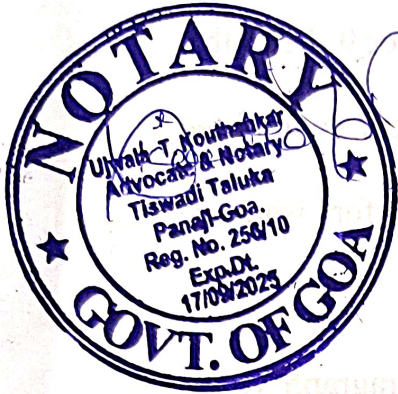


**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH AT PUNE**

*(Under Section 14 of the National Green Tribunal Act,  
2010)*



Original Application No. 72/2023

**BETWEEN:**

Mr. Swapnesh Sherlekar & anr                      ...Applicants

Versus

State of Goa and 7 Ors                              ...Respondents

**AFFIDAVIT IN REJOINDER**

I, Shri. Swapnesh Sherlekar, S/o. Late. Shri. Bhanudas Anant Sherlekar, 39 years of age, R/o. H. No. 284, Shirodwadi, Mulgao, Bicholim-Goa, the Applicant no.1 herein, do hereby state on oath and solemnly affirm as under:

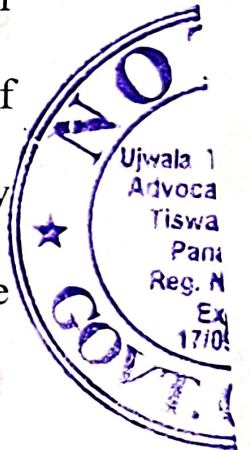
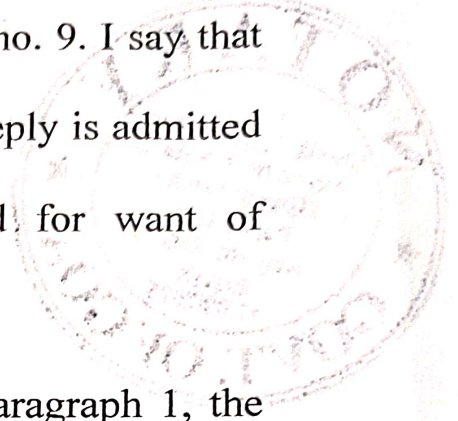
1) I have read and understood the contents of the Affidavit in reply of the Respondent no. 9 and in reply thereto state and submit as under;

2) I deny all and singular averments in the said affidavit in reply of respondent no. 9. I say that nothing in the said affidavit in reply is admitted or be deemed to be admitted for want of specific denial.

3) With reference to contents of paragraph 1, the same is specifically denied. I specifically deny that the present application is false and frivolous and misleading. I say that the Review Committee has clearly admitted that their constitution was solely for the purpose of reviewing provisionally identified survey numbers by the Thomas and Araujo Committee (hereinafter T&A).

4) I say that the Terms of Reference of the SGFDC (Araujo Committee) were as follows

“2.2.1. The Committees shall identify the balance areas of private forests in North Goa Forest Division and South Goa Forest Division,

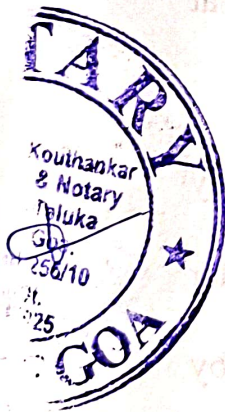


respectively that have not been covered by the Sawant Committee Report and Karapurkar Committee Report.

2.2.2. The Committees shall locate the private forests on ground individually, and judge them ocularly in conformation with crop composition (75% or more of the trees to be of forest nature) and canopy density (0.4 or more).

2.2.3. The DSLR/Revenue Officer shall immediately estimate, through the Land Surveyors, the geographical areas of such forests.

2.2.4. If such forests are found to be satisfying the three criteria (i.e. geographical area 5 Ha. or more if not contiguous to Government forests, crop composition of 75% or more trees of forest species and canopy density 0.4 or more) by the Committees, the DSLR & Revenue Officers shall get such identified private forests surveyed, plotted them on the map and incorporated them in the plans of the respective Survey Numbers.



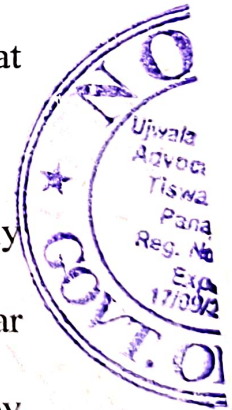
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2.2.5. For enabling this, the respective District Collectors, in coordination with the Director of Settlement and Land Records, shall depute a team of necessary and sufficient number of field surveyors to be at the disposal of the DSLR's officers in the Committees.

2.2.6. The Committees shall demarcate such identified private forests from the non-forest area on the ground by pegs and on the maps as well.

2.2.7. The Committees shall submit their monthly progress report to the Additional Pr. Chief Conservator of Forests, in the format at Annexure 1 therein.

2.2.8. As soon as private forests is finally identified (demarcated with pegs) in a particular Survey Number, the same shall be intimated by the Committees to DCF (working plan) and upon receiving such intimation, the DCF (WP) shall immediately take steps to fix boundary stones around such private forest.



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5) I say that in addition to the abovementioned terms of reference, the South Goa Forest Division Committee also formulated certain guidelines/methodology to perform the task of identification of private forests, which are as under:

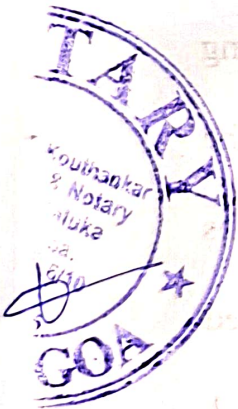
2.3.1. Stage I ocular estimation for locating prospective/potential forests,

2.3.2. Stage II demarcation of the forest patch on the ground by a two meter

Wide boundary line, and survey to prepare the map/plan; and

2.3.3. Stage III where petitions of the stakeholders, and any other issues were decided and the plan identifying private forests was finalized, and intimated to the appropriate authorities.

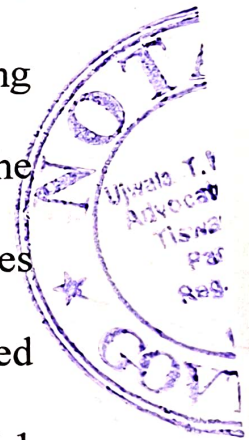
2.3.4. Identification is concluded on incorporating the private forests in the Revenue records.



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6) I say that Paragraph 2.3.8 of the final report produced by the SGFDC, it has been clearly stated that for the purpose of ocular estimation, "The committee had to physically visit the areas where it had information about patches of private forests existing; observe that the crop composition and the canopy density were meeting the criteria; and then record the survey numbers, which could be correlated to the ground features as per the plans available, and as far as it was possible to see".

7) I say that Paragraph 6 of the said final report of the SGFDC, stated that the committee during the five years made 72 field visits, during the time it has done ocular estimation of the patches of forests, and over 96 villages were visited amongst 6 talukas, and further in Paragraph 6.1 the list of survey numbers comprising of prospective forests along with the GPS reading was given, which list included survey no. 194 of Village Sancoale of Mormugao Taluka. Further paragraph 6.2.1 of the said final report provided



for list of finally identified private forests and present said property under consideration was forming a part of the Sancoale patch 4.

8) I say that further paragraph 6.3.6. of the said final report provides for area statement of the private forest, in respect of survey no. 194/1 and its sub-divisions i.e. 194/1-A, thereby classifying clearly the entire area of the said survey numbers and the area under private forest.

9) With reference to contents of paragraph 5, the same is specifically denied and the respondent no. 9 is put to strict proof thereof. I specifically deny that the present applicant is trying his level best to mislead this Hon. Tribunal by not placing before it the correct facts. I add and say that the respondent no. 9 cannot term the methodology adopted by the SGFDC as being arbitrary and unscientific as the same was based on ocular estimation which included field visit and survey.



10) With reference to contents of paragraph 7 of the said reply, this Hon. Court has clearly in Paragraph 91 of its Judgment dated 12/09/2023 passed in Misc.Appl. No. 3/2023 in O.A. No. 478/2018, has directed that, "we are of the view that in order to take extreme precaution that no one suffers on account of errors in identification of the private forest area, the areas, which were finally identified as private forest area by the T&A Committees, if any area out of that is required to be excluded as per Review being made by RC-II, the said area should be got verified physically with respect to all three criteria laid down for determination of the private forest cited above by us".

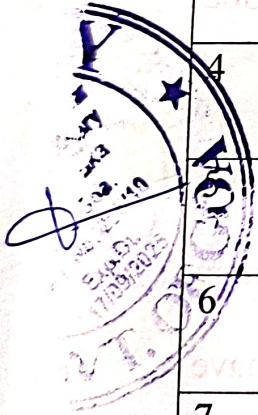
11) With reference to contents of paragraph 8, 9, 10, 11 and 12 of the said reply, the submissions are clearly misleading and wrong interpretation of the order of this Hon'ble Tribunal.

12) I say that 8.64 sq.km of finally identified area by T&A committee does not comprise 550



survey nos. The SGFDC finally identified 5.38 Sq.km itself comprised to 558 survey nos. A tabular representation from tables at para 6.3 of the SGDFC Report is transcribed below;

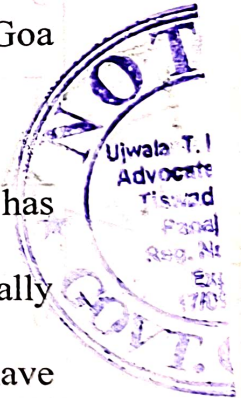
Sr. No.	Patch No.	Total Survey Nos
1	6.3.1 Cortalim Sancoale Patch I	
1.1	Sancoale	50 Nos
1.2	Cortalim	57 Nos
2	6.3.2 Cortalim Patch II	28 Nos
3	6.3.3 Cortalim Patch III	22 Nos
4	6.3.4 Sancoale Patch II	30 Nos
5	6.3.5 Sancoale Patch III	217 Nos
6	6.3.6 Sancoale Patch IV	57 Nos
7	6.3.7 Dabolim Patch III	19 Nos
8	6.3.8 DLF	07 Nos
9	6.3.9 Dabolim Patch I	15 Nos
10	6.3.10 Dabolim Sancoale Patch II	



10.1	Dabolim	19 Nos
10.2	Sancoale	9 Nos
11	6.3.11 Dabolim Patch IV	28 Nos

13) The table at para 6.3 of the SGDFC Report for Cortalim-Sancoale Patch I doesn't have the serial number column which has been manually counted by the Applicant and found to be 107 survey nos. The total cumulative survey numbers are 558 nos. admeasuring to 5.38 Sq.km, which are much higher than the claimed survey number of 550 nos. for entire Goa admeasuring 8.64 Sq.km.

14) I say that the Respondent No. 9 has underreported the survey numbers of the finally identified areas by T&A Committee and have excluded many areas which were finally identified as Private Forest by T&A committee from the scope of the review of RC-II including survey number 194/1-A admeasuring 1,88,756 Sq.mts as recorded in SGDFC Report.

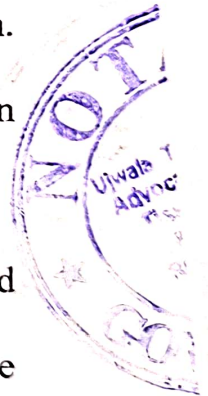


15) I say that if at all the Respondent No. 9 was unclear on the directions issued by this Hon'ble Court, they should have approached this Hon'ble Court for clarification. The ToR for RC-II clearly stated that the committee was appointed to review only the provisionally identified private forest areas earlier identified by T&A Committee measuring to 23.36 Sq.km. The RC-II not just expanded their scope to additionally review the finally identified areas earlier finalized by T&A Committee measuring to 8.64 Sq.km (total 32 Sq.km.) but chose to review three folds more area to an extent of 91.38 Sq.km. I say that it is surprising to see that the RC-II whose scope was limited to reviewing 23.36 Sq.km only, happily agreed to review 91.38 Sq.km. But when this Hon'ble Tribunal directed the respondent no.9 to review only the finally identified survey nos. by T&A Committee, the same RC-II committee refuses to comply with the order with regard to 281 survey nos. finally identified by the T&A



Committee, which according to the review committee was already reviewed by them prior to the judgement passed by this Hon. Court which includes survey no. 194 & 194/1-A of village Sancoale, which is the subject matter of the present application. These survey nos have been finally indentified as private forests by the T & A committee. In the vent the review committee was of the view that some survey nos need to be excluded as they do not qualify as forests based on the laid down criteria, they ought to have carried out a physical survey and ground trothing as directed by this Hon. Tribunal in its order dated 12/09/2023 passed in O.A. 478/2018.

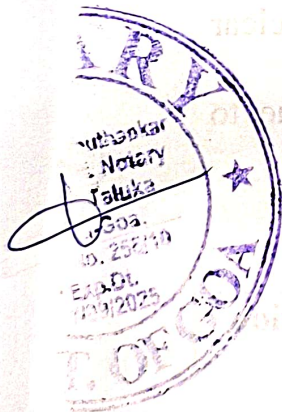
16) The direction of the Hon'ble Court dated 12/09/2024 at para 91 was clear that all the areas which were finally identified as Private Forest is to be reviewed by RC-II and the exercise shall be completed within three months of uploading of the order. The Note to sought directions from the State Government and the



legal advice of the Ld. AG was prepared on 19/10/2023 that is more than one month after the order. The direction from the Government was passed on 07/12/2023, that is just one week before the expiry of the timeline as mentioned in the order.

17) The Legal Opinion by the Ld. Advocate General came on 15/01/2024 that after more than one month from the expiry of the timeline as allotted in the order with an opinion that appropriate application for condonation of delay and extension of time may also be filed before the Hon'ble NGT to seek time to complete the exercise. This is a clear indication that the Ld. AG and so also the Government was not appraised by the RC-II that the exercise for review as per their convenience of only the remaining 269 survey nos. were concluded way back on 29/11/2023.

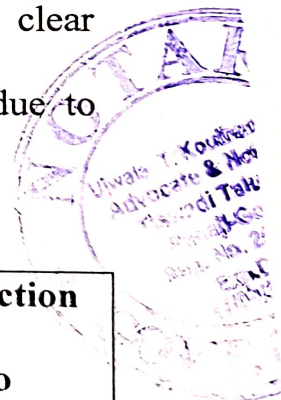
18) I say that the 7<sup>th</sup> Part Final Report which is largely based for the finally identified private forest areas by T&A Committee was signed-off



on 29/11/2023. This clearly indicates that the RC-II had predetermined not to review the previously reviewed survey nos. amounting to 271 nos.

19) I say that the RC-II didn't even correctly report the findings as recorded in the 7<sup>th</sup> part final report to the Government and the Ld. AG. The effect of the exercise conducted as per the direction of the Hon'ble Court's order can clearly be seen in the findings of the RC-II recorded in the 7<sup>th</sup> Part Final Report. The summary, as tabulated below, of all the published 7 part final reports are clear indication on the out of trend finding due to direction of the Hon'ble Court;

<b>Progress achieved in the review of private forests</b>	<b>Total number of Sy. Nos finalized by review committee</b>	<b>Qualifying Sy. Nos (area in Ha)</b>	<b>Detection Ratio</b>



*[Handwritten signature]*

1 <sup>st</sup> Part	858	10	1.17 %
Final Report		(47.03 Ha)	
2 <sup>nd</sup> Part	378	05	1.32 %
Final Report		(22.56 Ha)	
3 <sup>rd</sup> Part	70	09	12.86 %
Final Report		(76.94 Ha)	
4 <sup>th</sup> Part	153	07	4.56 %
Final Report		(143.18 Ha)	
5 <sup>th</sup> Part	171	10	5.85 %
Final Report		(39.23 Ha)	
6 <sup>th</sup> Part	48	17	35.42 %
Final Report		(116.11 Ha)	
7 <sup>th</sup> Part	269	211	78.44 %
Final Report		(128.71 Ha)	



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all data extracted from 7<sup>th</sup> Part Final Report

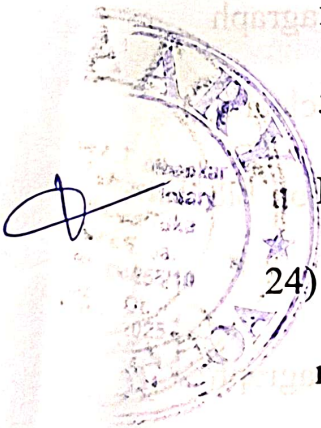
- 20) The above table clearly shows that the detection ratio has increased more than double when exercise of review was done as per the direction of the Hon'ble NGT at para 91.
- 21) With reference to contents of paragraph 13 of the said reply, the same is evidently a false statement of RC-II that the decision to not touch upon 280 survey numbers including survey no. 194, was based on the direction of State Government and the legal opinion of the Ld. AG, as since the report was finalized unilaterally by RC-II much before the direction from Government and opinion of Ld. AG had received.
- 22) With reference to contents of paragraph 14 of the said reply, it is denied that the land survey no 194 of Sancoale village was excluded for not qualifying to all the three criteria. It is submitted that the submission of the respondent no. 9 has been recorded at paragraph 48 of the



Judgement dated 12/09/2023, wherein it was submitted that "Further it is submitted that since the area and canopy criteria has been determined by FSI maps, if any survey number is not found fulfilling area and canopy criteria, it will not be private forest area. Thus, in such case, need for field verification, which is required for checking enumeration criteria for deciding of forest species, does not arise".

23) The table in the 3<sup>rd</sup> Interim report clearly indicates that the exclusion of the survey no. 194 was because Survey number was not fulfilling the criteria for 40% canopy density & 5 Ha area as per forest cover map 2014-15 LISS IV of Forest Survey of India.

24) There is no mention of the map sheet number in the said table thus further strengthening the claim. No mention of map sheet number indicates that there was no map available for land survey no. 194 at the time of review during 3<sup>rd</sup> interim Report. However strangely a map is enclosed to the reply of



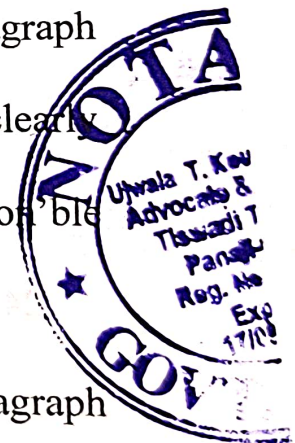
Respondent No. 9 in his reply as Annexure  
RVIII.

25) With reference to contents of paragraph  
15 of the said reply, the same is evidently a  
false statement of RC-II that the decision to not  
touch upon 280 survey numbers including  
survey no. 194, was based on the direction of  
State Government and the legal opinion of the  
Ld. AG, as since the report was finalized  
unilaterally by RC-II much before the direction  
from Government and opinion of Ld. AG had  
received.

26) With reference to contents of paragraph  
18 of the said reply, the Respondent 9 clearly  
admits that they are in violation of the Hon'ble  
NGT Order.

27) With reference to contents of paragraph  
18 of the said reply, the same is in contraction  
to the findings reported in the 3<sup>rd</sup> interim report  
with respect to survey no 194.

28) With reference to contents of paragraph  
19 of the said reply, the same is denied being

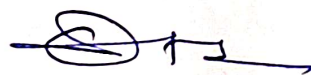


1067

false as such the land area of survey number 194/1-A itself is more than 5 Ha and the claim that the adjacent area was not qualifying thus this area was removed cannot sustain the claim.

The same is also contrary to the procedure as recorded in the order at para 87(iv) which states that the survey numbers not meeting the criteria of canopy density and area as per LISS IV FCM of 2014-15, also needs to check for history details regarding felling permission, offences, court cases if any in those survey numbers etc for further analysis including google timeline analysis as per approved methodology. The undivided survey number 194/1, as mentioned in the letter of the DCF SG division dated 14/05/2009, admeasures 23.70 Ha and large part of the same is covered with thick growth of trees.

29) I say that considering the abovementioned direction issued by this Hon. Court, now it is relevant to have a look at the Terms of reference of the Review Committee-




II, which is reproduced by the said committee in its first interim report from page no. 3 onwards, wherein they have clearly admitted that the two Forest Division Committees (North & South Goa) i.e. Thomas and Araujo Committees Provisionally identified the areas qualifying as private forest based on their field visits only, and further stated that the committee adopted the following methodology for reviewing the forest areas identified by the (T&A Committees), based on the criteria followed by the State of Goa using Forest Cover Maps (Canopy Density >40% & area >5ha) from Forest Survey of India followed by Field enumeration cum survey & Public hearing and same was approved by the Government on 9/03/2020.



30) I say that the criteria adopted by the state of Goa for identification of private forests in the State of Goa are, i) 75% of the tree composition of such lands should be of forest species, ii) The area should be either contiguous to the

government forest lands or if in isolation, the minimum area should be 5 ha, & iii) canopy density should not be less than 0.4.

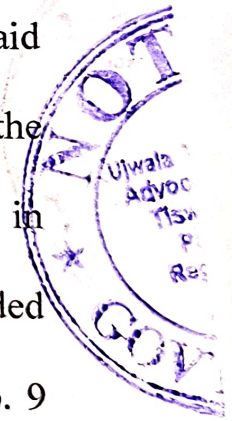
31) I say that field enumeration was a criteria only to ascertain whether 75% of the tree composition of such lands are of forestry species, which cannot be ascertained using a Forest Cover Map. I say that coming to the case at hand, the property under consideration qualifies to be a private forest on the basis of the all the three criteria listed by the state of Goa and thus was rightly declared so by the South Goa Forest Division Committee. I say that the respondent no. 9 has wrongly concluded that the said property does not classify as a private forest in its third interim report published in the month of September 2021 for the reasons stated hereinbelow.

32) I say that the third interim report clearly records that the said property surveyed under survey no. 194 of Village Sancoale fulfills two conditions which are listed as a criteria to be



declared as a private forest i.e. canopy density is not less than 0.4% and the minimum area is 5 hectares, however after field verification of the said property to ascertain the forestry species of the said property, the property does not qualify in so far as the third criteria is concerned is complete contrary to the records of the respondent no. 9 itself i.e. the 4<sup>th</sup> interim report, wherein the inspection team has based on the FCM Maps and sample plot point of Sancoale village furnished to them, on inspecting the said property (i.e. sample plot no. Sanc. v9) has prepared a list of trees existing in the said property which is at ANNEXURE-1 of the said 4<sup>th</sup> interim report thereby indicating the presence of 94.73% of trees to be forestry in nature, and has further in the abstract appended to the said 4<sup>th</sup> interim report has at serial no. 9 reported that the said property qualifies to be a private forest.

33) I say that the findings of the review committee in the 3<sup>rd</sup> interim report and 4<sup>th</sup>



interim report, contradict each other and thus indicates the intention of the Review Committee to malafidely exclude the said property from the list of finally identified private forests of the SGFDC, in order to protect the interest of real estate developers, i.e. respondent no. 8 in the present case who is developing the said property.

34) with reference to contents of paragraph 9 of the reply, it is stated that the respondent no. 9 had rightly apprehended whether all the 550 survey numbers finalized by the T& A Committee needs to be reviewed retrospectively in light of the order dated 12/09/2023 passed by this Hon. Tribunal or only the remaining 269 survey numbers out of the total 550 survey numbers which were yet to be reviewed by the RC-II are to be examined by subjecting them to field verification for all the three criteria's and had thus accordingly sought legal opinion vide its letter dated 19/10/2023.



**1072**

35) In the aforementioned letter dated 19/10/2023, the legal opinion sought was, "Now, in view of the status of 550 survey numbers finally identified by Thomas and Araujo Committee vis-à-vis the aforesaid Hon'ble NGT order, it has to be considered whether physical verification with respect to all three criteria has to be carried out for all 550 survey numbers or only for balance 269 survey numbers which are under field verification with respect to criteria of 75% of forest species composition". I say that the said legal opinion was rightly sought in view of the directions contained in paragraph 91 of the Judgement which directed that, "we are of the view that in order to take extreme precaution that no one suffers on account of errors in identification of the private forest area, the areas, which were finally identified as private forest area by the T&A Committees, if any area out of that is required to be excluded as per Review being made by RC-II, the said area should be got



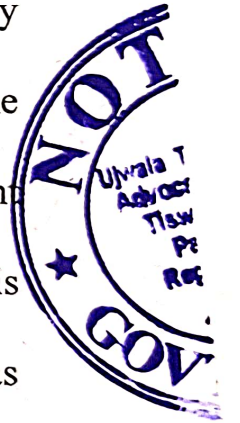
verified physically with respect to all three criteria laid down for determination of the private forest cited above by us". I say that it was also directed that, "till the final decision is taken with respect to whether the area being excluded from the list of being treated as final forest land by the RC-II which was finalized by T&A Committees as private forest, in keeping with our directions, no permission shall be granted by the state government for any kind of development work, in the said survey numbers. This exercise shall be completed within three months of uploading this Order".

36) I say that the abovesaid direction issued by this Hon. Tribunal was squarely applicable to the factual scenario of the present case, as the said property under survey number 194 was finally identified as a private forest finally by the SGFDC (i.e. Araujo Committee), and the same was despite fulfilling all the three criteria listed by the State of Goa for identification of Private Forests, it was however excluded from



the list of private forests by the Review Committee-II, which is completely arbitrary and thus in view of the present application and the directions of this Hon. Tribunal, it was prudent that the respondent no. 9 ought to have physically verified the said property, before publishing the 7<sup>th</sup> part final report.

I say that this Hon. Tribunal in paragraph 91 of its Judgement has not stated that the said direction would only apply to the remaining survey numbers to be reviewed by the respondent no. 9, however it was very clear that the said direction applied to all the survey numbers which were finally identified by the T&A Committees, thus the classification sought to be made by the respondent no. 9 that it is only in respect of the properties identified as private forest by the T&A Committee and which do not yet form part of the interim reports submitted by the RC-II is arbitrary and violative of the said directions.



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1075

38) With reference to contents of paragraph 13, 14 & 15 of the reply, the same are specifically denied.

39) With reference to contents of paragraph 16 of the reply, it is stated that the applicant by way of the present application has not even questioned the methodology adopted by the respondent no. 9, however he has been aggrieved by the fact that the respondent no. 9 has without even applying its mind has excluded a prospective private forest which was already identified as a private forest by the T&A Committee, for the benefit of the developers.



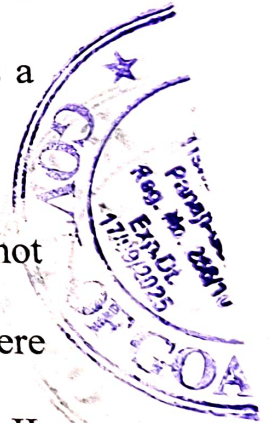
40) With reference to contents of paragraph 18 of the reply, the same are specifically denied.

41) With reference to contents of paragraph 19 of the reply, the same are specifically denied.

I say that the present property under survey no. 194 was clearly fulfilling all the three criteria's, thus going by the admission made by the respondent no. 9 in paragraph 19 of the reply

that the said property was found to qualify for 75% of the tree composition was forestry, but was not considered as private forest merely because the adjoining properties did not fulfill the said criteria of 75% of tree composition to be forestry in nature was completely arbitrary and incorrect and was never a criteria to identify private forests. I say that the criteria was that the area should be either contiguous to the government forest lands or if in isolation, the minimum area should be 5 hectares, and in the case at hand the property admeasures more than 5 hectares, and thus needs to be classified as a private forest.

42) I say that the consequences of not deciding to review the properties which were already reviewed by the Review Committee-II, will have an irreversible impact on the green cover of the state, as the private forests will be permanently lost in the state of Goa. I say that out of the 550 survey numbers which constitutes an area admeasuring 8.64 sq.kms,

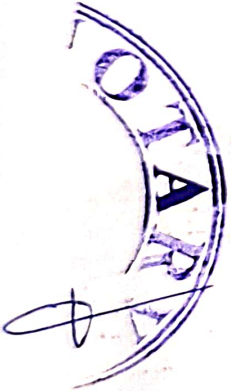


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**1077**

around 252 survey numbers are from the South Goa which accounts to only 5.38 sq.kms. I say that going by the interpretation adopted by the respondent no. 9, out of these 252 survey numbers, only 31 survey numbers are now left to be reviewed, which means around 216 survey numbers will not be reviewed, which means around 86% of the private forests identified by the Araujo Committee in the South Goa will be permanently lost.

43) I say that out of the said 31 survey numbers reviewed pursuant to the order dated 12/09/2023 passed by this Hon. Tribunal, the same has accounted to identifying 20 survey numbers as qualifying to be a private forest, thus admeasuring 13.844 hectares i.e. 64.5% detection ration as can be seen from the table in the 7<sup>th</sup> part final report of the respondent no. 9. Whereas to the contrary out of the 216 survey numbers already reviewed prior to the said judgement passed by this Hon. Tribunal, only 5 survey numbers were found to be qualifying as



private forest which means only 2.3% detection ratio.

44) I say that the said property under survey number 194 of village Sancoale thus fulfills all the three criteria's to be declared as a private forest, as can be seen from the final report of the T&A Committee, and the said property accounts for a larger portion of property from village Sancoale, however it appears that the review committee has considered the said property in parts as the said property was subsequently sub-divided into various plots and surveyed under new survey numbers, whereas the T&A Committee reports refer to the said property as survey number 194/1 & 194/1-A, and thus requires to be reviewed again.

45) I say that the exercise carried out by the T & A Committee were never declared to be as unscientific or arbitrary by this Hon. Tribunal and thus it cannot be disregarded that the present property under dispute which had been determined as private forest areas by the T&A

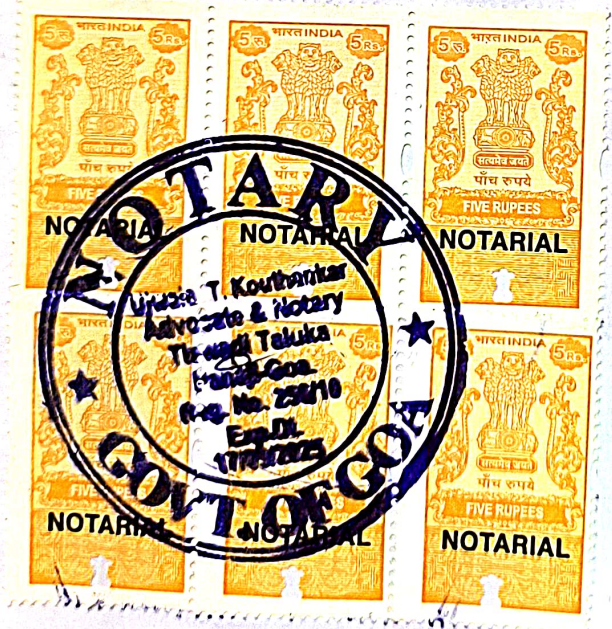
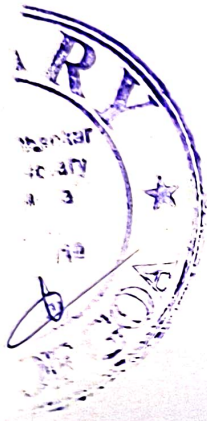


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Committee by employing better technology, which included also ocular technique and site visit verification, the said work should not have been allowed to be overturned by the Review Committee, without a proper reasoning to that effect.

46) I do hereby solemnly affirm that the contents of paragraphs 1 to 45 hereinabove are true and correct to my personal knowledge.

Solemnly affirmed at Panaji, Goa on 4<sup>th</sup> day of November 2024.



*[Handwritten Signature]*

Deponent

Solemnly affirmed before me by  
Shri / *Sm. Swapnesh Sheolekar*  
who has been identified by  
*Alection Card No. SDV0278135*  
whom I personally *Erchalim Constituency*  
know.  
Reg. No. *303/2024* Date *4/11/2024*

*[Handwritten Signature]*

**UJWALA T. KOUTHANKAR**  
Advocate & Notary  
Tiswadi Taluka  
Panaji - Goa  
Reg. No.: 256/10