

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE, AT PUNE)**

APPEAL NO. 35 OF 2022

IN THE MATTER OF:

FRANCIS FRANCISCO RODRIGUES ... APPELLANT

VERSUS

**GOA COASTAL ZONE
MANAGEMENT AUTHORITY
AND OTHERS ...RESPONDENTS**

**AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NO. 1**

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... APPELLANT

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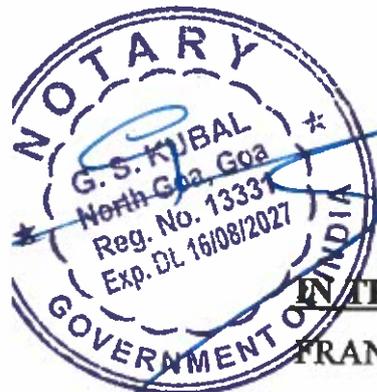
GOA COASTAL ZONE
MANAGEMENT AUTHORITY
AND OTHERS

...RESPONDENTS

AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NO. 1

I, Mr. Dashrath M. Redkar, major of age, 56 years, being the Member Secretary of the Goa Coastal Zone Management Authority, having my office at: 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I say that I am the Member Secretary of the Respondent No. 1 GCZMA and as such am aware of the facts and circumstances from which the present appeal arises. The present affidavit in reply is based upon the documents and record available in the office of the Respondent No. 1.
2. The order dated 25.07.2022 passed by the Respondent No. 1 GCZMA is in consonance with the relevant statutory provisions, judicial pronouncements, and based upon the



relevant material placed before the Respondent No. 1 GCZMA by the concerned parties in the course of the hearing. At the outset it is submitted that nothing mentioned in the memorandum of the above-captioned appeal may be deemed to have been admitted for mere want of specific denial.

3. The answering Respondent received a complaint dated 27.12.2019 from the Respondent No. 3 Cyprian Simon Silveira in respect of the illegal construction of a new road through the property bearing Survey No. 158/4 and 158/6, and house in Survey No. 158/2 of Village Calangute, Bardez, NorthGoa.

A true copy of the complaint dated 27.12.2019 is annexed and is marked as **ANNEXURE R – 1 [PAGE NO. 284 TO 285]**.

4. The Respondent No. 3 Cyprian Simon Silveira also filed Writ Petition No. 64/2020 before the Hon'ble High Court of Bombay at Goa. The grievance of the aforementioned Respondent No. 3 before the Hon'ble High Court was that the Respondent No. 5 in the said Writ Petition (*viz.* the Appellant herein) has allegedly put up illegal construction within CRZ area without any approval. By the aforesaid Writ Petition, the Respondent No. 3 (i.e. the Petitioner therein) had sought a direction to the Respondents therein to take immediate action against the illegal construction of the road and house by Respondent No. 5 therein (i.e. the present



Appellant). The Hon'ble High Court was pleased to dispose off the Writ Petition *vide* its order dated 29.01.2020 by recording the answering Respondent's Counsel's statement that it would look into the complaint dated 27.12.2019 filed by the aforesaid Respondent No. 3.

A true copy of the order dated 29.01.2020 passed by the Hon'ble High Court of Bombay at Goa in Writ Petition No. 64/2020 is annexed and is marked as ANNEXURE R – 2 [PAGE NO. 286 TO 287].

5. On 29.01.2020, the Mamlatdar of Bardez submitted Report No. MAM/BAR/CI-II-/8-Point/CRZ/Calangute/2020/674 dated 29.01.2020 pointing out that a house had been constructed in Survey No. 158/2, and a road had been constructed in Survey Nos. 158/4 and 158/6 of village Calangute. Pertinently, the Learned Mamlatdar made the following observations in the aforesaid report:

"1.	<i>Date of construction</i>	<i>Road constructed in Sy. No. 158/2 & 158/6 around 3 months back and house construction is presently going on in Sy. No. 158/2 of Calangute village</i>
2.	<i>Whether there is extension/addition done to the old house by extending the</i>	<i>New road construction having a length of 80 mts X 3 mts width and new house construction of having an</i>



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	<i>plinth area, if so the details thereof.</i>	<i>area of 30 sq mts approximately.</i>
3.	<i>Whether there is construction carried out is house, date, month and year of construction.</i>	<i>Road constructed in Sy. No. 158/2 and 158/6 around 3 months back and house construction is going on in Sy. No. 158/2 of Calangute village</i>
4.	<i>Whether approval of GCZMA has been obtained.</i>	<i>Not produced.</i>
5.	<i>Whether construction carried out falls within the CRZ limit, if so within how many meters from the HTL.</i>	<i>Yes, within 200 mts from HTL.</i>
6.	<i>What is the total area of construction at present.</i>	<i>New road construction having a length of 80 mts X 3 mts width and new house construction of having an area of 30 sq mts approximately.</i>
7.	<i>What was the plinth area of old house if any</i>	<i>No</i>
8.	<i>Whether there is any violation of CRZ Regulation if so.</i>	<i>Yes</i>



A true copy of the Report No. MAM/BAR/CI-II-/8-Point/CRZ/Calangute/2020/674 dated 29.01.2020 is annexed and is marked as ANNEXURE R – 3 [PAGE NO. 288]

6. Pursuant to the order of the Hon'ble High Court, the answering Respondent intimated the concerned persons, including the Appellant above-named, *vide* letter no. GCZMA/H.C.M/W.P.No.64/2020/19-20/05/2323 dated 03.02.2020 that its members would conduct a site inspection on 10.02.2020 to verify the authenticity of the complaint and check the illegalities on site.

A true copy of the letter no. GCZMA/H.C.M/W.P.No.64/2020/19-20/05/2323 dated 03.02.2020 is annexed and is marked as ANNEXURE R – 4 [PAGE NO. 289 TO 290].

7. Accordingly, a site inspection was conducted by the Expert Member of the GCZMA along with Mr. Devendra Gaonkar, Field Surveyor, GCZMA on 10.02.2020. Pursuant to the site inspection, the Expert Member *inter alia* made the following observations and recommendations:

1.	<i>The respondent Mr. Francis Rodrigues R/o 3/88 B Tiwaiwado, Calangute was not present at the site during the inspection.</i>
2.	<i>The complainant Mr. Cyprian Simon Silveira, R/o ER-3/80, Tiwaiwado, Calangute was present at the site</i>



	<i>during the inspection.</i>
3.	<i>It is observed that a new road has been constructed which is passing through survey numbers 158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6 of village Calangute, Bardez covering a total distance of 80 meters...</i>
4.	<i>It is observed that a new house is being constructed in Survey No. 158/2 of village Calangute, Bardez. The construction is in advance stages.</i>
5.	<i>Both the road and the house falls within 200 to 500 meter of CRZ notified area.</i>
6.	<i>No documents were found either in the GCZMA file or on site to prove the construction of the road and the house in above mentioned survey numbers is legal. However, a permission was granted to construct a compound wall in the property bearing survey no. 158/2 of Calangute Village Ref. No. GCZMA/N/14-15/89/1603 dated 29/09/2015.</i>
7.	<i>The Authority may deliberate and take appropriate decision.”</i>

A true copy of the Site Inspection Report dated 22.02.2020 is annexed and is marked as ANNEXURE R – 5 [PAGE NO. 291 TO 292].

8. On 08.02.2021, the answering Respondent received a complaint from the Respondent No. 4 Joseph Sequira in respect of illegal construction of RCC in Survey No. 158/2(Part) at TivaiVaddo, Calangute by the Appellant. The



said complaint of the Respondent No. 4 Joseph Sequira came to be tagged along with the aforementioned complaint of the Respondent No. 3 Cyprian Simon Silveira.

A true copy of the complaint dated 29.01.2020 is annexed and is marked as ANNEXURE R – 6 [PAGE NO. 293 TO 296].

9. Upon receipt of the complaints, directions of the Hon'ble High Court, and the report of the Expert Member, the following alleged illegal construction was noticed:

Sr. No.	Name of the Party/alleged violator	Survey No./Village	Type of Construction	Distance from HTL
1.	Mr. Francis Rodrigues	Sy. No. 158/2, 158/4, and 158/6 Calangute	Illegal construction of road and illegal construction of House	Within 200 mts – 400 mts from HTL

The aforesaid illegal construction was observed to be in blatant and serious violation of the Coastal Regulation Zone Notification, 2011. According, Show Cause Notice cum Stop Work Order vide No. GCZMA/H.C.M/W.P.No.64/2020/19-20/05/2713 dated 19.03.2020 was issued by the answering Respondent to the Appellant herein.



A true copy of the Show Cause Notice cum Stop Work Order *vide* No. GCZMA/H.C.M/W.P.No.64/2020/19-20/05/2713 dated 19.03.2020 is annexed and is marked as **ANNEXURE R – 7 [PAGE NO. 297 TO 299]**.

10. The Appellant replied to the aforesaid Show Cause Notice cum Stop Work Order dated 19.03.2020 *vide* his reply dated 26.09.2020.

A true copy of the reply dated 26.09.2020 is annexed and is marked as **ANNEXURE R – 8 [PAGE NO. 300 TO 305]**.

11. The matter was placed in the 225th Meeting of the GCZMA held on 04.06.2020. The Respondent Complainant was present with his counsel. The Appellant remained absent. Thus, the GCZMA decided to issue fresh notices to the parties, including the Appellant herein, and fixed the hearing on 03.07.2020.

A true copy of the relevant extracts of the Minutes of GCZMA's 225th Meeting dated 04.06.2020 is annexed and is marked as **ANNEXURE R – 9 [PAGE NO. 306 TO 309]**.

12. The answering Respondent postponed the meeting to be held on 03.07.2020 due to unavailability of its Chairman and posted the matters on 22.07.2020. On 22.07.2020 the meeting was required to be postponed again on the same ground. Ultimately, the matter in issue was placed in the



227th Meeting of the GCZMA held on 17.09.2020. On 17.09.2020, the Appellant filed his reply and partly argued the matter. In the course of the hearing, the answering Respondent pointed out the Site Inspection Report dated 10.02.2020 prepared by the Expert Member whereby the photographs clearly indicated that the construction carried out by the Appellant, including the road passing through the properties bearing Survey No. 158/4 and 158/6 of village Calangute, was new. The GCZMA decided to issue the aforesaid Site Inspection Report to the Appellant to enable him to respond to the contents thereof and adjourned the hearing to 24.09.2020.

A true copy of the relevant extracts of the Minutes of GCZMA's 227th Meeting dated 17.09.2020 is annexed and is marked as ANNEXURE R – 10 [PAGE NO. 310 TO 314].

13. The Appellant filed an Additional Reply dated 21.09.2020 wherein it was *inter alia* contended that:

- a) The Appellant was not present during the site inspection carried out by the officials of the DSLR and GCZMA on 10.02.2020 and 17.02.2020 referred to in the Inspection Report dated 22.02.2020.
- b) Taking advantage of the Appellant's absence, the Respondent No. 3 complainant allegedly misled the Expert Member and other officials of the inspecting party by showing some other structure standing on the



subject land, and not the structure of the Appellant. There are six other structures standing upon the subject land, and the Respondent No. 3 complainant has allegedly pointed out one of those structures.

- c) The road alleged to have been constructed has been in existence upon the subject land for the past 30 years or more.
- d) The house standing on Survey No. 158/2 is an existing old house and the same is established by the documentary evidence produced by the Appellant.

A true copy of the Appellant's Additional Reply dated 21.09.2020 is annexed is annexed and is marked as **ANNEXURE R – 11 [PAGE NO. 315 TO 317]**.

14. The Respondent No. 3 Cyprian Simon Silveira filed a response to the Appellant's Additional Reply *vide* his letter dated 24.09.2020. The aforesaid response of the Respondent No. 3 was annexed with the Sale Deed dated 20.11.2019 and the Sale Deed dated 10.11.1999 under which the Appellant had purchased two plots admeasuring 438 sq. mts. and 900 sq. mts. under Survey No. 158/2 of village Calangute. The Respondent No. 3 contended that the aforesaid sale deeds made no reference to any existing house, and that the said plots were sold without any structures standing upon them.



A true copy of the Respondent No. 3's response dated 24.09.2020 is annexed and is marked as ANNEXURE R – 12 [PAGE NO. 318 TO 319].

15. Pertinently, the schedule of properties annexed to the Deed of Sale dated 20.11.2019 executed by Mr. Lousa Maria Mathias alias Louiza Maria Mathias and other in favour of the Appellants does not mention the existence of any structure upon Survey No. 158/2. The schedule reads as under:

<u>SCHEDULE – II</u>
<i>(Being the property/Plot sold and conveyed to the PURCHASERS herein under and pursuant to this Deed of Sale)</i>
<i>ALL THAT PIEACE AND PARCEL of PLOT admeasuring 438m2/2300.00 m2 of the property surveyed under survey No. 158/2 of the village of Calangute, Taluka and Sub-District of Bardez, North District of the State of Goa, more specifically described in Schedule I above.</i>

Similarly, in case of the Deed of Sale dated 10.11.1999 executed by Nozer H. Kajotia and others in favour of the Appellant, the Schedule of properties does not mention any structure standing upon Survey No. 158/2. The schedule reads as under:

<u>SCHEDULE – II</u>
<i>All that PLOT 'A' or western part of the said property</i>



admeasuring 900 sq. mts marked in red colour boundaries on the plan annexed to this Deed of Sale and surveyed under No. 158/2 (part) of village Calangute, Bardez-Goa.

A true copy of the Deed of Sale dated 20.11.2019 is annexed and is marked as ANNEXURE R – 13 [PAGE NO. 320 TO 356].

A true copy of the Deed of Sale dated 10.11.1999 is annexed and is marked as ANNEXURE R – 14 [PAGE NO. 357 TO 373].

16. The Respondent No. 4 Joseph Sequeira also filed a response to the Appellant's Additional Reply *vide* his letter dated 24.09.2020. In the aforesaid response, the Respondent No. 4 referred to the orders passed by the Hon'ble High Court of Bombay at Goa in Writ Petition No. 422 of 1999 and Suo Moto Writ Petition No. 2/2006. By the aforesaid orders, the Hon'ble High Court had directed the GCZMA to prepare a plan of the existing structures. The Appellant's structure was not reflected in the plan.

A true copy of the Respondent No. 4's letter dated 24.09.2020 is annexed and is marked as ANNEXURE R – 15 [PAGE NO. 374 TO 375].

17. The matter was placed in the 228th Meeting of the GCZMA held on 24.09.2020. A detailed hearing was conducted by the Authority in its 228th Meeting, and after giving all the concerned parties a fair and reasonable opportunity of



hearing, the matter was kept for further deliberation of the available material on record.

A true copy of the relevant extracts of the Minutes of GCZMA's 228th Meeting dated 24.09.2020 is annexed and is marked as ANNEXURE R – 16 [PAGE NO. 376 TO 380].

18. The matter was thereafter placed in the subsequent meetings of the GCZMA but came to be adjourned for one reason or another. Ultimately, the matter was placed in the 303rd Meeting of the GCZMA held on 12.05.2022. In the course of the 303rd Meeting, the Authority heard the parties and posted the matter for order.

A true copy of the relevant extracts of the Minutes of GCZMA's 303rd Meeting dated 12.05.2022 is annexed and is marked as ANNEXURE R – 17 [PAGE NO. 381 TO 384].

19. The matter was placed in the 310th Meeting of the GCZMA held on 16.06.2022. On the said date, the Authority took into consideration the relevant pleadings and documents produced by the parties before it and concluded that the Appellant had failed to prove that the construction of structure standing in Survey No. 158/2 and the road in Survey No. 158/4 and 158/6 is legal. Thus, it was concluded that directions for demolition of the structure and the road be issued.



A true copy of the relevant extracts of the Minutes of GCZMA's 310th Meeting of the GCZMA dated 16.06.2022 is annexed and is marked as ANNEXURE R – 18 [PAGE NO. 385 TO 392].

20. Pursuant to the aforesaid, the GCZMA issued the directions under Section 5 of the Environment (Protection) Act, 1986 and the Environment (Protection) Rules, 1986 *vide* Ref. No. GCZMA/H.C.M/W.P.No.64/2020/19-20/05/864 dated 25.07.2022 [hereinafter referred to as the *impugned order* for the sake of brevity and convenience]. The answering Respondent considered the complaints lodged by the Respondents No. 3 and 4 in accordance with law and passed the order for demolition after following the principles of natural justice. The answering Respondent has concluded that the Appellant has not been able to establish, justify or prove that the structure and the road on the subject land have been in existence since prior to 1991. Furthermore, the Appellant has not produced any permission granted by the GCZMA to construct the structure and the road. Thus, the only reasonable and lawful inference which can be drawn is that the same has been constructed by the Appellant in an unlawful and illegal manner and in scant regard to the provisions of the CRZ Notification.
21. The answering Respondent submits that the Appellant has made out no case whatsoever for interference in the impugned order of demolition. The contentions raised by the



Appellant in the Grounds for appeal are categorically denied.

- a) The contents of ground (a) are categorically denied.
- b) The contents of ground (b) are categorically denied. It is submitted that the decision of the Hon'ble High Court of Bombay at Goa in its judgment and order dated 15.02.2017 in Writ Petition No. 235 of 2016 (*Milton Marquis v. State of Goa and Others*) is of no assistance to the Appellant. In *Milton Marquis* (supra) the Hon'ble High Court has observed as under:

“11.It is not in dispute that the GCZMA did not conduct any site inspection nor any panchnamna was drawn about the location, nature and extent of the structures, which were subject matter of the complaint, lodged by the fifth respondent. It appears that the GCZMA has merely acted on the basis of the complaint, without first verifying what is the nature of the construction and its exact location. Normally, it would be expected from the GCZMA to first conduct a site inspection, draw a proper panchanama and then initiate action, if the subject structures are gound to be illegal or unauthorized and having erected in breach of the CRZ Notification. That does not appear to have



been done in this case. A perusal of the show cause notice would indicate that the GCZMA had referred to a ground + 1 storied structure with 7 to 8 permanent cottages and a restaurant and permanent structures along with staircase leading to the beach, constructed in the property bearing Survey No. 223/1A. Had the GCZMA conducted an inspection, the exact nature, location and the number of structures could have been set out in the show cause notice... "[Emphasis supplied]

In the present case, the answering Respondent has carried out a site inspection report, identified the extent of illegalities upon the subject land, supplied copies of the same to the Appellant and considered the Appellant's contentions opposing the same. Thus, the order of demolition in no way violates the aforementioned decision of the Hon'ble High Court.

A true copy of the judgment and order dated 15.02.2017 in Writ Petition No. 235 of 2016 (Milton Marquis v. State of Goa and Others) is annexed and is marked as ANNEXURE R – 19 [PAGE NO. 393 TO 403].

- c) The contents of ground (c) are categorically denied. The answering Respondent has followed the principles



of natural justice before passing the order under challenge. A fair and reasonable opportunity of hearing was given to all the parties. The procedure followed by the answering Respondent is in consonance with the order of the Hon'ble Principal Bench of this Hon'ble Tribunal in *Sesa Goa Ltd. and Others v. State of Goa and Others* reported in MANU/GT/0035/2013.

- d) The contents of ground (d) are contrary to the minutes of the relevant meetings of the GCZMA. It is not correct to say that the proceedings have been closed only after hearing the arguments advanced by the Advocates for the Respondents No. 3 and 4. The Advocate for the Appellants has been heard at length in the 227th meeting held on 17.09.2020, the 228th meeting held on 24.09.2020, the 293rd meeting held on 24.02.2022, the 294th meeting held on 03.03.2022, and the 303rd meeting held on 12.05.2022. In other words, the Advocate of the Appellants was heard on all the dates when the matter was heard substantially.
- e) The contents of ground (e) are categorically denied. The Appellant has raised no substantial objections to the Mamlatdar's Report and the Site Inspection Reports prepared by the GCZMA's Expert Member.
- f) The contents of ground (f) are denied. The Mamlatdar's report and the Site Inspection Report of the Expert Member are in no way mutually exclusive.



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As mentioned hereinabove, the Mamlatdar's report dated 29.01.2020 *inter alia* records that a new road has been constructed in Survey No. 158/2 and 158/6, and that a new house was being constructed in Survey No. 158/2. The Site Inspection Report also records that a new road passing through survey nos. 158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6 has been constructed, and that a new house is being constructed in Survey No. 158/2.

- g) The contents of ground (g) are categorically denied. The Mamlatdar's report dated 29.01.2020 categorically records that a new road has been constructed in Survey No. 158/2 and 158/6.
- h) The contents of ground (h) are denied for the reasons stated hereinabove.
- i) The contents of ground (i) are categorically denied. The evidence on record clearly establishes that the Appellant is constructing a new road through his property. The aforesaid is plainly established on the basis of the Mamlatdar's report and the Expert Member's Site Inspection report. Furthermore, the Appellant *vide* his Additional Reply dated 21.09.2020 has taken the following contradictory stands in respect of the new road constructed upon the subject land:

"4. With reference to finding regarding the road as contained in the impugned site



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inspection report, the Respondent emphatically denies the same. The Respondent states that the property veering Survey No. 158/4D is not even adjoining or contiguous to properties bearing Survey Nos. 158/1, 158/3, 158/4, 158/5 and 158/8 of village Calangute. It is therefore inconceivable as to how a road could have been allegedly constructed passing through all the aforesaid properties, as alleged in the impugned site inspection report.

5. Without prejudice, the said road is not even alleged to have been constructed in Survey No. 158/2, of which the Respondent is the owner of a portion of land. The Respondent is not the owner of the properties through which the said road is allegedly constructed. The Respondent therefore cannot be called upon to answer a charge of purported illegality regarding some other survey holding property, of which he is not even the owner. To the best of the Respondent's knowledge, the owner of Survey Nos. 158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6 have not even been noticed and/or been heard in the present matter.

6. Without prejudice and in any event of the matter, the Respondent, as a local villager, is personally aware that the said road



(which is alleged to have been newly constructed) has been existing at loco for the past more than 30 years.

The stand taken by the Appellant is self-contradictory. On the one hand the Appellant alleges that no road exists, while on the other, he contends that the road has been in existence for more than three decades.

- j) The contents of ground (j) are denied. The Appellant has constructed a new road upon his property land in an unlawful manner. At no point has any other person of any of the plots upon which approached either the answering Respondent or this Hon'ble Tribunal against the order under challenge.
- k) The contents of ground (k) are denied. The Appellant has failed to justify or prove that the structure was constructed prior to 1991.
- l) The contents of ground (l) are denied. A bare perusal of the extract of the Gat Book will make it abundantly clear that suit structure is not recorded in it.
- m) The contents of ground (m) are denied. The answering Respondent has rightly held that the Appellant's reliance on the extracts of the Gat book is misplaced.
- n) The contents of ground (n), (o), (p), (q) and (r) are denied. The Appellant had relied on the Gat Book



prove that the structure in Survey No. 158/2 is legal. It is a well settled position of law that the Gat book is only a referential book and has no legal bearing. The Appellant did not produce any evidence to establish that the structure was standing on the said land prior to 1991. In any event the extract of the Gat book, which was in the possession of the Talathi of the Village of Calangute, and which was produced by the Appellant, does show a structure standing upon Survey No. 158/2. However, the structure in dispute standing in the property is not in the same position as shown in the Gat book. Furthermore, it was observed that there were glaring inconsistencies between the Gat book of the village and the survey plan of the said land. Thus, the answering Respondent did not deem it fit to accept the same as evidence of the structure being in existence since prior to 1991. It is also submitted that the Forms I and XIV extracts of the Appellant's property do not depict the Appellant's name. Since Forms I and XIV are revenue records, the absence of the Appellant's house therein would itself indicate that his structure is recently constructed.

A true copy of the extract of Forms I and XIV dated 27.11.2022 is annexed and is marked as ANNEXURE K-20 [PAGE NO. 404 TO 405].



A true copy of the extract of Gat Book is annexed and is marked as ANNEXURE R – 21 [PAGE NO. 406]

- o) The contents of grounds (s), (t), (u), (v), (w), and (x) are categorically denied. The contentions raised in the aforesaid grounds are mere baseless assertions.
- p) The contents of ground (y) are categorically denied. The Appellants merely contended that there was a mistake in the Form I and XIV of the subject land since the Appellant's structure was not shown upon it. Pertinently, at no point has the Appellant made any application to the concerned authorities seeking correction of the said mistake. This raises serious doubts about the veracity of the Appellant's claims.
- q) The contents of ground (z) are denied. As stated hereinabove, the sale deeds executed by the Appellant in respect of the subject land make no mention of any structure standing upon it. The Hon'ble Supreme Court of India in *Anil Hoble v. Kashinath Jairam Shetye* reported in (2016) 10 SCC 701 observed as under:

"10. We find that when the appellant purchased the subject plot vide registered sale deed dated 3-8-1992, only a small structure at the corner of the said plot was in existence and was used as a garage and



which was indisputably within 100 m from the high tide line. On this finding, it necessarily follows, that the structure as it exists now is quite different – both in shape, size and location being in the middle of the plot. Obviously, it is an unauthorized structure constructed after 19-2-1991... ”

Thus, the answering Respondent's reference to the recitals in the Sale Deeds is in consonance with the well settled provisions of law.

A true copy of the decision of the Hon'ble Supreme Court in *Anil Hoble v. Kashiram Jairam Shetye and Others* reported in (2016) 10 SCC 701 is annexed and is marked as ANNEXURE R – 22 [PAGE NO. 407 TO 414].

- r) The contents of ground (aa) are denied as the Appellant has made mere assertions without providing any documents to substantiate the same.
- s) The contents of ground (bb) are categorically denied as the assertions therein are contrary to law.
- t) The contents of ground (cc), (dd), (ee), and (ff) are categorically denied.
- u) The contents of ground (gg) are denied. The Appellant has failed to prove that the structure was in



existence since before 1991. Thus, the contention of the Appellant that the work sought to be done by him upon the structure is mere "maintenance" is of no consequence.

v) The contents of ground (hh) and (ii) are denied.

22. In view of the aforesaid, it is submitted that this Hon'ble Tribunal may dismiss the Appellants' above-captioned appeal with costs.

DEPONENT

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

VERIFICATION

I, the abovenamed Deponent, do hereby state on solemn oath and affirmation that the facts stated hereinabove in this Counter Affidavit are true and correct to the best of knowledge, information and belief, and nothing has been concealed.

Verified at Panaji on this 28th day of November, 2022

IDENTIFIED BY:



DEPONENT

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

EXECUTED BEFORE ME
WHICH LATEST

Rs. 200/-
28/11/2022
G. S. KUBAL
Notary (Govt. of India)
Panaji-Goa, India

Secretary

A.A.

Board No. 127/19

Date 27/12/2019

30/12

From:

Mr. Cyprian Simon Silveira,
R/o H. No. E-3/80,
Tivai Waddo, Calangute,
Bardez-Goa
Mob: 8806385837

Date: 27/12/2019

To,
Goa Coastal Zone Management Authority,
Deendayal Bhavan,
Porvorim-Goa

Sub: Complaint against Mr. Francis Rodrigues, resident of Tivai Waddo, Calangute, Bardez Goa, for illegal construction of road within 200 to 400 mts of High Tide Line at Tivai Waddo, Calangute, Bardez Goa.

Sir,

1. This is to inform you that I am resident of House No. E-3/80 situated at Tivai Waddo, Calangute, Bardez Goa which is situated in the property bearing survey no. 158/6 of village Calangute which is within coastal Regulation Zone. Mr Francis Rodrigues who is now Sarpanch of Village Panchayat Calangute claims to have purchased part of the Plot under S. No. 158/2 and has started construction of building in this plot which is within CRZ area.
2. That on 24/12/2019 Mr Francis Rodrigues Sarpanch of Village Panchayat of Calangute have further undertaken illegal construction of the road through the property bearing survey no. 158/4 and 158/6, which was not existing. The road actually is at different location which is marked on ODP Calangute 2025.
3. The said illegal construction of road has blocked my access to my house and this road is being constructed at different location then the road marked on ODP. The road is being made from S. No. 158/4 and 158/6 of Village Calangute.
4. The same is done without necessary approval from Government authorities such as CRZ Department or Town and Country Planning Department and NGPDA. This property falls within CRZ area and no permission has been obtained for this construction. There was no public tender issued for construction of road.
5. It is also found that no land acquisition proceedings have been initiated for the purpose of making road and said illegal construction of road is illegal.

.....2/-

-2-

6. The same is done high-handedly and in defiance of the law. I have my mundkarial house in s. no. 158/6 and entire plot is in our occupation and I have strong objection to this construction. This construction is within 200 to 400 mts of high tide line and this construction has damaged the ecology in this area and will cause nuisance in the locality. It is also against true notified outline development plan by NGPDA. I have filed complaint before panchayat and BDO on 24/12/2019, but no action is taken.
7. It/ is therefore necessary to stop the aforesaid illegal construction of the road and remove the road and further it is necessary to stop illegal construction being done by Francis Rodrigues in S. No. 158/2 (Part).
8. I bring to your notice that Hon'ble High Court in WP 125/1996, Up 422/1999, 540 moto up 2/2006 has directed the authorities to keep strict vigilance on illegal construction in CRZ area.

In view of above, I kindly request you to take immediate action in the matter and issue necessary stop work order to prevent further illegal activities. I request you to conduct site inspection immediately. In case no action is taken within twenty four hours and the construction is not demolished then I shall be forced to approach Hon'ble High Court which you may kindly hate.

Thanking you,



(Cyprian Simon Silveira)

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 64 OF 2020

CYPRIAN SIMON SILVEIRA., ... Petitioner

Versus

COASTAL ZONE MANAGEMENT AUTHORITY,
THR. ITS MEMBER SECRETARY OF GOA
AND 4 ORS., ... Respondents

Mr. Pranay A Kamat, Advocate for the petitioner.
Mr. Shivdatt P. Munj, Additional Government Advocate for the
respondent nos.1 and 3.

Coram:- M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.

Date:- 29th January, 2020

P.C.

Heard Mr. P. Kamat, learned Counsel the petitioner and Mr. S. Munj, learned Additional Government Advocate for the respondent nos.1 and 3.

2. Basic grievance of the petitioner is that the respondent no.5 has allegedly put up illegal construction within Coastal Regulation Zone Area (CRZ area) without any approval and in an area which is otherwise not meant for such construction. The petitioner, has placed on record complaint made to the various Authority including in particular Goa Coastal Zone Management Authority (GCZMA) who is impleaded as the respondent no.1 in the present petition. The record indicates that the Deputy Collector has taken cognizance of the petitioner's complaint and

issued memorandum dated 1.1.2020 which is an annexure to this petition.

3. Mr. Munj, learned Additional Government Advocate for respondent no.1 (GCZMA) on instructions states that even the GCZMA will look into the complaint of the petitioner and if found that the allegations are correct, then, initiate action in terms of the law. He states that about three weeks' time be granted for initialisation of the action.

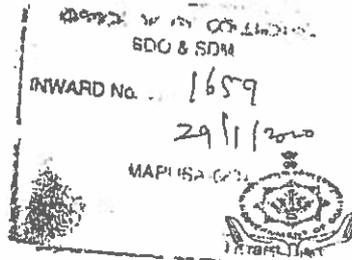
4. We accept the aforesaid statement made by Mr. Munj on behalf of the GCZMA. According to us, this substantially redresses the grievance of the petitioner. At the same time, we note that if GCZMA finds any prima facie substance in the complaint of the petitioner, GCZMA, will undoubtedly, issue show cause notice to respondent no.5 before taking any final action. This takes care of the interest of the respondent no.5 as well. Accordingly, by accepting the statement as aforesaid, we dispose of this Writ Petition.

5. All concerned to act on the basis of the authenticated copy of this Order.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.

CRZ MATTER



OFFICE OF THE MAMLATDAR OF BARDEZ, MAPUSA GOA

Government Offices Complex Building,
Morod, Mapusa Goa
Phone No. 2262233 (Fax), 2262210
E-mail: mam-bardez.goa@nic.in

No. MAM/BAR/CI-II/8-Point/CRZ/Calangute/2020/674 Date : 29/1/2020

To,
The Dy. Collector & SDO,
Mapusa, Bardez - Goa.

Sub.: Regarding construction of house in sy. No. 158/2 and construction of road in Sy. No. 158/6 & 158/2 of Calangute village.

Sir,

With reference to the above, necessary inquiry was conducted through the Talathi of Calangute in respect of property bearing Sy. No. 158/6 & 158/2 of Calangute village in Bardez Taluka and the said Talathi submitted information/report and the same is submitted point wise as desired by you.

1.	Date of construction	Road constructed in Sy. No. 158/2 & 158/6 around 3 months back and house construction is presently going on in Sy. No. 158/2 of Calangute village
2.	Whether there is extension/addition done to the old house by extending the plinth area, if so the details thereof.	New road construction having a length of 80 mts X 3 mts width and new house construction of having an area of 30 sq mts approximately.
3.	Whether there is construction carried out is house, date, month and year of construction.	Road constructed in Sy. No. 158/2 & 158/6 around 3 months back and house construction is going on in Sy. No. 158/2 of Calangute village
4.	Whether the approval GCZMA has been obtained.	Not produced.
5.	Whether construction carried out falls within the CRZ limit, if so within how many meters from the HTL.	Yes, within 200 mts from HTL.
6.	What is the total area of construction at present.	New road construction having a length of 80 mts X 3 mts width and new house construction of having an area of 30 sq mts approximately.
7.	What was the plinth area of old house if any.	No
8.	Whether there is any violation of CRZ Regulation if so.	Yes.

This is for your kind information and necessary action.

Yours faithfully,

(Laxmikant Kuttikar)
Mamlatdar of Bardez Taluka
Mapusa - Goa

Encl.:

- 1) Talathi Report dated 28/1/2020 from Talathi of Calangute village along with enclosures.

ANNEXURE R-4

GOA COASTAL ZONE MANAGEMENT AUTHORITY 289

C/o Department of Science, Technology and Environment (Govt. of Goa)
1st floor, Pt. Deendayal Upadhyay Bhavan, Pundalik Nagar, Alto,
Porvorim, Bardez- Goa-403 521, Phone: (0832) 2416561

www.czma.goa.gov.in

Ref.No. GCZMA/H.C.M/W.P.No. 64/2020/19-20/05/2323 Dated: 03/01/2020
02

NOTICE OF SITE INSPECTION

Sub: Site Inspection pertaining to alleged illegal construction of new road through property bearing Survey no.158/4 and 158/6 and house in Survey no.158/2 of village Calangute.

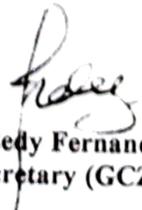
WHEREAS, the office of GCZMA was earlier in receipt of a complaint dated 27/12/2019 interalia stating that there is illegal construction of new road through property bearing Survey no.158/4 and 158/6 and house in Survey no.158/2 of village Calangute.

WHEREAS, the complainant filed an Writ Petition bearing no.64/2020 before the Hon'ble High Court of Bombay at Goa interalia seeking writ of Mandamus for immediate action upon his complaint.

AND WHEREAS, in this regard, the GCZMA had fixed a site inspection of the above said area / site on 03 /02/ 2020 at 11.00 a.m onwards which has been cancelled due to Legislative Assembly Sessions in Goa.

AND WHEREAS, in this regard, the GCZMA had fixed a site inspection of the above said area / site on 10 /02/ 2020 at 11.00 a.m

NOW THEREFORE, you are required to take note of the date of site inspection and remain present during the site inspection or depute your duly authorized representative with all the requisite details / documents, if any, failing which the inspection will be carried out in your absence.


(Johnson Bedy Fernandes)
Member Secretary (GCZMA)

o/c

To,

1. Mr. Francis Rodrigues, R/o 3/88 B, Tiwaiwado, Calangute, Bardez-Goa.
2. Mr. Cyprian Simon Silveira, R/o ER-3/80, Tiwaiwado, Calangute, Bardez-Goa.

Copy to:

1. Dr. Sujeet Mariapa Dongre, programme Coordinator, CEE, Goa State, Porvorim-Goa.....*with a request to make it convenient and attend the same.*
2. Mr. Devendra Goankar, Field Surveyor, GCZMA ...*with a request to make it convenient and attend the same.*

Site Inspection report pertaining to alleged illegal construction of new road through the property bearing survey no. 158/4 and 158/6 and a house in Survey no. 158/2 of village Calangute, Bardez Goa

As per the instruction of Member Secretary, Goa Coastal Zone Management Authority, an inspection was carried out on 10th February, 2020 from 11:30 am onwards. The undersigned Expert Member along with Mr. Devendra Gaonkar, FS from GCZMA and Mr. Rajesh Harmalkar FS, from DSLR visited the site and carried out the inspection.

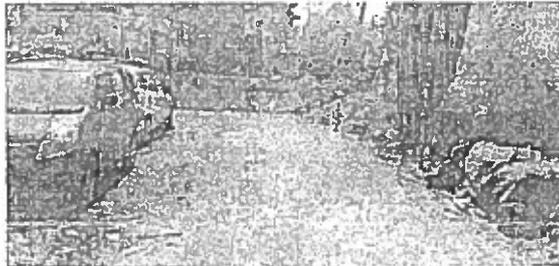
Subsequently, the Expert Member recommended doing a mapping through DSLR in order to ascertain factual details of Survey number through which the alleged road is passing through at loco.

Accordingly, Mr. Devendra Gaonkar from GCZMA and Mr. Shri Rajesh Harmalkar FS, DSLR, visited the site on 17.02.2020 and mapped the factual details and submitted their report to the office of GCZMA on 18.02.2020.

Based on my field visit and subsequent map prepared by the DSLR, followings are observations.

1. The respondent Mr. Francis Rodrigues R/o 3/88 B Tiwaiwado, Calangute was not present at the site during the inspection.
2. The complainant Mr. Cyprian Simon Silveira, R/o ER-3/80, Tiwaiwado, Calangute was present at the site during the inspection.

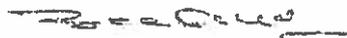
3. It is observed that a new road has been constructed which is passing through survey numbers 158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6 of village Calangute, Bardez covering a total distance of about 80 meters. A map developed by the DSLR is annexed.



4. It is observed that a new house is being constructed in Survey No. 158/2 of village Calangute, Bardez. The construction is in its advance stages.



5. Both the road and the house falls within 200 to 500 meter of CRZ notified area.
6. No documents were found either in the GCZMA file or on site to prove the construction of the road and the house in above mentioned survey numbers is legal. However, a permission was granted to construct a compound wall in the property bearing survey no. 158/2 of Calangute Village Ref. No. GCZMA/N/14-15/89/1603 dated 29/09/2015.
7. The Authority may deliberate and take appropriate decision.



Sujeetkumar Dongre
Expert Member
GCZMA
22.02.2020

Note: Annex Map developed by DSLR. For a better clarity of image, original map may be referred.

Member Secretary

G. C. Z. M. A.

Inward No. 3179

Date: 08/2/2021

D. Silva
LINE THE FILED. Silva
08/02/2021From: Mr. Joseph Sequeira,
#5 Joe Leitao Residency,
Naika Vaddo, Calangute,
Bardez - Goa

Date: 06/02/2021

To,
The Member Secretary,
Goa Coastal Zone Management Authority,
C/o. Department of Science,
Technology & Environment (Govt. Of Goa),
04th Floor, Dempo Towers, Patto, Panaji - Goa

Sir,

With reference to your notice of Site Inspection under subject Site Inspection Notice of the Structure vide your above Letter no. GCZMA/H.C.M./WP/NO.64/2020/19-20/05/1575 dated 11/01/2021.

The site was to be inspected on 21/1/2021 at 11.00 am onwards.

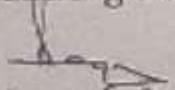
However you failed to be present for the said Site Inspection as I was personally there as you send this letter to me as "for Information."

I cannot understand why another inspection was to be conducted even though the site was surveyed by the DSLR (Land Surveyed Department) and also Two personal hearing were conducted vide your officer Letter No. GCZMA/H.C.M./WP/NO.64/2020/19-20/05/184 dated 12/06/2020 on 3/7/2020 and 17/9/2020.

Also in the said above Notice, you have mentioned that since this is NGT court Direction matter no adjournment will be granted to the parties.

Hence I kindly request you to pass the necessary orders against Francis Rodrigues for demolition of his House in survey no. 158/2 (Part) at Tivai Vaddo, Calangute and the illegal road within 15 days from the receipt of my letter, failing which I will have no other option, but to approach the Legal Forum for relief.

Thanking You


(Mr. Joseph Sequeira)

Shama in file

Call for report
of DCC
Ref. No. J.S./19-20/068

Invoice No. 54221
Date 29-01-2020

294 e/8

From:- Mr. Joseph Sequeira,
#5 Joe Leitao Residency,
Naika Vaddo, Calangute,
Bardez - Goa
9326110855
Date: - 29/01/2020

To,
Member Secretary,
Goa Coastal Zone Management Authority,
Deendayal Bhavan, Pundalik Nagar,
Alto - Porvorim, Bardez - Goa

3/1/20
Sham

Sub: Illegal Construction of R.C.C. in survey no. 158/2 (Part) at Tivai Vaddo Calangute by Sarpanch Mr. Francisco A. Rodrigues.

Sir,

I would like to bring your kind notice that the Sarpanch of Calangute Mr. Francisco A. Rodrigues is constructing illegal R.C.C. construction in survey no. 158/2 (Part) which is within 200 to 250mts of H.T.L., thus defying the CRZ rules which are in force.

Therefore I kindly request you to immediately take necessary action against the said illegal R.C.C. construction.

I enclosed herewith Photographs which is clicked on 22/1/2020 by me from the site.

As a Sarpanch and as a authority of the Village he is taking undue advantage of his position.

You may also refer to your office Letter No. GCZMA/N/14-15/89/1603 dated 29/9/15, that you have recommended to Dr.

Sham

Luiza Maria Mathis for proposed construction of Compound wall in the property bearing survey no. 158/2 of Calangute Village. **295**

However there was no house existing in the said property, as per the site inspection Report of your office and also as per the Licenses issued to Mrs. Luiza Maria Mathis by your office. As per your N.O.C. the Panchayat had issued a licenses based on your Recommendation vide Panchayat licenses VP/CAL/F-13/15-16/L-67/578 dated 13/3/16 **for compound wall only** and a 3 + 1 mts access had to be maintained on the western side of the property as a setback and Traditional access and for mundkar house.

Now it has come to may notice that the Sarpanch of Calangute village Mr. Francis Rodrigues has purchased this property and he has forcibly started a illegal R.C.C. Construction in the said property and he also says that I am the Sarpanch and no one will dare stop my illegal construction as all the departments are with him and their blessings are there to protect the said illegal Construction.

I had visited this site on 21/1/2020 and immediately send a letter to the Sarpanch/Secretary for necessary action, but till date no action, has been taken nor any notice has been issued to Mr. Francisco A. Rodrigues hence I am officially filing this complain in your office that there is gross violation of CRZ Rules in survey no. 158/2 part.

Also in the Past I had filed several complaints which were address to the *Sarpanch/ Sectary of Village Panchayat Calangute, The Block Development Officer of Mapusa, The Dy. Director of Panchayat of Panaji* - regarding

a) *Illegal construction in survey no. 149. (Copy enclosed)*

Log

- e/8t
- 296**
- b) *Complaint against Mr. Francisco A. Rodrigues for Destroying Cutting the Natural Sand Dunes and Mangroves and causing damage to ecology in the CRZ area. (Enclosed Copies)*
- c) *construction of illegal road on the western side of the survey no. 160 at Maddo Vaddo and on the western side of the survey no. 158 and 149 at Tivai Vaddo by Shri Francisco A. Rodrigues in CRZ area within 30 mts of H.T.L. (Copy enclosed)*

But till date only notices has been issued to him but no action has been taken.

Therefore I kindly request you to take necessary action against Mr. Francisco A. Rodrigues.

Thanking you,



(Mr. Joseph Sequeira)

Enclosed:

- *Form I & XIV*
- *Survey plan*
- *Your office licence with site inspection report*
- *Panchayat letter*

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology and Environment (Govt. of Goa)
1st floor, Pt. Deendayal Upadhyay Bhavan, Pundalik Nagar, Alto,
Porvorim, Bardez- Goa-403 521, Phone: (0832) 2416561

www.czma.goa.gov.in

Ref.No.GCZMA/H.C.M/W.P.No.64/2020/19-20/05/27/3 Dated:19/13/2019 ^{20.}

SHOW CAUSE NOTICE CUM STOP WORK ORDER ISSUED UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986, READ WITH RULE 4 OF THE ENVIRONMENT (PROTECTION) RULES, 1986.

WHEREAS, the Goa Coastal Zone Management Authority (hereinafter referred to as 'the GCZMA' in short) has been constituted by the Ministry of Environment & Forests (MoEF), Government of India pursuant to the directions of the Hon'ble Supreme Court of India to deal, inter alia, with violation of the Coastal Regulation Zone (CRZ) Notification 2011 and implementation of the CRZ Notification.

WHEREAS, the Office of the Goa Coastal Zone Management Authority (hereinafter referred as 'the GCZMA' in short) had received a complaint letter dated 27/12/2019 from Mr. Cyprian Simon Silveira, and was inwards in the office of GCZMA on the 27/12/2019, with respect to the illegal construction of a new road through the property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute Bardez Goa. (*Enclosed Copy of the Complaint dated 27/12/2019*)

AND WHEREAS, the Complainant filed an Writ Petition bearing no 64/2020 before the Hon'ble High Court of Bombay at Goa inter alia seeking Writ of Mandamus for immediate action upon his Complaint.

AND WHEREAS, the Mamlatdar of Bardez Submitted a report bearing No. MAM/BAR/CI-II/8-Point/CRZ/Calangute/2020/674 dated 29/01/2020 stating the illegalities carried out in the property bearing survey no 158/2 of a house and a road in Sy No. 158/2 and 158/6 of Calangute Village, Bardez Goa. (*Enclosed Copy of the report dated 29/01/2020 along with the sketch.*)

AND WHEREAS, the Members of the Authority had conducted a Site Inspection on 10/02/2020 and intimated the parties vide letter no GCZMA/H.C.M/W.P.No. 64/2020/19-20/05/2323 dated 03/02/2020; for the purpose of verifying the authenticity of the Complaint and check the illegalities on site. (*Enclosed Copy of the Site Inspection Report along with the Plan.*)

AND WHEREAS, upon receipt of the Complaint, directions from the Hon'ble High Court, and the report of the Expert Member of the GCZMA; the following alleged illegal construction resulting in blatant and serious violation of CRZ Notification 2011 is noticed. The details of the violations are indicated here below:-

Sr No.	Name of the Party/alleged violator	Survey No. / Village	Type of Construction	Distance from HTL
1.	Mr Francis Rodrigues resident of Tivai Vaddo Calangute Bardez Goa	Survey No 158/2, 158/4 and 158/6 Bardez Goa	Illegal construction of road and illegal construction of House	within 200mts-400 mts from HTL.

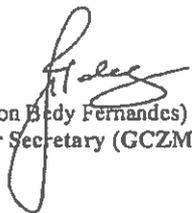
AND WHEREAS, as per the CRZ Notification, 2011; the entire belt of 100 mts from the High Tide Line (HTL) of river and 200mts. from the HTL from the sea is designated as the No Development Zone (NDZ) and hence no construction/development whatsoever are permissible in the said belt;

AND WHEREAS, the alleged illegal construction is highly detrimental to the Coastal ecosystem / riverine ecosystem. Further it is observed that you have not obtained any prior approval of the GCZMA for the purpose of alleged construction as required under the CRZ Notification 1991/2011.

NOW THEREFORE, in exercise of the powers conferred by section 5 of the Environment (Protection) Act, 1986 read with sub-rule (3) (a) of rule 4 of the Environment (Protection) Rules, 1986, delegated to the GCZMA, the GCZMA hereby directs you to **STOP WORK** with immediate effect and **SHOW CAUSE** as to why direction to demolish the structures and to restore the land to its original condition should not be issued to you. Further, you are directed to ensure that no civil work of whatsoever kind and nature is carried out at said site.

FURTHER TAKE NOTE THAT, you are required to file your reply along with compliance report and produce construction/reconstruction/repair licence/approvals, if any, issued by the concerned Authorities including GCZMA along with approved plan, and also documents to show the title to the Office of the GCZMA, having its Office at 1st Floor, Pt. Deendayal Upadhyay Bhavan, Pundalik Nagar, Alto, Porvorim, Bardez- Goa on or before 01/04/2019 and remain present for a personal hearing on the 03/04/2019 at 12.00p.m at the 2nd Floor, Conference Hall, Secretariat, Porvorim, Goa Secretariat, Porvorim, Goa. Take note that if you fail to submit your reply along with

the required documents, the GCZMA will come to the conclusion that you have no justification to carry out its activities as above stated and the Authority shall proceed to issue final directions to you in this regard without any further notice which inter alia includes order of demolition of structures, disconnection of water / power supply etc.

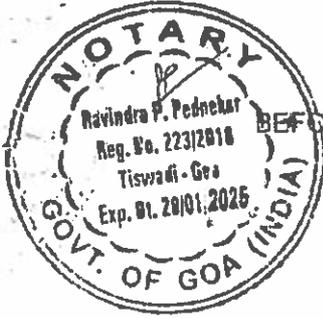

(Johnson Bedy Fernandes)
Member Secretary (GCZMA)

Encl: As above

To, ✓ Mr Francis Rodrigues, resident of 3/88 B, Tivai Vaddo, Calangute, Bardez Goa.

Copy to:

1. The Collector & District Magistrate (North), Office of the Collector (North), Collectorate Building, Panaji-Goa... for information and necessary action.
2. The Dy. Collector & SDO of Bardez, Goa..... who is required to enforce these directions and ensure that no work is carried out at site, other than in accordance with law.
3. The Secretary, Village Panchayat of Calangute, Bardez-Goa.....who is required to enforce these directions and ensure that no work is carried out at site and also initiate action under the Goa Panchayat Raj Act, 1994 and to report the compliance to the GCZMA.
4. MR CYPRIAN SIMON SILVEIRA, resident of House No. 3/80, Tivai Vaddo, Calangute, Bardez Goa.
5. MR. JOSEPH SEQUEIRA, House No 5, Joe Leitao Residency, Naika Vaddo, Calangute Bardez Goa....for information.
- 6.



BEFORE THE GOA COASTAL ZONE MANAGEMENT AUTHORITY
PORVORIM, GOA.

Case No. GCZMA/H.C.M./W.P. No.64/2020/19-20/05

Cyprian Simon Silveira ...Complainant

Versus

Francis Rodrigues ...Respondent

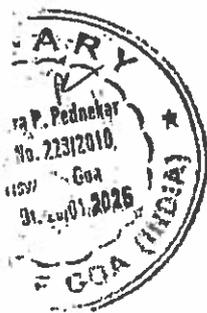
REPLY OF THE RESPONDENT
TO THE SHOW CAUSE NOTICE
DATED 19/03/2020 ISSUED BY
THIS HON'BLE AUTHORITY

MAY IT PLEASE THIS HON'BLE AUTHORITY:

The Respondent above-named most respectfully states and submits as under:

1. At the outset, the Respondent states that the complaint dated 27/12/2019 filed by the Cyprian Simon Silveira r/o Tivai Waddo, Calangute, before this Hon'ble Authority is totally false, baseless and bogus. The Respondent states that the aforesaid Complainant has been set-up by the political rival of Respondent - one Joseph Sequeira, whom the Respondent had defeated in the last Village Panchayat elections.
2. The Respondent further states that the Complainant is himself guilty of massive illegal construction (ground plus two storied structure) in Survey No. 158/6 of Village Calangute, which property lies within 200-500 meters of CRZ-III category and wherein commercial operations are being carried-out, without any permissions/licenses. By means of the present complaint and the previously instituted Writ Petition No.64/2020 before the Hon'ble High Court, the Complainant is trying to create record and false evidence to suit his own illegalities. The Respondent is in the process of instituting necessary legal proceedings against the Complainant in respect of his own illegal constructions. On this ground alone, the present show cause notice deserves to be

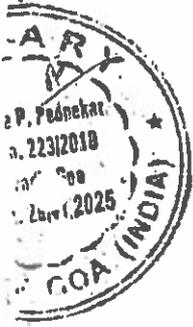
Rodrigues



dropped. Hereto annexed and marked as **Exhibit A** is the copy of the show cause notice along with its accompaniments.

3. The Respondent states that the Respondent and his wife are the co-owners of a plot of land admeasuring 438 square meters situated in Survey No. 158/2 of Village Calangute, Taluka Bardez, Goa (hereinafter referred to as "the said property"). The names of the Respondent and his wife are reflected in the Occupant's Column of the Survey Records pertaining to Survey No.158/2. The Respondent and his family are local residents of the vicinity and they belong to the traditional coastal (Kharvi) community.
4. The Respondent states that there existed a ground floor "house structure" in the said property with a plinth area of around 203.47 square meters and this house structure was in existence since the past 45 years. The house structure is located well outside the No-Development Zone of CRZ-III category *i.e.* beyond 200 meters from the HTL. The Respondent has always been using the house structure for the purpose of residence only and no commercial activities are being carried-out therein. The Respondent states that besides the house structure, there are at least six other structures in the remaining part of the said property bearing Survey No. 158/2 belonging to various persons.
5. The Respondent states that the house structure is also depicted in the Gat Book maintained by the Talathi of Calangute. The Respondent states that the Gat Book maintained by the Talathi has been prepared at the time of promulgation of the survey records sometime in the year 1972-73 and existence of the impugned house structure therein is adequate proof that the same is a pre-1991 structure *i.e.* the same was in existence prior to the coming into effect of the Coastal Regulation Zone Notification, 1991. The Respondent states that, however due to inadvertence and mistake, it appears that the said house structure was not depicted in the survey records which were promulgated in the year 1971-72. The Respondent is in the process of initiating necessary steps for re-survey and rectifying the said error. Hereto annexed and marked as **Exhibit B** is a copy of the relevant extract of the Gat Book.
6. The Respondent states that sometime in the year 2019, the Respondent/his wife desired to carry-out some minor cosmetic repairs to the house structure, by way of changing the floor tiles and plastering the walls which had developed cracks due to passage of time.

Rodney



7. As per the law laid down by the Hon'ble High Court of Bombay at Goa in the case of *Conceicao Da Costa & Ors. v. Maria De Sa & Ors.*, reported in *2018 (2) Goa L.R. 238*, the Respondent was not even required to obtain any permission from the local Village Panchayat for effecting such minor repairs.
8. Even from the CRZ point of view, permission for repair of existing authorized structure in CRZ-III category is contemplated only within the NDZ area. As far as 200-500 mtrs category of CRZ-III category is concerned, the law contemplates permission from the CZMA only in case of construction, reconstruction or alteration. The said Notification does not contemplate any permission to be taken for purely cosmetic or minor repairs such as painting, plastering or changing of internal flooring tiles etc., which was proposed by the Respondent.
9. However without prejudice and out of abundant caution, the wife of the Respondent applied to the Village Panchayat on 10/07/2019 seeking permission for repairs of the said house structure. Along with the said application, the applicant also submitted an estimate giving the details, the valuation of the proposed repairs Thereafter the site of the house structure was duly inspected by the officials of the Village Panchayat and the photographs of the existing house structure (prior to effecting the repairs) was also taken.
10. Upon considering the said application and upon following due process, the Village Panchayat of Calangute was pleased to issue a Repair License bearing Reference No. VP/Cal/F-13/19-20/L-25/1693 dated 06/08/2019 in favour of Mrs. Adelina Rodrigues - the wife of the Respondent, permitting repairs of the existing house structure. Hereto annexed and marked as Exhibit C Colly are copies of the application dated 10/07/2019 along with its accompanying documents, the site inspection report and the Repair License dated 06/08/2019.
11. From the aforesaid facts, it is apparent that the house structure is a pre-1991 structure. The house structure is existing outside the NDZ (i.e. existing between 200-500 mtrs from the HTL). The house structure has been occupied by the Respondent and his family for the purpose of residence and the said persons belong to the traditional coastal fishermen community. The Respondent has never exceeded the pre-existing plinth area, FSI, FAR or height of the house structure but has carried-out purely cosmetic/minor repairs in the nature of painting, plastering of walls, changing of floor tiles etc. The said works do not

Adelina Rodrigues



even amount to 'repair' in the real sense of the term and even if so construed, do not require any permission from the competent authorities, including the GCZMA. In view of the above clarification, it is respectfully submitted that the present show cause notice deserves to be dropped.

ALLEGATION CONCERNING CONSTRUCTION OF ILLEGAL ROAD

12. In the complaint dated 27/12/2019 filed by the complaint as well as in the Show Cause Notice issued by this Hon'ble Authority, it is alleged that the Respondent has illegally constructed a road through Survey Nos. 158/4 and 158/6 of Village Calangute. The Complainant has alleged that the Respondent has constructed the said road in order to create access for the Respondent's so-called newly constructed structure in Survey No. 158/2.
13. With reference to the aforesaid allegation, *firstly* the Respondent states that the property bearing Survey No. 158/4 and 158/6 do not belong to the Respondent and therefore there is no question of the Respondent constructing any alleged 'new' road through the said properties.
14. *Secondly*, the show cause notice in so far as it calls upon the Respondent to answer the said charge, is defective. The Respondent submits that no finding can be given by this Hon'ble Authority as to the illegality of the said road without issuing notices to the owners of the Survey Nos. 158/4 and 158/6 and hearing the said persons.
15. Pertinently, till date the real owners of the said survey holdings have not even made any grievance regarding alleged violation of their propriety rights, alleged forceful acquisition of their property or illegal construction of road through their property. It is only the Complainant, who has no right in those properties (except alleged limited mundkarial right in Survey No.158/6), who is making wild, false and baseless allegations concerning location of the road. The Respondent states that all these allegations (regarding earlier existing and so-called changed location of the road) are being made by the Complainant to create a false trail of record to suit his own illegal constructions done in Survey No.158/6. The Respondent states that the ulterior motive of the Complainant behind filing the Writ Petition No. 64/2020 before the Hon'ble High Court was to only make certain averments regarding the existence and legality of the Complainant's own newly/illegally constructed structures and create false record in that behalf. Hereto

Rodrigues

annexed and marked as Exhibit D is the memorandum of the said writ petition.

16. *Thirdly*, it is inconceivable that the alleged change of alignment of the road has been done by the Respondent in order to create access for the said property/house structure. The Respondent states that as per the own case of the Complainant, the said property/house structure of the Respondent is nowhere close to the alleged new road. The Respondent does not even get any access from this alleged new road.
17. *Fourthly*, and in any event of the matter, as a local resident, the Respondent is personally aware that no road (as alleged by the Complainant) has been newly / illegally constructed and the road presently existing and passing through Survey Nos. 158/4 and 158/6 has been there for the past more than 30 years at least.

RESPONSE TO THE MAMLATDAR AND TALATHI REPORTS

18. The Respondent states that the Mamlatdar dated 29/01/2020 is *per-se* erroneous and misconceived on facts. The said report refers to alleged construction of road through properties bearing Survey Nos. 158/2 and 158/6, when the case of the complainant and the imputation in the show cause notice itself, is that such road has been constructed through Survey Nos. 158/4 and 158/6. There is not even any allegation of construction of any new road through or in Survey No. 158/2, as stated by the Mamlatdar in his report. The finding of the Mamlatdar is therefore apparently erroneous.
19. Similarly, the Mamlatdar's Report dated 29/01/2020 notes that the plinth area of the existing house structure of the Respondent in the said property is 30 meters, when actually and factually, the said house structure admeasures 203.47 square meters. Further still, the Report dated 29/01/2020 notes that the allegedly newly constructed road and house structure are located within 200 meters from the HTL; when the Complainant's own case as also the allegation in the show-cause notice is that the same are located beyond 200 meters from the HTL (i.e. beyond the NDZ). The aforesaid findings of the Mamlatdar are in turn based on the report of the Talathi dated 28/01/2020.
20. From the above, it is apparent that the Talathi/Mamlatdar have inspected some other structure altogether and not the impugned house structure, which is the subject-matter of the present show cause notice. The Respondent states that the Reports of the Talathi/Mamlatdar are

R. D. Jones





at glaring variance with the case of the Complainant and the allegations in the show cause notice. In any case, the findings of the Talathi/Mamlatdar report are factually incorrect and patently false.

21. As far as the allegations made by the Complainant in his complaint are concerned, the Respondent emphatically denies the same. The Respondent emphatically denies that he has done any new construction or reconstruction or alteration. The Respondent emphatically denies the photographs which are produced on record. The Respondent states that the same do not pertain to the house structure which is the subject-matter of the present show cause notice.

22. In the light of the aforesaid facts and circumstances, it is humbly submitted that the present show cause notice be dropped.

Date: 17/09/2020
Place: Porvorim, Goa.

Rodrigues
RESPONDENT

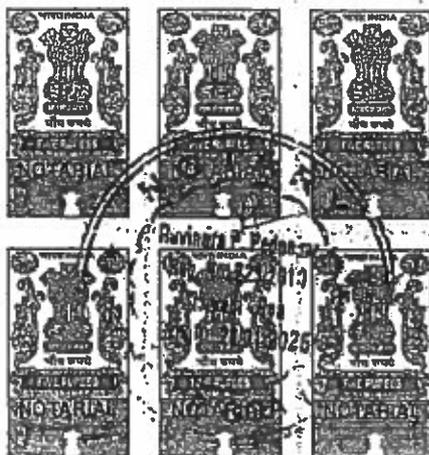
VERIFICATION

I, Francisco Rodrigues, major of age, Indian National, married, residing at Tivai Waddo, Calangute, Bardez, Goa – 403516, do hereby say on oath and solemn affirmation that the contents of paras 1 to 6 and 9 to 22 of the foregoing reply are true to my own knowledge and the contents of the remaining paras 7 and 8 thereof, are based on legal submissions, which I believe to be true and correct.

Solemnly affirmed at Panaji, Goa)
On this 29th day of June, 2020)

Rodrigues
DEPONENT

Identified by me:
Pankaj P. Vernekar
(Pankaj P. Vernekar)
(Advocate for the Respondent)



I hereby attest the signature of
Executant's Shri/Smt. *Francisco Rodrigues*
who has been identified before
me by *Adv. Pankaj P. Vernekar*
Panaji, Goa
whom I personally know.
Reg No. *871* Dated *29/06/2020*

R.P. Padnekar
Ravindra P. Padnekar
Notary For Tiswadi Taluka
State of Goa (India)

MINUTES OF THE 225th MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 04/06/2020 at 10.30 AM. IN THE CONFERENCE HALL, 2ND FLOOR, CONFERENCE HALL, SECRETARIAT, PORVORIM – GOA.

The 225th meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Principal Secretary (Environment), on 04/06/2020 (Thursday) at 10.30am in the conference hall, second floor, Secretariat, Porvorim . Goa.

The following members were present for the meeting on 04/06/2020:

1. Principal Secretary (Environment) / Chairman (GCZMA).
2. Representative on behalf of Director, Directorate of Panchayat, Panaji, Goa.
3. Representative on behalf of Director, Department of Tourism, Panaji, Goa.
4. Shri.Flaviano Miranda, Expert Member (GCZMA).
5. Shri. Mahesh Patil, Expert Member (GCZMA)
6. Shri. Sujeet Kumar Dongre, Expert Member (GCZMA)
7. Shri. Srirang Jambhale, Expert Member (GCZMA)
8. Member Secretary (GCZMA).

Item No 1

Case No 1.1

To decide on review application filed dated 09/07/2019 by Boomrang Bar and Restaurant.

Background: The present matter is interalia Suo Moto cognizance of Hon^{ble} High Court of Bombay at Goa, Panaji about the illegalities/constructions in CRZ area. The Hon^{ble} High Court of Bombay at Goa vide Order dated 26/09/2007 passed in the matter of Suo Moto Writ Petition No.02/2006 had directed all Panchayats /Municipalities to submit action taken report with regard to constructions in NDZ/CRZ area as per terms mentioned therein along with an affidavit.

Pursuant to the decision taken by the Authority in its 198th GCZMA meeting held on 10/05/2019; directions were issued by GCZMA to M/S Boomerang Bar and Restaurant to demolish G+1 structure vide order bearing no. GCZMA/SMWP/02/06/743 dated 30/05/2018.the affected party approached Hon^{ble} High Court of Bombay at Goa to challenge the said demolition order bearing WP No. 469 of 2019. The respondent has also filed a review Application dated 09/07/2019 interalia seeking review of the order dated 30/05/2019 passed by GCZMA. The said matter was placed during 210th GCZMA meeting held on 07/08/2019 wherein the respondent was absent. Authority decided to take up the matter in its next meeting.

Hotel has ground plus four floors, Area used for the construction of the hotel is 75% of the plot area, within 200 sqmts of Sea and in No Development Zone (NDZ) in CRZ III area. Upon receipt of the Complaint the GCZMA vide Letter dated GCZMA/N/ILLE-Compl/19-20/79/1396 dated 06/09/2019 a site Inspection was carried out on 17/09/2019.

The said Site Inspection of the Expert Member dated 17/09/2019 the Expert Member stated the illegalities carried out by the alleged violators.

The GCZMA issued a Show Cause Notice bearing No. GCZMA/N/ILLE-COMPL/19-20/79/1570 dated 10/10/2019; the Respondent did not file his reply to the Show Cause Notice dated 10/10/2019.

The alleged violator filed an application dated 16/10/2019 stating that the copy of the complaint was not furnished to them as a result of which they were not in a position to file their reply.

The GCZMA vide letter dated GCZMA/N/ILLE-COMPL/19-20/79/2061 dated 02/01/2020, again furnished copy of the complaints based on which the Show Cause Notice was issued and directed the alleged violators to file their reply on 15/01/2020.

The alleged violator has filed yet another letter stating to furnish the copy of the complaint. The Authority hereby informs you that there is only one complaint dated 21/08/2019; wherein the Complainant has captioned as Reminder I, the Authority has considered this Complainant captioned as Reminder I dated 21/08/2019 as a complaint and has verify the complaint by conducting a Site Inspection by the expert Members of the Authority. However, Show Cause notice is issued to the alleged violators based on the Site Inspection report drawn by the Expert Members.

The authority during its 223rd meeting held on 18/03/2020 noted that None were present for the Hearing. It has been noted that upon repeated intimation to file reply and upon the hearing notice being served upon the alleged violators; the alleged violators have failed to file their reply till date and also failed to remain present for personal hearing. It has also been noted by the Authority that the notice of today's hearing was intimated to the alleged violators on the 30/03/2020 however the notice returns back with a postal endorsement "Unclaimed"; which legally means it is a good service. The Authority has now decided to grant a last and final opportunity to the Alleged Violators and directed to issue a final notice for personal hearing for the Next GCZMA Meeting.

Decision: Since the Complainant & the Respondent are not present, the Authority decided to defer the same & fix for hearing on 03/07/2020 @ 10.30 am.

Case No 1.6

To decide on a complaint from Mr. Cyprian Simon Silveira, with respect to the illegal construction of a new road in property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute, Bardez Goa.

Background: The Office of the Goa Coastal Zone Management Authority had received a complaint letter dated 27/12/2019 from Mr. Cyprian Simon Silveira, and was inwards in the office of GCZMA on the 27/12/2019, with respect to the illegal construction of a new road through the property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute Bardez Goa. the Complainant filed an Writ Petition bearing no 64/2020 before the Hon'ble High Court of Bombay at Goa inter alia seeking Writ of Mandamus for immediate action upon his Complaint. the Mamlatdar of Bardez Submitted a report bearing No. MAM/BAR/CI-II/8-Point/CRZ/Calangute/2020/674 dated 29/01/2020 stating the illegalities carried out in the property bearing survey no 158/2 of a house and a road in Sy No. 158/2 and 158/6 of Calangute Village, Bardez Goa. *(Enclosed Copy of the report dated 29/01/2020 along with the sketch.* the GCZMA issued a Show Cause Notice bearing No. GCZMA/H.C.M/W.P.No. 64/2020/19-20/05/2713, dated 19/03/2020; the Respondent did not file his reply to the Show Cause Notice dated 19/03/2020.

Site inspection report:

As per the instruction of Member Secretary, Goa Coastal Zone Management Authority, an inspection was carried out on 10th February, 2020 from 11:30 am onwards. Expert Member (GCZMA) along with Mr. Devendra Gaonkar, FS from GCZMA and Mr. Rajesh Harmalkar FS, from DSLR visited the site and carried out the inspection.

Subsequently, the Expert Member recommended doing a mapping through DSLR in order to ascertain factual details of Survey number through which the alleged road is passing through at loco.

Accordingly, Mr. Devendra Gaonkar from GCZMA and Mr. Shri Rajesh Harmalkar FS, DSLR, visited the site on 17.02.2020 and mapped the factual details and submitted their report to the office of GCZMA on 18.02.2020.

Based on my field visit and subsequent map prepared by the DSLR, followings are observations.

1. The respondent Mr. Francis Rodrigues R/o 3/88 B Tiwaiwado, Calangute was not present at the site during the inspection.
2. The complainant Mr. Cyprian Simon Silveira, R/o ER-3/80, Tiwaiwado, Calangute was present at the site during the inspection.
3. It is observed that a new road has been constructed which is passing through survey numbers **158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6** of village Calangute, Bardez covering a total distance of about 80 meters. A map developed by the DSLR is annexed.

4. It is observed that a new house is being constructed in Survey No. **158/2** of village Calangute, Bardez. The construction is in its advance stages.
5. Both the road and the house falls within 200 to 500 meter of CRZ notified area.
6. No documents were found either in the GCZMA file or on site to prove the construction of the road and the house in above mentioned survey numbers is legal. However, permission was granted to construct a compound wall in the property bearing survey no. 158/2 of Calangute Village Ref. No. GCZMA/N/14-15/89/1603 dated 29/09/2015.
7. The Authority may deliberate and take appropriate decision.

Proceedings

The Complainant was present alongwith his counsel. The Respondent was not present. The Complainant submitted that the Respondent in defiance of the stop work order has continued with the construction of the house which appears that it would be used for commercial purpose. They stated that the V.P. of Calangute has in defiance of the stop work order issued by the Authority, gone ahead & granted an NOC for release of electricity to the offending structure. He stated that the construction of house is not limited to just 80 sq.mts as mentioned in the report of the Expert Member but is much more than 300mts. Apart from that, the co-owners of property bearing Survey No.158/4 through which the illegal road has been constructed have not been served with a notice, namely Antonio Xavier Silveira r/o. H.No.13 Tivai Waddo, Calangute Goa and Elvira Rodrigues H.No. 104, Tivai wado, Calangute, Goa. The complainant prayed for necessary directions to be issued de-novo to the Dept of Electricity not to release the supply.

Decision: The Authority after hearing the Complainant decided not to issue any further directions because in the event if the Respondent has not abided by our directives then only after proper hearing such a direction could be issued. Apart from this, since the Complainant has stated that the construction is just not limited to 80 mts, the Authority decided to call upon officials of the DSLR to do the mapping of the structure located in property bearing Sy.No.158/2 of Village Calangute including the road passing through the property bearing Sy. No. 158/1, 158/3, 158/4, 158/4D, 158/5 & 158/6. So also fresh notices to be issued including the owners of the property bearing Sy.No.158/4 and later fix the hearing on 03/07/2020 @ 10.30. am.

Case No 1.7

To decide on a complaint from Mr. Rui Manuel and Members of Reis Magos Panchayat Development Committee with regards to constructions carried out in Sy. No. 76/1 of Village Reis Magos, situated within NDZ of River Mandovi, by Mr.

MINUTES OF THE 227th MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) TO BE HELD ON 17/09/2020 at 03.30 PM. IN THE CONFERENCE HALL, 2ND FLOOR, SECRETARIAT, PORVORIM – GOA.

The 227th meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Principal Secretary (Environment), on 17/09/2020 (Thursday) at 03.30 pm in the conference hall, second floor, Secretariat, Porvorim . Goa.

The following members were present for the meeting on 17/09/2020:

1. Secretary (Environment) / Chairman (GCZMA).
2. Representative on behalf of Principal Chief Conservator of Forests, Department of Forest, Panaji-Goa.
3. Representative on behalf of Director, Directorate of Industries, Trade and Commerce, , Panaji-Goa.
4. Representative on behalf of Director, Directorate of Tourism, Panaji-Goa.
5. Representative on behalf of Chief Engineer, (WRD), Alto-Porvorim.
6. Representative on behalf of Principal Chief Engineer, Public Works Department, , Panaji-Goa.
7. Shri.Flaviano Miranda, Expert Member (GCZMA).
8. Shri. Sujeet Kumar Dongre, Expert Member (GCZMA)
9. Shri. Savio Joaquim Filipe Correia, Expert Member (GCZMA)
10. Shri. Shrirang Jambhale, Expert Member (GCZMA)
11. Member Secretary (GCZMA).

Item No 1

Case No 1.1

To decide on review application filed dated 09/07/2019 by Boomrang Bar and Restaurant.

Background: The present matter is interalia Suo Moto cognizance of Hon^{ble} High Court of Bombay at Goa, Panaji about the illegalities/constructions in CRZ area. The Hon^{ble} High Court of Bombay at Goa vide Order dated 26/09/2007 passed in the matter of Suo Moto Writ petition no.02/2006 had directed all Panchayats /Municipalities to submit action taken report with regard to constructions in NDZ/CRZ area as per terms mentioned therein along with an affidavit.

Pursuant to the decision taken by the Authority in its 198th GCZMA meeting held on 10/05/2019; directions were issued by GCZMA to M/S Boomerang Bar and Restaurant to demolish G+1 structure vide order bearing no. GCZMA/SMWP/02/06/743 dated 30/05/2018.the affected party approached Hon^{ble} High Court of Bombay at Goa to challenge the said demolition order bearing WP No. 469 of 2019. The respondent has

and hence the principle of Res Judicata is applicable is what the complainant stated. The question of review would not arise on the premise that ground truthing was not being done in the past because the Authority itself had done this exercise way back in 2006. The plans then prepared could have been put to use by the Authority without going for a fresh exercise in the garb of review. She stated that the exercise carried out by the Authority is bereft of any provision of law & hence the same ought to be stopped forthwith as there would be an end to litigation if such a stance is allowed by the Authority. She hence prayed that the directions given through the 187th meeting held on 30/10/18 be maintained & the offending structure be demolished.

Responding to these arguments the Counsel appearing for the Respondent submitted that in the first place the Authority was required to issue a show cause notice upon him before passing any directions which was never done & hence on this count itself the Authority has lapsed in following the procedure. He stated that apart from the notice of personal hearing he has not received any other notice in the nature of show cause. As regards the issue of review whether it is tenable or not, the Respondent stated that the Authority in its 215th meeting held on 22/10/19 has already allowed the application for review & hence the question of re-agitating on this aspect time & again would not arise. He submitted that all that was required to be ascertained is as to whether the various documents which has been relied upon by the Respondent which bears the stamp of approval of different statutory authorities & only because the survey number was not indicated on these approvals the Authority had come to the conclusion that the offending structures were illegal. Further to that the Respondent stated that the report of the ISLR Salcete who has done the ground truthing clearly spells out that the structure as shown in the approved plans which are prior to 1991 are in-sync with the present position on loco & that there is no deviation. He hence prayed that the decision taken in the 187th meeting of the Authority be re-visited & the directions passed therein be rescinded.

Decision: Authority heard the matter, Kept for orders.

Case No 1.4

To decide on a complaint from Mr. Cyprian Simon Silveira and Joseph Sequeira with respect to the illegal construction of a new road in property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute, Bardez Goa.

Background: The Office of the Goa Coastal Zone Management Authority had received a complaint letter dated 27/12/2019 from Mr. Cyprian Simon Silveira, and was inwarded in the office of GCZMA on the 27/12/2019, with respect to the illegal construction of a new road through the property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute Bardez Goa. the Complainant filed an Writ Petition bearing no 64/2020 before the Hon'ble High Court of Bombay at Goa inter alia seeking

Writ of Mandamus for immediate action upon his Complaint. the Mamlatdar of Bardez Submitted a report bearing No. MAM/BAR/CI-II/8-Point/CRZ/Calangute/2020/674 dated 29/01/2020 stating the illegalities carried out in the property bearing survey no 158/2 of a house and a road in Sy No. 158/2 and 158/6 of Calangute Village, Bardez Goa. *(Enclosed Copy of the report dated 29/01/2020 along with the sketch.* the GCZMA issued a Show Cause Notice bearing No. GCZMA/H.C.M/W.P.No. 64/2020/19-20/05/2713, dated 19/03/2020; the Respondent did not file his reply to the Show Cause Notice dated 19/03/2020.

Site inspection report:

As per the instruction of Member Secretary, Goa Coastal Zone Management Authority, an inspection was carried out on 10th February, 2020 from 11:30 am onwards. Expert Member (GCZMA) along with Mr. Devendra Gaonkar, FS from GCZMA and Mr. Rajesh Harmalkar FS, from DSLR visited the site and carried out the inspection.

Subsequently, the Expert Member recommended doing a mapping through DSLR in order to ascertain factual details of Survey number through which the alleged road is passing through at loco.

Accordingly, Mr. Devendra Gaonkar from GCZMA and Mr. Shri Rajesh Harmalkar FS, DSLR, visited the site on 17.02.2020 and mapped the factual details and submitted their report to the office of GCZMA on 18.02.2020.

Based on my field visit and subsequent map prepared by the DSLR, followings are observations.

1. The respondent Mr. Francis Rodrigues R/o 3/88 B Tiwaiwado, Calangute was not present at the site during the inspection.
2. The complainant Mr. Cyprian Simon Silveira, R/o ER-3/80, Tiwaiwado, Calangute was present at the site during the inspection.
3. It is observed that a new road has been constructed which is passing through survey numbers **158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6** of village Calangute, Bardez covering a total distance of about 80 meters. A map developed by the DSLR is annexed.
4. It is observed that a new house is being constructed in Survey No. **158/2** of village Calangute, Bardez. The construction is in its advance stages.
5. Both the road and the house falls within 200 to 500 meter of CRZ notified area.
6. No documents were found either in the GCZMA file or on site to prove the construction of the road and the house in above mentioned survey numbers is legal. However, permission was granted to construct a compound wall in the property bearing survey no. 158/2 of Calangute Village Ref. No. GCZMA/N/14-15/89/1603 dated 29/09/2015.

7. The Authority may deliberate and take appropriate decision.

The said matter was deliberated during 225th GCZMA meeting held on 04/06/2020 wherein the authority after hearing the Complainant decided not to issue any further directions because in the event if the Respondent has not abided by our directives then only after proper hearing such a direction could be issued. Apart from this, since the Complainant has stated that the construction is just not limited to 80 mts, the Authority decided to call upon officials of the DSLR to do the mapping of the structure located in property bearing Sy.No.158/2 of Village Calangute including the road passing through the property bearing Sy. No. 158/1, 158/3, 158/4, 158/4D, 158/5 & 158/6. So also fresh notices to be issued including the owners of the property bearing Sy.No.158/4 and later fix the hearing on 03/07/2020 @ 10.30. am.

Proceedings:

The Respondent filed reply & partly argued the matter. He stated that the names of the Respondent are figuring in the survey records of Form I & XIV in the occupants column of property bearing survey No.158/2 of Village Calangute. That within the said property there existed a house having plinth area of 203.47 sq. mts, since the past more than 45 years, which house is located well beyond the NDZ area. He placed on record the Form I & XIV of the said property wherein the name of the Respondent & that of his wife is found recorded in the occupants column. Besides his structure, there are another 6 structures existing in the said property. Although the structure is not figuring in the survey plan, the Respondent stated that if some contemporaneous evidence is produced than in that case the Authority can take a view that the alleged offending structure was in existence since prior to 19/02/1991 & to drive home this point the Respondent relied upon the gat book plan of the property wherein the structure is found reflecting in the survey plan. He submitted that this document was issued to him way back in 1995 where corrections were effected in survey No.158/7 to form new Sy.No.158/10, as well as to form new Sy.No.158/7. Merely because this structure is not shown on the promulgated survey plan, that by itself would not make the structure illegal. He admitted that somewhere in the year 2019 the Respondent & his wife decided to carry out cosmetic repairs to this structure by plastering the walls & change of ground tiles. He placed on record the photographs of the said house which bears a certificate embossed on the same of the V.P. Secretary stating that H.No.3/86/D is a legal house for which repair is sought by the Respondent. He further stated that construction/reconstruction/alteration is permissible under the law & incase of alterations/repairs there is no need of prior approval of the Authority. However as a matter of abundant caution the Respondent has secured license to repair the house which is presently under question before this Authority. He disputed the report of the Expert Member which stated that the construction is a fresh construction.

The Authority thereafter pointed out to the site inspection report of the Expert Member dt.10/02/2020 whereby the photographs clearly indicated that the construction carried

out by the Respondent was new including a road passing through property bearing Sy.No.158/4 & 158/6 of Village Calangute. The Counsel for the Respondent feigned ignorance of the said inspection report.

Decision: The Authority decided to issue the said inspection report of Expert Member to the Respondent so that he may give his reply to the same on the next date of hearing. The authority decided to hear both the parties on 24/09/2020.

Case No 1.5

To decide on a complaint from Mr. Rui Manuel and Members of Reis Magos Panchayat Development Committee with regards to constructions carried out in Sy. No. 76/1 of Village Reis Magos, situated within NDZ of River Mandovi, by Mr. Verner Velho and Rachita Velho, r/o, H.No. S-183/2, Near Dessai Saw Mills, Verem, Reis Magos Bardez, Goa.

Background: The Office of the Goa Coastal Zone Management Authority (hereinafter referred as the GCZMA in short) had received a complaint from one Mr. Rui Manuel and now subsequently a complaint from Members of Reis Magos Panchayat Development Committee with regards to constructions carried out in Sy. No. 76/1 of Village Reis Magos, situated within NDZ of River Mandovi, by Mr. Verner Velho and Rachita Velho, r/o, H.No. S-183/2, Near Dessai Saw Mills, Verem, Reis Magos Bardez, Goa. the GCZMA issued a Show Cause Notice bearing No. GCZMA/BAR/R.M/11-12/35/964, dated 18/11/2011; the Respondent did file his reply dated 12/12/2011 to the Show Cause Notice dated 18/11/2011. Based on the complaint filed by Members of Reis Magos Panchayat Development Committee the site was inspected and the DSLR has also mapped the illegal structures.

The said matter was deliberated during 225th GCZMA meeting held on 04/06/2020 wherein the Authority after perusing the records saw that similar proceedings were initiated at the behest of one person by the name of Rui Pinto who has subsequently made submissions before the Captain of Ports as well as to the Panchayat saying that he hasn't filed any complaint as against the Respondent. No such withdrawal has been made before us & even if such withdrawal had been made to us, then too the Authority cannot accept such a thing as violation if any has to be intricately looked into so as to take the final call as to whether it is a violation in terms of the CRZ norms. Apart from this, although the Dy. Collector of Bardez had given its findings, no decision has been finally taken by the Authority & because a similar type of complaint has been filed by Reis Magos Panchayat Development Committee the proceedings are clubbed together so as to arrive at a common decision. The Expert Member too has to give his report who submitted that he will give the same on 10/06/2020. Both the parties i.e. Complainants & Respondent to obtain copy of the report from the office of GCZMA on



BEFORE THE GOA COASTAL ZONE MANAGEMENT AUTHORITY
PORVORIM, GOA.

Case No. GCZMA/H.C.M.W.P. No.64/2020/19-20/05

Cyprian Simon Silveira ...Complainant

Versus

Francis Rodrigues ...Respondent

ADDITIONAL REPLY OF THE
RESPONDENT DEALING WITH
THE SITE INSPECTION REPORT
DATED 22/02/2020

MAY IT PLEASE THIS HON'BLE AUTHORITY:

The Respondent above-named most respectfully states and submits as under:

1. The Respondent is filing the present additional reply for the limited purpose of dealing with the findings of the site inspection report dated 22/02/2020 prepared by the Expert Member of this Hon'ble Authority Shri Sujeetkumar Dongre.
2. At the outset, this Respondent states that the Respondent was not present during the site inspection carried-out by the officials of the DSLR/this Hon'ble Authority on 10/02/2020 and 17/02/2020, which have been referred-to in the site inspection report dated 22/02/2020. The Respondent states that the findings of the site inspection report are factually incorrect and do not depict the correct prevailing situation at loco.
3. It is apparently clear that taking advantage of the absence of the Respondent during the site inspection, the complainant (who was present during the said site inspection) has misled the expert member and other officials of the inspecting party, by showing some other structure existing in the said survey holding and not the structure belonging to the Respondent. The Respondent states that the impugned site inspection which is done behind the back of the Respondent and which is also factually incorrect, cannot be taken into consideration while deciding the present show cause notice.

[Handwritten Signature]



4. **With reference to the finding regarding the road as contained in the impugned site inspection report, the Respondent emphatically denies the same. The Respondent states that the property bearing Survey No.158/4D is not even adjoining or contiguous to properties bearing Survey Nos.158/1, 158/3, 158/4, 158/5 and 158/6 of village Calangute. It is therefore inconceivable as to how a road could have been allegedly constructed passing through all the aforesaid properties, as alleged in the impugned site inspection report.**
5. Without prejudice, the said road is not even alleged to have been constructed in Survey No. 158/2, of which the Respondent is the owner of a portion of land. The Respondent is not the owner of the properties through which the said road is allegedly constructed. The Respondent therefore cannot be called-upon to answer a charge of purported illegality regarding some other survey holding property, of which he is not even the owner. To the best of the Respondent's knowledge, the owners of Survey Nos. 158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6 have not even been noticed and/or been heard in the present matter.
6. Without prejudice and in any event of the matter, the Respondent, as a local villager, is personally aware that the said road (which is alleged to have been newly constructed) has been existing at loco for the past more than 30 years.
7. **With reference to the findings regarding the alleged new house said to have been constructed by the Respondent in Survey No.158/2 of village Calangute during the time of the impugned inspection, the same is emphatically denied. The Respondent states that there is no question of the Respondent constructing any new house in his ownership plot situated within Survey No. 158/2, as alleged, when the same was an already existing old house. The Respondent has brought on record, documentary evidence that the structure of the Respondent's house was very well described in the old Gat-book, which was prepared/maintained prior to coming into force of the CRZ Notification, 1991.**
8. The fact of existence of the Respondent's house in Survey No. 158/2 was also borne-out from the report of inspection of the site held on 25/07/2019 (refer page 30 of the main reply of Respondent dated 17/09/2020) carried-out by the officials of the Block Development Office/Village Panchayat, prior to Respondent effecting minor internal maintenance works to the existing house in the year 2019.
9. The Respondent states that there are six other structures in the remaining part of the property bearing Survey No. 158/2 belonging to various other third parties. It is therefore apparently clear that the complainant has mis-informed and misled the visiting officials about the

Handwritten signature: Rodhuan



Respondent's real owned structure and inspection has been conducted of an altogether different structure, not owned by Respondent.

- 10. This is obvious even from the gross divergence in the findings of the site inspection report dated 22/02/2020 prepared by the GCZMA and the Report of the Mamlatdar dated 29/01/2020 (which report too is not admitted by the Respondent in any case). However, it may be noted that the Mamlatdar's Report states that the impugned house structure is located at a distance of 0-200 mts from HTL, whereas the site inspection report of GCZMA states that the same is located within 200-500 mts. from the HTL. Such a patent inconsistency in the two site inspection reports prepared by two different authorities presents a grave question-mark over the correct identity of the structure inspected and alleged to be illegally constructed by the Respondent.
- 11. In the light of the aforesaid facts and circumstances, it is humbly submitted that the present show cause notice be dropped.

Date: 24/09/2020
Place: Porvorim, Goa.

[Signature]
RESPONDENT

VERIFICATION

I, Francisco Rodrigues, major of age, Indian National, married, residing at Tivai Waddo, Calangute, Bardez, Goa – 403516, do hereby say on oath and solemn affirmation that the contents of paras 1 to 11 of the foregoing reply are true to my own knowledge and no part of it is false.

Solemnly affirmed at Panaji, Goa)
On this 21st day of September, 2020)

[Signature]
DEPONENT

Identified by me:

[Signature]
(Pankaj Pai Vernekar)
(Advocate for the Respondent)

I hereby attest the signature of Francisco Rodrigues,
o/o Tivai Waddo Calangute G
who appeared and signed before me
and in presence of identifying
witnesses identified on
the basis of Aadhar Cards
who are known to me.



[Signature]

Anil P. Thali
Advocate & Notary
Tiswadi Taluka
Panjim - Goa 403 001
Reg. No. 348

Reg. No. 3025/2020
Date 21/9/2020

From,
Cyprian Simon Silveira,
R/o H. No. ER-3/80, Tiwai Wado,
Calangute, Bardez-Goa,

Date: 24 /09 /2020

To,

Goa Coastal Zone Management Authority
1st floor, Deen Dayal Bhavan,

Alto, Porvorim – Goa.

Sub: Submission on reply of Francis Rodrigues on my complaint about illegal construction in survey no. 158/2 of village Calangute within CRZ area.

Ref.:- your notice for personal hearing dated 18/09/2020 bearing no. --

Sir,

I have read the reply of respondent Mr. Francis Rodrigues and submit as under:-

I submit that from 24/12/2019 Francis Rodrigues has undertaken illegal construction. Mr. Francis Rodrigues has made false statement and misleading the authorities by making false statements in the Reply .

I hereby annex copies of two sale deed dated 20/11/2019 along with Inventory Proceeding No. 504/2014/B and Sale Deed dated 10/11/1999 under which Mr. Francis Rodrigues has purchased two plots admeasuring 438 Sq .mts. and 900 sq. mts. under Survey No. 158/2 of village Calangute. In these documents there is no mention of any existing house and the plots are sold without any structures.

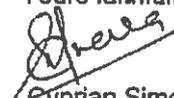
As regards to H.No 3/86/D, the said House Number appears to have been obtained in the year 2012 as per the inquiry made with the panchayat and the said House number is not related to any structure in survey No. 158/2. The plots are purchased after the year 1999 without any structure and hence this proves that the construction is the new construction and not existing structures prior to 1991. It is found that new electricity connection and water supply connection has been obtained subsequent to my complaint in 2019-20. The report of the BDO and permission of the Panchayat as well as the photographs annexed to the reply are fabricated to suit Francis Rodrigues to cover up the illegality as he is Sarpanch of the Panchayat. In the Land Use Map and Outline Development Plan of Canlangute-Candolim 2025 prepared by North Goa

Planning and Development Authority from the year 2016 to 2018, no structure has been shown in these plots. Besides this as per order of Hon'ble High Court in W.P 422/1999 and suo moto W.P 2/2006, the Government had prepared the plan of existing structures in the year 2005-2006 and in this plan also the plots purchased by Francis Rodrigues are shown as without any structures. The allegations made by him against me are false and it is an attempt to pressurize me to withdraw the present complaint and I have correspondence with the Panchayat to that effect.

The report of BDO is also made backdated since it is seen that plot in which the illegal construction is made is purchased on 20/11/2019 whereas the date of applications for repairs is 11/7/2019 and License is dated 6/08/2019. The said report of officers of BDO dated 25/7/2019 is illegal since there was no house as on date of inspection 25/7/2019 and the construction had started from December 2019. The photographs produced by me and inspection report of Talathi is evidence of the same since the same is during the illegal construction.

Hence I request you to take immediate action to demolish the illegal Construction.

Yours faithfully,


Eyprian Simon Silveira,

Stamp No. G 1, Grand Floor, Block D-1, Bardez Taluqa, Mapusa Goa - 403 007
D-915TP/N/11 C.R. 1/25/11/2012-PD
Stamp No. 02227500
Stamp No. 365430
Stamp No. 20.11.2019
Stamp No. 365430
Stamp No. GOA
Stamp No. INDIA
Stamp No. **Zero-Two-Two-Seven-Five-Zero-Zero...

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Rodrigues

ABREU RODRIGUES

~~REG - BARDEZ
BARDEZ~~

2019-B&Z-37C2
21-11-2019



DEED OF SALE

THIS DEED OF SALE is made at Mapusa, Bardez, Goa on this 20th day of the month of November, of the year Two Thousand Nineteen (2019);

M. Rodrigues
Rodrigues *A. Rodrigues* *Rodrigues*

~~SECRET~~
~~SECRET~~

BY

1) **MRS. LOUISA MARIA MATHIAS ALIAS LOUIZA MARIA MATHIAS**, aged 72 years, widow of late Louis Saturnine Mathias, daughter of late Louis Alvaro Santiago, holder of Pan card No.AFAPM8468D, married, Retired Professor, Indian national, resident of 58 Vittal Mallya Road, Bangalore 560 001, (hereinafter referred to as the **VENDOR/SELLER PARTY No.1)A**);

2) **MRS. KEYA D'SA**, aged 47 years, daughter of late Louis Saturnine Mathias, holder of Pan Card No. AXZPD4912G, married, Graphic Designer, U.K. national, holder of OCI Card No.A 1710240, resident of 58 Vittal Mallya Road, Bangalore 560 001. (hereinafter referred to as the **VENDOR/SELLER PARTY No.1)B**);

3) **MRS.NISHA RAMDAS**, aged 45 years, daughter of late Louis Saturnine Mathias, holder of Pan card No.AHNPP2635C, married, Researcher/Educator, Indian national, resident of Flat No.1, Vaswani Solitaire, 1 Papanna Street, Opp.St. Mark's Road, Bangalore 560 001 and (hereinafter referred to as the **VENDOR/ SELLER PARTY No.1)C**); and

M. Senthil Kumar
S. S. Suresh
A. Rodriguez
A. S. Suresh



~~MS - MATHIAS
MATHIAS~~
CARD

4)Ms.SHONALI MATHIAS ALIAS SHONALI MATHIAS PRABHU, aged 45 years, daughter of late Louls Saturnine Mathias, holder of Pan card No.AFLPP8139F, spinster, Professional, Indian national, resident of 58 Vittal Mallya Road, Bangalore 560 001, Karnataka,(hereinafter referred to as the **VENDOR/SELLER PARTY No.1D**);

PARTIES 1)A) to 1)D) as hereinabove hereinafter collectively called the 'VENDORS' or 'SELLERS' (which term and expression shall unless repugnant to the context and meaning thereof be deemed to mean and include each of their respective heirs, executors, administrators, successors, legal representatives and assigns wherever the context so requires or admits or any other person or persons lawfully, equitably or otherwise claiming through them) of the **FIRST PART**.

BETWEEN
TO AND IN FAVOUR OF

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2)A) MRS.ADELINA RODRIGUES, aged 43. years, daughter of Xavier Vincent Lobo, wife of Francisco Rodrigues, holder of Pan card No.ASUPR2773H, married, housewife (Mobile No.9860027524) Indian national, resident of H.no.3/88B, Tivai Vaddo, Calangute, Bardez

M. S. Mathias

Rodrigues

A. Rodrigues

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Goa,403 516 (hereinafter referred to as the **PURCHASER PARTY No. 2)A**);

2)B) **MR.FRANCISCO RODRIGUES**, aged 52 years, son of Antonio Lawrence Rodrigues alias Antonio Lourenco Rodrigues, holder of Pan card No. ASUPR2772G, married, in service(Mobile No.9860027524) Indian national, resident of H.no.3/88B, Tivai Vaddo, Calangute, Bardez, Goa,403 516 (hereinafter referred to as the **PURCHASER PARTY No. 2)B**); and



2)C) **MR.ABREU RODRIGUES**, aged 39 years, son of Anton Rodrigues alias Antonio Lourenco Rodrigues, holder of Pan card No.BEAPR9482N, married, business (Mobile No.7387153726) Indian national, resident of H.no.105A, Tivai Vaddo, Calangute, Bardez Goa,403 516, (hereinafter referred to as the **PURCHASER No.2)C**);

-**PARTIES NOS. 2)A) TO 2)C)** hereinafter compositely called as the "**PURCHASERS**" (which term and expression shall unless repugnant to the context and meaning thereof be deemed to mean and include their respective heirs, legal representatives, assigns, executors, administrators, or any other person or persons lawfully, equitably or otherwise claiming through them) of the **SECOND PART**.

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Rodrigues

A. Rodrigues

D. Rodrigues

A. WHEREAS the VENDORS/SELLERS herein are represented in this act by their lawful attorney, their brother/uncle, MR. JOE EMANUEL SANTIAGO alias JOE MANUEL SANTIAGO alias JOE EMMANUEL SANTIAGO, aged 60 years, son of late Luis Alvaro Santiago, married, Engineer, holder of Pan Card No. AAAP8020E, Indian national, resident of 5, IV Cross, Victorla Layout, Bangalore 560 047 duly constituted by virtue of the following Power of attorneys:-

- a) Power of Attorney dated 28th October 2019 and registered as Document No.HLS-4-00386-2019-20, Book IV, stored in CD No.HLSD384 in the Office of the Sub Registrar, Shivajinagara Ulsoor, Bengaluru.
- b) by virtue of Power of Attorney dated 12/9/2019 duly executed before the Notary Public, Tarnjit Singh Grewal, England and
- c) by virtue of a Power of Attorney dated 06th September 2019 and registered as Document No.299/2019-20, Book IV, stored in CD NO. SHVD 462 in the Office of the Sub Registrar, Shivajinagar, Bengaluru. respectively.

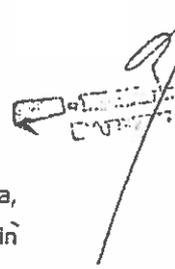
B. AND WHEREAS in the village of Calangute, Sub-district and Taluka of Bardez, North District of the State of Goa, there exists an Immovable property known as 'TIVAI VADDO' also known as 'TIWAI' surveyed under

J. Banerjee

A. Rodrigues

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survey 158/2, of the village of Calangute, Bardez, Goa, totally admeasuring 2300 sq.mts and described in Schedule I appearing hereinafter.

C. AND WHEREAS the said property surveyed under survey No.158/2 as a whole is bounded as follows:-

- EAST - by the properties surveyed under survey Nos. 158/3 and 158/1(part);
- WEST - By survey no.158/2-A;
- NORTH - By survey no.158/1; and
- SOUTH - By survey Nos.158/4-B & 4(Part).



D. AND WHEREAS the said property is not found described in the land Registration office of Bardez at Mapusa but is found enrolled in the Taluka Revenue office of Bardez at Mapusa under No.44 of 3rd Circumscription.

E. AND WHEREAS the said property originally belonged to one late Luis Alvaro Santiago alias Luis Alvaries Santiago alias Mr.L.A.Santiago who was married to Espocioza Cassiana Santiago.

F] AND WHEREAS the said persons expired leaving behind the following:-

M. Baunting *A. Rodriguez* *Rodriguez* *Andrius*

1. Mrs. Louisa Maria Mathias alias Louiza Maria Mathias, (the Vendor/Seller Party No.1)A) herein) who was married to late Louis Saturnine Mathias. The said Louis Saturnine Mathias expired leaving behind the following as his sole and universal heirs:-

- a) Mrs.Keya D'Sa (the Vendor/Seller Party No.1)B) herein), married to Mr.Ashok D'Sa,
- b) Mrs.Nisha Ramdas (the Vendor/Seller Party No.1)C) herein), married to Shriram Ramdas (the Confirming Party 2)A) herein),
- c) Ms.Shonali Mathias alias Shonali Mathias Prabhu (the Vendor/Seller Party No.1)D) herein), spinster.

2. Mrs.Avis Jane Pothan, who was married to late George K. Potham alias George K. Potan
The said George K.Potham expired leaving behind the following was his sole and universal heirs:-

- a) Mr.Nitin Pothan, married to Lorna Pothan,
- b) Mr.Navin Pothan, married to Blossom Pothan,

3. Mr.Joe Emanuel Santiago alias Joe Manuel Santiago, married to Glorla Santiago.

The said George K.Pothan expired on 15/4/2003 however, he was not of Goan origin and was not married under the regime of communion of assets as applicable in the state of Goa and therefore did not acquire any right in the estate of late Luis Alvaro Santiago alias Luis Alvaries

J. Monteiro

A. Rodrigues

Rodrigues

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Santiago alias Mr. L. A. Santiago who was married to Especioza Cassiana Santiago

G] AND WHEREAS by virtue of a Last Will & Testament dated 18/7/2005, the said Especioza Cassiana Santiago in the status of a widow, bequeathed her share in the said property to her children Louisa Maria Mathias, Avis Jane Pothan and Joe Emanuel Santiago.

H] AND WHEREAS upon the death of the above referred persons, Inventory Proceedings No. 504/2014/B came to be initiated In the Court of the Ad-Hoc Addl. Civil Judge Senior Division 'B' Court at Mapusa and by Order dated 26/8/2015, the VENDORS/SELLERS herein, were allotted a Plot admeasuring 438 sq.mts., of the said property surveyed under survey no.158/2 of the village of Calangute, Bardez, Goa, identified in Green Colour in the plan/Sketch annexed thereto and listed at Item No.III in the Description of Assets.

I] AND WHEREAS accordingly the VENDORS/ SELLERS herein are the absolute owners in physical possession and enjoyment of the said Plot admeasuring 438 sq.mts having acquired the same under the laws governing succession in Goa with VENDOR- PARTY NO. 1)A) being the moiety holder or holder or co-owner with 50%

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undivided share and interest in the said plot and the remaining VENDORS/SELLERS- Parties no. 1)B) to 1)D) each individually having 16.6666% undivided share and interest in the said plot or thereabouts and jointly having the remaining 50% undivided share and interest in the said plot.

J) AND WHEREAS the said Keya D'Sa and Nisha Ramdas (i.e) the VENDOR/SELLER/PARTY NO.(1) (B) and VENDOR/SELLER/PARTY NO.(1) (C) are not married under the Regime of Communion of Assets as applicable in the State of Goa and are therefore exclusively entitled to the said Plot to the extent of their respective shares and interests in the said plot.

K) AND WHEREAS the VENDORS/SELLERS herein being desirous of selling the said Plot admeasuring 438 sq.mts. of the said property and being given to understand that the PURCHASERS-PARTIES NO. 2)A to 2)C) herein are desirous of purchasing the said Plot, have approached the PURCHASERS and have offered to sell the said Plot admeasuring 438 sq.mts., for a total price and consideration of Rs.65,00,000/- (Rupees sixty five lakhs only).

M. Scouting

A. Rodrigues

B. Dyer

P. Dyer

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L] AND WHEREAS the PURCHASERS have accepted the offer of the VENDORS/SELLERS and have agreed to purchase the said Plot admeasuring 438 sq.mts., which forms part of the larger property surveyed under survey No.158/2 of the village of Calangute, Bardez, Goa for the said price and consideration of Rs.65,00,000/- (Rupees Sixty five lakhs only) which is its true and correct market value thereof

M] AND WHEREAS the said Plot subject matter of this Deed of Sale having been acquired by inheritance in terms of the Order dated 26/8/2015 passed in Inventory Proceedings No.504/2014/B, no NOC under Sec.49(6) of the NGPDA is required in terms of the Notification dated 22/3/2018.

N] AND WHEREAS the said Plot admeasuring 438 sq.mts./2300 sq.mts., of the larger property surveyed under survey no.158/2 of the village of Calangute, Bardez, Goa, is the subject matter of this Deed of Sale and shall hereinafter be referred to as the 'THE PLOT' for sake of brevity and is more specifically described in **SCHEDULE II** appearing hereinafter and shown in the sketch/plan annexed hereto and marked in red colour ; and

[Signature]

A. Rodrigues
Rodrigues

[Signature]

O] AND WHEREAS the VENDORS/SELLERS shall sell and the PURCHASERS shall purchase the PLOT upon the terms and conditions appearing herein below.

NOW THIS DEED OF SALE WITNESSES AS UNDER:-

1. In pursuance of the said Agreement and In consideration of Rs.65,00,000/- (Rupees sixty five lakhs only) already paid before the execution of this DEED OF SALE by the PURCHASERS to the SELLERS, in the following manner:-

- a) A sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) vide cheque bearing No.000044, dated 21/02/2019 drawn on Bank of Baroda, Calangute, Goa, paid by Mr. Francisco Rodrigues, the PURCHASER-PARTY NO. 2)B) herein, to and in favour of Mrs. Louiza Maria Mathias, the Vendor/Seller-Party No. 1)A) herein for and on her behalf and on behalf of the Vendors/Sellers-Parties No. 1)B) to 1)D) herein ;
- b) A sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) vide cheque bearing No.000001, dated 21/02/2019 drawn on HDFC Bank, Calangute, Goa, paid by the PURCHASER- PARTY NO. 2)C) herein viz., Mr. Abreo Rodrigues, to and in favour of Mrs. Louiza Maria Mathias, the Vendor/Seller -Party No. 1)A) herein for and on her

Francisco Rodrigues

A. Rodrigues

Rodrigues

Rodrigues

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behalf and on behalf of the Vendors/Sellers -Parties No. 1)B) to 1)D) herein ;

- the receipt of which the VENDORS/SELLERS do hereby jointly and severally admit and acknowledge, the VENDORS/SELLERS do hereby grant, sell, convey, transfer and assure unto the PURCHASERS, THE PLOT, more specifically described in the SCHEDULE II appearing herein below and bordered in red colour in the plan/sketch annexed hereto and all trees standing therein, ways, paths, passages, easements, privileges existing therein appurtenances whatsoever to THE PLOT and/or any part thereof now or any time thereto usually held, used occupied or enjoyed therewith or reputed to belong and be appurtenant thereto, and all the estate, rights, titles, interests and claims whatsoever, both by law or in equity of the VENDORS/SELLERS into or out of THE PLOT , hereby granted, conveyed, sold, transferred and assured or otherwise expressed and intended so as to be UNTO AND TO THE USE AND ENJOYMENT of the PURCHASERS, forever and absolutely.

2) - The sale consideration shall be distributed and shared among the VENDORS/SELLERS, in proportion to their inter se entitlements by virtue of their co-ownership

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or joint ownership rights and interests in the plot/property, as follows:

Sl. No.	Name of Vendor/Seller	Co-ownership share and Interest in the plot	Share of Sale Consideration (entitlement)
1)	Mrs. Louisa Maria Mathias Vendor/Seller No.1)A)	50.0000%	32,50,000/-
2)	Mrs. Keya D' Vendor/Seller No.1)B)	16.6666%	10,83,329/-
3)	Mrs. Nisha Ramdas Vendor/Seller No.1)C)	16.6666%	10,83,329/-
	Ms. Shonali Mathias Vendor/Seller No.1)D)	16.6667%	10,83,342/-
	TOTAL	100%	65,00,000/-

An amount of Rs.65000/- deducted as (TDS) under the provisions of the Income Tax Act, 1961 has been duly

M. K. Srinivas

A. Robinson
R. Srinivas

Srinivas

paid and the VENDORS/SELLERS have adjusted the said TDS amount. NO consideration is paid to ^{1/4} Kaya D's A, holder of COT card no 11710245.

M. K. K. K.
R. D. J.
A. R. J.

3) The VENDORS/SELLERS have on this day, delivered vacant possession of the plot to the PURCHASERS by placing the PURCHASERS in actual physical joint vacant possession of the said property and the PURCHASERS duly confirm and acknowledge as having been placed in vacant physical possession of the said property on this day.

4) The VENDORS/SELLERS do hereby covenant with the PURCHASERS that notwithstanding any act, deed or thing done or executed by the VENDORS/SELLERS or knowingly suffered to the contrary by them, the VENDORS/SELLERS now do have in them good right, full power and absolute authority to grant, convey, sell, transfer and assure THE PLOT hereby sold, transferred, assured, expressed and intended so to be UNTO AND TO THE USE of the PURCHASERS and that the PURCHASERS shall at all times hereafter peaceably and quietly possess and enjoy the same or construct any structure in the same and receive the profits thereof without any lawful eviction, interruption, claims and demands, whatsoever from or by the VENDORS/SELLERS

M. K. K. K.
A. R. J. *Rodriguez Anuberto*

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SALES TO THE PUBLIC
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or by any other person or persons whomsoever, lawfully, equitably or otherwise claiming through them.



5) The VENDORS/SELLERS further covenant with the PURCHASERS to save them harmless indemnify and keep them indemnified from or against all encumbrances, charges, damages, liens, claims, demands and equities whatsoever and at all times hereafter at the request of the PURCHASERS to execute, make or perfect or cause to be executed, made or perfected, all such acts, deeds, things and assurances whatsoever for further and more perfectly assuring THE PLOT as aforesaid, and every part thereof; UNTO AND TO THE USE OF The PURCHASERS as shall be reasonably required.



6) The VENDORS/SELLERS or any one claiming through the VENDORS/SELLERS shall consent and shall not have any objections to any construction of whatsoever nature if carried out by the PURCHASERS or any one claiming through the PURCHASERS, in the subject matter of this Deed of Sale.

7) The VENDORS/SELLERS do hereby further declare that they have NO OBJECTION for the mutation of the survey record of rights, pertaining to THE PLOT, to include the name of the PURCHASERS in the

M. M. M. M. *A. P. P. P.* *R. D. D. D.* *S. S. S. S.*

Record of Rights and consequently authorize and permit the said PURCHASERS to apply for the mutation in the said survey Record of Rights, and thereby to enter the names of the PURCHASERS in the Occupant's Column of Form I & XIV, relating to THE PROPERTY.

8) The VENDORS/SELLERS and the PURCHASERS do hereby declare that the PLOT in transaction does not belong to Schedule Caste/Schedule Tribe, pursuant to the Notification No.RD/ LAND/LRC/318/77 dated 21/8/1978.

9) The VENDORS/SELLERS do hereby covenant, undertake and declare as under:-

a) That the said PLOT is free from all encumbrances, charges, equities, claims or demands, whatsoever, and that the VENDORS/SELLERS have not done anything whereby the said PLOT may be subject to any attachment or lien of any Bank, Court or person whatsoever;

b) That there are no pending suits, appeals, litigations, or other proceedings whatsoever in any Court of Law or Tribunal or any other legal forum relating to the PLOT;

c) That the PLOT is not subject matter of any acquisition or requisition or affected by any Government

J. D. S. S. S.

A. Rodriguez Rodriguez

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Notification or Order under any Ordinance Act, Defence of India Act or C.A.D.A. area initiated or pending in respect of the said PLOT by the Government or Central Government or any other authority or local body;

d) That there are no agricultural tenants, protected or otherwise or lease holders or mundkars under the provision of Goa, Daman and Diu Tenancy Act, 1964, Mundkar Act or under any other law in force in this State, in respect of the said PLOT which was never a tenanted land;

e) That they have not entered into any Agreement for sale, transfer, arrangement document or Instrument with any other third party concerning the PLOT nor have they agreed to sell or encumber the same in any manner whatsoever;

f) That the VENDORS/SELLERS or their predecessors have not granted any right of way, easement or licence or created any other right, to or in favour of, any person in over or in respect of the said PLOT hereby sold; and

g) That there are no outstanding encumbrances, mortgages, charges, liens, notices for acquisition setbacks, easements in respect of the PLOT affected by

M. A. Monteiro

A. Rodrigues

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any prohibitory order of injunction or attachment either before or after judgment.

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A. S. S.

The Said Scheduled Property is Non-Agricultural Property. This document and transaction is complying with the foreign exchange management of 1999 and Reserve Bank of India Guidelines. The office of Sub-Registrar, Taluka Sub Registrar will take responsibility for this.

SCHEDULE - I

ALL THAT PIECE AND PARCEL of immovable property known as 'TIVAI VADDO' also known as TIWAI surveyed under survey 158/2, of the village of Calangute, Taluka and Sub-district of Bardez, North District of the State of Goa, totally admeasuring 2300 sq.mts.

The said property surveyed under survey No.158/2 as a whole is bounded as follows:-

- EAST - by the properties surveyed under survey Nos.158/3 and 158/1(part);
- WEST - by survey no.158/2-A;
- NORTH - by survey no.158/1; and
- SOUTH - by survey Nos.158/4-B & 4(Part)

The said property is not found described in the land Registration office of Bardez at Mapusa but is found enrolled in the Taluka Revenue office of Bardez at Mapusa under No.44 of 3rd Circumscription.

M. S. S. S.

A. S. S.

R. S. S.

A. S. S.

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SCHEDULE II

(Being the property/Plot sold and conveyed to the PURCHASERS herein under and pursuant to this Deed of Sale)

ALL THAT PIECE AND PARCEL of PLOT admeasuring 438m²/2300.00 m² of the property surveyed under survey No.158/2 of the village of Calangute, Taluka and Sub-District of Bardez, North District of the State of Goa, more specifically descried in SCHEDULE I above

The said PLOT is bounded as follows:-

- EAST - by remaining portion of survey No.158/2
- WEST - by remaining portion of survey no. 158/2
- NORTH - by road
- SOUTH - by survey no.158/4(part)

The said plot is part of the property described in SCHEDULE I hereinabove



IN WITNESS WHEREOF the VENDORS/SELLERS and the PURCHASERS herein have set and subscribed their signatures on this DEED OF SALE after fully understanding the contents thereof and out of their own free will on the date, month and year hereinabove mentioned and in the presence of two attesting witnesses who have signed herein below.

[Handwritten signatures]



SECRETARY
CARLOS

[Handwritten signature]
SELLERS

THROUGH THEIR LAWFUL ATTORNEY
MR. JOE EMANUEL SANTIAGO alias
JOE MANUEL SANTIAGO alias
JOE EMMANUEL SANTIAGO
L.H.F.I. R.H.F.I.



1. 	1. 
2. 	2. 
3. 	3. 
4. 	4. 
5. 	5. 

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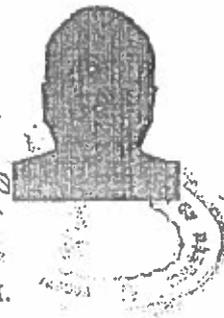
A. Rodriguez

Rodriguez Rodriguez



A. Rodriguez

PURCHASER NO.1
MRS.ADELINA RODRIGUES



1 22
[Signature]
JUL 19 1951
MEXICO

L.H.F.I.

R.H.F.I.

1.	1.
2.	2.
3.	3.
4.	4.
5.	5.



[Signature]

A. Rodriguez

Adelina Rodriguez



Rodriguez

PURCHASER NO.2

MR.FRANCISCO RODRIGUES

L.H.F.I.

R.H.F.I.



1. 	1.
2. 	2.
3. 	3.
4. 	4.
5. 	5.

M. Martinez

A. Rodriguez

Rodriguez

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[Signature]
[Stamp]



Andrés
PURCHASER NO.3
MR. ABREU RODRIGUES
L.H.F.I.

A
R.H.F.I.

1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

WITNESSES:-

- 1. Sonali Raika Barka
- 2. XAVIER SIEIRO Xieiro

[Signature] *A. Rodriguez*
Rodriguez *Andrés*



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GOVERNMENT OF GOA
Directorate of Settlement and Land Records
Office of Inspector of Survey and Land Records
MAPUSA - GOA



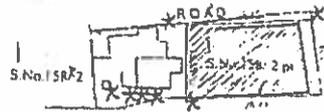
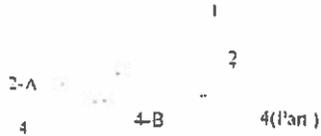
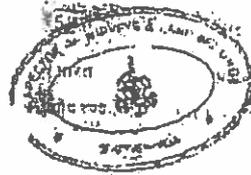
Plan Showing plots situated at
Village : CALANGUTE
Taluka : BARDEZ
Survey No./Subdivision No. : 158/
Scale : 1:1000

Board No. 1697



(Rajesh R. Patil Kuchelkar)
Inspector of Survey &
Land Records.

PLOT TO BE SOLD ... 438 sq. m



SURVEY No. 158

14/10/2018
PRAZERES A. GONSALVES
Surveyor (N.C.I.V.T.)
Veron. Reis - Margos, Bardez
Goa 403114 Ph: 0832 240 2929 9850828646

Generated By: Pratap Moulkar (D'Man Gr. II)
On: 01-03-2018

M. Benoit

A. Rodrigues

Rodrigues

Compared By: S. F. Mallick (P)

Mallick



Government of Goa
Document Registration Summary 2
Office of the Civil Registrar-cum-Sub Registrar, Bardez

Print Date & Time : - 21-Nov-2019 01:11:12 pm

Document Serial Number : - 2019-BRZ-3762

Presented at 12:11:28 pm on 21-Nov-2019 in the office of the Office of the Civil Registrar-cum-Sub Registrar, Bardez along with fees paid as follows

Sr.No	Description	Rs.Ps
1	Stamp Duty	227500
2	Registration Fee	162500
3	Mutation Fees	1000
4	Processing Fee	1260
Total		392260

Stamp Duty Required : 227500

Stamp Duty Paid : 227500

Presenter

Sr.NO	Party Name and Address	Photo	Thumb	Signature
1	FRANCISCO RODRIGUES ,S/o - D/o ANTONIO L RODRIGUES Age: 52. Marital Status: Married , Gender: Male, Occupation: Service. Address1 - H NO.3 88B TIVAI VADDO CALANGUTE BARDEZ GOA, Address2 - , PAN No.: ASUPR2772G			

Executer

Sr.NO	Party Name and Address	Photo	Thumb	Signature
1	ADELINE ,S/o - D/o XAVIER VINCENT LOBO Age: 43. Marital Status: Married , Gender: Female, Occupation: Housewife, Address1 - H NO. 3 88B TIVAI VADDO CALANGUTE BARDEZ GOA, Address2 - , PAN No.: ASUPR2773H			

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2	FRANCISCO RODRIGUES, S/o - D/o ANTONIO L RODRIGUES Age: 52, Marital Status: Married, Gender: Male, Occupation: Service, Address1 - H NO 3 88B TIVAI VADDO CALANGUTE BARDEZ GOA, Address2 - , PAN No.: ASUPR2772G			<i>Francisco</i>
3	ABREU RODRIGUES, S/o - D/o ANTON RODRIGUES Age: 39, Marital Status: Married, Gender: Male, Occupation: Business, Address1 - H.NO.105A TIVAI VADDO CALANGUTE BARDEZ GOA, Address2 - , PAN No.: BEAPR9483N			<i>Abreu</i>
	JOE EMANUEL SANTIAGO Alias JOE MANUEL SANTIAGO Alias JOE EMMANUEL SANTIAGO, S/o - D/o LATE LUIS ALVARO SANTIAGO Age: 60, Marital Status: , Gender: Male, Occupation: Engineer, Address1 - BANGALORE, Address2 - , PAN No.: AAAPR8020E			<i>Manuel</i>

Witnesses
I hereby individually/Collectively recognize the Vendor, Purchaser, POA Holder.

Sr.NO	Party Name and Address	Photo	Thumb	Signature
1	Senali Ralkar, 26 , ,9765774219 , ,Advocate , Marital status : Unmarried 403507 Assageo, Bardez, NorthGoa, Goa			<i>Senali</i>
2	XAVIER SIEIRO, 61 , ,9844199776 , ,Other , Marital status : Married 403516, Calangute Bardez Goa, Calangute Bardez Goa Calangute, Bardez, NorthGoa, Goa			<i>Xavier</i>

Manankumar
27/11/19
Sub-Registrar
BARD...

Book :- 1 Document
Registration Number :- BRZ-1-3688-2019
Date : 21-Nov-2019

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21/11/19
Sub Registrar(Office of the Civil Registrar-cum-Sub Registrar, Bardez)

SUB-REGISTRAR
BARDEZ

21/11/19

21/11/19



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SUPERINTENDENT
MAPUSA

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~~DATA REGISTRATION
CARD~~

CHAND



Presented on : 06.11.2014
Registered on : 06.11.2014
Decided on : 26.08.2015
Duration: Years Months Days
00 09 20

IN THE COURT OF THE AD-HOC ADDL. CIVIL JUDGE,
SENIOR DIVISION 'B' COURT AT MAPUSA

(Before Smt. Sharmila A. Patil, Ad-hoc Addl.C.J.S.D. 'B' Court, at
Mapusa)

Inventory Proceeding No.504/2014/B

Mr. Joe Emmanuel Santiago,
Major, r/o Flat No.
Cobravaddo, Calangute,
Bardez-Goa.

... Applicant/Inventariante

V/s.

1. Luis Alvaro Santiago
alias Luis Alvaries Santiago
alias Mr. L. A. Santiago,
2. Especioza Cassiana Santiago,
3. Louis Santurnine Math as,
4. George K. Potham
expred at Karnataka.

... Deceased/Inventariado

Cabeza de Casal and Interested parties represented by Ld.
Advocate Shri V. Talgaokar

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SECRETARAT
GOA

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O R D E R

(Delivered on this the 26th day of the month of August, of the year 2015)

The present inventory proceedings are initiated by the applicant Mr. Joe Emmanuel Santiago, Major, r/o Flat No Cobravaddo, Calangute, Bardez-Goa, upon the death of his parents who expired on 18.9.1976 and 14.1.2007 respectively



2. The applicant was appointed as Cabeça de Casal and his statement on oath was recorded 29.11.2014 at Exhibit B-4 and Additional Statement on oath was recorded on 22.5.2015 at Exhibit B-6. The list of assets was filed by the Cabeça de Casal at exhibit B-5. Since there was no objection for the list of assets at Exh.B-9, and the valuation was waived, this Court has drawn the Description of assets at exhibit B-12. Thereafter, the provisional chart of allotment was filed by the Cabeça de Casal at exhibit B/13. Since there was no objection for the proposed chart of allotment, the final chart of allotment was drawn by this Court at exhibit B/14 showing the shares of the applicant and the interested parties therein.



3. The said Final Chart of Allotment at exhibit B-14 at pages 1 and 4 is made absolute for all legal purposes and the shares accordingly stands allotted to the applicant and the interested parties in this inventory proceedings instituted upon the death of Luis Alvaro Santiago alias Luis Alvaries Santlago alias Mr. L. A. Santiago, Espectoza Cassiana Santiago, Louis Santurnine Mathias, and George K. Potham, wherejo, Mr. Joe



-17-

~~NOTARIAL~~

Emmanuel Santiago/the applicant was appointed as Cabeça de Casal

Pronounced in open court,
Proceedings closed.

26/8/15

(Sharmila A. Patil)
Ad-hoc Civil Judge Senior
Division, 'B' Court, at Mapusa

*mf



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2201 - Further steps
26-8-15
26-8-15
3-9-15
3-9-15
15-9-15
26/8/15 & 25/9/15, 15/9/15
Sharmila Patil
15/9/2015



NOTARIAL NOTARIAL - 02014

Sr. No SR2/2019
Dated 21/11/2019

-9-

SI. P. S. TENDUKH. MADRISA

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IN THE COURT OF THE CIVIL JUDGE SENIOR DIVISION AT MAPUSA

INVENTORY PROCEEDINGS NO.504/2014/B

Mr Joe Emanuel Santiago
alias Joe Manuel Santiago

Applicant/
Inventariante

V/s.

1. Luis Alvaro Santiago
alias Luis Alvaries Santiago
alias Mr. L.A. Santiago
and ors

Deceased
Inventariados



DESCRIPTION OF ASSETS

ITEM NO.I

ALL THAT PLOT admeasuring 465 sq.mts. of the larger property known as 'TIVAI VADDO' surveyed under survey no 158/2 of the village of Calangute, Bardez, Goa, more specifically marked in red colour in the plan /sketch annexed hereto.

The said Plot is bounded as follows -

- EAST - by remaining portion of survey No.158/2
- WEST - by remaining portion of survey no.158/2
- NORTH - by survey no 158/1(part) and access
- SOUTH - by survey no.158/4(part)

Valued at Rs.80,000.00

ITEM NO.II

ALL THAT PLOT admeasuring 256 sq.mts., of the larger property known as 'TIVAI VADDO' surveyed under survey no.158/2 of the village of Calangute, Bardez, Goa, more specifically marked in Blue colour in the plan /sketch annexed hereto



VI. DEPARTMENT
S.A. D. 153

The said Plot is bounded as follows -
EAST - by remaining portion of survey No. 158/2
WEST - by remaining portion of survey no. 158/2
NORTH - by survey no. 158/1(part) and access
SOUTH - by survey no. 158/4(part)

Valued at Rs. 44000 00



ITEM NO. III

ALL THAT PLOT admeasuring 438 sq. ms. of the larger property known as 'TIVAL VADDO' surveyed under survey no. 158/2 of the village of Calangute, Bardez, Goa, more specifically marked in Green colour in the plan /sketch annexed hereto.

The said Plot is bounded as follows:-

EAST - by remaining portion of survey No. 158/2
WEST - by remaining portion of survey no. 158/2
NORTH - by road
SOUTH - by survey no. 158/4(part)

Valued at Rs. 76,000 00

Dated: 5/8/2015

Clerk/in Charge

Seen
dc 5
5/8/15

checked
5/8/15

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OFFICIAL
CAREER

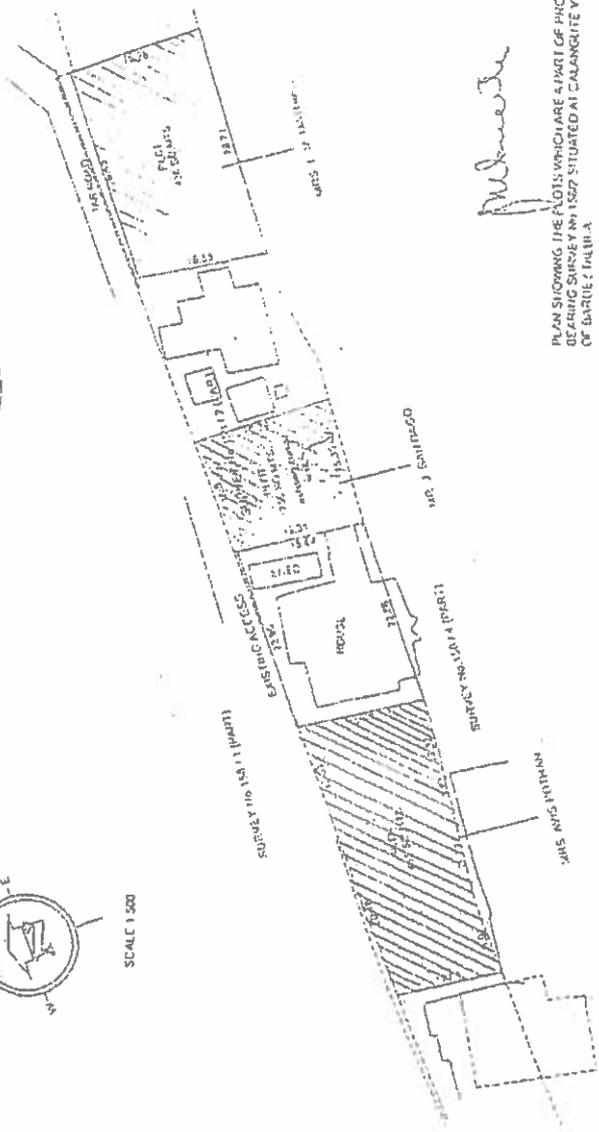
CHIPPAMUNDRA
MADURAI

PLAN SHOWING THE PLOTS WHICH ARE A PART OF PROPERTY
BEARING SURVEY NO 11527 SITUATED AT CALANGITE VILLAGE
OF BARDE, TAMILNADU

[Handwritten signature]



SCALE 1:500



copy of plan annexed with letter to
[Handwritten initials]

(45)

- 11 -
EXHIBIT/INVENTORY/14
MAPUSA

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102-102-102
102-102-102

IN THE COURT OF THE CIVIL JUDGE SENIOR
DIVISION AT MAPUSA

INVENTORY PROCEEDINGS NO.504/2014/B

Mr. Joe Emanuel Santiago
alias Joe Manuel Santiago

Applicant/
Inventariante

V/s.

1. Luis Alvaro Santiago
alias Luis Alvaries Santiago
alias Mr. L. A Santiago
and ors

Deceased
Inventariados



FINAL CHART OF ALLOTMENT

Of the assets left behind by the deceased/Inventariados

1. Luis Alvaro Santiago alias Luis Alvaries Santiago alias Mr. L. A. Santiago
2. Especioza Cassiana Santiago
3. Louis Santurnine Mathias
4. George K. Potham

Wherein the applicant Mr. Joe Emanuel Santiago alias Joe Manuel Santiago, has been appointed as Cabeza de Casa, the assets consists of the following immovable properties described at :-

Item No.I	
Valued at	Rs. 80,000 00
Item No.II	
Valued	Rs. 44,000 00
Item No.III	
Valued at	Rs.76,000 00

Thus the value of the assets has to be divided between the Applicant /C C. Mr. Joe Emanuel Santiago alias Joe Manuel Santiago married to Gloria Santiago and the Interested Parties namely :-

= 12-

SUPERINTENDENT
MADRISA

- a) Mrs. Louisa Maria Mathias alias Louiza Maria Mathias, widow of late Luis Saturnine Mathias (i.e.) the deceased No 3 herein
- b) Mrs. Keya D'Sa, married to Mr Ashok D'Sa
- c) Mrs. Nisha Ramdas married to Shriram Ramdas,
- d) Ms Shonali Mathias alias Shonali Mathias Prabhu,
- e) Mrs. Avis Jane Pothan, widow of late George K. Potham alias George K. Potan (i.e.) the deceased No. 4.
- f) Mr. Nitin Pothan, married to Lorna Pothan
- g) Mr. Navin Pothan married to Blossom Pothan.

THUS THE SHARE OF EACH ONE:

To
The Applicant/C C
Mr. Joe Emanuel Santiago alias Joe Manuel Santiago
married to Gloria Santiago
Their share is :- Rs. 44,000.00

To,
The Interested Parties:
a) Mrs. Louisa Maria Mathias alias Louiza Maria Mathias, widow of late Luis Saturnine Mathias (i.e.) the deceased No. 3 herein.

b) Mrs. Keya D'Sa, married to Mr Ashok D'Sa

c) Mrs. Nisha Ramdas married to Shriram Ramdas,

d) Ms. Shonali Mathias alias Shonali Mathias Prabhu,

Their share is :- Rs. 76,000.00

To,
The Interested Party
a) Mrs. Avis Jane Pothan, widow of late George K. Potham alias George K. Potan (i.e.) the deceased No. 4.

b) Mr. Nitin Pothan, married to Lorna Pothan

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H.P.S. FURTHER
MADRISA

CP
SARINIA

c) Mr Navin Pothan married to Blossom Potran

Their share is :- Rs.80,000.00

ALLOTMENT

To,

The C.C./Applicant

Mr Joe Emanuel Santiago alias Joe Manuel Santiago
married to Gloria Santiago

Their share is :- Rs.44,000.00

Allotted to them:

Item No.II

Valued at Rs.44,000.00

To,

The Interested Parties:

- a) Mrs. Louise Maria Mathias alias Louiza Maria Mathias, widow of late Luis Saturnine Mathias (i.e.) the deceased No.3 herein.
- b) Mrs.Keya D'Sa, married to Mr.Ashok D'Sa
- c) Mrs.Nisha Ramdas married to Shriram Ramdas.
- d) Ms Shonali Mathias alias Shonali Mathias Prabhu.

Their share is :- Rs.76,000.00

Alloted to them:

Item No.III

Valued at Rs.76,000.00

To,

The Interested Parties:

- a) Mrs.Avis Jane Pothan, widow of late George K. Potnam alias George K. Potan (i.e.) the deceased No.4.
- b) Mr.Nitin Pothan married to Lorna Pothan
- c) Mr.Navin Pothan married to Blossom Pothan





Serial No. 1693/99
 Presented at the Office of the
 sub-Registrar of Bardes
 between the hours of 2-30
 and 4-30 on 10-11-1999

Stamp fees for	Rs. 00
Registration	1050-00
Stamp (Folio) 30	45-00
Copying	3-00
Postage	
Total Rs.	1098-00

[Handwritten Signature]

[Handwritten Signature]
 ST. BARDEZ

[Handwritten Signature]
 ST. BARDEZ

[Handwritten Signature]
 A. Rod.

DEED OF SALE

This Deed of Sale is made and executed at Mapusa-
 Bardez, Goa on this 10th day of November 1999.

BETWEEN

1. Mr. Nozer H. Khajotia , major, 45 years of age , married,
 service, son of late Capt. Homi P. Khajotia , and his wife

Francisco A. Rodrigues

[Handwritten Mark]

No. 537 Place of issue: Panaji Date of issue: 2/11/89
 Value of stamp: Rs. 100/-
 Name of the person: Francisco Rodrigues
 Residing at: Calangute
 Address: ...
 Attached along with: ...
 Signature: [Handwritten Signature]
 Secretary of Purchase

2. Mrs. Anna Rosa Maravilha D'Mello e Khajotia, daughter of Joao Cosme Jose D'Mello , major, 45 years of age , housewife, both residents of Bldg-1/T-1, Siddarth Apts, Tonca, Caranzalem- Panaji-Goa and both hereinafter jointly referred to as the 'Owners and Vendors ' of the First Part

AND

1. Mr. Francisco Antonio Rodrigues , son of Antonio Lawrence Rodrigues, major, married, 34 years of age, service, and his wife

2. Mrs. Adelin Lobo e Rodrigues , daughter of Xavier Lobo major, 24 years of age, housewife, both residents of Tivai-vado
Francisco. A. Rodrigues



Calangute, Bardez-Goa , both hereinafter referred to as the 'PURCHASERS' of the Second Part.

All the parties herein are Indian Nationals.

The expression " OWNERS & VENDORS ",and " PURCHASERS" shall unless it be, repugnant and/or inconsistent to the context or meaning thereof ,be deemed to mean and include their heirs, successors, administrators, legal representatives and assigns, etc.

WHEREAS

a) There exist an immovable property known as " TIVAI "or " TIVAI VADDO "admeasuring 2300 sq.mts ,situated at

Francisco A. Rodrigues

No. 537 Place of issue Panaji Date of issue July 99
 Volume of Map paper 114/1001/1
 District Bardez Taluka Bardez
 Village Calangute

[Signature]
 [Signature]

Calangute, Bardez-Goa , within the limits of the Village Panchayat of Calangute , Bardez- Taluka , enrolled in the Taluka Revenue Office (Matriz) under No. 44 of the third circumscription but not described in the land registration office of the Judicial division of Bardez and surveyed under No. 158/2 of Village Calangute , which whole property is hereinafter referred to as the '**SAID PROPERTY**' .

The said property is bounded :

On the East :by the plot of Pedro Xavier de Sousa of Saligao

On the West :by the High Seas .

On the North :by the plot of Aleixo Lamartine Fernandes

On the South :by the plot of Nepomociano Avelino Lobo

Francisco A. Rodrigues



b) By Deed of Sale dated 27th January 1982 registered in the Office of the Sub-Registrar, Bardez under No. 378 at pages 321 to 325 in Book I Vol. 172 on 12/05/82, the Owners & Vendors herein purchased from its previous owners, a part of the said property and more specifically the western portion of the said property admeasuring 900 sq.mts and marked as Plot "A" on the plan annexed to the said Deed of Sale, which PLOT "A" or part of the whole property is hereinafter referred to as the " SAID PLOT ".

The said Plot is bounded :

On the East :by the property of Mrs.Especioza

Cassiana Santiago and ors .

On the West :by the High Seas .

On the North :by the plot of Aleixo Lamartine

Francisco A. Rodrigues

SR NO 537... Place of vend. Panaji Date of issue 5/11/99
 Name of the purchaser Francisco Rodrigues
 Residing at Calangute son of _____
 As there is no stamp duty for the value of Rs. 80,000/-
 Additional stamp duty for the _____ of the vend is attached along
 with,

 Signature of the _____

 Signature of the _____

Fernandes

On the South :by the property of Dr.Cristano Alfonso .

cj The Purchasers have requested the Owners & Vendors to sell the said plot to them for a total price consideration of Rs.1,00,000/- (Rupees One lakh only.) since the Purchaser are the mundkars of the said property and the Purchasers have their ancestral house in the said property, and the name of the father of the Purchaser No. 1 is also recorded in the Other rights column of the Form I & XIV of the said property , and since the said plot falls within the 200 mts High tide water Mark/line , the Owners & Vendors have agreed to sell

Francisco A. Rodrigues



the said plot to the Purchasers .

d) The Owners and Vendors are sole owners of the said plot and absolutely seized and possessed of and sufficiently entitled to the said plot .

NOW THEREFORE IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HEREIN AS UNDER:

1. In pursuance of aforesaid agreement and in consideration of the sum of Rs. 1,00,000/- (Rupees One lakh only) paid by the Purchasers to the Owners & Vendors, the receipts of which

Francisco A. Rodriguez

No. 537 Place of vend: Panaji Date of issue 21/1/19
 Value of sale Rs. 16,500/-
 Name of the Calongula
 Resident of Calongula
 As the value of the property is less than the value of Rs. 2,500/-
 An affidavit in support of the declaration of the value is attached along
 with.

Signature of the Vendor [Signature] Signature of Purchaser [Signature]

which the Owners & Vendors do hereby admit and
 acknowledge and of and from the sale, release and grant full
 discharge to the Purchasers and grant, convey, assure and
 transfer by way of sale unto the Purchaser free from
 encumbrance the SAID PLOT which is more better described
 in the Schedule No. II herein after written and is colored in red
 colored boundaries on the plan annexed hereto along with all
 its open spaces, trees, fences, hedges, ditches, ways,
 water, watercourses, lights, privileges, liberties, easements
 including the appurtenances whatsoever to the said plot
 belonging or in any way appertaining or usually held or
 occupied therewith or reputed to belong or be appurtenant

Franisco A. Rodriguez



thereto and all the estate, interest, use, property, possession, right, title, benefits, claim and demand whatsoever of the Owners & Vendors into or upon the said plot and every part thereof **TO HAVE AND TO HOLD** to the use and benefit of the Purchasers forever and absolutely with title deeds, writings and other evidences of title as ordinarily pass on such sale subject however to the payment by the Purchasers of all the taxes, rents, assessments, rates and duties now and hence chargeable upon the same or which may become henceforth payable in respect thereof to the Government, Municipality or Panchayat or any other lawful authority and it shall be lawful for the Purchasers from time to time and at all times hereafter to peacefully and quietly to enter upon, possess and enjoy the said plot and to receive all rents and profits thereof and of every part thereof to and for his own use, and benefit without any suit, eviction, interruption, claim and demand whatsoever from or by the Owners & Vendors or any body acting through or under or on their behalf.

2. The Owners & Vendors do hereby covenant with the Purchasers and assures as under:-

Francisco A. Rodriguez

(a) That their title to the said plot is clean, clear, subsisting and marketable and that there is no other person lawfully entitled to the said plot and further that the said plot is free from any mortgage, tenancy, encumbrance, lien, charge or any other claim or liability of whatsoever nature from any person whomsoever to the said plot and that the Owners & Vendors have got full and absolute right, title and power and authority to convey, sell and transfer the said plot in favour of the Purchasers without any legal impediment whatsoever.

(b) That the said plot or any part thereof is not subject to any notice or notification or proceedings under the Land Acquisition Act., and that there is no Civil Suit or any Appeal or execution proceedings or any legal proceedings, pending before any Judicial and/or Revenue Court in Goa with respect to the said plot .

(c) That the Owners & Vendors have not entered into any agreement and/or agreement of Sale or Deed of Sale with any other person/s, builders/developers/purchasers in respect of

Francisco A. Rodrigues

the said plot .

(d) That if at any time it is found that any other person has got right, title and/or interest in the said plot then the Owners & Vendors shall be liable to clear the defect in the title of the said plot at their own cost and ensure that the Purchasers gets a clean title to the said plot .

(e) That in case the Purchasers are ever dispossessed from the said plot by reason of any defect in the title of the Owners & Vendors, the Owners & Vendors do hereby agree to suitably compensate and indemnify the Purchasers.

(f) That they have No Objection for the Purchasers carrying out the mutation of the said plot based on this Deed of Sale so as to delete the name of the Owner & Vendor No.1 from the record of rights (Form I & XIV) of the said property and to include the name of the Purchasers in its place and stead.

3. The Purchasers do hereby covenant with the Owners & Vendors as under:-

Francisco - A - Rodriguez

(a) That the Purchasers shall pay all the licence fees and all other fees, charges and taxes whatsoever which are required to be paid for the said plot to all the public authorities.

4. All the expenses including the Lawyer's fees, stamp paper and registration fees shall be borne by the Purchasers.

5. The market value of the said plot being Rs.1,00,000/- (Rupees One lakh only.) this Sale Deed is exempt for producing the Income - Tax Clearance Certificate under Sec.230A of the I.T. Act and accordingly stamp duty is paid herewith .

6. The Village of Calangute not being declared a planning area under the Town and Country Planning Act 1974 , and the said property and said plot being situated in the village of Calangute, No Objection certificate under Sec. 49/6 of the Goa, Daman & Diu Town and Country Planning Act 1974 is not annexed herewith , the same being not required to be produced herewith .

SCHEDULE I

All that property known as " TIVAI " or " TIVAI VADDO "

Francisco A. Rodrigues

admeasuring 2300 sq.mts ,situated at Calangute, Bardez-Goa , within the limits of the Village Panchayat of Calangute , Bardez- Taluka , enrolled in the Taluka Revenue Office (Matriz) under No. 44 of the third circumscription but not described in the land registration office of the Judicial division of Bardez and surveyed under No. 158/2 of Village Calangute , which whole property is hereinafter referred to as the '**SAID PROPERTY**' .

The said property is bounded :

On the East :by the plot of Pedro Xavier de Sousa of
Saligao

On the West :by the High Seas .

On the North :by the plot of Aleixo Lamartine
Fernandes

On the South :by the plot of Nepomociano Avelino Lobo

SCHEDULE II

All that PLOT "A" or western part of the said property admeasuring 900 sq.mts marked in red colour boundaries on the plan annexed to this Deed of Sale and surveyed under No. 158/2 (part) of village Calangute, Bardez-Goa .

The said Plot is bounded :

On the East :by the property of Mrs.Especioza
Cassiana Santiago and ors .

On the West :by the High Seas .

Francisco - A. Rodrigues

On the North by the plot of Aleixo Lamartine
Fernandes

On the South: by the property of Dr. Cristiano Alfonso .

In WITNESS WHEREOF the parties hereto have signed
this Deed of Sale on the day, month, year and place first
herein mentioned.

Signed, Sealed and delivered
by the withinnamed Owner &
Vendor No. 1

[Handwritten Signature]

Signed, Sealed and delivered
by the withinnamed Owner &
Vendor No. 2

[Handwritten Signature]

Signed, Sealed and delivered
by the withinnamed Purchaser
No. 1 .

Francisco A. Rodriguez *[Stamp]*

Signed, Sealed and delivered
by the withinnamed Purchaser
No. 2 .

Adeline L. Rodriguez

WITNESS: 1. *[Handwritten Signature]* (Edwin Furtado)

2. *[Handwritten Signature]* (Agnelo Silveira)

Rodriguez



Rodriguez



Edwin Fustada, major, married,
advocate, and wife Minerva
stated that she knows
the above defendant and identifies
him.

[Signature]

Mapusa, 10th November, 1999

Fernandez
SUB-REGISTRAR
BARCEL

registered No. 1781
at [] to []
Book No. 1 Volume No. 688
Date 12/11/99

Fernandez
Sub-Registrar



- 1) Nozer H. Khajotia, major, married, service, s/o Homi P. Khajotia, and his wife;
- 2) Anna Rosa Maravilha D'Alto e Khajotia, major, married, housewife, d/o Joao Cosme Jose D'Alto, both residents of Touca - Carangaba.
- 3) Francisco Antonio Rodrigues, major, married, service, s/o Antonio Lawrence Rodrigues, and his wife;
- 4) Adelin Lobo e Rodrigues, major, married, housewife, d/o Xavier Lobo, both residents of Cabugate. Baidy..

executing parties.....

admits execution of the so called

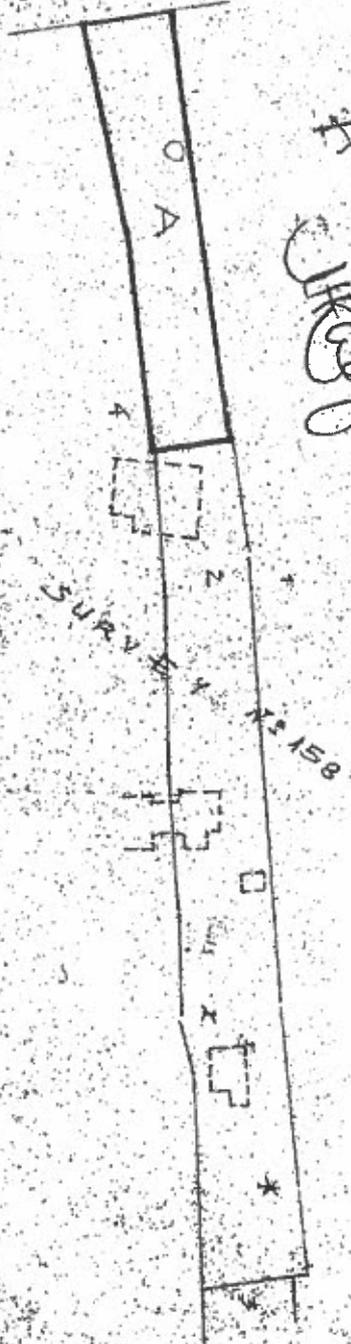
Sale

deed

Khajotia

Khajotia

ARABIAN SEA



Agapine
Chrysos
Foransa A. Rodriguez

Almagro

SC : 1:1000

SHOWING THE PLOT OF LAND SURVEYED UNDER No 158/2 OF VILLAGE CALANGUTE,
 BARDEZ TALUKA AND PLOT 'A' OR WESTERN POSITION OF THE SAID PROPERTY
 ADMENSURING 900M² WHICH IS THE SUBJECT MATTER OF THE ATTACHED DEED
 OF SALE DATED 10-11-99

PLAN

From,
Joseph Sequeira,
R/o H. no. 196/E Gaura Wado
Calangute, Bardez-Goa,

Date: 24 /09 /2020

To,

Goa Coastal Zone Management Authority
1st floor, Deen Dayal Bhavan,

Alto, Porvorim - Goa.

Ref.:- your notice for personal hearing dated 18/09/2020 on my complaint about illegal construction in survey no. 158/2 of village Calangute within CRZ area by Francis Rodrigues

Sir,

I have read the reply of respondent Mr. Francis Rodrigues and submit as under:-

I submit that Mr. Francis Rodrigues has made false statement in the reply.

As regards to H.No.3/86/D, the said House Number is obtained in the year 2012 as per the Information obtained from the panchayat and the said House number is not related to any structure in survey No. 158/2. I was member of the Panchayat during 1999 to 2017 and during this period there was no construction or structure in this Land.

As per order of Hon'ble High Court in W.P 422/1999 and suo moto W.2/2006, the Government had prepared the plan of existing structures in the year 2005-2006 and in this plan also the plots purchased by Francis Rodrigues are shown as without any structures.

In the Land Use Map and Outline Development Plan of Canlangute-Candolim 2025 prepared by North Goa Planning and Development Authority from the year 2016 to 2018, no structure has been shown in this plot.

The two plots are purchased by Francis Rodrigues after the year 1999 without any structure by sale deed dated 20/11/2019 and Sale Deed dated 10/11/1999 and hence this proves that the construction is the new construction and not existing structures prior to 1991.

The report of the BDO and permission of the Panchayat as well as the photographs annexed to the reply are fabricated to suit Francis Rodrigues to cover up the illegality as he is Sarpanch of the Panchayat.

The report of BDO is also made backdated since it is found that plot is purchased on 20/11/2019 whereas the date of applications for repairs is 11/7/2019 and License is dated 6/08/2019. The said report of officers of BDO dated 25/7/2019 is illegal since there was no house as on date of inspection 25/7/2019 and the construction had started from December 2019. The inspection report of Talathi is evidence of the same since the inspection was carried out during the illegal construction.

It is found that new electricity connection and water supply connection has been obtained subsequent to my complaint in 2019-20.

Hence I request you to take immediate action to demolish the illegal Construction.

Yours faithfully,



Joseph Sequeira,

MINUTES OF THE 228th MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) TO BE HELD ON 24/09/2020 at 03.30 PM. IN THE CONFERENCE HALL, 2ND FLOOR, SECRETARIAT, PORVORIM – GOA.

The 228th meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Principal Secretary (Environment), on 24/09/2020 (Thursday) at 03.30 pm in the conference hall, second floor, Secretariat, Porvorim . Goa.

The following members were present for the meeting on 24/09/2020:

1. Secretary (Environment) / Chairman (GCZMA).
2. Representative on behalf of Principal Chief Conservator of Forests, Department of Forest, Panaji-Goa.
3. Representative on behalf of Director, Directorate of Panchayat , Panaji-Goa.
4. Representative on behalf of Director, Directorate of Tourism, Panaji-Goa.
5. Representative on behalf of Chief Engineer, (WRD), Alto-Porvorim.
6. Shri.Flaviano Miranda, Expert Member (GCZMA).
7. Shri. Sujeet Kumar Dongre, Expert Member (GCZMA)
8. Shri. Savio Joaquim Filipe Correia, Expert Member (GCZMA)
9. Shri. Shrirang Jambhale, Expert Member (GCZMA)
10. Member Secretary (GCZMA).

Item No. 1

Case No. 1.1

To decide on review application filed dated 09/07/2019 by Boomerang Bar and Restaurant.

Background: The present matter is interalia Suo Moto cognizance of Hon^{ble} High Court of Bombay at Goa, Panaji about the illegalities/constructions in CRZ area. The Hon^{ble} High Court of Bombay at Goa vide Order dated 26/09/2007 passed in the matter of Suo Moto Writ petition no.02/2006 had directed all Panchayats /Municipalities to submit action taken report with regard to constructions in NDZ/CRZ area as per terms mentioned therein along with an affidavit.

Pursuant to the decision taken by the Authority in its 198th GCZMA meeting held on 10/05/2019; directions were issued by GCZMA to M/S Boomerang Bar and Restaurant to demolish G+1 structure vide order bearing no. GCZMA/SMWP/02/06/743 dated 30/05/2018.the affected party approached Hon^{ble} High Court of Bombay at Goa to challenge the said demolition order bearing WP No. 469 of 2019. The respondent has also filed an review Application dated 09/07/2019 interalia seeking review of the order dated 30/05/2019 passed by GCZMA. The said matter was placed during 210th GCZMA meeting held on 07/08/2019 wherein the respondent was absent. Authority decided to take up the matter in its next meeting.

The matter was fixed for hearing during 227th GCZMA meeting held on 17/09/2020. Wherein the complainant Mrs Judith Almeida appeared in person and the respondent through advocate Shivan Dessai to defend their case. The Authority in its 225th meeting held on 04/06/2020 had called upon the complainant to seek for any clarifications from the witness of the respondent claiming that he had been carrying out business within the offending structure much prior to 1991. The complainant thereafter sought for clarifications.

The Authority after hearing recorded the statement of the witness decided to hear the both parties on merits of the case on 24/09/2020.

Proceedings:

None present for either of the parties. It was brought to the notice of the members that the Complainant had sought for copy of the clarificatory replies given by the witness of the Respondent which could not be provided to her within time. Hence she had expressed her inability to appear before this Authority to argue the matter.

Decision:

The Authority decided that the hearings are taking place in open forum and the complainant herself has examined the witness and the email copy put before the Authority is not in good taste. The Authority noted that disposal of matters placed before the Authority is of prime importance and any such delaying tactic severely affects the output of the Authority. The Authority decided not to grant any further hearing in the matter. The parties may file their written arguments within a week's time, thereupon, the Authority will decide on the matter with available materials on record.

Case No 1.2

To decide on a complaint from Mr. Cyprian Simon Silveira and Joseph Sequeira with respect to the illegal construction of a new road in property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute, Bardez Goa.

Background: The Office of the Goa Coastal Zone Management Authority had received a complaint letter dated 27/12/2019 from Mr. Cyprian Simon Silveira, and was inwarded in the office of GCZMA on the 27/12/2019, with respect to the illegal construction of a new road through the property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute Bardez Goa. the Complainant filed an Writ Petition bearing no 64/2020 before the Hon'ble High Court of Bombay at Goa inter alia seeking Writ of Mandamus for immediate action upon his Complaint. the Mamlatdar of Bardez Submitted a report bearing No. MAM/BAR/CI-II/8-Point/CRZ/Calangute/2020/674 dated 29/01/2020 stating the illegalities carried out in the property bearing survey no 158/2 of a house and a road in Sy No. 158/2 and 158/6 of Calangute Village, Bardez Goa. (Enclosed Copy of the report dated 29/01/2020 along with the sketch. the GCZMA

issued a Show Cause Notice bearing No. GCZMA/H.C.M/W.P.No. 64/2020/19-20/05/2713, dated 19/03/2020; the Respondent did not file his reply to the Show Cause Notice dated 19/03/2020.

Site inspection report:

As per the instruction of Member Secretary, Goa Coastal Zone Management Authority, an inspection was carried out on 10th February, 2020 from 11:30 am onwards. Expert Member (GCZMA) along with Mr. Devendra Gaonkar, FS from GCZMA and Mr. Rajesh Harmalkar FS, from DSLR visited the site and carried out the inspection.

Subsequently, the Expert Member recommended doing a mapping through DSLR in order to ascertain factual details of Survey number through which the alleged road is passing through at loco.

Accordingly, Mr. Devendra Gaonkar from GCZMA and Mr. Shri Rajesh Harmalkar FS, DSLR, visited the site on 17.02.2020 and mapped the factual details and submitted their report to the office of GCZMA on 18.02.2020.

Based on my field visit and subsequent map prepared by the DSLR, followings are observations.

1. The respondent Mr. Francis Rodrigues R/o 3/88 B Tiwaiwado, Calangute was not present at the site during the inspection.
2. The complainant Mr. Cyprian Simon Silveira, R/o ER-3/80, Tiwaiwado, Calangute was present at the site during the inspection.
3. It is observed that a new road has been constructed which is passing through survey numbers **158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6** of village Calangute, Bardez covering a total distance of about 80 meters. A map developed by the DSLR is annexed.
4. It is observed that a new house is being constructed in Survey No. **158/2** of village Calangute, Bardez. The construction is in its advance stages.
5. Both the road and the house falls within 200 to 500 meter of CRZ notified area.
6. No documents were found either in the GCZMA file or on site to prove the construction of the road and the house in above mentioned survey numbers is legal. However, permission was granted to construct a compound wall in the property bearing survey no. 158/2 of Calangute Village Ref. No. GCZMA/N/14-15/89/1603 dated 29/09/2015.
7. The Authority may deliberate and take appropriate decision.

The said matter was deliberated during 225th GCZMA meeting held on 04/06/2020 wherein the authority after hearing the Complainant decided not to issue any further directions because in the event if the Respondent has not abided by our directives then only after proper hearing such a direction could be issued. Apart from this, since the

Complainant has stated that the construction is just not limited to 80 mts, the Authority decided to call upon officials of the DSLR to do the mapping of the structure located in property bearing Sy.No.158/2 of Village Calangute including the road passing through the property bearing Sy. No. 158/1, 158/3, 158/4, 158/4D, 158/5 & 158/6. So also fresh notices to be issued including the owners of the property bearing Sy.No.158/4 and later fix the hearing on 03/07/2020 @ 10.30. am. During 227th meeting held on 17/09/2020 the respondent filed a reply to the show cause notice a copy of which has been given to complainant. The authority decided to hear the both parties on 24/09/2020.

Proceedings

The complainant namely Cyprian Simon Silveira through his Counsel stated that there was no structure located in property bearing Sy.no. 158/2 of Village Calangute & that such a structure if existing would have got reflected on the survey plan. He stated that an extensive exercise was conducted by the NGDPA whilst preparing the ODP whereby all the structure be it those were existing at the time of promulgation of records but also those that were built later have been duly mapped. The offending structure is not finding a mention on this plan too which has been done of later. He went on to submit that the Respondent has not obtained any permission for repairs from this Authority & the house number/house tax receipt is in respect of a structure located in an altogether different property which was issued for the first time in the year 2012. He submitted that that the Respondent & his wife came to be the owners of the plot of land whereupon the offending structure is constructed by virtue of two separate deeds of sale which have been registered subsequent to the year 1991 wherein there is no mention made of any structure. Apart from this based on directives of the Hon^{ble} High Court of Bombay at Goa in Suo moto W.P. No.02/2002 a survey was ordered to be carried out of all the structures located in CRZ areas & proper mapping was done of all the structures. The offending structure of the Respondent is also not finding a mention on this plan prepared as per directions of the Hon^{ble} High Court. The Complainant further stated that the report of the Talathi shows that the construction carried out by the Respondent is ongoing & he charged that the gat book plan sought to be relied upon by the Respondent is false & fabricated having no relevancy. He also charged that the Respondent is the Sarpanch of the V.P. of Calangute who has abused his powers to procure repair license. He further stated that the Respondent was not even the owner of the plot of land in July 2019, when the said repair permission was granted which is borne out from the Deed of Sale but the Panchayat has gone ahead & given him permission for repairs. The electricity & water connection to the offending structure has been given only in the year 2019. The other Complainant namely Joseph Sequeira adopted the arguments of the Complainant & reiterated the fact that the structure is completely new as against which pictorial evidence has been produced. From this it is evident that the construction is not in the nature of repairs but an altogether new Construction. He hence prayed that the offending structures should be demolished as it is constructed in violation of CRZ notification 2011.

The Respondent countered the arguments by disputing the report of the Expert Member stating that the structures inspected and identified by him isn't belonging to him. He stated that within the property bearing Sy.No.158/2 of village Calangute there are about 6 structures and the Expert Member may have seen some other structure. He disputed the report of the Talathi and compared it with the report of the Expert Member wherein the Talathi has reported that the ongoing construction is of 30 sq.mts and the Expert Member has stated that the same is of _____ sq.mts. He also stated that alleged offending structures is beyond the NDZ area. He refuted change made by the complainant stating that the gat book is fabricated and submitted that if the Authority is satisfied based on some contemporaneous documents that the structure is prior to 1991 than nothing survives in the complaint. Survey plan cannot be considered and be the gospel truth and hence the provision of re-survey is available in the LRC 1968. He placed on record a decision of the Authority which itself has held that Survey plan is not conclusive proof of evidence. He stated that only maintenance work has been carried out by the Respondent and as a matter of abundant caution he had sought permission for repair. Before carrying out the repairs an inspection was done wherein the existence of structure has been mentioned in the report and the said inspection report has been relied upon by the Respondent. He thereafter read out the provisions of the CRZ Notification 2011 which permits construction / reconstruction in areas between 200-500 for which he is not bound to take prior approval of the Authority but prior approval would nevertheless be required in areas which areas calling in NDZ. He hence submitted that there is no merit in the complaint held by the two complainants and prayed that the same be dismissed.

Decision: The matter kept for further deliberations of available material on record.

Case No 1.3

To decide on complaint from Mrs. Brigida Fernadnes, Ourem, Palolem, Goa with regard to the alleged illegal construction of a compound wall of Laterite stones on the southern side of her house and encroaching access and blocking entry to the house; by Mr Pratap Naik Gaonkar, Mr Pramod Prabhakar Naik Gaonkar, Mr Prasad Naik Gaonkar all resident of Devabag, Canacona Goa.

Background: This Office has received complaint letter dated 18/12/from Mrs. Brigida Fernadnes, R/o. H. No. 52, Ourem, Palolem, Goa with regard to the alleged illegal construction of a compound wall of Laterite stones on the southern side of my house thereby encroaching my access and blocking my entry into my rooms of my house; carried out by Mr Pratap Naik Gaonkar, Mr Pramod Prabhakar Naik Gaonkar, Mr

MINUTES OF THE 303rd MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 12/05/2022 at 03.00 PM. IN THE CONFERENCE HALL, FOURTH FLOOR, DEMPO TOWER, PATTO-PANAJI-GOA.

The 303rd Meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 12/05/2022 at 03.00 p.m. in the conference hall, fourth floor, Patto-Panaji – Goa.

The following members were present for the meeting on 12/05/2022

1. Secretary Environment/Chairman(GCZMA)
2. Representative on behalf of Department of PWD (Panaji Goa)
3. Representative on behalf of Chief Engineer WRD Panaji Goa.
4. Shri F.J.Miranda , Expert Member (GCZMA).
5. Shri. Savio Joquim Filipe Correia, Expert Member (GCZMA).
6. Shri Sujeet Dongre, Expert Member (GCZMA).
7. Member Secretary (GCZMA).

Case No. 1.1

To decide on complaint from Mr. Naraina Panduronga Sinai Nagorcencar regarding illegal construction in the Sy. No. 66/1 of village Nagorcem Palolem, Canacona Goa by Mr. Govind Khomorant .

Background: Mr. Naraina Panduronga Sinai Nagorcencar alias Narayan Pandurang Sinai Nagarsekar, Residing at Flat No.S-3, Building No.11 Kamat Classic, Phase-IV, Caranzalem Tiswadi–Goa, vide letter dated 08/12/2021 filed a complaint against one Mr. Govind Khomorant for carrying illegal construction in the Sy. No. 66/1 of village Nagorcem Palolem, Canacona Goa.

On receipt of complaint, Authority through its officials conducted site inspection on 25/01/2022. Accordingly Show cause cum personal hearing is issued to the party.

During 297th Meeting held on 31.3.2022 the proceeding and decision as follows: Both the parties present in person. Respondent files reply and same is served upon the Complainant.

After hearing the Respondent the Authority granted one more opportunity to the Respondent to file additional reply with supporting documents if any and posted

Case No.1.16**To decide on a complaint from Mr. Cyprian Simon Silveira and Joseph Sequeira with respect to the illegal construction of a new road in property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute, Bardez Goa.**

Background: The Office of the Goa Coastal Zone Management Authority had received a complaint letter dated 27/12/2019 from Mr. Cyprian Simon Silveira, and was inwards in the office of GCZMA on the 27/12/2019, with respect to the illegal construction of a new road through the property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute Bardez Goa. the Complainant filed an Writ Petition bearing no 64/2020 before the Hon'ble High Court of Bombay at Goa inter alia seeking Writ of Mandamus for immediate action upon his Complaint. the Mamlatdar of Bardez Submitted a report bearing No. MAM/BAR/CI-II/8-Point/CRZ/Calangute/2020/674 dated 29/01/2020 stating the illegalities carried out in the property bearing survey no 158/2 of a house and a road in Sy No. 158/2 and 158/6 of Calangute Village, Bardez Goa. *(Enclosed Copy of the report dated 29/01/2020 along with the sketch.* the GCZMA issued a Show Cause Notice bearing No. GCZMA/H.C.M/W.P.No. 64/2020/19-20/05/2713, dated 19/03/2020; the Respondent did not file his reply to the Show Cause Notice dated 19/03/2020.

Site inspection report:

As per the instruction of Member Secretary, Goa Coastal Zone Management Authority, an inspection was carried out on 10th February, 2020 from 11:30 am onwards. Expert Member (GCZMA) along with Mr. Devendra Gaonkar, FS from GCZMA and Mr. Rajesh Harmalkar FS, from DSLR visited the site and carried out the inspection.

Subsequently, the Expert Member recommended doing a mapping through DSLR in order to ascertain factual details of Survey number through which the alleged road is passing through at loco.

Accordingly, Mr. Devendra Gaonkar from GCZMA and Mr. Shri Rajesh Harmalkar FS, DSLR, visited the site on 17.02.2020 and mapped the factual details and submitted their report to the office of GCZMA on 18.02.2020.

Based on my field visit and subsequent map prepared by the DSLR, followings are observations.

1. The respondent Mr. Francis Rodrigues R/o 3/88 B Tiwawado, Calangute was not present at the site during the inspection.

2. The complainant Mr. Cyprian Simon Silveira, R/o ER-3/80, Tiwaiwado, Calangute was present at the site during the inspection.
3. It is observed that a new road has been constructed which is passing through survey numbers 158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6 of village Calangute, Bardez covering a total distance of about 80 meters. A map developed by the DSLR is annexed.
4. It is observed that a new house is being constructed in Survey No. **158/2** of village Calangute, Bardez. The construction is in its advance stages.
5. Both the road and the house falls within 200 to 500 meter of CRZ notified area.
6. No documents were found either in the GCZMA file or on site to prove the construction of the road and the house in above mentioned survey numbers is legal. However, permission was granted to construct a compound wall in the property bearing survey no. 158/2 of Calangute Village Ref. No. GCZMA/N/14-15/89/1603 dated 29/09/2015.
7. The Authority may deliberate and take appropriate decision.

The said matter was deliberated during 225th GCZMA meeting held on 04/06/2020 wherein the authority after hearing the Complainant decided not to issue any further directions because in the event if the Respondent has not abided by our directives then only after proper hearing such a direction could be issued. Apart from this, since the Complainant has stated that the construction is just not limited to 80 mts, the Authority decided to call upon officials of the DSLR to do the mapping of the structure located in property bearing Sy.No.158/2 of Village Calangute including the road passing through the property bearing Sy. No. 158/1, 158/3, 158/4, 158/4D, 158/5 & 158/6. So also fresh notices to be issued including the owners of the property bearing Sy.No.158/4 and later fix the hearing on 03/07/2020 @ 10.30. am. During 227th meeting held on 17/09/2020 the respondent filed a reply to the show cause notice a copy of which has been given to complainant. The authority decided to hear the both parties on 24/09/2020.

During the 228th Meeting of the GCZMA the Authority decided to keep the matter for further deliberations of available material on record.

The matter was posted for hearing in its 281st GCZMA Meeting due to paucity of time the matter is adjourned and posted on 13/01/2022 at 3.00p.m

During 285th GCZMA meeting held on 13/01/2022 The Complainant Mr Joseph Sequeira present in person. The matter was also called out through VC. Advocate

from the Office of Adv Pankaj Vernekar sought for time stating that her senior was tested positive and was unable to remain present for today's hearing.

The Authority considered the request and granted adjournment. The matter is posted for arguments on the 03/02/2022 at 3.00p.m

During 288th GCZMA meeting held on 03/02/2022 Adv Pranoy Kamat for the Complainant present , Respondent Adv Sona Nishad appeared on behalf of Adv Pankaj Vernekar and sought time on account of the personal difficulty of her senior to appear in the matter. The Authority asked the Ld. Counsel to send the email to this Authority seeking adjournment in the matter.

The Authority heard both the parties and granted last and final opportunity to the Respondent to argue the matter and posted the matter on 24.2.2022 at 3pm.

During 294th GCZMA meeting held on 03/3/2022: Adv Pranoy Kamat for the Complainant present, Adv Pankaj Vernekar for the Respondent. Advocate for the Respondent requested for one weeks time for arguments on ground that that he has received the document that is plan just on Tuesday and he requires time to deal with it by way of filling reply. The Adv for the Complainant objected to the time.

The Authority heard the parties and granted time to the Respondent with directions to serve the copy of the reply in advance to the Complainant and posted the matter on 24.03.2022 at 3.pm.

Proceeding: Adv Pranoy Kamat for the Complainant present , Junior Advocate from the office of Adv. P.Vernekar for the Respondent present and seeks time. Shri Joseph Sequiera present in person. The Adv for the Complainant submitted that the said structure is illegal and there are no documents produced by the Respondent showing the existence of the structure prior to 1991. Further submitted the house tax receipts water connection bill does not depict to be of prior to 1991.

Decision: The Authority after hearing the parties posted the matter for orders.

Case No 1.17

To decide on illegal conversion of use of land from one purpose to another and illegal construction with footings plinth level in the property bearing Sy No. 97/1-H of Village Rei Magos Bardez Goa within the CRZ limits which is carried out by M/s. ATS Infrastructure Limited, Kegdavelim Wado, Reis Magos, Bardez Goa.

MINUTES OF THE 310th MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 16/06/2022 at 03.00 PM. IN THE CONFERENCE HALL, FOURTH FLOOR, DEMPO TOWER, PATTO-PANAJI-GOA.

The 310th Meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 16/06/2022 at 03.00 p.m. in the Conference Hall of GCZMA, Fourth Floor, Patto-Panaji –Goa.

The following members were present for the meeting on 16/06/2022

1. Secretary Environment/Chairman(GCZMA)
2. Representative on behalf of Principal Chief Engineer , PWD (Panaji Goa)
3. Representative on behalf of Chief Engineer , WRD (Panaji Goa)
4. Representative on behalf of Principal Conservator of Forest, Panaji Goa.
5. Representative on behalf of Directorate of Panchayat , Panaji Goa.
6. Shri F.J.Miranda , Expert Member (GCZMA).
7. Shri. Savio Joquim Filipe Correia, Expert Member (GCZMA).
8. Shri Shirang Jhambale, Expert Member (GCZMA)
9. Member Secretary (GCZMA).

Case No.1.1

To decide on Complaint from Mrs Ana Fernandes , Cansaulim Goa against Mr. Bento Vincent for carrying out illegal construction in NDZ area under survey No 12/14 Village Velsao Cansaulim Goa.

Background:

Mrs Ana Fernandes , R/o H.no 201, Danddo Pale, Velsao, P.O Cansaulim Goa vide letter dated 09/04/2021 filed a complaint against Mr. Bento Vincent R/o Velsao Dando -Pale, Cansaulim Goa for carrying out illegal construction in NDZ area under survey No 12/14 Village Velsao Cansaulim Goa. Show cause Notice issued to the violator on 29/04/2022.

During 303rd GCZMA meeting held on 12/05/2022 Complainant present along with his Advocate. Ld. Adv Respondent present and seeks time to file reply.

The Authority granted time to the Respondent and posted the matter on 16.06.2022 at 3.00pm for reply.

Proceeding: Complainant present along with his Advocate. Ld. Adv for the Respondent present and seeks time to file reply.

Decision: As it is seen from the records that Respondent is not appearing for past number of hearings the Authority decided to proceed Ex-parte against the Respondent and decided to hold fresh site inspection through Expert Member Shri Sujeet Dongre on 27/6/2022 from 11.00am onwards by issuing notices to the parties and posted the matter on 7/7/2022 for receipt of report at 3.30pm.

Case No 1.19

To decide on a complaint from Mr. Cyprian Simon Silveira and Joseph Sequeira with respect to the illegal construction of a new road in property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute, Bardez Goa.

Background: The Office of the Goa Coastal Zone Management Authority had received a complaint letter dated 27/12/2019 from Mr. Cyprian Simon Silveira, and was inwards in the office of GCZMA on the 27/12/2019, with respect to the illegal construction of a new road through the property bearing survey no 158/4 and 158/6, and house in survey no 158/2 of Village Calangute Bardez Goa. the Complainant filed an Writ Petition bearing no 64/2020 before the Hon'ble High Court of Bombay at Goa interalia seeking Writ of Mandamus for immediate action upon his Complaint. the Mamlatdar of Bardez Submitted a report bearing No. MAM/BAR/CI-II/8-Point/CRZ/Calangute/2020/674 dated 29/01/2020 stating the illegalities carried out in the property bearing survey no 158/2 of a house and a road in Sy No. 158/2 and 158/6 of Calangute Village, Bardez Goa. (*Enclosed Copy of the report dated 29/01/2020 along with the sketch.* the GCZMA issued a Show Cause Notice bearing No. GCZMA/H.C.M/W.P.No. 64/2020/19-20/05/2713, dated 19/03/2020; the Respondent did not file his reply to the Show Cause Notice dated 19/03/2020.

Site inspection report:

As per the instruction of Member Secretary, Goa Coastal Zone Management Authority, an inspection was carried out on 10th February, 2020 from 11:30 am onwards. Expert Member (GCZMA) along with Mr. Devendra Gaonkar, FS from GCZMA and Mr. Rajesh Harmalkar FS, from DSLR visited the site and carried out the inspection.

Subsequently, the Expert Member recommended doing a mapping through DSLR in order to ascertain factual details of Survey number through which the alleged road is passing through at loco.

Accordingly, Mr. Devendra Gaonkar from GCZMA and Mr. Shri Rajesh Harmalkar FS, DSLR, visited the site on 17.02.2020 and mapped the factual details and submitted their report to the office of GCZMA on 18.02.2020.

Based on my field visit and subsequent map prepared by the DSLR, followings are observations.

1. The respondent Mr. Francis Rodrigues R/o 3/88 B Tiwaiwado, Calangute was not present at the site during the inspection.
2. The complainant Mr. Cyprian Simon Silveira, R/o ER-3/80, Tiwaiwado, Calangute was present at the site during the inspection.
3. It is observed that a new road has been constructed which is passing through survey numbers 158/1, 158/3, 158/4, 158/4D, 158/5 and 158/6 of village Calangute, Bardez covering a total distance of about 80 meters. A map developed by the DSLR is annexed.
4. It is observed that a new house is being constructed in Survey No. **158/2** of village Calangute, Bardez. The construction is in its advance stages.
5. Both the road and the house falls within 200 to 500 meter of CRZ notified area.
6. No documents were found either in the GCZMA file or on site to prove the construction of the road and the house in above mentioned survey numbers is legal. However, permission was granted to construct a compound wall in the property bearing survey no. 158/2 of Calangute Village Ref. No. GCZMA/N/14-15/89/1603 dated 29/09/2015.
7. The Authority may deliberate and take appropriate decision.

The said matter was deliberated during 225th GCZMA meeting held on 04/06/2020 wherein the authority after hearing the Complainant decided not to issue any further directions because in the event if the Respondent has not abided by our directives then only after proper hearing such a direction could be issued. Apart from this, since the Complainant has stated that the construction is just not limited to 80 mts, the Authority decided to call upon officials of the DSLR to do the mapping of the structure located in property bearing Sy.No.158/2 of Village Calangute including the road passing through the property bearing Sy. No. 158/1, 158/3, 158/4, 158/4D, 158/5 & 158/6. So also fresh notices to be issued including the owners of the property bearing Sy.No.158/4 and later fix the hearing on 03/07/2020 @ 10.30. am. During 227th meeting held on 17/09/2020 the respondent filed a reply to the show cause notice a copy of which has been given to complainant. The authority decided to hear the both parties on 24/09/2020.

During the 228th Meeting of the GCZMA the Authority decided to keep the matter for further deliberations of available material on record.

The matter was posted for hearing in its 281st GCZMA Meeting due to paucity of time the matter is adjourned and posted on 13/01/2022 at 3.00p.m

During 285th GCZMA meeting held on 13/01/2022 The Complainant Mr Joseph Sequeira present in person. The matter was also called out through VC. Advocate from the Office of Adv Pankaj Vernekar sought for time stating that her senior was tested positive and was unable to remain present for today's hearing.

The Authority considered the request and granted adjournment. The matter is posted for arguments on the 03/02/2022 at 3.00p.m

During 288th GCZMA meeting held on 03/02/2022 Adv Pranoy Kamat for the Complainant present , Respondent Adv Sona Nishad appeared on behalf of Adv Pankaj Vernekar and sought time on account of the personal difficulty of her senior to appear in the matter. The Authority asked the Ld. Counsel to send the email to this Authority seeking adjournment in the matter.

The Authority heard both the parties and granted last and final opportunity to the Respondent to argue the matter and posted the matter on 24.2.2022 at 3pm.

During 294th GCZMA meeting held on 03/3/2022: Adv Pranoy Kamat for the Complainant present, Adv Pankaj Vernekar for the Respondent. Advocate for the Respondent requested for one weeks time for arguments on ground that that he has received the document that is plan just on Tuesday and he requires time to deal with it by way of filling reply. The Adv for the Complainant objected to the time.

The Authority heard the parties and granted time to the Respondent with directions to serve the copy of the reply in advance to the Complainant and posted the matter on 24.03.2022 at 3.pm.

During 303rd meeting held on 12/05/2022 the proceeding and decision as follows: Adv Pranoy Kamat for the Complainant present , Junior Advocate from the office of Adv. P.Vernekar for the Respondent present and seeks time. Shri Joseph Sequiera present in person. The Adv for the Complainant submitted that the said structure is illegal and there are no documents produced by the Respondent showing the existence of the structure prior to 1991. Further submitted the house tax receipts water connection bill does not depict to be of prior to 1991.

The Authority after hearing the parties posted the matter for orders.

Decision: This Authority noted the Report forwarded by the Dy Collector& SDO bearing no DC/MAP/CRZ/CyprianSilveira/2020/805 dated 29/01/2020 wherein the Mamlatdar in his report has clearly stated that the road is constructed in Sy No. 158/2 and 158/6 around 3 months back i.e. somewhere in October 2019 and that the construction of the house is presently going on in Sy No. 158/2 of Calangute Bardez Goa.

This Authority perused the Site Inspection report which was carried out by the GCZMA along with the Land Survey Records representatives on the 10/02/2020; and it was observed that the Respondent had constructed a new road covering a total distance of 80 metres. The inspecting team also noted that a new

house was being constructed and the construction was in its advance stage. The Site Inspection Team also pointed out that the road and the house in construction also falls within the 200-500 mts of CRZ Area.

It is admitted that the role of the GCZMA is to check if the structure is prior to 1991; However, the Respondent has miserably failed to justify / prove that the structure was constructed prior to 1991. The Respondent has in fact relied on just and only GUT Book, Form I & XIV, Permission for repairs from the Village Panchayat and the Sale deed documents.

The Authority noted that the Respondent in his reply has relied on the Gut Book to prove that the structure in Sy No. 158/2 is legal. However, the Authority is of the opinion that, the Extract of the GUT Book, which is in the possession of the Talathi of the Village of Calangute has been produced for the property bearing Survey No. 158/2 of Calangute Village which shows that a structure stands therein; However, the structure in dispute standing in the property is not the same position as shown in the gut book

Incidentally, the GUT book maintained by the Talathi does not have any legal bearing and is only a referential book given to the concerned Office of the local Panchayat Talathi for mere reference. If the structure was standing and was subsequently inserted there are no details furnished to this Authority to prove beyond doubt as to when were the details of the structure inserted. The Talathi has also not mentioned nor given any details to show how and when the said disputed structure was inserted. Therefore, the GUT book being a sketch book given to the Talathi, does not have any legal bearing and cannot be considered as a document to be relied upon to prove the legality of the structure. moreover, there seems to be some glaring and major discrepancy in the GUT Books produced of the same Village and the Survey Plan of the same property bearing the same survey number and that too maintained by two different Government Departments; as a result of which information in the GUT Book cannot be relied upon and as such the Authority refuses to rely on the GutBook as evidence for the legality of the Structure in dispute as the survey were promulgated in the year 1971-1974 and was kept open to the public for suggestion and objection. There is nothing on record to show that Respondent had objected for promulgation of the records in respect of Sy. No. 158/2 of Village Calangute Bardez Goa. The Authority noted that if the structure is shown on the gutbook then it should have figured on the Survey plan. The Respondent has also not filed any application to the respective departments to include the house in the survey plan although it was showing in the Gut book. Prima facie it appears that since the Respondent is the Sarpanch of the Village Panchayat

of Calangute and since the gut book was in the custody of the Talathi attached to the Village Panchayat there has been interference in records to prove the legality of the structure in view of the above the reliance placed on the Gut Book cannot be taken into consideration while deciding on the legality of the Structure.

The Authority noted that the survey plan does not show any existing structure therein and neither did the Respondent produce any permission or approvals to prove that the structure was erected after 1971 and prior to the CRZ Notification 1991. The Authority further noted that the Respondent had also failed to produce any approvals, licenses or permission from any competent authority seeking permission for erecting the structure.

The Authority noted that the Respondent has relied on a Document which the Respondent claims to be a receipt connected to the particular illegal structure. On perusal of the submitted Receipt the Authority noted that the receipt in particular does not give any clarity nor any relation to the Said Structure for which purpose the same was issued and now furnished to this Authority. Further, this submitted Receipt it does not bear any rubber stamp nor any Receipt Head of the issuing Authority.

The Authority noted that the Respondent has relied on the Application for Permission for repairs of house in-warded in the Office of Village Panchayat of Calangute, under inward no 3618 dated 10/07/2019; wherein the Authority declined to consider this document, as this Authority noted some major discrepancies in this document: Firstly the Respondent sought for repairs of the house bearing house no 3/86D. This house number is an after sought sub-divided house number which is a bifurcated house number from the original main house number and as such neither this house number issued by the Authorities of the Village Panchayat of Calangute nor this house can be considered as an old house existing prior to CRZ Notification 1991. Secondly, the dimensions of the house in the application for repairs given on the sketch does not corroborate with the photographs produced on record. Thirdly, the Authority also concluded to the obvious glaring discrepancy that the estimate given is grossly undervalued and this document is deliberately created only to generate documents to protect the Illegal Structure.

The Authority perused the Form I & XIV bearing Sy. No 158/2, released by the Mamlatdar of Bardez dated 14/01/2020 and noted that under the heading of "Uncultivable Area" in the respective column it has been inscribed that the total uncultivable area is that of 71 sq mts only [i.e. 46 sq mts in Class (a) and 25 sq mts in Class (b)] and further shows only two structures and this corroborates with the

Survey Plan bearing Sy. No. 158/2. However, this document cannot be relied upon by the Respondent to prove that his structure was existing prior to 1991; as the structure of the Respondent does not reflect on the Survey Plan held by and in possession of the Directorate of Settlement and Land Records (DSLRL).

The Authority noted that the Talathi of Calangute has relied upon a Document; wherein the area on the Form I & XIV maintained by the Concerned Village Talathi is clearly inscribed as 100 sq mts in Class (a) and 25 sq mts in Class (b) totaling to an area of 125 sq mts as uncultivable area. Considering this discrepancy between the Office Records of the DSLR and that of the Office Records of the Talathi of Village Panchayat of Calangute; this document cannot be relied upon nor taken into consideration for the determination of the legality of the structure due to discrepancy mentioned therein. Moreover, if one peruses the Survey plan maintained by the DSLR there are already existing structures in the Sy No 158/2 and in the part purchased by this Respondent there is no structure shown hence it is concluded that the structure is a newly erected structure in violation of the CRZ Notification.

The Authority noted that the Respondent had purchased the property bearing Sy No 158/2 in the year 2019 and the Deed of Sale for this property was registered at the Office of the Sub Registrar of Bardez on the 21/11/2019. Upon perusing the Sale Deed, it has been noted that the Respondent had only purchased plain barren land without any structures therein. This Deed further more confirms that the Respondent has erected the Illegal Structure only after he purchased the property i.e. after 2019 and the same was erected without any approvals.

The Authority also noted that the Respondent has produced another document which is a Deed of Sale dated 10/11/1999; wherein he has purchased a part of the property bearing Sy No 158/2. However, upon perusal of this Deed of Sale dated 10/11/1999 document, the Respondent has purchased a piece of land having an area of 900 sq mts. This Deed also does not mention of any house existing on the land therein; which is enough evidence to prove that the construction is a new construction erected without any approvals, licenses or permissions from the Licensing Authority/ Department and hence illegal.

The Authority noted that based on the plans attached to the Deed of Sale the property in dispute pertains to the Deed of Sale dated 21/11/2019 which means that the Respondent was the owner of the property as on 21/11/2019. However, it is noted that the Application for repairs of the house was filed by the Respondent at the Village Panchayat on 10/07/2019; from which is evident that the respective application that the permission was officially sought before the Respondent was the

owner and before the actual purchase of the property. Surprisingly, the Sale Deed does not mention any old structure existing in the property purchased by the Respondent. It is evident from this discrepancy, that the Respondent has manipulated the records to get away with the illegalities carried out and hence it is confirmed that the structure in particular was constructed after the CRZ Notification of 1991 and is illegally constructed without any approvals, licenses or permissions from any of the concerned Government Departments.

The Authority noted that the Respondent has in all his efforts failed to prove to the Authority that the structure standing on site was prior to 1991 nor has the Respondent provided any documentary evidence thereof.

The Authority noted that the Respondent has not submitted any approved plans from any Government Department to prove the legality of the structure and the road standing thereof. Secondly the Respondent has even though obtained repair license from the concerned Village Panchayat it is for the sub divided part of the house which probably was constructed post 1991. The Respondent has miserably failed to prove by documentary evidence that the structure was standing prior to 1991.

The Respondent has also not obtained any Conversion Sanad from the concerned Deputy Collector of Bardez at Mapusa; thereby causing severe loss to the Government Revenue. The Respondent also does not have any permission from the Office of the GCZMA. The Respondent has failed to produce any Occupancy Certificate from the Office of the Village Panchayat of Calangute.

The Authority noted that the Respondent failed to produce any documentary evidence to prove that the structure and the road is legal and that the construction has commenced with valid permissions. The Respondent has not produced any permission, approvals nor licenses from any competent Authority for the constructions carried out.

The Authority therefore concluded that the documents mentioned hereinabove do not confer any Legality of the Structure standing in Sy No 158/2 of Calangute Village the Respondent also has failed to prove the legality of the Road and hence decided to issue directions for demolition of the structure and the removal of the road standing in Sy No 158/2, and 158/6 of Calangute Village Panchayat.

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.235 of 2016**

Milton Marquis,
major of age, Indian National,
Proprietor of Alcove Resort,
Ozran, Vagator, Bardez, Goa. .. Petitioner

Vs.

1. State of Goa
through its Chief Secretary,
having office at Secretariat,
Porvorim, Goa.
2. Goa Coastal Zone Management
Authority
through its Chairman, having
office at 3rd Floor, Dempo Towers,
Patto Plaza, Panaji, Goa.
3. Collector & District Magistrate
(North),
Having office at Collectorate
Building, Panaji, Goa.
4. Dy. Collector & S.D.O. of Bardez,
having office at Mapusa, Bardez,
Goa.
5. Mr. Chandan Diukar,
major of age, r/o 1054,
Simvado, Anjuna, Bardez,
Goa.
6. Mr. Eliano Pereira,
major of age, r/o
Vagator, Anjuna, Bardez,
Goa. .. Respondents.

Mr. Nitin Sardessai, Senior Advocate with Ms. S. Pereira,
Advocate for the petitioner.

Ms. S. Linhares, Additional Government Advocate for the
respondent nos.1 to 4.

Mr. Y. V. Nadkarni, Ms. D. Shirgam and Ms. A. Kale, Advocates for
the respondent no.5.

Mr. Ravi Gawas, Advocate for respondent no.6.

CORAM :- C. V. BHADANG, J.

DATE:- 15th February, 2017

ORAL JUDGMENT :

Rule, made returnable forthwith. The learned Additional Government Advocate waives service on behalf of respondent nos.1 to 4. Shri Nadkarni, the learned Counsel waives service for respondent no.5. Shri Gawas, the learned Counsel waives service for respondent no.6. Heard finally by consent of the parties.

2. The petitioner is challenging the order dated 22/02/2016, passed by the second respondent, Goa Coastal Zone Management Authority (GCZMA, for short), under Section 5 of the Environment (Protection) Act, 1986 (the Act, for short), directing demolition of the construction, standing in Survey No.223/1A and 222/3A of village Anjuna, Bardez, Goa.

3. The brief facts are that the fifth respondent lodged a complaint with the GCZMA, alleging illegal and unauthorised construction of some structures by the petitioner in Survey Nos.222/3A and 223/1A of village Anjuna, Bardez, Goa, which were allegedly constructed in breach of the CRZ Regulations. The

GCZMA issued a show cause notice to the petitioner on 11/01/2016, claiming that the petitioner had made illegal construction of a ground + 1 structure, styled as "Alcove Resort", with 7 to 8 permanent cottages and restaurant and permanent structures along with staircase leading to the beach, which are falling within 10 to 50 metres of the High Tide Line (HTL) and without obtaining necessary permissions/ approval from the Statutory Authorities and in violation of CRZ Notification, 2011. The said notice was served on the petitioner on 13/01/2016 and the petitioner was asked to remain present for personal hearing on 18/01/2016. The petitioner, accordingly, remained present and filed an application, seeking 15 days' time to enable the petitioner to compile the relevant documents and to file a detailed reply. The GCZMA, accordingly, granted time to the petitioner to file a detailed reply till 28/01/2016, on which date, the petitioner filed a detailed reply raising various contentions. In short, it was contended that the structures are existing structures much prior to the year 1991 and there is no violation of CRZ Regulations. However, the GCZMA, by the impugned order, has directed demolition of the subject structures, which order is subject matter of challenge in this petition.

4. I have heard Shri Nitin Sardesai, the learned Senior Counsel for the petitioner, Ms. Linhares, the learned Additional Government Advocate for respondent nos.1 to 4, Shri Nadkarni,

the learned Counsel for the fifth respondent and Shri Gawas, the learned Counsel for the sixth respondent. With the assistance of the learned Counsel for the parties, I have perused the record and gone through the impugned order.

5. It is submitted by the learned Senior Counsel for the petitioner that the show cause notice is vague as it does not show particulars of the structures, which are said to be illegal and erected in violation of the CRZ Regulations. The learned Senior Counsel has referred to the show cause notice, in order to point out that it refers to a ground + 1 storied structure with '7 to 8' permanent cottages and then refers to a restaurant and "permanent structures along with the staircase, leading to the beach". It is submitted that the show cause notice ought to have been specific as to the structures, which are claimed to be illegal and unauthorised. It is next submitted that the show cause notice was issued merely based on the complaint filed by the fifth respondent and without the GCZMA carrying out any site inspection/ panchanama in respect of the subject structures. It is submitted that, in the absence thereof, the GCZMA could not have issued show cause notice and initiated action. It is next submitted that as per rule 4(3-a) of the Environment (Protection) Rules, 1986 ('Rules' for short), the show cause notice has to be a 15 days' notice while only 5 days' time was granted in as much as the notice was served on the petitioner on 13/01/2016 and the

petitioner was asked to remain present on 18/01/2016. It is submitted that the impugned order travels beyond the show cause notice in as much as the impugned order records that the petitioner had converted the use of the structures from residential to commercial, which was not part of the show cause notice. It is submitted that on 18/01/2016, the petitioner had only sought time to file a detailed reply and there was no personal hearing as such conducted on that day. It is submitted that the petitioner had never waived his right of personal hearing. It is submitted that the GCZMA had granted time till 28/01/2016, when the petitioner filed a detailed reply, after which there is no opportunity of personal hearing granted. There is no consideration of the various documents produced by the petitioner on record, including the permission for repairs granted by the office of the Town Planner as far back as on 10/05/1994. It is submitted that the Village Panchayat had issued show cause notice alleging illegal construction and ultimately, those proceedings were dropped, which is evident from the letter dated 23/03/2011. It is submitted that there is no consideration on these aspect and there is no finding in the impugned order that the construction of the subject structures is after the year 1991. He, therefore, submits that the impugned order stands vitiated.

6. On the contrary, the learned Additional Government Advocate has supported the impugned order. It is submitted that

there was a direction by the National Green Tribunal (NGT) in the matter and the petitioner was heard on 18/01/2016 and further time was granted to file a detailed reply till 28/01/2016, which would satisfy the requirement of 15 days clear notice. It is submitted that the petitioner was all along aware of the structures, in respect of which the show cause notice pertains and thus, the contention raised on account of the show cause notice being vague is misplaced. It is submitted that the GCZMA, after hearing the petitioner, has rightly directed demolition of the structures. The learned Additional Government Advocate alternatively submitted that in the event this Court is inclined to interfere with the impugned order, the GCZMA will conduct inspection of the structures and issue a fresh show cause notice, if necessary and then, decide the matter afresh, after hearing the petitioner in accordance with law.

7. Shri Nadkarni, the learned Counsel for the fifth respondent has submitted that there was no dispute as to the identity of the structures, as the petitioner was all along aware about the structures, in respect of which the action is initiated and therefore, the ground about the show cause notice being vague, is not correct. It is submitted that the GCZMA had granted time till 28/01/2016 to the petitioner to file reply, which would satisfy the requirement of 15 days' clear notice.

8. It is submitted that the petitioner has an alternate remedy of approaching the NGT against the impugned order and in view of availability of an alternate remedy, the petition may not be entertained. It is submitted that a show cause notice was issued and the petitioner was allowed to file a detailed reply. It is submitted that the petitioner was also heard on 18/01/2016 and as such, there is no breach of the principles of natural justice in this case, so as to carve out any exception for entertaining the petition.

9. I have carefully considered the rival circumstances and the submissions made.

10. It is now well settled that the reluctance to entertain a petition in the wake of availability of an alternate remedy, is self-imposed restriction with well known exceptions. One of the exceptions is where there is breach of principles of natural justice, demonstrated by the party concerned. In the present petition also, the petitioner is coming with a ground of there being breach of principles of natural justice in passing the impugned order, which are found to be justified for reasons hereinafter set out. For this reason, I do not find that the objection on account of the availability of an alternate remedy can be sustained.

11. It is not in dispute that the GCZMA did not conduct any site inspection nor any panchanamna was drawn about the

location, nature and extent of the structures, which were subject matter of the complaint, lodged by the fifth respondent. It appears that the GCZMA has merely acted on the basis of the complaint, without first verifying what is the nature of the construction and its exact location. Normally, it would be expected from the GCZMA to first conduct a site inspection, draw a proper panchanama and then initiate action, if the subject structures are found to be illegal or unauthorised and having erected in breach of the CRZ Notification. That does not appear to have been done in this case. A perusal of the show cause notice would indicate that the GCZMA had referred to a ground + 1 storied structure with 7 to 8 permanent cottages and a restaurant and permanent structures along with staircase leading to the beach, constructed in the property bearing Survey No.223/1A. Had the GCZMA conducted an inspection, the exact nature, location and the number of structures could have been set out in the show cause notice. It also appears that the show cause notice does not make any reference to change of user of the subject structures from residential to commercial purpose. However, the final order of demolition proceeds on the said aspect. It is also a matter of record that the show cause notice was served on the petitioner on 13/01/2016 and he was asked to remain present on 18/01/2016 while rule 4(3-a) of the Rules requires 15 days' notice. Even taking note of the fact that the petitioner was granted time till 28/01/2016, which would satisfy the requirement of 15 days' clear

notice, no personal hearing as such, has been granted thereafter. The Division Bench of this Court in the case of **Mukund Joshi Vs. State of Goa** (W.P.No.13/2016, decided on 21/01/2016), has, *inter alia*, held in para 8 of the judgment that “hearing would include giving an opportunity to the parties to advance oral submissions unless the petitioner waives his right to advance his oral submissions.” In the present case, it is evident that the only personal hearing that was granted was on 18/01/2016, on which date, the petitioner had sought time to file a detailed reply and there is no personal hearing granted after the petitioner filed a detailed reply on 28/01/2016.

12. On behalf of the fifth respondent, reliance is placed on the Minutes of the meeting held on 18/01/2016, in which, the following decision is recorded :

“After detailed discussion and due deliberations and on considering the oral submissions made by the Ld. Advocate D. Shirodkar present on behalf of Mr. Milton Marques, the Authority decided to grant 15 days time period to Mr. Milton Marques for filing of his detailed reply in the interest of natural justice with effect from the date of receipt of the Show Cause Notice Cum Personal hearing i.e. 13/01/2016 as informed by the Advocate of Mr. Milton Marques which expires on 27/01/2016 and in case of non-receipt of any reply from Mr. Milton Marques within

the stipulated time period the Authority shall proceed with final decision in the matter. The Authority also informed both the parties that no further personal hearing to the parties shall be granted and final decision will be taken based on the documents submitted by the parties. The same is agreed by both the parties and their representatives.

(Emphasis supplied)

13. The learned Senior Counsel for the petitioner has submitted that in the petition, the petitioner has specifically averred that there was no hearing as such conducted on 18/01/2016 and the only request, which was made, was for grant of time to file a detailed reply. There is a specific ground raised in this regard in the petition, which is not controverted by the GCZMA. In any event, the petitioner, not having been granted any opportunity of hearing, after filing of the reply on 28/01/2016, I find that the matter needs to be remanded back to the GCZMA for deciding it afresh in accordance with law.

14. In the result, the following order is passed :

- (i) The petition is partly allowed.
- (ii) The impugned order is hereby set aside.
- (iii) Respondent no.2 shall carry out inspection of the subject structures and if found necessary, shall issue fresh show cause notice and pass orders

afresh, after hearing the petitioner in accordance with law.

(iv) The said exercise shall be completed within a period of 6 months from today.

(v) Rival contentions of the parties are left open.

(vi) In the circumstances, there shall be no order as to costs.

C. V. BHADANG, J.

SMA



FORM I & XIV

100015980401

Date : 27/11/2022

नमुना नं १ व १४

Page 1 of 2

Taluka BARDEZ
तालुका
Village Calangute
गांव
Name of the Field Tivai Vaddo
शेताचें नांव

Survey No. 158
सर्वे नंबर
Sub Div. No. 2
हिस्सा नंबर
Tenure
सत्ता प्रकार

Cultivable Area (Ha.Ars.Sq.Mtrs) लागण क्षेत्र (हे. आर. चौ. मी.)

Dry Crop जिरायत	Garden बागायत	Rice तरी	Khajan खाजन	Ker केर	Morad मोरड	Total Cultivable Area एकूण लागण क्षेत्र
0000.00.00	0000.10.29	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0000.10.29

Un-cultivable Area (Ha.Ars.Sq.Mtrs) नापिक क्षेत्र (हे. आर. चौ. मी.)

Pot-Kharab पोट खराब

Remarks शेरा

Class (a) वर्ग (अ)	Class (b) वर्ग (ब)	Total Un-Cultivable Area एकूण नापिक जामीन	Grand Total एकूण	Remarks शेरा
0000.00.46	0000.00.25	0000.00.71	0000.11.00	Dy. Coll. Order No. 15/111/2017/Part/Land dtd. 04/06/2018 and Letter No. 9/ISLR/MAP/PART/LAND/168/18/1936 dtd.

Assessment : आकार	Rs. 0.00	Foro फोर	Rs. 0.00	Predial प्रेदियाल	Rs. 0.00	04/09/2018 issued by Inspector of Land Records, City Survey, Map प्रेदियाल	Rent रेण्ट	Rs. 0.00
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S.No.	Name of the Occupant कब्जेदाराचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेरा
1	Louisa Maria Mathias		34691	
2	Avis Jane Pothan		34691	
3	Joe Emanuel Santiago		34691	
4	Marta Marleta Rodrigues		65053	
5	Antonio Rodrigues		65468	
6	Nivea Rodrigues alias Nivea Natalia Rodrigues		65468	
7	Marta Marleta Rodrigues		65467	
8	Marta Marleta Rodrigues		65465	
9	Antonio Rodrigues		70801	

S.No.	Name of the Tenant कुळाचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेरा
1	-----Nil-----			

Other Rights इतर हक्क Name of Person holding rights and nature of rights: इतर हक्क धारण करणा-याचे नांव व हक्क प्रकार	Mutation No. फेरफार नं	Remarks शेरा
H.No.E/3 103 Munkarin has got own house in Land Lord property Domcila Fernandes		

**FORM I & XIV**

100015980401

Date : 27/11/2022

नमुना नं १ व १४

Page 2 of 2

Taluka BARDEZ
तालुका
Village Calangute
गांव
Name of the Field Tivai Vaddo
शेताचें नांव

Survey No. 158
सर्वे नंबर
Sub Div. No. 2
हिस्सा नंबर
Tenure
सत्ता प्रकार

Other Rights इतर हक्क Name of Person holding rights and nature of rights: इतर हक्क धारण करणा-याचे नांव व हक्क प्रकार	Mutation No. फेरफार नं	Remarks शेरा
H.No.E/3 85 has got his own house in Land Lord property Caridade Rodrigues		

Details of Cropped Area पिकाखालील क्षेत्राचा तापशील

Year वर्ष	Name of the Cultivator लागण करणा-याचे नांव	Mode रीत	Season मौसम	Name of Crop पिकाचे नांव	Irrigated	Unirrigated	Land not Available for Cultivation नापिक जमीन		Source of irrigation सिंचनाचा प्रारि	Remarks शेरा
					बागायत Ha.Ars.Sq.Mts हे. आर. चौ. मी.	जिरायत Ha.Ars.Sq.Mts हे. आर. चौ. मी.	Nature प्रकार	Area क्षेत्र Ha.Ars.Sq.Mts हे. आर. चौ. मी.		
	-----Nil-----	-----	-----							

End of Report

For any further inquires, please contact the Mamlatdar of the concerned Taluka.

ANIL HOBLE v. KASHINATH JAIRAM SHETYE

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(2016) 10 Supreme Court Cases 701

(BEFORE DR T.S. THAKUR, C.J. AND A.M.

a KHANWILKAR AND DR D.Y. CHANDRACHUD, JJ.)

ANIL HOBLE

.. Appellant;

Versus

KASHINATH JAIRAM SHETYE

AND OTHERS

.. Respondents.

b Civil Appeal Diary No. 26024 of 2016, decided on October 7, 2016

A. **Environment Law — National Green Tribunal Act, 2010 — S. 22 — Appeal to Supreme Court against orders of NGT — Reappreciation of evidence — Only where it is demonstrated that decision of Tribunal suffers from error apparent on face of record or is perverse (Paras 9, 15 and 16)**

c B. **Environment Law — Water/River/Coastal Pollution — Coastal Areas/Wetlands/Coastal Regulation Zone Notifications — CRZ Policy dt. 19-2-1991 — Unauthorised construction falling within prohibited area, endangering river and coastal ecosystem — Demolition of, upheld — Further held, permission granted by Goa Coastal Zone Management Authority (GCZMA) would not be of any assistance as it was contrary to directions of High Court**

d — Respondent contended before NGT that building of appellant constructed in violation of Coastal Regulation Zone was leading to pollution of coastal and river ecosystem — Tribunal concluded that building was unauthorised and should be demolished — Sustainability of

e — Held, when appellant purchased plot it had a small structure standing thereon used as garage but now there stood a different structure — It was unauthorisedly developed after 19-2-1991 the day from which notification of Coastal Regulation Zone (CRZ) Policy came into force — This structure was within 100 m from high tide line — That structure was different from what was originally purchased — CRZ Policy prohibits construction within 200 m from high tide line treating it to be “No Development Zone” — Only activity permissible was repairs of authorised structures — There is no reason to

f doubt correctness of finding of fact recorded by Tribunal that this unauthorised structure fell within 100 m of high tide line — Further, Tribunal was correct in holding that plot purchased by appellant and structure about which respondents complained of were one and same — As long as directions issued by High Court in *Goa Foundation*, WP No. 422 of 1998, order dt. 13-10-2006 (Bom), were in force, any permission granted contrary to these directions was nullity and non est — Thus, permission granted to appellant by Goa Coastal Zone Management Authority (GCZMA) would not be of any assistance as it was contrary to directions of High Court — Since structure being unauthorised, it could not be used for whatever purpose and, therefore, it is required to be demolished — Issue whether CRZ Policy prohibits change in use of structure not considered — Hence, appeal dismissed — National Green Tribunal Act, 2010, Ss. 14 and 22 (Paras 9 to 16)

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Kashinath Jairam Shetye v. Srinet Kotwlae, 2015 SCC OnLine NGT 117; *Anil Hoble v. Kashinath Jairam Shetye*, MA No. 180 of 2015 in Review Application No. 15 of 2015, decided on 14-12-2015 (NGT), *affirmed*

Goa Foundation v. Panchayat of Condolim, WP No. 422 of 1998, order dated 13-10-2006 (Bom), *referred to*

Appeal dismissed G-D/57613/C

Advocates who appeared in this case :

A. Venayagam Balan, Advocate, for the Appellant.

Chronological list of cases cited

- | | <i>on page(s)</i> | |
|---|-------------------|---|
| 1. 2015 SCC OnLine NGT 117, <i>Kashinath Jairam Shetye v. Srinet Kotwlae</i> | 702c-d, 706f-g | b |
| 2. MA No. 180 of 2015 in Review Application No. 15 of 2015, decided on 14-12-2015 (NGT), <i>Anil Hoble v. Kashinath Jairam Shetye</i> | 702d, 704c | |
| 3. WP No. 422 of 1998, order dated 13-10-2006 (Bom), <i>Goa Foundation v. Panchayat of Condolim</i> | 703e-f, 706f-g | c |

The Judgment of the Court was delivered by

A.M. KHANWILKAR, J.— Delay condoned. This appeal arises from the final judgment and order passed by the National Green Tribunal (Western Zone) Bench, Pune dated 29-5-2015 in *Kashinath Jairam Shetye v. Srinet Kotwlae*¹ and dated 14-12-2015 in *Anil Hoble v. Kashinath Jairam Shetye*².

2. Respondents 1-4 had filed an application before the Tribunal under Section 14(1) read with Section 14(3) of the National Green Tribunal Act, 2010 complaining about degradation of environment on account of unauthorised construction on plot of land falling within CRZ (III) (No Development Zone — in short “NDZ”).

3. According to the said respondents (original applicants), the appellant (original Respondent 3) was responsible for construction of a commercial building on plot of land bearing Chalta No. 1/PTS No. 10, Panjim City and Survey No. 65/1-A, Village Morombio Grande in Merces Panchayat, without obtaining necessary permission from the authorities concerned. That construction is detrimental to the coastal ecosystem and river ecosystem; and is also likely to cause pollution of river water due to the commercial activities of the bar and restaurant. It was alleged that the appellant exerted political influence to facilitate construction of the unauthorised structure on the said plot.

4. The appellant opposed the said application by raising preliminary objections. Firstly, that the subject application was not maintainable—as remedy of appeal under Section 16 against the decision of the authority could be preferred. Secondly, the applicants had failed to comply with the procedure prescribed under Rule 13 of the National Green Tribunal (Practices and Procedure) Rules, 2011. Thirdly, the application was barred by limitation — as the cause of action had arisen soon after the construction work was commenced in the year 2011. The application, however, was not filed within 6

1 2015 SCC OnLine NGT 117

2 MA No. 180 of 2015 in Review Application No. 15 of 2015, decided on 14-12-2015 (NGT)

ANIL HOBLE v. KASHINATH JAIRAM SHETYE (*Khanwilkar, J.*) 703

months therefrom. Further, a writ petition for similar challenge was filed before the High Court and has since been withdrawn. No liberty has been given by the High Court to the applicants to pursue the same cause of action. On merits, it was asserted that the structure was in existence prior to 19-2-1991 when the CRZ Policy came into force. It was used as a garage at the relevant time. The appellant after purchasing the plot and the structure standing thereon vide registered sale deed dated 3-8-1992, initially used it for motor garage and allied activity. The same structure after repair and renovation was used as restaurant and bar. In substance, the stand of the appellant was that since the structure was in existence prior to 19-2-1991, the change of user after taking permission of the authorities concerned would not make the same unauthorised. The appellant had taken due permission of the competent authority for re-roofing and re-flooring of the structure. It was not a case of construction of a new structure within the No Development Zone (NDZ) as is contended.

5. The Tribunal after analysing the documentary evidence including the survey reports brought on record by the parties, negated the plea of the appellant that the structure as it exists at present was constructed prior to 19-2-1991. The Tribunal recorded that finding on the basis of the contents of the registered sale deed dated 3-8-1992 executed in favour of the appellant by the original owner of the plot, the House Property Revenue Records, settlement of land records, no-objection certificate given by the panchayat, Inspection Report dated 2-5-2012, and also the contents of the affidavit filed by the appellants. The Tribunal held that the structure as existed prior to 19-2-1991, on plot of land bearing Survey No. 65/1-A or in Survey No. 83/2-A of Village Morombio Grande in Merces Panchayat, falling within 100 m distance [in CRZ (III) area], was a small structure at the corner of the said plot and was used as a garage.

6. The Tribunal then relied on the decision of the High Court of Bombay in *Goa Foundation v. Panchayat of Condolim*³, in which directions were issued to the State Authorities to take action against such unauthorised structures and constructions put up on the land falling within CRZ (III) area in Goa, village or town-wise after 19-2-1991; and further that permission can be granted “only” for repair and renovation of the existing “dwelling units” in such areas. The Tribunal following that decision observed that the structure other than the original structure as existed on 19-2-1991, standing on land Survey No. 65/1-A or in Survey No. 83/2-A of Village Morombio Grande in Merces Panchayat in South Goa be demolished forthwith after following the due process.

7. The directions given by the Tribunal read thus:

“(a) All the structures, including restaurant and bar/pub and allied structures standing in the land Survey No. 65/1-A or in Survey No. 83/2-A of Village Morombio Grande, shall be demolished by Deputy Collector, South Goa, within the period of six (6 weeks).

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³ WP No. 422 of 1998, order dated 13-10-2006 (Bom)

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(2016) 10 SCC

(b) We direct Respondent 3 Anil to pay amount of Rs 20 (twenty) lakhs as costs of degradation of environment and violation of CRZ Notification, 1991, within six (6) weeks to the Environment Department, Government of Goa along with costs of Rs 5000 (five thousand) as litigation costs, which be equally disbursed in favour of all the applicants.

a

(c) GCZMA is directed to hold enquiry regarding houses/illegal structures of CRZ area about which permission might have been obtained without following due procedures and to take appropriate action against the violators of CRZ Notifications.

b

(d) The compliances about demolition of illegal structures of Respondent 3 and payment of costs, shall be reported to the Tribunal within six (6) weeks.

(e) The application is accordingly disposed of.”

The appellant thereafter filed review petition before the Tribunal which, however, was dismissed on 14-12-2015², thus reiterating the direction already issued by the Tribunal.

c

8. Aggrieved, the appellant has filed the present appeal challenging both the judgments on the original application and the review application. According to the appellant, the finding of fact recorded by the Tribunal with regard to the status of the structure standing on the subject plot is manifestly wrong. It was then contended that even the finding of the Tribunal that permission can be granted only for repair or renovation of dwelling units, was contrary to the CRZ Policy document. Further, the CRZ Policy document does not restrict the user of the existing structure or disallow the change of user therein. Further, the appellant having taken due permission of the competent authority to use the structure as restaurant and bar must prevail. In the alternative, it is submitted that the appellant was entitled to repair and renovate the original structure as it existed on 19-2-1991 and use it for the purpose/activity permissible after taking approval of the competent authority in that behalf. The learned counsel for Respondent 5 invited our attention to the relevant documents, in particular to the show-cause notice issued by Goa Coastal Zone Municipal Authority (GCZMA) dated 25-5-2012 and the Report of the Enquiry Committee (GCZMA) dated 30-2-2014 which concluded that there was no violation of the CRZ Regulation.

d

e

f

9. The appellant has not seriously pursued the preliminary objections which were otherwise raised in the reply to the application filed before the Tribunal and rejected by the Tribunal. The principal argument of the appellant is that the factual finding recorded by the Tribunal about the status of the structure on the subject plot is manifestly wrong. In the first place, merely because remedy of appeal is provided against the decision of the Tribunal before this Court that does not mean that this Court must reappreciate the entire evidence on record and specially when the same has already been analysed by the Tribunal, unless

g

² *Anil Hoble v. Kashinath Jairam Shetye*, MA No. 180 of 2015 in Review Application No. 15 of 2015, decided on 14-12-2015 (NGT)

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a the appellant is able to demonstrate that the finding recorded by the Tribunal suffers from error apparent on the face of the record or is perverse. Nevertheless, we permitted the appellant to refer to the relevant contemporaneous record which has already been extensively analysed by the Tribunal. On going through the said documents, we are not in a position to take a view different than the view already taken by the Tribunal.

b 10. We find that when the appellant purchased the subject plot vide registered sale deed dated 3-8-1992, only a small structure at the corner of the said plot was in existence and was used as a garage and which was indisputably within 100 m from the high tide line. On this finding, it necessarily follows, that the structure as it exists now is quite different — both in shape, size and location being in the middle of the plot. Obviously, it is an unauthorised structure constructed after 19-2-1991. The CRZ Policy dated 19-2-1991 prohibits any construction up to 200 m from the high tide line. It is to be treated as “No Development Zone”, except for repairs of existing “authorised structures” not exceeding specific permissible FSI, plinth area and other norms for permissible activities including facilities essential for such activity under the Notification.

c 11. The relevant clause in the said Notification, dealing with land area falling within CRZ (III) area reads thus:

d “...
CRZ (III)

e (i) The area up to 200 m 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, and for permissible activities under the Notification including facilities essential for such activities. An authority designated by the State Government/Union Territory Administration may permit construction of facilities for water supply, drainage and sewerage for requirements of local inhabitants. However, the following used (*sic* users) may be permissible in this zone: agriculture, horticulture, gardens, pastures, parks, play fields, forestry and salt manufacture from sea water.

f (ii) Development of vacant plots between 200 and 500 m of high tide line in designated areas of CRZ (III) with prior approval of Ministry of Environment and Forests (MoEF) permitted for construction of hotels/beach resorts for temporary occupation of tourists/visitors subject to the conditions as stipulated in guidelines at Annexure II.

g (iii) Construction/Reconstruction of dwelling units between 200 and 500 m of the high tide line permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and gaothans. Building permission for such construction/reconstruction will be subject to the conditions that the total number of dwelling units shall not be more than twice the number of existing units; total covered area on all floors shall not exceed 33 per cent of the plot size; the overall height of construction shall not exceed 9 m and construction shall not be more than 2 floors—ground floor plus one floor. Construction is allowed for permissible activities under the Notification including facilities essential for such activities. An authority designated by

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State Government/Union Territory Administration may permit construction of public rain shelters, community toilets, water supply, drainage, sewerage, roads and bridges. The said authority may also permit construction of schools and dispensaries, for local inhabitants of the area, for those panchayats the major part of which falls within CRZ if no other area is available for construction of such facilities.

(iv) Reconstruction/Alterations of an existing authorised building permitted *subject to (i) to (iii) above.* (emphasis supplied)

12. Relying on sub-clauses (i), (iii) and (iv) of the Notification, it was contended that the Tribunal committed error in law on two counts. Firstly, in assuming that the structure within CRZ area can be used only as a dwelling unit, and secondly, that repairs and renovation permission can be given only to such dwelling units. This submission does not commend us. Sub-clause (i) plainly mandates that “no construction” of any kind be permitted within 200 m from the high tide line. That area has to be treated as “No Development Zone”, except for repairs of “existing authorised structures” (on the date of the Notification i.e. 19-2-1991) and not exceeding the permissible FSI, plinth area and density and for permissible activities. Sub-clause (iii) deals with CRZ area between 200 to 500 m of the high tide line with which we are not concerned in the present case. Inasmuch as, the finding of fact by the Tribunal about the location of the plot is that the plot was within 100 m from the high tide line. There is nothing to doubt the correctness of this finding.

13. The moot question then is: whether the structure as it existed when the respondents moved the Tribunal complaining about violation within the CRZ area was the same structure as on 19-2-1991 when the CRZ Policy came into being? That finding of fact has been answered against the appellant by the Tribunal and we must agree with the same. For, the structure as it existed when the plot was purchased by the appellant on 3-8-1992 was a small structure at the corner of the subject plot and was used only as a garage or for repairs of vehicles and allied activity. The structure in respect of which complaint has been made before the Tribunal was completely different in shape, size and also location for which reason the Tribunal issued direction to remove the same. The view taken by the Tribunal relying on the decision of the Bombay High Court, which the Tribunal was bound to follow, permitted retention of only dwelling units within CRZ (III) area and constructed prior to 19-2-1991. The direction given by the High Court in *Goa Foundation*³ have been reproduced by the Tribunal in para 12 of the impugned judgment, which reads thus: (*Kashinath Jairam case*¹, SCC OnLine NGT)

“12. The Hon’ble High Court summarised findings and gave directions in para 32 as follows:

(A) To conduct survey and enquiry as regards the number of dwelling units and all other structures and constructions which were

³ *Goa Foundation v. Panchayat of Condolim*, WP No. 422 of 1998, order dated 13-10-2006 (Bom)

¹ *Kashinath Jairam Shetye v. Srinet Kotwlae*, 2015 SCC OnLine NGT 117

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existing in the CRZ-III zone in Goa, village or town-wise as on 19-2-1991 and increase in number thereof thereafter, datewise.

a (B) To identify on the basis of permission granted for construction of the dwelling units which are in excess of double the units with regard to those which were existing on 19-2-1991.

(C) To identify all types of structures and constructions made in CRZ-III zone, except the dwelling units, after 19-2-1991 in the locality comprised of the dwelling units and to take action against the same for their demolition in accordance with the provisions of law.

b (D) To identify the open plots in CRZ-III zone which are available for construction of hotels and to frame appropriate policy/regulation for utilisation thereof before they are being allowed to be utilised for such construction activities.

c (E) Till the survey and enquiry is completed, as directed above, no new licence for any type of construction in CRZ-III zone shall be issued or granted and no new structure of whatsoever nature shall be allowed to be constructed in CRZ-III zone, except repairs and renovation of the existing houses which shall be subject to the appropriate order on completion and result of the survey and enquiry to be held as directed above and this should be specifically stated in the licences to be granted for the purpose of repairs and/or renovation of the existing houses.

d (F) Respondent 5 to conduct an enquiry and fix responsibility for the violation of the CRZ notification in relation to Clause III of CRZ-III zone and to take appropriate action against the persons responsible for such violation of the provisions of the Environmental Protection Act and the said notification in relation to the CRZ-III zone.

e (G) All these directions stated above are in relation to the CRZ-III zone in Goa in terms of the said notification.

(H) The survey and enquiry should be conducted as expeditiously as possible and should be concluded preferably within a period of six months, and in any case, by 30-5-2007, and report in that regard should be placed before this Court in the first week after the summer vacation of 2007, for necessary further order.

f (I) Meanwhile, on conclusion of the survey and the inquiry, necessary action should proceed against the offending structures and report in that regard also should be placed along with the above referred report.

g (J) Respondents 3 and 4 shall ensure prompt compliance with the directions given in this judgment and shall be responsible for submitting the report required to be submitted as stated above.

(K) All the records relating to the survey and the inquiry should be made available to the public and in that regard a website should be opened and the entire material should be displaced on the website.

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Respondent 3 should ensure due compliance with this direction by 10-6-2007.

(L) Respondents 1 and 3 shall pay costs of Rs 10,000 in each of the petitions to the petitioners. *a*

(M) Report to be received from the respondents should be placed before this Court in the third week of June, 2007.

(N) Rule is made absolute in above terms.”

So long as these directions are in force, the State Authorities or municipal authorities were bound by the same and they could not have granted permission to any applicant in breach thereof. Any permission given contrary to those directions must be viewed as nullity and non est, having been given in complete disregard of the directions of the High Court. Thus, the permission granted to the appellant by GCZMA would be of no avail, as it is not consistent with the directions of the High Court. *b*

14. The fact remains that the structure directed to be demolished by the Tribunal, was obviously erected after 19-2-1991. That being an unauthorised structure within the meaning of sub-clause (i) quoted above, could not be used for any purpose whatsoever and was required to be demolished. Therefore, the finding recorded by the Tribunal and the consequential directions given in that behalf are unassailable. *c*

15. In this view of the matter, it is not necessary for us to dilate on the argument as to whether the CRZ Policy prohibits change of user of the structure which was in existence on 19-2-1991, so as to be used as a restaurant and bar. In our opinion, on the facts of the present case, no substantial question of law much less of great public importance arises for our consideration. *d*

16. Hence, this appeal must fail and the same is, therefore, dismissed with no order as to costs. *e*

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