



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

APPEAL No.32/ 2023

IN THE MATTER OF:

LAWERANCE FERNANDES

.... APPELLANT

Versus

GOA COASTAL MANAGEMENT AUTHORITY
and Ors

... RESPONDENTS

AFFIDAVIT IN REJOINDER ON BEHALF OF APPELLANT TO THE
AFFIDAVIT IN REPLY OF THE RESPONDENT NO 1 & 3

I **Lawrence Fernandes**, Son of Anton Fillipe Fernandes, aged _____ Years, Indian national, the Appellant above named, residing at H. No. 108, Sernabatim, Ambeaxir, Colva Salcete South Goa, do hereby solemnly affirm and say as under:

1. I state that I am authorised to file the present Affidavit in rejoinder. I state that I am filing the present Affidavit in Rejoinder pursuant to the Affidavit in reply dated 09/05/2024 filed by Respondent no.1 & Respondent no.3(herein after referred as **said Affidavit**).
2. I state that I have read the present Affidavit in Reply filed by the Respondent No.1 and 3 and I am competent to depose as to the

rejoinder on behalf of the Appellant. I state that I am filing the present Affidavit in rejoinder as a counter to the Affidavit in reply filed by the Respondent no. 1 and 3. I state and reiterate whatever has been stated in the aforementioned Appeal and deny anything contrary thereto. I state that at the moment I am not dealing with each and every contention/ averment raised in the Affidavit in reply by the Respondent No. 1 and 3. I state that the contention which are not specifically dealt with, by me may not be deemed to be admitted by me. I state that the contents of the paragraphs which are not specifically dealt with may be deemed as denied.

REJOINDER TO THE AFFIDAVIT IN REPLY DATED
09/05/2024 ON BEHALF OF RESPONDENT NO.1

3. With respect to para 1 of the Affidavit in Reply on behalf of the Respondent no.1 the content of the same are denied.
4. With respect to para 2, 3 & 4 of the Affidavit in Reply on behalf of the Respondent no.1 the content of the same are denied to the extent the same are contrary to whatever has been stated herein above. The Appellant states that the subject matter of the present appeal is the House no.108 in survey no. 12/3 of Village Sernabatim, which is declared to be mundkarial house by the Mamlatdar, who is authority under the Goa Daman Diu



Mundkar (Protection from Eviction) Act, 1975 seeking vide its order dated 30/06/2017. The Appellant states that the Mamlatdar, has declared the mother of the Appellant as declared Mundkar of the House no. 12/3 of the Village Sernabatim. It is respectfully submitted that the notwithstanding the Sale Deed, right of the Mundkarship is inheritable and the Appellant became the Mundkar of the said House by virtue of his mother. The Appellant respectfully submits that the once the dwelling house is declared to be Mundkars, then existence of the house is construed to be exiting since the year 1971 and therefore the ownership declaration the legality or illegality of the structure and the Sale deed is of no consequence. The Appellant states that the Deed of Sale dated 03/07/2011 also mentions that the previous owner has sold the property to the mother of the Appellant and further acknowledges that the Appellants mother Mrs. Isabella Fernandes as Mundkar of the dwelling house no. 108 in Survey no. 12/3 of Village Sernabatim and further refers that the Mundkarship Claim shall be filed by Mrs. Isabella Fernandes(mother of the Appellant).

5. With respect to para 5,6,7 & 8 of the Affidavit in Reply on behalf of the Respondent no.1 the content of the same are denied. It is



respectfully submitted that the declaration of Mundkarial House under the Mundkar Act is statutory declaration and cannot be questioned unless the same is set aside. In the present case the House no.108 in Survey no.12/3 is declared to be mundkarial House.

**REJOINDER TO THE AFFIDAVIT IN REPLY DATED
09/05/2024 ON BEHALF OF RESPONDENT NO.3**

6. With respect to para 1, 2 and 3 of the Affidavit in Reply on behalf of the Respondent no.3 the content of the same are denied to the extend the same are contrary to whatever that has stated herein.
7. With respect to para 4 of the Affidavit in Reply on behalf of the Respondent no.3 the content of the same are denied to the extend the same are contrary to what ever that has been stated herein. The Appellant has produced the order declaring the mother of Appellant as Mundkar under the Goa Damn and Due Mundkar Act by the Mamlatdar of the dwelling house bearing no.108 in survey no. 12/3 of the Village Sernabatim.



8. With respect to para 5 and 6 of the Affidavit in Reply on behalf of the Respondent no.3 the content of the same are denied. It is respectfully submitted that Ms. Isabella Fernandes has filed an application before the Mamlatdar seeking declaration of Mundkarship with respect to house no.108 of Survey no.12/3 of village Sernabatim. I deny each and every documents produced by the Respondent no.3 and contents thereof.

9. With respect to para 7 of the Affidavit in Reply on behalf of the Respondent no.3 the content of the same are denied. It is once again reiterated that there is an order of declaration under section 8 of the Mundkar Act which is a statutory declaration by the competent authority declaring the mother of the Appellant as the Mundkar of the house no.108 in survey no.12/3 of village Sernabatim.

10. With respect to para 8 of the Affidavit in Reply on behalf of the Respondent no.3 the content of the same are denied to the extend the same is contrary to what ever that has been stated herein. The said contents of the report are denied by the Appellant as the Appellant is not even party nor any notice has



been issued to the Appellant. It is respectfully submitted that the deputy collector has in fact held back that Mrs. Isabella Fernandes is declared to be the Mundkar of house no.108 in survey no.12/3 in village Sernabatim. The only aspect the Deputy collector has observed is that the Ld. Mamlatdar has erred in deciding the possession of the dwelling house as on the appointed date. The Appellant respectfully submits that the Ld. Deputy collector has not question the judgement of the mamlatdar as regards to the declaration of Mundkarship. Therefore, it is respectfully submitted that the mother of the appellant is declared Mundkar of house no.108 in survey no.12/3. Furthermore, the deputy collector has only suggested that the said Mundkar case can be reverted to the Appellate court. The Appellant respectfully submits that no appeal was filed by any party to the proceedings against the order dated 30/06/2017 passed by the Ld. Mamlatdar, and the Dy Collector has not set aside and has only submitted the report. The Appellant states that there is no power vested in the Deputy Collector other than the Appellate power to be exercise under Section 24 of the Mundkar Act. The Appellants respectfully submit that Section 24 of the Act provides for Appeal against the order of declaration and it is only under this provision under



the Act that the Appellate power can be exercised by the Deputy Collector other than that there are no powers vested in the Deputy collector under the Mundkar Act and therefore the report prepared by the Deputy collector is without jurisdiction and completed nullity. The Appellants state that even otherwise the revisional power under the Act is vested with the Administrative Tribunal and in the present case same has not been exercised. Therefore, the contention of the Respondent No.3 is based on frivolous ground and misconceived in law.

11. With respect to para 9, 10 11 and 12 of the Affidavit in Reply on behalf of the Respondent no.3 the content of the same are denied. The Appellant states that the Appellant has been declared as a Mundkar of house no.108 in survey no.12/3 which is a statutory declaration under the beneficial legislation. The statutory declaration under the Mundkar Act which is a beneficial legislation shall always prevail over the documents maintained by the Panchayat.

12. With respect to para 13 ,14,15,16 & 17 of the Affidavit in Reply on behalf of the Respondent no.3 the content of the same are denied. The Appellant states that the Dy collector has not set



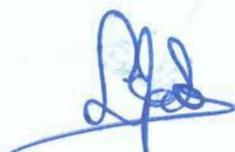
aside/order for deciding the matter afresh but has only prepared a report. The Appellant respectfully submits that no appeal was filed by any party to the proceedings against the order dated 30/06/2017 passed by the Ld. Mamlatdar, and the Dy Collector has not set aside and has only submitted the report. The Appellant states that there is no power vested in the Deputy Collector other than the Appellate power to be exercised under Section 24 of the Mundkar Act. The Appellants respectfully submit that Section 24 of the Act provides for Appeal against the order of declaration and it is only under this provision under the Act that the Appellate power can be exercised by the Deputy Collector other than that there are no powers vested in the Deputy collector under the Mundkar Act and therefore the report prepared by the Deputy collector is without jurisdiction and completely nullity. The Appellant states that as stated above that the Appellant was neither heard nor any notice was issued to the Appellant therefore the order issued under the Mundkar act cannot be questioned unless the same has been set aside by the Appellate court in an Appeal.

13. With respect to para 18 a, b, c, d, e and f of the Affidavit in Reply on behalf of the Respondent no.3 the content of the same



are denied. The Appellant states that as stated above the structure of the Appellant which is the subject matter of the preset appeal is declared mundkarial house under the Goa Daman and Diu Mundkars (Protection from Eviction) Act 1975 . it is denied that the structure constructed is illegal and unauthorised structure. It is specifically denied that in PT Sheet No.11 of Sernabatim village the legend shows that the buildings shown on beige mapped in 2006 were new buildings and further large extensions in orange colour between 2006 and feb2022 carried out buy J. B. Guest house without any permission.

14. With respect to para 19 of the Affidavit in Reply on behalf of the Respondent no.3 the contents on the same are denied. The Appellant states and reiterates that the Deputy Collector in his report dated 18/01/2019 has only suggested for reverting the case back to the Trial Court without any decision on the same. However, the Appellant denies the contents of the Report more particularly as the Appellant nor his mother were issued any notice or afforded any opportunity of hearing before passing the order. The Appellant states that a statutory declaration under



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Mundkarship cannot be set aside based on documents or report.

15. With respect to para 20 of the Affidavit in Reply on behalf of the Respondent no.3 the contents on the same are denied.

16. With respect to para 21(i) and (ii) of the Affidavit in Reply on behalf of the Respondent no.3 the contents on the same are denied. The Appellant states that the respondent no.3 has stated a concocted story ignoring the order of mamlatdar declaring Mundkarship of Mrs Isabella Fernandes. The Appellant states that as stated in the Appeal there is a judgement dated 30/06/2017 of the Ld. Mamlatdar being an authority of the Mundkar Act declaring the Mother of the Appellant as Mundkar of the dwelling house bearing 108 in survey no.12/3 of Village Sernabatim, Salcette Taluka which is a statutory declaration and cannot be questioned on the basis of concocted story of the Respondent No.3. The Appellant states that the said order has attained finality declaring Mrs. Isabella Fernandes as the Mundkar of the house No.108 in survey no.12/3. Therefore, the Respondent No.3 contention alleging the house to be illegal is baseless and frivolous.



17. With respect to para 22 of the Affidavit in Reply on behalf of the Respondent no.3 the contents on the same are denied.

18. With respect to paras referred as grounds (a) to (g) the contents of the same are denied as the same are baseless and frivolous contentions.

19. With respect to para 28 of the Affidavit in Reply on behalf of the Respondent no.3 the contents on the same are denied and the Respondent No.3 has raised false please to misguide and misrepresent this Hon'ble Tribunal.

20. In view of above conspectus, the Appellant respectfully states and submit that the Impugned direction dated 11.10.2022 issued by the Respondent no.1 may be quashed and set aside.

21. I state that whatever has been stated herein above, is true to my own knowledge and based on the documents with the Appellant; and the contents of the same which I believe to be true and correct, and some are based on the Legal submission which I believe to be true and correct.

Solemnly affirmed at ^{Margao} ~~Panaji~~, Goa
on this ¹⁵ 06 day of August 2025.

DEPONENT

Identified by me:

P.T.O. Mr

Solemnly affirmed before me by

Mr. Lawrence Fernandes

who is identified by

Aadhaar Card No 5449 7979 8888

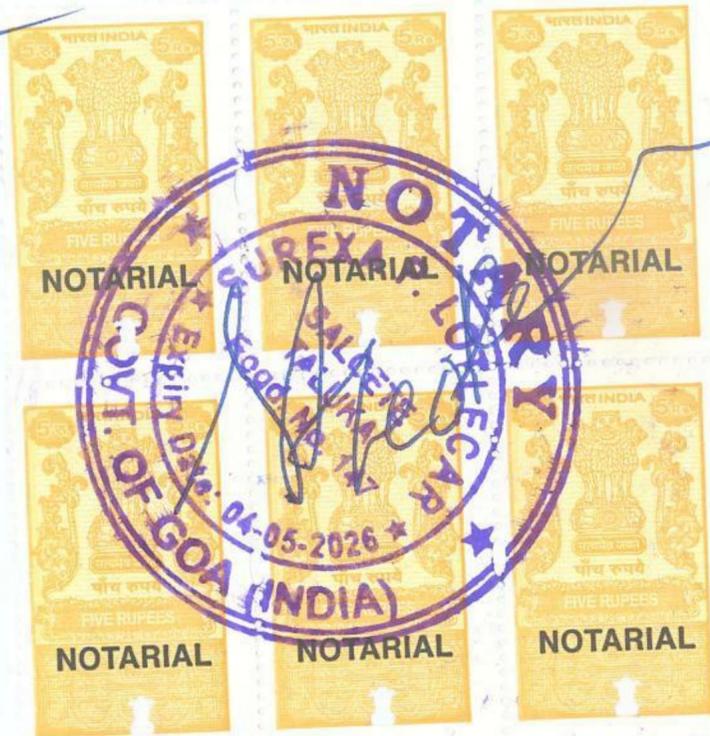
to whom I personally know

Reg No. 8120 | 2025

Date: 06 | 08 | 2025

Holder

SUREXA P. LOTLECAR
NOTARY MARGAO
SALCETE TALUKA
STATE OF GOA (INDIA)



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