

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

Appeal No.10/2025 (WZ)

Bosco Cruz Fernandes., ... Appellant

Versus

Goa Coastal Zone Management

Authority and anr., ... Respondents

AFFIDAVIT IN REJOINDER ON
BEHALF OF THE APPELLANT TO
THE AFFIDAVIT IN REPLY DATED
03/06/2025 FILED BY THE
RESPONDENT NO.1 AND THE
AFFIDAVIT IN REPLY DATED
14/02/2025 FILED BY THE
RESPONDENT NO.2.

I, Mr. Bosco Cruz Fernandes alias Cruz Augustin
Fernandes, 60 years of age, Resident of House
No.6/172-A, Cobbra Vaddo, Calangute, Bardez, Goa,

the Appellant hereinabove, do hereby on solemn affirmation state and submit as under: -

1. I have got, read and understood the contents of the Affidavit-in-reply to the appeal dated 03/06/2025 filed by the Respondent No.1 and the Affidavit-in-reply to the appeal dated 14/02/2025 filed by the Respondent No.2 (hereinafter referred to as the "said replies" for the sake of brevity) in which affidavits the Respondent No.1 and the Respondent No.2 have made some additional statements / brought on record entirely new set of additional facts and / or set up an entirely new case which would warrant rebuttable and as such in response I crave leave to file the present Affidavit-in- Rejoinder.
2. At the outset, I deny each and every averment set out by the Respondents in the said replies, to the extent that the same are inconsistent with the case set out by this Appellant hereinbelow. I state that I am not dealing with each and every contention / averment made by the Respondents in the said replies, and the



averments/contentions which have not specifically been dealt with and / or denied by me may not be taken as having been admitted by me.



3. The Appellant herein adopts and relies on the contents of paras 1 to 27 of the present appeal and the same shall be deemed to be legally incorporated and reproduced herein for all legal purposes.

4. I say that at the outset the present appeal has been filed assailing the Impugned Direction passed by the Respondent No.1 which is entirely without jurisdiction and is contrary to the scheme and mandate of the Coastal Regulation Zone, 1991. I say that admittedly the G.S.C.C.E upon consciously applying its mind has issued the Permission dated 30/09/1994 along with the approved plan for the Ground + 2 floor structure, in which circumstances the successive authority being the Respondent No.1 could not have taken a contrary view.

5. I say that once the G.S.C.C.E had applied its mind on the issue and having issued the Permission dated 30/09/1994 pertaining to the subject structure, there was reasonable presumption of the said permission having been issued upon consideration of all the relevant factors which existed at the relevant point of time. I say that the Impugned Direction shows a complete non-application of mind on the part of the Respondent No.1, in as much as the same is reminiscent of an entirely non-speaking order which does not assign any judicious reasoning for arriving at the said conclusions.
6. I say that the Impugned Direction is entirely arbitrary, manifestly perverse and is contrary to the scheme and mandate of the Coastal Regulation Zone Notification, 1991. I say that the Survey Plan of the subject property bearing Survey No.242 sub-division 9 of village Calangute, Bardez, Goa itself indicated of several structures being shown therein, thereby warranting the proceedings to have been discharged





qua the Appellant. I say that further the Gut Book Plan and the P.T. Sheet Plan produced on record had clearly indicated of the structures being reflected thereon indicating of the same being legal and existing authorized structures.

7. I say that the non-application of mind on the part of the Respondent No.1 in passing the Impugned Direction is writ large in as much as the Impugned Direction records of the second floor of the subject structure being allegedly illegal without any justification / basis being accorded for the same. I say that evidently, the Permission dated 30/09/1994 along with the plan appended thereto which itself has been relied upon by the Respondent No.1 to discharge the proceedings qua the Appellant, pertained to the structure which comprised to be a Ground + 2 floor structure which was an existing authorized structure.
8. I say that the present common affidavit-in-rejoinder is filed rebutting the contentions raised by the Respondent No.1 vide the Affidavit-in-reply to the

appeal dated 03/06/2025 and the Affidavit-in-reply to the appeal dated 14/02/2025 filed by the Respondent No.2.

**PARA WISE REBUTTAL TO THE AFFIDAVIT-
IN-REPLY DATED 03/06/2025 FILED BY THE
RESPONDENT NO.1:-**

9. With reference to the contents of para 2 of the affidavit-in-reply dated 03/06/2025 filed by the Respondent No.1 (hereinafter referred to as the “said reply” for the sake of brevity) the same are denied.
10. With reference to the contents of para 3 of the said reply, the same are denied. It is submitted that there is no any justification accorded by the Respondent No.1 as to why the construction of the second floor of the structure ‘A’ shown in the Site Inspection Report dated 28/07/2023 could be said to be allegedly illegal. It is reiterated and maintained that Permission dated 30/09/1994 along with the plan appended thereto issued by the G.S.C.C.E pertained to the structure which comprised to be a Ground + 2



floor structure which was an existing authorized structure. It is submitted that in such circumstances, evidently the Respondent No.1 has committed a manifest and a patent error in law in passing the Impugned Direction.



11. With reference to the contents of para 4 of the said reply, the same are denied. It is submitted that the Permission dated 30/09/1994 along with the plan issued by the G.S.C.C.E evidently was a permission for carrying out repairs / renovation to the existing structure which has been governed by the mandate of Regulation CRZ-III (i) which is reproduced hereinunder:-

CRZ-III

- (i) The area upto 200 metres from the High Tide Line is to be earmarked as 'No Development Zone'. No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density. However, the following uses may be

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permissible in this zone – agriculture, horticulture, gardens, pastures, parks, playfields, forestry and salt manufacture from sea water.”

The Appellant submits that the requisite permission for such repairs / renovation was obtained in terms of the mandate of Regulation CRZ – III (i) which comprised to be the Permission dated 30/09/1994 along with the plan issued by the G.S.C.C.E / erstwhile statutory authority which functioned under the mandate of the Coastal Regulation Zone Notification, 1991.

12. With reference to the contents of para 5 of the said reply, the same are denied. It is specifically denied that there was any remote cause for the issuance of the Show Cause Notice dated 29/01/2024 to the Appellant herein. It is specifically denied that there were any alleged gross illegal construction resulting in violation of the CRZ Notifications as alleged is specifically denied.



13. With reference to the contents of para 6 of the said reply, the same is a matter of record, and the same would not warrant any comments from the Appellant.

14. With reference to the contents of para 7 of the said reply, the same are denied. I say that the so called comprehensive site inspection and plotting exercise said to have been carried out by deployment of a technical team is specifically denied. It is submitted that the Report prepared itself indicates of the same being a tentative depiction of the structures and further of the fact that the boundaries of the structures reflecting in the Survey Plan could not be ascertained at loco. It is submitted that in such circumstances, it would not lie in the mouth of the Respondent No.1 to state that the structures existing at the time of promulgation of Survey Records did not correspond and / or confirm to the structures existing in the subject property.

15. With reference to the contents of para 8 of the said reply, the same are denied. It is submitted that the



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Agreement for Sale dated 12/10/1998 clearly depicts the subject structure therein. It is submitted that the same not mentioning the exact extent / dimensions of the subject structure i.e. Ground + 2 structures would in no manner warrant any adverse inference to be drawn as against the Appellant.

16. With reference to the contents of paras 9 and 10 of the said reply, the same are denied. It is specifically denied that the Appellant has failed to produce any cogent, reliable and convincing material / documents to show that the structures identified as 'C', 'D', 'E', 'F', 'G', 'H', 'I', 'J', 'K', 'M', 'N', 'O', 'P' and 'R' and of the 2nd floor structure identified as 'A' in the Site Inspection Report dated 09/03/2023 are pre-1991 structures. It is submitted that the Survey Plan of the subject property coupled with the Gut Book Plan and the P.T. Sheet Plan would in categorical terms indicate of the structures marked at 'C', 'D', 'E', 'F', 'G', 'H', 'I', 'J', 'K', 'M', 'N', 'O', 'P' and 'R' being pre-1991 structures. It is submitted that the Permission dated 30/09/1994 along with the plan issued by the



G.S.C.C.E would indicate of the second floor of the structure identified as 'A' being legal and an authorized structure. I say that photographs cannot be remotely taken as evidence to indicate of the structures being post 1991 structures, and such an exercise is entirely alien to accepted standards of law.



17. With reference to the contents of para 11 of the said reply, the same are denied. It is specifically denied that the Impugned Order has any basis or justification for ordering demolition of the structures marked at 'C', 'D', 'E', 'F', 'G', 'H', 'I', 'J', 'K', 'M', 'N', 'O', 'P' and 'R' and the second floor of structure 'A'. It is submitted that the Impugned Order speaks for itself and the same cannot be justified by the Respondent No.1 by giving alleged reasons in the present affidavit. The Appellant submits that it is trite law that reasons which go beyond the order itself cannot be considered, and such reasons / contentions on the part of the Respondent No.1 which go beyond the Impugned Order cannot be considered.

18. With reference to the contents of para 12 of the said reply, the same are denied. It is specifically denied that the present appeal is liable to be dismissed.
19. Nothing may be deemed to be admitted for want of any specific denials on the part of the Appellant.

**PARA WISE REBUTTAL TO THE AFFIDAVIT-
IN-REPLY DATED 14/02/2025 FILED BY THE
RESPONDENT NO.2:-**

20. With reference to the contents of para 1 of the affidavit-in-reply dated 14/02/2025 filed by the Respondent No.2 (hereinafter referred to as the "said reply" for the sake of brevity) the same are denied. It is specifically denied that the appeal can in any remote manner be said to be allegedly vexatious, frivolous and misconceived in facts and law and liable to be allegedly dismissed.
21. With reference to the contents of para 2 of the said reply, the same are denied. It is specifically denied that the Appellant has constructed 14 allegedly illegal





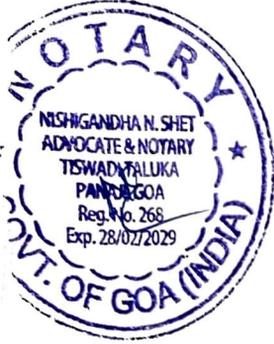
structures and other borewells in the property bearing Survey No.242 sub-division 9 of village Calangute. It is submitted that the legality of the structures which were subject matter of the proceedings before the Respondent No.1 has been clearly demonstrated by the Appellant. It is specifically denied that the Appellant is allegedly illegally draining the ground water and using the same allegedly for commercial purposes.

22. With reference to the contents of para 3 of the said reply, the same are denied. It is specifically denied that the structures have been constructed without any permission from any authority including the GCZMA. It is submitted that once the structures are deemed to be pre-1991 the requirement in the context of permission from the GCZMA would not arise. It is submitted that the Permission dated 30/09/1994 along with the plan issued by the G.S.C.C.E / erstwhile statutory authority in so far as the Ground + 2 structure was concerned has been already produced on record.

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23. With reference to the contents of para 4 of the said reply, the same are denied in the manner pleaded. It is submitted that some of the structures are temporary in nature.
24. With reference to the contents of para 5 of the said reply, the same are denied. It is specifically denied that the Appellant has cut any alleged sand dunes and allegedly levelled and filled the ground of the said property. It is specifically denied that the Appellant has allegedly felled all the alleged natural vegetation in the said property. It is submitted that the said contentions of the Respondent No.2 apart from being merely vague / baseless allegations are without any remote documentary proof adduced therein.
25. With reference to the contents of para 6 of the said reply, the same are denied. It is submitted that the perusal of the Site Inspection Report carried out by the Respondent No.1 would by itself indicate that part of the structures fall within the NDZ and the part of the structures fell within the CRZ – III zone.





26. With reference to the contents of para 7 of the said reply, the same are denied. It is specifically denied that the Appellant conducts the business of alleged hotel / guest house from the subject structures. It is submitted that the said contentions of the Respondent No.2 apart from being merely vague / baseless allegations are without any remote documentary proof adduced therein.

27. With reference to the contents of para 8 of the said reply, the same are denied. It is specifically denied that the Appellant has allegedly illegally erected alleged illegal hotel cum guest house (Ground + 2 floors) in the subject property allegedly being without any permissions and allegedly after cutting alleged sand dunes. It is submitted that the said contentions of the Respondent No.2 on the face of it appear to be mere assumptions / presumptions of the Respondent No.2.

28. With reference to the contents of para 9 of the said reply, the same are denied in the manner pleaded. It

is submitted that the contentions in the context of the filing of the Writ Petition (F) No.2462/2024 would not have any bearing on the present proceedings.

29. With reference to the contents of para 10 of the said reply, the same is a matter of record and would not warrant comments from the Appellant.

30. With reference to the contents of para 11 of the said reply, the same are denied. It is specifically denied that the Respondent No.1 did not confirm to the authenticity and veracity of the plan issued by the G.S.C.C.E. It is specifically denied that the alleged information submitted under Right to Information Act, 2005 would have any bearing on the same. It is submitted that the Respondent No.1 / Goa Coastal Zone Management has rightly considered the Permission dated 30/09/1994 along with the plan issued by the G.S.C.C.E / erstwhile statutory authority, however has erroneously held that the same would not save the 2nd floor structure. It is submitted that the perusal of the documents and the



so called RTI information said to be obtained by the Respondent No.2 would indicate of the following factual scenario:-



A) Application dated 05/02/2024 addressed by the Respondent No.2 to the Public Information Officer, Goa Coastal Zone Management Authority.

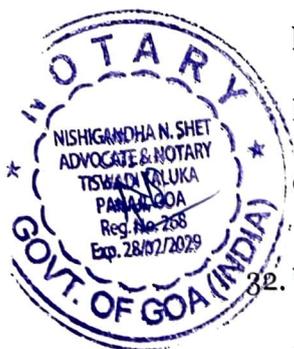
B) Goa Coastal Zone Management Authority replies vide the Reply bearing Ref. No. GCZMA / RTI / 23-24 / 01 / 4031 dated 19/02/2024 stating therein that the information pertains to the Department of Town and Country Planning and that the same stands transferred to the said department vide the Letter bearing Ref. No. GCZMA / RTI / 23-24 / 01 / 4029 dated 19/02/2024.

C) Letter bearing Ref. No. GCZMA / RTI / 23-24 / 01 / 03 dated 01/04/2024 addressed by the Goa Coastal Zone Management Authority to the Respondent No.2 stating therein that the Twon

and Country Planning Department had not provided the information to the Goa Coastal Zone Management Authority. The Respondent No.2 was further directed to prefer an appeal to the Appellate Authority in terms of the RTI Act, 2005 which is till date admittedly not preferred.

31. The Appellant submits that therefore no any certification has been granted by any authority stating therein that the information was not existing with the GCZMA or with the Town and Country Planning Authority. The Respondent No.2 appears to have clandestinely attempted to mis-interpret and misconstrue the scope of the said correspondences received by the Respondent No.2 with a malafide attempt to misguide this Hon'ble Court. It is reiterated and maintained that the Permission dated 30/09/1994 has attained finality for want of challenge. It is submitted that contentions of alleged fraud / questioning the validity of the Permission dated 30/09/1994 cannot be considered by this Hon'ble Court, in the absence of the Respondent No.4





having challenged the same before any Court of law.

It is submitted that the validity of the Permission dated 30/09/1994 is not into question at all.

32. With reference to the contents of para 12 of the said reply, the same are denied. It is specifically denied that the Appellant has used any alleged forged documents in order to protect the said structures. The said contentions apart from being frivolous are arbitrary and unjustified.

33. With reference to the contents of para 13 of the said reply, the same are denied. It is specifically denied that the finding that the structures 'A', 'B' and 'L' were pre-1991 is unfounded. It is submitted that the Respondent No.1 has upon conscious application of its mind arrived at the said findings in terms of law.

34. With reference to the contents of para 14 of the said reply, the same are denied in the manner pleaded.

35. With reference to the contents of para 15 of the said reply, the same are denied. It is specifically denied

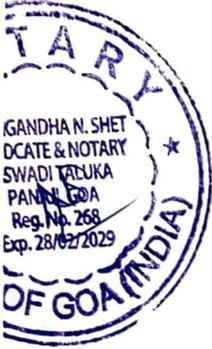
that apart from the structure 'L' all other structures are allegedly illegal and have been constructed by the Appellant without obtaining any permissions.

36. With reference to the contents of para 16 of the said reply, the same are denied. It is specifically denied that the Appellant or his predecessors were not owners of the property bearing Survey No.242 subdivision 9 of village Calangute till the year 2016. It is specifically denied that the approved plan produced on record are allegedly by fraud is specifically denied. It is further specifically denied that the Village Panchayat of Calangute has committed an alleged fraud by issuing the license in the year 2023. It is submitted that the said contentions appear to be mere bare allegations made without any remote proof adduced thereto.

37. With reference to the contents of para 17 of the said reply, the same are denied. It is specifically denied that the permissions are allegedly manufactured fraud documents and that the same cannot be



allegedly obtained by the Appellant for construction without being owners.



38. With reference to the contents of para 18 of the said reply, the same are denied. It is specifically denied that the Appellant has committed an alleged fraud on the authorities including the Respondent No.1 and that the alleged illegal structures would therefore require to be demolished is specifically denied.

39. With reference to the contents of para 19 of the said reply, the same are denied.

40. Nothing may be deemed to be admitted for want of specific denials.

41. I state that whatever has been stated in paras 1pt, 4pt, 8pt, 9, 10pt, 13, 14pt, 15, 16pt, 17, 20pt, 21pt, 23, 24, 26, 27pt, 30pt, 31, 34pt and 36pt of the affidavit-in-rejoinder are true and correct to my knowledge and the submissions contained in paras 1pt, 2, 3, 4pt, 5, 6, 7, 8pt, 10pt, 11, 12, 14pt, 16pt, 18, 19, 20pt, 21pt, 22, 25, 27pt, 28, 29, 30pt, 32, 33, 34pt, 35, 36pt, 37, 38

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and 39 of the affidavit-in-rejoinder are legal submissions which I believe the same to be true and correct.

Solemnly affirmed at Panaji

on this 12th day of July 2025

Deponent

Identified by:

(AS)
(Adv. C. Angle)

Nishant

Nishigandha N. Shet
Advocate & Notary
Tiswadi Taluka
Panaji - Goa
Reg. No. 268

SOLEMNLY AFFIRMED AND VERIFIED
BEFORE ME BY Bosco Cruz Fernon
WHO IS IDENTIFIED BEFORE ME BY
Adv. C. Angle WHOM I KNOW
SR. No. 34124 DATED 12/07/2025

