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**BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN
ZONE BENCH PUNE AT PUNE**

APPEAL NO.51/2022

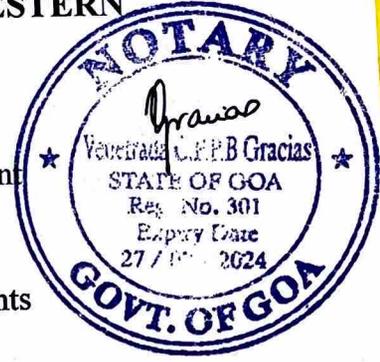
Colva Civic Consumer Forum

...Appellant

Vs.

GCZMA and Ors.

...Respondents



AFFIDAVIT

I, Shri. Johnson Bedy Fernandes, adult, being the Member Secretary of the Goa Coastal Zone Management Authority, having my office on the 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I say and submit that I have gone through the records of the present matter and after going through the relevant office records I am filing the present Affidavit. However, nothing should be deemed of being admitted any averment which has not been specially denied.
2. I say and submit that the Appellant has challenged the Order of the present Respondent dated 12.10.2022 and 19.10.2022. I say and submit that the said Order came to be passed after considering all records and hearing the parties.
3. The Appellant has raised her concerns in 323rd meeting of GCZMA on 21/09/2022. In said meeting The Complainant Mrs. Judith Almeida remained present in person. Advocate Mr. A Clovis present along with authorized person of Respondent. The Respondent has furnished all copies of the written arguments as directed by the Authority. The Appellant stated that the approved plan shows structures which have to be demolished, but on site the same are not demolished but are used as a restaurant. The Respondent No.3 in its report has stated that the ground floor which was supposed to be open area on stilts is covered. It is the case of the Respondent No.4 that the building has approvals from the erstwhile GSCCE in the year 1995. The project has valid license from the Respondent No.3, completion certificate from the GSCCE and occupancy certificate from the Village Panchayat. The Appellant also stated that the coverage area is more

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than permissible limits. The Respondent No. 4 has taken a plea that the area is has not exceeded 33% the total area and that the project is legal. The Respondent No.4 relied on the Inquiry Committee Report of the year 2015. According to the Respondent, the only thing illegal on site is the shed put up for housing generator set and transformer.

4. I say that after availing the opportunity of hearing to both the parties and after taking on record the written arguments submitted by both the parties the matter was posted for orders on 30/09/2022.
5. I say and submit that the matter was then placed before 325th meeting of GCZMA held on 30/09/2022 & 04/10/2022 and it was deliberated and decided as follows:

the Authority perused all the documents produced by Complainant and the Respondents as well as the reply and rejoinder filed by the parties and gave due consideration to the oral submissions advanced by the parties.

The Authority observed and noted that present matter is inter alia Suo Moto cognizance of Hon'ble High Court of Bombay at Goa, Panaji about the illegalities/constructions in NDZ of CRZ area. The Hon'ble High Court of Bombay at Goa vide Order dated 26/09/2007 passed in the matter of Suo Moto Writ Petition no.02/2006 had directed all panchyats/municipalities to submit action taken report with regard to constructions in NDZ/CRZ area as per terms mentioned therein along with an affidavit.

The Hon'ble High Court of Bombay at Goa, Panaji vide its order dated 12/01/2015 passed in the matter of Suo Moto Writ Petition no.02/2006 had inter alia directed the respondent no.19 village of Colva to furnish the material on record to suggest the structures are not illegal before the GCZMA and such Authorities shall examine such material after hearing the parties in accordance with law.

In view of above it prominent to note that Authority has to see/identify what structures comes within NDZ 0-200 mts from High tide line and Authority has to verify whether those structures constructed within NDZ prior to 1991 before the CRZ Act came into force and if any structures constructed after 1991, then whether those structures constructed with valid permission.

High court in its suo moto petition 2/2006 crystal clear that this Authority has to take action all the unauthorized/illegal structures which existing within NDZ. Pursuant to direction of High court Authority decided to map all the structures which comes within NDZ of Colva village and accordingly the office of DSLR conducted mapping of all structures in Colva Village which comes within NDZ and submitted the report before this Authority.



the issue involved in present matter is very limited and specific whether Respondent constructed any illegal Structures with NDZ. In order to ascertain aforesaid controversy Authority observed Mapping of DSLR, all the documents relied and produced by the Respondent on record.

Authority perused all the documents on record that vide Deed of Sale dated 15th August 1995 registered in the office of the Sub registrar of Salcete, the Respondent purchased part of property bearing Survey No.24/1 of Colva Village admeasuring an area of 1570 sq.mts along with structures from M/s Etak Corporation Limited. Respondent after purchased the aforesaid property applied for permission with the concerned authorities for construction in property bearing Survey No.24/1 of Colva Village in the name of Deepti Mangesh Dalvi. The Goa State Committee for Coastal Environment the erstwhile committee which was the authority which was empowered to grant necessary permission for development in the CRZ areas prior to the constitution of the GCZMA had in the 9th meeting held on 20.10.1995 approved the reconstruction of the building in property bearing Survey No.24/1 of Colva Village vide approval dated 1.12.1995 under reference No.SALJ42/TCP-95/4482.

the Respondent thereafter obtained a license for the Construction of the building in property bearing Survey No.24/1 of Colva Village from the Village Panchayat of Colva vide No. VP/SVCG/CONST. 19/95-96/724 dated 13.12.1995. Respondent after completing the work of the reconstruction also obtained the occupancy certificate dated 26.6.1997 under ref. No. VP/SVCG/1490/97-98 to occupy the building. The Respondent stated that the Village Panchayat of Colva vide letter dated 5.3.1998 under No. VP/SVCG/2645/97-98 granted no objection to the Respondent to start business activities and ever since the respondent has been conducting business in the building.

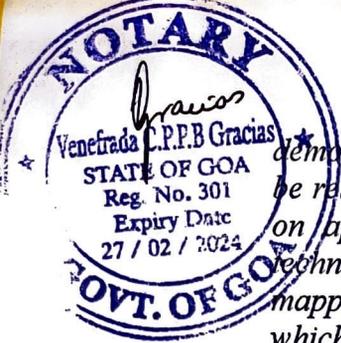
Respondent submitted that the Respondent has been conducting the business in the Suit Premises with all requisite permission from concerned departments, including Tourism Department, Goa State Pollution Control Board, Village Panchayat of Colva, etc. Respondent stated that the premise is accessed for the purpose of House Tax by the Village Panchayat of Colva under House no. 432/2.

Authority verified the mapping done by DSLR with respect to subject matter structures in present matter and after perusal of DSLR mapping and approved plan of Respondent Authority observed several additional structures constructed by the Respondent within NDZ.

the Respondent has not produced any documents to established that new structures shown by DSLR in its mapping in Respondent plot are legal/authorized structures and so also failed to show anything to this Authority that additional structures constructed by Respondent other than approved structures constructed prior to 1991 i.e. before CRZ Notification came in force.

in view of above Authority after discussion and deliberation concluded that additional structures which are shown by DSLR in Respondent plot shall be

J. Daley



demolished and approved structures as per approved plan of Respondent shall be retain. Authority through its technical team verified the all structures shown on approved plan of Respondent and DSLR mapping. Authority through technical official compared both plan i.e. approved plan of Respondent and mapping plan of DSLR and marked additional structures as alphabet "A" to "F" which not as per approved plan of Respondent. Authority come to conclusion that whatever additional structures which are Marked "A" to "F" shall be demolished as Respondent has not produce any statutory permission for said additional structures constructed by him from any competent authorities.

6. I say and submit that the present Respondent has conducted mapping of site inspection twice. On the basis of the same; wherever DSLR identified new structures in property which is marked in orange colour on said mapping, an opportunity to the Respondent has been given to satisfy the Authority on the legality of the new structures constructed. Hence it cannot be said that the site inspection has not been done by the present Respondent as the site inspection and mapping has been carried out by the Respondents to get accurate positions. The Respondent No. 4 failed to prove the legality some of the structures more specifically structures identified with Alphabet A to F (colly) and upon giving opportunity of hearing issued direction to the Respondent No. 4 to demolish A to F (colly) structures which are identified by DSLR as new structures in its mapping. It is further stated that the Respondent No. 4 has produced the approval of its old structures and non-approved structures which are identified by DSLR as new structures has been considered as illegal by Authority which were ordered to be demolished. I say and submit that the permission granted by GSCCE/Chief Town Planner to Respondent for approval of construction is considered by GCZMA as legal because till date said permission is not challenged before any statutory authorities
7. I therefore say and submit that the Order under challenge is passed after following due process of law and no illegality or irregularity is done.

Solemnly affirmed on this the 03rd day of January 2024

Solemnly affirmed before me

Shri Johnson Bealy Fernandes

Who is identified before me by

At Panjim - Goa

Sr. No. 02/01/2024

Date. 03/01/2024

Gracias
Venefrada C.P.P.B. Gracias
Advocate, Notary Goa State

Gracias
Affiant 3/1/24

