

**BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN
ZONE**

BENCH, PUNE AT PUNE

IN

APPEAL NO. 428/2025

IN THE MATTER OF:-

DIPIN SHRIDHAR MORZO

.... APPELLANT

Versus

GOA COASTAL ZONE MANAGEMENT

AUTHORITY & ANR.

....RESPONDENTS

INDEX

<u>SL. NO.</u>	<u>PARTICULARS</u>	<u>PAGE NO.</u>
1.	ADDITIONAL REPLY BY THE RESPONDENT NO. 5 FILED BY THE APPELLANT IN APPEAL NO. 428/2025 ALONG WITH AFFIDAVIT.	1-13
2.	<u>EXHIBIT R-1 (Colly)</u> The copy of the complaint vide dated 25/04/2022, along with the letter dated 14/07/2022 and the GCZMA letter vide dated 09/08/2022, along with the Surveyor report and color pics of the	14-37

	illegal construction done by the Appellant.	
3.	<u>EXHIBIT R-2</u> The copy of the Judgement vide dated 10/07/2018.	38-51

FILED THROUGH

**(ANKUR KUMAR & ASSOCIATES)**

Counsels for the Respondent No. 5

2nd Floor, Alankar Apartment,

St. Mary Colony, Miramar, Goa -403001

Mobile No. 9384503190

Email:-ankurtnnls.18@gmail.com

PLACE: Pune

DATE: 12/09/2025



**BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN
ZONE**

BENCH, PUNE AT PUNE

IN

APPEAL NO. 428/2025

IN THE MATTER OF:-

DIPIN SHRIDHAR MORZO

.... APPELLANT

Versus

GOA COASTAL ZONE MANAGEMENT

AUTHORITY & ANR.

....RESPONDENTS

**ADDITIONAL REPLY ON BEHALF OF RESPONDENT NO. 5 FOR
APPEAL FILED BY THE APPELLANT IN APPEAL NO. 428/2025.**

MOST RESPECTFULLY SHOWETH:

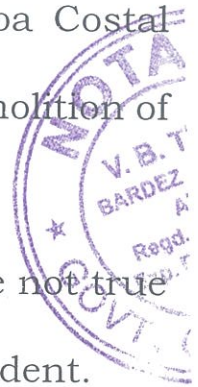
I, Shri. Anil Prabhakar Naik, S/o late Prabhakar Shambhoo Naik,
R/o - 64/F, Parel Village, Parel, Mumbai -400012, do hereby
solemnly affirm and state on oath as under:-

1. That I am the Respondent No. 5 and such I am well conversant with the facts and circumstances of the case and in that capacity I am duly competent to swear to the present affidavit.

2. That after carefully going through the Appeal filed on behalf of the Appellant, I am submitting the present Reply for kind consideration of this Hon'ble Tribunal.
3. I state that the Appellant has filed the present Appeal challenging the demolition direction bearing reference No. GCZMA/N/Ille-Compl/22-23/35/Part/IV/3732 dated 10/02/2025 passed by the Respondent No. 1 Goa Coastal Zone Management Authority (GCZMA) directing demolition of structure "Z4".
4. I state that the contentions raised in the Appeal are not true and correct and the same are denied by the Respondent.

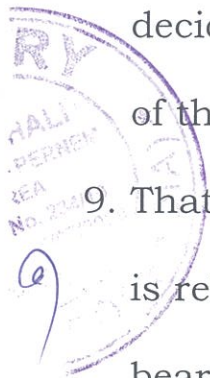
PRELIMINARY OBJECTIONS

5. That Appellant has not approached this Hon'ble Tribunal with a clean hand, therein tried to mislead this Hon'ble Tribunal by making wrong allegations and manipulated facts with the mala-fide intention to harass Respondents and to illegally grab Respondent No. 5 property.
6. The Respondent No. 5 would like to list out certain facts/developments, that the Respondent No. 5 is the rightful owner of the property bearing survey No. 119/3.
7. Further, the Respondent No. 5 hereby denies each and every allegation, contention, and submission contained in the



present under Appeal which is contrary to or inconsistent with the pleading that forms the part of the record hereunder.

8. At the further outset, the answering Respondent opposes the present appeal against the answering Respondent as it is humbly submitted that disputed questions of facts and incorrect facts stated in the appeal have to be determined and decided by the authorities examined on-site in the presence of the answering Respondent.



9. That the answering Respondent submits that the complaint is related to an illegal conversion of land use of the property bearing survey No. 119/3. That the Respondent No. 5 has filed complaint wherein he specifically mention the name of Mr. Vihal alias Dipin Shriodkar Morje vide dated 25/04/2022, thereafter further corrected the name vide letter dated 14/07/2022. That taking cognizance of the representation, the respondent No. 1 vide dated 09/08/2022 having ref No. GCZMA/ILLE-COMP1/22-23/35/973 issued a letter for the correction of name of the Appellant herein. The copy of complaint vide dated 25/04/2022 along with letter dated 14/07/2022 and GCZMA letter vide dated 09/08/2022 is marked and annexed as **EXHIBIT R-1 (Colly)**

4

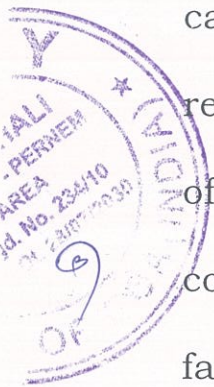
10. That the Respondent No. 5 despite filing the complaint in the name of Mr. Vishal alias Dipin Shridhar Morje, the Respondent No. 1 deliberately failed to issue the show cause notice vide dated 29/10/2024 and impugned order vide dated 10/02/2025 in the name of deceased father of the Appellant herein which not only creates serious doubt on the conduct of the Respondent No.1 and also causal approach adopted in the entire proceeding despite the direction of Hon'ble High Court of Bombay at Goa in WP No. 2146/2024 (F).
11. That in the said Appeal the Appellant till date have failed to bring on record the succession deed or inventory record before any authority and failed to prove that the Appellant is rightful legal heir in the present Appeal.
12. That Appellant has failed to file the present Appeal without proper cause title as the name of the present Appellant is not reflecting neither in show cause notice nor impugned order passed by Respondent No.1. That the present appeal is not maintainable before this Hon'ble Tribunal. That the Registry of this Hon'ble Tribunal failed to raise the objection of the cause title and the Appeal happened



to be listed before this Hon'ble Tribunal with defective cause title filed by the Appellant.

13. Though the Appellant is claiming that the house/structure is in the existence even prior to 1969 and he is a mundakar, however, till date he has not placed on record any supporting documents in his favour.

14. That there is an illegal use of land or illegal construction carried out by the Appellant in the suit Property, hence required to be removed in terms of provision of section 32(1) of the Land Revenue Code 1968. Admittedly there is no conversion Sanad produced on record by the Appellant. In fact, the suit property is owned by the answering Respondent and his family members. The Appellant has no right, title, or interest in the suit property neither Appellant name is reflecting in FORM I & XIV. The Appellant is only claiming to be a Mundkar on conflicted and wrong facts, hence there is no question of whether he qualifies to claim the right of Mundkarship nor whether he was a Mundkar in the CRZ area. Hence the Appellant has approached this Hon'ble Tribunal with the most unclean hands.



6

15. That the Appellant has made a false claim of Mundkarship as there was no existing structure in the plan of Sy. No. 119/3, as the appellant has annexed a false house tax certificate and electricity bill to the illegally constructed commercial structure, and now claims to be a Mundkar only to cover up his false and frivolous misdeed by illegal construction of the structure, which is in Survey No. 119/3.
16. The Respondent is the absolute co-owner and has inherited right in the concerned property from his Father Late Prabhakar Shambhoo Naik bearing survey No.119/3, Village Morjim, Goa.
17. Since the Respondent No. 1 on the complaint filed by Respondent No. 5 against the Appellant has violated the statutory provisions of law, the Show Cause Notice was wrongly issued to the Appellant's deceased father, despite filing the complaint in the name of Appellant by the Respondent No. 5.

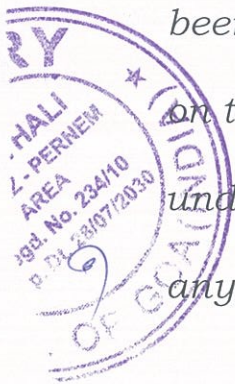
That the Hon'ble High Court of Bombay at Goa in WP No. 2146/ 2024 (F) vide dated 27/09/2024 observed that,

“By instituting the proceedings of this Writ Petition, a direction has been sought for expeditious disposal of the



complaint dated 25/04/2022 received in the office of Respondent No. 2 on 26/04/2022, regarding certain illegal constructions in violation of the CRZ Notification at properties bearing Survey Nos. 119/3 and 116/35 of Village Morjim, Pernem Taluka”

“Ld. Addl. Govt. Advocate, on instructions received from Respondent No. 2, has stated that by means of a notice of site inspection dated 26/09/2024, the date for site inspection has been fixed on 7th October, 2024. He further states that based on the site inspection, further action which may be warranted under law, shall be taken for removal of the constructions, if any, which are found to be illegal and unlawful”



“It is strange to note that a complaint made in April 2022 is being attended to after expiry of the period of more than 2 and half years i.e. in September, 2024. In the meantime, the constructions might have been carried out and no action to stop the constructions was taken. As a result, the possibility of such constructions having caused damage to the environment on account of violations of CRZ Notification, cannot be ruled out”.

8

"We, thus, call upon the Member Secretary of Respondent No. 2 to give explanation stating the reason as to why the complaint received in his office on 26/04/2022 has not been acted upon earlier i.e. before issuing the notice of site inspection on 26/09/2024. Such explanation shall be filed by Member Secretary of Respondent No. 2 by way of an affidavit by next date."

"We also direct that in the meantime, the site inspection shall be completed and permissible legal proceedings for removal of the illegal constructions, if any, shall also be proceed with expedition."

18. Subsequent upon receiving of the said show cause notice, the Appellant filed his reply wherein he has denied all the allegations levelled in the show cause notice and failed to bring on notice of the Respondent No. 1 the issue of name because the Appellant want to derail the matter on this ground.

19. That Respondent No. 5 States that he filed MCA No. 103/2017 before the Court of the District Judge-2, Mapusa, Goa, where the present Appellant is Respondent No. 2 before the Civil Court, Mapusa, thereby, while passing Judgement

vide dated 10/07/2018, the Hon'ble Court has strongly observed the following observation,

"10. It is the case of the Defendant No.2 in his reply that he is residing in the suit house as mundkar with a fixed habitation. The defendant No. 2 has admitted that the plaintiff is a co-owner of the suit property. The defendant No. 2 states that the house no. 1361 belongs to his late father Shridhar Morje, which is located in the suit property for last many years and that his father had obtained license for re-construction of the existing premises bearing No. 1361 in the suit property on 18.08.1986. In the said house the defendant No. 2 has only undertaken the work of plastering and minor patch-up work in the year 2015 and not in year 2016.



11. The Defendant No. 2 further states that the adjoining the house is a water well, which is open and by the side of the well the defendant no. 2 has his staircase to go the terrace. As there was danger of children falling in the Well, the defendant No. 2 has put bricks railing on the existing staircase to avoid the same.

10

20. The inspection Report of the expert Shri. S. A Dhuri Placed on record by the Plaintiff shows that the structures 'A', 'B' and 'C' and the septic tank and soak pit are newly constructed structure. In the report, it is confirmed that the three newly constructed structures 'A', 'B' and 'C' are newly constructed and the septic tank are all not indicated in the Survey plan of the suit property bearing Survey No. 119/3 which concludes that they are the new constructions.

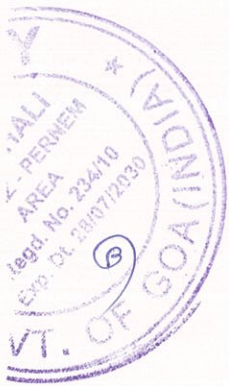
21. Perusal of the photographs annexed to the Inspection Report of the structures 'A', 'B' and 'C' clearly show that the same structures are altogether new structures and are not old structures which have been repaired or patch -up work done as sought to be contended by the defendants. No construction license has been produced by the defendants of the said new construction of the structures 'A', 'B' and 'C' and the septic tank.



22. "The contention of the defendant no. 2 that his house is assessed for tax purpose having electricity and water connection which shows that the house is existing since Portuguese regime, and the same is an old house which requires repairs and as such, the

defendant No.2 has only taken work of repairs in the year 2015, which is done within the Plinth area cannot be accepted, as the said house if at all was constructed during the Portuguese regime, would have been shown in the survey plan whereas, as per the Inspection Report of the expert, the said structures 'A', 'B' and 'C' and the septic tank are altogether new structures which are not found in the survey plan.

27. "As the Plaintiff has established a prima facie case, the application for temporary injunction has to be granted against the defendants. Being so, the impugned Order disallowing the application for temporary injunction as against the defendant No. 2 cannot be sustained. Accordingly, the defendants, their agents, servants, assignees, family members, and the other persons acting on their behalf, are thereby, restrained by way of temporary injunction from carrying out illegal construction and are further restrained from continuing with the said illegal constructions in survey no. 119/3 of village Morjim, Pernem, Goa."



The copy of Judgement vide dated 10/07/2018 is marked and annexed as **EXHIBIT R-2**.

20. That the Appellant has no permission for the construction from owner of the suit property, and there is no plinth in the approved plan made by the Directorate of Settlements and Land record, Govt. of Goa, wherein the Appellant is is not only the violator of CRZ rules carrying illegal commercial activities but he is also engaged in all sorts of other immoral activities such as illegal clubs, dance bar, drugs, and prostitution in the said illegal commercial structures.

PRAYERS

- a. In the light of the above Objection, the Respondent pray that strict action should be taken against the Appellant for misleading and constructing illegal structures in Survey No. 119/3 and Respondent No. 1 for issuing a show cause notice and the impugned order in the name of the Appellant's deceased father; henceforth, the present Appeal should be dismissed in limine;
- b. Impose heavy cost on Respondent No. 1 for issuing show cause notice and impugned order in the name of Appellant

deceased father, despite bringing to the notice to the Respondent No. 1;

c. Grant further relief that this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

Apnaik

RESPONDENT NO.5

Ankur K
(ANKUR KUMAR & ASSOCIATES)

Counselors for the Respondent No. 5

2nd Floor, Alankar Apartment,

St. Mary Colony, Miramar, Goa -403001

Mobile No. 9384503190

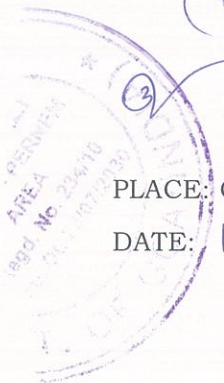
Email:-ankurtnls.18@gmail.com

FILED THROUGH

Read over and identified by me

Ignes

(Adv Manuel D'Souza)



PLACE: Goa

DATE: 12/09/2025

Solemnly affirmed before me by Ankur K
Prabhakar Naik
Who has been identified by Adv,
Manuel D'Souza
Who is known to me personally
Mapusa / Pernem on 12/09/2025

V.B. Thali

V.B. THALI
Notary, Bardez & Pernem Goa



Serial No. 2110 / 2025

From:

Mr. Anil Prabhakar Naik
Resident of 64/F Parel Village,
Parel Mumbai- 400012

Dated: 25th April' 2022

To, The Member Secretary
Goa Coastal Zone Management Authority
Having office at Patto Panaji, Goa.

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

Sub: Complaint against Mrs Lourdin D'Silva, Mr. Kundan Shashikant Morje, Mr. Vishal alias Dipin Shriodkar Morje, Mr Trivikram Jaidev Morje & Mr. Shamsundar Ramnath Bhosle alias Vagalkar, Dilip Mangesh Morje, one Mrs. D'Souza, and her family members all resident of Temb-Wada, Morjim Pernem Goa for carrying out illegal and unlawful constructions in utter Violation of CRZ rules (Goa Coastal Zone Management Authority) in the property bearing Survey no. 119/3 of Village Pernem-Goa.

Sir,

1. I am the co- owner of the property known as Temb-wada bearing Survey no. 119/3, admeasuring an area of 16240 sq. mtrs. situated in Morjim, Pednem-Goa and is bounded as under:

North: by property bearing Survey nos. 119/3;

South: by property bearing survey no 119/4 and 119/4A;

East: by road;

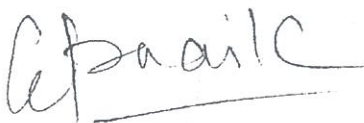
West: by property bearing Survey no. 119/3A.

2. By this complaint I am complaining against Mrs Lourdin D'Silva, Mr. Kundan Shashikant Morje, Mr. Vishal alias Dipin Shridhar Morje, Mr Trivikram Jaidev Morje & Mr. Shamsundar Ramnath Bhosle alias Vagalkar, Dilip Mangesh Morje , one Mrs. D'Souza, and her family member all resident of Temb- Wada, Morjim Pernem Goa for carrying out illegal and unlawful constructions in utter Violation of CRZ rules (Goa Coastal Zone Management Authority) in the property bearing Survey no. 119/3 of Village Morjim Pernem Goa and are also and carrying out commercial business therein and have also brought and placed in the property construction materials in order to carry out further construction therein.
3. As you are aware that the above referred property is defined as Eco Sensitive Turtle Nesting Area and on this ground as well they are not entitled to carry out any illegal and unlawful constructions since the above referred property is situated within within 300 mtrs. High tide line and is listed as a Non Development Zone.
4. That such illegal Acts of carrying out illegal construction, encroachment, extensions after extensions are contrary to the CRZ rules are illegal and liable to be demolished by taking immediate action in the matter and restoration of the land to its original condition.

You are therefore requested to take immediate action on the said matter.

Thanking you,

Yours faithfully,



Mr. Anil Prabhakar Naik

Mr. Anil Prabhakar Naik
Resident of 64/F Parel Village,
Parel Mumbai-400012
Dated: 14/07/2022

To, The Member Secretary
Goa Coastal Zone Management Authority
Having office at Patto Panaji, Goa.

Secretary
Goa Coastal Zone Management Authority
Patto Panaji, Goa - 403001
14/07/2022

Sub: Refer to my complaint dated 25/04/2022 filed against Mrs Lourdin D'Silva, Mr. Kundan Shashikant Morje, Mr. Vishal alias Dipin Shridhar Morje, Mr Trivikram Jaidev Morje & Mr. Shamsundar Ramnath Bhosle alias Vagalkar, Dilip Mangesh Morje, one Mrs. D'Souza, and her family members all resident of Temb-Wada, Morjim Pernem Goa .

Sir,

1. I had lodged a complaint dated 25/04/2022 in respect of the property bearing survey no. 119/3 of Village Pernem-Goa against above persons on account of illegal and unlawful construction being carrying out in utter Violation of CRZ rules.

2. In the said complaint there is a clerical error in typing the middle name of Mr. Vishal alias Dipin Shridhar Morje whose middle name is wrongly typed as Shirodkar Morje instead of Shridhar Morje.

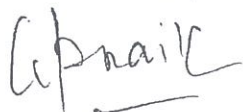
You are therefore requested to kindly read his full name as **Mr. Vishal alias Dipin Shridhar Morje** in the following manner.

"Mr. Vishal alias Dipin Shridhar Morje"

Besides the above correction, there are no other correction in the letter and you are kindly requested to take immediate action against CRZ Violators and obliged.

Thanking You

Yours Faithfully



Mr. Anil Prabhakar Naik

406

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Environment (Govt. of Goa)
4th Floor, Dempo Tower, Patto Plaza,
Panaji - Goa- 403001
email:www.czma.goa.gov.in

Date: 08/08/2022

Ref. No. GCZMA/N/ILLE-COMPL/22-23/35/389

To,
The Chairman,
District Level Committee,
Office of the Collector (North),
Collectorate Building, Panaji-Goa.

Sub: Refer to my Complaint dated 25/04/2022 filed against Mrs. Lourdin D'Silva, Mr. Kundan Shashikant Morje, Mr. Vishal alias Dipin Shirodkar Morje, Mr. Trivikram Jaidev Morje & Mr. Shamsundar Ramnath Bhosle alias Vagalkar, Dilip Mangesh Morje, one Mrs. D'Souza and her family members all resident of Temb-Wada, Morjim Pernem Goa.

Ref.:- 1) Order no. 2-18-2016/ENVT/425 dated 14/09/2017.
2) Ref. No. GCZMA/N/ILLE-COMPL/22-23/35/389
3) Letter Dated 15/07/2022.


Sir,

The Office of the Goa Coastal Zone Management Authority is in receipt of a letter dated 15/07/2022 from Anil Prabhakar Naik, wherein he has stated that there was a clerical error in typing the middle name of Mr. Vishal alias Dipin Shridhar Morje whose name was wrongly typed as Mr. Vishal alias Dipin Shirodkar Morje instead of Shridhar Morje. (copy of the said complaint letter dated 15/07/2022 is enclosed herewith for your reference).

The initial complaint dated 25/04/2022 has been forwarded to your office vide letter ref. no. GCZMA/N/ILLE-COMPL/22-23/35/389.

Encl.: As above

Yours faithfully,


(Dasharath M. Redkar)
Member Secretary, GCZMA

Copy to:

✓ Anil Prabhakar Naik,
R/o. H.No. 64/F,
Parel Village,
Parel Mumbai.

S. A. DHURI

B. ARCH. (BOM), A.I.I.A., F.I.V.

ARCHITECT & GOVT. APPROVED VALUEROFFICE NO. B - 203/205, 2ND FLOOR, SALDANHA BUSINESS TOWER,
OPP. ST. MARY SCHOOL, NEAR COURT, MAPUSA, GOA - 403 507.

18

Ref. No. : _____

Date : _____

18/1/2017

INSPECTION REPORT

This Inspection Report is prepared at the request of Mr. Anil P. Naik R/o Parel Mumbai, for the purpose of indicating the newly constructed structures Viz structure 'A', structure 'B', structure 'C' and the septic tank and soak pit constructed on the plot bearing Survey No. 119/3 of Morgim Village of Pernem Taluka.

I was furnished the following documents:

- 1) Original copy of Survey Plan pertaining to the property bearing Survey No. 119/3 of Morgim Village of Pernem Taluka.
- 2) Original copy of Form No. I & XIV pertaining to the property bearing Survey No. 119/3 of Morgim Village of Pernem Taluka.

I have inspected the above said property bearing Survey No. 119/3 of Morgim Village on 16/1/2017 in presence of Mr. Anil Naik who showed me the same. I have identified this property from the boundaries, shape and existing structures on loco as per Survey plan of property bearing Survey No. 119/3. I have also inspected the newly constructed namely structure 'A', structure 'B' and structure 'C' and the septic tank/soak pit constructed on this property. I have taken the photographs of the above said newly constructed structures on this site. I have prepared a Site plan to scale 1:500 showing the existing structures as well as newly constructed structures on this property. The above said photographs and the Site plan is enclosed herewith this Report and is part and parcel of my Inspection Report. Accordingly I have to state the following:



S. A. DHURI B. ARCH. (BOM), A.I.I.A., F.I.V.**ARCHITECT & GOVT. APPROVED VALUER**

OFFICE NO. B - 203/205, 2ND FLOOR, SALDANHA BUSINESS TOWER,
OPP. ST. MARY SCHOOL, NEAR COURT, MAPUSA, GOA - 403 507.

19

Ref. No. : _____

Date : _____

- 2 -

- 1) There are all 12 existing structure on the property bearing Survey No. 119/3 of Morjim Village of Pernem Taluka as can seen as the relevant Survey plan and same is indicated in dotted line and delineated in blue colour on site plan enclosed herewith this Report.
- 2) Apart from this I have found that there are newly constructed permanent structures which I names named as structure 'A', structure 'B' and structure 'C' and the septic tank/soak pit on the Site plan. These structures are indicted in full line and delineated in red colour on the Site plan enclosed herewith this Report.
- 3) The structure 'A' is a RCC framed structure with laterite stone walls plastered and having RCC flat slab over it. It admeasures approximately 9.00Mts by 10.00mts having a porch of about 2.00mts by 3.00Mts. It has also a RCC staircase leading the open terrace above and touches the existing drinking water wall.
- 4) The structure 'B' is a permanent load bearing structure with laterite stone walls, plastered and painted and having part Ac sheet roof and part G.I sheet over it. It admeasures approximately 4.00Mts by 7.00mts.
- 5) The structure 'C' is a permanent toilet block with laterite stonewalls and RCC flat slab over it. It measures approximately 2.80mts and is detached and located at a distance of about 15mts from newly constructed structure 'A'.
- 6) The newly constructed Septic tank has RCC slab cover it and has Soak pit next to it. It is located at a distance of approximately 10mts from the existing drinking water well.



...3/-

S. A. DHURI

B. ARCH. (BOM), A.I.I.A., F.I.V.

ARCHITECT & GOVT. APPROVED VALUEROFFICE NO. B - 203/205, 2ND FLOOR, SALDANHA BUSINESS TOWER,
OPP. ST. MARY SCHOOL, NEAR COURT, MAPUSA, GOA - 403 507.

Ref. No. : _____

Date : _____

- 3 -

I further confirm that three newly constructed permanent structures 'A' 'B' 'C' and S.T are not indicated in the Survey plan of the property bearing Survey No. 119/3 and can be easily concluded that they are new constructions.

I end my Report with above findings.



Sign. of Reg. Architect & Govt. Approved Valuer

S. A. DHURI

B. ARCH (BOM), A.I.I.A., F.I.V.

Architect & Govt. Approved Valuer

Office No. B - 203/205, 2nd Floor,

Saldanha Business Tower

Near Court Junction, Mapusa - Goa



S. A. DHURI

B. ARCH (BOM), A.I.I.A., E.I.V.

Architect & Govt. Approved Valuer

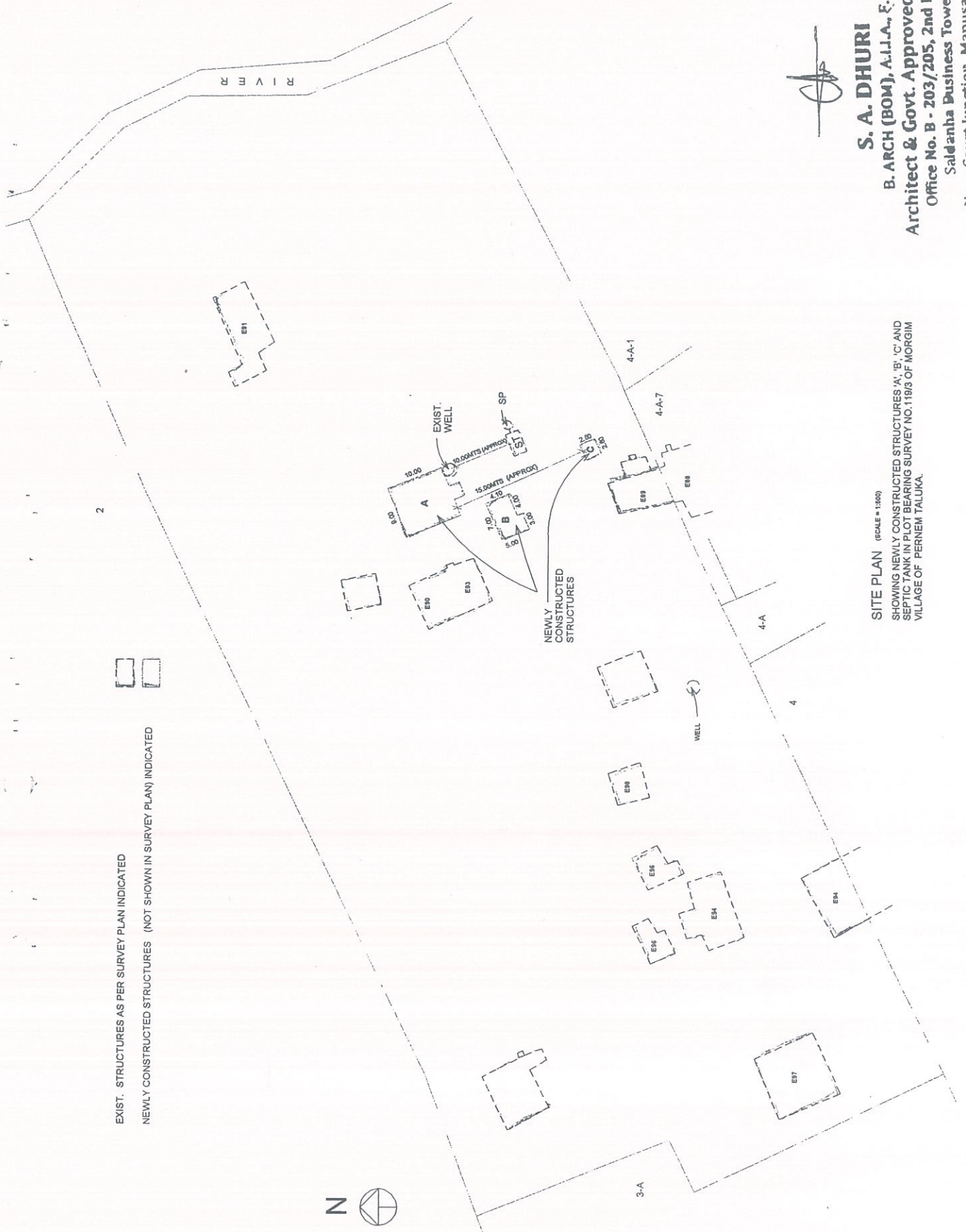
Office No. B - 203/205, 2nd Floor,

Saldanha Business Tower

Near Court Junction, Mapusa - Goa

EXIST. STRUCTURES AS PER SURVEY PLAN INDICATED

NEWLY CONSTRUCTED STRUCTURES (NOT SHOWN IN SURVEY PLAN) INDICATED



SITE PLAN (SCALE = 1:500)

SHOWING NEWLY CONSTRUCTED STRUCTURES 'A', 'B', 'C' AND SEPTIC TANK IN PLOT BEARING SURVEY NO.119/3 OF MORGIM VILLAGE OF PERNEM TALUKA.



FORM I & XIV

नमुना नं १ व १४

100005337501

Date : 07/03/2016

Page 1 of 2

Taluka PERNEM

तालुका

Survey No. 119

Village Morgim

सर्वे नंबर

गांव

Sub Div. No. 3

Name of the Field पिराचे खाजण

हिस्सा नंबर

शेताचें नांव

Tenure

सत्ता प्रकार

Cultivable Area (Ha.Ars.Sq.Mtrs) लागण क्षेत्र (हे. आर. चौ. मी.)

Dry Crop जिरायत	Garden बागायत	Rice तरी	Khajan खाजन	Ker केर	Morad मोरड	Total Cultivable Area एकूण लागण क्षेत्र
0000.00.00	0001.52.96	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0001.52.96

Un-cultivable Area (Ha.Ars.Sq.Mtrs) नापिक क्षेत्र (हे. आर. चौ. मी.)

Pot-Kharab पोट खराब

Remarks शेरा

Class (a) वर्ग (अ)	Class (b) वर्ग (ब)	Total Un-Cultivable Area एकूण नापिक जामीन	Grand Total एकूण
0000.07.60	0000.01.84	0000.09.44	0001.62.40

Assessment : आकार	Rs. 0.00	Foro फोर	Rs. 0.00	Predial प्रेदियाल	Rs. 0.00	Rent रेंट	Rs. 0.00
----------------------	----------	-------------	----------	----------------------	----------	--------------	----------

S.No.	Name of the Occupant कब्जेदाराचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेरा
1	प्रभाकर शंभू नाईक	790		

S.No.	Name of the Tenant कुळाचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेरा
1	-----Nil-----			

OFFICER IN CHARGE
LAND RECORDS
VIDE GOVERNMENT ORDER
26/1/2004 (7376)
DATED 27/03/2004
Ethix Infosys Private Limited
Place: Mapusa-Goa



FORM I & XIV

नमुना नं १ व १४

Date : 07/03/2016

Page 2 of 2

Taluka PERNEM

Survey No. 119

तालुका

सर्वे नंबर

Village Morgim

Sub Div. No. 3

गांव

हिस्सा नंबर

Name of the Field पिराचे खाजण

Tenure

शेताचें नांव

सत्ता प्रकार

Other Rights इतर हक्क Name of Person holding rights and nature of rights: इतर हक्क धारण करणा-याचे नांव व हक्क प्रकार	Mutation No. फेरफार नं	Remarks शेरा
काशीनाथ विष्णू मोर्जे यांचे घर काशीनाथ विष्णू मोर्जे यांचा मांगर 2282 गणपत राजाराम मोर्जे घर आहे वालेत बनराज यांचे घर आहे वालेत बनराजा यांचे खोप आहे मालकांचे घर आहे मंगेश मोर्जे यांचे घर आहे विष्णू लक्ष्मण हळणकर घर आहे पांडूरंग सखाराम हळणकर तुकाराम सातु गांवकर दत्ताराम सखाराम हळणकर रामनाथ वाघाळकर शिवा कृष्णा हळणकर Shashikant Rajaram Morje owns his residential house and hut.	3082	

Details of Cropped Area पिकाखालील क्षेत्राचा तापशील

Year वर्ष	Name of the Cultivator लागण करणा-याचे नांव	Mode रीत	Season मौसम	Name of Crop पिकाचे नांव	Irrigated	Unirrigated	Land not Available for cultivation नपिक जमीन		Source of irrigation सिंचनांचा प्रारि	Remarks शेरा
					बागायत Ha.Ars.Sq.Mts हे. आर. चौ. मी.	जिरायत Ha.Ars.Sq.Mts हे. आर. चौ. मी.	Nature प्रकार	Area क्षेत्र Ha.Ars.Sq.Mts हे. आर. चौ. मी.		
1983-8 4				बागायत	0000.00.00	0000.00.00		0000.00.00		

End of Report

For any further inquires, please contact the Mamlatdar of the concerned Taluka.

IN CHARGE
 LAND RECORDS
 DEPARTMENT
 GOVERNMENT ORDER
 (1379)
 13/03/2016
 ERMIX Inform Private Limited
 Place: Mapusa-Goa

413

24

STRUCTURE 'A'



STRUCTURE 'B'



S. A. DHURI
B. ARCH (BOM), A.I.I.A., F.I.V.
Architect & Govt. Approved Valuer
Office No. B - 203/205, 2nd Floor,
Saldanha Business Tower
Near Court Junction, Mapusa - Goa

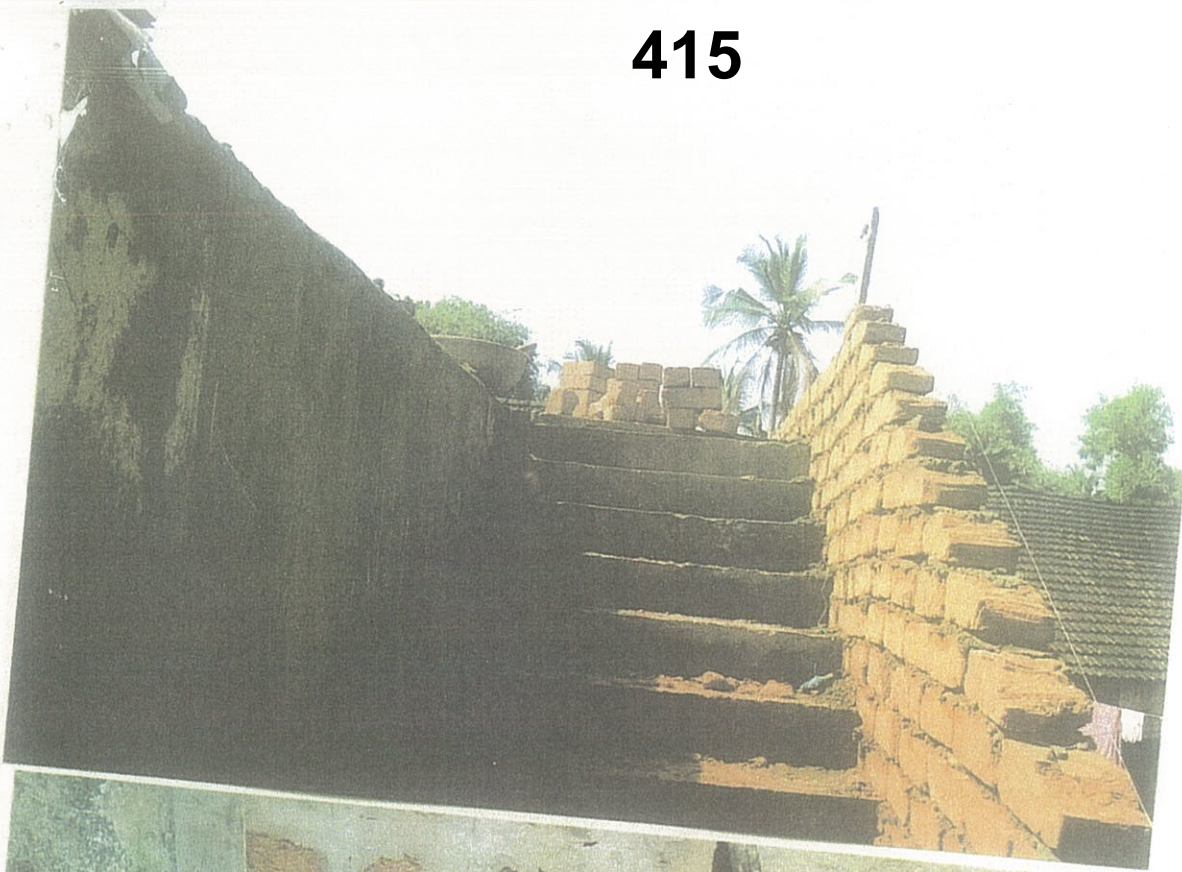
414

STRUCTURE 'C'

25



S. A. DHURI
B. ARCH (BOM), A.I.I.A., F.I.V.
Architect & Govt. Approved Valuer
Office No. B - 203/205, 2nd Floor,
Saldanha Business Tower
Near Court Junction, Mapusa - Goa



Thiruvananthapuram



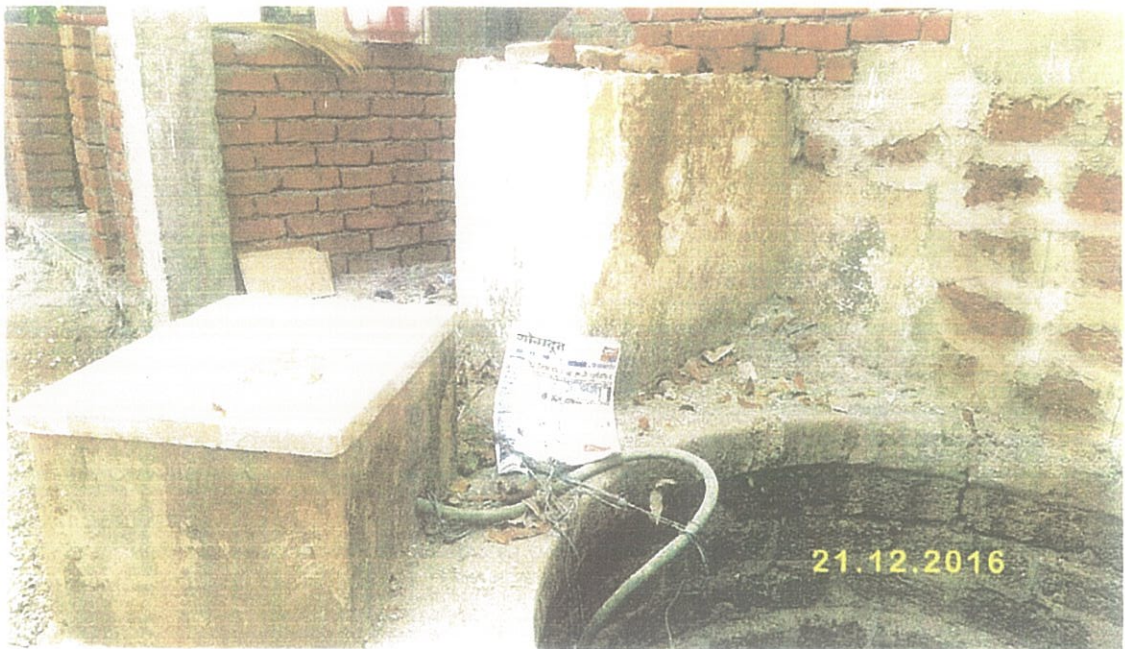
Thiruvananthapuram E



1. Kolar - N/A



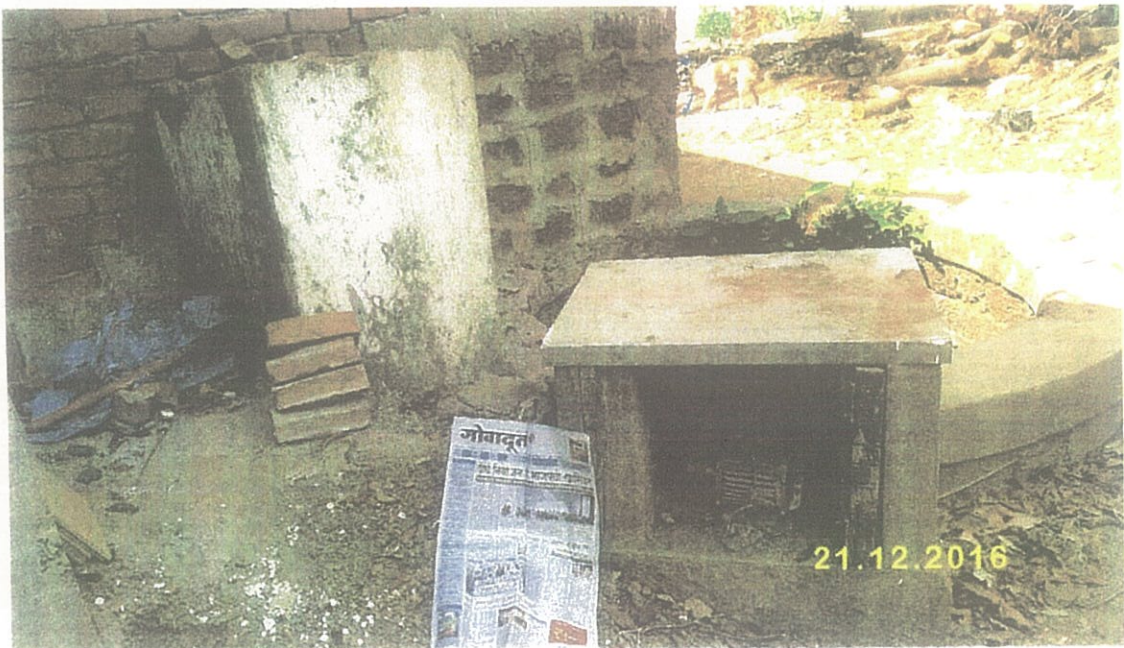
1. Kolar - N/A



P'holagpur No 1

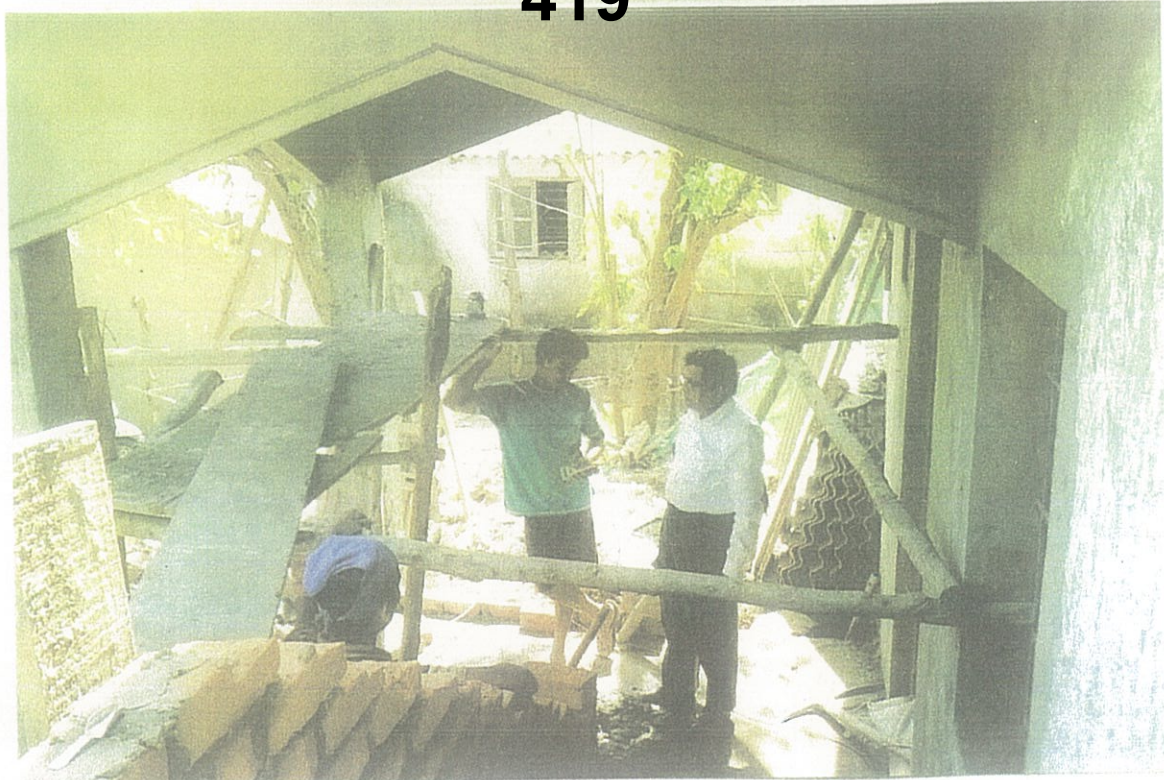


P'holagpur No 2



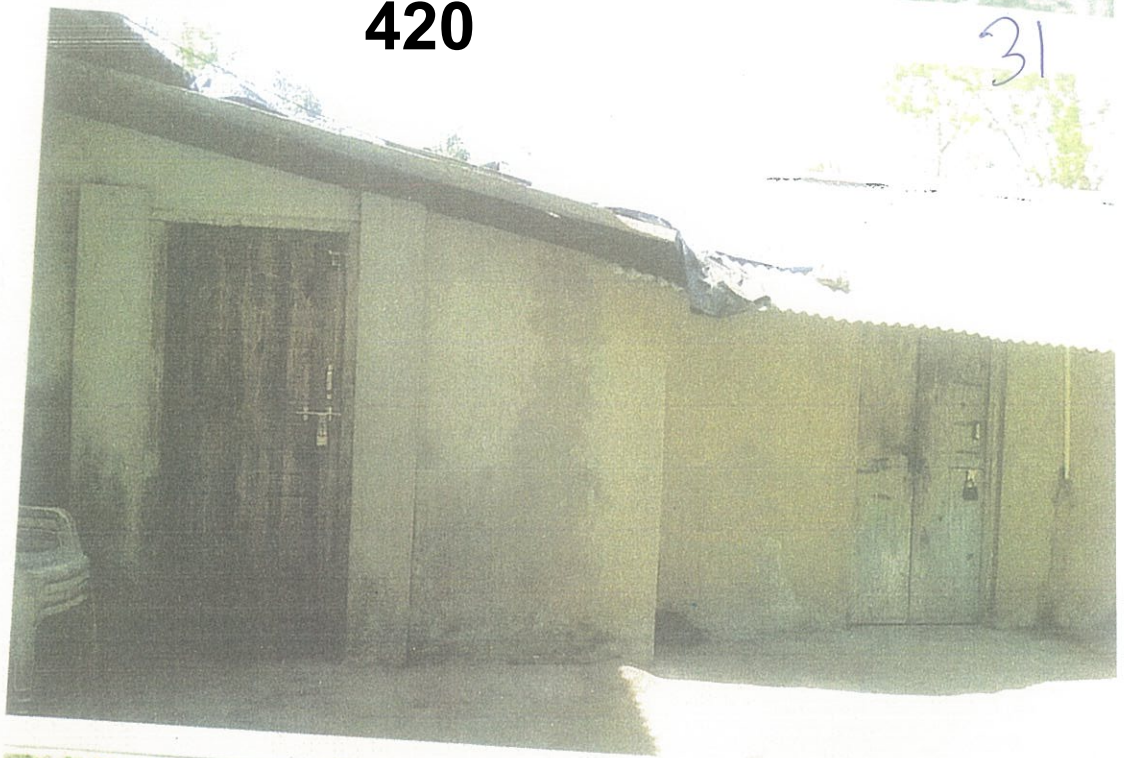
419

30



420

31



421

32



422

33



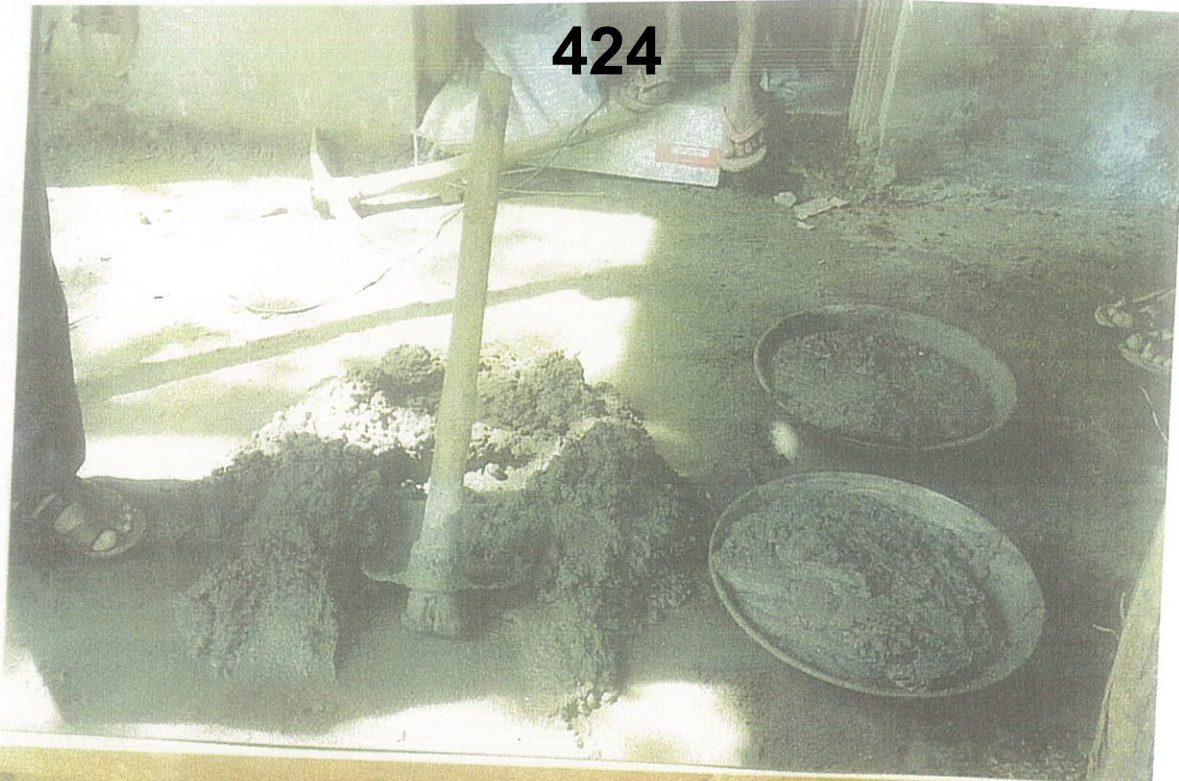
423

34



424

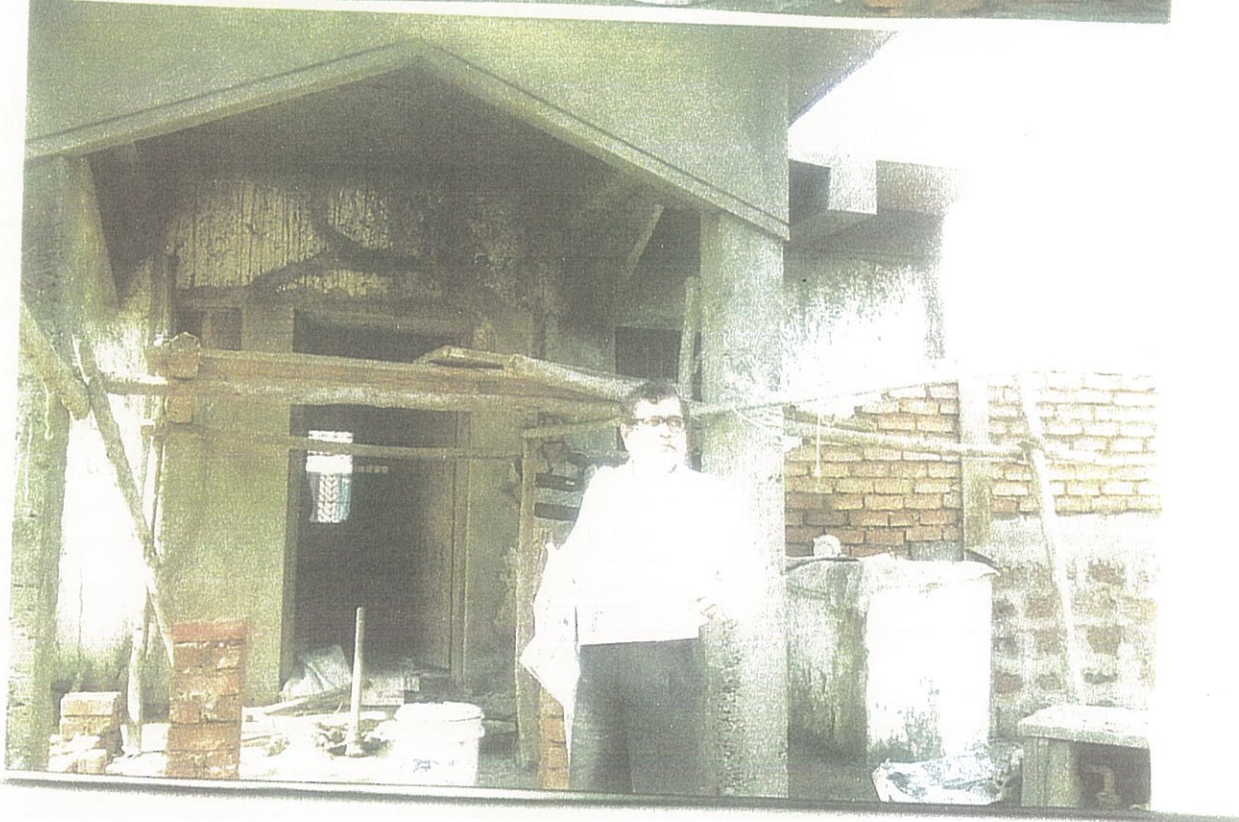
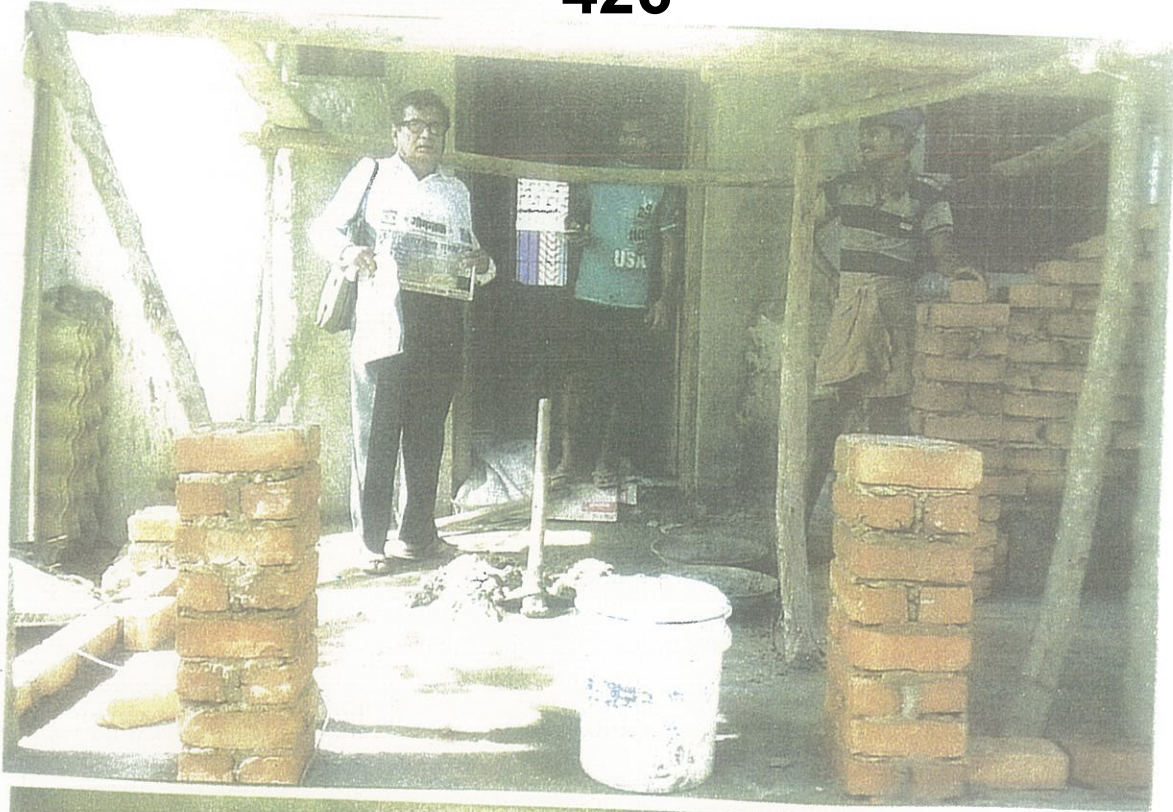
35



425

36





Presented on : 05.09.2017
Registered on : 06.09.2017
Decided on : 10.07.2018
Duration: : Ys. Ms. Ds.

- 10 4

CNR: GANG01-002418-2017

IN THE COURT OF THE DISTRICT JUDGE-2, MAPUSA

(Before Mr. Ashley L. C. Noronha, District Judge-2, Mapusa-Goa.)

Miscellaneous Civil Appeal No. 103/2017

Mr. Anil Prabhakar Naik,
65 years of age,
Son of late Mr. Prabhakar
Shambhoo Naik,
resident of 64/F, Parel Village,
Parel, Mumbai – 400 012,

... Appellant/original
plaintiff.

V e r s u s

39

1. Mr. Kundan Shashikant Morje,
Major of age,
Son of late Shashikant Rajaram Morje,
Resident of Tembwada,
Morjim, Pernem, Goa.
2. Mr. Vishal alias Dipin Shridhar Morje,
Major of age,
Son of Shridhar Morje,
Resident of C/o. Prashant Morje,
Tembwada, Morjim,
Pernem, Goa. ... Respondents

Learned Advocate Shri S. Chodankar for the Appellants

Learned Advocate Shri A. Gawandi for the Respondent no.1.

Learned Advocate Shri V. J. Pandit for the Respondent no.2.

J U D G M E N T

(Delivered on this the 10th day of the month of July, of the year 2018.)

This appeal has been preferred by the appellant challenging the impugned Order dated 3.8.2017 passed by the learned Civil Judge, Junior Division at Pernem, in Regular Civil Suit no. 88/2016, whereby the temporary injunction application filed by the plaintiff against the defendants came to be partly dismissed as against the defendant no.2.

2, The appellant is the original plaintiff and the respondents are the original defendants. The parties shall be referred to as per their status before the Trial Court for the sake of convenience.

3. Being aggrieved by the impugned Order dated 3.8.2017 the appellant has preferred the present appeal on the following amongst other grounds:

- (a) That the impugned Order is bad in law as well as on facts;
- (b) The impugned Order is passed without considering the oral and documentary evidence produced on record;
- (c) The impugned Order suffers from non-application of mind;
- (d) The learned Trial Court ought to have considered that the defendants have not produced any documents to prima facie prove that they had any right over the suit property;
- (e) The learned Trial Court ought to have held that the defendants have no right to carry out any construction in the plaintiff's property;
- (f) The learned Trial Court ought to have held that the rights of the plaintiff will get affected in case the injunction is not granted;
- (g) The learned Trial Court ought to have held that the plaintiff is entitled to the relief of injunction, and therefore, balance of convenience tilts in favour of the plaintiff;
- (h) The learned Trial Court failed to consider the Inspection Report and the Plan prepared by the expert, Shri S. A. Dhuri identifying the suit illegal construction.
- (i) The impugned Order is perverse and illegal, and is liable to be quashed and set aside.

41

4. Arguments heard. Learned Advocate Shri S. Chodankar argued for the appellant and filed written submissions at exhibit 8. Learned Advocate Shri A. Gawandi argued for the respondent no.1 and filed written submissions at exhibit 7. Learned advocate Shri V. J. Pandit argued for the respondent no.2 and filed written submissions at exhibit 9.

5. The points for my determination and my findings on the same are as under:

	Points for Determination	Findings
(a)	Whether the plaintiff has made out a prima facie case ?	... In the affirmative
(b)	Whether balance of convenience tilts in favour of the plaintiff ?	... In the affirmative
(c)	Whether irreparable loss will be caused to the plaintiff if injunction as sought is not granted?	... In the affirmative
(d)	Whether the impugned Order dated 3.8.2017 to the extent of partly dismissing the application for temporary injunction as against the defendant no.2 is to be quashed and set aside, and the injunction application is to be granted in favour of the plaintiff ?	... In the affirmative

REASONS**Point (a) :**

6. It is the case of the plaintiff that the name of his late father Shri Prabhakar Shambhoo Naik is recorded in the occupant's column, of Form I & XIV of the suit property bearing survey no. 119/3 of Village Morjim, Pernem, Goa. It is the plaintiff's case that he is residing in Mumbai and occasionally is visiting Goa. On 30.11.2016 the plaintiff had visited the suit property and was shocked and surprised to see that the defendants have illegally and unlawfully and without having any right, have dumped construction materials such as sand, etc., in the suit property and also carried out altogether new construction in the suit property. The construction work is going on in full speed against the rights of the plaintiff.

7. The plaintiff has clicked the photographs of the illegal construction. The plaintiff while clicking the photographs had enquired with the labourers who were carrying out the illegal construction, who informed him that the defendant no.1 has carried out the construction of the new toilet and a room next to his house, as shown in photograph nos. 1 and 2.

43

8. On inquiry, it was further informed that the defendant no.2 is a paying guest of the defendant no.1, and that defendant no.2 is carrying out all together a new construction of a house, as presently he is not having any house of his own, and that they have been engaged by the defendant no.2 to carry out the construction of a new house which has been constructed on the water Well wall and have not obtained any construction licence or permission from the competent authorities. The plaintiff states that the said illegal house is seen in photograph nos. 7 to 14 produced on record.

9. The defendant no.1 in his reply has stated that he does not wish to do any construction in the suit property and that the application for temporary injunction may accordingly be decided.

10. It is the case of the defendant no.2 in his reply that he is residing in the suit house as mundkar with a fixed habitation. The defendant no.2 has admitted that the plaintiff is a co-owner of the suit property. The defendant no.2 states that the house no. 1361 belongs to his late father Shridhar Morje, which is located in the suit property for last many years and that his father had obtained license for re-construction of the existing premises bearing no. 1361 in the suit property on 18.8.1986. In the said house the defendant no.2 has only undertaken the work of plastering and minor patch-up work in the year 2015 and not in the year 2016.

11. The defendant no.2 further states that the adjoining the house there is a water Well, which is open and by the side of the Well the defendant no.2 has his staircase to go to the terrace. As there was danger of children falling in the Well, the defendant no.2 has put bricks railing on the existing staircase to avoid the same.

12. The plaintiff in rejoinder has denied the case of the defendant no.2.

13. The learned Advocate for the plaintiff/appellant has submitted that the Trial Court failed to consider the documents produced by the plaintiff. Learned Advocate for the plaintiff submitted that the learned Trial Court erred in holding that the late father of the defendant no.2 has his house bearing no. 1361 in part of the suit property much prior to the filing of the suit, and that the non-production of the repair license by the defendant no.2 cannot be said to be fatal to his case, when infact unless he purchases the mundkarial area they have no right to carry out construction in the suit property, and in the present case, the defendant no.2 is a mundkar of the suit house.

14. Learned Advocate Shri A. Gawandi for the defendant no.1 submitted that the defendant no.1 has not done any illegal

45

construction of the room and toilet. Shri Gawandi submitted that the said room and toilet are existing from the time of his father and that only repair work has been done in respect of the toilet as urgent repair was required to be done for the said room. Shri Gawandi therefore, submitted that the plaintiff is not entitled to any temporary relief as against the defendant no.1, as there is no new construction of defendant no.1. He further submitted that even assuming that the construction of a toilet and room is new, then the same is in completion stage, and as such, no relief can be granted as sought by the plaintiff, as the structure is already completed before filing of the suit and the plaintiff was not diligent in approaching the Court for the relief of temporary injunction, and as such, no prima facie case has been made out by the plaintiff.

15. Learned Advocate Shri V. J. Pandit for the defendant no.2 submitted that the said house being an old structure, required repairs and as such, the defendant no.1 has only undertaken the work of plastering and minor patch-up work in the year 2015 and not in the year 2016, as alleged by the plaintiff. Shri Pandit submitted that the work of repairs/patch-up work is completed, except the plastering of the railing bricks and other minor plastering work is yet to be completed. Shri Pandit submitted that the alleged photographs relied upon by the plaintiff also prove the existence of the house of the defendant no.2, which is an old structure and only

the bricks and railing are erected on the existing staircase. Learned Advocate for the plaintiff submitted that the defendant no.2 had put up bricks and railing on the existing staircase to go to the terrace of the house, as there was danger of the children falling in the Well. Learned Advocate Shri Pandit further submitted that there is an inordinate delay in the filing of the suit and the application for temporary injunction.

16. In support of his submissions, learned Advocate for the defendant no.2 has placed reliance in the case of **M/s Fomento Resorts & Hotels Ltd. Vs. Dr. Amilcar Cunha Souza , 1999 (1) Goa L. T. 156**, wherein it has been held that non-explanation for delay in approaching the Court to seek equitable relief is hit by latches on the ground of delay and latches alone, the application for temporary injunction is liable to be dismissed.

17. Shri Pandit therefore submitted that if the application for temporary injunction is granted, grave prejudice will be caused to the defendant no.2.

18. It is not in dispute that the defendant no.1 who had denied the title of the plaintiff has given in writing on the application for temporary injunction that he will not do any

47

construction in the suit property and therefore, the learned Trial Court has rightly granted the temporary injunction, as far as the defendant no.1 is concerned. Therefore, the submission of the defendant no.1/respondent no.1 in the appeal, that there is no new structure and that if at all the construction of the toilet and room is new, the same is in completion stage, and as such no relief can be granted, as the same has been completed before the filing of the suit cannot be accepted.

19. In so far as the defendant no.2 is concerned, the defendant no.2 has admitted that the plaintiff is the co-owner of the suit property. The case of the defendant no.2 is that he has only done repairs and patch-up work and that the construction undertaken by the defendant no.2 is not a new construction.

20. The Inspection Report of the expert Shri S. A. Dhuri placed on record by the plaintiff shows that the structures 'A', 'B' and 'C' and the septic tank and soak pit are newly constructed structures. In the report, it is confirmed that the three newly constructed structures 'A', 'B' and 'C' are newly constructed and the septic tank are all not indicated in the survey plan of the suit property bearing survey no.119/3 which concludes that they are the new constructions.

21. Perusal of the photographs annexed to the Inspection Report of the structures 'A', 'B' and 'C' clearly show that the same structures are altogether new structures and are not old structures which have been repaired or patch-up work done as sought to be contended by the defendants. No construction license has been produced by the defendants of the said new construction of the structures 'A', 'B' and 'C' and the septic tank.

22. The contention of the defendant no.2 that his house is assessed for tax purpose having electricity and water connection which shows that the house is existing since Portuguese regime, and as the same is an old house which requires repairs and as such, the defendant no.2 has only taken work of repairs in the year 2015, which is done within the plinth area cannot be accepted, as the said house if at all was constructed during the Portuguese regime, would have been shown in the survey plan whereas, as per the Inspection Report of the expert, the said structures 'A', 'B' and 'C' and the septic tank are altogether new structures which are not found in the survey plan.

23. The Judgment in the case of **M/s Formento Resorts and Hotels Ltd** cited supra, by the Advocate for the defendant no.2 cannot come to the aid of the defendants, as the defendants

49

have constructed altogether a new structure without obtaining any license for the construction of the same.

24. Even otherwise, the constructions have been carried out very recently and are not repairs/patch-up works of old constructions, so as to contend that the plaintiff has approached the Court belatedly. In view of the above, the plaintiff has made out a prima facie case for grant of temporary injunction. Therefore, point (a) is answered in the affirmative.

Point (b) :

25. As the plaintiff has made out a prima facie case, the balance of convenience tilts in favour of the plaintiff, as the defendants have carried out new constructions which did not exist earlier in the suit property, which admittedly belongs to the plaintiff. Hence, point (b) is answered in the affirmative.

Point (c) :

26. Grave and irreparable loss will be caused to the plaintiff if the injunction as sought is not granted, as the defendants have not obtained any construction license to construct the suit

structures which are new constructions altogether and are not repairs/patch-up works to the existing structures, as contended by the defendants. Hence, point (c) is answered in the affirmative.

Point (d) :

27. As the plaintiff has established a prima facie case, the application for temporary injunction has to be granted against the defendants. Being so, the impugned Order disallowing the application for temporary injunction as against the defendant no.2 cannot be sustained. Accordingly, the defendants, their agents, servants, assignees, family members, and other persons acting on their behalf, are hereby restrained by way of temporary injunction from carrying out illegal construction and are further restrained from continuing with the said illegal constructions in survey no.119/3 of Village Morjim, Pernem Goa. Point (d) is therefore answered in the affirmative.

28. In the result, I pass the following:

ORDER

(a) The appeal is allowed;

51

- (b) The impugned Order dated 3.8.2017 passed by the learned Civil Judge, Junior Division at Pernem, on the application for temporary injunction in Regular Civil Suit No. 88/2016 is quashed and set aside to the extent of dismissing the application for temporary injunction, as against the defendant no.2;
- (c) The defendants, their agents, servants, assignees, family members, and all other persons acting on their behalf are hereby restrained by way of temporary injunction from continuing with the suit illegal construction, and further carrying out any illegal construction in the suit property and from changing the nature of the suit property bearing survey no.119/3 of Village Morjim, Pernem Goa;
- (d) Cost by the defendants.

Order accordingly.

Mapusa.

Dated: 10.07.2018

(Ashley L. C. Noronha)
District Judge-2,
Mapusa - Goa.