

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

APPEAL NO. 6/2025(WZ)

Colva Civic & Consumer Forum ... APPELLANT
 v.

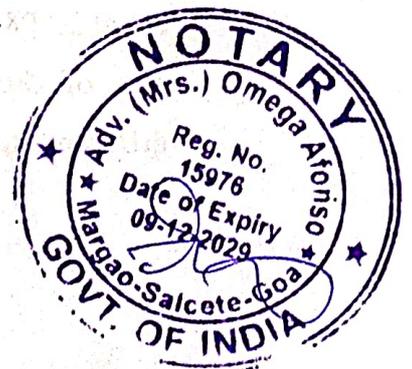
Goa Coastal Zone Management
 Authority (GCZMA) & Ors. ... RESPONDENTS

AFFIDAVIT-IN-REJOINDER TO THE AFFIDAVIT IN
REPLY FILED BY RESPONDENT NO. 3

I, **Judith Almeida**, President of the Colva Civic and Consumer Forum (Appellant), having office at H. No. 257/1, Ward 3, Bagdem, Colva, Salcete, Goa – 403708, do hereby solemnly affirm and state on oath as follows:

1. I have perused the Reply filed by Respondent No. 3, M/s Hermitage Builders Pvt. Ltd. ("R3"), to these proceedings. At the outset, I categorically deny the correctness, veracity, and legal tenability of the assertions in R3's reply, save and except any statements expressly admitted herein. The reply is replete with evasive, self-serving, and contradictory statements aimed at avoiding liability for the blatant and admitted violations of the Coastal Regulation Zone (CRZ) Notification, 2011 and the Beach Carrying Capacity Report, 2016. Any averment in the reply which is not specifically dealt with hereunder should be deemed to be denied as false and untenable.

Judith Almeida



is untenable, it is essentially a repeat approval for the same site and project, now under challenge for the same fundamental reasons of law and fact.

4. R3's challenge to the *locus standi* of the Appellant is misconceived and unsustainable. The Appellant forum is a registered civic and environmental organization with a mandate to protect coastal ecology (as pleaded in the Appeal and evidenced by its Registration Certificate and resolution – Annexure A1 to the Appeal). The Appellant's bona fides and locus have been repeatedly upheld or not objected to in prior litigations involving the same subject matter, including PIL W.P. No. 31/2017 before the Hon'ble High Court of Bombay at Goa, and NGT Appeal Nos. 13/2022 and 21/2022, where R3 (and other respondents) never raised any objection to Appellant's standing. It is telling that R3 has chosen this stage to raise vague allegations about "unclean hands" or "suppression of facts" without any specific particulars. The Appellant denies all such allegations. The Hon'ble Tribunal can and should decide the Appeal on merits, given the significant environmental issues at stake. The Appellant remains a public-spirited entity acting in furtherance of the public interest in protecting an ecologically sensitive coastal zone; any insinuation to the contrary by R3 is emphatically denied as baseless.

5. R3's contentions in para 5 are denied. It is expressly clarified (as indeed stated in para 2(b) of the Appeal Memo) that the present Appeal challenges the impugned NQC dated



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18.10.2024 issued under the provisions of the Environment (Protection) Act, 1986 and CRZ Notification, 2011. The Appeal lays out the full scope of challenge, including violations of the CRZ Notification and non-compliance with conditions precedent. There is no ambiguity or overreach in the Appeal. R3's attempt to characterize the Appeal as something else is incorrect. The impugned NOC, being an order under a statute concerning environmental clearance, is rightly challenged under Section 16 of the NGT Act, and the Appeal also invokes Section 18(1) of the NGT Act. R3's reply fails to show how the Appeal is not maintainable or is beyond scope; hence, its assertions in para 5 merit rejection.

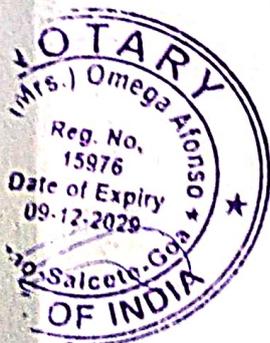
6. The Appellant vehemently denies any suggestion by R3 in para 6 of the reply, that the site is not a sand dune or that an existing "road" legitimizes the development. R3's own letter dated 05.09.2024 (Annexure A7 to the Appeal) misleadingly referred to a "motorable road" between the property and the high tide line, an assertion that was factually incorrect and intended to downplay the ecological sensitivity of the site. In truth, the so-called "road" was an illegal pathway cutting through the sand dune, which had been ordered to be demolished by the GCZMA and was in the process of ecological restoration. This is confirmed by the joint inspection report of GCZMA and the National Centre for Sustainable Coastal Management (NCSCM) dated 29.08.2022 (Annexure A8 to the Appeal), which details the demolition of the illegal road and ongoing restoration of the sand dune in Survey No. 16/4, Sernabatim Beach. R3 was fully aware of



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these facts, as Annexure A8 clearly notes the sand dune status of the land. Therefore, R3's averments in para 6 of the reply are not only false but reflect a brazen attempt to mislead. The property in question is part of a sand dune system in the CRZ-I, No Development Zone (NDZ), a fact established by scientific and official records. The precautionary principle applies squarely, given that any doubt regarding the presence of a sand dune must resolve in favour of protection, and no casual assertion by R3 can override the on-ground reality documented by experts.

7. The contents of para 7 of R3's reply are denied. R3 appears to dispute the applicability or findings of the Beach Carrying Capacity Report, 2016. In response, the Appellant relies on and reiterates the facts already stated in para 2(i) of the Appeal Memo and related documents. It is a matter of record that a comprehensive Carrying Capacity Report (2016) was prepared by NCSCM pursuant to directions of this Hon'ble Tribunal in Application No. 03/2014 (WZ). That report explicitly concluded that Sernabatim Beach has exhausted its capacity for any further tourism-related structures. In particular, the report noted that only 3 beach shack/cottage units are permissible on Sernabatim Beach, and those 3 allotments have already been utilized (as allotted by the Department of Tourism). No additional shacks, huts, tents or cottages can be considered on this beach without adversely impacting the ecological stability of the area. This finding was unequivocally affirmed by this Hon'ble Tribunal's judgment dated 28.09.2022, which directed that no new structures be permitted



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at Sernabatim unless in conformity with the Carrying Capacity Report. R3's suggestion that its project somehow fits within a "permissible quota" is thus factually incorrect and misleading. In fact, under the current Beach Shack Policy of the Goa Department of Tourism (2023–2026), Sernabatim has an upper limit of three tourism units, all of which are already allotted (the list of allottees are annexed and marked hereto as Annexure A), and R3 is not one of the allottees. Thus, R3 has no legal entitlement to develop any tourist cottages or shacks on this private plot in the NDZ. Any development permission granted in spite of this cap violates not only the CRZ Notification, 2011, but also the Tourism Department's policy and the public trust doctrine protecting coastal commons.

8. R3's denial of the sand dune and related environmental sensitivity is emphatically rejected. It is submitted that overwhelming evidence on record establishes that the subject property is an active sand dune ecosystem. By virtue of the precautionary principle and settled environmental jurisprudence, such ecosystems merit the highest degree of protection. In support of this, the Appellant relies on: (a) GCZMA site inspection reports dated 16.04.2009, 17.12.2014, and 27.07.2020 (Annexures A11 and A12 to the Appeal) which identified the plot as a sand dune, (b) written objections from two Expert Members of GCZMA (letters dated 11.12.2020 and 12.12.2020, Annexure A13 Colly) specifically warning against any approval for development on Survey No. 16/4 given its sand dune status, and (c) the Joint Inspection Report dated 19.10.2022 prepared by a Multidisciplinary



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Committee (including NCSCM scientists) pursuant to NGT order, which confirmed that the area of the subject property is a sand dune (Annexure A8 to Appeal). These reports, prepared by competent authorities and experts, carry a presumption of correctness. R3 has not produced a single credible scientific report or survey to rebut these findings. Its bald denials carry no weight against the documented truth. Therefore, any claim by R3 that the land is not a sand dune or that development thereon would be benign is false and contrary to record. The law prohibits disturbance of sand dunes, and the impugned NOC itself was required to be evaluated in light of the site being a sand dune (which, evidently, was either ignored or misinterpreted by GCZMA). R3's arguments in para 8 deserve to be outright dismissed for want of any merit or evidence.

9. Insofar as R3 in para 8 of its reply has claimed that it complies with the CRZ norms or that there is no violation, the Appellant reiterates the principal Grounds (a), (b), and (c) set out in paragraph 3 of the Appeal Memo. It is evident that the impugned NOC was granted in violation of the CRZ Notification, 2011, the carrying capacity limitations, and the precautionary principle. R3's reply does not successfully refute these violations. To avoid prolixity, the Appellant craves leave to rely upon the detailed Grounds of Appeal already on record, which are merely summarized here: (a) that the GCZMA misinterpreted the Carrying Capacity Report 2016 by selectively citing data not applicable to the private beach plot, whereas the correct interpretation shows no additional capacity on Sernabatim Beach; (b) that permitting



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the construction of cottages on sand dunes is against the Precautionary Principle, as recognized by courts and requiring erring on the side of environmental protection; and (c) that such construction will cause adverse impacts on coastal ecology and biodiversity, especially given the critical role of sand dunes as natural coastal defences and habitats. R3's general denial of these points is unsupported by facts or law. The Appellant stands by its case that the project is per se in contravention of CRZ 2011 norms and principles of sustainable coastal zone management.

10. R3's justification in para 10 that the fencing on the property was "pre-existing" and that only minor repairs were carried out is false, misleading, and factually untenable. The ground situation and official inspections reveal that R3 undertook fresh construction and erection of a series of concrete poles, bases, honeycomb wire mesh and barbed wire fencing around the plot. This amounted to a new development activity within a notified No Development Zone (NDZ) of CRZ-I, which cannot be undertaken without prior CRZ clearance. R3's characterization of these works as "repairs" to an old fence is belied by the nature, extent and permanence of the structures erected. Photographic evidence on record (annexed to the complaint and inspection reports) shows the installation of new concrete footings and poles, far beyond mere repair. Notably, even a local Ward Panch of the village Panchayat had lodged a complaint during the construction of this concrete fencing, objecting to its illegality. R3 was under a clear statutory obligation to seek prior approval for any erection of

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fencing or wall in the CRZ area – even if arguing some remnants of an old fence existed – because such activity alters the physical environment of the NDZ. By failing to obtain permission, R3 violated the CRZ Notification, 2011. R3 has produced no permission, license or clearance from GCZMA or any competent authority that would authorize the fencing. In the absence of such approval, the fencing is unequivocally illegal. R3’s self-serving claim that no permission was “necessary” is contrary to law and must be rejected.

11. The statements made by R3 in paragraphs 11 through 15 of the reply are noted, but they do not aid R3’s case. In substance, these paragraphs merely record R3’s claims that it would plant a “bio-fence” (live hedge) along the property boundary and eventually remove the concrete poles and wire once the bio-fence grows, etc. These averments are either admissions or promises of future action, and they are largely matters of record. The Appellant’s primary response is that to date, R3 has not removed the illegal concrete fencing from the site, despite all assurances. The continued presence of these structures on a sand dune in the NDZ constitutes an ongoing violation of the CRZ Notification. R3’s intention to substitute the fence with a hedge in the future does not cure the present illegality. Moreover, no concrete timeline or plan for this so-called bio-fence has been provided by R3, no evidence of actual implementation (such as photographs of planted hedges taking root) is on record. Thus, R3’s paras 11–15 provide no legal justification for the fence; at best, they acknowledge that the fence ought to be removed, which aligns with the

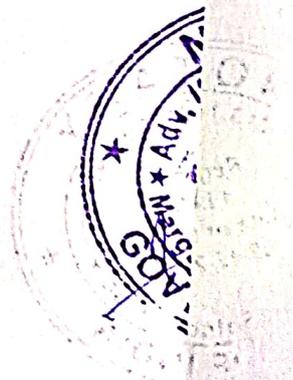


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Appellant's stance that it should not have been erected in the first place. Until full removal is done (under supervision of authorities), the violation persists. In any case, natural fencing via vegetation, if done, must be consistent with CRZ norms and ecological principles and cannot be used as a ruse to retain an unauthorized hardened boundary. In summary, R3's contentions in paras 11-15 neither negate the violation nor demonstrate compliance, they actually reinforce that an unlawful structure was installed and remains in place.

12. R3's version in para 16 that red mud was brought "for plantation" and has since been removed is an admission of a CRZ violation and is otherwise not credibly substantiated. The Appellant denies that the issue of red mud dumping can be trivialized as R3 attempts to do. R3's own reply acknowledges that red mud (an alien material) was deposited on the property. This act amounts to material alteration of the land within the NDZ, an act explicitly prohibited under the CRZ Notification. The introduction of red mud onto a sand dune/coastal plot is environmentally harmful, it can irreversibly alter the soil chemistry and drainage, adversely affecting native dune vegetation and percolation. The claim that the red mud was "not used" or was to aid plantation does not excuse the violation; nor does a later removal (if indeed done) erase the ecological damage caused during the period it was present. Moreover, R3 has produced no proof of actual removal or restoration, no panchanama, no verification report from GCZMA, no photographs showing the site cleared of red mud and restored to original condition. In absence of such evidence,

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the Appellant treats R3's statements with scepticism. Even if some red mud was physically taken out, disturbance was already done, and such *ex-post-facto* cleanup does not absolve R3's unlawful action. The very deposition of red mud in a CRZ-sensitive site violated the law and underscores R3's disregard for environmental norms. The Hon'ble Tribunal is respectfully requested to take serious note of this, as it exemplifies the *fait accompli* strategy of R3 (violating first, and only later attempting partial compliance when caught).

13. R3's assertions in para 17&18 that it has complied with all requirements of the inspection report are denied, and its attempt to suggest that authorities have accepted its compliance is not supported by any official record. R3 has not produced any confirmation from the GCZMA (Respondent No.1) or any other authority indicating that the site is now free of violations or that R3's actions are compliant. In fact, as of the filing of this rejoinder, the GCZMA has not issued any final compliance certificate or NOC closure in respect of R3's earlier violations. The Appellant submits that if R3 truly believes it had rectified all infractions, it should have procured a written acknowledgment from GCZMA to that effect, which it has not, because the reality is that significant issues remain unresolved (e.g., the fencing still stands, as noted). Thus, R3's self-serving claim of compliance remains unverified and disputed. The Appellant urges that no part of R3's reply be taken at face value unless corroborated by independent reports. In the present case, all independent reports point to continuing



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environmental concerns, not compliance. Hence, paras 17 & 18 of the reply provides no defence to R3.

14. The Appellant denies the contentions of R3 in para 19 regarding the borewell. R3's claim that the borewell is "beyond 200 m NDZ line" is false; the official inspection report (1/02/2021 inspection by GCZMA) clearly found the borewell to be within 200 m of the HTL, thus squarely inside the NDZ. R3 has provided no scientific survey or geo-coordinates to refute the regulator's finding. Even assuming *arguendo* that the borewell's exact distance were in question, the crucial fact is that groundwater extraction in the NDZ is prohibited under CRZ Notification, 2011. As reported by coastal experts, "*any groundwater extraction ... in the [0-200m] zone is prohibited by law*". This is because such borewells near the shore can cause saline water intrusion and aquifer damage. R3's reliance on a Water Resources Department (WRD) permission from January 1999 does not avail it. Any state departmental clearance for a well (even if valid, which is not conceded) cannot override the requirements of CRZ law. The CRZ Notification, 2011 came into force later and mandates prior clearance for activities in CRZ areas, a specific CRZ clearance for the borewell was never obtained by R3. Moreover, WRD's 1999 permission (if genuine) would have been for a borewell presumably when CRZ rules were different; it does not exempt R3 from complying with the CRZ 2011 norms introduced subsequently. R3 also notably built a concrete platform around the borewell, which it later removed only after authorities intervened, further indication that the



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borewell was part of unauthorized works. Lastly, the intended use of the borewell is clearly for commercial exploitation of groundwater for R3's proposed tourism project, which is impermissible in CRZ-I NDZ. In summary, the borewell constitutes an unlawful activity in the NDZ and R3's excuses in para 19 are devoid of merit.

15. The statements in paragraphs 20 through 24 of R3's reply are taken to be matters of record or general narrative, to the extent they recount the chronology of events or contents of documents. The Appellant submits that nothing in those paragraphs demonstrates compliance with environmental law or negates the Appeal. Insofar as any allegations might be embedded therein, they stand denied. For instance, if R3 has recounted that it submitted certain reports or had certain correspondence, the Appellant does not dispute the existence of the documents but emphasizes that those do not resolve the core legal violations. To the extent R3 is attempting to selectively cite from records in paras 20-24, the Appellant craves leave to rely on the complete record of proceedings both before the GCZMA and this Tribunal, including all annexures and reports, which speak for themselves. Nothing in paras 20-24 of the reply dislodges the evidence of R3's breaches of the CRZ Notification and other applicable norms.

16. Before concluding, the Appellant craves leave to bring on record that during the pendency of the present proceedings, R3 has commenced further development activities at the site without awaiting environmental clearance or final orders. In



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In early April 2025, the Appellant obtained drone imagery (dated 02.04.2025) that clearly shows ongoing physical development on the property by R3, including land-clearing, earth movement, demarcation of plots, and the presence of construction materials and vehicles on the sand dune. These images (filed herein as Annexure B (Colly) to this Rejoinder) correspond to works which appear to match the layout of structures in the plans R3 submitted to the local Panchayat (Annexure C to this Rejoinder). Such actions by R3 are illegal and in contempt of environmental law, as they are proceeding without CRZ clearance and despite this Appeal being sub judice. R3's conduct demonstrates a "develop first, seek forgiveness later" strategy that flouts the authority of this Hon'ble Tribunal and the precautionary approach. It is pertinent that under Section 20 of the NGT Act, 2010, this Tribunal is mandated to apply the precautionary principle and sustainable development, both of which are violated by R3's continued works. The Appellant submits that R3's brazen continuation of work underscores the need for immediate intervention. R3 cannot be allowed to present a *fait accompli* of a completed project in an NDZ by the time adjudication concludes.

17. That the contents of paragraphs 1, 2(p), 3(p), 4(p), 5(p), 6(p), 7(p), 8(p), 9(p), 10(p), 11(p), 12(p), 13(p), 14(p), 15(p), and 16(p), of this affidavit in rejoinder are correct and true are true to the best of my knowledge and the contents of paras 2(p), 3(p), 4(p), 5(p), 6(p), 7(p), 8(p), 9(p), 10(p), 11(p), 12(p), 13(p), 14(p), 15(p), and 16(p) are my submissions made on

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legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom.



Solemnly affirmed on this 28th day of July 2025 at Margao, Goa.

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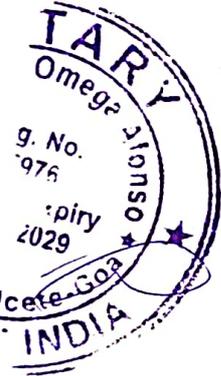


Solemnly affirmed before me by Judith Almeida

Who is identified to me by Driving licence No. GA0820100120260

Who is personally know to me this 28th day of July 2025
Reg. No. 12592 2025

Adv (Mrs.) Omega Afonso
NOTARY
'GOVT. OF INDIA -
SALCETE-GOIA



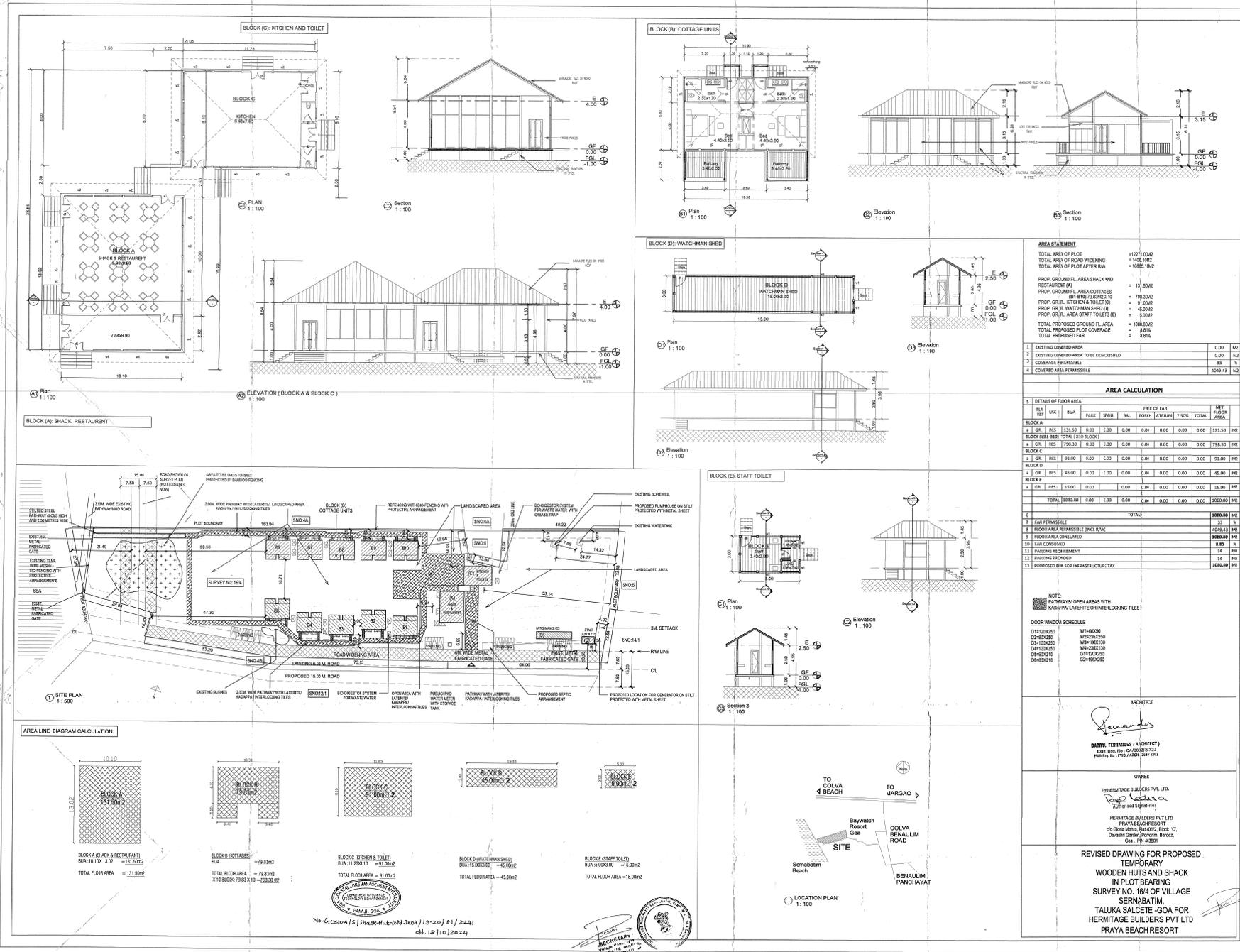
214 ANNEXURE A

43 - Colva - Sernabatim (Shacks allotted-3)			
Category - III (5 years and above experience)			
Sr No.	Ack.No.	Applicant Name	Location
1	GSH23S0017	CECILIA FERNANDES	3
2	GSH23S0171	REMEDIOS GOES	1
Waiting List			
Sr No.	Ack.No.	Applicant Name	

Category - I (0 years experience)			
Sr No.	Ack.No.	Applicant Name	Location
1	GSH23S0120	PIO JOSE ANTONIO FURTADO	2
Waiting List			
Sr No.	Ack.No.	Applicant Name	



Drone imagery dt. 02.04.2025 of sy. no. 16/4 showing ongoing works in the property.



AREA STATEMENT

TOTAL AREA OF PLOT	= 13271.00 SQM
TOTAL AREA OF ROAD WIDENING	= 458.20 SQM
TOTAL AREA OF PLOT AFTER R/W	= 12812.80 SQM
PROP. GROUND FL. AREA SHACK AND RESTAURANT (A)	= 131.50 SQM
PROP. GROUND FL. AREA COTTAGES (B)	= 78.30 SQM
PROP. GROUND FL. AREA KITCHEN & TOILET (C)	= 45.00 SQM
PROP. GROUND FL. AREA WATCHMAN SHED (D)	= 45.00 SQM
PROP. GROUND FL. AREA STAFF TOILET (E)	= 45.00 SQM
TOTAL PROPOSED GROUND FL. AREA	= 345.80 SQM
TOTAL PROPOSED PLOT COVERAGE	= 2.73%
TOTAL PROPOSED FAR	= 9.87%

AREA CALCULATION

ITEM REF	USE	BLVA	PARK	SHAR	BAL	PORCH	ATRIUM	7.50%	TOTAL	NET FLOOR AREA
BLOCK A										
1	GR.	RES.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	131.50 SQM
BLOCK B (SHACK)										
2	GR.	RES.	78.30	0.00	0.00	0.00	0.00	0.00	0.00	78.30 SQM
BLOCK C										
3	GR.	RES.	91.00	0.00	0.00	0.00	0.00	0.00	0.00	91.00 SQM
BLOCK D										
4	GR.	RES.	45.00	0.00	0.00	0.00	0.00	0.00	0.00	45.00 SQM
BLOCK E										
5	GR.	RES.	15.00	0.00	0.00	0.00	0.00	0.00	0.00	15.00 SQM
TOTAL										
			0.00	0.00	0.00	0.00	0.00	0.00	0.00	345.80 SQM

DOOR WINDOW SCHEDULE

DOOR	WINDOW
D1-120X200	W1-600X900
D2-800X200	W2-200X200
D3-100X200	W3-100X100
D4-120X200	W4-200X100
D5-800X100	W5-100X200
D6-800X210	W6-160X200

NOTE:
 1. FURNISHING OPEN AREAS WITH KADAPPA LANTERNE OR INTERLOCKING TILES

ARCHITECT
 BARRY FERHARDES (ARCHITECT)
 COA Reg. No. CA220002722
 PLOT No. P/154, AREA 108 / 245

OWNER
 HERMITAGE BUILDERS PVT. LTD.
 For HERMITAGE BUILDERS PVT. LTD.
 Praveen Kumar
 Director

HERMITAGE BUILDERS PVT. LTD.
 PRAYA BEACH RESORT
 09, Ganga Malini, Plot 40/12, Block 'C',
 Durgam Cheruvu, Panvel, Baramulla,
 Goa. PIN-403001

REVISED DRAWING FOR PROPOSED TEMPORARY WOODEN HUTS AND SHACK IN PLOT BEARING SURVEY NO. 16/4 OF VILLAGE SERNABATIM, TALUKA SALTETE-GOIA FOR HERMITAGE BUILDERS PVT LTD PRAYA BEACH RESORT

No. G/10000/15/SHACK-HUT-(04)Tern/13-20/81/2241
 dt. 18/10/2024

