

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



**O.A. NO. 170/2024 [WZ]**  
[ Formerly O.A. No. 26(THC)/2013 [WZ] ]

**BETWEEN:**

**THE GOA FOUNDATION AND ANR.**

**...APPLICANT**

**AND**

**DLF Homes Goa Pvt. Ltd. & Ors.**  
*(Earlier known as M/s. Sarawati  
Builders & Constructions Pvt. Ltd.)*

**...RESPONDENTS**

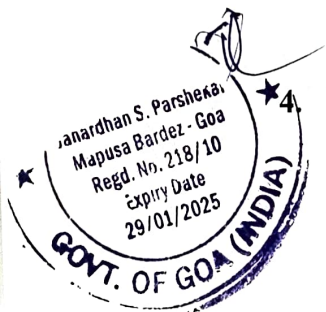
**AFFIDAVIT IN REJOINDER OF THE APPLICANT**

I, Dr. Claude Alvares, Secretary of the Applicant organization, do solemnly affirm and state as follows:

1. I am filing this affidavit in response to the recent affidavit of the R-1 dated 06.08.2024. This rejoinder also deals with the previous affidavit of the R-1 dated 18.02.2014 since, at the time when the said affidavit was filed, no counter was filed by the Applicant, as the Resp. No. 1 had already approached the Hon'ble H.C. of Bombay at Goa with Writ Petition No. 379/2014, and obtained a stay of the

forestry report ordered by this Hon'ble Tribunal. Subsequently, the N.G.T adjourned the proceedings *sine die* vide order dt. 31.10.2014.

2. At the outset, I state that I am not replying to each and every statement and averment made in the replies of the Resp. No. 1 dt. 18.02.2014 and 06.08.2024, and nothing may be deemed to be admitted unless the same is specifically admitted herein but should be treated as though the same has been set out seriatim and denied and disputed specifically. I also state that in this affidavit I am dealing solely with the issue of forestry status of the plot of the Resp. No. 1 in accordance with the transfer order dated 17.10.2010 passed by the Hon'ble High Court of Bombay at Goa.
3. It may be recalled that the Hon'ble High Court of Bombay at Goa had transferred the Writ Petition (No. 13/2010) filed by the Goa Foundation and Anr., to this tribunal for consideration by its order dated 17.10.2013 (Comp-I, @ Ann. 7). The writ petition was re-numbered as OA No. 26 (THC)/2013 [WZ], and is now re-numbered as OA No. 170/2024 [WZ].



The OA No. 170/2024 has resumed for hearing consequent to the Hon'ble High Court's Order dated 08.09.2023, passed in W.P. No. 379/2014 disposing of the petition. The order records unconditional withdrawal of the writ petition. A copy of the order is at Comp-I, @ Ann. 24.

5. In order to make matters convenient for reference and arguments, important documents that are part of the annexures of the transferred writ petition as well as significant affidavits of some of the

respondents and documents and reports they have produced in the writ petition and the O.A after it came before the NGT are highlighted in this affidavit. I am also filing a separate compilation of documents, not found in the Resp. No. 1's Compilation, submitted vide its affidavit dated 06.08.2024. I reiterate that all the documents in my compilation are part and parcel of the records of the original *W.P. 13/2010* when it was pending adjudication before the High Court. For convenience, the numbering of my compilation, which is marked as **Compilation-II (Comp-II)** commences from where the first compilation ends. Since ten years have elapsed since the matter was last adjourned by the NGT, an updated list of dates is also prepared.

6. The Applicant submits that four important documents were produced in the *W.P. 13/2010 (now, O.A 170/2024)* which are required to be considered by this Hon'ble Tribunal in order to decide the issue of the forestry status of Sy. No. 43/1-A of Dabolim village (*the Resp No 1's plot*). Some of these documents were on record prior to the transfer order dt. 17.10.2013, while others are post the transfer. The applicant records below the circumstances in which the said documents were produced, along with the documents, which are grouped as follows:

- (A) The MOEF's Technical Committee Report (19.04.2011);
- (B) The HC-directed Forest Report (25.06.2012);
- (C) The MOEF's affidavits concerning the above two documents (19.04.2011 and 22.07.2013);
- (D) The NGT-directed South Goa Forest Division Committee (SGFDC) report (07.05.2014).



**A. The MOEF's Technical Committee Report**

7. On 24.02.2011, the Resp. No. 9 (MOEF) constituted a Technical Committee of 3 persons, headed by the Chief Conservator of Forests, MOEF Regional Office, Bengaluru, to carry out a site inspection of the Survey No. 43/1 and 43/1-A, i.e., the subject property, to examine whether the two principal issues of controversy raised by this Applicant in its WP i.e the forestry nature of the plot and the steep nature of the hill would prohibit development on the plot.
8. The Technical Committee (TC) visited the site and recorded its findings in its report, which the MoEF produced vide its affidavit dated 19.04.2011. The relevant HC orders dealing with the report of the Technical Committee are at **Comp.II, @Ann. R-1 colly.**
9. As regards forestry status, the TC concluded that from a perusal of the site, plus the trees felled and standing, plus the crown density of the vegetation, the subject plot which is above 5 ha. met the State Govt's three criteria for identification of private forest as, the trees were more than 75% forestry species and the density was  $> 0.4$ . The TC also recorded that retaining the natural vegetation especially on the portions with slope above 25% on the plot was necessary from the overall environmental point of view. However, considering that the State Govt had constituted two Committees for North and South Goa to complete the balance identification of private forests, the TC suggested that a final decision on whether or not the site is located in a forest land should be taken only after the report of the



Committee appointed by the State government for South Goa (SGFDC) on the forestry status of the plot is obtained.

10. In line with the recommendation of the TC, the MoEF conveyed its decision to the High Court that it would await the decision of the SGFDC, i.e. the South Goa Forest Division Committee on the aspect of forestry status of the plot and that pending that report, the EC would be kept in abeyance. A copy of the MOEF affidavit dated 19.04.2011 annexing the copy of the TC's report is enclosed at **Comp-II, @ Ann. R-2**. The Technical Committee's report has not been challenged before the High Court or this Tribunal. Its findings await confirmation by the SGFDC report.
11. However, the Resp. No. 1 challenged the MoEF's decision to keep the EC in abeyance in W.P. No. 395/2011 (*now numbered as OA 171/2024*) which is pending before this Hon'ble Tribunal and wherein this applicant is the Resp No. 3.

## **B. The HC-directed Forest Department Report**



12. By its order dated 10.04.2012 (*further clarified by order dated 02.05.2012 in WP No. 13/2010 (later O.A No 170/2024)*), the High Court directed the Forest Department to inspect the site, prepare a report and submit the same in a cover to the Court. It also directed that the report, when prepared, would be sent to the MOEF, which would take a decision on the report in six weeks. A copy of the two H.C. orders is enclosed at **Comp-II, @ Ann. R-3 colly.**

13. The Forest Department report was filed vide its affidavit dated 25.06.2012. The report unequivocally concludes that the Survey No. 43/1-A is a private forest. A copy of the report with the accompanying affidavit is at **Comp-II, @ Ann. R-4**. This report was also submitted to the MoEF for decision. The MoEF's decision was conveyed to the High Court vide affidavit dated 22.07.2013 and it states that the area is owned by M/s. DLF Homes Pvt. Ltd., is private forest land. (*see details of MoEF affidavit below*).

### C. MOEF AFFIDAVITS

14. The MOEF affidavit dated 19.04.2011 was filed in response to the Technical Committee report. It indicated that the MoEF had accepted the TC's view on forestry nature of the plot but as suggested by the TC, the Ministry had decided to await the decision of the Committee appointed by the State government (*SGFDC, i.e. the South Goa Forest Division Committee*) on the aspect of forestry status of the plot. Pending that decision, the EC would be kept in abeyance.

15. The MOEF affidavit dated 22.07.2013 was filed in response to the Forest Dept report filed on 25.06.2012. It stated as follows:

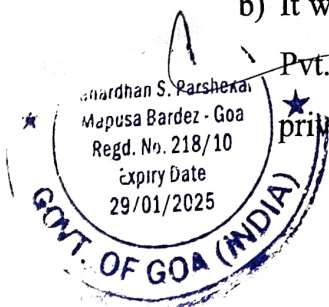
“4. I say that the report of the Forest Department of Goa State and more particularly the report of Shri Mahesh Kumar Shambu, Dy. Director (Forests), South Goa Division, Margao, was examined by the Ministry and the Ministry has taken decision as follows:



a) The findings of the report were categorized into 3 categories as given below:

1. The area of Survey No. 43/1 which is outside M/s. DLF Homes Pvt. Ltd. i.e. M/s. Saravati Builders and Construction Pvt. Ltd was inspected and it was found that the criteria that the area to be declared as Private Forest should have more than 75% of the Tree Species of forestry in nature is not fulfilled as the trees appear to have been planted. Thus the area in Survey 43/1 is not part of 43/1-A and should not be considered as Private Forest.
2. The area owned by M/s. DLF Homes Pvt. Ltd. M/s. Saravati Builders and Construction Pvt. Ltd. covers an area of 7.73 Ha out of which 0.6503 Ha does not meet the criteria of deemed forest and out of the remaining 7.0797 Ha, tree felling permission was given in 2 Ha and the remaining 5.0797 Ha in Survey No. 43/1-A meets the criteria of Private Forest.
3. In the area of 2.00 Ha in Survey No. 43/1-A, trees have already been felled owing to tree felling permission and the inspection does not help in verifying the density of the vegetation. It has already been indicated that the Forest (Conservation) Act, 1980 is not applicable to the area.

b) It was concluded in the inspection report that M/s. DLF Homes Pvt. Ltd property measuring 7.7300 Ha meets the criteria of private forest.



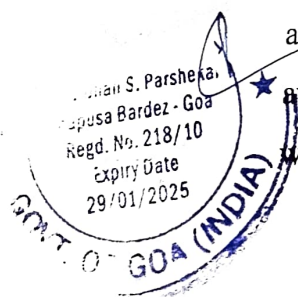
- c) In the light of the above findings of the inspection report, it appears that area owned by M/s. DLF Homes Pvt. Ltd., M/s. Saravati Builders and Constructions Pvt. Ltd., is private forest land and accordingly prior permission of the Central Government is required under Section 2 of the Forest (Conservation Act), 1980 in accordance with the Hon'ble Supreme Court order dt. 12.12.1996 in Writ Petition (Civil) No. 202 of 1995 in the matter of *T.N. Godavarman Thirumulpad versus Union of India.*”

A copy of the affidavit of the MOEF dated 22.07.2013 is enclosed at **Comp-II, @ Ann. R-5.**

**D. The NGT-directed SGFDC report**

16. As it was clear that the MoEF's final decision on forestry status of the Resp No 1's plot was awaiting the SGFDC report, the Tribunal was pleased to pass an order dated 03.04.2014 by which it directed the South Goa District Forest Committee (SGDFC) to identify and demarcate the private forests in the village of Dabolim, South Goa, with specific reference to the plot belonging to the Resp. No. 1, and to submit its report within one month. The order is on record at **Comp-I, @ Ann. 8.**

17. The SGDFC submitted its report on Sy. No.s 43/1 and 43/1-A to this tribunal on 07.05.2014 which was within the time stipulated. The SGFDC came to the unanimous conclusion -- after visiting the site and carrying out a detailed inspection in the presence of the two key authorized representatives of the Resp. No. 1 -- that Sy. No. 43/1-A was a private forest as it met all the three criteria of 75% forestry



species, extent of the area being minimum 5 ha and canopy density being above 40%. The SGDFC also took into consideration several critical forest reports on the forestry status of the plot prepared and submitted to the High Court and to the MoEF prior to its own study of the plot. A copy of the SGDFC report dated 07.05.2014, filed with an affidavit dated 31.05.2014 by the Member Secretary of the SGDFC, is enclosed at Comp-II, @ Ann. 6.

18. However, before the SGDFC report could be taken up for consideration by this Tribunal, the Resp No. 1 moved the High Court of Bombay at Goa with a pre-emptive W.P. No. 379/2014 which it filed on 23.06.2014 challenging the report on specious grounds. With *mala fide* intention, the Resp. No. 1 did not make this applicant a respondent. On 25<sup>th</sup> June 2014, the Resp. No.1 obtained an ad-interim, ex-parte stay of the report commissioned by this tribunal on the basis of misrepresentations made in the petition to the effect that the report was prepared without giving the petitioner a hearing. Copy of the stay order dated 25.06.2014 is at Comp-I, @ Ann. 10. It bears repeating that the visit of the SGDFC to the Sy. No.s 43/1 and 43/1-A took place in the presence and with the consent of the two authorized representatives of the Resp. No. 1. This was in line with its procedure of intimating and hearing affected persons.

19. After the SGDFC had completed the site inspection on 23.04.2014, but before the committee's second visit on 06.05.2014, the Respondent No 1 filed a written representation dated 02.05.2014 demanding a personal hearing in terms of the procedure laid down by the expert committee. Although two authorized personnel of the Company were present at the site when the SGDFC conducted its



site visits, the SGFDC granted a second hearing to the Resp. No. 1. It examined all the contentions, documents and written submissions submitted by the Resp. No. 1 and re-confirmed its decision by a supplementary report dated 30.10.2014. A copy of the supplementary report dated 30.10.2014 is to be found at **Comp-II, @ Ann. 7.**

20. Pursuant to the High Court's stay order dated 25.06.2014, the NGT decided initially to adjourn the proceedings before it and eventually passed its order dated 31.10.2014 by which it stayed all proceedings before it *sine die*. Copy of that order is at **Comp-I, @ Ann. 11.** The matter has remained *sine die* before the NGT now for a period of 10 years. During these ten years, to the best knowledge of the Petitioner, no application was filed by the Resp. No. 1 either before the NGT or the High Court for an urgent or early hearing of the matter. This has manifestly exposed the claims of urgency made by the Resp. No. 1 for their project including the claim of expenditure of large amounts of money spent in the cause.

21. As the High Court has disposed of W.P No. 379/2014 by its order dated 08.09.2023, the O.A No 170/2024 now stands revived before this Hon'ble Tribunal which will now have to examine the report of the SGFDC dated 7<sup>th</sup> May 2014 (**Comp-I, @ Ann. 9**), ordered by the NGT, as the ad-interim stay on the report no longer prevails with the unconditional disposal of the writ petition.

22. As per the unanimous conclusion of the SGFDC, the area is private forest. Hence, prior forest clearance is required before any approvals can be granted for the project. Approvals granted by any other



authorities without prior approval under FCA, 1980 are therefore illegal, invalid or *non-est*.

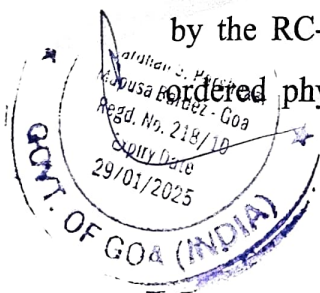
23. There is no challenge pending to the SGDFC report, hence the report and its conclusions on the forestry status of the plot are bound to prevail. This tribunal ought to accept the findings in the SGDFC's report commissioned by it as there is no blemish in its recorded findings, and nor is it challenged by the Respondent. This is the applicant's first respectful submission.
24. Further, the SGDFC report's conclusion is in line with a series of earlier reports - the Technical Committee report commissioned by the MoEF and the Forest Dept report directed by the High Court (referred to in paras 7 to 13 above). Thus all three reports as regards this property have unanimously concluded that the Resp. No 1's plot is a private forest. This is the applicant's second respectful submission.
25. Without dealing with the SGDFC report -- which declares the plot as private forest -- the Resp. No. 1 is now proposing that the plots Sy. No.s 43/1 and 43/1-A need not be considered as forest since the Review Committee II (RC II) has excluded Sy. No. 43/1 from the list of private forest survey numbers in its "second part final report" prepared after its second meeting. It is the contention of the Resp No. 1 that the second part final report of RC II was upheld by this Hon'ble Tribunal by its judgment dated 12.09.2023, passed in M.A No 3/2023 in O.A No. 478/2018. The R. 1 contends that as the tribunal upheld the methodology relied upon by the RC-II to exclude not just this survey number but several others as well, the Resp No



l's plot i.e., Sy No. 43/1-A may no longer be considered private forest.

26. In this regard, the Applicant submits as follows: firstly, the MoEF has requested for the SGFDC report to be submitted to it and not any Review Committee's decision on it that may have been taken. Secondly, as the NGT had commissioned the SGFDC to prepare a report, the same must be placed before the Tribunal for its decision.

27. That apart, it must be remembered that in its judgment dated 12.09.2023 the Hon'ble NGT has made an important distinction between the Final and Provisional survey numbers listed in the reports of the NGFDC (Thomas Committee) and the SGFDC (Araujo Committee). As regards the Final sy nos (differentiated from the provisional), this Hon'ble Tribunal directed the state government to conduct a physical verification (or ground truthing) of all these plots and listed as such in the reports of both North and South Goa Forest Division Committees. This direction was issued because the Applicants therein had demonstrated that large areas identified as "final" by the two expert committees had been excluded by the RC-II based simply on FSI reports and without physical verification. These decisions (leading to the exclusion of even finalised sy nos as private forest) were taken within the first three meetings of the RC-II. The decision relating to the exclusion of the present survey No. 43/1-A and 43/1 was taken in the 2nd meeting of the RC-II and based solely on FSI maps. Hence, despite upholding the methodology used by the RC-II, this Hon'ble Tribunal, conscious of the omission,



FDCs. The relevant portion of the order dated 12.09.2023 reads as under (para 91):

“We are of the view that in order to take extreme precaution that no-one suffers on account of errors in identification of the private forest area, the areas, which were finally identified as private forest area by the T&A Committees, if any area out of that is required to be excluded as per review being made by RC-II, the said area should be got verified physically with respect to all three criteria laid down for determination of the private forest cited above by us. Till the final decision is taken with respect to whether the area being excluded from the list of being treated as final forest land by the RC-II which was finalized by T&A Committees as private forest, in keeping with our direction, no permission shall be granted by the State Government for any kind of development work, in the said survey numbers. This exercise shall be completed within three months of uploading of this order.”

A copy of the NGT order is at Comp-I, @ Ann. 25.

28. It is an undisputed fact that Sy. No.s 43/1 and 43/1-A are identified as a private forest by the SGFDC in its report dated 07.05.2014. (*This finding is reiterated by the SGDFC in its final report dated 28.12.2018.*) It is also an undisputed fact that the Sy. No. 43/1 was deleted from the list of private forests at the second meeting of the RC-II on the basis of the FSI maps only. None of the sy nos – excluded on the basis of the FSI maps – was visited for physical



verification before their exclusion. It is thus clear that the plot of the Resp No 1 was not visited for physical site verification by the RC-II when it excluded the plot from the list of survey numbers qualifying as forest at its second meeting. As per the NGT judgment dt. 12.09.2023, the R-1 plot had to be freshly visited to assess the forestry status.

29. However, it appears that a decision has been taken by the RC-II that such a physical site visit need not and will not be carried out. The Resp. No. 1 in its recent affidavit dated 06.08.2024, has referred to the 7<sup>th</sup> Part Final Report of the RC-II which states that as the Hon'ble NGT approved the methodology of the RC-II which had excluded sy nos. from the NGFDC and SGFDC reports as per the FSI maps, these sy nos. which were excluded prior to the NGT judgment do not have to be physically verified, as their review has already been concluded. Para 15 (xxi) of the R-1's affidavit quotes from the RC-II report and states:

“Pertinently, the survey number of the applicant fell within the aforesaid survey nos. and a detailed list of the same was annexed to the Report. The relevant portion of the 7<sup>th</sup> Part Final Report is being reproduced hereunder:

“Whereas, the methodology adopted to review survey numbers identified as Private Forest done by the RC-II to date has been accepted by Hon'ble NGT. As such, 271 Survey Numbers that do not meet the criteria drawn for identification of Private Forest are not being reviewed again by the RC-



30. It appears that the State Government has endorsed the view of the RC-II. At any rate, no site visit has been conducted of the plot/s of the Resp No 1. Though it is the applicant that had filed the appeal against the Review Committee II and its reports, it was never invited to join the Forest Department on any site visit for physical verification of plots in pursuance of the impugned NGT order.

31. No advantage can accrue to the Resp. No. 1 in these circumstances in the present OA for the simple reason that the direction given in this tribunal's judgment dated 12.09.2023 (that plots marked as final private forest by the SGFDC must undergo physical verification) has not been complied with and it appears that the State Govt also has no intention of complying with the said direction as far as the finalised sy nos excluded by the RC-II at its first two meetings are concerned. As a consequence, Sy. No. 43/1 and other survey numbers excluded in defiance of the tribunal's order must be declared private "forest." In any event, they have already been declared a private forest by the SGDFC. This is the applicant's third respectful submission.

32. Further, as per the NGT judgment dt. 12.09.2023, the site visit of the finalised plots had to be completed within 3 months. No site visit of Sy No.s 43/1 or 43/1-A has been done. This is in defiance of this Hon'ble Tribunal's orders. As the period of three months given by the tribunal for completion of this task of physical verification has already expired, that window allowed by this tribunal is now closed.

Hence, as per the judgment of the Tribunal, no development can be



permitted on the R-1's plot and its forestry status stands confirmed.  
This is the *fourth* respectful submission of the applicant.

33. The Applicant also informs this Hon'ble Tribunal that this Tribunal's approval of the methodology followed by the RC-II – which excluded the sy nos identified by the Thomas and Araujo Committees solely on the basis of FSI reports - and its decision to permit review of the plots finalised by the T&A Committees by the RC-II, whose mandate was to review only provisionally identified plots – are the two principal challenges raised by this applicant against the NGT's judgment dated 12.09.2023 in Civil Appeal No 2135/2024 filed by it in the Supreme Court. The Civil Appeal was last before the Apex court on 24<sup>th</sup> September 2024 and it has now been posted for final disposal on 4th December, 2024. A copy of the Supreme Court's order is at **Comp-II, @ Ann. R-8**. This Hon'ble Tribunal may therefore wish to desist from hearing this matter temporarily as the issues that would come up for consideration in the O.A. No 170/2024 are squarely before the Hon'ble Supreme Court, whose decision is likely in the near future.  
This is the applicant's *fifth* respectful submission.

34. In conclusion, it can be stated that all forest reports commissioned by the High Court, the MOEF and the NGT have ruled in favour of the Sy. No. 43/1A to be a private forest, as listed below:

a) Report of the Technical Committee prepared pursuant to order of the Ministry of Environment & Forests dated 24.02.2011;



- b) Report of the Forest Department prepared pursuant to direction of the High Court dated 10.04.2012 (*further clarified by order dated 02.05.2012 in WP No. 13/2010*);
- c) Affidavit of the Ministry of Environment and Forests dated 22.07.2013, filed as per direction of the High Court;
- d) Report of the SGDFC dated 07.05.2014 as per direction of this tribunal dated 03.04.2013; and the supplementary report of the SGDFC 30.10.2014 (*after giving a personal hearing to the R.1*)

35. In view of the above, it is submitted that this Tribunal may either await the Hon'ble Supreme Court's decision in the Civil Appeal No. 2135/2024 challenging the Hon'ble NGT's judgment dated 12.09.2023 which the R-1 is relying upon, or it may proceed to hear the matter by considering the report of the SGDFC dated 07.05.2014 which it had directed the SGDFC to produce, and also the other reports commissioned by various other authorities, all of which hold that the plot is forest.

36. This Hon'ble Tribunal also ought to take into consideration that a total of 192 trees were felled on the Sy. Nos. 43/1 and 43/1-A, by the Resp. No. 1 and its predecessor owners. The trees felled are mostly forestry species, some of them legally felled pursuant to permissions issued under the Goa Preservation of Trees Act and others illegally felled. Two of these permissions are on record at No. 74-95 of the OA No.170/2024. The third permission to fell 77 trees was discovered by the applicant later, as neither the Forest



Department nor the Resp. No. 1 disclosed this fact. A copy of the third permission dated 25.05.2007 is at Comp-II, @ Ann. R-9.

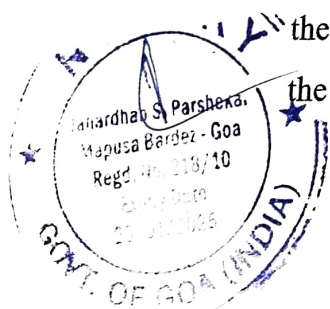
37. As per the three permissions, the following numbers of trees were allowed to be felled:

- i) Permit dated 25.05.2007 to fell 73 forest + 22 cashew trees.
- ii) Permit dated 12.9.2008 to fell 47 trees (+6 illegally felled)
- iii) Permit dated 28.05.2009 to fell 45 trees

Thus the permissions granted amounted to a cumulative felling of 187 (+6 illegally felled) or 192 trees on the entire survey no. In their place, the Resp. No. 1 is by law required to plant 825 trees.

### WITH REF. TO R-1's AFFIDAVIT DATED 18.02.2014

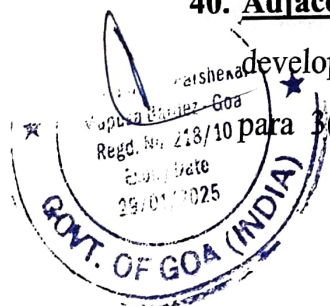
38. **Delay:** The Resp. No. 1 has challenged the OA on the grounds of delay and laches, stating the permissions which have been challenged date way back to 2007-08. This claim was rejected by the High Court which granted interim relief. The claim will also not hold water for other reasons. The entire plot of sy. No. 43/1-A was subdivided into five plots each below 20,000 sq mtrs area in order to bypass compliance with the EIA notification of 2006. The Resp. No. 1 later submitted an application for EC. Here too, after procuring an EC in 2009, it revised the project and went in for a revised EC in 2011. The PIL was filed in 2010. Any permissions to construct or change the nature of the land granted prior to grant of EC, especially the construction licence and the permit to fell trees, would violate the provisions of the EIA Notification 2006, which prohibit any



change in the land (except for land acquisition) prior to grant of EC. Since FCA approval was not obtained, the land could never have been diverted without prior approval under that Act. Hence no permit or licence for development that would divert the forest land to non-forest use would be valid. If granted, such permissions would per se be in violation of environmental norms. These facts refute the claims made in para 3(c)(iv) that “all activities were initiated only after all permissions were in hand.” In any case, permissions for felling of trees were at the time neither uploaded to the website of the Forest Department nor is the public informed of such permissions.

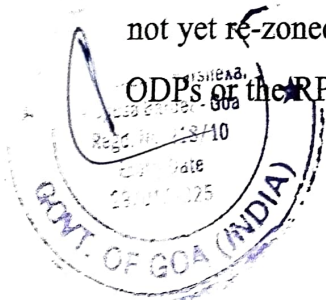
**39. Due Diligence:** In relation to the averment made in para 3(d)(ii), the claim of due diligence being conducted is unsustainable. It will not apply in cases where there is a prohibition under environmental and forest norms that has been overlooked. The Sawant and Karapurkar committees had not identified the plot as forest because they had not visited the village or the plot. In order to complete the task of identification of private forests, the state government appointed the South Goa Forest Division Committee in 2012, and it is this committee that visited the plot. In fact, the SGFDC visited the plot a second time due to specific direction of this Hon’ble Tribunal and confirmed the finding that the property was private forest.

**40. Adjacent Developments:** The issue of whether there are developments permitted within 1 km of the subject property made in para 3(d)(vii) is irrelevant since the SGFDC, in fact, identified



several survey numbers in Dabolim village including the plots adjacent to Sy. No. 43/1-A as having vegetation of a forest nature.

41. **Regional Plan 2021**: With regard to the averment made in para 5, that the State Level Committee had not identified the project site as Private Forest in the Regional Plan 2021, the Applicant states that this is not the correct position. The SLC covered only those private forest plots that were finally identified (total plots) by the Sawant and Karapurkar committee reports, as per instructions of the Government. The RP 2021 has not included private forests identified by later committees. It is expected that this will be done when the Regional plan 2021 is revised.
42. With regard to the averment made in para 6, that the RP 2021 was de-notified, this is incorrect. Though there is a provision for denotification of a Regional Plan that has been notified, the RP 2021 has never been de-notified.
43. **Mormugao ODP**: With regard to the averment made in para 7, that the property was zoned as “settlement,” this is also denied. Zoning of a forest as “settlement” under the ODP of Mormugao is of no significance if the area is forest. The Town Planners are not forest officers. In fact, by its judgment dated 18.08.2020, this Hon’ble Tribunal has accepted the Deepshikha Review Committee I report which declares 46.11 sq km as private forest. Most of these lands are not yet re-zoned from their existing land uses to forest in either the ODPs or the RP 2021.



44. **DCF Communication:** With regard to the averment made in para 8, the fact that the DCF vide his communication dated 23.02.2007 certified that the project site was not situated in any government forest or identified as private forest is correct. At the time the DCF wrote the letter, the Sawant and Committees had submitted their reports, leaving out large areas still to be identified. This lacuna would be corrected by the Thomas and Araujo Committees which commenced their exercises only in 2012. In any case, it has never been the contention of the applicant that the Sy. No. 43/1 was a government forest land.

45. In view of the above submissions and the pleadings in the O.A. No 170/2024, the applicant prays that the Hon'ble Tribunal may be pleased to pass appropriate orders setting aside all permissions and sanctions issued to the Resp. No. 1 by the various authorities as sought for in the prayers listed in O.A. No. 170/2024, in view of the findings of the SGDFC report dated 07.05.2014 and the affidavit of the MOEF dated 22.07.2013. This Hon'ble Tribunal may also direct the R-1 to replant 825 trees as directed in place of the 192 trees it has felled, and that a compliance report in this regard be filed.

46. I state and verify that the contents of paras 1 - 45 of this affidavit are partly in the nature of facts which are true to my own knowledge and as per official documents/records, and are partly my submissions made based on legal advice which I believe to be true and correct.

No part of it is false and nothing material has been concealed



therefrom, and the annexures enclosed are true and correct copies of their respective originals.

Solemnly affirmed at Mapusa, Goa,  
This the 11th day of November 2024



**APPLICANT/DEPONENT**

Solemnly affirmed before me by Dr. Claude Alvares  
Who has been identified by \_\_\_\_\_

who is known to me personally  
Mapusa - Goa.

Reg. No. 5764/24 Date 11/11/2024

JANARDHAN S. PARSHEKAR  
NOTARY AT MAPUSA, BARDEZ, GOA.  
STATE OF GOA (INDIA)

**VERIFICATION**

I, Dr. Claude Alvares, Secretary of the Applicant organization, do hereby verify that the contents of paras 1 - 46 of my above affidavit are true to my knowledge and belief, and that no part of it is false and nothing material has been concealed therefrom.

Solemnly affirmed at Mapusa, Goa,  
This the 11th day of November 2024



**APPLICANT/DEPONENT**

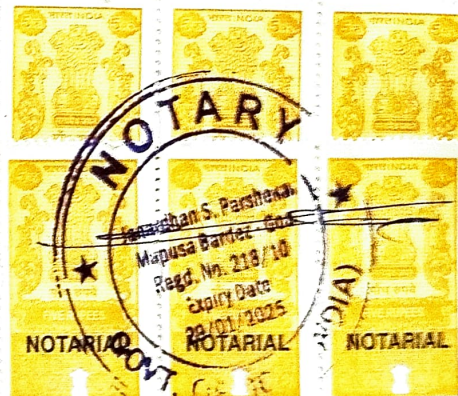


Solemnly affirmed before me by Dr. Claude Alvares  
Who has been identified by \_\_\_\_\_

who is known to me personally  
Mapusa - Goa.

Reg. No. 5764/24 Date 11/11/24

JANARDHAN S. PARSHEKAR  
NOTARY AT MAPUSA, BARDEZ, GOA.  
STATE OF GOA (INDIA)



**LIST OF DATES - OA NO.170/2024**

<b>Sr. No.</b>	<b>Date</b>	<b>Particulars</b>	<b>Page Nos.</b>
1.	26.09.2006	Environment Impact Assessment notification	
2.	25.05.2007 2007	Forest Department issues tree felling permit for removal of 73 trees on Sy. No. 43/1. Under this first permission, the party was to plant 365 forestry trees	
3.	25.09.2007	MPDA grants development permission under Section 44 of TCP Act without EC	
4.	03.10.2007	Panchayat of Chicalim issues 4 construction licenses without EC	
5.	15.10.2007	Anand Builders purchases 1,02,775 sq mts for Rs.7.7 crores	
6.	26.11.2007	In 40 days, Anand Builders sells 77,294 sq mts of Sy.No.43/1 to Saravati Builders (DLF) for Rs. 29 crores. Plot has new Sy. No. 43/1-A.	
7.	26.06.2008	EAC considers the project for the first time and rejects grant of environment clearance.	
8.	12.09.2008	Second tree felling permission granted to fell 47 trees without EC. Under the second permission, the party was to plant 235 forestry trees	
9.	16.10.2008	Draft Regional Plan 2021 notified which shows significant portion of the property as No-Development Slope	
10.	23.10.2008	EAC considers project the second time	
11.	23.12.2008	EAC recommends project for EC after third consideration	
12.	02.02.2009	Environment clearance is granted under EPA 1986 (first EC)	
13.	05.02.2009	Outline Development Plan is notified now showing the plot under settlement zone, despite it being forest and with NDS as per RP 21	

14.	28.05.2009	Third tree felling permission given to fell 45 trees. Under the third permission, the party was to plant 225 forestry trees	
15.	10.07.2009	Consent to establish project issued by Pollution Control Board	
16.	17.07.2009	Five construction licenses issued by panchayat for 5 plots totalling 77,294 sq.mts.	
17.	02.09.2009	CTP issues permission under Section 17 (A) of TCP Act for hill cutting	
18.	2010	(WP. No. 13/2010 - <i>GF vs Saravati Builders and Construction Pvt Ltd</i> ) filed by Goa Foundation and Anr	
19.	11.01.2010	Revised EC is issued for the same site by MOEF for modified project with larger number of flats	
20.	12.01.2010	HC issues restraint order against further “felling of trees or hill in the subject property” as sought in WP 13/2010	
21.	15.04.2010	MoEF issues letter to Saravati Builders not to proceed with construction of its project as environment clearance dated 11.1.2010 has been held in abeyance on the grounds that 3 issues raised in W.P. No 13/2010 are important and require detailed re-examination.	
22.	27.04.2010	Stay order granted in WP 13/2010 against balance 40 respondents. Stay against R.2 deemed not required as project EC has been held in abeyance. Petitioner permitted to move for stay if the situation changes.	
23.	21-23.7.2010	EAC conducts a fresh hearing on the project. The petitioners and respondents are heard.	
24.	27.08.2010	MoEF writes to CTP conveying the decision of EAC for a “copy of the contour map superimposing the layout plan of the site with clear spot levels authenticated by the local Town Planning Department.”	
25.	27.09.2010	MOEF rejects “attested copies” and once again requests the CTP to examine at site and confirm the slopes and permissibility of construction.”	

26.	08.10.2010	The Ministry once again requests CTP to examine and verify at site and confirm the slope and permissibility of construction. CTP refuses to oblige.	
27.	9-10.11.2010	EAC recommends to the Ministry that action on this matter should be taken only after a decision from the High Court.	
28.	04.01.2011	MOEF writes to counsel that the EC has not found any infirmity with the EC [ <i>even though the issue of steep slope is not decided, as Town Planning refuses to cooperate</i> ].	
29.	24.01.2011	Ministry files an affidavit informing High Court that recommendation of the EAC has been accepted by the Ministry and Ministry will decide on abeyance order after decision of the High Court.	
30.	2011	Saravati Builders files W.P. No. 395/2011 challenging order dated 15.94.2010 of MoEF, keeping environment clearance in abeyance	
31.	24.02.2011 /09.03.2011	Technical Committee set up by MOEF and carries out site visit	
32.	19.04.2011	MOEF files affidavit bringing report of Technical Committee on record on both aspects (forest/slope) and informs HC that slope (part) is in excess of 25% and forest committee report is awaited. Till then, EC will be kept in abeyance	
33.	30.11.2011	MOEF files another affidavit stating reasons why the EC is being held in abeyance, but will abide by the decision of the HC.	
34.	10.04.2012	High Court directs report by the Forest Department, and MOEF to decide once the report is received.	
35.	25.06.2012	M.K. Shambhu report brought on record by Dr Suneet Buxy	
36.	27.11.2012	Thomas and Araujo Expert Committees notified as NGFDC and SGFDC	
37.	17.10.2013	Writ Petitions 13/2010 and 395/2011 transferred to NGT by the High Court	

<b>38.</b>	03.04.2014	NGT orders SGFDC to visit the site and file a report, together with other plots of Dabolim village	
<b>39.</b>	06.05.2014	7th Meeting of SGFDC concludes that Sy. No. 43 is forest	
<b>40.</b>	07.05.2014	SGFDC Report finalizes 73,162 sq mt out of 77,300 sq mt of Sy. No. 43 as private forest.	
<b>41.</b>	31.05.2014	Report of Forest Committee (Araujo Report on DLF submitted to NGT) submitted on affidavit to NGT	
<b>42.</b>	23.06.2014	DLF files WP No. 379/2014 challenging Araujo Report, and seeks ex-parte stay of the report. Goa Foundation is intentionally not made a party in the petition.	
<b>43.</b>	25.06.2014	High Court grants ad-interim stay on Araujo report. Goa Foundation is not made a party in the writ petition and order is obtained without hearing the Foundation	
<b>44.</b>	08.10.2014	The SGFDC gives second hearing to DLF, reconfirms findings that suit property is private forest	
<b>45.</b>	13.10.2014	High Court passes an order directing Goa Foundation to be made a party respondent in the writ petition (379/2014)	
<b>46.</b>	15.10.2014	SGFDC re-visits the entire plot in company of DLF officials.	
<b>47.</b>	30.10.2014	SGFDC submits second report after hearing DLF and after second site visit.	
<b>48.</b>	31.10.2014	NGT stays proceedings in the two matters before it <i>sine die</i> , as High Court has stayed Araujo report commissioned by it	
<b>49.</b>	23.04.2018	SGDFC and NGDFC overnight disbanded by govt. order	
<b>50.</b>	28.12.2018	Araujo led SGFDC submits its report to the government, and covers DLF plot in detail, placing it in the section of finally identified and demarcated private forest.	
<b>51.</b>	21.01.2020	Review Committee II is appointed to review Thomas and Araujo Committee reports	
<b>52.</b>	15.02.2020	Public notice is issued to land owners by the Review Committee	

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53.	12.03.2020	DLF makes representation to the Review Committee	
54.	18.08.2020	NGT accepts RC I report on private forests relating to Sawant and Karapurkar Committee reports	
55.	25.03.2021	High Court order in WP No.379/2014 allows an application of DLF to ask the Review Committee II to look into the representation of DLF dated 12.03.2020	
56.	25.03.2021	DLF sends another representation to the Review Committee	
57.	10.06.2021	DLF plot is excluded without a site inspection (2nd interim report)	
58.	16.06.2021	Minutes of Meeting of RC II and 2nd Part Final Report	
59.	13.09.2022	46.11 sq km of private forests notified in the Goa gazette	
60.	31.07.2023	Clarification issued that “part interim report” is now to be read as “part final report.”	
61.	10.08.2023	455.1081 ha of forest of Araujo and Thomas Committee notified as private forest in gazette	
62.	08.09.2023	High Court disposes of writ petition No. 379/2014 in terms of minutes of order and without reference to RC II findings.	
63.	12.09.2023	NGT judgment rejecting challenge to Review Committee reports 1-6 filed by the Goa Foundation. Any development work on “final” sy.Nos of the two committee reports stayed for 3 weeks till sites physically verified.	
64.	December 2023	Part Final 7 <sup>th</sup> report is uploaded to the Forest Department website.	
65.	09.02.2024	Supreme Court issues notice on Civil Appeal No. 2135/2024 filed by the Goa Foundation against NGT judgement dated 12.09.2023.	
66.	24.09.2024	SC passes order for final disposal of the appeal on 04.12.2024	

## COMPILATION II – O.A. 170/2024 and O.A. 171/2024

<i>Sr. No.</i>	<i>Particulars</i>	<i>Annexure Number</i>	<i>Page Nos.</i>
<b>1.</b>	Order of the Hon'ble High Court of Bombay at Goa in W.P. 13/2010, dt. 23.03.11 and 30.03.11	<b>R-1 Colly</b>	<b>1 – 4</b>
<b>2.</b>	Affidavit of the MOEFCC filed in W.P. 13/2010, dt. 19.04.2011	<b>R-2</b>	<b>5 - 14</b>
<b>3.</b>	Order of the Hon'ble High Court of Bombay at Goa in W.P. 13/2010, dt. 10.04.12 and 02.05.12	<b>R-3 Colly</b>	<b>15 - 18</b>
<b>4.</b>	Affidavit of the Goa Forest Dept. filed in W.P. 13/2010, dt. 25.06.2012	<b>R-4</b>	<b>19 - 48</b>
<b>5.</b>	Affidavit of the MOEFCC filed in W.P. 13/2010, dt. 22.07.2013	<b>R-5</b>	<b>49 - 53</b>
<b>6.</b>	Affidavit of the Goa Forest Dept. filed in O.A. 26/2013 [THC], dt. 31.05.2014; along with a copy of the SGFDC Report dt. 07.05.2014	<b>R-6</b>	<b>54 - 63</b>
<b>7.</b>	Supplementary Report filed by the SGFDC, dt. 30.10.2014	<b>R-7</b>	<b>64 - 70</b>
<b>8.</b>	Order of the Hon'ble S.C. of India in C.A. 2135/2024, dt. 24.09.2024	<b>R-8</b>	<b>71 - 75</b>
<b>9.</b>	Permission granted by the Forest Dept. to Mr. Anand Chandra Bose, dt. 25.05.2007	<b>R-9</b>	<b>76 - 88</b>
<b>10.</b>	Affidavit filed by the Goa Foundation in O.A. 170/2024 [WZ], dt. 11.11.2024	<b>R-10</b>	<b>89 - 115</b>
<b>11.</b>	Order of the Hon'ble High Court of Bombay at Goa in W.P. 13/2010, dt. 12.01.10 and 27.04.10	<b>R-11 Colly</b>	<b>116 - 122</b>
<b>12.</b>	Letter of the MOEFCC to M/s. Saravati Builders [now, DLF Homes Goa Pvt. Ltd.], dt. 15.04.10	<b>R-12</b>	<b>123 - 124</b>

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13.	Letter of the MOEFCC to the Chief Town Planner, Goa, dt. 27.08.10 and 27.09.10	R-13 Colly	125 - 126
14.	Extract of the draft Regional Plan 2021, Goa, showing subject plots	R-14	127 - 128
15.	Contour plan from Survey of India topo-sheets showing subject plots	R-15	129
16.	Extract of the ODP 2011 for Vasco, Goa, showing subject plots; and Survey Plans from the Govt. website 'Bhunaksha' showing the subject plots	R-16	130 - 133
17.	Report of the MOEFCC Expert Committee relating to Eco Sensitive Areas, dt. Sept. 2000	R-17	134 - 160

**PLACE: MAPUSA, GOA**

**DATE: 13.11.2024**

  
13.11.2024

**ADV. FOR THE GOA FOUNDATION**

**IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 13 OF 2010

GOA FOUNDATION THROUGH ITS  
SECRETARY DR. CLAUDE ALVARES AND  
ANR.,

... Petitioners

Versus

M/S SARAVATI BUILDERS AND  
CONSTRUCTION PVT. LTD., AND 10  
ORS.,

... Respondents

Mrs. Norma Alvares, Advocate for the petitioners.  
Shri D. Lawande, Advocate for respondent Nos.12, 15, 18, 20, 21,  
23, 25 to 29, 31, 33 to 41, 43 to 46.  
Shri P. Rao, Advocate for respondent No.1.  
Shri A.N.S.Nadkarni, Senior Advocate with Shri H. D. Naik,  
Advocate for respondent No.6.  
Shri Ryan Menezes holding for Shri Zeller De Souza, Advocate for  
respondent No.10.  
Shri C. A. Ferreira, Assistant Solicitor General for respondent No.9.  
Shri S. S. Kantak, Advocate General with Shri P. Talaulikar,  
Additional Government Advocate for respondent Nos.4, 5, 7, 8 and  
11.

Coram:- S. C. DHARMADHIKARI &  
F. M. REIS, JJ.

Date:- 23rd March, 2011

P.C.:-

The learned Assistant Solicitor General states that presently he has been instructed to make a statement on behalf of respondent No.9 that the report pursuant to site inspection is ready and will be placed on affidavit which will be filed in this Court on 28-3-2011 with advance copies to all the parties. He also states that the affidavit will make it clear as to whether respondent No.9 has decided to continue the earlier position of holding the clearance in abeyance or otherwise.

At the request of the learned Assistant Solicitor General, stand

over to 30-3-2011.

S. C. DHARMADHIKARI, J.

F. M. REIS, J.

RD.

CORRE: S. C. DHARMADHIKARI & F. M. REIS, J.

Office: 30th March 2011

## IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 13 OF 2010

GOA FOUNDATION THROUGH ITS  
SECRETARY DR. CLAUDE ALVARES AND  
ANR.,

... Petitioners

Versus

M/S SARAVATI BUILDERS AND  
CONSTRUCTION PVT. LTD., AND 10  
ORS.,

... Respondents

Mrs. Norma Alvares, Advocate for the Petitioners.

Shri V. A. Lawande, Advocate for Respondent Nos.13, 14 and 17.

Shri D. Lawande, Advocate for Respondent Nos.12, 15, 18, 20, 21,  
23, 25 to 29, 31, 33 to 41, 43 to 46.

Shri R. Dada, Senior Advocate with Shri M. S. Sonak, Advocate for  
Respondent No.1.

Shri A. N. S. Nadkarni, Senior Advocate with Shri H. D. Naik,  
Advocate for Respondent No.6.

Shri C. A. Ferreira, Assistant Solicitor General for Respondent No.9.

Shri S. S. Kantak, Advocate General with Shri Preetam Talaulikar,  
Additional Government Advocate for Respondent Nos.4, 5, 7, 8 and  
11.

Coram:- S. C. DHARMADHIKARI &  
F. M. REIS, JJ.

Date:- 30th March, 2011

P.C.:-

Shri C. A. Ferreira, learned Assistant Solicitor General appearing on behalf of the respondent No.9 states that the affidavit which was to be filed in this Court in the petition could not be filed because of some miscommunication, although the order was clear.

He states that the affidavit would be positively filed by 11th April, 2011 with advance copies to all the parties.

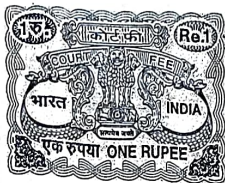
At the request of Shri R. Dada, learned Senior Counsel appearing on behalf of the first respondent, place this matter on 21-4-2011.

Liberty to file reply, if any.

S. C. DHARMADHIKARI, J.

F. M. REIS, J.

RD.



## IN THE BOMBAY HIGH COURT AT GOA

Writ Petition No. 13/2010

Goa Foundation ..... Petitioner  
V/s

M/s. Sarawati Builders & Construction  
Pvt. Ltd. & Ors ..... Respondents

## AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 9

I, Dr. S. K. Susarla, daughter of Shri S. S. Sastry (late) major of age, Indian National, Director, Ministry of Environment and Forests, Regional Office, Southern Zone, Bangalore 560034 do hereby solemnly state on oath and affirm as under:

1. I am duly authorized to file the present Affidavit which has been approved by the Ministry of Environment & Forests, Government of India.
2. I am filing the present affidavit to place on record the report of the Technical Team constituted by Ministry of Environment and Forests, Government of India, vide letter no. 12-102/2010-IA-III dated 24.02.2011.
3. I say that the Committee was requested to examine two issues viz.:
  - a) Whether the site is located in forest land?
  - b) Whether the slope as exist is suitable for development purposes?
4. Pursuant to site inspection conducted by the Technical Team in the presence of other officials of the Ministry and of the State Government and the representatives of the Petitioners and Contesting Respondent, the Report was submitted by the Technical Team, copy whereof is annexed hereto and marked as "Annexure R-1".
5. As far as the identification of the area as a 'forest', I say the Technical Team has advised that identification of the area by the Committee is awaited and final decision should be taken only after the report of the



*P/C*  
*Adv. Mahesh Sarda*  
*(D/S)*  
*19/04/11*

Committee constituted by the State Government of Goa with regard to this survey number is received.

6. As regards the issue of 'slope', the Committee has observed that "the middle part of the project site appears to have portions having more than 25% slopes, as indicated by the contours on the plans and no development is permissible in this area. The extent of area where no development can take place need to be determined by actual survey of the plot(s), since, the slope is hovering around 25% in the middle portion. In the remaining area where development is not restricted on the basis of gradient, the development may be permissible subject to other applicable rules/outcome of the Court cases, if any".

7. In view of the above, the Ministry has decided to await the decision of the Committee constituted by the State Government of Goa as referred in para 5 above, for enabling further decision to be taken. I further say that pending final decision, the Ministry has decided to keep the Environmental Clearance in abeyance.

8. I say that annexure hereto is a true copy of its original.

9. I say that the factual contents are derived from official records, to which I have access and I believe the same to be true.

Solemnly affirmed on this 19 day of April, 2011 at Panaji

*S. K. Pasank*  
DEPONENT

*S. Palkar*  
Identified by:

Adv. S. Palkar

solemnly affirmed before me by *Dr S. K. Susarla* who is identified before me by *Adv. Mr. S. Palkar* whom I personally know.

Dated this 19<sup>th</sup> day of April 2011.

*[Signature]*  
2  
Section Officer  
Court of Bombay at Goa  
Panaji (Goa)



**REPORT OF THE TECHNICAL TEAM CONSTITUTED VIDE MOEF,  
GOI LETTER NO. 21-192/2010-IA.III DATED 24/02/2011**

As per the orders of the Ministry, Member Secretary, SEIAA, Goa has nominated Dr. Purnanand P. Savoikar as a member of the team. Other members of the technical team were the Chief Conservator of Forests (Central) Regional office, Ministry of Environment and Forests, Bangalore and Member Secretary, Goa State Pollution Control Board, Goa.

The Committee has been assigned the task of visiting the site of M/s Saravathi Builders & Construction Pvt. Ltd. connected with W.P. no. 13/2010 to determine:

1. Whether the site is located in forest land
2. Whether the slope as it exists is suitable for development purposes.

The team was also given the task of examining the records and applicable local building by-laws and submit its report:

The Technical team visited the project site on 09/03/2011 and walked along the slope upto the lower end of the plot where amenities block is proposed. During the visit in addition to the members of the technical team, the following officials / persons were present among others:

1. Dr. S.K. Susarla, Scientist 'F', RO (SZ), MoEF, Bangalore
2. Sri M.K. Shambhu, IFS, DCF, South Goa Forest Division
3. Dr. Mohan R. Girap, Secretary, SEAC
4. Sri M.K.C. Srikanth, Dy. Town Planner, Town Planning Department
5. Sri. Claude Alvares, Goa Foundation
6. Sri Edwin Mascarenhas, Petitioner no. 2
7. Smt. Ritu Prasad, Architect
8. Sri Ravi Rajan, VP (OPS), DLF, Goa
9. Sri A. Fernandes, DLF Homes

The team interacted with the Petitioners and representatives of M/s Saravathi Builders & Construction Pvt. Ltd. and the officials present. The records / maps furnished during the visit were also perused by the members of the team. After the site visit the team also interacted with Chief Town Planning Officer and other

officials of the Town Planning Department, Government of Goa, regarding local building by-laws.

Based on the site visit, subsequent discussion and perusal of records / maps, the report of the Committee is as follows:

1. Whether the site is located in forest land:

The site is located in survey no. 43/1-A, Village Dabolim, Mormugao Taluka, South Goa. The extent is reported to be 77,294.36 sq.m. The project site abuts National Highway no. 17 B near Dabolim Airport. The site is under private ownership at present with the project proponents. The area is not a State owned forest land. The issue is whether the area is a 'forest' as per the orders of the Hon'ble Supreme Court.

M/s Saravathi Builders had applied for felling of 47 trees in 1 ha. area, on 25/06/2008. Against this, DCF South Goa permitted on 12/09/2008 felling of 47 trees. 17 trees were of Cashew and most of the remaining trees were of miscellaneous forestry sps. Majority of the trees permitted to be felled were of girth of 0.9 m and above. M/s Saravathi Builders had applied for felling of 59 trees in about 1 ha. area on 07/10/2008. Against this, DCF South Goa permitted on 28/05/2009 felling of 45 trees. 10 trees were of Cashew and most of the remaining trees were of miscellaneous forestry sps. Almost all the trees permitted to be felled were of girth 0.9 m and above. These fellings appear to have happened in the upper portions of the project site with comparatively moderate slope. In the sloping and lower portions of the site, the trees are intact. The density of the vegetation is > 0.4. The species found are Anacardium occidentale, Bombax ceiba, Caryota urens, Mellina arborea, Terminalia chebula, Sterculia urens, Strychnous, nux-vomica, Ficus sps., Macaranga sps. Carea arborhoea, Zyzyhus sps. Lanea coramdalica etc., and several shrubs and herbs characteristic of forest area. More than 75% are of forestry species. The detailed list of species as submitted by the petitioner is enclosed and the list appears to be factually correct.

As per the Hon'ble Supreme Court Judgment dated 12/12/1996 in WP 202(C) of 1995, each State Government was required to constitute within one month and Expert Committee to:

- (i) Identify areas which are 'forests' irrespective of whether they are so notified, recognized or classified under any law, and irrespective of the ownership of the land of such forest;
- (ii) Identify areas which are earlier forests but stand degraded, denuded or cleared; and

- (iii) Identify areas covered by plantation trees belonging to the Government and those belonging to private persons.

As per the information available, so far, two Committees have gone into the issue and submitted the list of such areas. This area has not been included in the areas identified by the two Committees as 'forests'. A third Committee has been constituted in pursuance of the order dated 16/12/2009, of the Hon'ble High Court of Bombay at Goa vide Government order no. 2/1/2010/FOR dated 03/02/2010 to identify the balance area of private forests in North Goa and South Goa District respectively in the State that have not been covered by the Sawant Committee Report and Karapurkar Committee Report and to submit their detailed reports along with the plans / maps of the identified private forests, within the period of two years from the date of the order for further submission to the Hon'ble Court. There is a representation pending before the Committee for inclusion of the areas of this survey number as 'forests'. The report is yet to be submitted. A final decision whether the site is located in a forest land or not should be taken only after the report of the Committee constituted by the Goa Government with regard to this survey number whether it is a forest and the matters are settled by the Hon'ble Court with regard to the identification.

The Private Forests have so far been identified and proposed to be identified based on the following criterion:

1. Area should not be less than 5 ha. If the land is not in contiguity with Government forest or adjoining forest.
2. At least 75% of the tree composition of land should be for forestry species.
3. Crown density should not be less than 0.4

There is a Writ Petition 495/2010 pending before the Hon'ble High Court of Bombay at Goa challenging the criterion no. 3 for identification of private forests.

Retaining natural vegetation in the areas, especially the portion with slope of about 25% of the project area as forest appears to be necessary from the overall environmental interest of the area. As per the guidelines issued by the Ministry under Forest Conservation Act, 1980, the Central Government will not entertain any proposal for diversion of forest land for construction of residential or dwelling houses.

2. Whether the slope as it exists is suitable for development purpose:

Copies of the drawings / plans have been obtained from the Project Authorities and the Town Planning Department of Government of Goa. Five

drawings furnished by the Chief Town Planner are enclosed. The Project Authorities relied on the Architect for the accuracy of the contours. The Town Planning Department went by the drawings / plans submitted. They also compared with the topo sheets of Survey of India to verify the slopes. Actual survey is usually not done by the Town Planning Department for the purpose of approvals. They have also stated that they have gone by overall slope of the plot.

The team has examined the drawings / plans. The plans show contours at 1m interval. The project area is divided into four plots and one amenities block. The project proponent says that the steep slope portions (> 25%) have been kept as open spaces. They claim that the rest of the area where actual construction is proposed is not more than 25% slope. The Petitioners claim that there are portions in the plots where the slope is more than 25% and no development can take place in this area including amenities nor can the area be included in the project.

As per the contours shown in the plans the area can be categorized into three distinct types. Upper portion with slope less than 25%, middle portion with about 25% slope and lower portion with less than 25% slope. The middle portion is having portions with more than 25% slope interspersed with portions having less than 25% slope.

The middle part of the project site appears to have portions having more than 25% slopes, as indicated by the contours on the plans and no development is permissible in this area. The extent of area where no development can take place need to be determined by actual survey of the plot(s), since, the slope is hovering around 25% in the middle portion. In the remaining area where development is not restricted on the basis of gradient, the development may be permissible subject to other applicable rules / outcome of the Court cases, if any.

Sd/-  
(Dr. Purnanand P. Savoikar)  
Member SEAC

Sd/-  
(Mr. Srinet Kothwale)  
Member Secretary, GSPCB

Sd/-  
( K.S. Reddy )  
Chief Conservator of Forests (C)

## Trees

	Botanical Name	Family	Local name
1.	<i>Alseodaphne semecarpifolia</i> Nees	Lauraceae	Rani, Massi, Fugdus
2.	<i>Alstonia scholaris</i> (L.) R. Br.	Apocynaceae	Safwin
3.	<i>Anacardium occidentale</i> L.	Anacardiaceae	Kaju
4.	<i>Artocarpus heterophyllus</i> Lam.	Moraceae	Panas
5.	<i>Bombax ceiba</i> L.	Bombacaceae	Savar
6.	<i>Büchanania lanzan</i> Spreng.	Anacardiaceae	Char
7.	<i>Carallia brachiata</i> (Lour.) Merr.	Rhizophoraceae	Makad bhirand, Ponsi
8.	<i>Careya arborea</i> Roxb.	Barringtoniaceae	Kumyo
9.	<i>Caryota urens</i> L.	Arecaceae	Birlomad
10.	<i>Cassia fistula</i> L.	Caesalpiniaceae	Boyo, Bavo
11.	<i>Cocos nucifera</i> L.	Arecaceae	Mad
12.	<i>Ervatamia alternifolia</i> (L.) Almeida	Apocynaceae	Nagal-Kudo
13.	<i>Ficus arnottiana</i> (Miq.) Miq.	Moraceae	Asti
14.	<i>Ficus benghalensis</i> L.	Moraceae	Vad
15.	<i>Ficus racemosa</i> L.	Moraceae	Rumad
16.	<i>Firmiana colorata</i> (Roxb.) R. Br.	Sterculiaceae	Kaushi, Khavas
17.	<i>Garcinia indica</i> (Du Petit-Thou.) Choisy+	Clusiaceae	Birand, Kokum
18.	<i>Grewia tiliaefolia</i> Vahl	Tiliaceae	Dhaman
19.	<i>Heterophragma quadrioculare</i> (Roxb.) K. Schum.	Bignoniaceae	Murus
20.	<i>Holigarna arnottiana</i> (Wight & Arn.) Hook.f.+	Anacardiaceae	Ranbibo, Bibo
21.	<i>Holoptelea integrifolia</i> (Roxb.) Planch.	Ulmaceae	Vamvlo
22.	<i>Lannea coromandelica</i> (Houtt.) Merrill	Anacardiaceae	Moi
23.	<i>Macaranga peltata</i> (Roxb.) Muell.-Arg.	Euphorbiaceae	Chandod
24.	<i>Mallotus philippensis</i> (Lam.) Muell.-Arg.	Euphorbiaceae	Shendri
25.	<i>Memecylon umbellatum</i> Burm. f.	Melastomataceae	Anjan, Kalo-kundo
26.	<i>Mimusops elengi</i> L.	Sapotaceae	Omyla
27.	<i>Sapium insigne</i> (Royle) Benth. ex Trim.	Euphorbiaceae	Uro.
28.	<i>Sterculia urens</i> Roxb.	Sterculiaceae	Pandruk, Arjun
29.	<i>Strychnos nux-vomica</i> L.	Loganiaceae	Kajro
30.	<i>Syzygium cumini</i> (L.) Skeels	Myrtaceae	Jaman, Nerul
31.	<i>Tamarindus indica</i> L.	Caesalpiniaceae	Chinch
32.	<i>Tectona grandis</i> L.f.	Verbenaceae	Sylo, Sagwan
33.	<i>Terminalia bellerica</i> (Gaert.) Roxb.	Combretaceae	Gofing
34.	<i>Trema orientalis</i> (L.) Bl.	Ulmaceae	Khargul
35.	<i>Xeromphis spinosa</i> (Thunb.) Keay	Rubiaceae	Ghela

36.	<i>Ziziphus xylopyrus</i> (Retz.) Willd.	Rhamnaceae	Ghot, Ran-bor
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### Shrubs and Stragglers

S. No.	Botanical Name	Family	Local name
37.	<i>Acacia pennata</i> (L.) Willd.	Mimosaceae	Sambo, Shembo
38.	<i>Allophylus cobbe</i> (L.) Raeusch.	Sapindaceae	Titwit, Teenpaana
39.	<i>Breynia retusa</i> (Dennst.) Alston	Euphorbiaceae	Poem, Kangli
40.	<i>Bridelia scandens</i> (Roxb.) Willd.	Euphorbiaceae	Phaterpod
41.	<i>Callicarpa tomentosa</i> (L.) Murr.	Verbenaceae	Tomdi-kharvamti
42.	<i>Calycopteris floribunda</i> (Roxb.) Lam.\$	Combretaceae	Uski
43.	<i>Carissa congesta</i> Wight	Apocynaceae	Karvand
44.	<i>Celastrus paniculatus</i> Willd.	Celastraceae	Kangla, Kanguni
45.	<i>Clerodendrum viscosum</i> Vent.	Verbenaceae	Saypilo
46.	<i>Dalbergia horrida</i> (Dennst.) Mabberley	Fabaceae	Petguli, Kati-kamto
47.	<i>Desmodium triagulare</i> (Retz.) Merr.	Fabaceae	Lapoti
48.	<i>Embelia tsjeriam-cottam</i> (Roem. & Sch.) A. Dc.	Myrsinaceae	
49.	<i>Ficus hispida</i> L.f.	Moraceae	Vadli-Kharvamti
50.	<i>Helicteres isora</i> L.@	Sterculiaceae	Kivan
51.	<i>Holarrhena pubescens</i> (Buch.-Ham.) Wall. ex Don@	Apocynaceae	Kudo
52.	<i>Ixora brachiata</i> Roxb.@	Rubiaceae	
53.	<i>Ixora coccinea</i> L.	Rubiaceae	Pitkuli
54.	<i>Leea indica</i> (Burm. f.) Merrill	Leeaceae	Dimdo, Dinø
55.	<i>Leea macrophylla</i> Roxb. Ex Hornem.	Leeaceae	Jino, Dinda
56.	<i>Microcos paniculata</i> L.	Tiliaceae	Amsali
57.	<i>Moullava spicata</i> (Dalz.) Nicolson++	Casalpiniaceae	Wakeri, Vagati
58.	<i>Ochna obtusata</i> DC.	Ochnaceae	Narole
59.	<i>Rauvolfia serpentina</i> (L.) Benth. ex Kurz	Apocynaceae	Atki
60.	<i>Thespesia lampas</i> (Cav.) Dalz. & Gibs.	Malvaceae	Ran-bhendi
61.	<i>Urena lobata</i> L.	Malvaceae	Tupkate
62.	<i>Vitex negundo</i> L.@	Verbenaceae	Nirgundi

63.	<i>Ziziphus rugosa</i> Lam.	Rhamnaceae	Chuna
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**Herbs**

S. No.	Botanical Name	Family	Local name
64.	<i>Alysicarpus vaginalis</i> (L.) DC.	Fabaceae	
65.	<i>Amorphophallus commutatus</i> (Schott) Engl.+	Araceae	Ransuran
66.	<i>Cassia tora</i> L.	Caesalpiniaceae	Taiklo
67.	<i>Commelina benghalensis</i> L.	Commelinaceae	
68.	<i>Desmodium heterocarpon</i> (L.) DC.	Fabaceae	
69.	<i>Impatiens balsamina</i> L.	Balsaminaceae	Terada
70.	<i>Impatiens minor</i> †	Balsaminaceae	
71.	<i>Mimosa pudica</i> L.	Mimosaceae	Touch-me-not; Lajalu
72.	<i>Naregamia alata</i> Wight & Arn.	Meliaceae	
73.	<i>Physalis minima</i> L.	Solanaceae	Chirputi
74.	<i>Triumfetta rhomboidea</i> Jacq.	Tiliaceae	

**Climbers (incl. Twiners)**

S. No.	Botanical Name	Family	Local name
75.	<i>Ampelocissus arnottiana</i>	Vitaceae	
76.	<i>Argyrea nervosa</i> (Burm.f.) Boj	Convolvulaceae	Samudra-Somk
77.	<i>Cayratia elongate</i> (Roxb.) Susseng.	Vitaceae	
78.	<i>Cayratia trifolia</i> (L.) Domin.	Vitaceae	
79.	<i>Dioscorea bulbifera</i> L.	Dioscoreaceae	Karamdo
80.	<i>Dioscorea wallichii</i> Hook.f.	Dioscoreaceae	
81.	<i>Lygodium flexuosum</i> (L.) Swartz	Schizaeaceae	
82.	<i>Smilax zeylanica</i> L.	Smilacaceae	Kaval-kamti
83.	<i>Vigna vexillata</i> (L.) A. Rich.	Fabaceae	
84.	<i>Wattakaka volubilis</i> (L. f.) Stapf	Asclepidiaceae	Ambri

**Obnoxious weeds (at the periphery)**

S. No.	Botanical Name	Family	Local name
85.	<i>Chromolaena odorata</i> (L.) R.M.King & H.Rob.	Asteraceae	Ran-mari
86.	<i>Hyptis suaveolens</i> (L.) Poit.	Lamiaceae	
87.	<i>Lantana camara</i> L.	Verbenaceae	Ghaneri

Symbols signify:

@ = also grow as trees

\$ = also grows as liana

+ = endemic species

++ = monotypic endemic genus (ie. Only one species in the genus)

Comments:

- 1) Trees are very tall and most of the species are represented by great numbers in populations.
- 2) Survey was conducted just along the periphery for 1 hr on 20.07.2010; many more species are expected to be there in the area.
- 3) As it is beginning of the monsoon climbers have already started covering the vegetation, thus there is likelihood of missing the plants even at the periphery.
- 4) Herbs (including grasses) are just coming up after the monsoon, so they are not represented in great number.
- 5) Going by the composition of the elements, vegetation can be considered wild but for the couple of species such as coconut, teak and cashew planted here and there.
- 6) Regular species that are expected are not seen and they are presumed to be within the patch, thus this list suggests only a fraction of the species observed there.
- 7) A thorough survey, not only for species present there but also for their quantity is necessary.
- 8) As shown in the list there are endemic species in the area.

**IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 395 OF 2011M/S DLF HOMES GOA PVT. LTD., REP.  
BY SHRI RAVI RAJAN

... Petitioner

Versus

UNION OF INDIA THROUGH THE  
SECRETARY, MINISTRY OF ENVIRONMENT  
AND FORESTS AND 2 ORS.,

... Respondents

Mr. Ravi Kadam, Senior Advocate with Mr. M. S. Sonak and Mr. J. Supekar, Advocates for the petitioner.  
 Mr. C. A. Ferreira, Assistant Solicitor General for respondent no.1.  
 Mr. A. N. S. Nadkarni, Advocate General with Mr. P. Vernekar, Additional Government Advocate for respondent no.2.  
 Mrs. Norma Alvares, Advocate for respondent no.3.

Coram:- A. P. LAVANDE &  
U. V. BAKRE, JJ.

Date:- 10th April, 2012

P.C.

Heard Mr. Kadam, learned Senior Counsel for the petitioner, Mr. Ferreira, learned Assistant Solicitor General for respondent no.1, Mr. Nadkarni, learned Advocate General for respondent no.2 and Mrs. Alvares, learned Advocate for respondent no.3.

2. By this petition, the petitioner has challenged the portion of the communication dated 15/04/2010 to the extent it keeps in abeyance the environmental clearance dated 11/01/2010 and / or the continued abeyance qua the environmental clearance dated 11/01/2010. The petitioner has also sought interim relief.

3. Having heard the learned Counsel for the parties and having perused the record, we pass the following order :

In terms of order dated 21/11/2006 passed in Writ Petition No.334/2006, the Forest Department shall inspect the property bearing Survey No.43/1, where the petitioner proposes to carry out development. The Forest Department shall prepare the report and submit the same in a cover along with affidavit of the responsible officer of the Forest Department to this Court within a period of eight weeks and shall also supply copies for the parties. A copy of the said report shall be forwarded to Ministry of Forest and Environment, who shall take appropriate decision thereon within a period of six weeks thereafter.

4. A copy of this order be placed in Writ Petition No.13/2010 filed by respondent no.3 herein.
5. It is made clear that the issue as to whether conversion sanad is required by the petitioner is kept open.
6. S. O. to 17th July, 2012.

A. P. LAVANDE, J.

U. V. BAKRE, J.

SMA

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 437 OF 2012

IN

WRIT PETITION NO. 13 OF 2010

GOA FOUNDATION THROUGH ITS  
SECRETARY DR. CLAUDE ALVARES

... Applicant

Versus

M/S SARAVATI BUILDERS AND  
CONSTRUCTION PVT. LTD., AND 46  
ORS.,

... Respondents

Ms. Norma Alvares, Advocate for the Applicant.

Mr.P. Rao, Advocate for Respondent no.1.

Mr. S.K. Malyekar, Advocate for Respondent no.2.

Mr. L. Ragunandan, Advocate for Respondents no.27 to 29,31,33 to  
41 to 46.

Mr. H.D. Naik, Advocate for Respondent no.6.

Mr. K. Noorani, Additional Government Advocate for Respondent  
no.4,5,7,8 and 11.

Coram:- A. P. LAVANDE &  
U. V. BAKRE, JJ.

Date:- 2nd May, 2012

P.C:

Heard Ms. Alvares for the applicant, Mr.Rao for Respondent no.1,Mr. Malyekar for Respondent no.2., Mr. K. Noorani, Additional Government Advocate for Respondents no.4,5,7,8,11, Mr. Naik for Respondent no.6 and Mr. Ferreira for Respondent no.9.

2. This application is filed by the applicant who is the petitioner in Writ petition no.13/2010 seeking direction to the Forest Department to inspect the entire survey no.43/1 instead of portion of survey no.43/1, in terms of order dated 10/4/2012 passed in Writ petition no.395/2011. Learned counsel appearing for the respondents have no objection if the application is allowed without prejudice to their

rights and contentions.

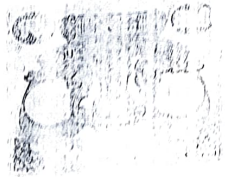
3. In view of the above, order dated 10/4/2012 passed in Writ Petition no.395/2011 is modified and the direction to the Forest Department, Government of Goa and to the Ministry of Forest and Environment shall be in respect of entire survey no.43/1 instead of part of Survey no.43/1 in terms of order dated 10/4/2012. This order is passed without prejudice to the rights and contentions of the parties in the petition.

4. The application is disposed of.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ap/-



IN THE HIGH COURT OF BOMBAY AT PANAJI GOA

Writ Petition No.13/2010

Goa Foundation

...Petitioner

Versus

M/s. Saravati Builders and  
Construction Pvt. Ltd. And Ors.

...Respondents.

Order passed  
w/WP 395  
April 27.

**AFFIDAVIT ON BEHALF OF THE RESPONDENT NO.7**

I, Dr. Suresh Buxy, major of age, Indian National, the Deputy Conservator of Forests, South Goa Division, Government of Goa the Respondent No.7 above named most respectfully state and submit as under:

1. I state that I am presently working as the Deputy Conservator of Forests, Government of Goa, the Respondent No.7 above named and I have due authority to file the present Affidavit.
2. I state that vide Order dated 10/04/2012 passed in Writ Petition No. 395/2011, this Hon'ble Court was pleased to direct the Forest Department to inspect the property bearing Survey No. 43/1 of Dabolim Village, where the Petitioner therein proposes to carry out development. This Hon'ble Court further directed the Forest Department to prepare the report and submit the same in a cover along with an Affidavit of the responsible officer of the Forest Department to this Hon'ble Court within a period of eight weeks and shall supply copies of the same for the parties.

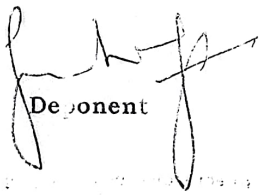
3. I state that vide Order dated 02/05/2012 passed in M.C.A No. 437 of 2012 in Writ Petition No.13/2010, this Hon'ble Court was pleased to modify the Order dated 10/04/2011 and directed the forest department to inspect the entire Survey No.43/1 instead of part of Survey No.43/1 of Dabolim Village in terms of the Order dated 10/04/2012.

4. I state that I am filing this Affidavit for the limited purpose of placing on record the report prepared by this Respondent in accordance with the Orders of this Hon'ble Court namely, Order dated 10/04/2012 passed in Writ Petition No. 395/2011 and the Order dated 02/05/2012 passed in M.C.A No. 437 of 2012 in Writ Petition No.13/2010. The said report is being placed in sealed cover through the Ld. Counsel appearing for the State.

I state that whatever has been stated by me is based on records available with the Respondent No.7 to which I have access and which I believe to be true and correct and on the Field inspection carried out by this Respondent of Survey No.43/1 of Dabolim Village.

Solemnly affirmed at Panaji Goa }

On this 25<sup>th</sup> day of June 2012 }

  
Deponent

Identified by me

(Adv. K. Sorani)

Buxy  
25/6/12  
425314

*[Typed copy of pgs. 19 - 20 ]*

**IN THE HIGH COURT OF BOMBAY AT PANAJI GOA**

**Writ Petition No. 13/2010**

Goa Foundation

.... Petitioner

Versus

M/s. Saravati Builders and

Construction Pvt Ltd and Ors

.... Respondents

**AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 7**

I, Dr. Suneesh Buxy, major of age, Indian National, the Deputy Conservator of Forests, South Goa Division, Government of Goa the Respondent No. 7 above named most respectfully state and submit as under:

1. I state that I am presently working as the Deputy Conservator of Forests, Government of Goa, the Respondent No. 7 above named and I have due authority to file the present Affidavit.
2. I state that vide Order dated 10.04.2012 passed in Writ Petition No. 395/2011, this Hon'ble Court was pleased to direct the Forest Department to inspect the property bearing Survey No. 43/1 of Dabolim Village where the Petitioner therein proposes to carry out development. This Hon'ble Court further directed the Forest Department to prepare the report and submit the same in a cover along with an Affidavit of the responsible

officer of the Forest Department to this Hon'ble Court within a period of eight weeks and shall supply copies of the same for the parties.

3. I state that vide Order dated 02/05/2012 passed in MCA No. 437 of 2012 in Writ Petition No. 13/2010, this Hon'ble Court was pleased to modify the Order dated 10/04/2011 and directed the forest department to inspect the entire Survey No. 43/1 instead of part of Survey No. 43/1 of Dabolim Village in terms of the Order dated 10.04.2012.
4. I state that I am filing this Affidavit for the limited purpose of placing on record the report prepared by this Respondent in accordance with the Orders of this Hon'ble Court namely, Order dated 10.04.2012 passed in Writ Petition No. 395/2011 and the Order dated 02.05.2012 passed in MCA No. 437 of 2012 in Writ Petition No. 13/2010. The said report is being placed in sealed cover through the Ld. Counsel appearing for the State.
5. I state that whatever has been stated by me is based on records available with the Respondent No. 7 to which I have access and which I believe to be true and correct and on the Field inspection carried out by this Respondent of Survey No. 43/1 of Dabolim Village.

Solemnly affirmed at Panaji Goa

On this 25<sup>th</sup> day of June 2012

[Sd/-] Deponent

Identified by me [Sd/-]

## Field Inspection report

*Ref : Hon High Court order dtd 10.04.2012 in WP no 395/2011  
& order dtd 02.05.2012 in MCA no 437 of 2012 in WP no 13 of 2010.*

Honorable High Court of Bombay at Goa in Writ Petition Number 395 of 2011 (M/s DLF Homes Goa Pvt Ltd v/s Union of India and others) in its order dated 10 April 2012 had directed inspection of the property of M/s DLF homes Goa Pvt. Ltd in Sy no 43/1 of Dabolim village. Vide order dtd 02.05.2012, Hon'ble High Court modified its order and directed inspection of the entire Sy. No 43/1 (and not just the part owned by M/s DLF Homes/M/s Saravati Builders and Constructions Pvt Ltd.)

The same was intimated to this office for preparing and submitting a report by office of Addl. Principal Chief Conservator of Forests vide letter No.10/557(18)/FD/12-13/8/206 dtd 12.04.2012.

Accordingly the report is prepared and submitted by the undersigned with the assistance of Forest Surveyor, Range Forest officer (Mobile Squad, Margao) and field staff of the Mobile Squad Forest Range, Margao).

A clarification on the Affidavit filed by the undersigned in the Hon'ble Court earlier on the same matter on dates 15.03.2010 and 27.04.2010 is necessary and pertinent. No findings of this report, which is based on inspections, satellite imagery and sampling of vegetation should be construed as perjury if the findings are different from what was filed in the affidavits earlier as the earlier affidavits were filed primarily based on office records.

**Findings along with reasons:**

Based on (i) field verification (ii) Satellite imagery and (iii) Records of permission for tree felling issued earlier, the following findings with reasons are recorded.

The findings of the inspection can be categorized into 3 categories for clarity and convenience:

- 1) The area of Sy no 43/1 which is outside M/s DLF Homes Pvt Ltd/ M/s Saravati builders and construction Pvt Ltd was inspected. It is found that there are houses, vacant plots, roads, drains, electricity poles etc at present along with scattered trees.

More than 25% of the trees present are teak and other non – forestry species. The tree felling permission for 73 trees which was given by this office in 2007 in the same area was verified and it is found that 35 trees out of 73 trees permitted to fell were teak trees. Considering that the Teak tree species is not naturally

available in that area, teak must have been planted by people. Also cashew, coconut and other trees are present in the area. *The criteria that the area to be declared as a Private Forest should have more than 75% of the Tree Species of forestry in nature is not fulfilled as the trees appear to have been planted.*

Though the teak tree is a forest tree, its origin here is not natural as found by the nature of vegetation in adjacent areas and as per discussion held with other Forest Officers about the occurrence and distribution of teak in this area.

Considering the above facts, *the area in 43/1 that is not part of 43/1-A should not be considered as Private Forest.* This area is demarcated from the DLF property partly with barbed wire fencing & partly with laterite wall.

- 2) Second category is the area which is part of 43/1-A and owned by M/s DLF Homes Pvt Ltd / M/s Saravati Builders and Constructions Pvt Ltd. It has an area of 7.73 ha. Out of this 7.73 ha, a small portion of 0.6503 hectare as marked on the satellite imagery and as verified on the ground has less density and hence does not meet the criteria of deemed forest . Out of the remaining 7.0797 hectare in Survey No 43/1-A, tree felling permission was given in 2 hectare (one hectare each at a time).

Excluding this 2 hectare in which tree felling permission was given by the then Tree Officer, remaining *5.0797 hectare in Survey number 43/1-A meets the criteria of private forest.* The sample plots indicate more than 75% of the species to be forestry in nature, canopy density is more than 0.4 and the area is more than 5 ha. All the three criteria of Private Forest are met. Hence development of this 5.0797 hectare in Survey number 43/1-A, once considered as Private Forest, shall attract the provisions of Forest Conservation Act, 1980.

- 3) Third category is the area of 2.00 hectare in Sy. No 43/1-A where tree felling permission was given. As the trees in this 2 hectare have already been felled, site inspection does not help much in verifying the density of the vegetation. The then officials have clearly indicated that Forest Conservation Act is not applicable to the area & have gone ahead & given tree felling permission. Further the area was not identified as Private Forest though two committees.

**However on verification of tree felling list and on considering the area along with remaining portion of petitioner's property, it can be concluded that the area meets the criteria of Private Forest.**

**Final Conclusion:**

**In Sy. No.43/1(including petitioner M/s DLF homes Pvt. Ltd's property) all of the petitioner's property meets the criteria of Private Forest in area admeasuring 7.7300 ha**

**Enclosures:**

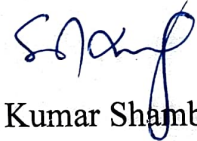
Annexure- I : Hon'ble High Court Orders (Page 6 to 9 )

Annexure – II : Sample plot details -5 plots (Page 10 to 15 )

Annexure – III : Tree felling Permission Copy with tree list  
in Sy no 43/1(73 trees) (Page 16 to 18 )

Annexure – IV : Google imagery of 2006 and 2011 (Page 19 to 20 )

Annexure V : Copies of Note sheet of tree felling file of  
M/s Saravati Constructions in Sy no. 43/1-A  
(Page 21 to 23 )



Mahesh Kumar Shambhu  
Deputy Conservator of Forests  
South Goa Division, Margao

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO. 437 OF 2012

IN

WRIT PETITION NO. 13 OF 2010

GOA FOUNDATION THROUGH ITS  
SECRETARY DR. CLAUDE ALVARES

... Applicant

Versus

M/S SARAVATI BUILDERS AND  
CONSTRUCTION PVT. LTD., AND 46  
ORS.,

... Respondents

Ms. Norma Alvares, Advocate for the Applicant.  
Mr. P. Rao, Advocate for Respondent no. 1.  
Mr. S.K. Malyekar, Advocate for Respondent no. 2.  
Mr. L. Ragunandan, Advocate for Respondents no. 27 to 29, 31, 33 to  
41 to 46.  
Mr. H.D. Naik, Advocate for Respondent no. 6.  
Mr. K. Noorani, Additional Government Advocate for Respondent  
no. 4, 5, 7, 8 and 11.

Coram:- A. P. LAVANDE &  
U. V. BAKRE, JJ.

Date:- 2nd May, 2012

P.C:

Heard Ms. Alvares for the applicant, Mr. Rao for Respondent no. 1, Mr. Malyekar for Respondent no. 2., Mr. K. Noorani, Additional Government Advocate for Respondents no. 4, 5, 7, 8, 11, Mr. Naik for Respondent no. 6 and Mr. Ferreira for Respondent no. 9.

2. This application is filed by the applicant who is the petitioner in Writ petition no. 13/2010 seeking direction to the Forest Department to inspect the entire survey no. 43/1 instead of portion of survey no. 43/1, in terms of order dated 10/4/2012 passed in Writ petition no. 395/2011. Learned counsel appearing for the respondents have no objection if the application is allowed without prejudice to their

rights and contentions.

3. In view of the above, order dated 10/4/2012 passed in Writ Petition no.395/2011 is modified and the direction to the Forest Department, Government of Goa and to the Ministry of Forest and Environment shall be in respect of entire survey no.43/1 instead of part of Survey no.43/1 in terms of order dated 10/4/2012. This order is passed without prejudice to the rights and contentions of the parties in the petition.

4. The application is disposed of.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ap/-

## IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 395 OF 2011M/S DLF HOMES GOA PVT. LTD., REP.  
BY SHRI RAVI RAJAN

... Petitioner

Versus

UNION OF INDIA THROUGH THE  
SECRETARY, MINISTRY OF ENVIRONMENT  
AND FORESTS AND 2 ORS.,

... Respondents

Mr. Ravi Kadam, Senior Advocate with Mr. M. S. Sonak and Mr. J. Supekar, Advocates for the petitioner.  
 Mr. C. A. Ferreira, Assistant Solicitor General for respondent no.1.  
 Mr. A. N. S. Nadkarni, Advocate General with Mr. P. Vernekar, Additional Government Advocate for respondent no.2.  
 Mrs. Norma Alvares, Advocate for respondent no.3.

Coram:- A. P. LAVANDE &  
U. V. BAKRE, JJ.

Date:- 10th April, 2012

P.C.

Heard Mr. Kadam, learned Senior Counsel for the petitioner, Mr. Ferreira, learned Assistant Solicitor General for respondent no.1, Mr. Nadkarni, learned Advocate General for respondent no.2 and Mrs. Alvares, learned Advocate for respondent no.3.

2. By this petition, the petitioner has challenged the portion of the communication dated 15/04/2010 to the extent it keeps in abeyance the environmental clearance dated 11/01/2010 and / or the continued abeyance qua the environmental clearance dated 11/01/2010. The petitioner has also sought interim relief.

3. Having heard the learned Counsel for the parties and having perused the record, we pass the following order :

In terms of order dated 21/11/2006 passed in Writ Petition No.334/2006, the Forest Department shall inspect the property bearing Survey No.43/1, where the petitioner proposes to carry out development. The Forest Department shall prepare the report and submit the same in a cover along with affidavit of the responsible officer of the Forest Department to this Court within a period of eight weeks and shall also supply copies for the parties. A copy of the said report shall be forwarded to Ministry of Forest and Environment, who shall take appropriate decision thereon within a period of six weeks thereafter.

4. A copy of this order be placed in Writ Petition No.13/2010 filed by respondent no.3 herein.

5. It is made clear that the issue as to whether conversion sanad is required by the petitioner is kept open.

6. S. O. to 17th July, 2012.

A. P. LAVANDE, J.

U. V. BAKRE, J.

SMA

JOINT INSPECTION REPORT

As per the instruction from Dy. Conservator of forests, South Goa, Margao the area under survey No. 43/1 of Dabolim Village of Mormugao Taluka is inspected along with Range Forest Officer, Round Forester & Forest guard of Mobile Squad, Margao on 9.5.2012, 10.5.2012 & 24.5.2012. The area was located with the help of Survey plan & Google map.

As instructed five numbers of Sample plots has been laid down with a dimension of 20m x 20 m square and tress falling within the sample plots are enumerated by the Range Forest Officer, Round Forester & Forest guard of Mobile Squad, Margao. G.P.S readings of all the sample plots are taken and same is shown below.

1. Sample Plot A = N 15° 23' 31.0"  
E 73° 51' 19.2"
1. Sample Plot B = N 15° 23' 33.3"  
E 73° 51' 16.2"
1. Sample Plot C = N 15° 23' 31.7"  
E 73° 51' 20.9"
1. Sample Plot D = N 15° 23' 35.3"  
E 73° 51' 14.1"
1. Sample Plot E = N 15° 23' 28.7"  
E 73° 51' 20.8"

*[Signature]*  
FOREST SURVEYOR  
SOUTH GOA DIVISION,  
MARGAO - GOA.

*[Signature]*  
Range Forest Officer  
Mobile Squad  
MARGAO

Date:- 4.6.2012  
Place:- Margao

*[Signature]*  
Round Forester  
Mobile Squad Margao

*[Signature]*  
C. Sanku C. Maiti  
Forest Guard

Details of Trees existing in Plot No. A (20.M X 20.M.) marked in Sy.No.43/1 situated at Dabolim village of Mormugao Taluka, Goa.

side

Sr.No.	Species.	Girth	Height.	Volume.
1-A	Huro	0.90	5.00	0.253
B	---do---	0.86.	4.00	0.184
2.	Huro	0.86	4.00	0.184
3.	Huro	1.05	3.00	0.206
4.	Shivon.	1.08	5.00	0.364
5.	Chivor.	0.45	3.00	0.037
6.	Kudo	0.60	3.00	0.067
7.	Chandodo	0.95	4.00	0.022
8.	Shivon.	0.60	5.00	0.112
9.	Huro	0.73	2.00	0.056
10	Huro.	0.45	2.00	0.025
Total.				1.520.m3

## Abstract.

Materials.	Volume.	Rate.	Amount.
3 <sup>rd</sup> cl. timber.	1.520.m3	Rs.2000/-	Rs.3,040/-
Firewood (App.)	5.000.m3	Rs.200/-	Rs. 1,000/-
Total.			Rs. 4,040/-

(Rupees four thousand and forty only)

*[Signature]*  
 R. P. M. MARGAO  
 Range Forest Officer  
 MORMUGAO  
 MARGAO

Details of Trees existing in Plot No.B ( 20.M X 20.M.) Marked in Sy./No.43/1  
situated at Dabolim village of Mormugao Taluka, Goa.

58/1

Sr.No.	Species.	Girth.	Height.	Volume.
1.	Chandodo	0.74	7.00	0.239
2.	Cashew,	0.95	4.00	0.225
3.	Cashew	0.82	5.00	0.210
4.	Huro	0.90	6.00	0.303
5.	Shilvon.	1.00	5.00	0.312
6.	Bhirand	0.55	5.00	0.094
7.	Kindal	0.45	4.00	0.050
8.	Moi.	0.60	4.00	0.090
9.	Cashew	1.35	5.00	0.569
10	Huro	0.55	4.00	0.075
11	Moi	0.72	5.00	0.162
12	Kumbyo	0.78	6.00	0.228
13	Kumbyo.	0.22	3.00	0.009
14	Bhirand	0.75	5.00	0.175
Total				2.741 m3

## Abstract.

Materials.	Volume.	Rate.	Amount.
2 <sup>nd</sup> cl (O) Kindal.....	0.050	Rs.3,000/-	Rs. 150/-
3 <sup>rd</sup> cl. Timber.	2.691	Rs.2,000/-	Rs.5,382/-
Total.			Rs.5,532/-

(Rupees five thousand five hundred thirty two only)

*R. P. M. M.*  
RANGE OFFICER  
MORMUGAO  
MORMUGAO

Details of Trees existing in Plot No.C ( 20.M X 20.M.) Marked in Sy.No.43/1 situated at Dabolim village of Mormugao Taluka, Goa.

Sl.No.	Species	Girth.	Height.
1	Teak	0.58	4.00
2	Teak	0.93	9.00
3.	Mango	1.03	3.00
4.	Teak	0.79	5.00
5.	-do-	1.02	5.00
6.	-do-	0.96	6.00
7.	-do-	0.60	5.00
8.	-do-	0.98	8.00
9.	Mango	0.76	3.00
10	Teak	1.19	8.00
11.	-do-	0.85	7.00
12.	-do-	0.90	6.00
13.	Buro	1.00	5.00
14	Teak	0.74	6.00
15	-do-	0.68	5.00
16	-do-	0.87	8.00

*das*  
~~29/9/12~~  
 25/9/12  
 Forest Officer  
 Dabolim Taluka  
 Mormugao

Details of Trees existing in Plot No.D ( 20.M X 20.M.) Marked in Sy.No.43/1 situated at Dabolim village of Mormugao Taluka, Goa.

<u>Sr.No.</u>	<u>Species</u>	<u>Girth.</u>	<u>Height.</u>
1.	Moi	0.66	3.00
2.	-do-	0.53	2.00
3.	-do-	0.93	5.00
4.	Huro	0.35	3.00
5.	Moi	0.35	3.00
6.	Char	0.36	3.00
7.	Moi	0.40	3.00
8.	-do-	0.40	2.00
9.	-do-	0.29	3.00
10.	-do-	0.47	3.00
11.	Kumbyo	0.37	2.00
12.	Huro	0.66	3.00
13.	Moi	0.48	3.00
14.	Char	0.36	5.00
15.	Huro	1.08	4.00

*24/5/12*  
 RA, Mormugao  
 Forest Officer  
 Dabolim Forest  
 MORMUGAO

Details of Trees existing in Plot No.B (20.M X 20.M.) Marked in Sy.No.43/1  
situated at Dabolim village of Mormugao Taluka, Goa.

No.	Species	Girth	Height
1.	Cashew	0.75	3.00
2.	Podgus.	0.96	5.00
3.	Karo	0.56	4.00
4.	Karo	0.51	4.00
5.	Sarvar	1.20	5.00
6.	Chandode	0.65	4.00
7.	do	0.91	5.00
8.	Euro	0.61	5.00
9.	do	0.29	4.00
10.	Moi.	2.00	7.00

*Handwritten signature*  
29/1/18  
M. G. ...  
M. G. ...  
M. G. ...

1271

FORM (E)  
(See rule 6)  
TREE OFFICER-CUM-DY. CONSERVATOR OF FOREST  
Government of  
FORESTS DEPARTMENT

No. 3/3/137/2007-08/SG

Date: 25/05/2007.

Sub: - Permission of fell trees

With reference to his/her application dated 13/4/2007 for grant of permission to fell trees, Shri. Anand Chandra Bose, is hereby informed that he/she is granted permission to fell trees as per details, indicated below from the private property known as "Capela Bait Ambatta & Camoti" under Sy.No.43/1 situated at Dabolim Salcete Taluka subject to the terms and conditions specified.

DETAILS OF TREES

Sr.No

(List of species of trees is enclosed)

To,

Shr. Anand Chandra Bose.  
R/o. Vasco da Gama Goa.

Tree officer,



TERMS AND CONDITIONS

- 1 The Range Forests Officer shall mark the trees before cutting.
- 2 Permission to fell trees is granted at his/her risk and without prejudice to claims/s of any other person/s who may be having right/s over the land of trees.
- 3 Felling of trees shall be completed within 45 days from the above mentioned date.
- 4 Material produced from the felled trees shall not be removed or disposed without permission of the Tree Officer
- 5 He/She shall replant tree as per details given below during ensuing/planting season, i.e. commencing from June to ...2007... August ... 2007 ... in the property from which the trees be felled.

Licence fee was paid vide RNO.26 BKNO. 612 dtd. 28/5/2007 for Rs. 7300/-

Sr.No.

Species  
Forestry Species etc.

- 6 He/She shall deposit sum of Rs. 14000/- (Rupees Fourteen Thousand Six Hundred only) vide PO/No. 715193 dated 25/05/2007.
- 7 Security Deposit in the office of the Dy. Conservator of Forests, South Goa Division Margao - before starting the felling of the trees for ensuing the replanting of the trees (indicated at Sr. 1 above)
- 8 In the event of failure on the part of permit holder to replant the trees as indicated at Sr.5, abc then the Tree Officer, shall himself undertake to replant the trees and recover the cost thereof from the permit holder by way of adjustment against the Security Deposit made by the permit holder. The balance, if any, shall be recovered as arrears of Land Revenue.
- 9 Copy to the Conservator of Forests, Panaji-Goa, for information.  
Copy to: The R.F.O. (M.S. Margao) w.r. to his report dtd. 13/5/2007. He is directed to keep

of the Standing trees in Plot No. 5 existing in the private property known as  
"ELABAT" situated at Dabolin Village, Marmugao Taluka, bearing survey

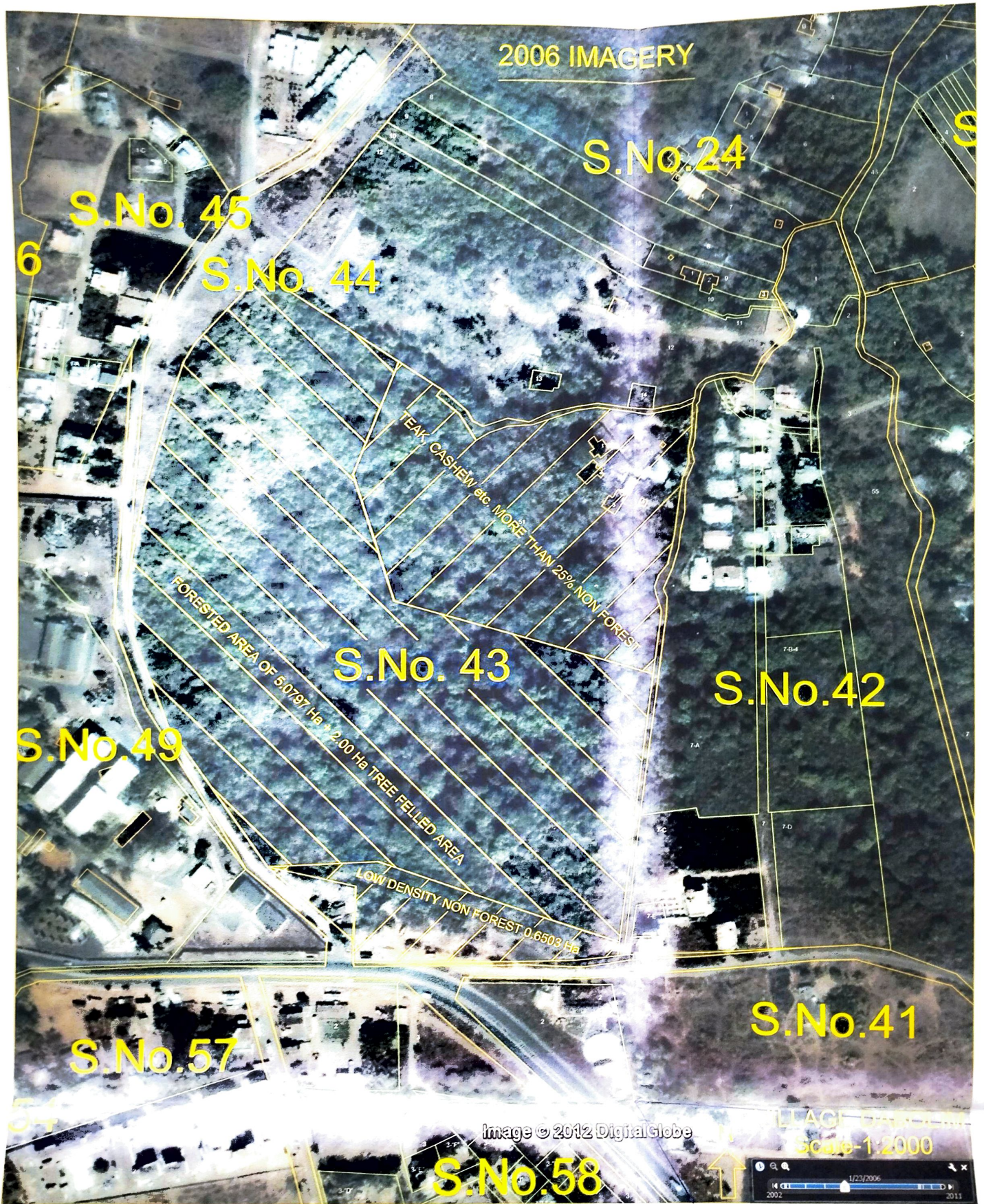
No.	Species	Girth		Length	Remark
	Teak	43 cm ✓	x	4 m	
	Teak	44 cm ✓	x	2 m	
	Teak	83 cm ✓	x	8 m	Diseased
	Teak	93 cm ✓	x	5 m	P. Hollow
	Teak	92 cm ✓	x	7 m	— do —
	Teak	59 cm ✓	x	5 m	
	Mango	94 cm ✓	x	4 m	
	Mango	100 cm ✓	x	6 m	
	Mango	115 cm ✓	x	7 m	
	Kajaro	69 cm ✓	x	4 m	
	Mango	92 cm ✓	x	5 m	
	Mango	76 cm ✓	x	3 m	
	Teak	107 cm ✓	x	8 m	Diseased
	Teak	79 cm ✓	x	7 m	Hollow
	Teak	145 cm ✓	x	8 m	
	Arjun	63 cm ✓	x	7 m	
	Teak	69 cm ✓	x	7 m	Diseased
	Teak	78 cm ✓	x	5 m	— do —
	Teak	66 cm ✓	x	4 m	
	Onwal	47 cm ✓	x	4 m	
	Moi	45 cm ✓	x	3 m	
	Dabon	35 cm ✓	x	3 m	
	Dabon	65 cm ✓	x	5 m	Diseased
	Teak	44 cm ✓	x	2 m	
	Cudo	98 cm ✓	x	5 m	
	Moi	60 cm ✓	x	5 m	
26(a)	Chanudo	62 cm ✓	x	5 m	
(b)	Chanudo	47 cm ✓	x	5 m	
27.	Dabon	108 cm ✓	x	7 m	
28.	Arjun	40 cm ✓	x	4 m	
29.	Dabon	58 cm ✓	x	6 m	
30.	Chanudo	95 cm ✓	x	8 m	
31.	Huro	164 cm ✓	x	6 m	Diseased
32.	Teak	59 cm ✓	x	7 m	
33.	Dabon	70 cm ✓	x	6 m	
34.	Teak	42 cm ✓	x	2 m	
35.	Kumbyo	101 cm ✓	x	9 m	
36.	Dabon	62 cm ✓	x	7 m	
37.	Char				

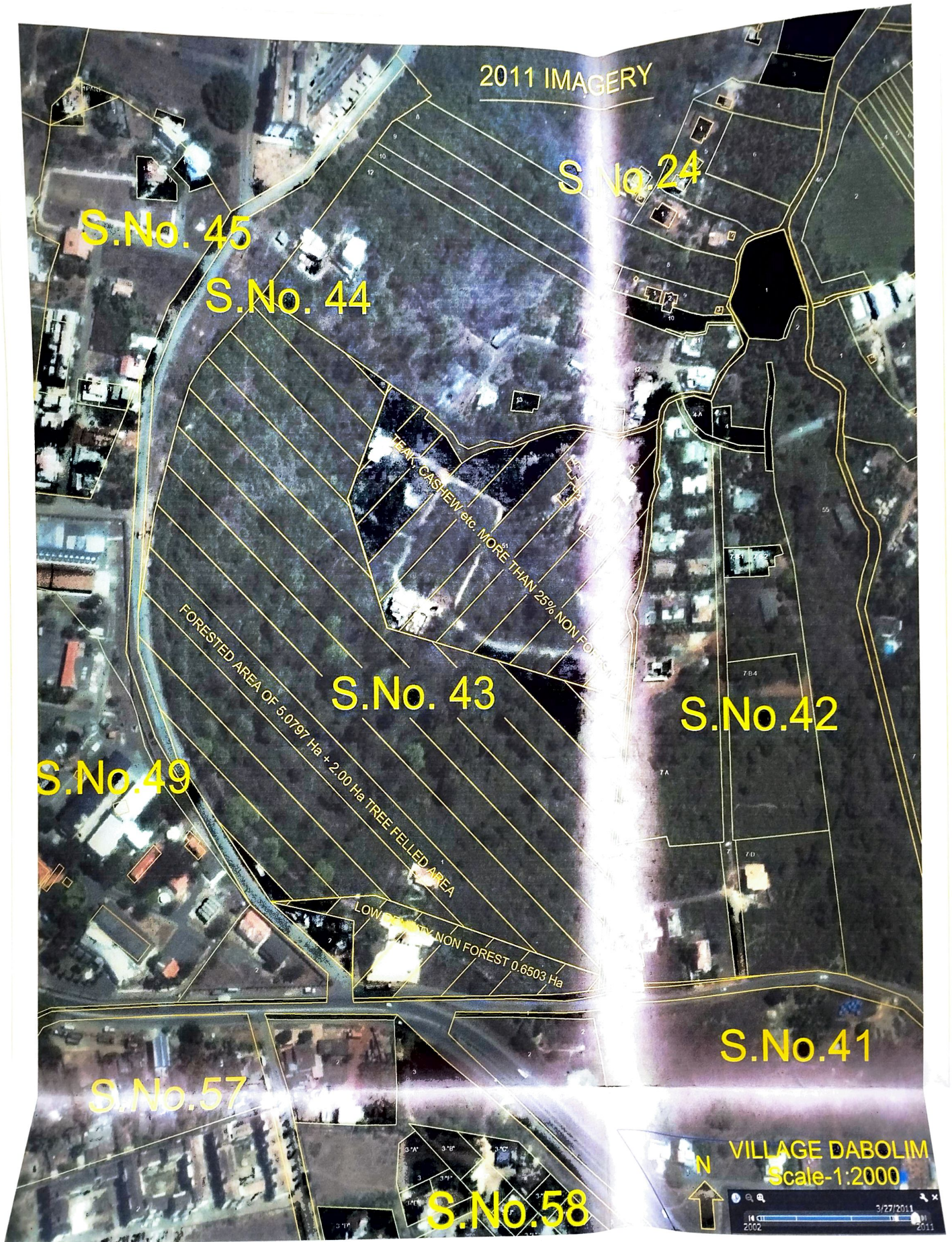
*(Handwritten signature)*  
2.5.57

38.	Teak	88 cm ✓	x	7 m	Diseased & Hollow
39.	Moi	86 cm ✓	x	8 m	Diseased & Hollow
40.	Jambol	81 cm ✓	x	4 m	
41.	Miryor	78 cm ✓	x	6 m	Hollow
42.	Kajaro	93 cm ✓	x	5 m	
43.	Huro	95 cm ✓	x	6 m	Hollow
44.	Kajaro	57 cm ✓	x	5 m	
45.	Teak	55 cm ✓	x	3 m	Hollow
45.	Jambol	73 cm ✓	x	6 m	
47.	Mangro	47 cm ✓	x	5 m	Hollow
48.	Teak	100 cm ✓	x	8 m	
49.	Huro	48 cm ✓	x	4 m	Diseased
50.	Teak	77 cm ✓	x	7 m	
51.	Teak	103 cm ✓	x	7 m	Diseased
52.	Teak	42 cm ✓	x	7 m	
53.	Huro	57 cm ✓	x	3 m	Diseased & Hollow
54.	Kajaro	62 cm ✓	x	5 m	
55.	Teak	76 cm ✓	x	5 m	Diseased & Hollow
56.	Teak	93 cm ✓	x	7 m	
57.	Teak	108 cm ✓	x	8 m	Diseased & Hollow
58.	Teak	98 cm ✓	x	8 m	
59.	Teak	97 cm ✓	x	8 m	Diseased & Hollow
60.	Teak	90 cm ✓	x	7 m	
61.	Teak	76 cm ✓	x	7 m	Diseased & Hollow
62.	Teak	78 cm ✓	x	7 m	
63.	Teak	86 cm ✓	x	8 m	Diseased & Hollow
64.	Teak	79 cm ✓	x	8 m	
65.	Teak	56 cm ✓	x	5 m	Diseased & Hollow
65.	Kajaro	112 cm ✓	x	8 m	
67.	Moi	118 cm ✓	x	7 m	Diseased & Hollow
68.	Chanado	62 cm ✓	x	3 m	
69.	Chanado	93 cm ✓	x	7 m	Diseased & Hollow
70.	Teak	97 cm ✓	x	7 m	
71.	Teak	103 cm ✓	x	7 m	Diseased & Hollow
72.	Teak	94 cm ✓	x	5 m	
73.	Teak	80 cm ✓	x	5 m	Diseased.

*Ashe*

*W.D. Jones*  
18-5-19





Sl. No.	Tree No.	Species	girth	Remarks
22	26	Kudo	100 cm	
23	27	Kumbho	120 "	
24	28	"	105 "	
25	29	Jungle	110 "	
26	30	Huro	90 "	
27	31 A	Cashew	50 "	
	B	"	55 "	
28	32	"	110 "	
29	33	Kudo	90 "	
30	34 A	Cashew	70 "	
	B	"	60 "	
31	35 A	Cashew	95 "	
	B	"	100 "	
32	36	"	90 "	
33	37	Mof	90 "	
34	38	"	110 "	
35	39	Char	75 "	
36	40	Caro	90 "	
37	41	Mof	75 "	
38	42	Cashew	60 "	
39	43	Mof	105 "	
40	44	Huro	100 "	
41	45	Cashew	120 "	
42	46	Kumbho	90 "	
43	47	Cashew	70 "	
44	48	"	60 "	
45	49	Huro	60 "	
46	50	Jungle	105 "	
47	51	"	85 "	
			65 "	

The applicant wants to develop the property for which he has taken necessary permissions for PDA and V.P. Chicaliso. The trees are marked with one tag, where in the construction work has been proposed. The area is green near the main road at Chicaliso. The criteria of private forest is not applicable in this case in my view. The average slope of the property is approx. 30% it is a part of hillock. The necessary certificate is enclosed herewith. Hence the case may be decided.

Outward No. 943  
 Dtd. 13/5/2008.

M. S. S. S.  
 138-08  
 (P. 60-195)

Mr. Narayan and Rajan P. Dora Paula has applied for permission to fell 44 no. of trees from the private property under bearing cadastre sy. no. 4311-A situated at Dabdim, Mormugao Taluka.

Pr. No. 1378

The applicant has produced the following documents in support of his application as under.

1. Form B.
2. Affidavit.
3. Form I & XIV.
4. Certified copy of the Resolutions.
5. Certified copy of the Village Panchayat Chikalin.
6. Certified copy Transfer of Construction licence.
7. Certified copy from Planning & Development Authority.
8. Plan Vasco da Gama U nos.
9. Certified copy of deed of sale.

The above-mentioned private property has been inspected by the applicant and marked the following trees for felling.

Sr. No.	No.	Species	girth	Remarks
1.	1.	Cashew	85 cms.	
2.	2.	"	120 "	
3.	3.	Mof	110 "	
4.	4A	Char	85 "	
	B		75 "	
5.	5	Mof	115 "	
6.	6	Cashew	120 "	
7.	7	"	110 "	
8.	8	"	90 "	
9.	9	Kudo	110 "	
10.	10	Hiro	110 "	
11.	11A	Cashew	80 "	
	B		140 "	
12.	12A	Cashew	80 "	
	B		75 "	
13.	13A	"	110 "	
	B		80 "	
14.	14	Gel	110 "	
15.	15	Mof	90 "	
16.	16	"	130 "	
17.	17	Kudo	210 "	
18.	18	"	110 "	
19.	19	Kumbo	110 "	
20.	20	Mof	105 "	
21.	21	Kudo	180 "	
22.	22	"	100 "	

Office of the Dy. Conservator of Forests, South Goa Division, Margao-Goa.  
 Inward No. 983  
 B. No. 1378/10008  
 Page No. 1378/10008  
 Date: 13/8/08

10 Doria Buda  
14 no. of ...

Applicant's the authorized signature of the firm.  
Copy of sale deed enclosed. He has applied for filing  
of 47 trees. R.R. has inspected the trees and recommended  
all 47 trees for filing.

Papers are at. As per the remarks in the  
body of letter, file is kept for inspection.

Almas  
12/1/08

JK

For inspection by DCR(D)

12/1/08

Inspected  
The FCA is not applicable.  
47 trees permitted as recommended  
by the R.R. (M).  
The applicant to Mount I have from parcel 110.

12/1/08

JK

Applicant has paid a fee of Rs 4700/- towards  
filing of 47 trees vide receipt no. 28/093  
dt. 8/9/08. Also, he has furnished a draft  
of Rs 9,400/- of Bank of Baroda, Baraji branch  
alongwith bond.

As such, order is placed in the file.

Almas  
12/9/08

JK

12/9/08

3/11

Please see a letter received from applicant asking them for extension of time limit to fill the tubes. As per the remarks of Dr on the body of letter, extension letter is placed in the file for signature please.

*[Signature]*  
31/10/08

*[Signature]*  
31/10/08

*[Faint handwritten text]*

*[Faint handwritten notes]*

*[Faint handwritten notes]*  
30/11/07

Shri Ravi Rajan, Authorized Signatory of Saverati Builders & Construction Pvt. Ltd, has applied for felling of 59 trees for the plot property bearing survey no. 48/1-A located at Dabolin village of Pimpri Chinchwad Taluqa. He has submitted the following documents to consider the case.

- 1) Plan
- 2) List of trees to be felled
- 3) Form 'B'
- 4) Affidavit
- 5) Copy of sale deed
- 6) Form I & II (verox)

On scrutiny of papers, it is seen that the applicant is the Authorized Signatory of M/s. Saverati Builders & Const. Pvt. Ltd, who has purchased the property. Copy sent. He has applied for felling of 59 trees. Land utility which is submitted is a verox copy. Original one is required. Res No's report is not obtained. Rest papers are ok. for Df's perusal & advise please.

Jalwa  
22/5/09

Df Rto (NS) to verify the measurements.

This office has inspected and checked the measurements of the trees marked for felling. The list submitted herewith is corrected and copied. The valuation of private forest is not applicable for this case. Hence the applicant may be permitted to fell the abovesaid trees.

Jalwa  
22/5/09

DUP 60

Process.

MS  
Rto (MS) has inspected the case & reported that the trees measured for felling are accurate & he has no objection for its felling. For J.P.'s personal advice found.

MS  
27/5/09

MS  
45 has permitted as recommended by Rto (MS).

MS  
Applicant has paid a fee of Rs 4000/- towards felling of 145 trees vide Receipt No. 3/737 dt. 27/5/09. Also, he has generated a draft of Rs 9000/- of Bank of Baroda, Kanaji branch along with bank. As such, all is placed in the file.

MS  
27/5/09

MS  
Applicant has demanded a letter for extension of permission to fell trees. As we may forward the same for Rto's report. However, J.P. may decide the case.

MS  
27/5/09

MS  
Extension permitted.

MS  
As above, letter is placed in the file.

## IN THE BOMBAY HIGH COURT AT GOA

## Writ Petition No.13/2010

Goa Foundation through its Secretary  
Dr Claude Alvares & Anr ..... Petitioners

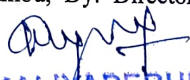
V/s

M/s. Saravati Builders & Construction  
Pvt. Ltd. and 10 Others ..... Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 9

I, Dr. C. Kaliyaperumal, son of Sri. M. Chinnakannu (Late) aged 51 years, Indian National, Scientist 'E', Ministry of Environment & Forests, Government of India, having office at Kendriya Sadan, 4<sup>th</sup> Floor, E&F Wings, 17<sup>th</sup> Main Road, 2<sup>nd</sup> Block, Koramangala, Bangalore 560 034, do solemnly state on oath and affirm as under:-

1. I state that I am working as Scientist 'E' in the Regional Office of the Ministry of Environment and Forests, Government of India, Bangalore. I say that I am conversant with the facts of the case as per the records and duly authorised to swear the present Affidavit which has been approved by the Ministry.
2. I am filing the present Affidavit to place on record the decision of Respondent No. 9 pursuant to the Orders dated 11.4.2012 and 02.5.2012 passed in the above Petition.
3. It is submitted that the Answering Respondent has filed its Affidavit dated 24.03.2011 whereby it has been submitted to this Hon'ble Court that this Respondent would abide by the orders to be passed by this Hon'ble Court in respect of the rival contentions between the parties in respect of the issues as to whether the land in question is a part of the forest or not.
4. I say that the report of the Forest Department of Goa State and more particularly the report of Shri Mahesh Kumar Shambu, Dy. Director,

  
Dr. C. KALIYAPERUMAL  
Scientist 'E'  
Government of India  
Ministry of Environment & Forests  
Regional Office, (Southern Zone)  
E & F wings, 4th Floor,  
Kendriya Sadan, 17th Main,  
11 Block, Koramangala,  
BANGALORE - 560 034

(Forests), South Goa Division, Margao was examined by the Ministry and the Ministry has taken decision as follows:

Decisions

Findings a) The findings of the report were categorized into 3 categories as given below:

- 1) The area of Survey No. 43/1 which is outside M/s. DLF Homes Pvt. Ltd. i.e. M/s. Saravati Builders and Construction Pvt. Ltd was inspected and it was found that the criteria that the area to be declared as a Private Forest should have more than 75% of the Tree Species of forestry in nature is not fulfilled as the trees appear to have been planted. Thus the area in Survey 43/1 is not part of 43/1-A and should not be considered as Private Forest.
  - 2) The area owned by M/s. DLF Homes Pvt. Ltd./M/s. Saravati Builders and Construction Pvt. Ltd. covers an area of 7.73 Ha out of which 0.6503 Ha does not meet the criteria of deemed forest and out of the remaining 7.0797 Ha, tree felling permission was given in 2 Ha and the remaining 5.0797 Ha in Survey No. 43/1-A meets the criteria of Private Forest.
  - 3) In the area of 2.00 Ha in Survey No. 43/1-A, trees have already been felled owing to tree felling permission and the inspection does not help in verifying the density of the vegetation. It has already been indicated that the Forest (Conservation) Act, 1980 is not applicable to the area.
- b) It was concluded in the inspection report that M/s. DLF Homes Pvt. Ltd property measuring 7.7300 Ha meets the criteria of private forest.
- c) In the light of the above findings of the inspection report, it appears that area owned by M/s. DLF Homes Pvt. Ltd., M/s. Saravati Builders and Constructions Pvt. Ltd. is private forest land and accordingly prior permission of the Central Government is required under Section 2 of the Forest (Conservation Act), 1980 in accordance with the Hon'ble Supreme Court Order dated 12.12.1996 in Writ Petition (Civil) No. 202 of 1995 in

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Scientist 'E'  
Government of India  
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the matter of T. N. Godavaram Thirumulpad versus Union of India which inter alia directed as given below:

*"The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalances and therefore, the provisions made therein for the conservation of forests and for matters connected therewith must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. The description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(1) of the Forest Conservation Act. The terms forest land occurring in Section 2 will not only include forest as understood in the dictionary sense but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of the forest and matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof"*

- d) It is submitted that as far as the legal position pertaining to the present Respondent is concerned, the same is clear that in case the land is held to be private forest, then prior permission of the Central Government is required under Section 2 of the Forest Conservation Act, 1980 in accordance with the Hon'ble Supreme Court Order dated 12.12.1996 in Writ Petition No.202 of 1995 in the matter of TN Godavaram Vs. Union of India as given above.
- e) Further it is noteworthy to mention that Section 2 of the Forest Conservation Act, 1980 provides that notwithstanding anything contained in any other law for the time being in force in a State, no State Government or any other Authority shall make except with the prior approval of the Central Government, any order or direction; vis-à-vis the following:

  
Dr. C. KALIYAPERUMAL  
Scientist 'E'

Government of India  
Ministry of Environment & Forests  
Regional Office, (Southern Zone)  
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BANGALORE - 560 034

- i. That any reserved forest within the meaning of the expression "Reserved Forest" in any law for the time being in force in that State or any portion thereof shall ceased to be "Reserved".
  - ii. That any forest land or any portion thereof may be used for any non-forest purpose.
  - iii. That any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation agency or any other organisation not owned, managed or controlled by Government; and
  - iv. That any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion for the purpose of using it for re-forestation.
- f) From the above, it may be ascertained that for non-forest use of forest land (irrespective of ownership) prior approval of the Central Government is required to be obtained under the Forest (Conservation) Act, 1980.
5. I say that in view of the above, no developmental work can be carried out in respect of the area identified as forest without prior approval of the Central Government under the Forest (Conservation) Act, 1980.
6. The Deputy Conservator of Forest, South Goa had submitted an affidavit on March 15, 2010 stating that 'the Sy. No. 43/1-A of Dabolim is not a notified Government Forest. It is a private property. Two State level Expert Committees were formed by the State Government to identify forests in private areas. Sy. No. 43/1 – A was not identified as private forest by the said committee'. And vide affidavit dated April 27, 2010 it was submitted that 'the area is survey no. 43/1-A and 43/1 are private properties and do not constitute any government forests nor have they been identified as private forests by the State Level Expert Committees'. Accordingly the MoEF had submitted an Affidavit dated January 24, 2011 stating that the Ministry shall abide by the decision of his Hon'ble Court


  
**Dr. C. KALIAPERUMAL**  
 Scientist 'E'

Government of India  
 Ministry of Environment & Forests  
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 II Block, Koramangala,

in the matter and accordingly decide lifting of the abeyance order thereafter. However, the inspection report submitted by DCF, South Goa Division following the High Court Order dated April 10, 2012 mentions that 5.079 hectare in Survey number 43/1-A meets the criteria of private forest and shall attract the provisions of Forest Conservation Act, 1980.

7. I say that the factual contents of the above paragraphs are derived from the official records to which I have access and I believe the same to be true.

Solemnly affirmed on this  
22<sup>nd</sup> day of July, 2013 at  
Bangalore

  
**Dr. C. KALYAPERUMAL**  
DEPONENT  
Scientist 'E'  
Government of India  
Ministry of Environment & Forests  
Regional Office, (Southern Zone)  
E & F wings, 4th Floor,  
Kendriya Sadan, 17th Main,  
II Block, Koramangala,  
BANGALORE - 560 034

Identified by:



1287

BEFORE THE NATIONAL GREEN TRIBUNAL  
AT PUNE

ANN. R-6

Application No. 26(THC)/2013

Goa Foundation and Anr. ... Applicants

**Verses**

M/s. Saravati Builders ... Respondents  
And Constructions Pvt. Ltd. & Anr.

**AFFIDAVIT ON BEHALF OF RESPONDENT No. 7**

I, Shri. Vikas Dessai, aged about 53 years, Indian National, residing at M-30, Nehru Nagar Colony Porvorim, Bardez Goa, do hereby on solemn affirmation, state and submit as under:

1. I state that I am presently working as Sub-Divisional Forest Officer, Quepem and Member Secretary South Goa Forest Division Committee. I state that I have been authorized to file the present Affidavit on behalf of the Respondent.
2. I state that this Hon'ble Tribunal had vide order dated 03/04/2014 directed the Sub Divisional Forest Office (SDFO) and Member Secretary of the State Level expert Committee to visit the property under Survey No.43/1 of Dabolim village so also other survey numbers of village Dabolim and thereafter submit the Report as to its forest status. Annexed hereto and marked as **Exhibit – A** is the copy of order dated 03/04/2014.

- 3. I state that in view of the above, hereto annexed and marked as **Exhibit – B** is the said report prepared by the South Goa Forest Division Committee which has been prepared after carrying out the site inspection, Identification of private forest and demarcation thereto along with survey plan of the same.
  
- 4. I state that whatever has been stated above is based on the documents which I believe to be true and correct.

Solemnly affirmed at Panaji, Goa }

this 31<sup>st</sup> day of May, 2014 }

*[Handwritten Signature]*  
 DEPONENT

Identified by me:-



SOLEMNLY AFFIRMED AND VERIFIED  
 BEFORE ME BY *[Signature]* **Vikas**  
*..Dessai 10 Panaji*  
 REG. No. 5803. DATED 31/05/14

*[Handwritten Signature]*  
 NOTARY AT PANAJI  
 ENTIRE STATE OF GOA (INDIA)

Identified by self Identity card.

**1289**  
**REPORT OF THE SOUTH GOA FOREST DIVISION COMMITTEE**

Ref:- The National Green Tribunal Order dated 03/04/2014, Application No. 26 (THC)/2013 (W.Z), Goa Foundation and others V/s M/s. Saravali Builders & Construction Private Ltd. and Anr.

1. **Introduction.** The Honorable National Green Tribunal, Western Zone Bench, at Pune in Application No. 26(THC)/2013 (W.Z) vide its Order dated 03/04/2014 has directed the Member Secretary of South Goa Forest Division Committee (hereinafter referred to as 'the Committee') as follows:

1.1. "that within four (4) weeks the entire work of survey of lands situated in village Dabolim will be completed inclusive of Sy. No. 43, in particular, and report will be submitted, and in any case if the complete report will not be submitted then to the extent of Sy. No. 43, the report will be submitted as regards identification of lands with demarcation, if it is identified as private forests."

1.2. " The report shall be filed on 15th May 2014."

2. The Committee in its meeting held on 9<sup>th</sup> April 2014 discussed this Order and its implications. It was felt by the Committee that directions should have been given to the Government of Goa, as the Committee is not a party before the Tribunal. Further the Committee has to submit all its reports to the Government through the Principal Chief Conservator of Forests as per the terms of appointment of the Committee.

3. The Committee further felt that the time of four weeks is inadequate to complete the survey and demarcation of the private forests of Dabolim village, as the procedure adopted by the Committee cannot be completed in that time. The Committee however decided to do its best within the time available. The actual period of work available to the Committee was upto the

5<sup>th</sup> of May 2014, as the report has to be submitted to the Government prior to its submission to this H<sup>ble</sup> Tribunal.

4. **Procedure adopted by the Committee.** For the purpose of clarity, the procedure followed by the Committee in its work needs to be stated. The process of identifying private forests is done in three stages.

4.1. **Stage I.**

4.1.1. Information on sites having potential patches of forests is collected from various sources, and accordingly google maps with survey numbers are acquired.

4.1.2. The Committee visits the sites and visually observes if the criteria of composition and crown density are met, and the patch is taken up for survey to check the area.

4.2. **Stage II.**

4.2.1. A meeting with the stakeholders is held to explain the process of boundary clearance and survey, and removal of doubts, so as to avoid uninformed obstruction to clearance of boundary line, or survey work.

4.2.2. The boundary between the forest and non-forest area is cleared.

4.2.3. The potential private forest is surveyed, plan is prepared and area of private forest is computed to verify the area criterion.

4.3. **Stage III.**

4.3.1. Objections of the owners will be heard and decided, and demarcation finalised.

4.3.2. Area of forest in each survey number will be assessed and final report submitted to the Office of the Principal Chief Conservator of Forests for onward submission to the Government.

5. The Committee is presently occupied with Stage II work of the village Cortalim, Mormugao Taluka, and Stage I work in other villages in other talukas.
6. **Work done in compliance of the NGT Order:** Since the time is not sufficient to demarcate all the private forests in Dabolim village, the Committee decided to take survey no 43 as a focal point and to work outwards to cover as much forests as possible. The Committee referred to the records of the Forest Department, namely:
- 6.1. Field inspection report of Dy. Conservator of Forests, South Goa Division submitted to Hon'ble High Court of Bombay Bench at Goa, Order dated 10/04/2012 in Writ Petition No. 395/2011 and the Order dated 02/05/2012 in MCA No 437 of 2012 in Writ Petition no 13 of 2010.
- 6.2. License No. 3/3/373/2008-09/1173 dated 12/09/2008 for cutting 47 trees in Sy. No. 43/1-A, Dabolim village with directive for planting 235 trees. License No. 3/3/158/2009-10/SGF/527 dated 28/05/2009 for felling 45 trees in Sy. No. 43/1-A with directive for planting 223 forestry trees.
- 6.3. Report prepared by the Technical Committee, consequent to the order of the Ministry of Environment and Forests, which was filed in Writ Petition no. 13/2010 (Goa Foundation v/s M/s Saravati Builders and Construction Pvt Ltd).
- 6.4. Google maps of the site.
7. The Committee visited Survey Number 43 of Dabolim village on 23/04/2014 and on 06/05/2014. During both the inspections, the representatives of the owners of survey no 43/1-A, Dabolim village, Col. Raviraj and Col. A. K. Choudhary, were present and showed us around.

8. **Observations.** Survey number 43, Dabolim village is divided into two sub-divisions, 43/1 and 43/1-A.

8.1. **Survey No. 43/1.** A report was submitted to the Hon'ble High Court of Bombay, Bench at Goa by Shri M. K. Shambhu in 2012 (at para 6.1 above). As per the report, the Survey no 43/1, Dabolim village consists of houses, roads, drains, power lines and vacant plots, with scattered trees mostly of teak, and did not meet the criteria of private forests. The plots and houses can also be seen in the Google imageries.

8.1.1. During the inspection of the Committee, this area was found to have houses, roads, power lines, plots with fencing, and scattered tree growth mostly of teak trees, and others like mango, cashew, *Garcinia indica*, *Sterculia urens*, etc. This area does not meet the criteria for private forests, except for a small triangular strip on the eastern side as shown on the plan enclosed.

8.2. **Survey No. 43/1-A.** Further in the said report (at para 6.1 above) a small strip of Survey no 43/1-A, admeasuring 6,503 sq mts., was found to be open and was assessed as not meeting the criteria for private forests.

8.2.1. The major part of Survey no 43/1-A, was assessed as meeting the criteria for private forests in 2012. This included two plots of one hectare each, in which felling permissions were given under the Preservation of Trees Act 1984, as stated in para 8.2.2 below.

8.2.2. Two licenses were given for felling of trees in this survey number. License No. 3/3/373/2008-09/1173 dated 12/09/2008 for cutting 47 trees with a condition for planting 235 trees. The other License No. 3/3/158/2009-10/SGF/527 dated 28/05/2009 for felling 45 trees with directive for planting 223 forestry trees. The felling took place around 2008 and 2009. The above two licenses were issued to M/s Saravati

builders under the Preservation of Trees Act, 1984.

8.2.3. The representatives of the owners of survey no 43/1-A, Dabolim village showed us the area where the felling was carried out under the above two licenses. They also informed that replanting as per the license condition was not carried out by them. The said area where the felling was done is now completely vegetated with tree growth and coppice growth from the stumps.

8.2.4. The Committee feels that there is a misconception about the Preservation of Trees Act, 1984. The Act is specifically enacted to preserve tree growth, at the same time allowing harvesting of trees to meet local needs, and therefore puts restrictions on cutting of immature trees, and in certain places where the vegetation can be lost for all times. Therefore, the permission for felling of trees is given only under the condition that a multiple number of appropriate trees will be planted. The licenses in this case were given not for change of use of land, but for replanting the area. Whether by design or nature's resilience, the area where felling was done has recovered its vegetative growth today.

8.2.5. Survey no 43/1-A as a whole, presently has vegetative growth comprising of natural species from large to small trees, shrubs, climbers and herbs. Getting access to the whole sub-division 43/1-A is difficult due to the dense growth. The Tree species seen here include Ficus species, Careya arborea, Garcinia indica, Holigarna amottiana, Lannea coromandelica, Macaranga peltata, Sapium insigne, Sterculia urens, Strychnos nux vomica, Syzygium cumini, Terminalia bellerica, Trema orientalis, Acacia pennata, Holarrhena pubescens, Ixora coccinea, Microcos paniculata, Helicteres isora, Leea indica, etc. There are shrubs like Carissa carandus, Ixora brachiata, Calicopterys floribunda, etc, and climbers like Smilax

zeylanica, Dioscorea volbifera, Argyreia nervosa, etc. There are also scattered Caryota urens palms. The Committee came to the conclusion that the crop density meets the criteria set for private forests. There are many other species which the Committee could not reach due to the thick vegetation.

8.2.6. The Committee referred to the Report (para 6.3 above) prepared by a technical team, which visited the site soon after the felling under the two licences took place, and prepared the report. As per the said report, the Technical Committee found that the density of the vegetation was above 0.4 in the non-felled areas.

8.2.7. The Committee concludes that the crown density at present is more than 0.4. Therefore the crown density criteria for private forests is also met.

8.2.8. Therefore, the Committee has come to the conclusion that the subdivision 43/1-A, Dabolim village is a private forest.

9. The Committee tried to survey and demarcate the private forest in as many survey numbers as possible adjoining to and beyond survey number 43, Dabolim village. However, since none of the other stakeholders were intimated, this demarcation cannot be finalized at this stage.

10. The Committee carried on the clearance of boundaries and survey beyond survey number 43 to the extent possible for the purpose of surveying the contiguous forest area. In order to finalize this report, we have closed the traverse by joining points 28 and 29 on the northern side and points 16 and 17 on the eastern side of survey number 43, Dabolim village, only on the plan. The area of the closed traverse so arrived at is 81,182 sq meters. The area of forest identified in each survey number is as follows:

*Handwritten signatures and initials:*  
Flair  
ADessi  
Dennis  
Dennis  
B3  
7.

Survey number	Private forest area (sq mts.)
43/1-A	73,162.00
43/1	1,250.00
43/3	215.00
42/7-A	1,687.00
42/7-C	1,421.00
42/7-C-1	117.00
24/12	3,330.00
<b>Total</b>	<b>81,182.00</b>

11. In the plan annexed, the points 12, 13, 13A, 13B, 18 and 19 demarcate the eastern boundary of survey no 43/1-A and the line joining points 27 to 33 forms the northern boundary of survey no 43/1-A. The line from point 33 to point 1 denotes the western boundary of the same survey number and it is demarcated by a compound wall. The part of survey no 43/1 which is not a private forest has not been shown on the plan annexed.

12. If taken in isolation, in survey number 43/1-A, Dabolim village 73,162 square meters of private forest is existing as of today. The work of demarcation of private forest beyond the eastern and western boundaries shown on this plan will be continued by following the procedure laid down by this Committee to intimate the stakeholders. This plan is submitted specifically for the purpose of showing the status of survey number 43/1-A, Dabolim village vis-a-vis private forests.

**13. Conclusion:** In view of the findings of the Committee as stated above, it is concluded that survey no 43/1-A of Dabolim village is a private forest.

13.1. Survey number 43, sub-division 1, Dabolim village contains ~~1,250~~ sq meters of private forests.


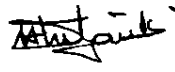
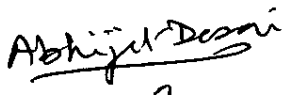
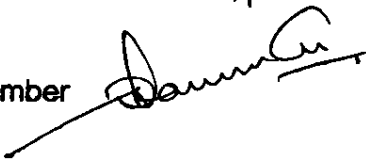


13.2. Survey number 43, sub-division 1-A, Dabolim village contains 73,162 sq meters of private forests out of 77,300 sq meters total area.

Enclosure: Annexure I – Demarcation Plan of private forests in and around survey no 43, Dabolim village.

Date: 7<sup>th</sup> May 2014

Place: Margao, Goa.

**SOUTH GOA FOREST DIVISION COMMITTEE**

1. Shri Francisco Araujo, Chairman 
2. Shri Anil Shetgaonkar, Dy Conservator of Forests, South Goa Division, Member 
3. Shri Abhijit Prabhudesai, Member 
4. Shri Gaurish Shankhwalkar, Dy. Collector & SDO, Mormugao taluka, Member 
5. Shri Jayesh Naik, Head Surveyor, DSLR, Member 
6. Shri Vikas Dessai, SDFO, Quepem, Member Secretary 

PLAN

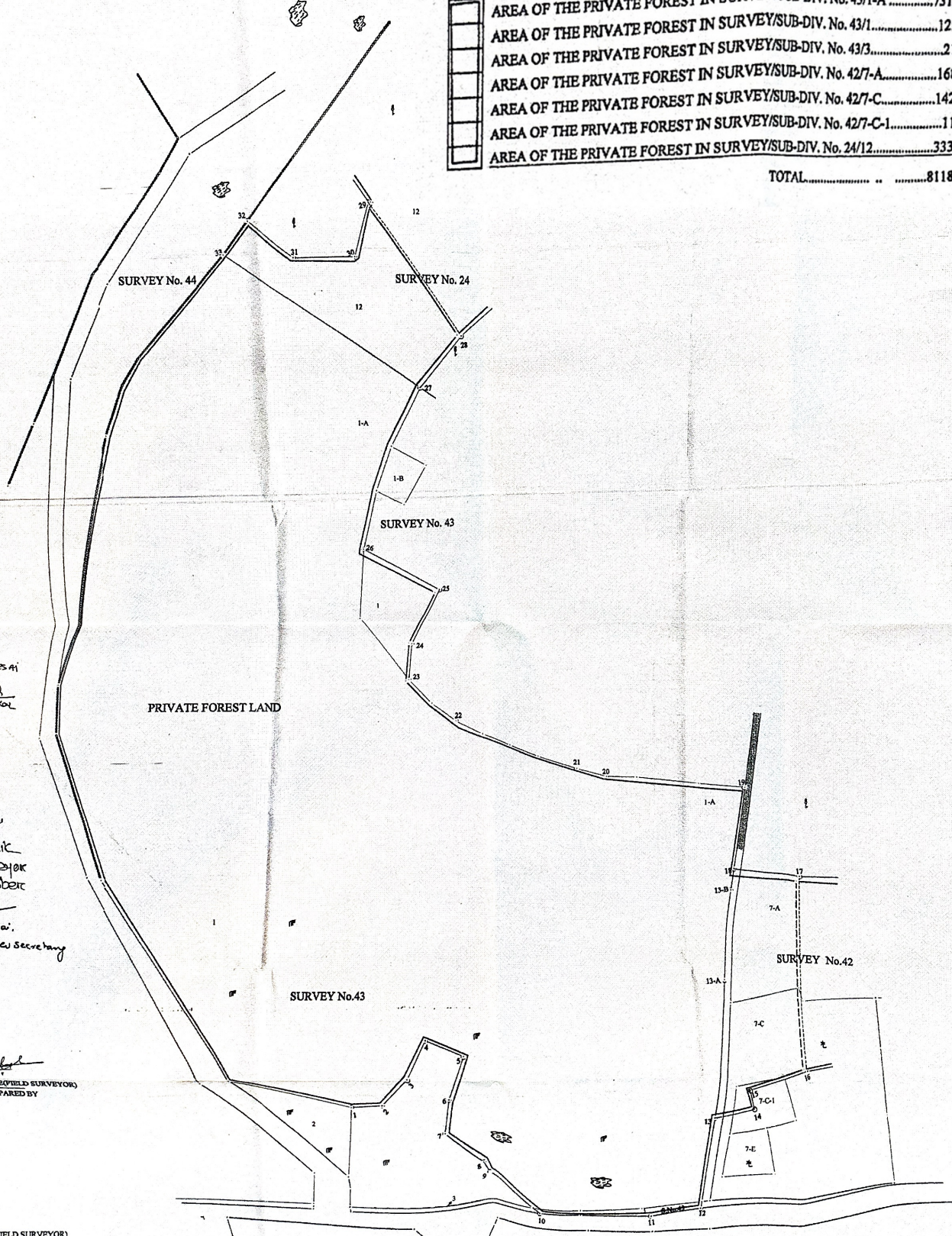
SHOWING THE IDENTIFICATION OF LAND WITH DEMARCATION BY SOUTH GOA PRIVATE FOREST COMMITTEE AS PRIVATE FORESTS IN PROPERTY BEARING SURVEY No.43/1-A,1,3, 42/7-A,7-C,7-C-1, 24/12 SITUATED AT DABOLIM VILLAGE OF MORMUGOA TALUKA.



SCALE : 1:1000



AREA OF THE PRIVATE FOREST IN SURVEY/SUB-DIV. No. 43/1-A	73162.00 Sq. Mts.
AREA OF THE PRIVATE FOREST IN SURVEY/SUB-DIV. No. 43/1	1250.00 Sq. Mts.
AREA OF THE PRIVATE FOREST IN SURVEY/SUB-DIV. No. 43/3	215.00 Sq. Mts.
AREA OF THE PRIVATE FOREST IN SURVEY/SUB-DIV. No. 42/7-A	1687.00 Sq. Mts.
AREA OF THE PRIVATE FOREST IN SURVEY/SUB-DIV. No. 42/7-C	1421.00 Sq. Mts.
AREA OF THE PRIVATE FOREST IN SURVEY/SUB-DIV. No. 42/7-C-1	117.00 Sq. Mts.
AREA OF THE PRIVATE FOREST IN SURVEY/SUB-DIV. No. 24/12	3330.00 Sq. Mts.
<b>TOTAL</b>	<b>81182.00 SQ.MTS.</b>



1) *[Signature]*  
 F.X. Frazer  
 S.G.F.C. Chairman

2) *[Signature]*  
 Anil Shigamkar  
 DCF, Satekt

3) *[Signature]*  
 Arbhjit Prabhudesai  
 Member

4) *[Signature]*  
 G.J. Shankhwalkar  
 Dy. coll. 2, 300  
 Mormugao  
 Member

5) *[Signature]*  
 Jayash Naik  
 Head Surveyor  
 DSE member

6) *[Signature]*  
 Vikas Desai  
 SDFO, Member Secretary

*[Signature]*  
 VINAYAK KATAMBALE (FIELD SURVEYOR)  
 SURVEYED & PREPARED BY

*[Signature]*  
 SWAPNIL SAWANT (FIELD SURVEYOR)  
 SURVEYED & PREPARED BY

ANNEXURE-IV Colly

SOUTH GOA FOREST DIVISION COMMITTEE**Report - Additional Hearing given to M/S DLF Homes Pvt Ltd – Survey No. 43/1-A, Dabolim village**



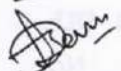
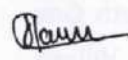

1. M/s. DLF Homes Pvt. Ltd in Writ Petition No. 379/2014 before the Hon'ble High Court of Bombay Bench at Goa have stated in paragraph 7 of their petition that the South Goa Forest Division Committee (SGFDC) has not given them a hearing at stage 3 of the procedure adopted by the Committee, and therefore natural justice was denied to them.
2. M/s. DLF Homes Pvt. Ltd have further stated that they were not granted a hearing subsequent to their representation dated 02.05.2014. The Committee therefore decided to give them a hearing at this stage.
3. It is clarified that the hearing at Stage 3 by the SGFDC, is regarding the line of demarcation.
4. The SGFDC has given M/s. DLF Homes Pvt Ltd a hearing on 08.10.2014 during which, they made a written presentation that included 29 photographs. This Committee visited the survey No. 43/1-A, again on 15.10.2014 to verify at site their arguments based on the photographs. The site inspection was carried out in the presence of Mr. Rajeev Singh; Sr. Vice President, Central Region, Col. Ravi Rajan, Vice President – Co-ordination, DLF Universal Ltd and Mr. A. K. Rana, Retired PCCF of Manipur & Consultant for M/s. DLF. The Committee asked DLF to show all the points of contention and the locations where photographs were taken.
5. During the hearing on 08/10/2014, M/s DLF Homes Pvt. Ltd were represented by Mr. Rajeev Singh, Sr. Vice President - Central Region, DLF Universal Ltd.; Col. Ravi Rajan, Vice President – Co-ordination, DLF Universal Ltd; and Mr. A. K. Rana, Retired Principal Chief Conservator of Forests, Manipur & consultant for M/s. DLF. They gave written submissions vide letter No. 30492/RV/SGFDC/2014/03 dated 08/10/2014 under the title "Submission on the issues raised in the Report of The South Goa Forest Division Committee regarding Survey. No. 43/1-A, Village Dabolim". Based on the written submissions, PowerPoint and oral presentations were made by M/s. DLF. The submissions are in three parts as follows:

  
  
  
 Abhijit Desai  
  


Annexure-IV  
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- A. What may be considered as a 'Forest' in Goa;
- B. The latest report of South Goa Committee;
- C. Conclusion.

6. As a part of the oral submission, Mr. A.K. Rana pointed out the land records to refer to the status of the land. When asked whether M/s DLF have produced the same documentary evidence before the NGT, they answered in the affirmative. The SGFDC will not go into issues which are beyond their Terms of Reference (TOR), i.e. land records, permissions granted, or ownership of land. Such issues have been taken out of purview of the State Level Committees by the Hon'ble Supreme Court, and are left to be decided by the appropriate court, where these issues are agitated. However, since the SGFDC is not aware of all the issues raised by M/s DLF in various courts, and also before this Committee, any decision/opinion on any such issues, if given by this Committee the said decision/opinion may kindly be overlooked by the concerned Court. Only those issues concerning the TOR and the procedure adopted by the Committee will be looked at wherever questioned.
7. It appears that the written submissions have been hastily prepared as the pages are not numbered, and the numbering of paragraphs is confusing. The contentions of M/s. DLF pertaining to the TOR are as follows.
8. The first criteria for identifying private forests is "Crop composition (75% or more of the trees to be of forest nature)". In paragraph 6, sub-para a) of the written submission M/s. DLF has calculated the percentage of cashew trees with respect to forestry species in the 2 hectares where felling permissions were given. It is stated that under one felling license 47 trees were felled, of which 17 were cashew trees. Similarly under the 2<sup>nd</sup> license, 45 trees were felled, of which 10 were cashew trees. Hence it is deduced that out of 92 trees felled 27 were cashew trees in 2 ha. of land. This calculation is faulty and misleading. It is agreed that a total of 27 Cashew trees were felled in the 2 hectares area, however M/s. DLF have not disclosed that as per their application, there were 136 trees existing in the one hectare area, of the first license out of which 47 were allowed to be felled. Similarly as per their application for the second licence, in the one hectare area, 231 trees were standing, out of which 45 were allowed for felling. Therefore, 27 cashew trees were felled from amongst 367 trees. Thus cashew trees comprised just 7% of the crop composition, or 93% of forestry species.

  
  
  
 Anandarami  
  


9. At paragraph B., sub-para f., of the written submissions M/s. DLF states "Contention of the Committee that they could not enter the site is difficult to accept.", and further go on to state that the site is bounded by roads. This Committee in its report dtd 07-05-2014, has not placed such a contention anywhere. In para 8.2.5 of this Committee's report it is stated "Getting access to the whole subdivision 43/1-A is difficult due to the dense growth". The context of the paragraph is clear that the vegetative growth is dense, and so the Committee could not go to every meter of the site. Inspecting every spot of the area would involve cutting of the rich vegetation which would adversely affect the environment. This Committee states that they have seen sufficient evidence that the crop composition fulfills the criteria, and there was no need to disturb the vegetation. The nature of vegetation can also be seen in the photographs taken during the inspection held on 15-10-2014, and enclosed.
10. In the written submissions some photographs Nos. 1, 2, 3, 4, have been produced depicting cashew, no. 5, depicting mango and nos. 6 and 7 depicting palms. The cashew and mango trees not more than five in number, shown to us were scattered over the entire area. These trees did not show any systematic planting pattern, as is normally seen in a plantation/orchard, and for all purposes might have naturally grown without human intervention. The Palms which were shown were fish-tail Palms, which are not a horticultural fruit bearing species, but are wild and a forestry species of palm. M/s. DLF could not show any location where significant number of non-forestry trees were existing.
11. The second criterion for identifying private Forests is "Canopy density 0.4 or more". At paragraph 2 of their submission, DLF has referred to the report of the Technical Team constituted vide MOEF, Govt. of India letter No. 21-192/2010-1A.III dated 24.02.2011. They mention that the Technical Committee has used the phrase 'the Density of the vegetation is greater than 0.4', whereas the criteria given by the government is 'canopy density more that 0.4'. SGFDC in its report dated 07-05-2014 at paragraph 8.2.6, has reproduced this extract of the Technical Committee's report. The decimal figure greater than 0.4 in the Technical Committee's report can only refer to canopy density. Moreover canopy density is not mentioned anywhere else in the Technical Committee's report. Hence keeping the context in which it occurs, it can be safely assumed that Technical Committee in mentioning density of vegetation meant to say canopy density. Notwithstanding the findings of the Technical Committee, during

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*AD*

*Davis*

*Amirudin*

*Davis*

*W. D. No*

the inspections by this Committee, the Canopy density was found to be much higher than 0.4.

12. Paragraph 2 of the submission further defines canopy and canopy density without referring to the source of definition. Similar statement is made in Para C sub-para D. Canopy is defined as "The cover of branches and foliage formed by the crowns of trees". Canopy Density is defined as "The relative completeness of canopy usually expressed as a decimal coefficient, taking closed canopy as unity." These are forestry terms used mainly for forestry purposes which involve harvesting and regeneration of trees. The Goa, Daman & Diu Preservation of Trees Act, 1984 (PTA) defines tree under sub-section (j) of Section 2 as "tree means any woody plant whose branches spring from and are supported upon a trunk or body and whose trunk or body is not less than five centimeters in diameter at a height of 30 centimetres from the ground level and is not less than one metre in height from the ground level". This legal definition of "tree" was existing in Goa much before the criteria for "forests" were defined by the Goa Government. Consequently the cover of branches at one metre height also will form a canopy. It follows that a forest may have several canopies starting from a height of one metre from the ground. So in effect we have to consider the collective effect of all canopies in the forest. Notwithstanding the above during the inspection all along the trek, except for rocky outcrops and grassy areas, the Committee came across total canopy coverage at a height of 6 metres and higher. The footpath that we trekked during the inspection is laid through the areas of least canopy density. Photographs taken during our inspection on 15-10-2014 show the canopy density at these spots is much higher than 0.4. The directions of the Hon'ble Supreme Court for identifying private forests were made "with a view to check deforestation and consequent ecological imbalance". Therefore the Committee takes the definition of tree in the PTA as more appropriate to meet the views of the Hon'ble Supreme Court. The Committee has inspected Survey. No. 43/1-A, of M/s. DLF Homes and satisfied itself that the canopy density is  $>0.4$ .

*Thain*

*MS*  
*Davis*

*Arjun D'Souza*

*Dave*

*W. D'Souza*

13. The third criterion is area criterion viz., "geographical area 5 Ha or more if not contiguous to Government Forests". In paragraph 5 of their submissions they have stated that the felling licenses were obtained by them under the Goa, Daman & Diu Preservation of Trees Act, 1984 (PTA) for development of land for construction. The Committee has verified that the licenses issued by the Tree Officer for felling of trees do not state that felling is to be done for

erecting buildings thereon. On the other hand, in the 2 licenses the Tree Officer imposed the condition of planting 235 and 225 trees respectively (5 times the number of trees that are permitted for felling). The Tree Officer has given permission for felling of trees only under the condition that natural trees will be replanted. At present whatever buildings are existing in this site are kept out of the demarcated line.

14. At paragraph 11 of their submission, M/s. DLF have given computation of the area within Survey. No. 43/1-A, which they have claimed to be non-forest. In sub-para b), they claim that 2 hectares area where felling licenses were given, were "practically clearfelled" and thus were a blank. Firstly, the licensees could not clearfell the area as per the license conditions. Further they had to plant 460 trees, as part of the license conditions. This Committee observed that this area of 2 hectares is fully forested, and is not a blank area.
15. In sub-para c) of the written submissions it is further pointed out that natural blanks are 0.4 hectares in extent. In the explanatory note it is stated that there are four blanks. They have produced photographs nos. 15, 17, 21 to 25 to depict these blanks. The Committee during its inspection on the 15<sup>th</sup>, observed at the site that whatever was pointed out as rocky out crops were random out crops of laterite rocks at sporadic spots, where the slope was steep. These rocky outcrops are in narrow strips in between trees and have grass growing at some spots where some little soil is available. These occurrences are very common in all types of forests, and serve an ecological function, and hence cannot be considered as non-forest areas. The Committee gave closer attention to the grassy blanks, since in their photograph no. 21, what could be cut firewood was seen. During the inspection on the 15<sup>th</sup>, stacks of cut and dried firewood were found in the northern portion of the site. It appears that the vegetative growth was cut to create a blank area, where grass would grow. In spite of this manipulation, the area of these grassy spots is not much, and has been grossly exaggerated.
16. In Sub-para d) and the explanatory note thereto the area of DLF office and access road is shown as 0.3 hectares. In the map which is part of the report of this Committee, the paved area, the built up area like the sales office and site office is excluded from the forest area.
17. In sub-para e) of the written submissions and the explanatory note they have denoted area of Cashew trees in sample plot B & E

*J. Rain*

*MP*  
*Dani*

*Abhijit Dani*

*Danu*

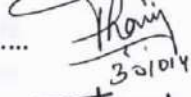
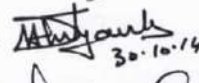
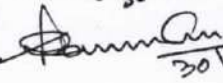
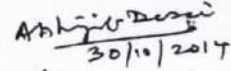
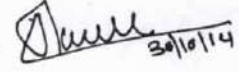
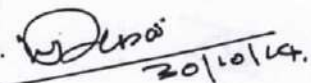
*W. Puro*

(FD affidavit) as 0.3 hectares. During our inspection M/s DLF Homes did not show any area having 0.3 hectares extent, and having cashew trees.

18. The Committee does not agree with the computation submitted because the Committee itself has visited the place, demarcated the boundary line, surveyed it and computed the area. No injustice has been done by including any area not meeting the criteria. Only actual private forests meeting the criteria has been included. The Representative of M/s. DLF Homes were asked by the Chairman whether they have any objection to the boundary line which has been demarcated separating the forests from non-forests areas, and they responded that they are in agreement with this demarcation line and don't have any objections to it.

19. Photographs were taken during this site inspection and 15 photographs are annexed herewith in **Annexure A**.

20. Conclusion: The SGFDC has given M/s. DLF Homes Pvt Ltd a hearing on 08.10.2014 and have visited the site for verification of photographs on 15.10.2014. All the submissions, arguments and evidence produced by M/s. DLF were considered. The SGFDC concludes on the basis of the observations recorded hereinabove that the area identified and demarcated by SGFDC in survey no 43/1-A, Dabolim village and on adjacent lands qualify as private forests as per the criteria laid down by the Government. Hence the report and demarcation plan submitted by this Committee on 7<sup>th</sup> May 2014 are hereby confirmed.

1. Shri F. X. Araujo, Chairman.....   
30/10/14
2. Shri Anil A. Shetgaonkar, DCF (South).....   
30.10.14
3. Shri Gaurish Shankhwalkar, Dy Collector, Mormugao.....   
30/10/14
4. Shri Abhijit Prabhudesai .....   
30/10/2014
5. Shri Jayesh Naik, Head Surveyor.....   
30/10/14
6. Shri Vikas Desai, Member Secretary.....   
30/10/14.

Date:- 30<sup>th</sup> October 2014

Place:- Margao

## Annexure - I

Photographs taken during site inspection by South Goa Forest Division Committee on 15/10/2014.

Sr. No.	Location of photograph	Date of photograph
1	While descending towards North.	15-10-2014
2	Vegetation on the path passing through 43/1-A, from South to North	--do--
3	Vegetation on the path passing through 43/1-A seen towards South.	--do--
4	Northern boundary of 43/1-A near watchman cabin.	--do--
5	One cashew tree is shown surrounded by forestry trees.	--do--
6	Rocky strip on North West boundary showing grass and forestry trees	--do--
7	Rocky patch having grass and showing forestry trees near Western side slope	--do--
8	Grassy patch inside forestry vegetation.	--do--
9	Firewood stacks found in grassy patch on the western side.	--do--
10	Firewood stacks found in grassy patch on the western side.	--do--
11	Forestry vegetation on the slopes Western side	--do--
12	Near rocky patch of western boundary	--do--
13	Forestry trees along slopes at the site.	--do--
14	Rocky patch with grass near western boundary showing naturally grown caryota urens palm and other vegetation.	--do--
15	Near South West fence, next to watchman cabin.	--do--

*Hay*  
30/10/14

*AS*  
30/10/14

*Danner*  
30/10/14

*A. K. M. M. M.*  
31/10/14

*Shull*  
30/10/14

*W*

ITEM NO.27

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.121/2021

KRISHNA PLANTATIONS &amp; ANR.

Appellant(s)

VERSUS

THE STATE OF GOA &amp; ORS.

Respondent(s)

(IA No. 8425/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 8424/2021 - STAY APPLICATION)

WITH

SLP(C) No. 15542/2021 (IX)

IA No. 125332/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 125337/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 125333/2021 - PERMISSION TO FILE LENGTHY LIST OF DATES)

C.A. No. 6329/2021 (XVII)

IA No. 124971/2021 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 124969/2021 - EX-PARTE STAY

IA No. 124970/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 126640/2021 - INTERVENTION/IMPLEADMENT

IA No. 126350/2021 - INTERVENTION/IMPLEADMENT

IA No. 124968/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 1315/2022 (XVII)

IA No. 10800/2022 - STAY APPLICATION)

C.A. No. 1314/2022 (XVII)

IA No. 11214/2022 - STAY APPLICATION)

C.A. No. 1316/2022 (XVII)

IA No. 13798/2022 - STAY APPLICATION)

C.A. No. 1313/2022 (XVII)

IA No. 20227/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 8247/2022 - STAY APPLICATION)

SLP(C) No. 25944/2023 (IX)

IA No. 177899/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 177900/2023 - EXEMPTION FROM FILING O.T.

IA No. 242714/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 211232/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 27968/2023 (IX)

IA No. 258984/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Diary No(s). 3364/2024 (XVII)

IA No. 38175/2024 - CONDONATION OF DELAY IN FILING

IA No. 38177/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 38174/2024 - STAY APPLICATION)

Diary No(s). 7850/2024 (XVII)

IA No. 101810/2024 - CONDONATION OF DELAY IN FILING APPEAL

IA No. 101816/2024 - CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS

IA No. 101803/2024 - GRANT OF INTERIM RELIEF)

Diary No(s). 23833/2024 (XVII)

(IA No.140496/2024-CONDONATION OF DELAY IN FILING and IA No.140497/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.140493/2024-STAY APPLICATION and IA No.140499/2024-PERMISSION TO FILE APPEAL)

C.A. No. 2135/2024 (XVII)

(IA No.26961/2024-EX-PARTE STAY and IA No.26958/2024-CONDONATION OF DELAY IN FILING APPEAL and IA No.26967/2024-PERMISSION TO FILE LENGTHY LIST OF DATES and IA No.26959/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 8464/2024 (XVII)

(IA No.172266/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.172265/2024-EX-PARTE STAY)

Diary No(s). 40353/2024 (XVII)

(IA No.206007/2024-CONDONATION OF DELAY IN FILING and IA No.206008/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.206006/2024-STAY APPLICATION and IA No.206012/2024-PERMISSION TO FILE APPEAL and IA No.206015/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 24-09-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Appellant(s) Mr. Huzefa Ahmadi, Sr. Adv.  
Mr. Terence Sequeira, Adv.  
Mr. Ninad Laud, Adv.  
Ms. Ishani Shekhar, Adv.

Mr. Dcosta Ivo Manuel Simon, AOR

Mr. Dhruv Mehta, Sr. Adv.  
Mr. Ninad Laud, Adv.  
Mr. Ivo Dcosta, Adv.  
Mr. Keith Varghese, Adv.  
Mr. Guruprasad Naik, Adv.  
Mr. Sahil Tagotra, AOR

Ms. Norma Alvarez, Sr. Adv.  
Ms. Srishti Agnihotri, AOR  
Mr. Om Anthony D'Costa, Adv.  
Ms. Sanjana Grace Thomas, Adv.  
Mr. D.P.Singh, Adv.  
Ms. Tara Elizabeth Kurien, Adv.

Mr. Vinay Navare, Sr. Adv.  
Mr. Harshad Bhadbhade, Adv.  
Mr. Siddharth Mehta, Adv.  
Mr. Sangramsingh R. Bhonsle, AOR  
Ms. Samridhi S Jain, Adv.  
Ms. Harshada Shrikhande,, Adv.  
Mr. Chaitanya Dixit, Adv.

Mr. Shyam Divan, Sr. Adv.  
Mr. Shivaji M. Jadhav, AOR  
Mr. Brij Kishor Sah, Adv.  
Mr. Adarsh Kumar Pandey, Adv.  
Mr. Vignesh Singh, Adv.  
Mr. Aditya S. Jadhav, Adv.  
Mr. Kumar Murlidhar, Adv.  
Mr. Unmukt Bhardwaj, Adv.

Mr. Atmaram Ns Nadkarni, Sr. Adv.  
Mr. Shyam Divan, Sr. Adv.  
Ms. Anuradha Dutt, Adv.  
Mr. Anish Kapur, Adv.  
Ms. Suman Yadav, Adv.  
Ms. Nikhita Suri, Adv.  
Mr. Kunal Dutt, Adv.  
Mr. Gurdas Khurana, Adv.  
Mr. Raghav Dutt, Adv.  
Ms. B. Vijayalakshmi Menon, AOR  
Ms. Deepti Arya, Adv.  
Mr. Salvador Santosh, Adv.  
Mr. Himanshi Nagpal, Adv.  
Ms. Manisha Gupta, Adv.

Mr. Rishikesh Haridas, Adv.  
Mr. Arzu Paul, Adv.  
Mr. Yanthanshan Yanthan, Adv.

Mr. Arvind Gupta, AOR  
Mr. Anil Kumar Sahu, Adv.  
Mr. Kanav Bhardwaj, Adv.

Mr. Mohit Paul, AOR  
Mr. Ayush Agrawal, Adv.  
Mr. Vikrant Singh Bloria, Adv.  
Mr. Sushant Tomar, Adv.  
Ms. Rangoli Seth, Adv.  
Ms. Sanjleena Lal, Adv.  
Ms. Eka Kumari Singh, Adv.

Mr. Dama Seshadri Naidu, Sr. Adv.  
Mr. Saurabh Agrawal, AOR  
Mr. Ananvay Anand Vardhan, Adv.  
Ms. Komal Mundhra, Adv.

For Respondent(s) Mr. Nalin Kohli, Sr. Adv.  
Ms. Ruchira Gupta, Adv.  
Mr. Shishir Deshpande, AOR  
Mr. Sri Harsha Peechara, Adv.  
Ms. Pooja Tripathi, Adv.  
Mr. Duvvuri Subrahmanya Bhanu, Adv.  
Ms. Harshita Sharma, Adv.  
Mr. Amit Kumar, Adv.  
Mr. Abhishek Verma, Adv.

Mr. Surjendu Sankar Das, AOR  
Mr. Samarpit Chauhan, Adv.

Mr. Nalin Kohli, Sr. Adv.  
Mr. Abhay Anil Anturkar, Adv.  
Mr. Dhruv Tank, Adv.  
Mr. Aniruddha Awalgaonkar, Adv.  
Ms. Surbhi Kapoor, AOR  
Mr. Anshul Malik, Adv.  
Mr. Bhagwant Deshpande, Adv.

Mr. Mohit Paul, AOR  
Mr. Ayush Agrawal, Adv.  
Mr. Vikrant Singh Bloria, Adv.  
Mr. Sushant Tomar, Adv.

Ms. Rangoli Seth, Adv.  
Ms. Sanjleena Lal, Adv.  
Ms. Eka Kumari Singh, Adv.

Ms. Aishwariya Bhati, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Ms. Suhashini Sen, Adv.  
Ms. Archana Pathak Dave, Adv.  
Ms. Ruchi Kohli, Adv.  
Mr. Navanjay Mahapatra, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

C.A. No. 2135/2024

This appeal is separated from the group. The appeal shall be treated as admitted and listed for hearing on 4<sup>th</sup> December, 2024.

C.A.No.121/2021, SLP(C) No. 15542/2021, C.A. No.6329/2021, C.A.No. 1315/2022, C.A. No. 1314/2022, C.A. No. 1316/2022, C.A. No. 1313/2022, SLP(C) No. 25944/2023, SLP(C) No. 27968/2023, Diary No(s). 3364/2024,Diary No(s). 7850/2024, Diary No(s). 23833/2024, C.A. No. 8464/2024, Diary No(s). 40353/2024

Delay condoned.

Permission to file appeal is allowed.

All the appeals shall be treated as admitted and listed for hearing on 5<sup>th</sup> December, 2024.

Interim relief granted earlier to continue till further orders.

C.A. No.121 of 2021 shall be treated as a lead matter. The Advocate-on-Record for the appellants and Advocate for State will file a common compilation of relevant documents within a period of six weeks from today.

(KAVITA PAHUJA)  
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)  
COURT MASTER (NSH)

FORM (E)  
(See rule 6)  
TREE OFFICER-CUM-DY. CONSERVATOR OF FOREST  
Government of  
FORESTS DEPARTMENT

No. 3/3/137/2007-08/SGF/572

Date: 25/05/2007.

Sub: - Permission of fell trees

With reference to his/her application dated 13/4/2007 for grant of permission to fell trees to Sr. Anand Chandra Bose, is hereby informed that he/she is granted permission to fell trees as per the details, indicated below from the private property known as "Capela Batt Ambatta & Canotilem" under Sy.No.43/1 situated at Dabolim Salcete Taluka subject to the terms and conditions hereto specified.

DETAILS OF TREES

Sr.No

No.

(List of species of trees is enclosed)

73

To.

Sr. Anand Chandra Bose,  
R/o. Vasco da Gama Goa.



Tree officer-cum-Dy/Conservator of Forests  
South Goa Division  
Margao Goa

TERMS AND CONDITIONS

- 1 The Range Forests Officer shall mark the trees before cutting.
- 2 Permission to fell trees is granted at his/her risk and without prejudice to claims/s of any other person/s who may be having right/s over the land of trees.
- 3 Felling of trees shall be completed within 45 days from the above mentioned date.
- 4 4. Material produced from the felled trees shall not be removed or disposed without permission of the Tree Officer
- 5 He/She shall replant tree as per details given below during ensuing/planting season, i.e. commencing from June to ...2007... August ... 2007 ... in the property from which the trees will be felled.

Licence fee was paid vide RNO.26 BKNO. 612 dtd. 28/5/2007 for Rs. 7300/-

- | Sr.No. | Species<br>Forestry Species etc.  | No. |
|--------|---|-----|
|        |   | 365 |
| 6      | He/She shall deposit sum of <u>Rs. 14600/- (Rupees Fortheen Thousand Six Hundred only)</u> vide <u>PO/No. 716193</u> dated <u>25/05/2007</u> .  |     |
| 7      | Security Deposit in the office of the Dy. Conservator of Forests, South Goa Division Margao – Goa, before starting the felling of the trees for ensuing the replanting of the trees (indicated at Sr. No. 5 above)  |     |
| 8      | In the event of failure on the part of permit holder to replant the trees as indicated at Sr.5, above then the Tree Officer, shall himself undertake to replant the trees and recover the cost thereof from the permit holder by way of adjustment against the Security Deposit made by the permit holder or felling that by recovery as arrears of Land Revenue. |     |
| 9      | Copy to the Conservator of Forests, Panaji-Goa, for information.<br>Copy to: The <u>R.F.O. (MS Margao)</u> w. r. to his report dtd. <u>18/5/2007</u> . He is directed to keep strict watch over the Felling of <u>73 trees</u> and ensure that no illegal felling takes place.  |     |

List of the Standing trees in Plot No. 5 existing in the private property known as "CAPELABAT" situated at Dabolim Village, Mormugao Taluka, bearing survey no. 43/1

Sr.No	Species	Guirth		Length	Remark
1.	Teak	43 cm ✓	x	4 m	
2.	Teak	44 cm ✓	x	2 m	
3.	Teak	83 cm ✓	x	8 m	Diseased
4.	Teak	93 cm ✓	x	5 m	B. Hollow
5.	Teak	92 cm ✓	x	7 m	--- do ---
6.	Mango	59 cm ✓	x	5 m	
7.	Mango	94 cm ✓	x	4 m	
8.	Mango	100 cm ✓	x	6 m	
9.	Kajaro	115 cm ✓	x	7 m	
10.	Mango	69 cm ✓	x	4 m	
11.	Mango	92 cm ✓	x	5 m	
12.	Teak	76 cm ✓	x	8 m	
13.	Teak	107 cm ✓	x	8 m	Diseased
14.	Teak	79 cm ✓	x	7 m	Hollow
15.	Arjun	145 cm ✓	x	8 m	
16.	Teak	68 cm ✓	x	7 m	
17.	Teak	69 cm ✓	x	7 m	Diseased
18.	Teak	78 cm ✓	x	5 m	--- do ---
19.	Onwal	66 cm ✓	x	4 m	
20.	Moi	47 cm ✓	x	4 m	
21.	Dabon	45 cm ✓	x	3 m	
22.	Dabon	35 cm ✓	x	3 m	
23.	Teak	65 cm ✓	x	5 m	Diseased
24.	Cudo	44 cm ✓	x	2 m	
25.	Moi	98 cm ✓	x	5 m	
26(a)	Chanado	60 cm ✓	x	5 m	
(b)	Chanado	62 cm ✓	x	5 m	
27.	Dabon	47 cm ✓	x	5 m	
28.	Arjun	108 cm ✓	x	7 m	
29.	Dabon	40 cm ✓	x	4 m	
30.	Chanado	58 cm ✓	x	6 m	
31.	Huro	95 cm ✓	x	8 m	
32.	Teak	104 cm ✓	x	6 m	Diseased
33.	Dabon	50 cm ✓	x	7 m	
34.	Teak	70 cm ✓	x	6 m	
35.	Kumbyo	42 cm ✓	x	2 m	
36.	Dabon	101 cm ✓	x	9 m	
37.	Char	62 cm ✓	x	7 m	

*Ashe*

*W. S. S.*  
18.5.09

Documents provided under  
Right to Information Act

38.	Teak	88 cm ✓	x	7 m	Diseased & Hollow
39.	Moi	86 cm ✓	x	8 m	
40.	Jambol	81 cm ✓	x	4 m	Diseased & Hollow
41.	Miryo	78 cm ✓	x	6 m	
42.	Kajaro	93 cm ✓	x	5 m	
43.	Huro	95 cm ✓	x	6 m	
44.	Kajaro	57 cm ✓	x	5 m	
45.	Teak	55 cm ✓	x	3 m	Hollow
46.	<i>Jungle</i>	73 cm ✓	x	6 m	
47.	Mango	47 cm ✓	x	5 m	
48.	Teak	100 cm ✓	x	8 m	Hollow
49.	Huro	48 cm ✓	x	4 m	
50.	Teak	77 cm ✓	x	7 m	
51.	Teak	108 cm ✓	x	7 m	Diseased
52.	Teak	42 cm ✓	x	7 m	
53.	Huro	57 cm ✓	x	3 m	
54.	Kajaro	62 cm ✓	x	5 m	
55.	Teak	76 cm ✓	x	5 m	
56.	Teak	93 cm ✓	x	7 m	
57.	Teak	108 cm ✓	x	8 m	Diseased & Hollow
58.	Teak	98 cm ✓	x	8 m	
59.	Teak	97 cm ✓	x	8 m	
60.	Teak	90 cm ✓	x	7 m	
61.	Teak	76 cm ✓	x	7 m	
62.	Teak	78 cm ✓	x	7 m	
63.	Teak	86 cm ✓	x	8 m	Diseased
64.	Teak	79 cm ✓	x	8 m	T. Hollow
65.	Teak	56 cm ✓	x	5 m	
66.	Kajaro	112 cm ✓	x	8 m	
67.	Moi	118 cm ✓	x	7 m	
68.	Chanado	62 cm ✓	x	3 m	
69.	Chanado	93 cm ✓	x	7 m	Diseased
70.	Teak	97 cm ✓	x	7 m	
71.	Teak	103 cm ✓	x	7 m	Diseased
72.	Teak	94 cm ✓	x	5 m	Hollow
73.	Teak	80 cm ✓	x	5 m	Diseased.

A. He

18.5.09

Document provided under  
Public Information Act

[Signature]

Exhibit - B Copy

FORM "F"

(See Rule 6)

Tree Officer-cum-Dy. Conservator of Forests

Government of Goa

**FOREST DEPARTMENT**

South Goa Division, Margao-Goa

3/3/123/2007-08/  
No. 502/398

Dated: 06/08/2007

Sub. : Permission of removal/disposal of trees.

With reference to his/her application dated ..... for grant of permission to remove or to dispose off felled trees of Forest Produce to Shri/Smt. **Anand Chandra Bece.**

is hereby informed that he/she is granted permission to remove or to dispose off the material (as per the details indicated below) from the private property known as ..... **Capela Matt. Ambatta. & Camotilam.** under Sy. No. **42/1** situated at **Dabelim, Salcete Taluka** subject to the terms and conditions hereunder specified :-

Sr. No.	Description of the material	No. of Logs	Volume in MP	No. of trips by which removal will be completed	Period of validity of the permission
01.	1st class Teak timber	125	9,125m3		30 days from the above date.
02.	2nd class Others "	05	0,547m3		
03.	3rd class timber	16	1,535m3	4 trips	
	1st class Teak Poles		15 Nos.		
	2nd class Poles		01 No.		
	3rd class Poles		01 No.		
	Firewood		20,000m3		

- i) From **Dabelim** to .....
- ii) Mode of transport (rail, sea or road) **By Road**
- iii) Route .....
- iv) Vehicle/Vessel .....
- v) Name of Driver/Tandel .....
- vi) Manner of disposal i.e. by sale, name, address & licence No. of purchaser as indicated :-

To,  
Shri/Smt. **Anand Chandra Bece,**  
**H/o. Vasco da Gama Cot,**



**Copy to: The R.F.O. (MS) MARGAO w.r. to his report/LMB dtd. 01/08/2007. He is directed to keep strict watch over the felled material and ensure that no illegal felled material should be allowed to the transport. He should also issue transit passes to the applicant. Felling licence was granted vide No. 3/3/123/2007-08/502/372 dtd. 25/05/2007.**

1314

L.M.B. of felled material from the private property bearing Sr. No. 441 at Village Dabolim Taluka Mormugao. Applicant Mr. Anand Chandra Bose Ato Vasco.

Log No.	Species	Girth	length	Volume	Log No.	Species	Girth	length	Vol.
V1	Teak	0.40	3.00	0.030	1613	Teak	0.43	3.65	0.042
211	Teak	0.43	2.70	0.031	1711	Teak	0.65	2.30	0.064
311	Teak	0.80	2.35	0.094	1712	-11-	0.63	1.60	0.044
312	-11-	0.70	2.15	0.066	1811	Teak	0.95	2.15	0.075
313	-11-	0.60	2.15	0.048	1812	-11-	0.65	2.15	0.056
314	-11-	0.55	3.65	0.069	1813	-11-	0.60	2.10	0.047
411	Teak	0.90	2.25	0.114	1911	Wal	0.65	1.75	0.046
412	-11-	0.77	2.15	0.080	2011	Mol	0.40	1.75	0.046
413	-11-	0.70	2.10	0.064	2111	Dabon	0.41	2.40	0.046
414	-11-	0.55	3.35	0.063	22	Dabon	Firewood		
415	-11-	0.50	2.20	0.034	2311	Teak	0.50	1.85	0.029
416	-11-	0.45	1.48	0.016	2312	-11-	0.40	3.00	0.046
511	Teak	0.85	2.25	0.102	24	Cudo	Firewood		
512	-11-	0.73	2.15	0.072	2511	Mol	0.98	2.10	0.126
513	-11-	0.65	2.30	0.061	2611	Chando	Firewood		
514	-11-	0.82	2.60	0.109	2612	-11-	Firewood		
611	Mango	0.55	2.10	0.072	27	Dabon	Firewood		
711	Mango	0.90	2.35	0.119	2811	Arjun	1.20	4.60	0.297
712	Mango	0.70	1.28	0.039	2812	-11-	0.80	1.30	0.052
8	Mango	Not felled			29	Dabon	Firewood		
9	Kajno	-11-	-11-		30	Chando	Firewood		
1011	Mango	0.90	3.00	0.151	31	Hulo	Firewood		
1012	-11-	0.70	1.45	0.044	3211	Teak	1.00	3.40	0.212
11	Mango	Not felled			3212	-11-	0.95	2.20	0.124
1211	Teak	0.75	2.25	0.079	3213	-11-	0.55	3.35	0.063
1212	-11-	0.73	1.45	0.048	3214	-11-	0.50	2.15	0.033
1213	-11-	0.60	1.55	0.035	3215	-11-	0.40	1.50	0.021
1214	-11-	0.56	1.75	0.034	3311	Teak	0.65	2.65	0.069
1215	-11-	0.38	1.85	0.016	3312	-11-	0.55	2.20	0.041
1311	Teak	1.05	2.70	0.186	3313	-11-	0.45	3.20	0.064
1312	-11-	0.85	2.15	0.097	3314	Dabon	0.50	4.30	0.067
1313	-11-	0.80	2.15	0.086	34	Kubiyo	Firewood		
1314	-11-	0.55	1.95	0.037	3611	Dabon	1.00	2.25	0.140
1315	-11-	0.50	3.35	0.052	3612	-11-	0.70	4.40	0.134
1316	-11-	0.45	1.80	0.016	3711	Chal	0.60	2.80	0.063
1411	Teak	0.76	1.35	0.049	3811	Teak	0.85	2.80	0.026
1412	-11-	0.92	2.95	0.095	3812	-11-	0.83	1.40	0.060
1413	-11-	0.60	2.35	0.053	3813	-11-	0.61	2.70	0.063
15	Arjun	Not felled			3814	-11-	0.51	2.30	0.057
1611	Teak	0.85	1.95	0.066	3911	Mol	0.82	2.50	0.105
1612	Teak	0.50	3.35	0.052	3912	-11-	0.80	2.30	0.092
				2.453					4.764

Number	Age	Species	Grm	Length	Volume	
160		5711	Tealc	0.82	2.80	0.118
08		5711	-11-	0.80	2.15	0.076
129		5715	-11-	0.55	3.30	0.062
126		5716	-11-	0.45	1.30	JH:PK
51		5811	Tealc	0.85	2.70	0.122
71		5812	-11-	0.80	2.15	0.086
		5813	-11-	0.65	2.15	0.057
		5814	-11-	0.55	4.10	0.077
42		5815	-11-	0.40	2.00	JH:PK
36		5911	Tealc	0.90	2.20	0.109
		5912	-11-	0.85	2.15	0.097
		5913	-11-	0.70	2.20	0.067
16		5914	-11-	0.65	2.15	0.057
2		5915	-11-	0.60	2.20	0.049
60		5916	-11-	0.55	2.00	0.038
2		5917	-11-	0.50	1.00	0.016
32		6011	Tealc	0.80	2.15	0.086
17		6012	-11-	0.73	2.15	0.072
66		6013	-11-	0.65	3.50	0.092
		6014	-11-	0.60	1.70	0.038
		6015	-11-	0.50	2.90	0.045
		6111	Tealc	0.73	2.20	0.072
		6112	-11-	0.70	2.15	0.066
		6113	-11-	0.55	2.15	0.041
		6114	-11-	0.53	2.15	0.038
		6115	-11-	0.40	3.30	JH:PK
		6211	Tealc	0.75	2.15	0.074
		6212	-11-	0.68	2.20	0.063
		6213	-11-	0.60	2.30	0.052
		6214	-11-	0.55	2.30	0.043
		6215	-11-	0.45	4.00	JH:PK
		6311	Tealc	0.85	2.30	0.104
		6312	-11-	0.83	2.15	0.092
		6313	-11-	0.70	2.15	0.066
		6314	-11-	0.62	3.15	0.076
		6315	-11-	0.50	3.15	0.049
		6411	Tealc	0.78	2.30	0.087
		6412	-11-	0.70	3.00	0.072
		6413	-11-	0.60	2.20	0.049
		6511	Tealc	0.54	3.40	0.062
			Total			9.758

S.No.	Species	Girth	Height	Volume	S.No.	Species	Girth	Height	Volume
65E	Teak	0.45	2.20	I. Pole	715	Teak	0.67	1.35	0.038
66	Kajao	Not filled			716	-II-	0.50	2.30	0.036
67E	Mol	Firewood			721	Teak	0.94	2.90	0.132
68	Chanedo	Firewood			722	-II-	0.80	2.20	0.188
69	Chanedo	Firewood			723	-II-	0.70	2.15	0.066
711	Teak	0.95	2.65	0.149	724	-II-	0.65	2.40	0.063
712	-II-	0.80	2.50	0.100	725	-II-	0.65	1.60	0.042
713	-II-	0.65	2.15	0.057	726	-II-	0.45	2.80	I. Pole
714	-II-	0.55	2.15	0.038	731	Teak	0.80	2.90	
715	-II-	0.45	3.60	I. Pole	732	-II-	0.75	2.50	0.108
716	Teak	1.00	3.50	0.219	733	-II-	0.55	2.15	0.041
717	-II-	0.85	2.15	0.097	734	-II-	0.50	2.30	0.047
718	-II-	0.70	2.15	0.066	735	-II-	0.40	3.00	I. Pole
719	-II-	0.68	2.15	0.062					
				10.546					11.707

ABSTRACT

S.No	Classification of forest produce	No. of logs	Volume
1	Ist class Teak Timber	125	9.125 m <sup>3</sup>
2	IInd class other Timber	05	0.547 m <sup>3</sup>
3	IIIrd class Timber	16	1.535 m <sup>3</sup>
4	Ist class teak poles	15 No.	-
5	IInd class poles	01 No.	-
6	IIIrd class pole	01 No.	-
7	Firewood		80.000 m <sup>3</sup>

  
 (D.V. Kollam)  
 R.P. ...

**Exhibit B**

**No. 3/3/137/2007-08/SGF**

Applicant Mr. Anand Chandra Bose (POA for) owners 'Heritage' 1st floor, Swantantra Path, Vasco Da Gama Goa has been applied for permission to fell trees from private property known as 'Capela Batta Bainbatta' and 'Camotilem' bearing Sy. no. 43/1 situated at Dabolim village Mormugao taluka.

The applicant has produced the following papers in support of his application as under:

- 1) Form 'B'
- 2) Affidavit
- 3) List of the trees & boundary list
- 4) Map
- 5) Development permission 'Provisional'
- 6) General Power of Attorney
- 7) Land Index in form I & XIV
- 8) Deed of Gratuitous cession Partition and Administration of Properties

The above referred private property has been inspected. The applicant marked 73 nos. trees as per the list enclosed for purpose of felling. The applicant wants to develop the property. The marked trees are coming in the alignment of construction of road in between the plot. Other trees existing in the property are cashew and coconut. The slope of the property is approx. 20 to 25°. The applicant has produced order of MPDA and provisional NOC from V.P. Chicalim. The necessary certificate is enclosed herewith. Hence the applicant may be permitted to fell the said marked trees. Besides 22 nos. of cashew trees are to be felled.

Checked upto 6 months –

Sd/-

21/5/07

.....

Applicant is the power of attorney holder of the owners, who got the property through Gift deed (copy enclosed). He has applied for felling of 73 nos. of trees and 22 cashew trees. He wants to cut the trees for construction purpose. RFO has inspected the trees and recommended for its felling.

Papers are OK. DCF may decide the case.

Sd/-

21/5/07

.....

73 trees permitted as recommended by RFO (MS). The applicant to plant 5 time no. of trees of that have been permitted.

Sd/-

25/5/07

.....

Applicant has paid a fee of Rs. 7300/- towards felling of 73 trees vide receipt no. 26/612 dt. 28/5/07. Also, he has furnished a draft of Rs. 14,600/- of Corporation Bank, Vasco along with bond.

As such, order is placed in the file.

Sd/-

28/5/07

.....

RFO has submitted LMB report of the felled trees and recommended for its transport. As such, order is placed in the file.

Sd/-

3/8/07

Exhibit BBOND

Known All Men by these presents that I, MR. ANAND CHANDRA BOSE, (POA for Owners), son of Mr. Nitish Chandra Bose, aged 32 years, resident of 'Heritage' Bldg, 1st Floor, Swatantra Path, Vasco da Gama, Goa (hereinafter called as the Bounden as held and fully and firmly bound myself, my jeors, executors, administrators, legal representatives upto the president of India, through the Conservator of forests, Government of Goa, Panaji (hereinafter called as 'the Government') for the sum of Rs. 14,600/- (Rupees Fourteen Thousand Six Hundred Only) and such other expenses as may be demanded by the Government, as such demand and without demur.

Signed and delivered by myself on this day 25th May 2007.

WHEREAS the bounden is the owner and in absolute possession free from all encumbrances of the property 'CAPELA BATTA BAMBATTA' and 'CAMOTILEM' of the said sub-divided Plot No. 5 admeasuring an area of 17,070 sq mtrs bearing survey no. 43/1 of Village Dabolim in the district of South Goa (hereinafter called as forest land).

AND WHEREAS the said bounden has requested the Government for permission to cut the trees for the purpose of reafforestation of certain area admeasuring 3015 sq. mts of the aforesaid forest land more particularly described in the schedule appended hereto and delineated on the plan annexed hereto (hereinafter called as the afforestation area).

AND WHEREAS the Government had agreed to permit the bounden to reafforest the said area by removing the selected trees on the terms and conditions set out in the letter of permission No. \_\_\_\_\_ dated \_\_\_\_\_ and also set out hereinafter and subject to such rules and regulations as are in force in the state of Goa.

AND WHEREAS for the purpose of compliance of the said terms and conditions under which the permission for cutting of trees and reafforestation is granted, the bounden has agreed to execute this bond subject to the conditions hereinafter contained.

Now the conditions of the above bond are that:-

In pursuance of the said permission granted for reafforestation of the said area removing the selected trees in the forest land particularly described in the schedule appended, hereto the said bounden covenants with the Government as follows:-

1. That the bounden shall reafforest the said area as directed by the Dy. Conservator of Forest, South Goa forest Division and the said area by removing the selected trees in accordance with the permission for the same by Dy. Conservator of Forests, South Goa Forest Division.

2. That the bounden shall replant the said area after removal of the matured, dead, unsound and uneconomical trees as selected and permitted from the area and allowed by Dy. Conservator of forest, Govt. of Goa and shall not cut the young and healthy trees covered under the said area.
3. That the bounden shall cut the selected trees from the said trees of not exceeding 1 hectare and shall replant within a period of one year after cutting the same.
4. That the bounden shall be debarred from clear felling of trees in the said area having more than 30 degree slope and also in area which are less than 50 mts from the banks of perennial streams or less than 15 mts from dry nalhas.

However, in the area covered thereof, only old, diseased and over matured trees shall be felled on selection basis after its inspection is done by the forest officer not below the rank of range forest officer, Govt. of Goa and the resulting patches would be replanted.

5. That the Bounden shall abide by all rules, and regulations laid down by the Forest Department, Government of Goa as the instructions issued in writing by the Dy. Conservator of Forest, South Division, Government of Goa in this regard.
6. That the bounden shall deposit a sum of Rs. 14,600/- (Rupees Fourteen Thousand Six Hundred Only) calculated at the rate of Rs. 2,000 per hec. In the form of postal savings Bank Account/term deposit receipt from a Scheduled bank duly pledged in favour of the Government under deposit receipt No. 716193 of Corporation Bank, Margao, Goa as a security deposit for the performance and obeyance of the terms and conditions as stipulated herein:-
7. That in case of the bounden's failure to replant the said area satisfactorily, the Forest Department Government of Goa shall take up the work of afforestation at the cost of the said bounden for the purpose of preservation, formation and conservation of the forest therein and make other improvements for planting of such other trees as deem fit and the whole expenses incurred in the said operation undertaken by the forest department shall be adjusted from the aforesaid deposit made by the bounden without prejudice to the right of the Government to recover any additional or excess amount incurred by it and to recover the same as arrears of land revenue under the law of the time being in force.
8. That the bounden shall be responsible for the protection and maintenance of the planted trees whether planted by the bounden himself or by the forest Department, Government of Goa till the plants are fully established and grown and on the failure of the bounden the forest Department will have the right to protect the plantation at the cost of the bounden

9. That the bounden shall permit the forest officer of the forest Department of Goa to enter upon the said area for the purpose of preservation, planting, transplanting therein so that the bounden shall not transfer or submit the privileges or the permission granted hereunder without the prior permission of the Government.

In the event of the said bounden:-

- i. Committing breach of any of the terms and conditions of the above bond and the letter No. \_\_\_\_\_ dated \_\_\_\_\_.
- ii. Committing the breach of any of the provisions of the forest Act, 1927 and the rules framed there under and the conservation of the forest Act, 1989.
- iii. Fails to carry out reforestation of the said area within the stipulated period as stated above.

The said bounden shall forthwith forfeit the aforesaid amount deposited in its application to afforestation and shall pay on demand such additions or excess sum incurred by the Forest Department, Govt. of Goa towards afforestation of the said area.

And upon the said bounden making such payments or the compliance of the covenants and the obligations as stated above shall be void and of no effect otherwise it shall be and remain in force and virtue.

## SCHEDULE

(Description of the property and area)

All that Sub-divided Plot no. 5 admeasuring an area of 17,070 sq. mts forming part of the property denominated as 'CAPELA BATTI BAMBATTA' and 'CAMOTILEM' Surveyed under survey no. 43/1 of Village Dabolim and which is bounded as under:

On the North : By the open space, existing dry nallah and property bearing survey no. 24.

On the South : By the open space of the property bearing survey no. 43/1.

On the East : By 8.00 mtrs wide road and existing dry nallah

On the West : By the open space and Sub-divided Plot No. 4 in the Property bearing survey no. 43/1.

In witnesses of the above written bond and the conditions **MR. ANAND CHANDRA BOSE** the bounden has hereto set his hand at this day of 25th May 2007.

Signed and delivered by the  
'BOUNDEN'

Sd/-  
**MR. ANAND CHANDRA**

**BOSE**

Accepted by \_\_\_\_\_  
Tree officer cum Dy. Conservator of Forest,  
South Goa Division, Margao, Goa

WITNESSES:-

1. Santane Pereira – Sd/-
2. Poonam Kaur – Sd/-

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



**O.A. NO. 170/2024 [WZ]**  
 [ Formerly O.A. No. 26(THC)/2013 [WZ] ]

**BETWEEN:**

**THE GOA FOUNDATION AND ANR.**

**...APPLICANT**

**AND**

**DLF Homes Goa Pvt. Ltd. & Ors.**  
*(Earlier known as M/s. Sarawati  
 Builders & Constructions Pvt. Ltd.)*

**...RESPONDENTS**

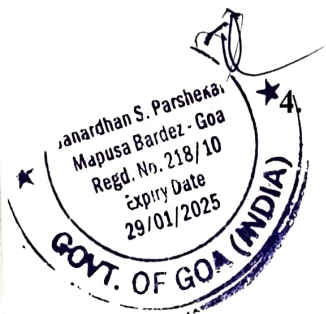
**AFFIDAVIT IN REJOINDER OF THE APPLICANT**

I, Dr. Claude Alvares, Secretary of the Applicant organization, do solemnly affirm and state as follows:

1. I am filing this affidavit in response to the recent affidavit of the R-1 dated 06.08.2024. This rejoinder also deals with the previous affidavit of the R-1 dated 18.02.2014 since, at the time when the said affidavit was filed, no counter was filed by the Applicant, as the Resp. No. 1 had already approached the Hon'ble H.C. of Bombay at Goa with Writ Petition No. 379/2014, and obtained a stay of the

forestry report ordered by this Hon'ble Tribunal. Subsequently, the N.G.T adjourned the proceedings *sine die* vide order dt. 31.10.2014.

2. At the outset, I state that I am not replying to each and every statement and averment made in the replies of the Resp. No. 1 dt. 18.02.2014 and 06.08.2024, and nothing may be deemed to be admitted unless the same is specifically admitted herein but should be treated as though the same has been set out seriatim and denied and disputed specifically. I also state that in this affidavit I am dealing solely with the issue of forestry status of the plot of the Resp. No. 1 in accordance with the transfer order dated 17.10.2010 passed by the Hon'ble High Court of Bombay at Goa.
3. It may be recalled that the Hon'ble High Court of Bombay at Goa had transferred the Writ Petition (No. 13/2010) filed by the Goa Foundation and Anr., to this tribunal for consideration by its order dated 17.10.2013 (Comp-I, @ Ann. 7). The writ petition was re-numbered as OA No. 26 (THC)/2013 [WZ], and is now re-numbered as OA No. 170/2024 [WZ].



4. The OA No. 170/2024 has resumed for hearing consequent to the Hon'ble High Court's Order dated 08.09.2023, passed in W.P. No. 379/2014 disposing of the petition. The order records unconditional withdrawal of the writ petition. A copy of the order is at Comp-I, @ Ann. 24.

5. In order to make matters convenient for reference and arguments, important documents that are part of the annexures of the transferred writ petition as well as significant affidavits of some of the

respondents and documents and reports they have produced in the writ petition and the O.A after it came before the NGT are highlighted in this affidavit. I am also filing a separate compilation of documents, not found in the Resp. No. 1's Compilation, submitted vide its affidavit dated 06.08.2024. I reiterate that all the documents in my compilation are part and parcel of the records of the original *W.P. 13/2010* when it was pending adjudication before the High Court. For convenience, the numbering of my compilation, which is marked as **Compilation-II (Comp-II)** commences from where the first compilation ends. Since ten years have elapsed since the matter was last adjourned by the NGT, an updated list of dates is also prepared.

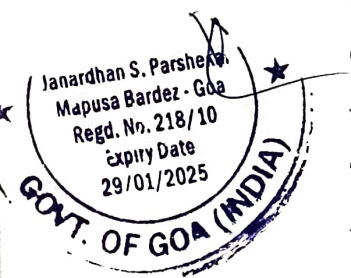
6. The Applicant submits that four important documents were produced in the *W.P. 13/2010 (now, O.A 170/2024)* which are required to be considered by this Hon'ble Tribunal in order to decide the issue of the forestry status of Sy. No. 43/1-A of Dabolim village (*the Resp No 1's plot*). Some of these documents were on record prior to the transfer order dt. 17.10.2013, while others are post the transfer. The applicant records below the circumstances in which the said documents were produced, along with the documents, which are grouped as follows:

- (A) The MOEF's Technical Committee Report (19.04.2011);
- (B) The HC-directed Forest Report (25.06.2012);
- (C) The MOEF's affidavits concerning the above two documents (19.04.2011 and 22.07.2013);
- (D) The NGT-directed South Goa Forest Division Committee (SGFDC) report (07.05.2014).



**A. The MOEF's Technical Committee Report**

7. On 24.02.2011, the Resp. No. 9 (MOEF) constituted a Technical Committee of 3 persons, headed by the Chief Conservator of Forests, MOEF Regional Office, Bengaluru, to carry out a site inspection of the Survey No. 43/1 and 43/1-A, i.e., the subject property, to examine whether the two principal issues of controversy raised by this Applicant in its WP i.e the forestry nature of the plot and the steep nature of the hill would prohibit development on the plot.
8. The Technical Committee (TC) visited the site and recorded its findings in its report, which the MoEF produced vide its affidavit dated 19.04.2011. The relevant HC orders dealing with the report of the Technical Committee are at **Comp.II, @Ann. R-1 colly.**
9. As regards forestry status, the TC concluded that from a perusal of the site, plus the trees felled and standing, plus the crown density of the vegetation, the subject plot which is above 5 ha. met the State Govt's three criteria for identification of private forest as, the trees were more than 75% forestry species and the density was  $> 0.4$ . The TC also recorded that retaining the natural vegetation especially on the portions with slope above 25% on the plot was necessary from the overall environmental point of view. However, considering that the State Govt had constituted two Committees for North and South Goa to complete the balance identification of private forests, the TC suggested that a final decision on whether or not the site is located in a forest land should be taken only after the report of the



Committee appointed by the State government for South Goa (SGFDC) on the forestry status of the plot is obtained.

10. In line with the recommendation of the TC, the MoEF conveyed its decision to the High Court that it would await the decision of the SGFDC, i.e. the South Goa Forest Division Committee on the aspect of forestry status of the plot and that pending that report, the EC would be kept in abeyance. A copy of the MOEF affidavit dated 19.04.2011 annexing the copy of the TC's report is enclosed at **Comp-II, @ Ann. R-2**. The Technical Committee's report has not been challenged before the High Court or this Tribunal. Its findings await confirmation by the SGFDC report.

11. However, the Resp. No. 1 challenged the MoEF's decision to keep the EC in abeyance in W.P. No. 395/2011 (*now numbered as OA 171/2024*) which is pending before this Hon'ble Tribunal and wherein this applicant is the Resp No. 3.

**B. The HC-directed Forest Department Report**



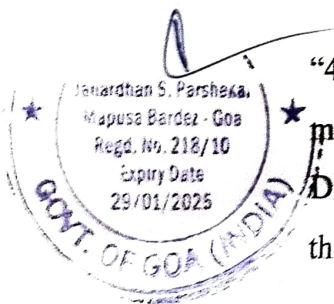
12. By its order dated 10.04.2012 (*further clarified by order dated 02.05.2012 in WP No. 13/2010 (later O.A No 170/2024)*), the High Court directed the Forest Department to inspect the site, prepare a report and submit the same in a cover to the Court. It also directed that the report, when prepared, would be sent to the MOEF, which would take a decision on the report in six weeks. A copy of the two H.C. orders is enclosed at **Comp-II, @ Ann. R-3 colly.**

13. The Forest Department report was filed vide its affidavit dated 25.06.2012. The report unequivocally concludes that the Survey No. 43/1-A is a private forest. A copy of the report with the accompanying affidavit is at **Comp-II, @ Ann. R-4**. This report was also submitted to the MoEF for decision. The MoEF's decision was conveyed to the High Court vide affidavit dated 22.07.2013 and it states that the area is owned by M/s. DLF Homes Pvt. Ltd., is private forest land. (*see details of MoEF affidavit below*).

### C. MOEF AFFIDAVITS

14. The MOEF affidavit dated 19.04.2011 was filed in response to the Technical Committee report. It indicated that the MoEF had accepted the TC's view on forestry nature of the plot but as suggested by the TC, the Ministry had decided to await the decision of the Committee appointed by the State government (*SGFDC, i.e. the South Goa Forest Division Committee*) on the aspect of forestry status of the plot. Pending that decision, the EC would be kept in abeyance.
15. The MOEF affidavit dated 22.07.2013 was filed in response to the Forest Dept report filed on 25.06.2012. It stated as follows:

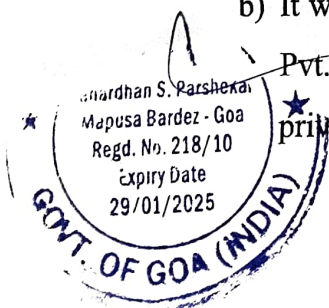
“4. I say that the report of the Forest Department of Goa State and more particularly the report of Shri Mahesh Kumar Shambu, Dy. Director (Forests), South Goa Division, Margao, was examined by the Ministry and the Ministry has taken decision as follows:



a) The findings of the report were categorized into 3 categories as given below:

1. The area of Survey No. 43/1 which is outside M/s. DLF Homes Pvt. Ltd. i.e. M/s. Saravati Builders and Construction Pvt. Ltd was inspected and it was found that the criteria that the area to be declared as Private Forest should have more than 75% of the Tree Species of forestry in nature is not fulfilled as the trees appear to have been planted. Thus the area in Survey 43/1 is not part of 43/1-A and should not be considered as Private Forest.
2. The area owned by M/s. DLF Homes Pvt. Ltd. M/s. Saravati Builders and Construction Pvt. Ltd. covers an area of 7.73 Ha out of which 0.6503 Ha does not meet the criteria of deemed forest and out of the remaining 7.0797 Ha, tree felling permission was given in 2 Ha and the remaining 5.0797 Ha in Survey No. 43/1-A meets the criteria of Private Forest.
3. In the area of 2.00 Ha in Survey No. 43/1-A, trees have already been felled owing to tree felling permission and the inspection does not help in verifying the density of the vegetation. It has already been indicated that the Forest (Conservation) Act, 1980 is not applicable to the area.

b) It was concluded in the inspection report that M/s. DLF Homes Pvt. Ltd property measuring 7.7300 Ha meets the criteria of private forest.



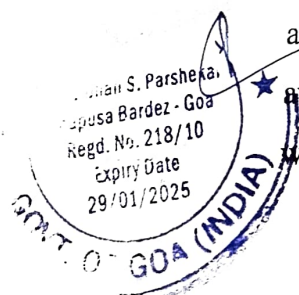
- c) In the light of the above findings of the inspection report, it appears that area owned by M/s. DLF Homes Pvt. Ltd., M/s. Saravati Builders and Constructions Pvt. Ltd., is private forest land and accordingly prior permission of the Central Government is required under Section 2 of the Forest (Conservation Act), 1980 in accordance with the Hon'ble Supreme Court order dt. 12.12.1996 in Writ Petition (Civil) No. 202 of 1995 in the matter of *T.N. Godavarman Thirumulpad versus Union of India.*”

A copy of the affidavit of the MOEF dated 22.07.2013 is enclosed at **Comp-II, @ Ann. R-5.**

**D. The NGT-directed SGFDC report**

16. As it was clear that the MoEF's final decision on forestry status of the Resp No 1's plot was awaiting the SGFDC report, the Tribunal was pleased to pass an order dated 03.04.2014 by which it directed the South Goa District Forest Committee (SGDFC) to identify and demarcate the private forests in the village of Dabolim, South Goa, with specific reference to the plot belonging to the Resp. No. 1, and to submit its report within one month. The order is on record at **Comp-I, @ Ann. 8.**

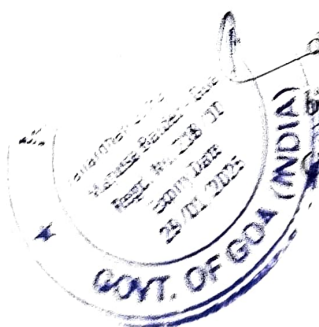
17. The SGDFC submitted its report on Sy. No.s 43/1 and 43/1-A to this tribunal on 07.05.2014 which was within the time stipulated. The SGDFC came to the unanimous conclusion – after visiting the site and carrying out a detailed inspection in the presence of the two key authorized representatives of the Resp. No. 1 – that Sy. No. 43/1-A was a private forest as it met all the three criteria of 75% forestry



species, extent of the area being minimum 5 ha and canopy density being above 40%. The SGDFC also took into consideration several critical forest reports on the forestry status of the plot prepared and submitted to the High Court and to the MoEF prior to its own study of the plot. A copy of the SGDFC report dated 07.05.2014, filed with an affidavit dated 31.05.2014 by the Member Secretary of the SGDFC, is enclosed at Comp-II, @ Ann. 6.

18. However, before the SGDFC report could be taken up for consideration by this Tribunal, the Resp No. 1 moved the High Court of Bombay at Goa with a pre-emptive W.P. No. 379/2014 which it filed on 23.06.2014 challenging the report on specious grounds. With *mala fide* intention, the Resp. No. 1 did not make this applicant a respondent. On 25<sup>th</sup> June 2014, the Resp. No.1 obtained an ad-interim, ex-parte stay of the report commissioned by this tribunal on the basis of misrepresentations made in the petition to the effect that the report was prepared without giving the petitioner a hearing. Copy of the stay order dated 25.06.2014 is at Comp-I, @ Ann. 10. It bears repeating that the visit of the SGDFC to the Sy. No.s 43/1 and 43/1-A took place in the presence and with the consent of the two authorized representatives of the Resp. No. 1. This was in line with its procedure of intimating and hearing affected persons.

19. After the SGDFC had completed the site inspection on 23.04.2014, but before the committee's second visit on 06.05.2014, the Respondent No 1 filed a written representation dated 02.05.2014 demanding a personal hearing in terms of the procedure laid down by the expert committee. Although two authorized personnel of the Company were present at the site when the SGDFC conducted its



site visits, the SGFDC granted a second hearing to the Resp. No. 1. It examined all the contentions, documents and written submissions submitted by the Resp. No. 1 and re-confirmed its decision by a supplementary report dated 30.10.2014. A copy of the supplementary report dated 30.10.2014 is to be found at **Comp-II, @ Ann. 7.**

20. Pursuant to the High Court's stay order dated 25.06.2014, the NGT decided initially to adjourn the proceedings before it and eventually passed its order dated 31.10.2014 by which it stayed all proceedings before it *sine die*. Copy of that order is at **Comp-I, @ Ann. 11.** The matter has remained *sine die* before the NGT now for a period of 10 years. During these ten years, to the best knowledge of the Petitioner, no application was filed by the Resp. No. 1 either before the NGT or the High Court for an urgent or early hearing of the matter. This has manifestly exposed the claims of urgency made by the Resp. No. 1 for their project including the claim of expenditure of large amounts of money spent in the cause.

21. As the High Court has disposed of W.P No. 379/2014 by its order dated 08.09.2023, the O.A No 170/2024 now stands revived before this Hon'ble Tribunal which will now have to examine the report of the SGFDC dated 7<sup>th</sup> May 2014 (**Comp-I, @ Ann. 9**), ordered by the NGT, as the ad-interim stay on the report no longer prevails with the unconditional disposal of the writ petition.

22. As per the unanimous conclusion of the SGFDC, the area is private forest. Hence, prior forest clearance is required before any approvals can be granted for the project. Approvals granted by any other



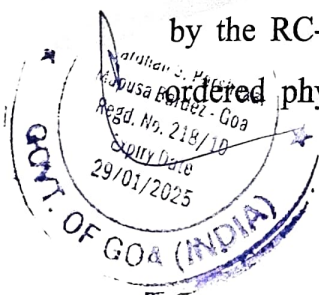
authorities without prior approval under FCA, 1980 are therefore illegal, invalid or *non-est*.

23. There is no challenge pending to the SGDFC report, hence the report and its conclusions on the forestry status of the plot are bound to prevail. This tribunal ought to accept the findings in the SGDFC's report commissioned by it as there is no blemish in its recorded findings, and nor is it challenged by the Respondent. This is the applicant's first respectful submission.
24. Further, the SGDFC report's conclusion is in line with a series of earlier reports - the Technical Committee report commissioned by the MoEF and the Forest Dept report directed by the High Court (referred to in paras 7 to 13 above). Thus all three reports as regards this property have unanimously concluded that the Resp. No 1's plot is a private forest. This is the applicant's second respectful submission.
25. Without dealing with the SGDFC report -- which declares the plot as private forest -- the Resp. No. 1 is now proposing that the plots Sy. No.s 43/1 and 43/1-A need not be considered as forest since the Review Committee II (RC II) has excluded Sy. No. 43/1 from the list of private forest survey numbers in its "second part final report" prepared after its second meeting. It is the contention of the Resp No. 1 that the second part final report of RC II was upheld by this Hon'ble Tribunal by its judgment dated 12.09.2023, passed in M.A No 3/2023 in O.A No. 478/2018. The R. 1 contends that as the tribunal upheld the methodology relied upon by the RC-II to exclude not just this survey number but several others as well, the Resp No



l's plot i.e., Sy No. 43/1-A may no longer be considered private forest.

26. In this regard, the Applicant submits as follows: firstly, the MoEF has requested for the SGFDC report to be submitted to it and not any Review Committee's decision on it that may have been taken. Secondly, as the NGT had commissioned the SGFDC to prepare a report, the same must be placed before the Tribunal for its decision.
27. That apart, it must be remembered that in its judgment dated 12.09.2023 the Hon'ble NGT has made an important distinction between the Final and Provisional survey numbers listed in the reports of the NGFDC (Thomas Committee) and the SGFDC (Araujo Committee). As regards the Final sy nos (differentiated from the provisional), this Hon'ble Tribunal directed the state government to conduct a physical verification (or ground truthing) of all these plots and listed as such in the reports of both North and South Goa Forest Division Committees. This direction was issued because the Applicants therein had demonstrated that large areas identified as "final" by the two expert committees had been excluded by the RC-II based simply on FSI reports and without physical verification. These decisions (leading to the exclusion of even finalised sy nos as private forest) were taken within the first three meetings of the RC-II. The decision relating to the exclusion of the present survey No. 43/1-A and 43/1 was taken in the 2nd meeting of the RC-II and based solely on FSI maps. Hence, despite upholding the methodology used by the RC-II, this Hon'ble Tribunal, conscious of the omission, ordered physical verification of cases declared final by the two



FDCs. The relevant portion of the order dated 12.09.2023 reads as under (para 91):

“We are of the view that in order to take extreme precaution that no-one suffers on account of errors in identification of the private forest area, the areas, which were finally identified as private forest area by the T&A Committees, if any area out of that is required to be excluded as per review being made by RC-II, the said area should be got verified physically with respect to all three criteria laid down for determination of the private forest cited above by us. Till the final decision is taken with respect to whether the area being excluded from the list of being treated as final forest land by the RC-II which was finalized by T&A Committees as private forest, in keeping with our direction, no permission shall be granted by the State Government for any kind of development work, in the said survey numbers. This exercise shall be completed within three months of uploading of this order.”

A copy of the NGT order is at **Comp-I, @ Ann. 25.**

28. It is an undisputed fact that Sy. No.s 43/1 and 43/1-A are identified as a private forest by the SGFDC in its report dated 07.05.2014. *(This finding is reiterated by the SGDFC in its final report dated 28.12.2018.)* It is also an undisputed fact that the Sy. No. 43/1 was deleted from the list of private forests at the second meeting of the ~~RC-II~~ on the basis of the FSI maps only. None of the sy nos – ~~excluded~~ on the basis of the FSI maps – was visited for physical

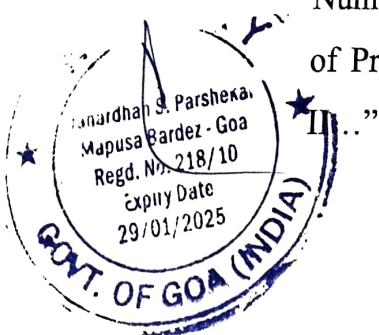


verification before their exclusion. It is thus clear that the plot of the Resp No 1 was not visited for physical site verification by the RC-II when it excluded the plot from the list of survey numbers qualifying as forest at its second meeting. As per the NGT judgment dt. 12.09.2023, the R-1 plot had to be freshly visited to assess the forestry status.

29. However, it appears that a decision has been taken by the RC-II that such a physical site visit need not and will not be carried out. The Resp. No. 1 in its recent affidavit dated 06.08.2024, has referred to the 7<sup>th</sup> Part Final Report of the RC-II which states that as the Hon'ble NGT approved the methodology of the RC-II which had excluded sy nos. from the NGFDC and SGFDC reports as per the FSI maps, these sy nos. which were excluded prior to the NGT judgment do not have to be physically verified, as their review has already been concluded. Para 15 (xxi) of the R-1's affidavit quotes from the RC-II report and states:

“Pertinently, the survey number of the applicant fell within the aforesaid survey nos. and a detailed list of the same was annexed to the Report. The relevant portion of the 7<sup>th</sup> Part Final Report is being reproduced hereunder:

“Whereas, the methodology adopted to review survey numbers identified as Private Forest done by the RC-II to date has been accepted by Hon'ble NGT. As such, 271 Survey Numbers that do not meet the criteria drawn for identification of Private Forest are not being reviewed again by the RC-II...”



30. It appears that the State Government has endorsed the view of the RC-II. At any rate, no site visit has been conducted of the plot/s of the Resp No 1. Though it is the applicant that had filed the appeal against the Review Committee II and its reports, it was never invited to join the Forest Department on any site visit for physical verification of plots in pursuance of the impugned NGT order.
31. No advantage can accrue to the Resp. No. 1 in these circumstances in the present OA for the simple reason that the direction given in this tribunal's judgment dated 12.09.2023 (that plots marked as final private forest by the SGDFC must undergo physical verification) has not been complied with and it appears that the State Govt also has no intention of complying with the said direction as far as the finalised sy nos excluded by the RC-II at its first two meetings are concerned. As a consequence, Sy. No. 43/1 and other survey numbers excluded in defiance of the tribunal's order must be declared private "forest." In any event, they have already been declared a private forest by the SGDFC. This is the applicant's third respectful submission.
32. Further, as per the NGT judgment dt. 12.09.2023, the site visit of the finalised plots had to be completed within 3 months. No site visit of Sy No.s 43/1 or 43/1-A has been done. This is in defiance of this Hon'ble Tribunal's orders. As the period of three months given by the tribunal for completion of this task of physical verification has already expired, that window allowed by this tribunal is now closed. Hence, as per the judgment of the Tribunal, no development can be



permitted on the R-1's plot and its forestry status stands confirmed.  
This is the *fourth* respectful submission of the applicant.

33. The Applicant also informs this Hon'ble Tribunal that this Tribunal's approval of the methodology followed by the RC-II – which excluded the sy nos identified by the Thomas and Araujo Committees solely on the basis of FSI reports - and its decision to permit review of the plots finalised by the T&A Committees by the RC-II, whose mandate was to review only provisionally identified plots – are the two principal challenges raised by this applicant against the NGT's judgment dated 12.09.2023 in Civil Appeal No 2135/2024 filed by it in the Supreme Court. The Civil Appeal was last before the Apex court on 24<sup>th</sup> September 2024 and it has now been posted for final disposal on 4th December, 2024. A copy of the Supreme Court's order is at **Comp-II, @ Ann. R-8**. This Hon'ble Tribunal may therefore wish to desist from hearing this matter temporarily as the issues that would come up for consideration in the O.A. No 170/2024 are squarely before the Hon'ble Supreme Court, whose decision is likely in the near future.  
This is the applicant's *fifth* respectful submission.

34. In conclusion, it can be stated that all forest reports commissioned by the High Court, the MOEF and the NGT have ruled in favour of the Sy. No. 43/1A to be a private forest, as listed below:

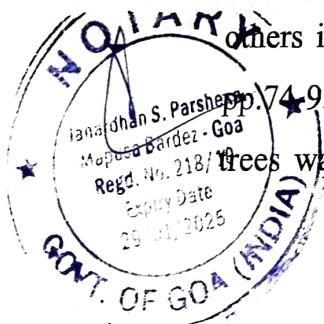
a) Report of the Technical Committee prepared pursuant to order of the Ministry of Environment & Forests dated 24.02.2011;



- b) Report of the Forest Department prepared pursuant to direction of the High Court dated 10.04.2012 (*further clarified by order dated 02.05.2012 in WP No. 13/2010*);
- c) Affidavit of the Ministry of Environment and Forests dated 22.07.2013, filed as per direction of the High Court;
- d) Report of the SGFDC dated 07.05.2014 as per direction of this tribunal dated 03.04.2013; and the supplementary report of the SGFDC 30.10.2014 (*after giving a personal hearing to the R.1*)

35. In view of the above, it is submitted that this Tribunal may either await the Hon'ble Supreme Court's decision in the Civil Appeal No. 2135/2024 challenging the Hon'ble NGT's judgment dated 12.09.2023 which the R-1 is relying upon, or it may proceed to hear the matter by considering the report of the SGDFC dated 07.05.2014 which it had directed the SGDFC to produce, and also the other reports commissioned by various other authorities, all of which hold that the plot is forest.

36. This Hon'ble Tribunal also ought to take into consideration that a total of 192 trees were felled on the Sy. Nos. 43/1 and 43/1-A, by the Resp. No. 1 and its predecessor owners. The trees felled are mostly forestry species, some of them legally felled pursuant to permissions issued under the Goa Preservation of Trees Act and others illegally felled. Two of these permissions are on record at 74-95 of the OA No.170/2024. The third permission to fell 77 trees was discovered by the applicant later, as neither the Forest



Department nor the Resp. No. 1 disclosed this fact. A copy of the third permission dated 25.05.2007 is at Comp-II, @ Ann. R-9.

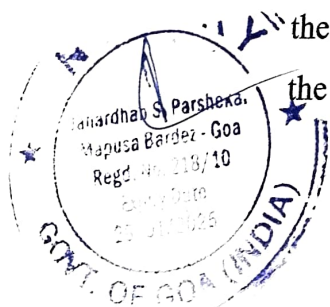
37. As per the three permissions, the following numbers of trees were allowed to be felled:

- i) Permit dated 25.05.2007 to fell 73 forest + 22 cashew trees.
- ii) Permit dated 12.9.2008 to fell 47 trees (+6 illegally felled)
- iii) Permit dated 28.05.2009 to fell 45 trees

Thus the permissions granted amounted to a cumulative felling of 187 (+6 illegally felled) or 192 trees on the entire survey no. In their place, the Resp. No. 1 is by law required to plant 825 trees.

### WITH REF. TO R-1's AFFIDAVIT DATED 18.02.2014

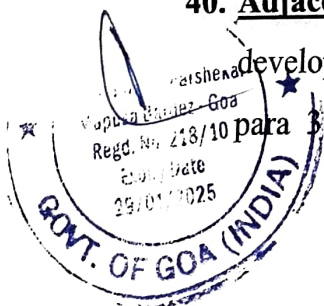
38. **Delay:** The Resp. No. 1 has challenged the OA on the grounds of delay and laches, stating the permissions which have been challenged date way back to 2007-08. This claim was rejected by the High Court which granted interim relief. The claim will also not hold water for other reasons. The entire plot of sy. No. 43/1-A was subdivided into five plots each below 20,000 sq mtrs area in order to bypass compliance with the EIA notification of 2006. The Resp. No. 1 later submitted an application for EC. Here too, after procuring an EC in 2009, it revised the project and went in for a revised EC in 2011. The PIL was filed in 2010. Any permissions to construct or change the nature of the land granted prior to grant of EC, especially the construction licence and the permit to fell trees, would violate the provisions of the EIA Notification 2006, which prohibit any



change in the land (except for land acquisition) prior to grant of EC. Since FCA approval was not obtained, the land could never have been diverted without prior approval under that Act. Hence no permit or licence for development that would divert the forest land to non-forest use would be valid. If granted, such permissions would per se be in violation of environmental norms. These facts refute the claims made in para 3(c)(iv) that “all activities were initiated only after all permissions were in hand.” In any case, permissions for felling of trees were at the time neither uploaded to the website of the Forest Department nor is the public informed of such permissions.

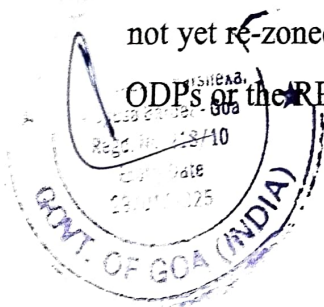
**39. Due Diligence:** In relation to the averment made in para 3(d)(ii), the claim of due diligence being conducted is unsustainable. It will not apply in cases where there is a prohibition under environmental and forest norms that has been overlooked. The Sawant and Karapurkar committees had not identified the plot as forest because they had not visited the village or the plot. In order to complete the task of identification of private forests, the state government appointed the South Goa Forest Division Committee in 2012, and it is this committee that visited the plot. In fact, the SGFDC visited the plot a second time due to specific direction of this Hon’ble Tribunal and confirmed the finding that the property was private forest.

**40. Adjacent Developments:** The issue of whether there are developments permitted within 1 km of the subject property made in para 3(d)(vii) is irrelevant since the SGFDC, in fact, identified



several survey numbers in Dabolim village including the plots adjacent to Sy. No. 43/1-A as having vegetation of a forest nature.

41. **Regional Plan 2021**: With regard to the averment made in para 5, that the State Level Committee had not identified the project site as Private Forest in the Regional Plan 2021, the Applicant states that this is not the correct position. The SLC covered only those private forest plots that were finally identified (total plots) by the Sawant and Karapurkar committee reports, as per instructions of the Government. The RP 2021 has not included private forests identified by later committees. It is expected that this will be done when the Regional plan 2021 is revised.
42. With regard to the averment made in para 6, that the RP 2021 was de-notified, this is incorrect. Though there is a provision for denotification of a Regional Plan that has been notified, the RP 2021 has never been de-notified.
43. **Mormugao ODP**: With regard to the averment made in para 7, that the property was zoned as “settlement,” this is also denied. Zoning of a forest as “settlement” under the ODP of Mormugao is of no significance if the area is forest. The Town Planners are not forest officers. In fact, by its judgment dated 18.08.2020, this Hon’ble Tribunal has accepted the Deepshikha Review Committee I report which declares 46.11 sq km as private forest. Most of these lands are not yet re-zoned from their existing land uses to forest in either the ODPs or the RP 2021.

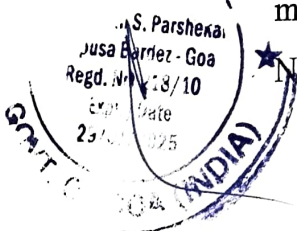


44. **DCF Communication:** With regard to the averment made in para 8, the fact that the DCF vide his communication dated 23.02.2007 certified that the project site was not situated in any government forest or identified as private forest is correct. At the time the DCF wrote the letter, the Sawant and Committees had submitted their reports, leaving out large areas still to be identified. This lacuna would be corrected by the Thomas and Araujo Committees which commenced their exercises only in 2012. In any case, it has never been the contention of the applicant that the Sy. No. 43/1 was a government forest land.

45. In view of the above submissions and the pleadings in the O.A. No 170/2024, the applicant prays that the Hon'ble Tribunal may be pleased to pass appropriate orders setting aside all permissions and sanctions issued to the Resp. No. 1 by the various authorities as sought for in the prayers listed in O.A. No. 170/2024, in view of the findings of the SGDFC report dated 07.05.2014 and the affidavit of the MOEF dated 22.07.2013. This Hon'ble Tribunal may also direct the R-1 to replant 825 trees as directed in place of the 192 trees it has felled, and that a compliance report in this regard be filed.

46. I state and verify that the contents of paras 1 - 45 of this affidavit are partly in the nature of facts which are true to my own knowledge and as per official documents/records, and are partly my submissions made based on legal advice which I believe to be true and correct.

No part of it is false and nothing material has been concealed



therefrom, and the annexures enclosed are true and correct copies of their respective originals.

Solemnly affirmed at Mapusa, Goa,  
This the 11th day of November 2024



**APPLICANT/DEPONENT**

Solemnly affirmed before me by Dr. Claude Alvares  
Who has been identified by \_\_\_\_\_  
who is known to me personally  
Mapusa - Goa.

Reg. No. 5764/24 Date 11/11/2024

JANARDHAN S. PARSHEKAR  
NOTARY AT MAPUSA, BARDEZ, GOA.  
STATE OF GOA (INDIA)

**VERIFICATION**

I, Dr. Claude Alvares, Secretary of the Applicant organization, do hereby verify that the contents of paras 1 - 46 of my above affidavit are true to my knowledge and belief, and that no part of it is false and nothing material has been concealed therefrom.

Solemnly affirmed at Mapusa, Goa,  
This the 11th day of November 2024

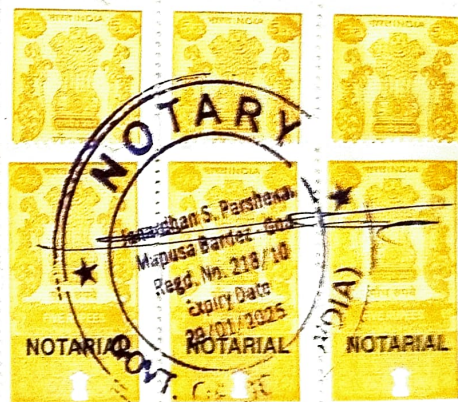


**APPLICANT/DEPONENT**



Solemnly affirmed before me by Dr. Claude Alvares  
Who has been identified by \_\_\_\_\_  
who is known to me personally  
Mapusa - Goa.  
Reg. No. 5764/24 Date 11/11/24

JANARDHAN S. PARSHEKAR  
NOTARY AT MAPUSA, BARDEZ, GOA.  
STATE OF GOA (INDIA)



**LIST OF DATES - OA NO.170/2024**

<b>Sr. No.</b>	<b>Date</b>	<b>Particulars</b>	<b>Page Nos.</b>
1.	26.09.2006	Environment Impact Assessment notification	
2.	25.05.2007 2007	Forest Department issues tree felling permit for removal of 73 trees on Sy. No. 43/1. Under this first permission, the party was to plant 365 forestry trees	
3.	25.09.2007	MPDA grants development permission under Section 44 of TCP Act without EC	
4.	03.10.2007	Panchayat of Chicalim issues 4 construction licenses without EC	
5.	15.10.2007	Anand Builders purchases 1,02,775 sq mts for Rs.7.7 crores	
6.	26.11.2007	In 40 days, Anand Builders sells 77,294 sq mts of Sy.No.43/1 to Saravati Builders (DLF) for Rs. 29 crores. Plot has new Sy. No. 43/1-A.	
7.	26.06.2008	EAC considers the project for the first time and rejects grant of environment clearance.	
8.	12.09.2008	Second tree felling permission granted to fell 47 trees without EC. Under the second permission, the party was to plant 235 forestry trees	
9.	16.10.2008	Draft Regional Plan 2021 notified which shows significant portion of the property as No-Development Slope	
10.	23.10.2008	EAC considers project the second time	
11.	23.12.2008	EAC recommends project for EC after third consideration	
12.	02.02.2009	Environment clearance is granted under EPA 1986 (first EC)	
13.	05.02.2009	Outline Development Plan is notified now showing the plot under settlement zone, despite it being forest and with NDS as per RP 21	

<b>14.</b>	28.05.2009	Third tree felling permission given to fell 45 trees. Under the third permission, the party was to plant 225 forestry trees	
<b>15.</b>	10.07.2009	Consent to establish project issued by Pollution Control Board	
<b>16.</b>	17.07.2009	Five construction licenses issued by panchayat for 5 plots totalling 77,294 sq.mts.	
<b>17.</b>	02.09.2009	CTP issues permission under Section 17 (A) of TCP Act for hill cutting	
<b>18.</b>	2010	(WP. No. 13/2010 - <i>GF vs Saravati Builders and Construction Pvt Ltd</i> ) filed by Goa Foundation and Anr	
<b>19.</b>	11.01.2010	Revised EC is issued for the same site by MOEF for modified project with larger number of flats	
<b>20.</b>	12.01.2010	HC issues restraint order against further “felling of trees or hill in the subject property” as sought in WP 13/2010	
<b>21.</b>	15.04.2010	MoEF issues letter to Saravati Builders not to proceed with construction of its project as environment clearance dated 11.1.2010 has been held in abeyance on the grounds that 3 issues raised in W.P. No 13/2010 are important and require detailed re-examination.	
<b>22.</b>	27.04.2010	Stay order granted in WP 13/2010 against balance 40 respondents. Stay against R.2 deemed not required as project EC has been held in abeyance. Petitioner permitted to move for stay if the situation changes.	
<b>23.</b>	21-23.7.2010	EAC conducts a fresh hearing on the project. The petitioners and respondents are heard.	
<b>24.</b>	27.08.2010	MoEF writes to CTP conveying the decision of EAC for a “copy of the contour map superimposing the layout plan of the site with clear spot levels authenticated by the local Town Planning Department.”	
<b>25.</b>	27.09.2010	MOEF rejects “attested copies” and once again requests the CTP to examine at site and confirm the slopes and permissibility of construction.”	

26.	08.10.2010	The Ministry once again requests CTP to examine and verify at site and confirm the slope and permissibility of construction. CTP refuses to oblige.	
27.	9-10.11.2010	EAC recommends to the Ministry that action on this matter should be taken only after a decision from the High Court.	
28.	04.01.2011	MOEF writes to counsel that the EC has not found any infirmity with the EC [ <i>even though the issue of steep slope is not decided, as Town Planning refuses to cooperate</i> ].	
29.	24.01.2011	Ministry files an affidavit informing High Court that recommendation of the EAC has been accepted by the Ministry and Ministry will decide on abeyance order after decision of the High Court.	
30.	2011	Saravati Builders files W.P. No. 395/2011 challenging order dated 15.94.2010 of MoEF, keeping environment clearance in abeyance	
31.	24.02.2011 /09.03.2011	Technical Committee set up by MOEF and carries out site visit	
32.	19.04.2011	MOEF files affidavit bringing report of Technical Committee on record on both aspects (forest/slope) and informs HC that slope (part) is in excess of 25% and forest committee report is awaited. Till then, EC will be kept in abeyance	
33.	30.11.2011	MOEF files another affidavit stating reasons why the EC is being held in abeyance, but will abide by the decision of the HC.	
34.	10.04.2012	High Court directs report by the Forest Department, and MOEF to decide once the report is received.	
35.	25.06.2012	M.K. Shambhu report brought on record by Dr Suneet Buxy	
36.	27.11.2012	Thomas and Araujo Expert Committees notified as NGFDC and SGFDC	
37.	17.10.2013	Writ Petitions 13/2010 and 395/2011 transferred to NGT by the High Court	

<b>38.</b>	03.04.2014	NGT orders SGFDC to visit the site and file a report, together with other plots of Dabolim village	
<b>39.</b>	06.05.2014	7th Meeting of SGFDC concludes that Sy. No. 43 is forest	
<b>40.</b>	07.05.2014	SGFDC Report finalizes 73,162 sq mt out of 77,300 sq mt of Sy. No. 43 as private forest.	
<b>41.</b>	31.05.2014	Report of Forest Committee (Araujo Report on DLF submitted to NGT) submitted on affidavit to NGT	
<b>42.</b>	23.06.2014	DLF files WP No. 379/2014 challenging Araujo Report, and seeks ex-parte stay of the report. Goa Foundation is intentionally not made a party in the petition.	
<b>43.</b>	25.06.2014	High Court grants ad-interim stay on Araujo report. Goa Foundation is not made a party in the writ petition and order is obtained without hearing the Foundation	
<b>44.</b>	08.10.2014	The SGFDC gives second hearing to DLF, reconfirms findings that suit property is private forest	
<b>45.</b>	13.10.2014	High Court passes an order directing Goa Foundation to be made a party respondent in the writ petition (379/2014)	
<b>46.</b>	15.10.2014	SGFDC re-visits the entire plot in company of DLF officials.	
<b>47.</b>	30.10.2014	SGFDC submits second report after hearing DLF and after second site visit.	
<b>48.</b>	31.10.2014	NGT stays proceedings in the two matters before it <i>sine die</i> , as High Court has stayed Araujo report commissioned by it	
<b>49.</b>	23.04.2018	SGDFC and NGDFC overnight disbanded by govt. order	
<b>50.</b>	28.12.2018	Araujo led SGFDC submits its report to the government, and covers DLF plot in detail, placing it in the section of finally identified and demarcated private forest.	
<b>51.</b>	21.01.2020	Review Committee II is appointed to review Thomas and Araujo Committee reports	
<b>52.</b>	15.02.2020	Public notice is issued to land owners by the Review Committee	

<b>53.</b>	12.03.2020	DLF makes representation to the Review Committee	
<b>54.</b>	18.08.2020	NGT accepts RC I report on private forests relating to Sawant and Karapurkar Committee reports	
<b>55.</b>	25.03.2021	High Court order in WP No.379/2014 allows an application of DLF to ask the Review Committee II to look into the representation of DLF dated 12.03.2020	
<b>56.</b>	25.03.2021	DLF sends another representation to the Review Committee	
<b>57.</b>	10.06.2021	DLF plot is excluded without a site inspection (2nd interim report)	
<b>58.</b>	16.06.2021	Minutes of Meeting of RC II and 2nd Part Final Report	
<b>59.</b>	13.09.2022	46.11 sq km of private forests notified in the Goa gazette	
<b>60.</b>	31.07.2023	Clarification issued that “part interim report” is now to be read as “part final report.”	
<b>61.</b>	10.08.2023	455.1081 ha of forest of Araujo and Thomas Committee notified as private forest in gazette	
<b>62.</b>	08.09.2023	High Court disposes of writ petition No. 379/2014 in terms of minutes of order and without reference to RC II findings.	
<b>63.</b>	12.09.2023	NGT judgment rejecting challenge to Review Committee reports 1-6 filed by the Goa Foundation. Any development work on “final” sy.Nos of the two committee reports stayed for 3 weeks till sites physically verified.	
<b>64.</b>	December 2023	Part Final 7 <sup>th</sup> report is uploaded to the Forest Department website.	
<b>65.</b>	09.02.2024	Supreme Court issues notice on Civil Appeal No. 2135/2024 filed by the Goa Foundation against NGT judgement dated 12.09.2023.	
<b>66.</b>	24.09.2024	SC passes order for final disposal of the appeal on 04.12.2024	

**IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 13 OF 2010

GOA FOUNDATION THROUGH ITS  
SECRETARY DR. CLAUDE ALVARES AND  
ANR.,

... Petitioners

Versus

M/S SARAVATI BUILDERS AND  
CONSTRUCTION PVT. LTD., AND 10  
ORS.,

... Respondents

Mrs. Norma Alvares, Advocate for the Petitioners.  
Mr. Rafiq Dada, Senior Advocate with Mr. M.S. Sonak and Mr. P.  
Rao, Advocates for Respondent No.1.  
Mr. Sudesh Usgaonkar, Advocate for Respondent No. 3.  
Mr. A.N.S. Nadkarni, Senior Advocate with Mr. H.D. Naik,  
Advocate for Respondent No.6.  
Mr. C.A. Ferreira, Assistant Solicitor General for Respondent No.9.  
Mr. Zeller D'Souza, Advocate for Respondent No.10.  
Mr. S.S. Kantak, Advocate General with Ms. G. Bhonsule,  
Additional Government Advocate for Respondents No. 4,5,7,8, 11.

Coram:- NARESH H. PATIL &  
N. A. BRITTO, JJ.

Date:- 12th January, 2010

P.C.:

Heard Mrs. Alvares, learned Counsel for the petitioners, Mr. S.S. Kantak, learned Advocate General, Mr. R. Dada, learned Senior Counsel for respondent no.1 and Mr. A.N.S. Nadkarni, learned Senior Counsel for respondent no.6. Notice returnable on 1/02/2010. Notice waived by learned Counsel appearing for respondents no. 1 & 3 to 11.

2. After hearing the learned Counsel appearing for the respective parties, we are inclined to grant ad interim relief, till the next date of hearing. We, hereby, direct that respondent no. 1 shall not go ahead

with cutting of any trees or hill in the subject property.

3. The learned Advocate General makes a statement that the site inspection report will be made available to this Court by the next date. We direct that the State shall hear the petitioners and the representative of respondent no.1, before finalising the site inspection report. Authenticated copy be provided to the learned Advocate General. S.O. 1/02/2010.

NARESH H. PATIL, J.

N. A. BRITTO, J.

NH

## IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 13 OF 2010

GOA FOUNDATION THROUGH ITS  
SECRETARY DR. CLAUDE ALVARES AND  
ANR.,

... Petitioners

Versus

M/S SARAVATI BUILDERS AND  
CONSTRUCTION PVT. LTD., AND 10  
ORS.,

... Respondents

Mrs. Norma Alvares, Advocate for the Petitioners.  
Mr. M. S. Sonak, Advocate for the Respondent no.1.  
Mr. S. Kamat Malyekar, Advocate for Respondent no.2.  
Mr. Sudesh Usgaonkar, Advocate for Respondent no.3.  
Mr. S. S. Kantak, Advocate General with Mr. P. Talaulikar, Addl.  
Government Advocate for Respondent nos. 4, 5, 7, 8 and 11.  
Mr. A. N. S. Nadkarni, Senior Advocate with Mr. H. D. Naik,  
Advocate for Respondent no.6.  
Mr. C. A. Ferreira, Asst. Solicitor General for Respondent no.9.  
Mr. Zeller D' Souza, Advocate for Respondent no.10.

Coram:- S. J. VAZIFDAR &  
U. D. SALVI, JJ.

Date:- 27th April, 2010

P.C.

Affidavits presented in Court are taken on record. Leave to amend the petition in terms of the draft amendment tendered in Court. The same is taken on record and marked 'X'. Amendments to be carried out within six weeks.

2. Issue notice to the newly added Respondents being Respondent nos. 12 to 47.

3. By an Order dated 12.01.2010, the Division Bench directed that Respondent no.1 should not go ahead with the cutting of any

trees or the hill in the property. It is not necessary at this stage to consider the Petitioners' application for further ad-interim reliefs restraining any construction upon the property in view of a letter dated 15.04.2010, addressed by the Director of Respondent no.9, Government of India, Ministry of Environment & Forests to Respondent no.1. In the said letter it is stated that the Writ Petition has raised important issues which require detailed re-examination of the project. In the meantime, Respondent no.1 has been directed not to proceed with the construction in the plot till a detailed examination of all the issues raised in the Writ Petition are re-examined by an Expert Appraisal Committee/Ministry. It is further stated that the Environmental Clearance issued on 11.01.2010 is kept in abeyance till the final decision in the matter is taken by the Ministry. Thus, in any event, till the steps noted in the letter are taken, no further construction can be carried on by Respondent no.1. The Petitioners are protected by providing that in the event of the Government modifying the earlier permission, they are always at liberty to challenge the amended sanction by adopting appropriate proceedings including, if necessary, by amending this Writ Petition.

4. Respondent no.3 was the original owner of the property. Respondent no.2 had initially purchased the entire property from Respondent no.3. Thereafter, Respondent no.2 sold a part of the property to Respondent no.1. As far as the part of the property purchased by Respondent no.1 is concerned, the above order will suffice. Respondent no.2 sub-divided and developed the property into 43 plots. The Respondent no.2 states that he has sold all the sub-plots to third parties. On behalf of Respondent no.2 it is stated that respondent no.2 now has no right, title or interest of any nature whatsoever in the said plots.

5. In view of the statement, it is not necessary to pass any orders

against respondent no.2 as in view of this statement respondent no.2, in any event, cannot deal with any of the part of the property in any manner whatsoever henceforth.

6. This leaves for consideration the rights of the third parties namely Respondent nos. 12 to 47, who have been impleaded by virtue of this order. The property is one. Prima facie, atleast therefore, the rights and restrictions applicable to the part of the property sold by respondent no.2 to the third parties would be similar to those in respect of that part of the property sold to respondent no.1.

The Government of India, as noted earlier, is re-considering the entire matter which involves the question as to whether the land is a private forest land and whether cutting of hill slopes contrary to the limits prescribed by law is involved. It is for this reason and for the reasons which we will now mention that we are inclined to pass certain interim orders even against Respondent nos. 12 to 47, despite their not being before us today.

7. Mr. Nadkarni, the learned Senior Counsel, appearing on behalf of Respondent no.6, Mormugao Planning and Development Authority, stated that in respect of six plots, permission for construction has been granted. The statement tendered by Mr. Nadkarni is taken on record and marked X-1. The plot owners at serial nos. 1 and 3 to 6, have commenced construction. The plot owner at serial no. 2 has completed the construction.

8. It is pointed out that the owner at serial no.2, namely Mrs. Filomeno Fernandes and Ors., are mundkars. In the circumstances, no reliefs can be granted against them. It is not necessary to implead them either. In fact, no reliefs have been sought against them.

9. As far as the plot owner at serial no.7 is concerned, his name is not mentioned in the draft amendment. The Petitioners are directed to implead the said owner at serial no.7, namely Mr. Mohan P. Sawant as Respondent no.47. The amendment shall be carried out within six weeks from today.

10. In the circumstances, the following ad-interim order is passed :

## ORDER

(i) No ad-interim order as against the newly added Respondent no.47. However, in the event of their obtaining an occupation certificate, they shall be at liberty to occupy the structure but subject to further orders in this Writ Petition.

(ii ) Respondent nos. 16, 20, 21, 34 and 43, shall be at liberty to complete the construction but shall not occupy the same without the leave of the Court. They shall be at liberty to make an application to do so at any stage even before the adjourned date granted by us but after notice to the Petitioners. The construction shall be subject to further orders in this Writ Petition.

(iii) The remaining Respondents from out of Respondent nos. 12 to 47 i.e. other than Respondent nos. 16, 20, 21, 34, 43 and 47 shall maintain status quo in respect of all the plots as of today. The applications for construction may be processed but they shall not commence construction of any nature without the leave of the Court. They shall be entitled to make an application at any stage before the adjourned date of this Writ Petition but after giving notice to the Petitioners' Advocate.

11. S.O. 01.07.2010.

S. J. VAZIFDAR, J.

U. D. SALVI, J.

arp/\*

No. 21-192/2008-IA.III  
Government of India  
Ministry of Environment & Forests

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi - 110 003,

Dated: 15<sup>th</sup> April, 2010.

To  
M/s. Saravati Builders & Constructions Pvt. Ltd.,  
I-1A, Dhawan Deep Apartments,  
6, Jantar Mantar Road,  
New Delhi - 110 001.

Subject: Construction of Dabolim Apartments and Club House at  
Plot No. 1, 2, 3, 4, Survey No.43/1, village Dabolim,  
Mormugao Taluka, South Goa by M/s. Saravati Builders  
and Constructions Pvt. Ltd. - Reg.

Reference: Environmental Clearance letter vide No.21-192/2008-  
IA.III, dated 11.01.2010.

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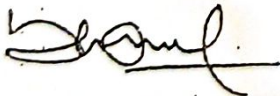
Dear Sirs,

This Ministry has received a W.P.No. 13/2010 in the High Court of Goa in the matter of Goa Foundation Vs. M/s. Saravati Builders and Constructions Pvt. Ltd. and others in which Ministry is also one of the respondent.

In the Writ Petition, the petitioner has raised the following issues :

- (i) Whether the entire project area is a private forest land.
- (ii) whether the cutting of hill slopes on such a gradient more than 25% is not permissible as per town and country planning rules.
- (iii) Whether for the implementation of the projects requires cutting of large no. of trees on a steeply sloping terrain is ecologically sensitive area as per the Committee on identifying parameters for designing ecological sensitive in India.

The above issues are important and require detailed re-examination of the project. In the meantime, you are directed not to proceed for the construction of group housing in the aforesaid plot till a detailed examination of all the issues raised in the Writ Petition are re-examined by the Expert Appraisal Committee / Ministry.



I have been directed to inform you therefore that the Environmental Clearance issued on 11.01.2010 shall be kept in abeyance till the final decision in the matter is taken by the Ministry.

Yours faithfully,



(Bharat Bhushan)  
Director (IA-III)

Copy to:

1. The Secretary, Department of Environment, Government of Goa, Panjim, Goa.
2. The Member Secretary, Goa Pollution Control Board, Dempo Tower, 1<sup>st</sup> Floor, Patto Plaza, Panjim, Goa - 403 001.
3. The CCF, Regional Office, Ministry of Environment & Forests(SZ), Kendriya Sadan, IVth Floor, E&F wings, 17<sup>th</sup> Main Road, Koramangala II Block, Bangalore - 560 034.
4. IA - Division, Monitoring Cell, MOEF, New Delhi - 110003.
5. Guard file.

(Bharat Bhushan)  
Director (IA)

**ANN. R-13 COLLY**

No. 21-192/2010-IA.III  
Ministry of Environment & Forests  
Government of India  
(IA.III Division)

*Annexure 2*

Paryavaran Bhavan  
CGO. Complex, Lodi Road  
New Delhi - 110 003

Dated 27.8.2010

To

The Chief Town Planner  
Town & Country Planning Office  
Patto, Panaji  
Goa - 403001

Subject: W. P. No. 13/2010 (Goa Foundation V/s M/s. Saravathi Builders & Construction Pvt. Ltd) -regarding.

Sir

Kindly refer to the above mentioned proposal submitted to this Ministry for Environmental Clearance (EC). The Ministry issued the clearance on 11.1.2010. M/s. Goa Foundation has filed a writ petition in the Hon'ble High Court. The EC is at the moment kept in abeyance. The major issues in the petition are the slope of land is more than 25%, where construction should not be permitted as per the local laws/rules and cutting of trees. M/s. Saravathi Builders & Construction Pvt. Ltd submitted a survey map showing contours and slope. The proposal was considered by the Expert Appraisal Committee in its meeting held on 21-23 July, 2010 and the committee after deliberations sought the information on "a copy of the contour map superimposing the layout plan of the site with clear spot levels authenticated by the Local Town Planning Department".

As desired by the EAC, M/s. Saravathi Builders submitted the layout plans. A copy of the same is enclosed for your perusal, verification and authentication. You are requested to examine the same at site and send your comments to the Ministry for further necessary action within 2 weeks so that the details may further be discussed in the next meeting of EAC scheduled to be held in the 3<sup>rd</sup> week of September, 2010.

Yours faithfully,

( Bharat Bhushan )  
Director

Copy to :

1. M/s. Goa Foundation, G-8, St. Britto Apartments, Feira Atta Mapusa - 403 507, Goa
2. M/s. M/s. Saravathi Builders & Constructions Pvt. Ltd) I-1A Dhawan Deep Apartments, 6- Jantar Mantar Road, New Delhi - 110 001
3. Sh. Carlos Alvares Ferreira, Asst. Solicitor General of India, 1<sup>st</sup> Floor, Camila Bulding D. Joao Crasto Road, Opp. Keni's Petrol Pump, Panaji - 403 001 (Goa)
4. CCF, Regional Office, Ministry of Environment & Forests (SZ), Kendriya Sadan, IV Floor, E&F Wings, 17<sup>th</sup> Main Road, Koramangala-II Block, Bangalore - 560 034.

~~AMRZQVNS~~

Annam 4  
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No. 21-192/2010-IA.III  
Ministry of Environment & Forests  
Government of India  
(IA.III Division)

Paryavaran Bhavan  
CGO. Complex, Lodi Road  
New Delhi - 110 003

Dated 27.9.2010

To

The Chief Town Planner  
Town & Country Planning Office  
Patto, Panaji  
Goa - 403001

**Subject:** W. P. No. 13/2010 (Goa Foundation V/s M/s. Saravathi Builders & Construction Pvt. Ltd) -regarding.

**Reference:** 1. Ministry's letter No.21-192/2008-IA.III dated 27.8.2010  
2. Your letter dated 9.9.2010

Sir,

Kindly refer to your letter on the above mentioned subject, in which it was requested to examine at site and send your comments. The copies of the maps enclosed with your letter indicate "attested photocopies of the original plans" You are requested to examine at site and confirm the slopes and permissibility of construction.

Yours faithfully,

( Bharat Bhushan )  
Director



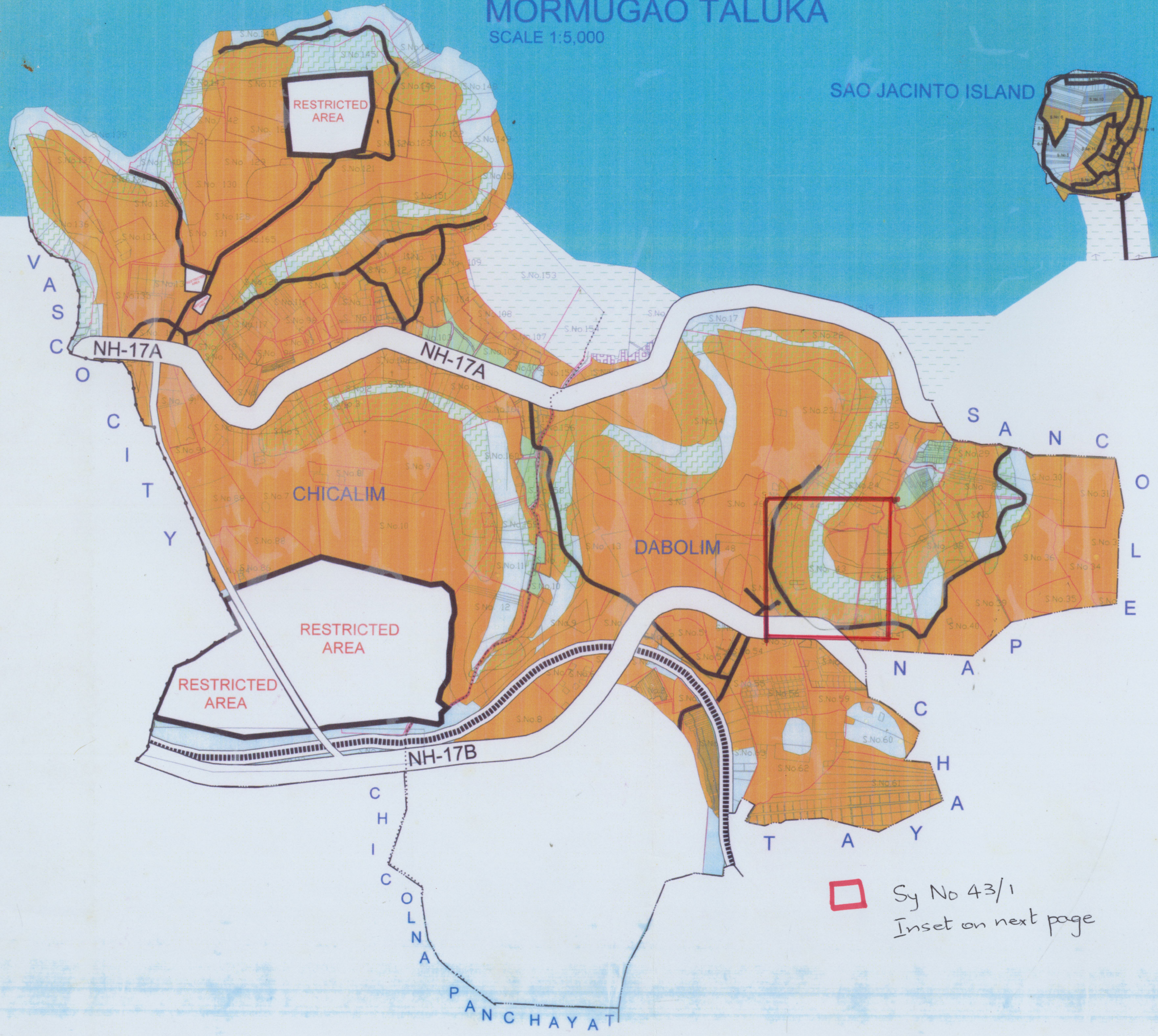
Inset of Survey No.43/1 in notified draft regional plan 2021

# CHICALIM DABOLIM PANCHAYAT MORMUGAO TALUKA

SCALE 1:5,000

ANNEXURE 1

SAO JACINTO ISLAND



**LAND USES**

**ECOLOGICALLY SENSITIVE AREAS (ECO-1)**

- PROTECTED/RESERVED FORESTS
- MANGROVE FORESTS
- NO DEVELOPMENT SLOPES
- NATURAL COVER / PRIVATE FORESTS (SUBJECT TO CONFIRMATION)
- SAND DUNES / SANDY AREAS
- WATER BODIES
- PADDY FIELDS / KHAZANS
- MUD FLATS

**OTHER ECOLOGICALLY SENSITIVE AREAS (ECO-2)**

- CULTIVABLE LAND
- ORCHARDS
- FISH FARMS
- IRRIGATION COMMAND AREAS 1-1
- HERITAGE LANDSCAPE 1-2

**INDUSTRIAL**

- INDUSTRIAL ESTATE
- GENERAL INDUSTRIES
- PROPOSED INDUSTRIES

**SETTLEMENTS**

- GAZZETTE CHANGES (SETTLEMENT)
- GAZZETTE CHANGES (INDUSTRIAL)
- SETTLEMENT AS PER SATELLITE IMAGE
- SETTLEMENT 1971

**TRANSPORTATION**

**EXISTING**

- NATIONAL HIGHWAY
- NATIONAL HIGHWAY (PROPOSED)
- MAJOR DISTRICT ROADS
- MAIN PANCHAYAT ROADS
- RAILWAYS
- RAILWAYS (PROPOSED)
- INTERNATIONAL AIRPORT
- MAJOR PORTS
- HIGH TIDE LINE (HTL)
- 200 MTR. LINE FROM HTL
- 500 MTR. LINE FROM HTL
- STATE BOUNDARY
- TALUKA BOUNDARY
- PANCHAYAT BOUNDARY
- VILLAGE BOUNDARY
- MUNICIPAL BOUNDARY
- SURVEY BOUNDARY
- SUB DIVISION BOUNDARY
- TOURIST BEACH HEAD/TOURIST PLACES

<b>POPULATION-</b>	<b>DENSITY</b>
2001 - 11302	2001 - 595 (People per Sq/Km)
2021 - 21284	2021 - 1120 (People per Sq/Km)
<b>DPR STATUS</b>	<b>MAX. FAR PROPOSED</b>
VR-1	BELOW 4000 m <sup>2</sup> 80
	4000 & ABOVE 60
	COVERAGE 50% OF PLOT AREA

Sy No 43/1  
Inset on next page

Note: - Chicalim Village Panchayat area is not clear, the discrepancy regarding the same needs to be cleared at the time of preparation of settlement plan.

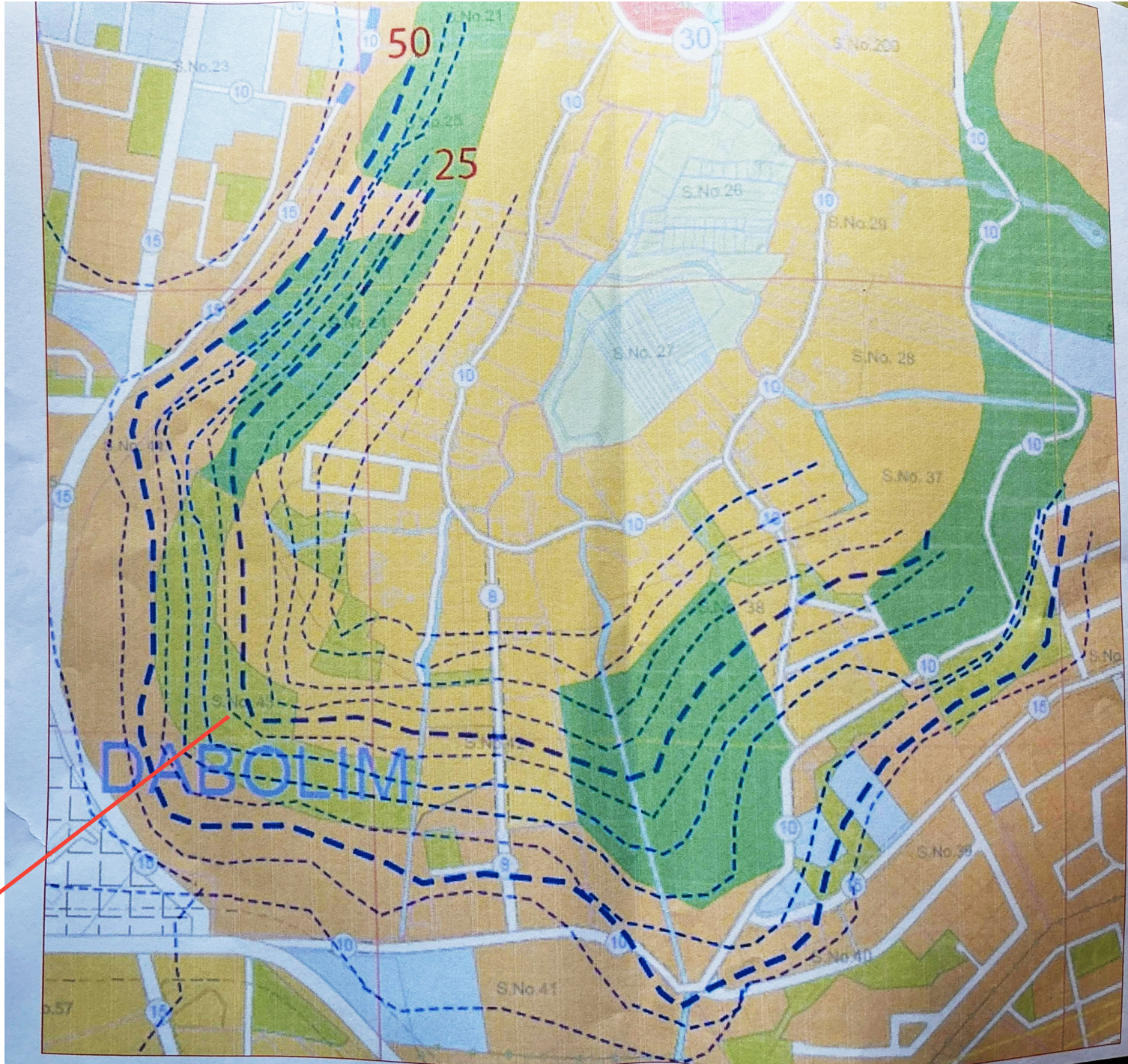
Original or Approved Sub-Divisions Plots upto 350 m<sup>2</sup> will be allowed upto 80% FAR irrespective of the DPR's Status of Settlement Category.

Note: - It is a General Index for all Talukas. The Features shown in the index may not be reflected in the map.

CHICALIM DABOLIM PANCHAYAT  
MORMUGAO TALUKA  
DRAFT REGIONAL PLAN FOR GOA-2021 (DRPG-21) SEPTEMBER 2008  
TASK FORCE FOR REGIONAL PLAN 2021

1 Hec.

250m 0 500m



S.No.43

Contour plans of S.O.I. showing Sy. No.s 43 and 43/1-A

# OUTLINE DEVELOPMENT PLAN VASCO DA GAMA PLANNING AREA-2011

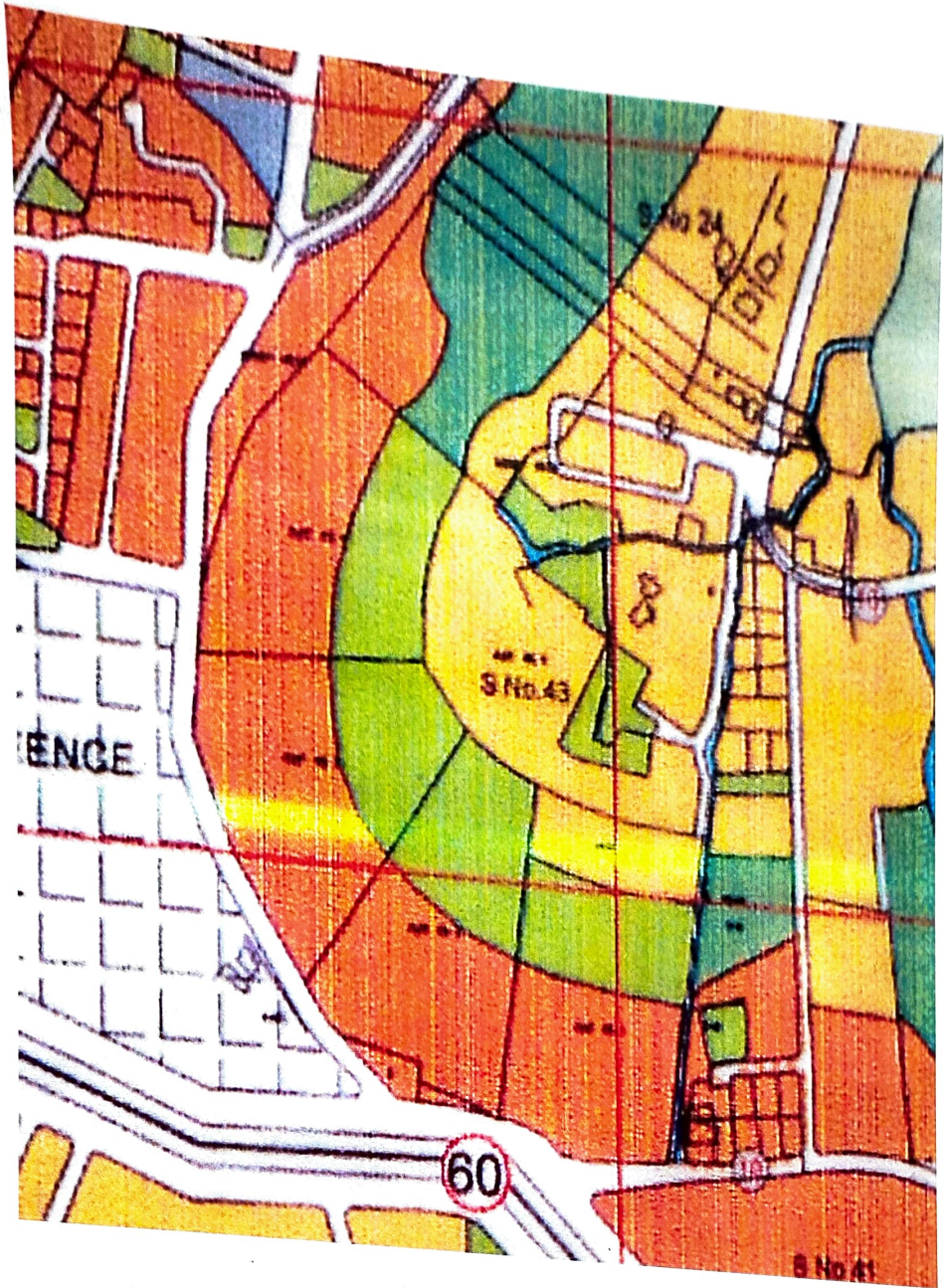


- LEGEND**
- 1. RESIDENTIAL
  - 2. RESIDENTIAL
  - 3. RESIDENTIAL
  - 4. CENTRAL COMMERCIAL
  - 5. LOCAL COMMERCIAL
  - 6. RURAL CENTRAL COMMERCIAL
  - 7. LIGHT INDUSTRIAL
  - 8. MEDIUM INDUSTRIAL
  - 9. HEAVY INDUSTRIAL
  - 10. FULL CROWN PUBLIC UDDY
  - 11. DEFENCE
  - 12. DEFENCE
  - 13. AGRICULTURE
  - 14. NATURAL RESERVE/ECOLOGICAL
  - 15. PARKS AND RECREATION/RECREATIONAL
  - 16. JOSSNA TRACK/SUPPER ZONE
  - 17. PARKING AREA
  - 18. TRANSPORTATION/ROADS AND COMMUNICATION
  - 19. EXISTING ROAD
  - 20. PROPOSED ROAD
  - 21. TUNNEL AND FLYOVER
  - 22. CREAM/RECREATION/SPORTS/RECREATION
  - 23. SOLID WASTE MANAGEMENT AREA
  - 24. MUNICIPALITY BOUNDARY
  - 25. WATERBODIES
  - 26. CREEPS/SHALLA
  - 27. BANK BEACH FRONT
  - 28. 100M LINE FROM HTL
  - 29. MORMUGAO MUNICIPAL BOUNDARY
  - 30. VILLAGE BOUNDARY WITHIN PLANNING AREA

Sy No 43/1  
 Inset on next page  
 Typed copy of legend annexed

MPDA/OP-2011/2011/108/1  
 27/4/06 Date: 22/1/07  
 M.P.D.A. MORMUGAO PLANNING AND DEVELOPMENT AUTHORITY  
 CHAIRPERSON: Mr. R.K. PANDITA  
 MEMBER SECRETARY: VICTORIA R. FERNANDES M.L.A.  
 Date: 20-11-2008

OUTLINE DEVELOPMENT PLAN OF VASCO DA GAMA PLANNING AREA - 2011	
DRAWN / CHECKED BY:	Mr. R.K. PANDITA MEMBER SECRETARY VICTORIA R. FERNANDES M.L.A. CHAIRPERSON
MORMUGAO PLANNING & DEVELOPMENT AUTHORITY	



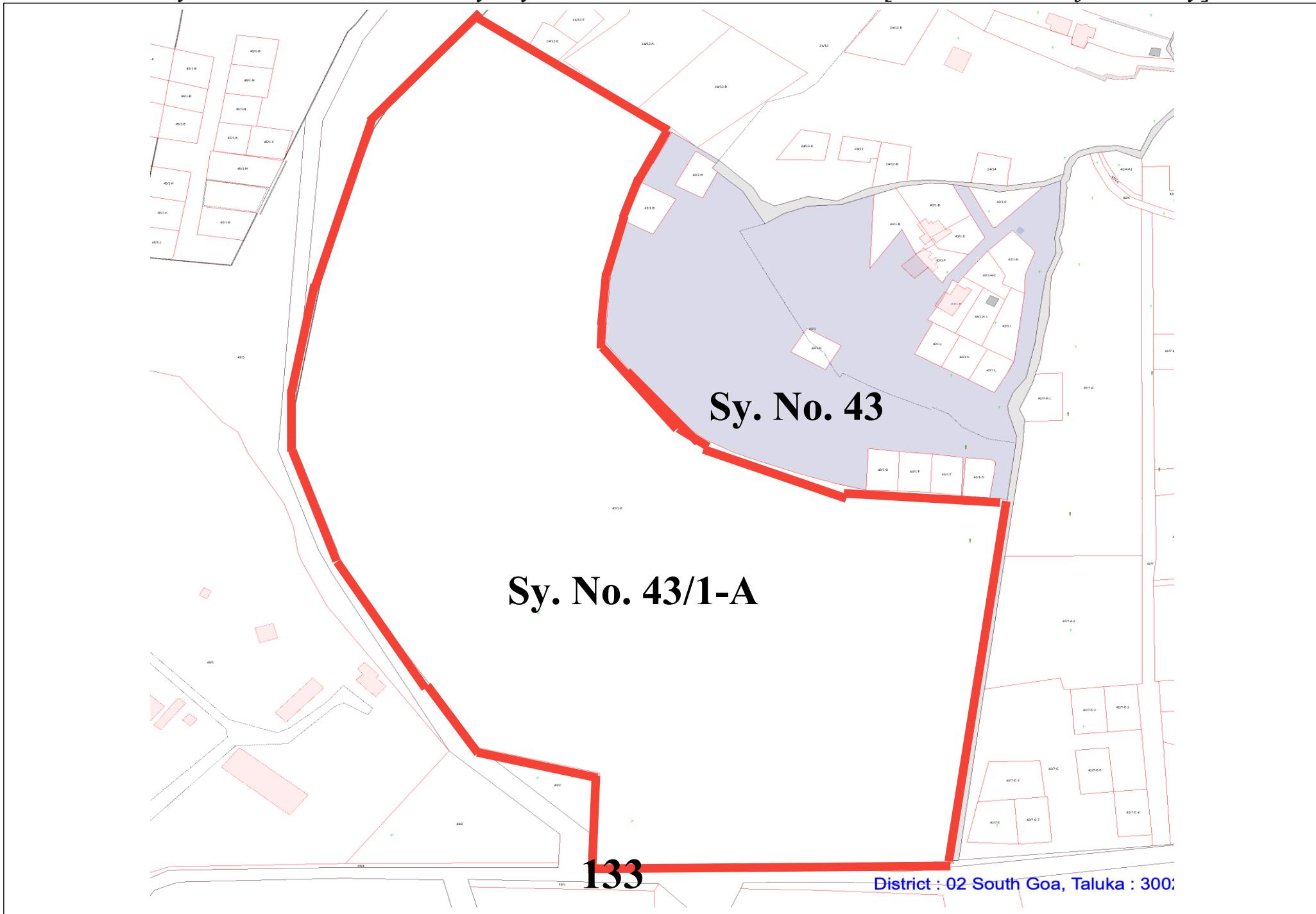
Inset of 43/1 zoned as S/1,R,S/2 in ODP

**OUTLINE DEVELOPMENT PLAN VASCO DA GAMA PLANNING AREA – 2011**

**LEGEND**

- S1 - Residential
- S2 - Residential
- S4 - Residential
- C1 - Central Commercial
- C2 - Local Commercial
- C3 - Rural Central Commercial
- I-1 - Light Industrial
- I-2 - Medium Industrial
- I-3 - Heavy Industrial
- P - Public / Semipublic / Government / Institutional / Religious
  - Defence
- A-1 - Agriculture
- A-2 - Natural Reserve / Orchard
- R - Parks / Playground / Recreational sub division open space / jogging track / Buffer zone
- TP - Parking Area
- T - Transport / Warehousing & Communication
  - Existing Road
  - Proposed Road
  - Tunnel & Flyover
- CRM- Crematorium / Cemetary / Burial ground
  - S.W - Solid Waste Management Area
  - Municipality Boundary
- W - Water bodies
  - Creeks / Nallah
  - Baina Beach Front
- 200-200 - 200mt. line from HTL (No Development within 200 mts.)
  - Mormugao Municipal Boundary
  - Village Boundary within planning area.

**1367**  
Sy. Plan from Goa Govt. Website 'Bhuna' showing Sy. No.s 43 and 43/1-A, Dabolim village  
Sy. No. 43 marked in Grey, Sy. No. 43/1-A outlined in red [Outline added for clarity]



**REPORT OF THE COMMITTEE ON  
IDENTIFYING PARAMETERS FOR  
DESIGNATING ECOLOGICALLY  
SENSITIVE AREAS IN INDIA**

**MINISTRY OF ENVIRONMENT & FORESTS  
(GOVERNMENT OF INDIA)  
NEW DELHI -110 003.**

**September, 2000**

## PREFACE

The very act of constitution of this Committee to Identify Parameters for Designating Ecologically Sensitive Areas in the Country is yet another reflection of the deep and abiding concern that the Government of India has consistently expressed regarding the rapid deterioration of the environment, both nationally and internationally. India has been a pioneer in the area of integrating the needs of development with the desire to protect the environment. Since the Fourth Five Year Plan of the country in the early 1970s, sustainable development has been a key feature of the development strategy of the nation. This was long before the term, or even the concept, had become popular in international discourse. Indeed, much of the issues reflected in Agenda 21 of the Rio Declaration find reflection in several of India's Five Year Plans. As a consequence of this concern, India has been an active and enthusiastic supporter of all international efforts at protecting the environment and encouraging sustainable development. It is a signatory to every major convention on environmental protection, including, most particularly, the Convention on Bio-diversity, which has special significance for the work of this Committee. In pursuance of the goals and objectives that have been laid down in these international conventions, India has taken upon itself to introduce such legislation and guidelines as are necessary. This Committee is but one step in this on-going process.

The Committee is deeply grateful to the Government for having taken this initiative and entrusted the task to it. It is also acutely conscious of the importance of the issue that has been placed before it, and the responsibility that it bears. The Committee has tried its best to fulfill the mandate given within the limitations imposed by its collective expertise and knowledge. It earnestly hopes that this Report will meet the expectations that have been placed upon it, and will prove to be an important step in the preservation and enrichment of our ecological heritage.

The Committee would like to emphasise that once a decision has been taken at the highest level that areas of ecological sensitivity/fragility are to be accorded special protection under the Environment (Protection), Act, 1986 and that parameters to carry out scientific and ecologically justifiable demarcation of such areas are available, commensurate action to complete the decision must follow as rapidly and efficiently as possible. The declaration of intent cannot remain at the status of a declaration alone, but must be in line with the mandate enshrined in

Article 48A and 51A(g) of the Constitution. The Committee has in its recommendations and suggestions enumerated the various steps required to be undertaken. These steps (together with other measures suggested by the Ministry's experts) should be given the status of a National Mission, if only to underscore the importance of their objectives. There can be no excuse for half-hearted measures, failure of nerve, or for any dilution of the steps recommended. The ecological security of this country is paramount and can brook no compromise.

In its task, the Committee has drawn upon the goodwill, expertise and labour of a number of people and organisations. It is not possible to express our gratitude to all of them individually. However, there are a few whose contributions have been so significant that the work of the Committee would have been impossible to complete without their involvement. The Committee would therefore like to express its deep gratitude to Dr. T.K. Ghosh of National Environmental Engineering Research Institute (NEERI), Dr. Ramakrishna of Zoological Survey of India (ZSI), Dr. P.K. Mathur of Wildlife Institute of India (WII), and Mr. Debi Goenka of Bombay Environmental Action Group. Thanks are also due to Mr. Manmohan Singh of the Ministry of Environment and Forests, who acted as a one-man secretariat to the Committee and made our task considerably easier and pleasanter than it otherwise would have been. Last but not the least, the Committee would again like to reiterate its gratitude to the Ministry of Environment and Forests, Government of India, for having given it this opportunity and for having provided all necessary support and encouragement.

**Pronab Sen**  
**Chairman**

**CONTENTS***Preface*

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**Annexure**

1(a) to 1(d)	Constitution of the Committee	
2.	List of Experts and Organisations Contacted by the Committee	
3.	List of Indicators and their Components Based on the Inputs Made Available by the Contacted Experts and Organisations	

**Appendix**

1.	Areas Representing Wild Relatives of Under Exploited Cultivated Fruit and Vegetable Plants
2.	Areas Representing Land Races and Primitive Cultivars
3.	Areas Representing Wild Relatives and Related Types

# CHAPTER 1

## Concepts, Approach and Recommendations

### Introduction

The issue of protection of the environment has numerous dimensions, which makes it difficult to develop one comprehensive and omnibus law and related guidelines which would cover all aspects and eventualities. Given the complexity of the issue, it becomes desirable to approach every one of the major elements of environmental protection separately so that the essential features of each element are not lost sight of. Ecological sensitivity or fragility is but one of the elements in the broader area of environmental concern. In its deliberations, the Committee was quite clear that its mandate was limited to ecological issues, and that the other dimensions of environmental protection would have to be covered elsewhere and in other documents.

The Committee was aware of the fact that this was not the first attempt at identifying or delineating the contours of ecological fragility in the country. Two important efforts had been made in the past. The first was the Report on "Parameters for Determining Ecological Fragility" brought out by the Ministry of Environment & Forests in 1990. The second was a report on "Conserving Ecologically Fragile Ecosystems" prepared by a Task Force set up by the Planning Commission in 1996. For various reasons, however, the recommendations made in these Reports could not be effectively implemented. This Committee was therefore fully conscious of the need to prepare a Report which is comprehensible to decision makers, academicians and non-technical people, as well as being implementable. Nevertheless, the Committee does not believe that this Report can be viewed as the last word on the subject. Our knowledge of ecology and of the impact of human activity on ecosystems is still evolving, and it will be necessary to update this Report from time to time to reflect these advances.

The deliberations of this Committee were consistently informed by the assumption that the ecologically sensitive areas identified by the parameters evolved by the Committee would receive protection under the Environment (Protection) Act, 1986 (EPA). This awareness had two major implications. First, a balance had to be struck between the protection of ecologically sensitive areas and the needs of national development, particularly in the context of a country like India with low levels of income and high levels of poverty. Therefore, the parameters had to be selected and defined in such a manner that they represent only elements of critical ecological importance, and do not unduly impinge on the process of development and efforts at eradication of poverty. Second, it was clearly recognised that in view of the pressing demands on scarce land resources and changing land-use patterns, areas designated as ecologically sensitive may become subject to litigation and other pressures. Therefore, the parameters evolved by the Committee and the modes of application would have to be framed in such a manner that they can stand public and legal scrutiny.

In view of the above, the starting point for the Committee was to clearly define the ambit of ecological sensitivity, as distinct from the wider issues of environmental consideration. This was by no means a trivial exercise. In the minds of laypersons, environment and ecology are almost synonymous terms, used interchangeably in popular discourse. Even the more informed debates on the subject tend to reflect this conceptual confusion. The Committee, however, was quite clear that the two terms were distinct and not interchangeable. There are of course major points of overlap, since most forms of ecological damage arise from environmental interference, but it is conceivable that environmental damage may take place without significant ecological implications. In view of the reigning state of confusion on this issue, adopting a precise definition of ecological sensitivity appeared essential.

### **Definition of Ecological Sensitivity**

At the very outset itself, the Committee solicited the views of a number of experts, academics and activists on what exactly in their opinion constituted ecological sensitivity and how it could be characterised. The list of those consulted is given in Annexure-2. The responses received, although highly supportive and appreciative of this initiative, displayed the extent of imprecision that exists even among experts on the distinction between ecology and environment. Most of the responses received tended to focus more on specific areas deserving protection rather than on any conceptualisation of the notion of ecological sensitivity (Annexure-3). Thus, no clear distinction was drawn between environmental, heritage, aesthetic and even security considerations, on the one hand, and ecological factors, on the other. This problem was also evident in the two earlier attempts at identifying and conserving ecologically fragile areas in the country cited earlier.

The situation was not much better in the international literature on the subject as well. Bibliographical search, both in print literature and on the Internet, failed to turn up either a precise definition of ecological sensitivity or fragility, or a clear-cut distinction between ecology and environment which could act as a basis for arriving at such a definition. Although there is undoubtedly a vast body of literature, most of it is area-specific and is devoted primarily to mapping out of areas of ecological and/or environmental fragility. The reasons for according such recognition are documented in considerable detail in most cases, but the distinction between ecological and environmental reasons has to be inferred. This has perhaps to do with the fact that in most countries such a distinction is unnecessary since recognition of the need to preserve and protect an area is based on environmental considerations, of which ecology is an integral element. In view of the very precise terms of reference that had been laid down for the Committee, which enjoins it to focus on ecological considerations only, such ambiguity and imprecision would have caused serious problems. The Committee therefore decided that, in the absence of a widely accepted definition of ecological sensitivity, the Committee would itself have to frame such a definition, which is appropriate for application in the Indian context.

The starting point for evolving such a definition would clearly have to be rooted in the definition of ecology. The standard dictionary definition of ecology is: "*The study of organisms in relation to one another and to their surroundings*". Thus the operative concept which would need to form the basis of defining ecological fragility is organisms or life forms. The

environment, on the other hand, is defined in a much wider and inclusive sense, as it includes aspects relating to the activities of human beings as well. The most acceptable definition of environment is that adopted by the Environment (Protection) Act 1986 itself, which reads: "... 'environment' includes water, air and land and human beings, other living creatures, plants, micro-organisms and property." Thus, the term 'environment', includes not just nature and life forms, but also air pollution, heritage sites, hazardous wastes, among others. Seen in this way, ecological sensitivity becomes inextricably linked to the concept of biological diversity, commonly referred to as bio-diversity. This linkage also accords well with the rapid and accelerating rate of loss of bio-diversity that has been experienced in the world in recent years, and which has been a matter of considerable concern. In formulating the exact definition, however, two important considerations needed to be borne in mind. The first relates to geographic limitations that may have to be placed on defining the criticality of potential bio-diversity loss in order to make the definition compatible with development needs. The second has to do with the inter-temporal notion of bio-diversity in terms of life forms which may not exist today but may evolve in the future. This is essential to reflect the concerns of inter-generational equity and sustainability. Keeping these considerations in mind, the Committee has defined ecological sensitivity or fragility as follows:

*Ecological sensitivity is defined as the imminent possibility of:*

- (a) permanent and irreparable loss of extant life forms (species); or*
- (b) significant damage to ecological processes affecting natural evolution and speciation.*

The essence of this definition is that loss of bio-diversity needs to be measured not only against some measure of the current stock, but also in terms of the potential that must be conserved for posterity. It also emphasises the view that bio-diversity needs to be seen in the global context, and national responsibilities should not be unlimited. No single nation can afford to take on the absolute responsibility for preservation, protection and conservation of all species that occur within its national territory regardless of their occurrence elsewhere. Protection and conservation of bio-diversity has to be a task that is shared between all the countries of the world in an equitable manner, and excessive onus should not be placed on countries which happen to be endowed with relatively rich biological diversity. Nevertheless, due to its abundant biological heritage, India has a special responsibility to conserve and use these resources in a sustainable manner.

Operationalisation of this definition, however, requires further consideration. Almost any human activity causes ecological damage to some extent in terms of loss of life forms and/or habitats. An excessively rigid interpretation of the definition may, therefore, lead to a substantial, and perhaps unacceptable, curtailment in development activities. This is not the intention. Nevertheless, at this point in time it may be better to err on the side of caution, particularly since the conservation of bio-diversity, and therefore its ecological foundation, not only has an ethical basis, but a practical dimension as well. The importance of genetic resources for human well-being is only now beginning to be realised to any extent, and even today our knowledge of the intricate and complex relationship between different forms of life and their environment is at best rudimentary. Given this inadequacy of knowledge, conservation of bio-diversity would have to cover not only species which are presently threatened and protection of

eco-systems which represent nature laboratories of biological evolution, but also geo-morphological features whose ecological impact may be so widespread that there is no reasonable method of predicting their consequences on present and future progress of biodiversity.

In light of the above, the Committee has identified thirteen principal parameters of ecological sensitivity falling into three broad categories of ecological significance. The first of these categories relate to species, and defines the characteristics of species which are or may become threatened with extinction. The second category relates to eco-systems. Some of these derive their importance from being essential for the survival of the first category, while the rest are critical for maintaining the range and pace of evolution and speciation. The third category includes geo-morphological features which are known to have substantial effect on eco-systems at large. It may be noted that these parameters or criteria relate only to ecological sensitivity and not to environmental sensitivity, for which a broader set of criteria may be required. These primary criteria are enumerated below :

## **Primary Criteria**

### **Species based**

1. Endemism
2. Rarity
3. Endangered species
4. Centres of evolution of domesticated species

### **Ecosystem based**

5. Specialised ecosystems
6. Special breeding sites/areas
7. Frontier forests
8. Areas with intrinsically low resilience.
9. Sacred groves
10. Wildlife corridors

### **Geo-morphological features based**

11. Uninhabited islands in the sea
12. Steep slopes
13. Origins of rivers

In the opinion of the Committee, areas which meet even one of the above primary criteria deserve to be protected without any additional factor or consideration being brought in. The definition and significance of these primary criteria are detailed in Chapter 2.

In addition to these primary criteria, the Committee has also identified seven auxiliary criteria, which though relatively less compelling than the primary criteria, nevertheless require consideration in view of our insufficient state of knowledge and ecological understanding. Areas which are characterised by these auxiliary criteria need further investigation in order to establish the degree of ecological sensitivity that may be present. The principal objective of identifying these is to draw attention to characteristics which indicate the potential for ecological sensitivity without necessarily being definitive in this regard. The need to identify such auxiliary criteria stems primarily from the fact that the prevailing state of our ecological understanding and knowledge is inadequate to fully reflect all potentially critical parameters in the list of primary criteria. It becomes necessary, therefore, to sound a warning before extensive damage occurs. A list of these auxiliary criteria is given below, and their definitions and importance are elaborated in Chapter 3.

## **Auxiliary Criteria**

### **Species based**

1. Centres of less known food plants

### **Ecosystem based**

2. Wetlands
3. Grasslands

### **Geo-morphological features based**

4. Upper catchment areas
5. Not so steep slopes
6. High rainfall areas
7. Other uninhabited islands

## **Issues in Identification and Application**

Although the identification of the characteristics of ecological sensitivity as given by the primary and auxiliary criteria listed above is an important step forward in protection of biodiversity, the Committee is acutely conscious of the fact that the publication of such a list carries its own danger. In a context where there is growing conflict between developmental needs and ecological concerns, the notification of a list of characteristics or criteria can lead to a problem of moral hazard. Once a potential encroacher, developer or coloniser is aware of the specific feature that makes a particular area ecologically sensitive, and therefore deserving of protection, it makes relatively easier for targeted destruction of that particular characteristic prior to the area receiving protection, thereby pre-empting the very basis of protection. Thus the transparency that

is sought to be achieved through identification of such criteria can become a double-edged sword.

This possibility places an onus on the Government for moving proactively in identifying and protecting ecologically sensitive areas as expeditiously as possible to safeguard against mischief and manipulation. In order to fulfill this requirement, a number of steps are necessary. First, the Committee recognises that the availability of information and knowledge limits the ability of the Government to move on a broad front. A certain amount of prioritisation, therefore, becomes necessary. A convenient starting point would be to consider such areas which are already known to be either ecologically important or under ecological stress. Examples of such areas are:

1. National Parks and Sanctuaries
2. Tiger Reserves
3. Protected and Reserve Forests
4. Biosphere Reserves
5. Coastal Regulation Zone - I (i)
6. Hill Stations

Although some of the above areas are already under some form of protection, the Committee was of the view that additional protection under the EPA should nevertheless be accorded to either the whole or part of the above areas which fulfil the criteria of ecological sensitivity as defined in this report. Such multiple protection is both feasible under law and desirable for ensuring ecological security.

This would still, however, leave vast areas of the country uncovered in so far as assessment of their ecological sensitivity is concerned. Given the size of the country, it is very unlikely that at the present rate of progress complete ecological mapping would be feasible within any reasonable span of time. Reliance would, therefore, have to be placed on research and investigation that are being carried out by a wide range of people ranging from academics to environmental activists. In order to utilise such data effectively, it will be necessary for the Government to evolve a transparent system by which such information either becomes available or is accessed with relative ease and are evaluated to determine their prioritisation for detailed investigation of ecological sensitivity. For this purpose, the criteria of ecological sensitivity must be made widely available and a format devised by which the relevant information can be passed on to the Government or a designated agency in a systematised manner. Application of information technology can help this process significantly.

Even with such information, the technical expertise available to the Government at present for evaluating ecological sensitivity or fragility and demarcating the area concerned is extremely limited. Although there are a large number of agencies and organisations working in various areas of bio-diversity, ecology, wild life and genetic resources, each has a very specific mandate and none at present are focused on mapping of ecologically sensitive areas. These organisations are also inadequately networked, thereby reducing their collective impact. It is clear that even the combined resources of all of these agencies are inadequate given the size of the country and its extent of bio-diversity. This is a serious *lacuna* and, unless institutional and

systemic changes are introduced, it will render the task of ecological preservation along scientific lines extremely difficult. The Government will, therefore, need to considerably enhance the capacity of the system to study and map the ecological regions of the country. Creation of an entirely new agency for the purpose of ecological mapping is neither necessary nor desirable. It would be preferable to strengthen and reorient the functioning of existing agencies so that such identification and mapping functions become an integral part of their responsibilities.

In addition to laying down objective and scientific parameters for identifying ecologically sensitive areas in the country, the terms of reference of the Committee also requires it to "*evolve an appropriate methodology for regulating various activities in such areas*". This is no easy task, since the nature of protection that may be required will vary not only from parameter to parameter and location to location, but quite possibly from one specific constituent of a particular parameter to another. Thus, the Sangai and the Giant Heron would require different protection strategies despite both being classified under the parameter "Rarity".

The Committee debated this issue at length, and unanimously concluded that to lay down a specific methodology, or even a set of methodologies, for regulation of activities would be both impractical and undesirable, particularly at the level of generality that has been used for identification of the parameters. The nuances of ecological sensitivity are such that excessive rigidity on this count could defeat the very purpose of this exercise, which seeks to strike a balance between preservation of our ecological endowments and the needs of development. The Committee felt that the system presently being followed for notifying environmentally sensitive areas under the EPA, which involves wide public consultation on the nature and manner of regulation of economic activities in the identified areas, was appropriate and adequate for the purpose, subject to only minor modifications.

The modifications relate to the need for greater transparency, and to the precise characterisation of ecological sensitivity which determines the appropriate conservation strategy. Mechanical application of existing regulations on use may not suffice, and consultation with experts and activists in the field of ecology should form an integral part of the consultation and evaluation process. In order to prevent manipulation by vested interests, it is suggested that when a preliminary notification stating the government's intention to declare an area as ecologically sensitive is issued, the notification should have binding force from the date of its issue. The Committee also felt that the weaknesses that exist in the monitoring of permissible activities need to be corrected expeditiously through widening the ambit of information flows from varied sources. Excessive reliance should not be placed only on government sources, and assistance of various civil society organisations should be sought.

## Recommendations and Suggestions

In light of the above, and of the assessment methodologies suggested in Chapters 2 and 3, the Committee recommends the following measures:

1. In accordance with the mandate enshrined in Articles 48A and 51A(g) of the Constitution, areas identified as ecologically sensitive/fragile should be accorded special protection under Environment (Protection) Act, 1986.
2. The criteria described in this Report relate only to ecological sensitivity, which is a subset of the wider environmental concern. Therefore, protection under the EPA should not be restricted only to areas satisfying one or more of these criteria, and other environmental concerns should be appropriately addressed. A separate exercise should be undertaken to frame parameters for delineating environmental sensitivity.
3. This Report, at various places, recommends that the Ministry of Environment and Forests notify specific lists of species which need protection. Although many of these species may already be included in some of the existing lists, such recommended lists need to be brought out separately, notified and updated periodically.
4. Along with the notification of species, the areas of occupancy or occurrence also need to be identified. A methodology, therefore, should be evolved whereby identification of the areas concerned is taken up immediately on notification of such lists and/or on any updated list. Active participation of non-governmental and civil society organisations should be encouraged in these tasks.
5. Demarcating the areas which need protection is a highly complex and technical job which requires considerable expertise since it would vary from criterion to criterion. The Ministry of Environment and Forests should identify institutions which are capable of undertaking such work, strengthen their capability and grant them due accreditation for doing so.
6. The nature and extent of human activity that can be permitted in designated ecologically sensitive areas will vary from criterion to criterion and location to location. These must therefore be worked out with due regard to the nature of the criterion and its implications for the conservation strategy to be followed.
7. In order to ensure that deliberate destruction of species or eco-systems does not occur, once an area has been declared ecologically sensitive, and accordingly notified for

protection, it should be made perfectly clear that the area shall not be denotified even if the criteria is not satisfied at any time in the future.

8. There is no comprehensive programme for generating base-line data on different aspects relating to bio-geographical regions in India, which has adversely affected the range and pace of generation of ecological knowledge in the country. Measures need to be taken to systematically map and record such information on ecological characteristics.
9. The expertise available on conservation biology, ecology and wildlife in the country is extremely limited, especially in so far as field investigation is concerned. Measures need to be taken to encourage and expand such capabilities in the country, both at the institutional and individual levels.
10. A comprehensive monitoring programme supported by a network of organisations must immediately be designed and operationalised, which would involve not only government agencies but also other institutions, universities, NGOs, and even individuals, particularly those living in and around these areas.
11. In view of the urgency of the situation, the above steps should be carried out in Mission mode.

## 2.12 STEEP SLOPES

### DEFINITION

A natural slope of 20 degrees or greater.

### ECOLOGICAL SIGNIFICANCE

Slopes are integral parts of any mountainous or hilly terrain, which have evolved through various geological processes. The ecology of different mountainous zones is complicated in view of diversity of physical conditions. Increase in altitude results in the decrease in temperature, rainfall, development of drainage and the rates of stream dissection. Major biotic communities generally appear as irregular bands, often with very narrow eco-tones. On a given mountain, as many as four or five major biomes with many zonal sub-divisions may be present. Consequently there is closer contact between biomes, and more interchange of biota between different biomes than occurs in non-mountainous regions. On the other hand, similar communities are more isolated in the mountains, since mountain ranges are rarely continuous. As a result of isolation and topographic differences, many species are unique to the mountain communities. Growing human activities (faulty land use, deforestation etc.) may increase the probability of instability of the slopes and irreversible alteration in the habitats and their interactions resulting in potential loss of species and bio-diversity.

Any zone with a water surplus has a downstream movement, known as draining. Erosion and transfer of sediment both occur through the action of water moving through the terrestrial phases of the hydrological cycles, and as a result the drainage catchment of mountainous ecosystem has been considered a fundamental geo-morphological unit. As drainage basins are catchment areas for the stream water, any variation in these areas affects the stream characteristics. Drainage density has a close relation to precipitation, run off and the topography of the drainage catchment. Vegetation and rainfall tend to be closely related, so that the area of high rainfall are often characterized by a dense vegetation cover, as the vegetation enhances the infiltration and reduces run off. The detrimental ecological effects in the form of flood hazards, damage in river region, poor water quality and reduced availability of ground water are similar to those mentioned in Origin of Rivers (Parameter 2.13).

Although it is recognised that the fragility of a specific mountainous ecosystem is dependent on interaction of geological, seismological and biological characteristics, the ecological impact of perturbations in steeply sloped areas can be so wide spread that mere consideration of the immediate area would be fallacious. Therefore, it is felt that steepness of the slope is sufficient justification without any further qualification.

## AREA

The slope of a land area is generally defined as its upward or downward inclination to horizontal plane and it is usually measured as an angle in relation to the horizontal plane.

In the Indian context, the gradient nomenclature, which is usually used in engineering designs and the image processing techniques (GIS), classify slopes as given in the table below:

**Gradient Nomenclature**

Slope	Per cent	Description
-	0-3	Flat
2°	3-8	Gently sloping
4°	8-15	Sloping
8°	15-25	Moderately Steep
14°	25-50	Steep
26°	50-100	Very Steep
45°	>100	Extremely Steep

It may be seen that the 20° cut off recommended by the Committee represents the upper half of the "Steep" classification and higher gradients. Since a mountain or a hill slope may contain segments having different degrees of inclination, the criterion should be applied to the totality of the slope from the base to the apex. Also, since the angle of a slope is related to the distance from which it is measured, measurements need to be taken from different points along the slope and, if at any point the angle exceeds 20°, the area above that point should be treated as a steep slope. The relevant area for protection would need to take into account or certain destructive features which are commonly present including various combinations of steep slopes, seismicity, residual soil, high pore water pressure, thick & deeply weathered soil cover, undercutting of the base of the slope, and weak material outcropping below stronger material. Since the horizontal planes near the top and base of a slope are prone to landslides and receive boulders /debris of a slide respectively, suitable buffer zones are designated. In general, a minimum horizontal distance of 500m at both the ends of a slope is recommended as buffer zones. These issues are illustrated in Figure 1. In mountainous ecosystems, buffer zones may need to be extended further in landslide-prone slopes.

## KEY WORDS

- Steep** : sloping sharply, not gradually  
**Upward** : towards higher place  
**Downward** : towards lower place  
**Angle** : the space between two surfaces that meet  
**Buffer zone** : the area which absorbs the shock of an impact

## ILLUSTRATIVE EXAMPLES

Fragility of a mountainous ecosystem is dependent on interaction of geology, drainage, soil and degree of slope with natural processes and man's developmental & economic activities. An example from the Indian sub-continent is cited hereunder:

**Kashmir Himalayas:** The slope and land use pattern of 2 tahsils, viz. Gulmarg and Pahalgam of Kashmir Himalayas are presented in following Table :

**Table: Suitability for Development in Gulmarg and Pahalgam Tahsils of Kashmir Himalayas on the Basis of Geomorphic Items and Ecological Fragility\***

Feature	Suitability Groups			
	Suitable	Moderately sustainable	Unsustainable	Unsuitable
Geomorphology				
Slope (Degree)	3-11	11-17	17-22	>22
Area under each slope type (km <sup>2</sup> )	149.25	180.42	199.72	72.6
Topography	Flood Plain	Dry Farm-Land	Alpine	Rocky Slopes
Zone	Paddy Belt	Forested Slopes	Pastures	Glacial Heights
Geological formation	Older Alluvium, Karewa	Shale, limestone, Clay	Quartzite, Stand-Stone	Metamorphosed Rocks
Altitude (m)	1500-2000	2000-2500	2500-3000	> 3500
Natural drainage	Poor	Moderately Good	Good	Very good
Soil erosion	Practically Negligible	Moderate to Heavy	Severe	Bed-rock Exposed
% of top soil	25	25-75	>50	Nil
Use type				
Settlement	Good	Not Recommendable	Dangerous	Impossible
Construction	Good	Not Suitable	Dangerous	Impossible
Preservation	Poor	Moderate	Good	Very good
Productions	Good	Moderate	Not Feasible	Impossible

\*Source: Singh, R.B. & A.A. Pirazizy (1990). Anthropogenic impact on landscape synthesis in Kashmir Himalayas: a study of land suitability and capability classification. In R.B. Singh (ed.). Contribution in Indian Geography XI: Environmental Geography. Heritage Publishers, New Delhi

## **METHODOLOGY OF EVALUATION**

Assessment of steepness of the slopes may be carried out by Remote sensing and ground surveys. However, care should be taken that the measurement of the slope is done by selection of appropriate points as illustrated in Figure 1, and as discussed in the definition of Area as given above.

45

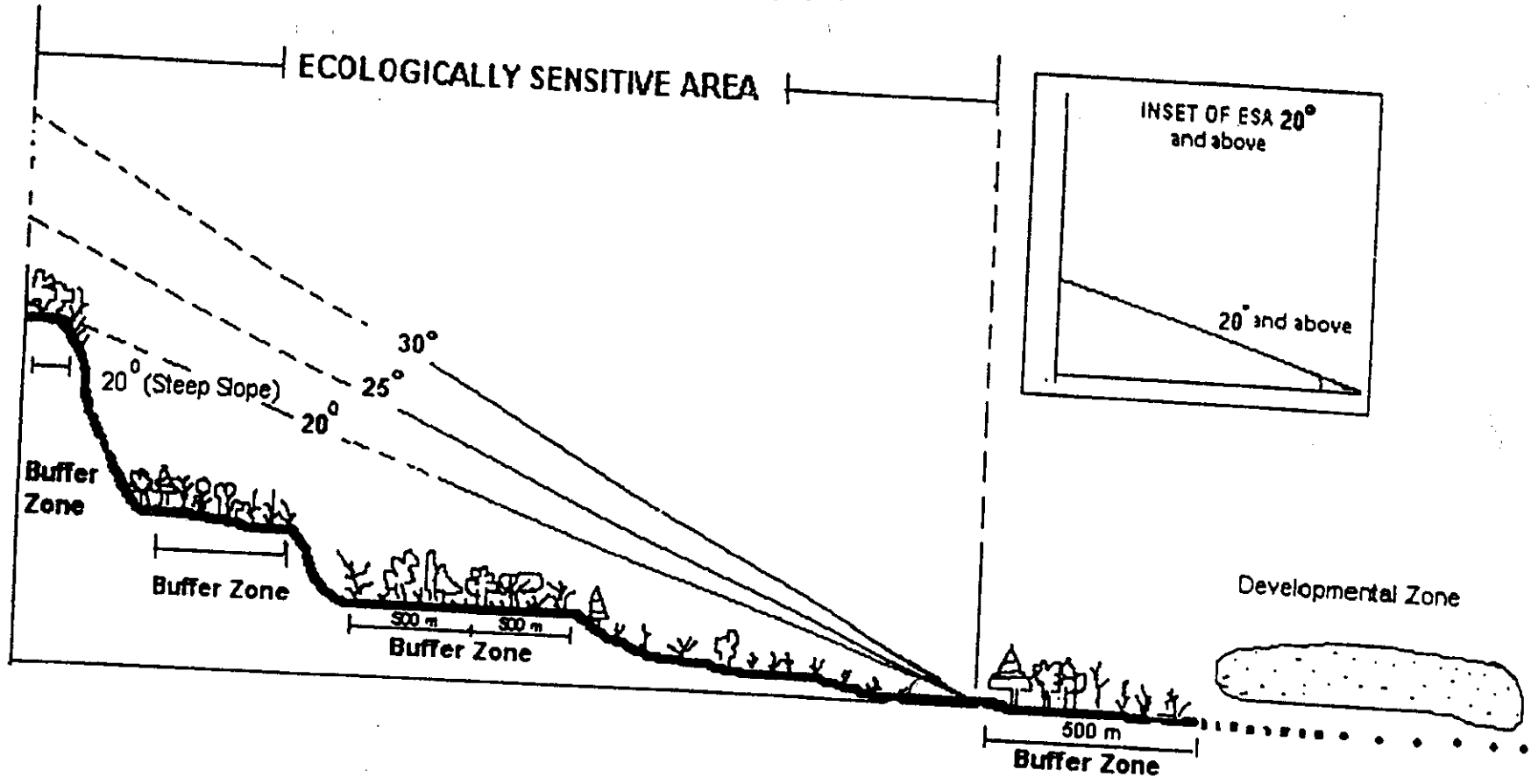


Figure 1 : Schematic Diagram showing Mountain Ecosystem: Steep Slope, Buffer Zone and Developmental Zone

~~20° = 10%~~      20° = 35-50%  
~~25° =~~          25° = 50-100%  
 30° = 65-100%

### 3.5 NOT SO STEEP SLOPES

#### DEFINITION

A slope greater than 10 degree but less than 20 degree.

#### ECOLOGICAL SIGNIFICANCE

The ecological significance of "not so steep" slopes is similar to that given for Primary Parameter 2.12: Steep Slopes. However, since "not so steep" slopes, by and large, are less unstable and more hospitable to biotic communities than "steep slopes", greater consideration has to be given to other factors for determining the extent of ecological sensitivity/fragility. Vegetative regeneration capacity, species types and their importance, habitat characteristics, climate, geology, palaeontological characteristics, seismicity, drainage and rainfall would need to be considered for designating such slopes as "Ecologically Sensitive".

#### AREA

An area which may have its upward or downward inclination to horizontal plane between 10 and less than 20 degrees. Since the horizontal planes near the top and base of a slope are prone to landslides and receive boulders /debris of a slide respectively, suitable buffer zones are designated. In general, a minimum horizontal distance of 200m at both the ends of a slope is recommended as buffer zones.

In mountainous ecosystems, buffer zones need to be extended in landslides prone slopes which tend to possess certain destructive features, including various combinations of steep slopes, residual soil, high pore water pressure, thick and deeply weathered soil cover, undercutting of the base of the slope, and weak material outcropping below stronger material.

Methodology of measurement is the same as in the case of Primary Parameter 2.12.

#### KEY WORD

<b>Steep</b>	: sloping sharply not gradually
<b>Upward</b>	: towards higher place
<b>Downward</b>	: towards lower place
<b>Angle</b>	: the space between two surfaces that meet
<b>Buffer zone</b>	: the area which absorbs the shock of an impact

## ILLUSTRATIVE EXAMPLES

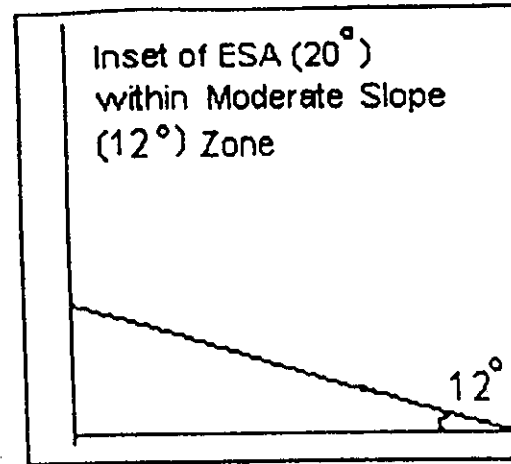
**Teesta Basin:** The tributary streams of the river Teesta have moderately steep (not so steep) slopes and tiny catchment areas. These streams bring down large quantities of silt, boulders and water at a very high velocity. They play a major role in causing floods during rainstorms. Several of them flow into the Teesta in an opposite direction. At their confluence, there is enormous turbulence and silt deposition. Slopes of select tributaries of the Teesta are delineated hereunder,

Tributaries of Teesta	Slope(degree)
Geil Khola	10.54
Lepcha Jhora	15.91
Bhalu Khola	17.07
Khani Khola	16.17
Tar Khola	15.27
Tumthang Khola	13.77
Rani Khola	10.26
Rora Chu	10.92
Takchom Chu	10.31

## METHODOLOGY OF EVALUATION

### Remote sensing and ground survey:.

In making assessment to these two methods of Remote sensing and ground survey, care should be taken that the measurement of the slope is done by selection of appropriate point as illustrated in Fig.2.



8

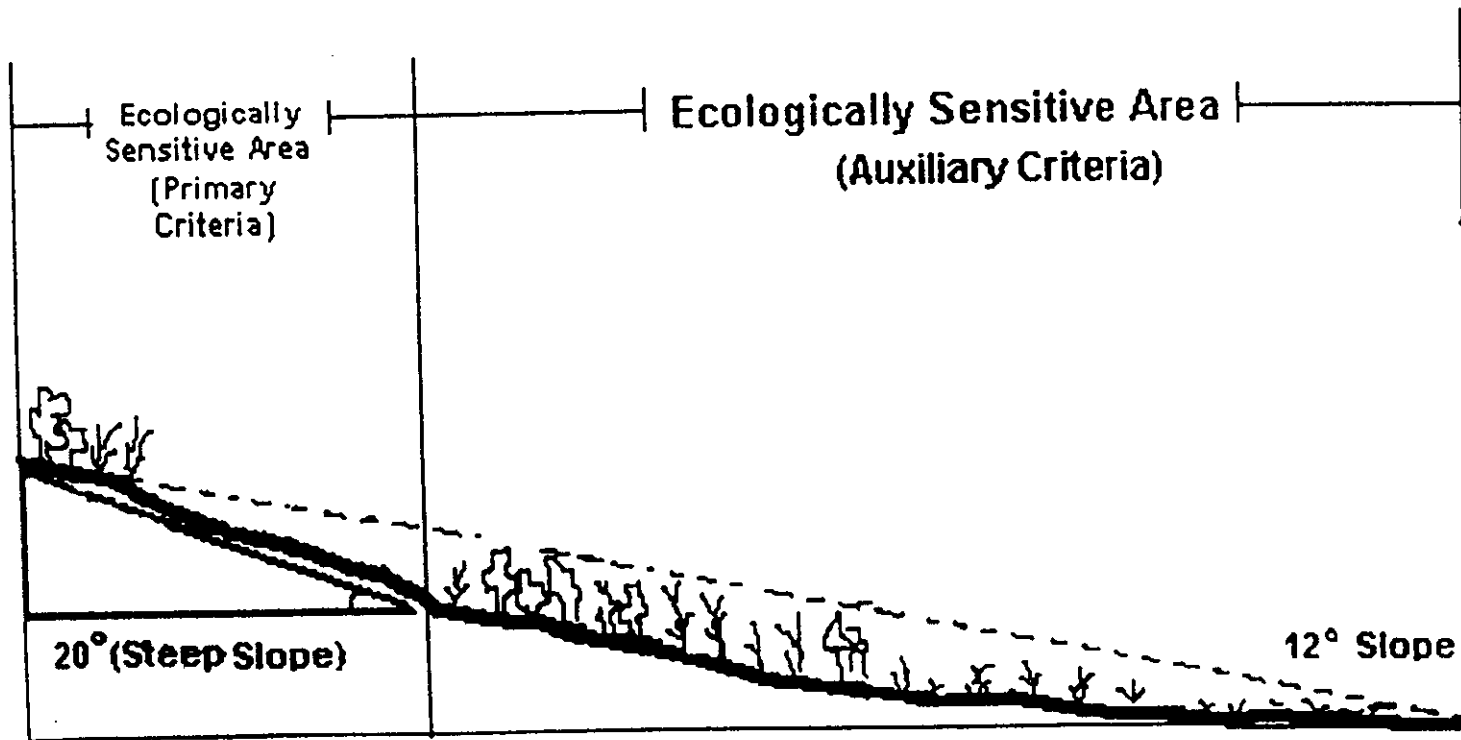


Figure 2 : Ecologically Sensitive Area (20° Steep Slope) within Moderate Slope (12° Slope) Mountaineous Ecosystem

### 3.6 HIGH RAINFALL AREAS

#### DEFINITION

Areas having precipitation intensity greater than 200 cm per year.

#### ECOLOGICAL IMPORTANCE

High rainfall areas greatly influence the microclimate of the region making it more conducive to high bio-diversity (Microbial, Plants and Animals) of the region. High rainfall area with high vegetation cover reduces the soil erosion to a great extent, and trees can also trap and re-evaporate significant quantities of moisture to the atmosphere thus maintaining the water cycle of the region and prevents desertification.

Quite often the regime of high rainfall are associated with slopes. In the absence of vegetation or deforestation of these slopes/hills leads to heavy soil erosion due to high intensity rainfall, leading to heavy sedimentation/siltation of the rivers, river-basin causing floods (Figure 2). It also leads to landslides in sensitive regions ( such as steep to moderate slopes, and denuded hills).

The stability of a slope that is critically disposed is controlled by the amount of water that infiltrates into it and the state of saturation of the sub soil. As such, normally a landslide is initiated only after the initial phase of south-west monsoon during a high intensity precipitation. However, a good pre-monsoon rain may alter the situation by enhancing the saturation level of sub soil. With the available rainfall data and known landslide events it may be summarized that consecutive rainfall for two days in excess of 30 cm during a continuous rainy season may affect stability of critical slope areas.

High rainfall is one of the main triggering mechanism for mass movements and serious soil erosion. Although practically no significant studies have been made in India on the relationship between mass movements and precipitation, there can be little doubt that at least in the Western Ghats many such natural calamities are induced by heavy rain. Prolonged or intense rainfall, or more particularly a combination of the two are among the most important triggers of landslides.

#### AREA

Areas which receive high precipitation on a "normal" basis as identified by the Indian Meteorological Department (IMD) or from Remote Sensing Data. This would exclude areas which receive such levels of precipitation only on an episodic basis.

## KEY WORDS

- Precipitation** : Snow, rain or water which falls or precipitate on the ground
- Vegetation cover** : Area of a land covered by plant communities
- Groundwater aquifers** : Layer of rock or soil which can hold or transmit water under the ground

## ILLUSTRATIVE EXAMPLES

Known areas of high rainfall have been depicted in Figure 3.

## METHODOLOGY OF EVALUATION

The principal source of information would be the rainfall data collected by the Indian Meteorological Department. In the absence of such data for a particular area, remote sensing data may have to be used.

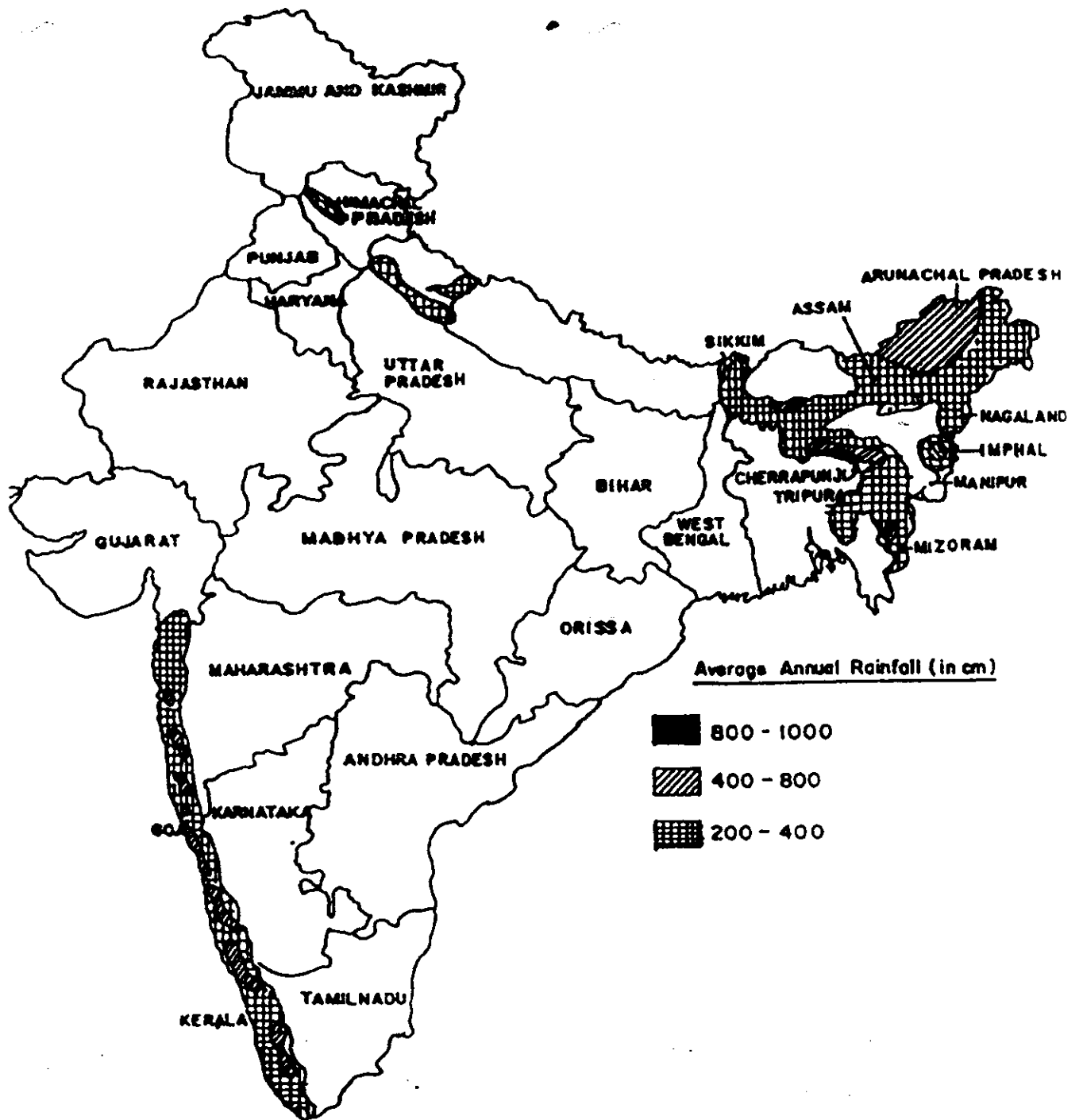


Fig.3: Annual Rainfall : India

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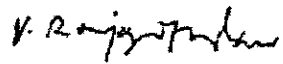
June  
14, 2001

Dear Ms. Kohli,

This Ministry has been receiving requests from your organisation for declaring areas in the Western Ghats in North Karnataka, South Maharashtra and Goa as ecologically sensitive area. In this regard, I am to bring to your attention that the Ministry has already constituted a Committee to consider proposals for declaring areas as ecologically sensitive. This Committee has evolved a proforma, a copy of which I am enclosing for your reference. The proposal has to be submitted in the above proforma to enable us to take further action.

With regards,

Yours sincerely,

  
(V. RAJAGOPALAN)

Encl: a/a

Ms. Kanchi Kohli,  
Member,  
National Committee for Protection of Natural  
Resources (NCPNR),  
E-180, Greater Kailash-II,  
New Delhi - 110 048.

## Annexure 2

### The Format for Submitting Proposals to Declare Ecologically Sensitive Areas \*

1. **Introduction**
2. **Physical Features**
  - (a) **Description:** A map showing administrative boundaries including longitude and latitude; geo-morphology; climate; soil, land use, hydrology; and other features.
  - (b) **Environmental Quality:** Water, soil and air
3. **Biological Features**
  - (a) Vegetation Types; forests; wildlife and protected areas, if any.
  - (b) Flora including microbial profile
  - (c) Fauna including components in the soil
  - (d) Any specialised habitats (such as estuaries, wetlands, mangroves, meadows, frontier forests, breeding sites)
4. **Socio-economic Features**
  - Demographic details including community structure, literacy, health, existing activities including agriculture, industry etc
5. **Ecological Parameters**
  - (a): **Primary Criteria**
    - Species based
      1. Endemism
      2. Rarity
      3. Endangered species
      4. Centres of domestication of plant and animals

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\* **Important Note:** The data contained in the proposal should be based on completed Socio-scientific studies undertaken by experts in the concerned fields.

## Ecosystem based

5. Wildlife corridors
6. Specialised ecosystems
7. Special breeding site/area
8. Areas with intrinsically low resilience
9. Sacred groves
10. Frontier Forests

## Geo-morphological features based

11. Uninhabited islands in the sea
12. Steep Slopes
13. Origins of Rivers

**(b) Auxiliary Criteria**

## Species based

1. Areas or Centres of Less Known Food and Other Economic Plants

## Ecosystem based

2. Wetlands
3. Grasslands

## Geo-morphological features based

4. Upper Catchment areas
5. Not So Steep Slopes
6. High Rainfall Areas
7. Other uninhabited and unexplored islands

6. Impact of Development Activities on the Ecology of the Area
7. Proposed Monitoring Mechanism for the Present and Future Developmental Activities
8. Justifications for Establishing Ecological Sensitivity