



BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

Appeal No.151/2025 (WZ)

Francisco Fernandes.,

... Appellant

Versus

Goa Coastal Zone Management

Authority and ors.,

... Respondents

AFFIDAVIT IN REJOINDER ON
BEHALF OF THE APPELLANT TO
THE AFFIDAVIT IN REPLY DATED
12/09/2025 FILED BY THE
RESPONDENT NO.1 AND THE
AFFIDAVIT IN REPLY DATED
02/08/2025 FILED BY THE
RESPONDENT NO.3.

I, Francisco Fernandes, years of age, Resident of
House No.134/A, Cobbra Vaddo, behind O Patio

Restaurant, Calangute, Bardez, Goa, the Applicant do hereby solemnly affirm and state as under:-

1. I have got, read and understood the contents of the Affidavit-in-reply to the appeal dated 12/09/2025 filed by the Respondent No.1 and the Affidavit-in-reply to the appeal dated 02/08/2025 filed by the Respondent No.3 (hereinafter referred to as the "said replies" for the sake of brevity) in which affidavits the Respondent No.1 and the Respondent No.3 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 and in the appeal. I state that I am not dealing with each and every contention / averment made by the Respondents in the said



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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 33 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 the Goa Coastal Zone Management Authority has committed a manifest and patent error in law in passing the Impugned Direction which is without jurisdiction and is contrary to the scheme and mandate of the Coastal Regulation Zone, 1991. I say that the G.S.C.C.E has in fact consciously applied its mind and has proceeded to issue the Permission dated 21/06/1994 along with the approved plan for



the Ground + 3 floor structure. I say that the once the predecessor authority has consciously applied its mind and has issued the Permission dated 21/06/1994 along with the approved plan for the Ground + 3 floor structure, 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 has issued the Permission dated 21/06/1994 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.



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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 further the Gut Book Plan had also clearly reflected of the subject structure being clearly shown as being reflecting therein. I say that in fact the Permission dated 21/06/1994 along with the approved plan had been issued by the statutory authority more than 30 years back at a time when there was no Goa Coastal Zone Management Authority (GCZMA) or the Goa Panchayat Raj Act, 1994 in force.



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 adverse directions for demolition being blanketly issued by the Respondent No.1 without according any remote reasons for the same. I say that the Respondent No.1 appears to have not accorded any remote reasoning for arriving at the

conclusions as to how the subject structures could be considered to be allegedly illegal / unauthorized and further of the same offending the mandate of the Coastal Regulation Zone Notification, 1991.

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 12/09/2025 and the Affidavit-in-reply to the appeal dated 02/08/2025 filed by the Respondent No.3.

**PARA WISE REBUTTAL TO THE AFFIDAVIT-
IN-REPLY DATED 12/09/2025 FILED BY THE
RESPONDENT NO.1:-**

9. With reference to the contents of para 2 of the affidavit-in-reply dated 12/09/2025 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



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is no any justification accorded by the Respondent No.1 as to why the Permission dated 21/06/1994 along with the approved plan issued by the G.S.C.C.E could be discarded by the Respondent No.1. I say that statutory permissions were produced on record before the Respondent No.1 which have been given a complete go by by the Respondent No.1. I say that once the G.S.C.C.E had applied its mind on the issue and has issued the Permission dated 21/06/1994 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.

11. With reference to the contents of para 4 of the said reply, the same are denied. It is submitted that the Appellant in fact had produced the private Surveyors Report dated 11/09/2023 prepared by a Private Surveyor Mr. Haresh Parab which clearly indicates of the property bearing Survey No.238 sub-division 1-A of village Calangute, Bardez, Goa falling out of the



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CRZ – III zone. It is submitted that the said Private Surveyors Report dated 11/09/2023 has not even been referenced to in the Impugned Direction, on which count along the Impugned Direction would deserved to be quashed and set aside.

12. With reference to the contents of paras 5, 6 and 7 of the said reply, the same are denied. It is submitted that the Respondent No.1 was devoid of jurisdiction to consider the complaint dated 14/09/2022 on the face of it and proceed to issue the Show Cause Notice dated to the Appellant herein. It is specifically denied that there were any alleged violation of the CRZ Notifications, which would warrant any Site Inspection to be carried out by the Respondent No.1.

13. With reference to the contents of para 8 of the said reply, the same are denied. It is submitted that the Appellant in addition to the contention about the structure being pre-1991 had taken multiple grounds before the Respondent No.1. It is submitted that the own contentions of the Respondent No.1 would



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indicate that the authenticity / genuineness of the Permission dated 21/06/1994 along with the approved plan issued by the G.S.C.C.E had not been disputed by the Respondent No.1. It is specifically denied that the said approval did not indicate / establish of any proof that the structures were pre 1991 constructions. It is submitted that despite the statutory documents indicating of the said fact, the same is sought to be displaced by a mere vague averment.



14. With reference to the contents of para 9 of the said reply, the same are denied. It is submitted that the Deed of Sale dated 28/01/2009 in any event clearly indicated of the title of the property bearing Survey No.238 sub-division 1-A of village Calangute, Bardez, Goa being vested with the Appellant herein. It is submitted that a private document cannot be said to have precedence over public documents issued by statutory authorities which clearly indicated of the legality / authorization of the subject structure. It is submitted that the presumption created by a

statutory document cannot be displaced by a mere private document executed between the parties.

15. With reference to the contents of para 10 of the said reply, the same are denied. It is specifically denied that the Appellant had failed to produce any documents on record to indicate of the structure being a pre 1991 structure. It is submitted that a perusal of the Permission dated 21/06/1994 along with the approved plan issued by the G.S.C.C.E would clearly indicate of the same being issued in respect of an existing authorized structure. It is submitted that further the document at page 156 of the appeal memo i.e. Certificate bearing Ref. No. V.P / Cal / F-68 / 23-24 / 6005 dated 19/02/2024 issued by the Village Panchayat of Calangute, Bardez, Goa clearly indicates of the House No.134 being registered with the records of the Village Panchayat since the year 1971. It is submitted that the said document had clearly established of the subject structure being a pre-1991 structure. I say that apart from the above, the Appellant has filed an application for production of



documents dated 15/09/2025 by which the Appellant has sought to produce on record Approved plan approved by the Member Secretary, North Goa Planning and Development Authority, Panaji vide the approval dated 28/10/1988 which clearly indicates of the subject structure having been duly constructed in terms of law. The Appellant has also sought to produce on record the P.T. Sheet Plan No.18 dated 03/02/1994 and the P.T. Sheet Plan dated 14/07/2003 which also clearly reflects of the subject structure being shown therein. In fact, the Respondent No.1 has not even filed a reply to the application for production of documents dated 15/09/2025 filed by the Appellant.

16. With reference to the contents of para 11 of the said reply, the same are denied. It is specifically denied that the present appeal would even remotely warrant dismissal. It is submitted that the Appellant has made out credible grounds which warrant consideration in the exercise of statutory appellate powers being conferred upon this Hon'ble Court.



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17. 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 02/08/2025 FILED BY
THE RESPONDENT NO.3:-**

18. With reference to the contents of para 1 of the affidavit-in-reply dated 02/08/2025 filed by the Respondent No.3 (hereinafter referred to as the "said reply" for the sake of brevity) the same are denied.
19. With reference to the contents of para 2 of the said reply, the same are denied. It is specifically denied that the subject structure is situated in CRZ limits as stated by the Respondent No.3. It is submitted that the said alleged presumption in fact has been displaced by the Appellant by relying upon the private Surveyors Report dated 11/09/2023 prepared by a Private Surveyor Mr. Haresh Parab which clearly indicates of the property bearing Survey No.238 sub-division 1-A of village Calangute, Bardez, Goa falling out of the CRZ – III zone. It is submitted that the



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A) With reference to the contents of para 5 sub-bullet point (1) and (2) of the said reply, the same are denied. It is submitted that the Permission dated 21/06/1994 along with the approved plan has been issued by the G.S.C.C.E which is a statutory body which preceded the Goa Coastal Zone Management Authority / Respondent No.1. I say that the G.S.C.C.E has in fact consciously applied its mind and has proceeded to issue the Permission dated 21/06/1994 along with the approved plan for the Ground + 3 floor structure. I say that the once the predecessor authority has consciously applied its mind and has issued the Permission dated 21/06/1994 along with the approved plan for the Ground + 3 floor structure, the successive authority being the Respondent No.1 could not have taken a contrary view. I say that the RTI reply in no manner indicates of the Permission dated 21/06/1994 not forming part of any statutory authority.

B) With reference to the contents of paras 5 sub-bullet point (3) and (4) of the said reply, the same are



denied. It is specifically denied that the Permission dated 21/06/1994 pertains to the subsequently partitioned property bearing Survey No.238 sub-division 1-A of village Calangute, Bardez, Goa. It is submitted that the bare perusal of the Permission dated 21/06/1994 along with the approved plan would indicate that the same pertaining to the larger property as it existed at the relevant point in time bearing Survey No.238 sub-division 1 of village Calangute, Bardez, Goa.



- C) With reference to the contents of paras 5 sub-bullet point (5) of the said reply, the same are denied. It is submitted that the Respondent No.3 appears to have entirely misconstrued / mis-interpreted the scope and nature of the Coastal Regulation Zone, 1991. It is submitted that the Permission dated 21/06/1994 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

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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 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 21/06/1994 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. I say that the contentions of the



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Respondent No.3 about only Ground + 1 being permitted and / or 33% of the plot size restriction would accordingly not apply in respect of the Permission dated 21/06/1994 along with the plan issued by the G.S.C.C.E which is issued only for repairs / renovation in terms of the Coastal Regulation Zone, 1991.

D) With reference to the contents of para 5 sub-bullet point (6) of the said reply, the same are denied. It is submitted that the said contention of the Respondent No.3 would be entirely irrelevant in the context of the present proceedings which are instituted under the Environment Protection Act, 1986 and the rules therein.

E) With reference to the contents of para 5 sub-bullet point (7) of the said reply, the same are denied. It is specifically denied that the Permission dated 21/06/1994 along with the plan issued by the G.S.C.C.E does not form part of the records. It is submitted that a statutory document cannot be



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discarded merely because a public authority cannot trace the same. In the eventuality the said contention of the Respondent No.3 is considered, the legality of old structures could not be proved at all.

F) With reference to the contents of para 5 sub-bullet point (8) of the said reply, the same are denied. It is submitted that the said contention of the Respondent No.3 would be entirely irrelevant in the context of the present proceedings which are instituted under the Environment Protection Act, 1986 and the rules therein.

23. With reference to the contents of para 6 of the said reply, the same are denied. It is specifically denied that the House No.134 and 134/A are not the same structures. It is submitted that the Certificate bearing Ref. No. V.P / Cal / F-68 / 23-24 / 6005 dated 19/02/2024 issued by the Village Panchayat of Calangute, Bardez, Goa clearly indicates of the House No.134 and House No.134/A being the same house and of the same being registered with the records of



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the Village Panchayat since the year 1971. It is submitted that the said document had clearly established of the subject structure being a pre-1991 structure. It is submitted that in the absence of any challenge to the Certificate dated 19/02/2024 issued by the Village Panchayat of Calangute, Bardez, Goa, there would arise no occasion for the Respondent No.3 to question the authenticity of the same.

24. With reference to the contents of para 7 of the said reply, the same are denied.

A) With reference to the contents of para 7 (a) of the said reply, the same are denied. It is specifically denied that any alleged reliance can be placed upon the Deed of Sale dated 28/01/2009 to hold of the subject structure being allegedly illegal. It is submitted that a private document cannot be said to have precedence over public documents issued by statutory authorities which clearly indicated of the legality / authorization of the subject structure.



- B) With reference to the contents of para 7 (b) of the said reply, the same are denied.
- C) With reference to the contents of para 7 (c) of the said reply, the same are denied. It is specifically denied that Partition proceedings could be said to have any bearing to indicate of the legality of a structure in the context of the Environment Protection Act, 1986.
- D) With reference to the contents of para 7 (d) of the said reply, the same are denied. It is specifically denied that the House Tax Records can in any manner be questioned by the Respondent No.3 which are issued by the Village Panchayat of Calangute, Bardez, Goa being a statutory public authority.
25. With reference to the contents of paras 8 and 9 of the said reply, the same are denied. It is specifically denied that the DSLR / GCZMA plan dated 07/02/2006 pertains to the property bearing Survey No.238 sub-division 1-A of village Calangute, Bardez, Goa or that the same has any relevance qua the present proceedings.

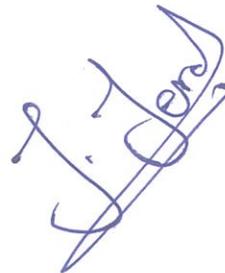


26. With reference to the contents of paras 10 and 11 of the said reply, the same are denied. It is specifically denied that the subject property along with the subject property were never purchased by the Appellant. It is submitted that the said contentions of the Respondent No.3 are without any basis or credence.

27. With reference to the contents of paras 12 and 13 of the said reply, the same are denied.

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

29. I state that whatever has been stated in paras 1pt, 3pt, 8pt, 9, 10pt, 11pt, 12, 13pt, 14pt, 15pt, 18, 19pt, 20, 21pt, 22pt, 23, 24pt and 26 of the affidavit-in-rejoinder are true and correct to my knowledge and the submissions contained in paras 1pt, 2, 3pt, 4 to 7, 8pt, 10pt, 11pt, 13pt, 14pt, 15pt, 16, 17, 19pt, 21pt, 22pt, 24pt, 25, 27 and 28 of the affidavit-in-rejoinder are legal submissions which I believe the same to be true and correct.



Solemnly affirmed at Mapusa

on this 1st day of November 2025

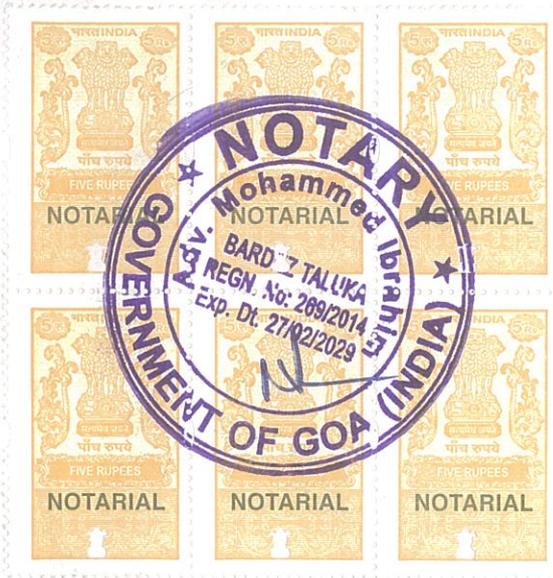
Deponent

**Solemnly affirmed
Before me**

I hereby attest the signature / thumb
Impression of:- *Mr Francis
Salvador Francisco*

Who is / are identified by self by producing
Original *Adhar No. 3523
2315 9683*

which is / are returned to the Presenter on
verification.



Adv. Mohammed Ibrahim
Notary Bardez (Taluka).

State of Goa, India. - 1 NOV 2025

Regn. No. 4490 Date