

BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 86/2022

Pundalik Kushali Velip & anr. Applicants

V/s

The Deputy Conservator of
Forests and ors. Respondents



AFFIDAVIT – IN – REJOINER ON BEHALF
OF THE APPLICANT

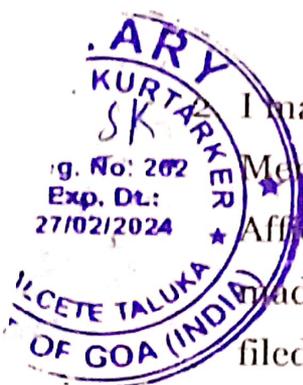
I, **Pundalik Kushali Velip**, Son of Kushali Velip, 50 years of age, married, Indian National, R/ H. No. 106, Balli, Cuncolim-Balli, South Goa, Goa 403703, the Applicant No. 1 herein, do hereby solemnly affirm on oath and state as under :-

1. I say that by Order dated 13-07-2023, this Hon'ble Tribunal has granted liberty to the Applicants to file the present Affidavit-in-Rejoinder. I say that till date the following Affidavits have been filed by the Respondents –
 - Reply Affidavit on behalf of the Respondent Nos. 1 & 2 dated 09-01-2023

(Signature)

- Supplementary Affidavit on behalf of the Respondent Nos. 1 & 2 dated 26-05-2023
- Reply Affidavit on behalf of the Respondent Nos. 3 dated 20-01-2023
- Reply of the Respondent No. 4 dated 11-07-2023

I say that I have read and understood the contents of the afore referred Affidavits filed by the Respondents and shall hereinafter deal with the allegations and claims made therein in so far as the same are inconsistent with my case and/or need to be specifically addressed.



I maintain and reiterate all that has been stated by me in the Memo of Application in OA 86/2022 and my Additional Affidavit dated 11-11-2022. I deny each and every allegation made against the Applicants in the afore referred Affidavits filed by the Respondents in so far as the same are inconsistent with the case of the Applicants and/or contrary to records. Any allegation(s) and/or content(s) of the Affidavits filed by the Respondents, not specifically traversed and/or dealt with and/or denied by me hereinafter, ought not to be construed an admission.

3. At the outset, I reiterate that I am concerned, in the present Application filed before this Hon'ble Tribunal, for the properties under Survey No. 23(1) or 23(P) AND Survey No.

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29(1) or 29(P) of Village Adnem of Quepem Taluka which have been included in the List of Private Forest notified by the Forest Department, Government of Goa vide letter No. MS/REV-PF/DCF/WP/2021-22/855 dated 08/12/2021 and/or listed in the Report of the South Goa Forest Division Committee (also known as Araujo @ F. X. Araujo Committee) as 'Private Forest', and/or identified, whether provisionally or prospectively, as 'Private Forest'.

Reply Affidavit on behalf of the Respondent Nos. 1 & 2 dated 09-01-2023



4. I say with respect to the contents of paragraph 4 that it comes as a revelation that Survey No. 29(P) has been removed from the list of the Private Forest as per the 2nd interim report of the Review Committee under the Chairmanship of the Chief Conservator of Forests, Panaji. I say that the Hon'ble NGT is seized of the matter of the work being carried out as regards these Interim Reports to review the identification done by the Thomas and Araujo Committees in M.A.No.03/2023(WZ) or (Earlier) O. A No. 63/2022(WZ) and these Interim Reports have not been notified. I say that this being the position, Survey No. 29(P) holds itself in the List of Private Forest notified by the Forest Department, Government of Goa vide letter No. MS/REV-PF/DCF/WP/2021-22/855 dated 08/12/2021. I say that being just an interim report, the same cannot be relied upon at this stage and in any case the Review

Committee headed by the CCF is reviewing the survey and the work is in progress.

I say that letter dated 22-11-2022 issued to me by the Respondent Nos. 1 and 2 Office where the Respondent Nos. 1 and 2 have referred to the 2nd interim report but nowhere informed that Survey No. 29(P) has been removed from the list of the "Private Forest."

5. I say that the contents of paragraphs 5 to 11 report the purported action taken by the Respondent Nos. 1 and 2 against the tree cutting in the subject property Survey No. 23(P). I say and submit that the purported action is taken under the Trees Preservation Act and then compounded upon payment of fine and an order to plant trees. I say and submit that the Respondent Nos. 1 and 2 have conspicuously not proceeded under the stringent provisions of the Trees Preservation Act, nor ordered afforestation. I say that by the Respondents own admission, despite the order to plant trees having been passed in 2022, no plantation as ordered has been undertaken till date.

6. With respect to paragraph 13, where the Respondent Nos. 1 and 2 have roped in the issue of Survey Nos. 23(P) and 29(P) not being Government Forest, I say and submit that, Forest Land, irrespective of the ownership or classification thereof, must be preserved and protected, and this position has been



reiterated time and again by this Hon'ble Tribunal and the Supreme Court.

7. With respect to paragraph 15, I deny that, at present, there is no developmental work being carried out in the Sy. No. 23 and 29 . I say that the Report dated 20-03-2023 of the Round Forester from the Respondent Nos. 1 & 2 Dept says that "road work started at site at the time of inspection" . I say that the Respondent Nos. 1 & 2 ought to taken prompt action pursuant to their Report dated 20-03-2023 as tress were felled specifically for the same purpose.

8. With respect to paragraph 17, I say and submit that the narrow interpretation of the Forest Conservation Act, 1980 is contrary to the Public Trust Doctrine, the Constitution of India and the various statutes enacted to protect and preserve forests, including the Forest Conservation Act, 1980. I say and submit that the averment that "However, in the present case the part of Sy. No. 23 and 29 is identified as prospective Forest Land as stated hereinabove and if and when there has been any violation of the extent rules and regulations then due steps have been and will be taken by the competent authorities against the violators" is a case of abdication of the powers of the Respondent Nos. 1 and 2 under the Forest Conservation Act 1980. I say and submit that since under the Forest Conservation Act, there is an embargo on the Authority to grant permission for non-forestry purpose



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without the approval of the Central Government, the modus operandi of the violator is to deplete the forest till it falls short of fulfilling the Forest criteria and/or to fell trees and compound the offence of tree cutting under the Trees Preservation Act. I say and submit that the prompt action of Authorities at this stage is crucial to protect and preserve the status of Sy. No. 23/1 and 29/1 irrespective of the classification.

Supplementary Affidavit on behalf of the Respondent Nos. 1 & 2 dated 26-05-2023

9. I say with respect to paragraph 3, it is denied that in the additional affidavit dated 11.11.2022 filed by me, I have stated that the subject properties 23 and 29 are identified as "prospective private forest". I have only referred to and quoted from the letter dated 07-10-2022 from the Respondent No. 1 Authority.



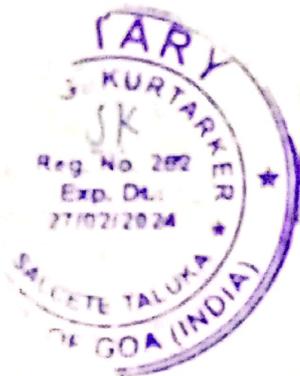
I deny with reference to paragraph 5, that Sy. No. 23(P) doesn't come under the Forest Department until the area is demarcated qualifying the criteria for Private Forest. I say and submit that the Forest department is mandated to protect and preserve Provisional and/or prospective Private Forests that are enlisted in the Thomas and Araujo Committee Reports and no permissions whatsoever can be given for any

developmental works in the land/areas listed as Private Forest in the Thomas and Araujo Committee Reports.

11. With respect to paragraphs 6 to 10, I have already dealt with the similar claims made in paragraphs 4 to 9 above, and I rely upon the same for all purposes.

Reply Affidavit on behalf of the Respondent Nos. 3 dated 20-01-2023

12. I say and submit with reference to the contents of paragraph 5 and 6, that the Respondent No. 3 found and reported the act of hill cutting in Survey Nos. 23(P) and 29(P) where the site was cleared and levelling was done for the purpose of deriving access on 20-10-2022. I say that the respondent No. 3 did not initiate any action upon the Report and findings, and only after the present Application came to be filed, the Respondent No. 3 sent a letter dated 07-11-2022 to the local authority (Panchayat) to initiate action.



13. I say that it appears that the Respondent No. 3 again inspected the site on 21-12-2022 after this Application was filed and reported "hill cutting" in Sy. No. 23 and 29. I say that a Show Cause Notice has been purportedly issued on 22-12-2022. I say that more than six months have passed since

(Handwritten signature)

the issuance of the Show Cause Notice, and no action is forthcoming.

14. I say that there is apathy on the part of the Authorities in taking action. I say and submit the Respondent No. 3 has stated in his Affidavit that the Sy. No. 23 and 29 are "prospective private forest". I say that when the Respondent No. 3 is aware of this status and has observed Hill Cutting in these Survey Numbers, the fact of hill cutting ought to have been intimated to the Forest Department. I say that action by the Respondent No. 3 is only on paper and nothing effective is being done to stop the illegal works in the Forest Areas.

Reply of the Respondent No. 4 dated 11-07-2023

15. I deny the contents of paragraphs 1, 3, 4, 5, 7, 8, 11, 12, 17 to 20, 24 to 26, 28, 29, 30 to 32 and 34 to 39 and the allegations made in paragraphs 2, 9, 10, 33.

16. With reference to paragraphs 13 to 16, the contents are contrary to records. I say and submit that the Sawant and Karapurkar Committee identified forest land to some extent in Goa and their Identification was confirmed by the Review Committee of Deepshika Sharma, followed by Anthony D'Souza, after which 46.11 sq. km of Private Forests have been finalized as Private Forests from those identified by Sawant and Karapurkar.

Q. No. 1



I say and submit that the State Government once again constituted two new committees to identify the balance of private forest lands vide Notification No. 7-1-2009/FOR/396 dated 27-11-2012 published in the official gazette on 6.12.2012, viz., the Thomas Committee for North and the Araujo Committee for South. The Thomas and Araujo Committees further identified Private Forests and their work is presently being reviewed by the Review Committee headed by the Chief Conservator of Forests and monitored by this Hon'ble Tribunal.

17. I say that the contents of paragraphs 1 to 4part, 5part, 7, 9, 11, 12part, 13, 14part and 15 herein are true to my knowledge, and the contents of paragraphs 4part, 5part, 6, 8, 10, 12part, 14part and 16 are based on legal submissions which I believe to be true.

18. I say that what is stated in the foregoing paras is true to my Knowledge and belief and the contents are explained to me in Konkani language.

Solemnly affirmed at Margao on this 19th day of July 2022.


Deponent



Solemnly affirmed before me by
Pundalik Velip
Who is identified to me by
Epic No: ZEVO230318
to whom I personally know on
this 19th day of July 2023

Reg No 12858/2023
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SAVITA G. KURTARKER
NOTARY
MARGAO-GOIA

