low-lying areas which act as flooding basin in the plot bearing survey no 134/3 and survey 135/4 of Cavelossim village of Salcete Taluka, Goa.*” . I say that the Respondent No.3 has failed to consider, and has conspicuously not denied, the google earth images attached by 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. Further, 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. I say that the site inspection report dated 17/11/2021 annexed to the memo of this Appeal on page 113 as ‘photo 5’ shows this drainage through the low-lying parts of the project site. As 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.

8. I say that it is pertinent to note that the site inspection report dated 17.11.2021, which, albeit severely flawed, mentions at Sr. No. 1 of the table on page 107, "*No filling of low-lying area with sand extracted from dunes was noted. The spot indicated by the complainants was filled with construction debris.*" At page 108, the site inspection records the presence of "*paddy fields on the southern side*". I therefore say that it is clear that the inspection report, despite numerous other flaws and errors, records the filling of low-lying areas. It is further submitted 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 GCZMA during the inspection, but the expert members did not record this submission, nor did they investigate the same. Nevertheless, I say the Appellants have no objection to a joint inspection being done or conducted by the Respondent Water Resources Department as suggested at para 4 of its Affidavit.



9. I also say that the Respondent No. 3 has failed to respond to paragraphs 27 to 29 of the Memo of Appeal related to the findings of the study entitled "*Multi-hazards coastal vulnerability assessment of Goa, India, using geospatial techniques*" and the recommendations under the Goa State Action Plan on Climate Change for the period 2020-30. I say that Respondent No. 3 has failed to respond to the submissions in these paragraphs regarding the vulnerability of the coastal zone of Cavelossim village to flooding both from extreme rainfall events and sea level rise as a result of climate change. I say that the Respondent No. 3 has also chosen not to respond to the submissions made by the Appellant about the recommendation under the State Action Plan to *reconsider* projects reflected in the coastal development plan or zone for new construction based on climate predictions of sea-level rise, flooding and erosion.

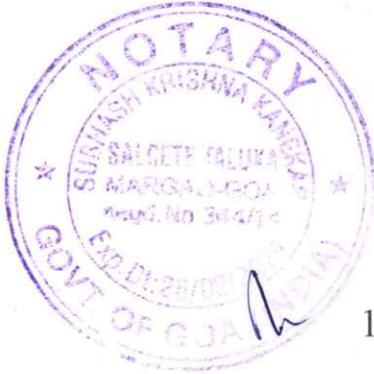
10. I say that no other paragraphs within the Affidavit of the Respondent No. 3 warrant any submissions on the part of the Appellants.



A handwritten signature in blue ink, appearing to be "Anis".

## AFFIDAVIT OF THE RESPONDENT NO. 1

11.I say that the Respondent No. 1 seems to have erroneously referred to the present proceedings as a Special Leave Petition in Para 1 of its Affidavit. The remainder of the contents of Paragraphs 1-4 are a matter of record and do not require any response.



12.I deny the averment/statement of the Respondent No. 1 at paragraph 5 of its Affidavit. that there has been a delay of 87 days in filing the Appeal. It appears that Respondent No. 1 is unaware of the first principles on how delay in filing legal proceedings is counted, and how limitation periods are determined. I say that it is settled law that delay occurs *after* the completion of the limitation period. I say that the limitation period to file an Appeal under Section 16 of the NGT Act, 2010 is 30 days. I say that delay in filing an appeal would accordingly only commence from the 31st day after an aggrieved party is in receipt of the order which he/she wishes to appeal. I say that the manner in which delay is calculated is common knowledge, and can further be evidenced from a perusal of the Second Division of the Schedule to the Limitation Act, 1963, which prescribes the method of

*Unis*

computing limitation periods for filing of appeals. I therefore say that the delay in filing the present Appeal was 57 days as submitted in the IA for condonation of delay.

13. I say that I categorically deny the contents of paragraph 6 of the Affidavit of the Respondent No.1 in toto. I repeat and reiterate my submissions in my condonation of delay Application and my previous affidavit dated 07.09.2022 wherein in addition to the judgment of the Hon'ble Supreme Court of India in the matter of *Sridevi Datla* I have also relied on citations in the matter of *Jaya Mathachan vs. Ministry of Environment, Forests & Climate Change* [2021 SCC OnLine NGT 1024], *Dyaneshwar Vishnu Shedge vs. Union of India and Ors.* [2012 SCC OnLine NGT 80], and *Ram Nath Sao vs. Gobardhan Sao and Ors.* [(2002) 3 SCC 195] to show that there has been sufficient cause for a delay in filing the present Appeal and that the delay should accordingly be condoned.

14. With regards to the contents of para 7 of the Respondent GCZMA, I say that it is evident that the Respondent GCZMA has affirmed that it had directed the Respondent No. 2 to “restore sand dunes to their original condition”. However, the



*[Handwritten signature]*

Respondent No. 1 has asked the Respondent No. 2 to remove the MS sheets only, without considering that the compound walls, structure and access road are admittedly on the sand dunes and that the sand dunes cannot be restored unless they are demolished. I say that the Respondent GCZMA has grossly erred in its conclusion that constructions as per the approved plans are valid even if they violate the CRZ laws, because the Respondent GCZMA has failed to consider special conditions 1, 2, 3, 11, 12, 16 and 20 laid down in the permissions granted. If the sand dunes were restored to their original condition, the present access road, the compound walls and the structure constructed would have to be removed and, by extension of the reasoning, all other constructions proposed on the sand dunes would not be possible.

I say recent photographs of the condition on the site of the construction of the hotel property of the Respondent no. 2, final CZMP extract and satellite images showing demarcation of the plot has been annexed hereto and marked as **Annexure A-2**.



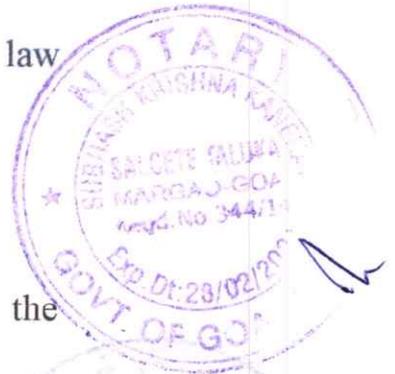
15. I deny the statement made at para 9 of the Affidavit of the Respondent GCZMA that implies that the only documents relied on in the present Appeal are all documents that were relied on by the Appellants during the course of proceedings before the

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a horizontal line and a small flourish.

GCZMA. I say that the documents that have been annexed from page A-14 to Annexure A-24 to the present Appeal were not relied upon before the GCZMA by any party.

16. In the context of the statements at para 10 of the Affidavit, I say that the Respondent GCZMA has intentionally passed vague and inconsistent directions, which the Appellants were forced to challenge herein only after it became obvious that the CRZ law was not going to be upheld.

17. I deny the statements made in paragraphs 11-15 by the Respondent GCZMA. In particular, I say the reliance and interpretation of the citations mentioned in these paragraphs by the Respondent GCZMA and how it has tried to apply them to the facts of the present case are erroneous in law and are misleading. I deny that the Appellants have concocted any aspect of the present Appeal and submissions therein. I say that there is no lack of bonafides and no negligence on the part of the present Appellants in filing the present Appeal.



*[Handwritten signature]*

18. I further say it was necessary for the Appellants to wait to see if the Respondent No. 2 would comply with the directions of the Respondent GCZMA to restore sand dunes prior to filing the present Appeal because the impugned directions of the Respondent GCZMA were vague and inconsistent. I say that it became evident that the intention of the Respondent GCZMA was never to ensure that the sand dunes in the region were restored only with passage of time. Particularly, it is evident that the Respondent GCZMA is comfortable with the walls, roads and structure remaining on the sand dunes, which has forced the appellants to approach this Tribunal, which has been done in the quickest time in these circumstances.



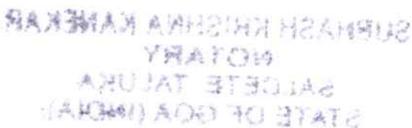
19. Accordingly, I say that the prayers sought by the Appellants in Appeal 20/2022 deserve to be allowed and made absolute.

Solemnly Affirmed at Margao, Goa )

Dated this 9<sup>th</sup> Day of January 2023 )

Deponent

Identified by me  
 Ronita Bhattacharya  
 Advocate for the Applicant



736

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 Anr  
)...Respondents

**ADDITIONAL AFFIDAVIT IN REJOINER**

Advocates for the Applicants  
1st Floor, Masjid Manor Building  
16 Homi Modi Street  
Fort, Mumbai -400023  
Email: ronita.b6@gmail.com  
Mobile No. 9920097464  
Advocate Code No. I20386



Solemnly affirmed before me by  
Shri/Smt. Antonio Vital Luis  
Who is identified to me by leide  
Shri/Smt. GA0820080667668  
Who is personally known to me  
this 9th day of Jan 2023  
Reg. No. 30/2022

Subhash Kanekar  
09/01/2023  
SUBHASH KRISHNA KANEKAR:  
NOTARY  
SALCETE TALUKA  
STATE OF GOA (INDIA):

# ANNEXURE A-1



Department of Water Resources, Government of Goa.

(i)

[E \(/administration/about-the-department\)](#) [क \(/kok/node/3\)](#) [म \(/mr/node/3\)](#) | [A \(/administration/about-the-department\)](#) [A \(/administration/about-the-department\)](#) [A \(/administration/about-the-department\)](#) | [A](#)  
(drupalHighContrast,enableStyles()) [A](#) (drupalHighContrast,disableStyles())

[Login \(/mygov/login\)](#)

[Register \(/mygov/register\)](#)

## The Department Of Water Resources

[Home \(i\) / The Department Of Water Resources](#)

### VISION

To Harness, Utilise, Protect and Regulate the water resources in the State of Goa so as to make optimal use of the same and also save this precious resources for posterity.

### MISSION

To blend the traditional and innovative technological methods to create storages, utilise the same optimally, envisage an effective regulatory mechanism for protecting this resource and envisage protection of environment and lives from fury of water.

### INTRODUCTION

The Irrigation Department was set up as per Government Notification No.7/17/1/80 WET, dated 25/6/1981, after re-organisation of the earlier composite Public Works Department (PWD) and started functioning as an independent Department with effect from 1/7/1981.

The Irrigation Department is in-charge of :

1. Major and Medium Irrigation Works
2. Minor Irrigation Works
3. Allied sectors of Command Area Development
4. Flood Control, Anti-Sea Erosion and Drainage Works and
5. Minor Irrigation Works under Hill Area/Western Ghats Development Programme (HADP/WGDP).

Other works include Conservation of Water Resources, Water Shed Development and Development of Water Resources for domestic and industrial use. Its Jurisdiction extends over the entire State of Goa. The Department is re-named as "Department of Water Resources" vide Government Notification No. 23/1/87/GA & D (i), dated 12/12/2000.

The Department is headed by the Chief Engineer (Water Resources) with the Headquarters at Porvorim, Goa. He has been declared as Head of Department under

1. Fundamental and Supplementary Rules
2. Central Civil Services (Classification, Control and Appeal) Rules and
3. Delegation of Financial Power Rules.

The Chief Engineer is responsible to the Government for efficient administration and general as well as professional control of works within the Jurisdiction of the Department and is the Chief Professional Adviser in all matters connected with the Department. He exercises concurrent control with the Audit Officer over the duties of the Department in connection with the maintenance of accounts and in enforcing strict adherence to the regulations concerning disbursement of money, custody of stores and submission of accounts is also declared as an Ex-Officio Additional Secretary.

The Chief Engineer has to prepare annually, the position of budget estimates relating to works under his control and administer grants, monitor the progress of expenditure with a view to see that the grants are fully utilised for the purpose for which it is meant. The general supervision and control of assessment of revenue from irrigation works and other sources rests with the Chief Engineer who has to frame necessary estimates and carefully monitor the progress of realisation during the course of the year for approval.

Welcome to the Department of Water Resources, Goa, India.

<https://twitter.com/goawrd> <https://www.facebook.com/goawrd>

feedback



#### About Us

- [The Department \(/administration/about-the-department\)](#)
- [Organization Chart \(/administration/organization-chart\)](#)
- [Contact Details \(/administration/contact-details\)](#)
- [Vision Document \(/administration/vision-document\)](#)



#### Acts & Rules

- [Goa Irrigation Act, 1973 & Rules \(/acts-rules/irrigation-act\)](#)





ANNEXURE 899 A-2

732



STRUCTURE CONSTRUCTED ON SAND DUNE AT SOUTH-EAST CORNER OF PLOT



COMPOUND WALL CONSTRUCTED ON SAND DUNE ON EASTERN BOUNDARY OF PLOT



Latitude: 15.201687  
 Longitude: 73.939586  
 Elevation: 30.41m  
 Accuracy: 5.0m  
 Time: 04-01-2023 15:29  
 Note: nova



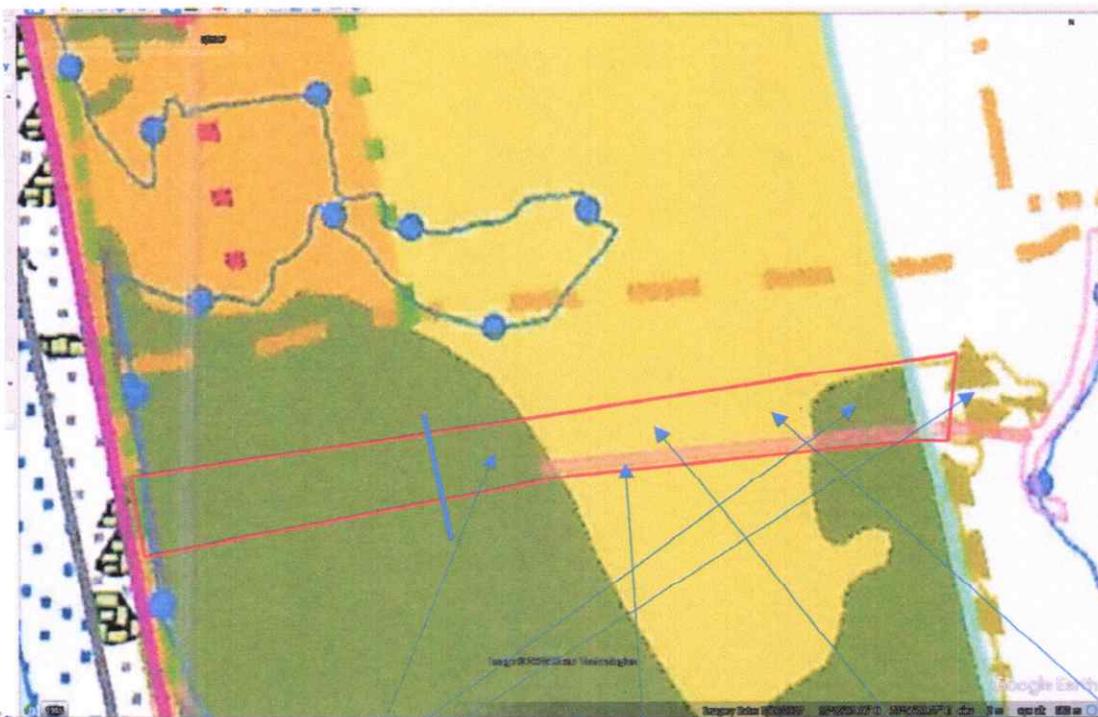
**ACCESS ROAD CONSTRUCTED ON SAND DUNE IN SY NO 135/4, CAVELOSSIM**



Latitude: 15.201804  
 Longitude: 73.939438  
 Elevation: 32.41m  
 Accuracy: 6.0m  
 Time: 04-01-2023 15:27  
 Note: nova

**INTERNAL ROAD SHOWN ON CZMP DOES NOT EXIST, PROPOSED ROAD AND SOUTHERN WALL ON AREA MARKED AS SAND DUNE ON CZMP**

Final CZMP



Sand Dunes demarcated within project site      Road shown illegally      Low-lying area      Sand dune not demarcated



Google earth image of October 2015 shows no road existing within the plot and no access road also (sand dune is cut, but road is not constructed)



Google earth image of December 2015 shows no road existing within the plot and access road has been constructed within the past 2 months

NOTARY  
SHUBHASH KRISHNA KAMBLE  
SALCETE TALUKA  
MARGAJ-GOVT  
REGD. NO 344/14  
EXP. 01/28/02/2024  
GOVT OF GOA (INDIA)



Google earth image of May 2017 shows no road or other constructions exist within the plot and the sand dunes and low-lying area are still intact



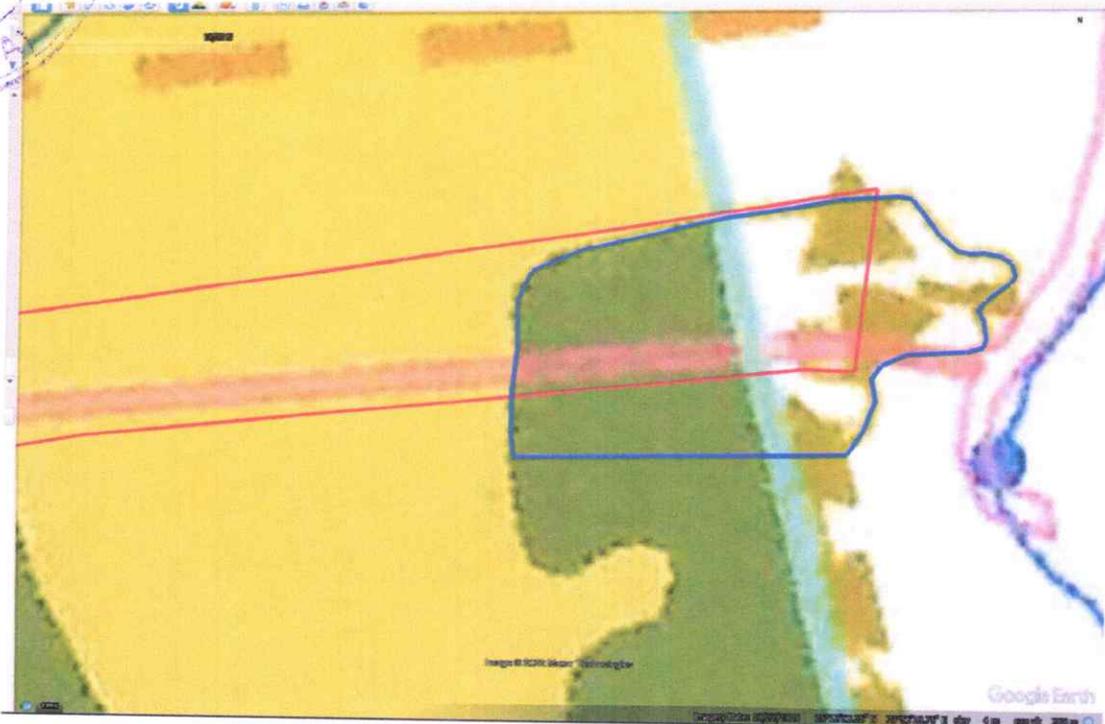
Google earth image of November 2017 shows low-lying area and part of sand dunes are being flattened. No road exists within the plot, but compound wall/fencing is commenced and levelling is carried out



Latest google earth image shows that no road exists within the plot even today



Close up of Google earth image of Oct 2015 showing the absence of any road within the plot and also no access road. However, sand dune is seen partly cut.



CRZ-I demarcation in CZMP disallows (i) compound wall constructions, (ii) the access road to the plot, (iii) the road within the plot of land, (iv) the structure constructed at S-E corner and (v) the structures proposed to be constructed

Low Lying area having an elevation of only 2 m above MSL, part of retention and drainage infrastructure for flood prevention

Line demarcating 200 m from HTL



Sand dunes demarcated on final CZMP

Sand dune not demarcated on final CZMP

