

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

Appeal No. 29/2023 (WZ)

Riva Resorts Pvt. Ltd.

...Appellant

Versus

GCZMA & Ors.

...Respondents

AFFIVADIT-IN-REJOINDER ON BEHALF OF THE APPELLANT

The Appellant above-named most respectfully states and submits as under:

1. The Appellant is filing this composite rejoinder, dealing with the Affidavit-in-Reply dated 31.01.2024, Additional Affidavit-in-Reply dated 19.04.2024 and Affidavit-in-Reply dated 10.08.2024 – all filed by the Respondent No.1; as well as the Affidavit-in-Reply dated 29.01.2024 filed by the Respondent No.3 in the present appeal.
2. The Appellant is filing response to the Affidavit-in-Reply of the Respondent No.3, strictly without prejudice to its rights and contentions raised in I.A. No. 77/2024(WZ), wherein the Appellant has sought deletion of the Respondent No.3 from the array of

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parties in the present Appeal. Therefore, the filing of the present response may not be deemed to amount to acquiescence or waiver of its rights or contentions raised in the said I.A.

3. Furthermore, the present Rejoinder is filed in continuation of the submissions made by the Appellant in its Objection Affidavit dated 31.05.2024 and the contents of the said Objection Affidavit may be deemed to have been incorporated into this Rejoinder and shall be relied-upon by the Appellant herein.

LEGAL OBJECTION

4. At the outset, the Appellant submits that, by the afore-referred Replies, the Respondent No.1 has purported to undertake a fresh exercise of recording dimensions and computing area of the structures forming part of the Site Plan dated 24/07/2012 (*Pg. 136 of Appeal Paper-book*) and the Site Plan of October 2020 (*relied-upon in support of the impugned Demolition Order dated 29/09/2023*). The area & dimensions of the said structures was not computed and/or put to the notice of the Appellant at the Show Cause Notice stage and has been done after passing of the Impugned Order, by filing reply affidavits in the present appeal.
5. Similarly, the Respondent No.1 has attempted to fill-up the lacunas existing in the impugned Demolition Order dated 29/09/2023, in the light of the grounds raised in the present appeal, by



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supplementing additional reasons and raising fresh contentions, which were neither put to the notice of the Appellant, nor considered/decided by the GCZMA while passing the Impugned Order.

6. The Appellant respectfully submits that ***even though appeal may be continuation of the original proceedings***, but undertaking of fresh exercise to fill-up lacunas existing in the Impugned Order or supplementing additional reasons through reply affidavits, is an exercise totally impermissible in law, at the appellate stage, in view of the law laid down in the case of ***Mohinder Singh Gill & Anr. v. The Chief Election Commissioner & Ors.***, reported in ***1978 (1) SCC 405***, wherein it has been categorically held that statutory orders have to be defended on the basis of grounds stated in the said orders and cannot be improved upon by supplementing reasons, in the form of reply affidavits filed at appellate stage.

7. Equally well settled law is crystallized in the case of ***Institute of Chartered Accountants of India v. L.K. Ratna & Ors.***, reported in ***1986 (4) SCC 537***, wherein the Hon'ble Supreme Court has categorically observed that where the statutory provisions guarantee to a person, the right to a fair trial and a fair appeal, such person cannot be told to be satisfied with an unjust trial followed by a fair appeal. Fair procedure has to be satisfied at both stages. In the said case, the Hon'ble Supreme Court has



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held that failure of natural justice in the trial body cannot be cured by sufficiency of natural justice by the Appellate body. The principle laid down in *L.K. Ratna (supra)* has been reiterated by the Hon'ble Supreme Court in the case of ***Oryx Fisheries Pvt. Ltd. v. Union of India***, reported in **2010 (13) SCC 427**.

8. The Appellant respectfully submits that while deciding an appeal under Section 16 of the NGT Act, this Hon'ble Tribunal exercises limited appellate jurisdiction and is tasked with examining the legality and validity of the impugned Order passed by the trial body i.e. the GCZMA, in the light of the grounds raised in the appeal. Therefore, by adopting the legal principle generally applicable to civil courts *viz.* that appeal is a continuation of the original proceedings, the charging authority cannot be permitted to undertake any fresh adjudicatory exercise to cover-up the faults existing in its original order or to supplement additional reasons for improving the original order.

9. The Appellant submits that it is the bounden duty of the Respondent No.1 to conduct a site inspection prior to issuing Show Cause Notice to the Project Proponent. During such site inspection, the authority is required to prepare a site inspection report, of the observations noticed in the course of the inspection; *inter-alia* stating the area, nature, extent and dimensions of the purported illegal structures. Such details are required to be stated in the Show Cause Notice, for eliciting an effective response to



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the allegations. After conclusion of the Show Cause Proceedings and passing of the Demolition Order, the Authority cannot be permitted to do such exercise as it would reduce the Show Cause Proceedings to an empty formality.

10. Another reason why such an exercise cannot be permitted at the appellate stage is because the replies before this Hon'ble Tribunal are filed individually by the Member-Secretary. Whereas the appreciation of evidence and decision-making at the trial stage contemplated by law, is by the GCZMA sitting as a body of members. Hence, the stand taken by the Member-Secretary *dehors* what is reflected in the Impugned Order cannot reflect the collective wisdom of the GCZMA or have the imprimatur of the other Authority members. In any case, law requires the affected party to be heard by the GCZMA (sitting as a body of members) and not be bound by the individual stand/decision taken by the Member-Secretary, in appeal, through reply affidavits.



11. The Appellant respectfully submits that in case this Hon'ble Tribunal feels that the exercise done by the Respondent No.1 is not as per law, it ought to quash & set-aside the impugned order and remand the matter back to the Respondent No.1 for fresh adjudication.

12. In such cases, remand to the trial body (Respondent No.1) is also practically desirable because Respondent No.1 is a multi-disciplinary body comprising of inter-departmental subject experts

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and they are better equipped to adjudicate on the factual aspects of the matter (compared to the appellate tribunal) since they have the benefit on visiting the site at ground-level and appreciating facts first-hand.

RESPONSE TO AFFIDAVIT-IN-REPLY OF RESPONDENT NO.1

DATED 31.01.2024

13. With reference to para 1, the contents thereof do not warrant any specific comments.
14. With reference to para 2, the contents thereof are emphatically denied.
15. With reference to para 3, the contents thereof are denied. It is denied that the Appellant constructed additional structures after passing of the status-quo order of the Hon'ble Supreme Court in Civil Appeal No. 1823/2013 or that the Appellant failed to produce any documentary evidence substantiating that the impugned structures were in existence prior to 1991. The Appellant submits that the fundamental plank of the Appellant's defense in the Show Cause Notice proceedings was the P.T. Sheet of Mandrem Village prepared by the office of the Directorate of Settlement and Land Records ('DSLRL') on 01.11.1972, which has not been even adverted to, considered or dealt-with by the Respondent No.1 while passing the impugned Order dated 29.09.2023.



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16. With reference to paras 4 and 5, the controversy regarding alleged authenticity of the P.T. Sheet Plan relied upon by the Appellant at Page 98 of the Appeal Paper Book, presently no longer survives for consideration, since the Respondent No.1 in its subsequent Affidavit-in-Reply dated 10.08.2024 has already withdrawn its objections vis-à-vis the authenticity of the said P.T. Sheet Plan.

17. In any event of the matter, the original contents of the paras under reference are emphatically denied. The Appellant states that in the first-place copy of the P.T. Sheet of Mandrem Village (produced at page 98 of the Appeal Paper Book) was provided by the Public Information Officer of the DSLR under cover of their letter bearing No.14-DSLR-Rec-I/438-62/2022/1978 dated 30.06.2022 under Right to Information Act (refer letter at page 102 of the Appeal Paper Book).



18. After considering the original averments made by the Respondent No.1 in the Affidavit-in-Reply dated 31.01.2024, the Appellant once again applied to the office of the DSLR vide RTI Application dated 07.02.2024, which was responded-to by the said office vide its communication dated 14.02.2024, wherein a certified copy of the original P.T. Sheet plan of Mandrem Village was provided to the Appellant.

19. A bare perusal of the said plan re-supplied by the Office of the DSLR would show that the same tallies fully with the earlier P.T.

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Sheet plan (at page 98 of the Appeal Paper Book). Both the plans have been supplied from the office records of the DSLR under the RTI Act and therefore it cannot be even suggested that the P.T. Sheet plan produced at page 98 of the Appeal Paper Book is not authentic. Hereto annexed and marked as 'ANNEXURE R-1 COLLY' are copies of the RTI Application dated 07.02.2024, DSLR Reply dated 14.02.2024, RTI Payment receipts along with the information supplied (P.T. Sheet plan).

20. Secondly, even the earlier objection regarding alleged aberrations in the plan at page 98 of the Appeal Paper Book was neither raised by the Respondent No.3 before the Respondent No.1 (GCZMA) in the Show Cause Notice proceedings nor was any finding regarding the same rendered by the Respondent No.1 while passing the impugned Order. The Appellant submits that considering the limited scope of appellate jurisdiction under Section 16 of the NGT Act, it is impermissible for the Respondents to question the authenticity of the P.T. Sheet Plan for the first time in the present appeal.

21. Thirdly, there is no communication of the DSLR produced on record by the Respondent No.1 which supports the averments made in the para under reference. The Appellant states that the GCZMA/Respondent No.1 is an interested party in the present proceedings and being so, its contentions regarding internal



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records of some other government departments, to the extent it is unsupported by material documents, cannot be relied upon.

22. Fourthly, the DSLR is not a party respondent in the present appeal. Therefore, if any contention regarding the authenticity of the P.T. Sheet Plan has to be considered, then the same would necessitate setting-aside of the impugned order, remand of the matter back to the Respondent No.1, hearing the DSLR on the supposed objections and affording full opportunity to the Appellant to deal-with the same. However, no such contention can be raised or examined in the present appeal, that too where DSLR is not a party respondent.



23. With reference to the remaining contents of the paras 4 and 5, the same are denied.

24. With reference to para 6, the contents thereof are denied. The Appellant has specifically joined issues/raised objections regarding the mode and procedure of conducting site inspections reflected in the site plans at pages 138, 136 and 116 and therefore, no submissions can be made on the basis of such site plans against the Appellant. Furthermore, the structures covered in the site plan at Page 136 are subject-matter of pending Supreme Court proceeding (Civil Appeal No.1823/2013) and therefore the correctness of contents of the said site plan is still at large.

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Therefore, no reliance can be placed on the said plan for that reason also.

25. The Appellant reiterates that it has raised detailed objections in the appeal-memo regarding the conduct of site inspections and preparation of the site plans at pages 116, 136 and 138. However, there was no need or occasion for the Appellant to raise any doubts regarding the correctness of the plan at page 98 since that is a document on which the Appellant itself is placing reliance on.

26. With reference to para 7, the contents thereof are denied. The Appellant states and submits that as per the well settled law, it is the bounden duty of the Respondent No.1 to conduct a site inspection prior to issuing Show Cause Notice to the Project Proponent. Such site inspection is required to prepare a site inspection report, of the observations noticed in the course of the inspection; and stating more particularly the area, nature, extent and dimensions of the purported illegal structures.

27. As per the information of the Appellant, no measurements were taken by the Respondent No.1 and made available to the Appellant - of the dimensions, total area etc. of the structures covered in the Site Inspection Plan dated 24/07/2012 and Site Inspection Plan of October-2020, which Inspection Plans were heavily relied-upon by the Respondent No. 1 while passing the Impugned Demolition Order dated 29/09/2023. It was only in



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pursuance of the Directions issued by this Hon'ble Tribunal vide para 8 of the Order dated 19.10.2023 passed in the present appeal, that the Respondent No.1 has now worked-out the alleged dimensions/area of the said structures and filed the same along with its Affidavit-in-Reply dated 10.08.2024, which too are partly incomplete and partly incorrect in terms of calculations.

28. In any case, the *ex-post-facto* exercise carried-out by the Respondent No.1 in this appeal vide Affidavit-in-Reply dated 10.08.2024, is impermissible in law, for the reasons stated above.

29. With reference to para 8, the contents thereof are denied, as alleged. In the first place, it is stated that the Appellant purchased the suit property partly in the year 2004 and partly in 2015. Prior thereto, the erstwhile owners of the suit property were the members of Naik family who had originally erected the impugned structures in the suit property prior to 1971. Therefore, it was not open for the Appellant to lodge any objections to the survey plan at the time of promulgation. The Appellant therefore cannot be made to suffer for the defaults of its predecessors, assuming there were any.

30. The Appellant states that there have been umpteen instances in the State of Goa, especially in remote villages such as Mandrem, where owing to adverse geographical conditions etc., actual site inspections were not even conducted at the time of preparation of



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the original survey records. Therefore, there have been several cases where existing structures (physically found at loco) have not been recorded in the promulgated survey records. For this precise reason, the Goa Land Revenue Code, 1969 has made provision for re-survey, in terms of Section 113 of the said Code. The Appellant has already availed of this legal remedy and filed necessary proceedings before the competent authority (refer page 104 of the Appeal Paper Book).

31. In any event of the matter, the justification sought to be raised in para 8 of the reply under reference was never stated in the impugned Order and therefore the same cannot be supplemented in the present Appeal by way of filing the reply. The Appellant further submits that no cognizance of such afterthought justifications ought to be taken even by this Hon'ble Tribunal as the same would not be legally tenable.

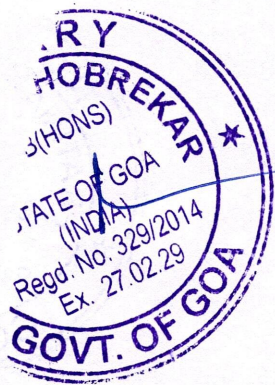
32. With reference to para 9, the contents thereof are denied, as alleged. The Appellant submits that the Respondent No.1 has not correctly appreciated the reason for which the Appellant has produced the P.T. Sheet on record in the subject proceeding. The limited purpose of producing the P.T. Sheet prepared by a competent government department in the year 1972, was to show that the structures recorded therein (*which are the structures ordered to be demolished vide the impugned Demolition Order*)



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were in existence prior to the commencement of the CRZ Regulations, 1991. The Appellant has not sought any adjudication from this Hon'ble Tribunal *qua* the provisions of the Land Revenue Code.

33. With reference to para 10, the contents thereof are denied. The Appellant states that although reference is made to certain photographs of the impugned structures taken prior to the earlier demolition order of 2012, no such photographs were either produced in the course of the Show Cause Notice proceedings. Therefore, no credence can be given to any such contention. It is denied that there was no legal requirement to conduct a fresh site inspection in the year 2023 and that the subject Show Cause Notice issued on 23.02.2023 could be decided on the basis of the survey carried-out in the year 2020. It is denied that any fresh site inspection would have resulted in delay.



34. The Appellant states that matters relating to alleged illegal construction and demolition of valuable private immovable property cannot be decided lightly without following proper procedure or applicable law, merely on the assumption that the same would result in delay in conclusion of the proceeding. The Appellant submits that a fresh site inspection after giving proper notice to the Appellant would not only have subserved the cause of justice and fair-play but also made the impugned Demolition

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Order legally sustainable; besides reflecting the correct contemporaneous factual position at loco.

35. With reference to paras 11 and 12, the contents thereof are denied.

36. With reference to para 13(a), the Appellant denies that the matter was ever heard before the Respondent No.1 on merits of the case. The subject Show Cause Notice proceeding was heard only on the preliminary objections filed by the Appellant. In this connection, the Appellant submits that Deponent of the Affidavit-in-Reply dated 31.01.2024 is the present Member-Secretary, Mr. Johnson Fernandes who was not the Member-Secretary or otherwise a part of the GCZMA when the Impugned Order dated 29.09.2023 was passed.

37. Therefore, it is incompetent for the said Deponent to state that the Appellant was heard on merits in the Show Cause Notice proceedings, especially when the Affidavit-in-Reply dated 31.01.2024 does not even have a Verification Clause and therefore it cannot even be assumed that the related contents are based on information supplied/records maintained by the Authority.

38. With reference to para 13(b), the Appellant states that the Respondent No.1 has conveniently avoided responding to the well-founded objections raised by the Appellant to the Show

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Cause Notice in as much as the Show Cause Notice was issued in respect of Survey No.274/3 and 277/2 and the Demolition Order was passed with regard to structures in Survey No.273/3. The Appellant states that even assuming that the reference to the Survey Numbers, as given in the Show Cause Notice, was an error as contended by the Respondent No.3 (*Respondent No.3 contends that such error was pointed out by him to the Respondent No.1 vide his letter dated 30.05.2022*), then also the Respondent No.1 ought to have modified the Show Cause Notice accordingly so as to put the Appellant to notice and elicit a response to the same from the Appellant. Nothing of this sort was ever done by the Respondent No.1 thereby reducing the Show Cause Notice proceeding to an empty formality and an exercise in futility.



39. With reference to para 13(c), the Appellant states that structures forming subject-matter of the Supreme Court proceedings (Civil Appeal No.1823/2013) have been high-handedly included in the impugned Demolition Order, despite there being a status-quo ordered by the Hon'ble Supreme Court, protecting the same. The details of such structures had been specifically stated by the Appellant in Ground (k)/page 35 of the Appeal Paper Book.
40. Despite the same, the Respondent No.1 has falsely stated in the Affidavit-in-Reply dated 31.01.2024 that the structures which were subject-matter of the Supreme Court Order dated 04.03.2013 have

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been excluded while passing the Demolition Order dated 29.09.2023. The falsity of the aforesaid claim is clear from a bare perusal of the structures reflected in Annexure-A and Annexure-B of the Affidavit-in-Reply dated 10.08.2024 filed by the Respondent No.1.

41. Considering the aforesaid objection raised by the Appellant, this Hon'ble Court vide Order dated 12.08.2024 has directed the Respondent No.1 to file a common map showing the structures which were part of the Supreme Court Order and the structures which were ordered to be demolished by the Impugned Order dated 29.09.2023, in different colours. However, the said map has not been supplied to the Appellant till date. Therefore, the Appellant has prepared and filed the present Rejoinder without having the benefit of the aforesaid common map, although its contents would be very much relevant. The Appellant therefore craves leave to file a further affidavit, as and when the said map is supplied by the Respondent No. 1 to the Appellant.

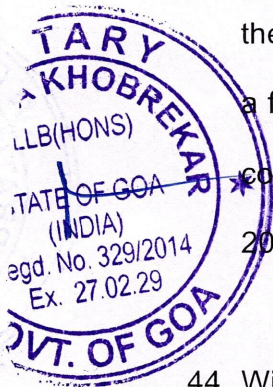
42. With reference to para 13(d), the contents thereof are denied. As a matter of fact, from a bare perusal of the site plan annexed to the impugned Order, it is clear that the structures identified by Serial Nos. 60 to 66 are apparently located outside the Survey boundary of property bearing Survey No.273/3 (owned by the Appellant). However, even such structures have been ordered to be demolished vide the impugned Demolition Order. Hereto annexed



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and marked as 'ANNEXURE R-2' is a copy of the Demolition Plan attached to the impugned Order.

43. With reference to para 13(e), it has now been fairly admitted by the Respondent No.1 that the DSLR Demolition Plan of 24.07.2012 is under challenge before the Hon'ble Supreme Court. However, if that is the case, then it is inconceivable as to how the Respondent No.1 has taken the said plan as the gospel truth or as an acceptable benchmark and ordered demolition of structures, not covered by the said plan. In the light of the averments made by the Respondent No.1 in the para under reference, it is evident that a fresh site inspection was imperative in the matter and the matter could not have been decided by mere comparison of site plan of 2012 v/s the site plan of 2020.



44. With reference to para 13(f), the contents thereof are denied.

45. With reference to para 14, the contents thereof are denied.

RESPONSE TO THE ADDITIONAL AFFIDAVIT-IN-REPLY OF
RESPONDENT NO. 1 DATED 19.04.2024

46. With reference to para 1, the contents thereof do not warrant any specific comments.

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47. With reference to paras 2 to 4, the contents thereof are denied as alleged. In any event of the matter, the contents thereof do not survive for consideration as the plan sought to be produced as substitute Annexure A (*i.e. the re-survey plan prepared u/s 65-A of the Land Revenue Code*) has been withdrawn vide para 3 of the Affidavit-in-Reply dated 10.08.2024 filed by the Respondent No.1. In the said Affidavit-in-Reply dated 10.08.2024, the earlier averments casting doubts on the authenticity of the P.T. Sheet Plan (*produced by the Appellant at page 98 of the Appeal Paper Book*) have also been withdrawn by the Respondent No.1. Therefore, it is now clear that the P.T. Sheet plan originally produced at Annexure-A of the Affidavit-in-Reply of Respondent No. 1 dated 31.01.2024 was actually the correct version of the P.T. Sheet Plan and the same completely tallies with the P.T. Sheet plan dated 01.11.1972 produced by the Appellant at page 98 of the Appeal Paper Book.

48. Despite its withdrawal, the Appellant would still like to place on record, its objections to the plan originally sought to be produced on record, as substitute Annexure A to the Additional Affidavit dated 19.04.2024 – being a totally different document and not a version of the P.T. Sheet plan dated 01.11.1972 (*as produced by the Appellant at page 98*). The Appellant has serious reservations with the contents of this Plan, claimed to have been prepared in the year 2004. It is inconceivable how a later plan could show



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lesser number of structures than the original/earlier document showing more number of structures. It is therefore apparently clear that the 2004 plan has been drawn mechanically without physical survey at loco and merely copying/pasting the contents of the survey plan. In any event of the matter, this Plan of 2004 cannot be taken into consideration since the same has been withdrawn by the Respondent No.1 and also due to the fact that the Respondent No.1 has now accepted the authenticity of the PT Sheet Plan dated 01.11.1972 produced by the Appellant at page 98 of the Appeal Paper Book.



RESPONSE TO AFFIDAVIT-IN-REPLY OF RESPONDENT NO.1

DATED 10.08.2024, FILED TO THE OBJECTIONS DATED

31.05.2024 FILED BY THE APPELLANT

49. With reference to paras 1 to 3, the contents thereof would make it apparently clear that the Respondent No.1 has rightly withdrawn its objections to the authenticity of the P.T. Sheet Plan dated 01.11.1972 produced by the Appellant at page 98 of the Appeal Paper Book and therefore resulting consequences ought to follow.
50. With reference to paras 4 to 7, the Appellant submits that it was the bounden duty of the charging authority (*before issuing Show Cause Notice*) to do such an exercise and give such details in the Show Cause Notice, for eliciting an effective response to the

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allegations. The Appellant submits that it was only in pursuance of the Directions issued by this Hon'ble Tribunal vide para 8 of the Order dated 19.10.2023 passed in the present Appeal, that the Respondent No.1 has now worked-out the alleged dimensions/area of the Impugned structures and filed the same along with the Affidavit-in-Reply dated 10.08.2024, which too are partly incomplete and partly incorrect in terms of calculations and therefore the said computations are emphatically denied. In any event of the matter, after conclusion of the Show Cause Proceedings and passing of the Demolition Order, the Respondent No.1 cannot be permitted to do such exercise as it legally impermissible, as stated above.

51. With further reference to paras 4 to 7, the Appellant states that structures forming subject-matter of the Supreme Court proceedings (Civil Appeal No.1823/2013) have been included in the impugned Demolition Order, despite there being a status-quo ordered by the Hon'ble Supreme Court, protecting the same. The details of such structures had been specifically stated by the Appellant in Ground (k)/page 35 of the Appeal Paper Book.

52. Yet the Respondent No.1 falsely stated in the Affidavit-in-Reply dated 31.01.2024 that the structures which were subject-matter of the Supreme Court Order dated 04.03.2013 were excluded while passing the Demolition Order dated 29.09.2023. The falsity of the aforesaid claim is clear from a perusal of the structures reflected



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in Annexure-A and Annexure-B of the Affidavit-in-Reply dated 10.08.2024 filed by the Respondent No.1.

53. Considering the aforesaid objection raised by the Appellant, this Hon'ble Court vide Order dated 12.08.2024 has directed the Respondent No.1 to file a common map showing the structures which were part of the Supreme Court Order and the structures which were ordered to be demolished by the Impugned Order dated 29.09.2023, in different colours. However, the said map has not been supplied to the Appellant till date. Therefore, the Appellant has prepared and filed the present Rejoinder without having the benefit of the aforesaid common map, although its contents would be very much relevant. The Appellant therefore craves leave to file a further affidavit, as and when the said map is supplied by the Respondent No. 1 to the Appellant.



RESPONSE TO AFFIDAVIT-IN-REPLY OF RESPONDENT NO. 3

DATED 29.01.2024

54. With reference to paras 1 to 3, the contents thereof do not warrant any specific comments.
55. With reference to para 4, the Appellant submits that the Respondent No.3 (who was merely a Complainant) cannot supplement or justify reasons in support of the impugned Demolition Order, which are not recorded in the Order itself and

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further which have not even been contended by the Respondent No.1 in the present Appeal.

56. With reference to para 5, the contents thereof are denied as alleged. The Appellant craves leave to refer to and rely upon the pleadings filed by Respondent No.3 in the Show Cause Notice proceedings, for the purpose of ascertaining its true meaning and interpretation.

57. With reference to para 6, the Appellant submits that in the light of the admission by the Respondent No.3 that he had addressed himself only to the preliminary objections filed by the Appellant on the point of maintainability, it is inconceivable as to how the Respondent No.1 could have heard the matter on merits (in the absence of pleadings filed by the parties on merits). The remaining contents of the para under reference are emphatically denied.

58. With reference to para 7, the contents thereof are denied. The Appellant states that even assuming the narration of survey numbers in the complaint dated 25.05.2022 was a clerical error, as alleged, upon clarificatory letter of the Respondent No.3 dated 30.05.2022, the Respondent No.1 (as the charging authority) ought to have modified its Show Cause Notice accordingly, incase it believed with the version of the Respondent No.3. By not doing so, it is clear that the Respondent No.1 did not consider



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Respondent No.3's subsequent letter dated 30.05.2022 worthy of any credence.

59. It is denied that the Appellant was fully aware that the subject Show Cause Notice proceeding pertained to construction carried out in Survey No. 273/3 as alleged or at all. The Appellant states that because there was patent discrepancy and lack of clarity on the precise survey holdings which were subject-matter of the Show Cause Notice, the Appellant had raised specific objections in this regard in paras 13 and 16 of its reply dated 04.04.2023 filed in response to the Show Cause Notice dated 23.02.2023.



60. The remaining contents of the para 7 are denied.

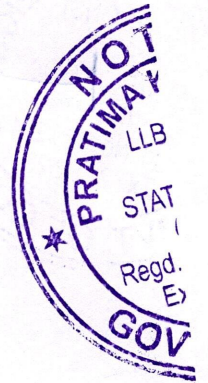
61. With reference to para 8, the contents thereof are denied as alleged. It is completely impermissible for matters relating to illegal construction and demolition of privately owned structures to be decided in a casual or cavalier manner, as suggested by the Respondent No.3 in the para under reference.

62. With reference to para 9, the contents thereof are denied. It is denied that google images can be relied-upon as a sole factor while adjudicating the legality of the structures, more so when its contents are patently opposed to public documents/plans, pointing out to the contrary. The Hon'ble Supreme Court as well as this

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Hon'ble Tribunal in several reported judgments have observed that satellite imagery is constrained and limited by cloud formations and therefore are not entirely reliable in its content.

63. With reference to the remaining contents of para 9 and of paras 10 and 11, the Appellant states that it is pertinent that the Respondent No.3 has neither in the Show Cause Notice proceedings or even in the reply under reference cast any aspersions on the authenticity or the evidentiary value of the P.T. Sheet produced by the Appellant. Therefore, it is assumed that the contents of the P.T. Sheet are admitted by the Respondent No.3. If that be so, then the contentions raised in the paras under reference cannot be countenanced.



64. With reference to para 12, the contents thereof are denied.

65. With reference to para 13, the contents thereof are denied. The Appellant states that given the past private disputes between the Respondent No.3 and the Appellant as well as the subsequent mala-fide conduct of the Respondent No.3, the Appellant has filed a separate I.A. seeking deletion of the Respondent No.3 from the array of parties in the present Appeal.

66. With reference to paras 14 and 15, the contents thereof are repetitive and therefore summarily denied.

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67. With reference to para 16, the contents thereof are denied.

68. With reference to para 17, the contents thereof are denied. The contention of Respondent No.3 that the matter before GCZMA was argued not only on maintainability but also on merits cannot be countenanced for the simple reason that the contents of the said para have been verified as being true to the Respondent No.3's own knowledge. However, as a matter of fact, the Respondent No.3 was neither present during the argument hearing of the matter before the GCZMA nor was his appearance even recorded in the matter.



69. With reference to paras 18 to 23, the contents thereof are summarily denied.

Date: 16/11/2024

Place: Pune, Maharashtra.

APPELLANT

through Auth. Representative

VERIFICATION

I, Jagannath Taraknath Shinde, major of age, Indian National, Auth. Representative of M/s Riva Resorts Pvt. Ltd., the Appellant herein, residing at 104/10, Koleghati, Khorlim, Goa – 403507, do hereby solemnly verify that the contents of paras 1, 2(part), 3, 13 to 25, 27 to 30, 32, 33, 35 to 54, 56 to 61 and 63 to 69 of this

Rejoinder is true to my own knowledge/based on documentary record and the contents of the remaining paras 2(part), 4 to 12, 26, 31, 34, 55 and 62 thereof, are based on legal submissions, which I believe to be true and correct.

Solemnly affirmed at Mapusa, Goa, on this 16th day of November, 2024.

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DEPONENT

Identified by me:

[Handwritten Signature]

Adv. for the Appellant

Solemnly affirmed before me by the Deponent/s who has been identified Before me by Adv. Pankaj Pai Vernekar Known by me personally at Mapusa on 16/11/2024

[Handwritten Signature]
- 16/11/2024
PRATIMA KHOBREKAR
LLB (HONS)
- NOTARY
STATE OF GOA

Reg No. 5422/2024



From, ANNEXURE 340 1 COLLY.
Mr. Sachin V. Naik
H. No. 503,
Junaswada, Mandrem,
Pernem, Goa.
Mob No: 9049909088

Date: 07.02.2024

To,
The Public Information Officer,
Office of Director of settlement and land records,
Panaji, Goa.

Sub: Information under Right to Information Act, 2005.

Respected Sir,

Be pleased to furnish to the undersigned the certified copy of original P.T. Sheet No. 1 pertaining to Village Mandrem, Taluka Pernem of the North District of the state of Goa, under Right to Information Act, 2005.

I say that I am Indian Citizen.

I have annexed necessary court fees of Rs. 10/- herewith.

I shall pay necessary additional fees if any upon receipt of the above referred information.

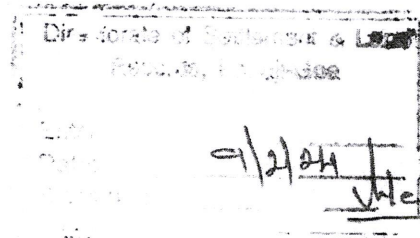
It is therefore prayed that necessary information be furnished to the undersigned at an early date.

Thanking you,

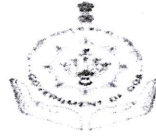
Yours faithfully,



(Mr. Sachin V. Naik)



BY REGISTERED A.D.



GOVERNMENT OF GOA
DIRECTORATE OF SETTLEMENT AND LAND RECORDS,
PANAJI – GOA.

Phone: (0832) – 2422036, 2422453 Fax: 2234360 Email: dir-land.goa@nic.in

14-DSLR-RTI-Rec-I-173-18/2024 | 660

Dated: 14/02/2024

To,
Mr. Sachin V. Naik,
H.No. 503, Junaswada,
Mandrem,
Pernem – Goa.

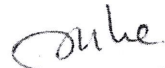
Sub: Application under Right to Information Act, 2005.

Sir,

With reference to your application under Right to Information Act 2005 dated 07/02/2024, it is hereby informed that the Certified Copy of Original P.T. Sheet No. 1 of village Mandrem in Pernem Taluka as requested by you is kept ready and the same may be obtained on payment of Rs.7,200/- (Rupees Seven Thousand Two Hundred Only) (i.e. 48 sub divisions x Rs.150/-) from the office between 10:00 am to 12:30 pm or 2:15 pm to 4:00 pm on any working day.

This rate is as per Notification No. 26/13/2016-RD/513 dated 16/03/2018 published in Official Gazette, Series I, No.52 dated 29/03/2018.

Yours faithfully,


(Anisha Matondkar)
Supdt. of Survey & Land Records
&
Public Information Officer,
Panaji- Goa.

Copy to: 1) Establishment Section of this Directorate.

134.4
#711

Government of Goa
Director of Settlement and Land Records
T. R. 5
(Treasury Rule 83)

Original

Receipt No. DS200220242236

Dated: 20-Feb-2024

Received from Sachin V Naik

with reference to letter/file no14-DSLR-RTI-Rec

the sum of RUPEES TWO THOUSAND TWO HUNDRED ONLY

-173-18/2024

toward Right to Information IN CASH

Taluka: Pernem

Village: Mandrem

Rs. 2,200.00

Signature: 

Designation: Upper Division Clerk

Note:

1. Plan to be collected on or after :-

2. Please get court fee stamp of Rs.5/- for each certified copy at the time of collection of plan.



GOVERNMENT OF GOA
 Directorate of Settlement and Land Records
 Office of Inspector of Survey and Land Records
 PERNEM-GOA

PLAN

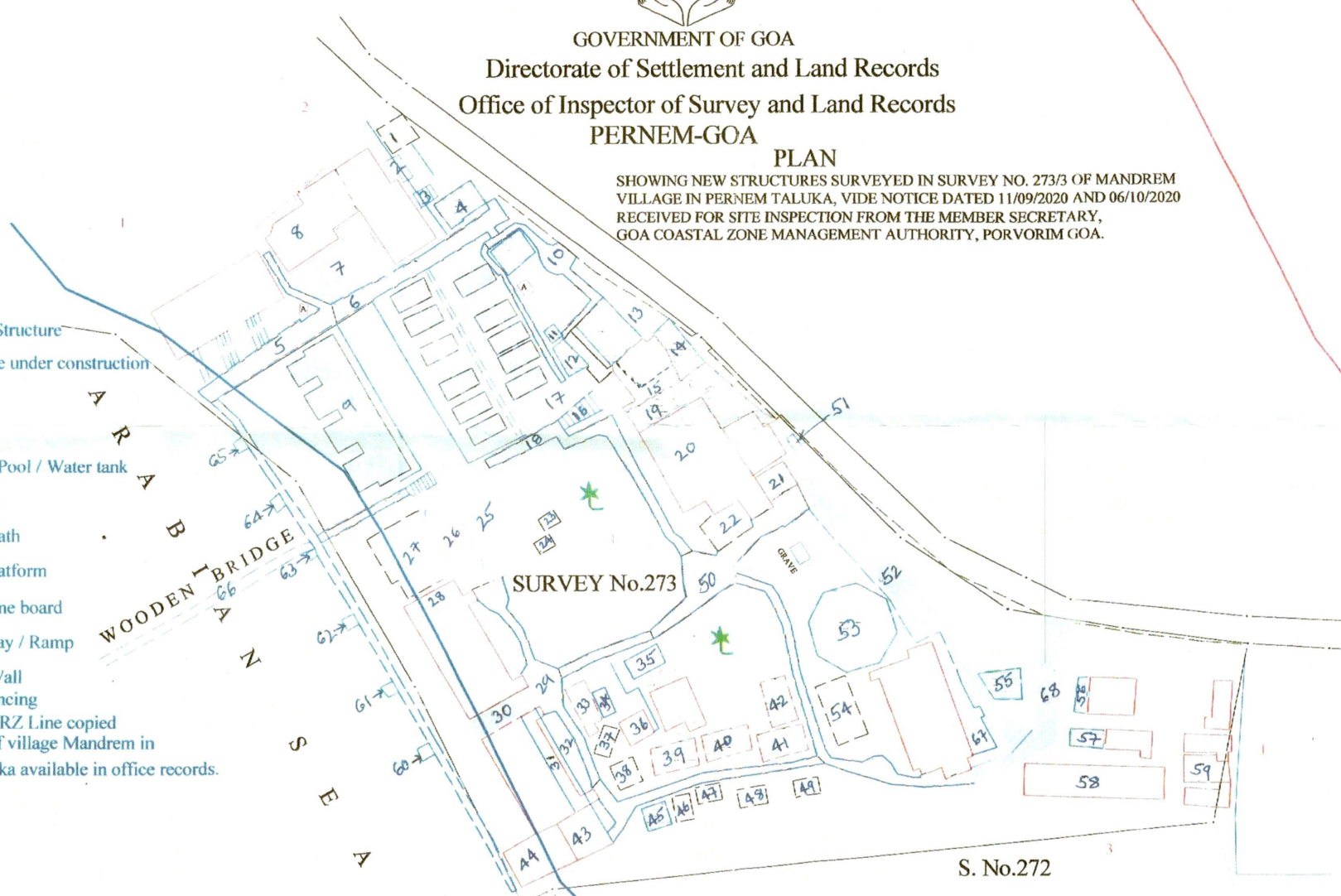
SHOWING NEW STRUCTURES SURVEYED IN SURVEY NO. 273/3 OF MANDREM VILLAGE IN PERNEM TALUKA, VIDE NOTICE DATED 11/09/2020 AND 06/10/2020 RECEIVED FOR SITE INSPECTION FROM THE MEMBER SECRETARY, GOA COASTAL ZONE MANAGEMENT AUTHORITY, PORVORIM GOA.



SCALE : 1:1000

LEGEND:-

- New RCC Structure
- RCC Structure under construction
- Cottages
- Structures
- Swimming Pool / Water tank
- Tiled Sitout
- Tiled Footpath
- Concrete Platform
- Statue / Name board
- PCC Pathway / Ramp
- Retaining Wall
- Wooden Fencing
- 200 Mtrs. CRZ Line copied from map of village Mandrem in Pernem taluka available in office records.
- HTL



NOTE :- THE LEGALITY / ILLEGALITY OF NEW STRUCTURES SHOWN ON THIS PLAN ARE NOT KNOWN. THE NEW STRUCTURES ARE SURVEYED AND MAPPED AS PER THE NOTICE RECEIVED FOR SITE INSPECTION FROM THE MEMBER SECRETARY, GOA COASTAL ZONE MANAGEMENT AUTHORITY, PORVORIM GOA.

PREPARED BY

SACHIN CHOWDHARI (F.S.)

 SHRIKANT P. PATIL (F.S.)

SEEN BY

FIELD SURVEYOR
 GCZMA, PORVORIM - GOA

SEEN BY

PRAKASH B. NAIK.
 Head Surveyor