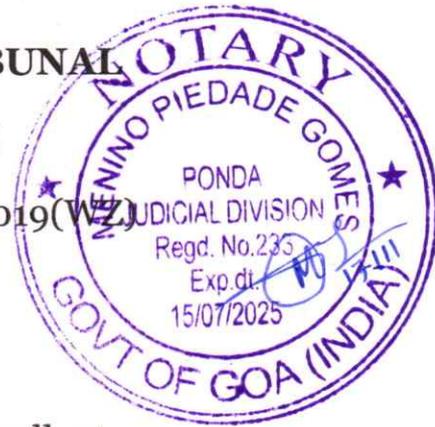


**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

Appeal No. 05/2019(WZ)



IN THE MATTER OF:

Francisco Jose Lisboa & Ors

... Appellants

Versus

Goa Coastal Zone Management

Authority & Ors

... Respondents

**AFFIDAVIT – IN – REJOINDER TO THE REPLY FILED
BY THE RESPONDENTS 2 TO 4**

I, Mr. Rajan Savlo Ghate, constituted Attorney of the Appellants in the above matter, Indian National, Major of age, do hereby on solemn affirmation state and submit as under;

1. I am filing the present Affidavit – In – Rejoinder to the reply filed on behalf of the Respondent Nos. 2 to 4 in the above matter. I say that I am not dealing with said reply paragraph wise and as such I crave leave to file a further rejoinder if and when necessary.

Rajan Savlo Ghate



2. I am personally aware about the facts and circumstances in the present matter and hence I am able and competent to depose to the contents of the present Affidavit – In – Rejoinder.
3. I say that the reply filed by the Respondent Nos. 2 to 4 (hereinafter referred to as the “said reply”) is nothing short of an attempt to mislead this Hon’ble Tribunal. The said attempt is deplorable. I would demonstrate in the present rejoinder of the falsities contained in the said reply.
4. I say that the Respondent Nos. 2 to 4 have raised frivolous preliminary objections in the said reply. The first preliminary objection raised by the Respondent Nos. 2 to 4 is that the present appeal is barred by Res Judicata and/ or constructive Res Judicata. The basis of this contention is an Order dated 29.07.2020 passed by this Hon’ble Tribunal in Appeal No. 06/2019 (WZ). A perusal of the said Order would demonstrate that the same is not only cryptic and non-speaking but has been passed without hearing any party in the said proceedings. There is no adjudication of any issue in the said appeal and as such there is no question of the

(Signature)

present Appeal being barred either on account of Res Judicata or Constructive Res Judicata.



5. Moreover, the Appellant herein has not been heard in the said matter and the said Appeal was filed by different person altogether. As such, the preliminary objection raised in the said reply is misconceived and untenable.
6. The next preliminary objections raised by the Respondent Nos. 2 to 4 in the said reply is that the present Appeal is barred by the Law of Limitation. The Respondent Nos. 2 to 4 have no locus to raise the said objection as to limitation. This Hon'ble Tribunal, upon being satisfied as to the period of limitation, has registered the present appeal. As such, even the said objection of limitation is devoid of any merit and hence deserves to be rejected.
7. It appears that the Respondent Nos. 2 to 4 are raising the said objections only to deviate from the merits of the present matter. This is only on account of the fact that the Respondent Nos. 2 to 4 are fully aware that the Impugned Order in the present appeal dated 22.10.2018 is unsustainable in facts as also in law.

(Signature)



8. The Respondent Nos. 2 to 4 are trying to portray that the said structure is a small residential house thereby trying to gain sympathy of this Hon'ble Tribunal. The said reply gives an impression that the said structure was being used by traditional fishermen and hence is not illegal. Such a contention is patently false and misleading and the Respondent Nos. 2 to 4 have produced no documents whatsoever, to substantiate the same.
9. The Respondent Nos. 2 to 4 are trying to justify their illegality by taking recourse to such falsities, albeit mischievously. The Appellants have already stated in their appeal that the Respondent Nos. 2 to 4 are falsely claiming to be the legal heirs of Smt. Kesri Gunaji Shirsaiakar. Even such a stand is false as to the knowledge of the Respondent Nos. 2 to 4.
10. The Respondent Nos. 2 to 4 are relying on the Judgment dated 30.11.2022 passed in Civil Revision Application No. 6/2023 passed by the Hon'ble District Court. However, it is most respectfully stated that the said Judgment is challenged before the Hon'ble High Court of Bombay at Goa by filing Writ Petition No. 565/2023 which is presently

pending. As such, the Order dated 30.11.2022 has not attained finality and all the issues involved therein are at large and still sub judice.



11. Similarly the Order dated 08.03.2016 passed by the Deputy Collector has been challenged before the Hon'ble Administrative Tribunal for the State of Goa at Panaji being Mundkar Revision Application No. 1/2017 and the same is at the stage of 'Final Arguments' and is scheduled to be listed on 07.12.2023. As such, all the issues raised therein are also at large and sub judice.

12. The Impugned Order dated 22.10.2018 has been passed without hearing the Appellants or its Advocates. The Appellants have raised a legal challenge in the Appeal, that once a demolition Order has been passed by Respondent No. 1 on the basis of certain facts and documents, the same cannot be reviewed, withdrawn or discharged by Respondent No. 1, as has sought to be done vide the Impugned Order. In the event, such a course is permitted, it would lead to travesty of Justice since there will be no finality of Orders.

(Signature)

13. The Appellants in the Appeal have relied on several reports which would demonstrate that the Respondent Nos. 2 to 4 were carrying out illegal construction in no development zone without any permissions. The Respondents Nos. 2 to 4 in their reply have conveniently ignored the said reports and have not commented on the same. The perusal of the Impugned Order dated 22.10.2018 would demonstrate that the said reports have not been considered. The said reports are prepared by Statutory Authorities and hence presumed to be correct. It was incumbent upon Respondent No. 1 to consider the said reports in its true and correct perspective before passing the Impugned Order.

14. The Respondents Nos. 2 to 4 have termed the Appellants as chronic litigants for having pursued the present litigation in order to deal with illegalities committed by the Respondent Nos. 2 to 4.

15. The Appellants ought to have been heard before passing the Impugned Order. In the event the Appellants were actually heard, the Respondent No. 1 would not have had arrived at the erroneous conclusion which it has arrived vide the Impugned Order.





16. In the above facts and circumstances, the Appellants categorically state that the said reply is devoid of any merit and hence does not deserve any consideration whatsoever.

17. I say that the contents of the paragraph Nos. 1 to 16 of present Rejoinder are true to my knowledge.

Solemnly Affirmed at Goa

On this 17th day of November, 2023

DEPONENT

Aadhar No. 8430 2859 2784

Identified By:

Advocate for the Appellant

Solemnly affirmed before me by
Mr. Rajan Savlo Ghale
 Who is identified by Aadhaar
card no. 8430 2859 2784

Personally known to me

Date: 17/11/2023

Place: Ponda, Goa

Reg. No.: 1054/2023.

17/11/2023
 MENINO PIEDADE GOMES
 NOTARY
 PONDA STATE OF GOA
 INDIA

