

**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL WESTERN ZONE BENCH AT PUNE**

**(Under Section 18 (1) read with section 16 of the National
Green Tribunal Act, 2010)**

(Appeal No. 142 of 2024)

IN THE MATTER OF:

MR. LLOYD ST. JUDE JOACHIM
FERNANDES..... APPELLANT

Versus

GOA COASTAL MANAGEMENT AUTHORITY
AND ORS ... RESPONDENTS

**AFFIDAVIT IN REJOINDER ON BEHALF OF
APPELLANT TO THE AFFIDAVIT IN
REPLY DATED 17.10.2024 OF RESPONDENT
NO.3**

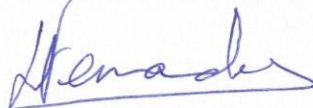
MAY IT PLEASE YOUR LORDSHIPS:

I, Lloyd St. Jude Joachim Fernandes, aged about 65 years, son of
Late Albert Fernandes, Indian Citizen, residing at Tivai Vaddo



Calangute Bardez Goa, the Appellant do hereby on solemn affirmation state and submit as under:

1. I state that I am the Appellant abovementioned and authorized to file the present Affidavit in Rejoinder. I state that I am filing the affidavit in rejoinder pursuant to the Affidavit In Reply dated 17.10.2024 filed by the Respondent no.3 in the aforementioned matter. I state and reiterate whatever has been stated in the aforesaid appeal. I state that the content of the Affidavit in Reply of the Respondent no.3 which are not specifically dealt with may not be construed to be admitted by the Appellant.
2. I state that with respect to para 1, 2 and 3 of the Affidavit in Reply of Respondent nos.3 the contents of the same are denied to the extent the same are contrary to whatever has been stated herein above.
3. I state that with respect to para 4,5,6,7, & 8 of the Affidavit in Reply on behalf of the Respondent no.1, the content of the same are denied to the extent the same are contrary to whatever has been stated herein above. I state



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and reiterate whatever has been stated by the Appellant in the Appeal. I state that the Appellant has carried out the activity of erection of temporary structures as per the permissions approved by the GCZMA. I state that as per the plan, the Appellant was permitted to erect 10 cottages however the Appellant have erected only 8 cottages, without exceeding the permissible FAR as per CRZ law. It is denied that there is concrete base for Electric panel. The Structure is mentioned in point no.2 is made up on MS Frame and on top of which bison board is placed which only appears and gives effect of a permanent structure. I state that as regards the Water Fountain and Swimming Pool is concerned the same has been removed by the Appellants, the photographs of which are annexed herewith. It is denied that as the Area is NDZ, no such permission indeed can be granted. I state that the Appellant has disputed the contents of the Inspection report to the extent which is contrary to the statements in the Appeal. It is denied that therefore it is submitted that it is indisputable that there have been deliberate violations and unauthorized constructions, as enumerated in table 1.0 at Sr. no.2,4,,5,6,7 and 8 and accordingly



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such structures are liable to be demolished and the land upon which they are situated in Sy no.158/1 is liable to be restored.

Annexed hereto as Annexure A Colly are the copies of Photographs of dismantled Swimming pool & removal of water fountain.



4. I state that with respect to para 9,10,11 of the Affidavit in Reply on behalf of the Respondent no.1, the content of the same are denied. I state that the Appellant was granted the permission for erection of temporary structure in the survey no 158/1 of Village Calangute state that the Appellants has only erected temporary structures and there are no permanent structures erected by the Appellant. The Appellant states that the inspection report does not mention the erection of any structure by the Appellant which is permanent structure.

5. I state that with respect to para 12,13,14 of the Affidavit in Reply on behalf of the Respondent no.1, the

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content of the same are denied. It is denied that the site inspection report dated 03.03.2023 as well as various photographs submitted to the GCZMA by Respondent no.3 have clearly evidenced the use of material like cement, tiles, metal railings and steel framework in construction of structure on the impugned survey no. 158/1. I state and reiterate that the Appellants have not used any cement, or have done construction of permanent nature. I state that there is no mention in the inspection report regarding any use of the Cement or concrete material for erecting of Cottages/huts and to verify the same this Hon'ble tribunal may appoint commissioner to that effect. I state that there is no cement used by the Appellant and Appellant has used only fiberboard. I state that the Fiber board is fixed on the frame which is not attached to the land and is only placed on the sand and can be dismantled at any point of time. I state that even though Bison board is made of Cement, however the same is used for stability of the erected structure and which are not attached to the ground or sand and can be removed easily at any point of time. I state that in fact Annexure 2 to the Affidavit in Reply of



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Respondent no.3 itself states that Bison is eco-friendly material. It is specifically denied that a Bison Board cannot be stated to be a natural/environment friendly material as its primary constituent is that of cement, which comprises nearly 2/3rd of its total composition. I state that the diagram annexed at Pg 241 of the Compilation-II shows the wall framing and use of Bison Board which is not attached to the land, and which is temporary in nature and which can be dismantled at any point of time. I state that the inspection report dated 03/03/2023 prepared by the expert members of the GCZMA have stated that all the structures erected are temporary in nature and has not stated that they are permanent in any way. I state that firstly the Respondent no.3 has not challenged the permission granted by the GCZMA to the Appellant secondly the Respondent No.3 had not challenged the inspection report prepared by the experts of GCZMA on absence of this 2 conditions the contention raised in the Affidavit I reply by the Respondent No.3 cannot be looked upon. I state that the Respondent no.3 has neither filed any objection to site inspection report nor disputed the contents of the site



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inspection report dated 03/03/2023 and therefore cannot contend which is contrary to the site inspection report.

6. I state that with respect to para 15,16,17 ,18,19 and 20 the contents of the same are denied. I state that as stated above the bison board used is for erection of temporary structures as prescribed under the CRZ notification the said material is not embedded or attached to the land thereby giving it a nature of permanent construction. I state that the *“Carrying Capacity of Beaches of Goa for providing shacks and other temporary seasonal structure in Private Areas”*(Beach Carrying Capacity report) is concerned it only recommends some of the modern material to be used for erection of temporary structures in CRZ areas. The bison board is also a modern material and can be used for erection of temporary structure which is also environment friendly and more sustainable material. The Respondent no.3 has not produced any scientific data to show that bison boards are prohibited material for erection of temporary structures. I state that the bison board is not an expressly prohibited material under Beach Carrying



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Capacity Report therefore the contention of the Respondent No.3 that the bison boards cannot be stated to be natural /environmental friendly material as its primary constituent is cement of its total composition. I state that it is specifically denied that ceramic tiles, concrete flooring and bison boards which have all been observed to be used in construction on survey no.158/1 are all impermissible materials. I state that the appellant has erected only temporary structures and has used a material which are eco-friendly and environmentally sustainable and not any material which is prohibited as per the "*Beach Carrying Capacity Report*". I state that there is no cement used by the Appellant and Appellant has used only fibre boards (which are environmental friendly). It is specifically denied that the construction as raised by the Appellant have been observed to have utilized ceramic tiles, concrete flooring bison boards etc all of which are materials that do not confirm to the specification of the GCZMA Noc dated 24/12/2019 as well as the beach caring capacity report. I further deny that therefore such structures are patently illegal and liable to be demolished.



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7. I state that with respect to para 21,22,23 and 24 are denied. I state that the judgment quoted by the Respondent No.3 in para 22 of the Affidavit in reply i.e. *Appeal no.22/2022 Alchemist Asset Reconstruction company Ltd V/s GCZMA and Ors* is not applicable in the present case as the issue in that Judgment was as regards to the structure erected in an ecological sensitive area and which was very close to the place of turtle nesting. In the said judgment the kind of construction permitted was very huge construction and which were apparent from the plans approved by the GCZMA. I state that first and foremost the erection of the structure by the Appellant is of temporary nature and not of permanent nature and secondly the erection of the structure carried out by the Appellant is in CRZ area and not in highly ecologically sensitive area like turtle nesting area, for which parameters of sensitiveness varies. Therefore, the judgment quoted by the Respondent no.3 in para 22 of the Affidavit in reply is not applicable as far as the present subject matter is concerned. I state and reiterate that as far as electric panel is concerned there is no use of cement



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and which cannot be held to be a permanent structure. I state that the structure is made up on MS frame and on top of which a bison board is placed which only appears and gives effect of permanent structure and which can be dismantled at any point of time. I state that the Appellant has used permissible material and eco-friendly and environmentally sustainable material. I state that as far as construction of water fountain and swimming pool is concerned the same has been removed and the copies of the photographs are annexed along with the present Affidavit in Rejoinder. I state that the Appellant has erected structures which are of permanent nature in survey no 158/1. I state that as far as landscaping and water fountain is considered the same cannot be countenance towards calculating FAR.



8. I state that with respect to para 25,26,27,28, and 29 the contents of the same are denied. It is denied that the nature of structures, and the dimension of the structures in question are also contrary to the approved plans. I state and reiterate that the Respondent No.1 has approved and permitted 10 huts admeasuring 133.3 sqmts each. I state

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that however the appellant has erected only 8 huts instead of 10 structures and have not exceeded FAR as permitted under the CRZ notification. I state that the area of the Appellant is 4700 sq mts and the permissible FAR under CRZ notification is 33% which is 1551 sq mts of the total plot area of the Appellant and the Appellant has utilized only 1530 sq mts therefore in terms of CRZ notification the Appellant has not exhausted the permissible FAR. I state that the Appellant has not erected the structure of Restaurant contrary to the approved plan. The contents of para 27 are specifically denied. Furthermore, the contents of para 28 and 29 are also denied. I specifically deny that there is any construction of first floor on top of the existing cottage structure. I state that the erection of all the approved temporary structures by the Appellant have been carried out with the material which is eco-friendly and environmentally sustainable and as permitted by the GCZMA.



9. I state that with respect to para 30,31,32,33,34,35 and 36 the contents of the same are denied. I state that the Respondent No.1 has specifically granted erection of

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temporary wooden cottages and shacks in property bearing survey no.158/1 of Calangute village which is in terms of CRZ notifications 2011. I state that the permission has been granted by the CRZ in terms of the CRZ notification for erection of temporary structures using temporary material in the 0- 200 mtrs from the HTL of CRZ area. Whereas the construction of hotel or resort has been provided under Annexure-III of CRZ notifications, which is beyond 200 mtrs and wherein the notification permits the Construction of permanent nature. I therefore state that the Appellants project cannot be construed to be a hotel project in any manner as the parameters are completely different for grant of permission/ NOC /approval for the project of hotel/resort. I state that Respondent No.3 had never challenged the permission/ approval granted in favor of the Appellant before the issuance of the impugned order by the Respondent No.1 and therefore the Respondent no.3 is precluded from raising any questions as regards to the grant of permission by the Respondent No.1. I state that the contents of para 31,32,33,34 and 36 are specifically denied.



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10. I state that with respect to para 37,38,39,40,41 and 42 the contents of the same are denied.

11. I state that with respect to para 43,44,45 and 46 the contents of the same are denied. I state that as stated above the appellant has complied with all the directions issued by the Respondent No.1, GCZMA and has removed whatever was directed by GCZMA. I state that the Appellant subsequently carried out the work as per the revised permission issued by GCZMA and therefore there are no violations of any of the directions/conditions issued by GCZMA.

12. I state that with respect to para 47, 48, 49, 50, 51,52,53,54, and 55 the contents of the same are denied. I state that as far as the inspection report dated 03/03/2023 prepared by the Respondent No.1 is concerned there is not a single observation that the Appellant has erected a permanent structure whereas the entire report says that the Appellant has erected only temporary structures which are permissible under the CRZ notification 2011.



Secondly the Appellant has erected the structures pursuant to the permissions granted by the Respondent No.1 which is also the requirement under the CRZ notification. Thirdly, the Appellant has not exceeded the permissible FAR limit under the CRZ notification and hence the basic fundamental requisites of CRZ notification have been complied by the Appellant. As far as the questions regarding the observations made in the inspection report as regards to the water fountain and swimming pool both have been removed by the Appellant on his own, which is evident from the photographs which are annexed to the rejoinder. As far as the other question regarding the alleged violations of the electric panel restaurants/ shack, reception block, security cabin the same are temporary in nature as per the site inspection report itself. Therefore, the Appellant has not done any violations as per the approved plan granted by GCZMA and hence the issuance of impugned direction is liable to be quashed and set aside.

13. I state that whatever has been stated herein above is true to my own knowledge and based on the documents



with the Appellant; and the contents of the same which I believe to be true and correct and some are based on the Legal submission which I believe to be true and correct.



Solemnly affirmed at Panaji, Goa

on this th // day of February, 2025.

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DEPONENT

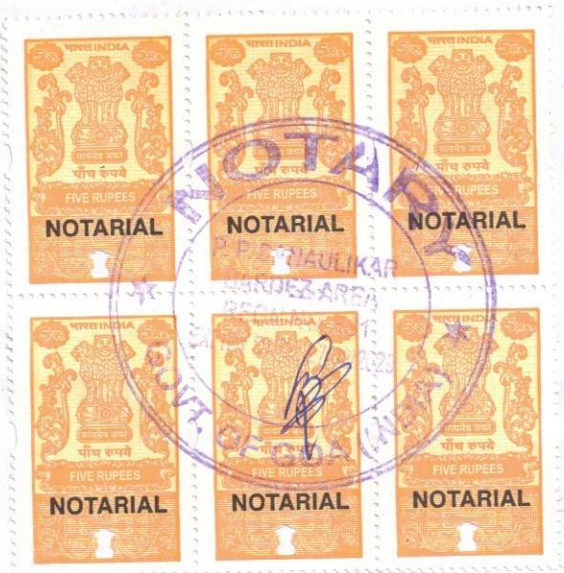
Identified by me:

*Motor Driving licence
No GA0320100100986*

Solemnly affirmed & Verified before me by
Lloyd St. Jude Joachim Fernandes
Who is identified before me by
M. D. L

Who is known to me personally
Regn. No. *479* Dtd. *11/02/2025*

Banaulikar
Pandurang P. Banaulikar
Notary for Bardez Area
State of Goa-India





Picture after Removing of Swimming Pool



Picture after Removing of Water Fall