

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) AT PUNE, MAHARASHTRA.**

APPEAL NO. 8/2023.

THOMAS FERNANDES AND ORS.] APPELLANTS.

V/s

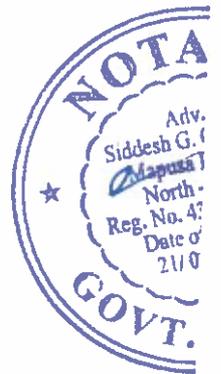
**THE GOA STATE COASTAL ZONE]
MANAGEMENT AUTHORITY AND]
ORS.] RESPONDENTS.**

**ADDITIONAL AFFIDAVIT ON BEHALF OF THE
APPELLANTS.**

I, Tony Fernandes, son of Thomas Fernandes, 44 years of age, Indian National, Businessman, resident of Guru Bar, Anjuna, Bardez- Goa, the Appellant no. 2 herein, do hereby on solemn Affirmation state and submits as under: -

②

1. I say that I have filed the caption Appeal challenging the Directions dated 2/1/2019 passed by the Respondent no. 1 thereby directing the Appellants to demolish the first floor of the structure being run in the style and name "Sun Shine Guest House" and entire structure being run in the style and name "Sun Shine Food Point.
2. I say that during the pendency of the present Appeal, the Village Panchayat of Anjuna, on the basis of orders passed by the Hon'ble High Court of Bombay at Goa in SUO MOTO PIL no. 2/2022, had issued demolition order dated 3/4/2024 against the Appellant in respect of the very same structures as stated in directions dated 2/1/2019.

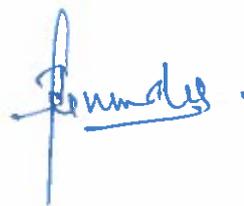


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3. I say that the said order of the Panchayat was challenged by the Appellants before the Appellate Authority being the Director of Panchayat vide ADP-I/Anjuna-Caisua/P.A.260/2024. The Ld. Director of Panchayat vide its Judgment dated 10/11/2025 was pleased to allow the Appeal.

Copy of the Judgment dated 10/11/2025 is hereto annexed and marked as "ANNEXURE-A".

4. A perusal of the judgment confirms that the Director of Panchayat has come to a finding that the structures of the appellant have been constructed prior to 1991 and that no new construction was undertaken in respect of the same after 1991. The Director of Panchayat has further observed that the said structures are existing and are duly delineated on the survey plan.





④

5. I say that vide the present Additional Affidavit, craves leave to bring on record the said Judgment dated 10/11/2025 which will have bearing on the outcome of the present Appeal.
6. I say that the existence of the structures prior to 1991 was precisely the case put forth before the Respondent no. 1.
7. It is respectfully submitted that in view of the fact that the structures are in existence prior to 1991 and that there is no allegation of fresh construction post 1991, the directions dated 2/1/2019 requires to quashed and set aside.



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8. I say that what is stated by in para 1 to 8 above is true to my own knowledge and/or based on legal inferences which I believe to be true.

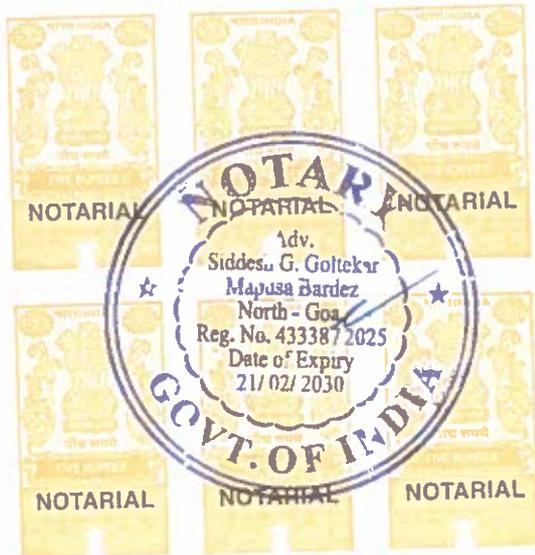
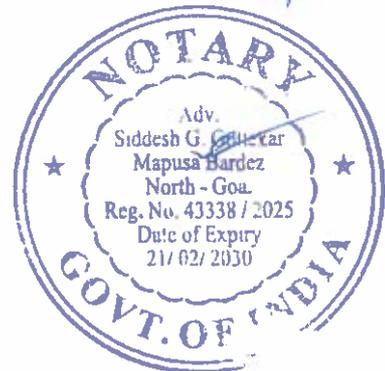
Solemnly affirmed on this 14th day of February 2026, at Mapusa Goa.



[Signature]
Deponent.

Identified by me:

Adv. *[Signature]*



Solemnly Affirmed and Verified before me by Shri/Smt. *Tony Fernandes* who has been identified before me by _____ know to me personally Reg. No. 286 Dt. 14/2/2026

[Signature]
Adv Siddesh G Goltekar
NOTARY - GOA
GOVERNMENT OF INDIA
Off: C-11, Ground Floor, Phoenix Plaza
Mapusa, Bardez - Goa.

**BEFORE THE COURT OF ADDITIONAL DIRECTOR OF
PANCHAYATS-I AT PANAJI GOA.**

No. ADP-I/Anjuna-Caisua/P.A.259/2024

Mr. Thomas Fernandes(Deceased)
Aged about 75 years, son of
Late Jose Fernandes,
R/o H. No.722,
St. Anthony Praise Waddo,
Anjuna, Bardez-Goa.

.....Appellant

Legal Representative of Appellant

1. **Mrs. Mary Fernandes alias
Santana Fernandes
R/o H. No.1655/3, Deul Waddo,
Vagator, Anjuna, Bardez-Goa.**
2. **Mrs. Bella Rajesh Rahane married to**
3. **Mr. Rajesh Raosaheb Rahane
both R/o Geetanjali Apartments,
Plot No.163, Flat No.1,
Opposite Kansai College,
Kansai Section Ambernath
Thane, Maharashtra.**
4. **Mr. Anselm Tony Fernan-ies, Divorcee
R/o H. No.1655/3, Deul Vaddo,
Vagator, Anjuna, Bardez-Goa.**
5. **Mrs. Theresa D'souza married to**
6. **Mr. Anthony D'souza,
both R/o Rosemar Apartment CHS,
A-304 Holy Cross Road, IC Colony,
Near Citizen Credit Co-operative
Bank Limited, Borivali
West Mumbai Maharashtra.**

V/S

Village Panchayat of Anjuna-Caisua,



Represented by its Sarpanch/Secretary,
Anjuna, Bardez-Goa.

..... Respondent

J U D G M E N T

This Judgment and Order shall dispose off the present Appeal dated 03.05.2024 filed by the Appellant under Section 66(7) of the Goa Panchayats Raj Act, 1994 against the Notice cum Demolition Order bearing No.VP/ANJ-CAI/08-09/4659 dated 19.1.2009 issued by the Village Panchayat Anjuna-Caisua ordering Appellant to demolish the said construction of RCC structure for commercial use situated at St. Anthony Prais waddo, Anjuna, Bardez-Goa surveyed under Survey No.129/33, 34, 35 of Village Anjuna, Bardez-Goa.

Notices were issued to both the parties.

The case of the appellant in brief is that there exist immoveable property surveyed under Survey No.129/32, 33, 34, 35 all situated at St. Anthony Prais Waddo, Anjuna Bardez-Goa. The said properties along with the property bearing Survey No.129/34 are in absolute possession oand occupation of the appellant being the owner thereof.

The appellant states that he has not done any illegal construction of any nature in the said property as falsely alleged by the respondent. That the Respondent herein is hell bent upon harassing the appellant by issuing various show cause



Notices as well as demolition notices even in the past without having any basis in law. That in the past a Notice cum Demolition Order under Section 66(4) of the Goa Panchayats Raj Act, 1994 dated 19.1.2009 under reference No.VP/ANJ-CAI/08-09/4659 was issued in the name of Mr. Tony Fernandes i.e. the son of the appellant herein with respect to the RCC structure for commercial Use in the survey No.129/33, 34 and 35 by the respondent without there being any resolution to that effect. And accordingly an Appeal before the Hon'ble Director of Panchayat-II was filed bearing Panchayat Appeal No.300/2009 who by its Order dated 15.2.2010 remanded the matter back to the Respondent to be decided a fresh.

Similarly another Notice cum Demolition Order under Section 66(4) of the Goa Panchayat Raj Act, 1994 dated 19.1.2009 under reference No.VP/ANJ-CAI/08-09/4656 was issued in the name of Mr. Tony Fernandes i.e the son of the Appellant herein with respect to the structure for commercial Use in the Survey No.129/32 by the respondent without there being any resolution to that effect. Accordingly an appeal before Hon'ble Director of Panchayats-II was filed bearing Panchayat Appeal No.42/2010 who by its Order dated 15.2.2010 remanded the matter back to the Respondent to be decided a fresh. The Respondent Panchayat accordingly by virtue of its letter bearing No.VP/ANJ-CAI/2010-2011/3081 dated 4.12.2010 informed the appellant that the Panchayat has come to the conclusion that the structures existing in the properties bearing survey No.129/32, 129/33, 129/34 and 129/35 of



Village Anjuna Bardez-Goa are constructed before the existence of CRZ Notification and thereby closed the matter in the year 2010 which has attained finality in the eyes of law.

The Respondent however now is trying to re adjudicate its own Order/decision which is not permitted under the law the same being clearly hit by doctrine of Res-Judicata.

The appellant further states that the structure in question which are existing in the properties bearing survey No.129/32, 129/33, 129/34 and 129/35 of Village Anjuna Bardez-Goa are constructed not only before the CRZ Notification came into existence but was constructed much before the year 1971 and prior to the Goa Panchayats Raj Act, 1994 coming into existence as can be seen on the survey Plan issued by the office of the Inspector of Surveys and Land Records.

That in spite of the above scenario the Respondent issued two independent show cause Notices one dated 12.12.2022 under reference No.VP.ANJ-CAI/2022-2023/3292 under section 66(3) of the Goa Panchayats Raj Act with respect to the structures in the survey No.129/32, 33, 35 and the other one dated 7.12.2022 under reference No.VP/ANJ-CAI/2022-2023/3189 exclusively for the structures in survey No.29/32 on the per text that same is in pursuance of the Orders passed by the Hon'ble High Court of Bombay at Goa in WP No.2148/2022(F) to which the reply was accordingly filed by the appellant.



That without considering the said reply of the appellant dated 16.12.2022 in its letter and spirit, and without providing any fair hearing to the appellant as per the Principles of Natural Justice to the utter surprise of the appellant the respondent issued two Demolition Orders under Section 66(4) of Goa Panchayats Raj Act, i.e one dated 3.4.2024 bearing No.VP/ANJ-CAI/2024-2025/40 and other dated 4.4.2024 bearing No.VP/ANJ-CAI/2024-25/71 directing the appellant to demolish the alleged construction within a period of 15 days which both was received by the appellant only on 15.4.2024 in the evening session at about 3.00p.m.. The said notice cum Order also speaks about the site inspection report of the Panchayat as indicated but no copy of the same is annexed to the said Notice.

That the Respondent has issued to independent demolition Orders with respect to the same structures existing in the Survey No.129/32 and with respect to the other structures in Survey No.129/33, 35 of Village Anjuna Bardez Goa and a separate appeal before this Authority is being preferred against the same.

Bearing aggrieved by the Demolition Order dated 4.4.2024 the present appeal is preferred on the grounds that the impugned Order is bad in law as well as on facts and its arbitrary, illegal and in violation of the Principles of Natural Justice.



That the impugned Order is passed without any application of mind so much so that the same is issued on account of the fact that the Hon'ble High Court of Bombay at Goa has by virtue of its orders dated 26.4.2023 in PIL Suo Moto 2/2022 has set aside the resolutions of the respondent which are categorically listed in the above mentioned order itself which have been passed in the year 2023 only but the same does not speak anything about the Letter or earlier resolutions taken by the Respondent in the year 2010 concluding the present matter.

That he respondent has miserably failed to take into consideration that the resolution No.9(K)/2010-2011 passed in the Panchayat meeting dated 17.09.2010 and the Resolution No.9(d)/2010-2011 passed in the Panchayat meeting dated 30.11.2010 in pursuance of the Judgement and Order dated 8.3.2010 and 15.2.2010 passed by the Hon'ble Directorate of Panchayat in Panchayat Appeal No.42/2010 and 300/2009, wherein it was admitted by the Respondent themselves that the structures in question are constructed even before the CRZ Notification are still valid and not set aside by the Hon'ble High Court on account of which the same has attained finality.

That the appellant has not been afforded a fair and reasonable opportunity in order to resist the allegations of the respondents that the alleged illegal construction is carried out in survey No.129/32 of Village Anjuna, Bardez-Goa. That no any joint site inspection as stated in the impugned Order is ever



carried out and if at all the same is done its behind the back of the appellant without any notice or information to the appellant therefore a clear violation of Principles of Natural Justice.

That the impugned Order is passed in the most cryptic manner without following the due process of law moreso when the appellant has not been awarded a patient and fair personal hearing in the matter moreso when the livelihood of the appellant is at stake as the impugned Order has direct impact on the livelihood of the appellant and his family especially when the appellant is about 75 years of age. That the opponents have not carried out any panchanama of the alleged illegal construction nor have they correctly identified the alleged illegal structures. The impugned Order is supposedly based on a Show Cause Notice dated 7.12.2022 which is issued on the basis of resolution bearing No.10(1) (147) dated 30.11.2022 and resolution No.2(16) alleged to have been passed in the Panchayat body meeting. The show cause Notice and the impugned demolition Order is issued contrary to the provision of Goa Panchayats Raj Act since no sketch and panchanama was affixed to the show cause Notice which is mandatory under the provision of Panchayat Raj Act. Therefore prayed that the impugned demolition Order dated 3.4.2024 bearing No.VP/ANJ-CAI/2024-2025/40 be quashed and set aside.

The Respondent filed their reply.

In their reply the Respondent No.1 herein vehemently



denies the contents of the appeal being false and the appellant be put to strict proof thereof upon production of Licence for constructing/reconstruction/repairs of the said structure, approvals of plans of the said structure from the concern technical authorities or the occupancy if any issued by the Respondent. That a joint site inspection was conducted by the GCZMA and the Village Panchayat pursuant to Order passed by the Hon'ble High Court in WP 2148/2022. It was observed upon inspection that there is illegal construction of 1, No. temporary shop block with GI sheet roofing, 2 no. wooden structure with Mangalore tiles roofing and concrete plinth and 1 no. RCC structure (G+1), Masonary Compound Wall on all sides in the property bearing Survey No.129/32, 33, 35 of Village Anjuna. Upon inspection GPS reading of the same was recorded.

The Respondent further states that the public notice pursuant to joint site inspection was issued vide notice bearing reference No.VP/ANJ-CAI/2022-23/3034 dated 2.12.2022 was published in local dailies Gomantak and O Herald on 3.12.2023 directing general public whose structure falling under survey numbers mentioned in the notice to submit the relevant documents/permission to prove their case, the respondent herein rely on the copy of the same for ready perusal.

The respondent state that appellant was further issued with show cause notice dated 12.12.2022 and as per the notice appellant was directed to show cause within 7 days of the receipt of the notice. Further as the appellant replied to the



show cause notice vide its reply on dated 17.12.2022. That Hon'ble High Court vide their order dated 26.4.2023 in Suo Motto PIL 2/2022 set aside the resolutions of the Panchayat. Further Hon'ble High Court vide their Order dated 13.2.2024 in Suo Motto PIL 2/2022 directed respondent herein to seal the structures and directed to decide the show cause Notice.

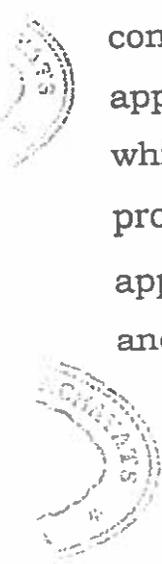
That the appellant replied to the show cause notice, however failed to place on record requisite permission/ approvals (documentary evidence) from the concern authorities to prove that the structure were legally constructed though were directed to produce the same vide public notice dated 9.6.2023 bearing reference No.VP/ANJ-CAI/2023-2024/919 published in local daily, left with no other alternative respondent Panchayat vide its letter dated 3.4.2024 issued final notice to demolish directing the appellant to demolish the said illegal construction within 15 days failing which it was informed to the appellant that Panchayat will demolish/remove the same as per provisions of the Goa Panchayats Raj Act, 1994 and the expenses incurred thereof shall be recovered from the appellant. That as per the direction of the Hon'ble High Court, the said structures have been identified by the GCZMA and the respondent herein. Any construction/change/alteration has to be approved/sanctioned by the Authorities concerned. In the instant case there is neither approval nor sanction from the authorities concerned for the said illegal construction which is being sued for commercial purpose. That appellant may be directed to produce any such documents which support his



claim that the said structure is legal and constructed/repaired by obtaining sanctions from concerned authorities as required as per Law.

That the respondent herein states that the house numbers if any allotted to the occupier of the structure is for the purpose of revenue and mere rendering house number for taxation purpose does not accord legality to the structure constructed without statutory sanctions required as per Law. That the appellant has failed to produce documents to show, the structure were constructed upon obtaining requisite permission. The documents relied by the appellant does not prove the case of the appellant. That the respondent herein submits that the structure which are in dispute are constructed after 1991 Notification and same falls within the CRZ III and within 200 mtrs of H.T.L. the illegal structure has been identified by the GCZMA and the respondent herein.

That the Respondent herein states that the appellant herein has not produce any document to show that the said structures were in existence prior to 1991 and if existed were constructed upon obtaining requisite permissions. The appellant is doing a commercial activity in the said structure for which the demolition Order was issued. The appellant has not produced any convincing document to prove his case. That the appellant has not taken permission to put up the said structure and by putting these structures caused environmental damage.



The Coastal Regulation zone Notifications have been issued in the interest of protecting environment and ecology in the coastal area. Construction raised in violation of such regulations cannot be lightly condoned. That after report the Goa Coastal Zone Management Authority prepared upon examination and inspection along with the respondent herein it was found that the structures were illegal, unauthorized and without permission and thus the appellant was directed by respondent for demolition of structure as same were in violation of CRZ notification. The Respondent submits that unauthorized structure of construction without the permission of Competent Authority and in violation of the CRZ Notification and the structure being constructed in NDZ Zone thus the penalty relates to the unauthorized construction and the authority is competent to pass an order with demolition and hence the demolition Order dated 3.4.2024 to demolition is just, proper and very well justified within the scope of Goa Panchayat Raj Act 1994 and the same is not violative of Principles of Natural Justice.

I have carefully perused the record and proceedings in the present case, the appeal Memo, the reply filed by the Respondent-Panchayat and documents produced by both the parties. It is undisputed that the appellant is the owner of the property. In the past the respondent Panchayat has issued Notice-cum-Demolition Order under section 66(4) of the Goa Panchayats Raj Act, 1994 dated 19.1.2009 under reference No.VP/ANJ-CAI/08-09/4659 with respect to the RCC structure



for commercial use in Survey No.129/33, 34 and 35 without there being any resolution to that effect. And accordingly an Appeal has been filed before this Authority bearing Panchayat Appeal No.300/2009 who by its Order dated 15.2.2010 remanded the matter back to the Respondent to be decided a fresh.

Similarly another Notice cum Demolition Order under Section 66(4) of the Goa Panchayat Raj Act, 1994 dated 19.1.2009 under reference No.VP/ANJ-CAI/08-09/4656 was issued with respect to the structure for commercial Use in the Survey No.129/32 also without there being any resolution to that effect. Accordingly an appeal before Hon'ble Authority has been filed bearing Panchayat Appeal No.42/2010 who by its Judgement and Order dated 08.03.2020 remanded the matter back to the Respondent to be decided a fresh. Both Judgements are placed on record by the appellant. The appellant placed on record the letter bearing No.VP/ANJ-CAI/2010-2011/3081 dated 4.12.2010 issued by the respondent informed the appellant that the Panchayat has come to the conclusion that the structures existing in the properties bearing survey No.129/32, 129/33, 129/34 and 129/35 of Village Anjuna Bardez-Goa are constructed before the existence of CRZ Notification and thereby closed the matter in the year 2010 which has attained finality in the eyes of law. The Respondent however now is trying to re adjudicate its own Order/decision which is not permitted under the law the same being clearly hit by doctrine of Res-Judicata.



The other aspect to consider and decide is that whether the construction of the structure to demolish an issue are existing structure and the same work with the knowledge of the Panchayat or same are illegal or not. It is pertinent to note here in the present matter is that the Panchayat by notice of its letter informed the appellant that the structure existing in the property bearing Survey No. 129/32, 129/33, 129/34 and 129/35 of Village Anjuna Bardez-Goa are constructed not only before the CRZ Notification and thereby closed the matter in the year 2010.

It is also not under dispute that the suit house has assessed with the Respondent-Panchayat who are issuing the House Tax receipt since last many years as also be available after seeking no objection Certificate from the Village Panchayat on the local authority and since the NOC for the Electricity and Water connection is issued by Village Panchayat such structures were with the knowledge of the Panchayat and therefore it cannot be said that suit structure is a new structure. So also the disputed structures are shown as existing in the Survey Plan therefore in my opinion such structure cannot be said to be new structures and hence they are old and existing structure.

In my opinion in any notice to be enforceable the structure to which it is issued is to be identified so also while giving direction to demolish and particular said structure and the



Survey No. wherein such structure to be identified properly for its legal enforcement and execution which is very much absent in present demolition Notice on the demolition Notice whereby direction was issued to demolish the structure is not identified so also the demolition Notice speak of three Survey Nos. i.e. 129/32, 33 and 35 in which demolition need to be carried out therefore said lacks proper identification and enhance the same is executable and considering the fact. I have already expressed my opinion in the Demolition Order cum Notice as bad in law. From the documents including the Survey Plan it is clear that the said structure is an old structure existing before the establishment of Panchayat and prior to the CRZ Notification of 1991. The perusal of the Survey Plan shows that the existence of house is reflecting therein it is common knowledge that the survey operation started somewhere in the year 1970-72. It means the subject structure was existing during the survey operation on all official Survey maps have a presumptive value.

The Hon'ble Supreme Court and various High Court in various Judgement have made it very clear that each and every unauthorized construction need not be demolished and it is for the authorities to decide which can be regularize and while deciding the same, the authorities should act as per the Law and decide the same on its own merits and Rules in force. They should also give opportunity of personal hearing to the affected parties and Principles and Natural Justice should be thoroughly followed.



The Hon'ble Supreme Court of India in Syed Muzaffar Ali and others V/s Municipal Corporation of Delhi (1995 Supp. (4) S.C.C 426) in which it is not necessary that each and every illegal construction is required to be demolished and it is for the authorities to decide which are the cases which can be regularized or which are the cases which required for demolition.

It is evident from the documents placed on record that the subject structure is in existence since many years. There is no contrary evidence brought on record by the Respondent-Panchayat to show that the construction is a new construction. In view of the documentary evidence discussed above, the impugned Order appears to be unjust, improper and incorrect, I am therefore of the considered opinion that the ground which the impugned Order has been issued cannot be sustained.

In view of above, I am inclined to pass the following.

ORDER

The Appeal dated 03.05.2024 filed by the Appellant is partly allowed.

The demolition Order No.VP/ANJ-CAI/2024-25 dated 04.04.2024 issued by the Village Panchayat of Anjuna-Caisua in respect to 1 No.RCC structure with concrete Plinth in the property bearing Survey No.129/32 of Village Anjuna is hereby



property bearing Survey No.129/32 of Village Anjuna is hereby quashed and set aside and in respect to other structures 1 No. Laterite masonry structure (FF bamboo mesh and GI sheets roofing) is hereby upheld. Ad-interim Order dated 4.4.2024 passed by this Court is hereby vacated.

Panchayat is directed to take necessary steps to give effect to the demolition Order dated 4.4.2024 in respect to 1 No. Laterite Masonary structure (FF Bamboo mesh and GI sheet roofing)

The appeal accordingly stand disposed off.

Pronounced in the open Court.

Given under my hand and seal of this Court on the 10th day of November, 2025.




(Joao Fernadnes)
Addl. Director of Panchayats-I
Panaji-Goa.

**BEFORE THE COURT OF ADDITIONAL DIRECTOR OF
PANCHAYATS-I AT PANAJI GOA.**

No. ADP-I/Anjuna-Caisua/P.A.260/2024

**Mr. Thomas Fernandes(Deceased)
Aged about 75 years, son of
Late Jose Fernandes,
R/o H. No.722,
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Anjuna, Bardez-Goa.**

.....Appellant

Legal Representative of Appellant

- 1. Mrs. Mary Fernandes alias
Santana Fernandes
R/o H. No.1655/3, Deul Waddo,
Vagator, Anjuna, Bardez-Goa.**
- 2. Mrs. Bella Rajesh Rahane married to**
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- 4. Mr. Anselm Tony Fernandes, Divorcee
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- 5. Mrs. Theresa D'souza married to**
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Near Citizen Credit Co-operative
Bank Limited, Borivali
West Mumbai Maharashtra.**

V/S

Village Panchayat of Anjuna-Caisua,



Represented by its Sarpanch/Secretary,
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..... Respondent

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This Judgment and Order shall dispose off the present Appeal dated 03.05.2024 filed by the Appellant under Section 66(7) of the Goa Panchayats Raj Act, 1994 against the Notice cum Demolition Order bearing No.VP/ANJ-CAI/2024-2025/40 dated 03.04.2024 issued by the Village Panchayat Anjuna-Caisua ordering Appellant to demolish 1 no. temporary shop block with GI sheet roofing, 2 nos. wooden structure with manglore tiles roofing and concrete plinth, 1 no.RCC structure (G+1), masonry compound wall on all sides situated in surveyed under Survey No.129/32, 33, 35 of Village Anjuna, Bardez-Goa.

Notices were issued to both the parties.

The case of the appellant in brief is that there exist immoveable property surveyed under Survey No.129/32, 33, 34, 35 all situated at St. Anthony Prais Waddo, Anjuna Bardez-Goa. The said properties along with the property bearing Survey No.129/34 are in absolute possession and occupation of the appellant being the owner thereof.

The appellant states that he has not done any illegal construction of any nature in the said property as falsely alleged



by the respondent. That the Respondent herein is hell bent upon harassing the appellant by issuing various show cause Notices as well as demolition notices even in the past without having any basis in law. That in the past a Notice cum Demolition Order under Section 66(4) of the Goa Panchayats Raj Act, 1994 dated 19.1.2009 under reference No.VP/ANJ-CAI/08-09/4659 was issued in the name of Mr. Tony Fernandes i.e. the son of the appellant herein with respect to the RCC structure for commercial Use in the survey No.129/33, 34 and 35 by the respondent without there being any resolution to that effect. And accordingly an Appeal before the Hon'ble Director of Panchayat-II was filed bearing Panchayat Appeal No.300/2009 who by its Order dated 15.2.2010 remanded the matter back to the Respondent to be decided a fresh.

Similarly another Notice cum Demolition Order under Section 66(4) of the Goa Panchayat Raj Act, 1994 dated 19.1.2009 under reference No.VP/ANJ-CAI/08-09/4656 was issued in the name of Mr. Tony Fernandes i.e the son of the Appellant herein with respect to the structure for commercial Use in the Survey No.129/32 by the respondent without there being any resolution to that effect. Accordingly an appeal before Hon'ble Director of Panchayats-II was filed bearing Panchayat Appeal No.42/2010 who by its Order dated 15.2.2010 remanded the matter back to the Respondent to be decided a fresh. The Respondent Panchayat accordingly by virtue of its letter bearing No.VP/ANJ-CAI/2010-2011/3081 dated 4.12.2010 informed the appellant that the Panchayat has come



to the conclusion that the structures existing in the properties bearing survey No.129/32, 129/33, 129/34 and 129/35 of Village Anjuna Bardez-Goa are constructed before the existence of CRZ Notification and thereby closed the matter in the year 2010 which has attained finality in the eyes of law.

The Respondent however now is trying to re adjudicate its own Order/decision which is not permitted under the law the same being clearly hit by doctrine of Res-Judicata.

The appellant further states that the structure in question which are existing in the properties bearing survey No.129/32, 129/33, 129/34 and 129/35 of Village Anjuna Bardez-Goa are constructed not only before the CRZ Notification came into existence but was constructed much before the year 1971 and prior to the Goa Panchayats Raj Act, 1994 coming into existence as can be seen on the survey Plan issued by the office of the Inspector of Surveys and Land Records.

That in spite of the above scenario the Respondent issued two independent show cause Notices one dated 12.12.2022 under reference No.VP.ANJ-CAI/2022-2023/3292 under section 66(3) of the Goa Panchayats Raj Act with respect to the structures in the survey No.129/32, 33, 35 and the other one dated 7.12.2022 under reference No.VP/ANJ-CAI/2022-2023/3189 exclusively for the structures in survey No.29/32 on the per text that same is in pursuance of the Orders passed by the Hon'ble High Court of Bombay at Goa in WP



No.2148/2022(F) to which the reply was accordingly filed by the appellant.

That without considering the said reply of the appellant dated 16.12.2022 in its letter and spirit, and without providing any fair hearing to the appellant as per the Principles of Natural Justice to the utter surprise of the appellant the respondent issued two Demolition Orders under Section 66(4) of Goa Panchayats Raj Act, i.e one dated 3.4.2024 bearing No.VP/ANJ-CAI/2024-2025/40 and other dated 4.4.2024 bearing No.VP/ANJ-CAI/2024-25/71 directing the appellant to demolish the alleged construction within a period of 15 days which both was received by the appellant only on 15.4.2024 in the evening session at about 3.00p.m.. The said notice cum Order also speaks about the site inspection report of the Panchayat as indicated but no copy of the same is annexed to the said Notice.

That the Respondent has issued to independent demolition Orders with respect to the same structures existing in the Survey No.129/32 and with respect to the other structures in Survey No.129/33, 35 of Village Anjuna Bardez Goa and a separate appeal before this Authority is being preferred against the same.

Bearing aggrieved by the Demolition Order dated 4.4.2024 the present appeal is preferred on the grounds that the impugned Order is bad in law as well as on facts and its

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arbitrary, illegal and in violation of the Principles of Natural Justice.

That the impugned Order is passed without any application of mind so much so that the same is issued on account of the fact that the Hon'ble High Court of Bombay at Goa has by virtue of its orders dated 26.4.2023 in PIL Suo Moto 2/2022 has set aside the resolutions of the respondent which are categorically listed in the above mentioned order itself which have been passed in the year 2023 only but the same does not speak anything about the Letter or earlier resolutions taken by the Respondent in the year 2010 concluding the present matter.

That the respondent has miserably failed to take into consideration that the resolution No.9(K)/2010-2011 passed in the Panchayat meeting dated 17.09.2010 and the Resolution No.9(d)/2010-2011 passed in the Panchayat meeting dated 30.11.2010 in pursuance of the Judgement and Order dated 8.3.2010 and 15.2.2010 passed by the Hon'ble Directorate of Panchayat in Panchayat Appeal No.42/2010 and 300/2009, wherein it was admitted by the Respondent themselves that the structures in question are constructed even before the CRZ Notification are still valid and not set aside by the Hon'ble High Court on account of which the same has attained finality.

That the appellant has not been afforded a fair and reasonable opportunity in order to resist the allegations of the respondents that the alleged illegal construction is carried out



in survey No.129/32 of Village Anjuna, Bardez-Goa. That no any joint site inspection as stated in the impugned Order is ever carried out and if at all the same is done its behind the back of the appellant without any notice or information to the appellant therefore a clear violation of Principles of Natural Justice.

That the impugned Order is passed in the most cryptic manner without following the due process of law moreso when the appellant has not been awarded a patient and fair personal hearing in the matter moreso when the livelihood of the appellant is at stake as the impugned Order has direct impact on the livelihood of the appellant and his family especially when the appellant is about 75 years of age. That the opponents have not carried out any panchanama of the alleged illegal construction nor have they correctly identified the alleged illegal structures. The impugned Order is supposedly based on a Show Cause Notice dated 7.12.2022 which is issued on the basis of resolution bearing No.10(1) (147) dated 30.11.2022 and resolution No.2(16) alleged to have been passed in the Panchayat body meeting. The show cause Notice and the impugned demolition Order is issued contrary to the provision of Goa Panchayats Raj Act since no sketch and panchanama was affixed to the show cause Notice which is mandatory under the provision of Panchayat Raj Act. Therefore prayed that the impugned demolition Order dated 3.4.2024 bearing No.VP/ANJ-CAI/2024-2025/40 be quashed and set aside.

The Respondent filed their reply.



In their reply the Respondent No.1 herein vehemently denies the contents of the appeal being false and the appellant be put to strict proof thereof upon production of Licence for constructing/reconstruction/repairs of the said structure, approvals of plans of the said structure from the concern technical authorities or the occupancy if any issued by the Respondent. That a joint site inspection was conducted by the GCZMA and the Village Panchayat pursuant to Order passed by the Hon'ble High Court in WP 2148/2022. It was observed upon inspection that there is illegal construction of 1 No. temporary shop block with GI sheet roofing, 2 no. wooden structure with Mangalore tiles roofing and concrete plinth and 1 no. RCC structure (G+1), Masonary Compound Wall on all sides in the property bearing Survey No.129/32, 33, 35 of Village Anjuna. Upon inspection GPS reading of the same was recorded.

The Respondent further states that the public notice pursuant to joint site inspection was issued vide notice bearing reference No.VP/ANJ-CAI/2022-23/3034 dated 2.12.2022 was published in local dailies Gomantak and O Herald on 3.12.2023 directing general public whose structure falling under survey numbers mentioned in the notice to submit the relevant documents/permission to prove their case, the respondent herein rely on the copy of the same for ready perusal.

The respondent state that appellant was further issued with show cause notice dated 12.12.2022 and as per the notice

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appellant was directed to show cause within 7 days of the receipt of the notice. Further as the appellant replied to the show cause notice vide its reply on dated 17.12.2022. That Hon'ble High Court vide their order dated 26.4.2023 in Suo Motto PIL 2/2022 set aside the resolutions of the Panchayat. Further Hon'ble High Court vide their Order dated 13.2.2024 in Suo Motto PIL 2/2022 directed respondent herein to seal the structures and directed to decide the show cause Notice.

That the appellant replied to the show cause notice, however failed to place on record requisite permission/ approvals (documentary evidence) from the concern authorities to prove that the structure were legally constructed though were directed to produce the same vide public notice dated 9.6.2023 bearing reference No.VP/ANJ-CAI/2023-2024/919 published in local daily, left with no other alternative respondent Panchayat vide its letter dated 3.4.2024 issued final notice to demolish directing the appellant to demolish the said illegal construction within 15 days failing which it was informed to the appellant that Panchayat will demolish/remove the same as per provisions of the Goa Panchayats Raj Act, 1994 and the expenses incurred thereof shall be recovered from the appellant. That as per the direction of the Hon'ble High Court, the said structures have been identified by the GCZMA and the respondent herein. Any construction/change/alteration has to be approved/sanctioned by the Authorities concerned. In the instant case there is neither approval nor sanction from the authorities concerned for the said illegal construction which is

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being sued for commercial purpose. That appellant may be directed to produce any such documents which support his claim that the said structure is legal and constructed/repaired by obtaining sanctions from concerned authorities as required as per Law.

That the respondent herein states that the house numbers if any allotted to the occupier of the structure is for the purpose of revenue and mere rendering house number for taxation purpose does not accord legality to the structure constructed without statutory sanctions required as per Law. That the appellant has failed to produce documents to show, the structure were constructed upon obtaining requisite permission. The documents relied by the appellant does not prove the case of the appellant. That the respondent herein submits that the structure which are in dispute are constructed after 1991 Notification and same falls within the CRZ III and within 200 mtrs of H.T.L. the illegal structure has been identified by the GCZMA and the respondent herein.

That the Respondent herein states that the appellant herein has not produce any document to show that the said structures were in existence prior to 1991 and if existed were constructed upon obtaining requisite permissions. The appellant is doing a commercial activity in the said structure for which the demolition Order was issued. The appellant has not produced any convincing document to prove his case. That the appellant has not taken permission to put up the said structure



and by putting these structures caused environmental damage.

The Coastal Regulation zone Notifications have been issued in the interest of protecting environment and ecology in the coastal area. Construction raised in violation of such regulations cannot be lightly condoned. That after report the Goa Coastal Zone Management Authority prepared upon examination and inspection along with the respondent herein it was found that the structures were illegal, unauthorized and without permission and thus the appellant was directed by respondent for demolition of structure as same were in violation of CRZ notification. The Respondent submits that unauthorized structure of construction without the permission of Competent Authority and in violation of the CRZ Notification and the structure being constructed in NDZ Zone thus the penalty relates to the unauthorized construction and the authority is competent to pass an order with demolition and hence the demolition Order dated 3.4.2024 to demolition is just, proper and very well justified within the scope of Goa Panchayat Raj Act 1994 and the same is not violative of Principles of Natural Justice.

I have carefully perused the record and proceedings in the present case, the appeal Memo, the reply filed by the Respondent-Panchayat and documents produced by both the parties. It is undisputed that the appellant is the owner of the property. In the past the respondent Panchayat has issued Notice-cum-Demolition Order under section 66(4) of the Goa



Panchayats Raj Act, 1994 dated 19.1.2009 under reference No.VP/ANJ-CAI/08-09/4659 with respect to the RCC structure for commercial use in Survey No.129/33, 34 and 35 without there being any resolution to that effect. And accordingly an Appeal has been filed before this Authority bearing Panchayat Appeal No.300/2009 who by its Order dated 15.2.2010 remanded the matter back to the Respondent to be decided a fresh.

Similarly another Notice cum Demolition Order under Section 66(4) of the Goa Panchayat Raj Act, 1994 dated 19.1.2009 under reference No.VP/ANJ-CAI/08-09/4656 was issued with respect to the structure for commercial Use in the Survey No.129/32 also without there being any resolution to that effect. Accordingly an appeal before Hon'ble Authority has been filed bearing Panchayat Appeal No.42/2010 who by its Judgement and Order dated 08.03.2020 remanded the matter back to the Respondent to be decided a fresh. Both Judgements are placed on record by the appellant. The appellant placed on record the letter bearing No.VP/ANJ-CAI/2010-2011/3081 dated 4.12.2010 issued by the respondent informed the appellant that the Panchayat has come to the conclusion that the structures existing in the properties bearing survey No.129/32, 129/33, 129/34 and 129/35 of Village Anjuna Bardez-Goa are constructed before the existence of CRZ Notification and thereby closed the matter in the year 2010 which has attained finality in the eyes of law. The Respondent however now is trying to re adjudicate its own Order/decision



which is not permitted under the law the same being clearly hit by doctrine of Res-Judicata.

The other aspect to consider and decide is that whether the construction of the structure to demolish an issue are existing structure and the same work with the knowledge of the Panchayat or same are illegal or not. It is pertinent to note here in the present matter is that the Panchayat by notice of its letter informed the appellant that the structure existing in the property bearing Survey No. 129/32, 129/33, 129/34 and 129/35 of Village Anjuna Bardez-Goa are constructed not only before the CRZ Notification and thereby closed the matter in the year 2010.

It is also not under dispute that the suit house has assessed with the Respondent-Panchayat who are issuing the House Tax receipt since last many years as also be available after seeking no objection Certificate from the Village Panchayat on the local authority and since the NOC for the Electricity and Water connection is issued by Village Panchayat such structures were with the knowledge of the Panchayat and therefore it cannot be said that suit structure is a new structure. So also the disputed structures are shown as existing in the Survey Plan therefore in my opinion such structure cannot be said to be new structures and hence they are old and existing structure.

In my opinion in any notice to be enforceable the structure



to which it is issued is to be identified so also while giving direction to demolish and particular said structure and the Survey No. wherein such structure to be identified properly for its legal enforcement and execution which is very much absent in present demolition Notice on the demolition Notice whereby direction was issued to demolish the structure is not identified so also the demolition Notice speak of three Survey Nos. i.e. 129/32, 33 and 35 in which demolition need to be carried out therefore said lacks proper identification and enhance the same is executable and considering the fact. I have already expressed my opinion in the Demolition Order cum Notice as bad in law. From the documents including the Survey Plan it is clear that the said structure is an old structure existing before the establishment of Panchayat and prior to the CRZ Notification of 1991. The perusal of the Survey Plan shows that the existence of house is reflecting therein it is common knowledge that the survey operation started somewhere in the year 1970-72. It means the subject structure was existing during the survey operation on all official Survey maps have a presumptive value.

The Hon'ble Supreme Court and various High Court in various Judgement have made it very clear that each and every unauthorized construction need not be demolished and it is for the authorities to decide which can be regularize and while deciding the same, the authorities should act as per the Law and decide the same on its own merits and Rules in force. They should also give opportunity of personal hearing to the affected parties and Principles and Natural Justice should be thoroughly



followed.

The Hon'ble Supreme Court of India in Syed Muzaffar Ali and others V/s Municipal Corporation of Delhi (1995 Supp. (4) S.C.C 426) in which it is not necessary that each and every illegal construction is required to be demolished and it is for the authorities to decide which are the cases which can be regularized or which are the cases which required for demolition.

It is evident from the documents placed on record that the subject structure is in existence since many years. There is no contrary evidence brought on record by the Respondent-Panchayat to show that the construction is a new construction. In view of the documentary evidence discussed above, the impugned Order appears to be unjust, improper and incorrect, I am therefore of the considered opinion that the ground which the impugned Order has been issued cannot be sustained.

In view of above, I am inclined to pass the following.

ORDER

The Appeal dated 03.05.2024 filed by the Appellant is partly allowed.

The demolition Order No.VP/ANJ-CAI/2024-25/40 dated 03.04.2024 issued by the Village Panchayat of Anjuna-Caisua



in respect to 2 nos. wooden structure with manglore tiles roofing and concrete plinth, 1 no. RCC structure (G+1), in the property bearing Survey No.129/32, 33, 35 of Village Anjuna, Bardez-Goa is hereby quashed and set aside and in respect of other structure 1 no. temporary shop block with GI sheet roofing is hereby upheld.

Panchayat is directed to take necessary steps to give effect to the demolition Order dated 3.4.2024 in respect to 1 No. temporary shop block with GI sheet roofing.

The appeal accordingly stand disposed off.

Pronounced in the open Court.

Given under my hand and seal of this Court on the 10th day of November, 2025.


(Joao Fernandes)
Addl. Director of Panchayats-I
Panaji-Goa.

