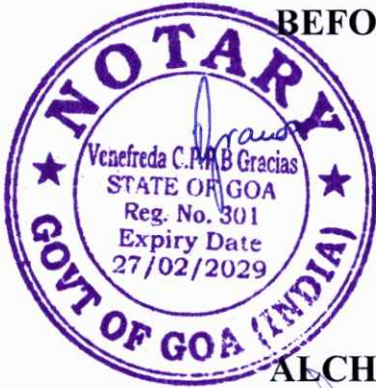


BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN  
ZONE BENCH, PUNE



Appeal No. 144/2024 (WZ)

ALCHEMIST ASSET  
RECONSTRUCTION COMPANY LTD. ...APPELLANT

VERSUS

GCZMA & ORS

... RESPONDENTS

**AFFIDAVIT IN REPLY ON BEHALF OF THE**  
**RESPONDENT NO. 1 - GOA COASTEL ZONE**  
**MANAGEMENT AUTHORITY**

I, Johnson Bedy Fernandes, Indian National, major of age, having office at 4<sup>th</sup> Floor, Dempo Towers, Patto, Panaji-Goa, the Member Secretary of the Respondent No. 1 above named, do on solemn affirmation state and submit as under:

1. I say that I am the Member Secretary of Respondent No.1, the Goa Coastal Zone Management Authority and am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the above matter and am affirming the present reply Affidavit based on the same. Nothing in the present reply Affidavit may be deemed to be an admission of any of the contents of the above-captioned Appeal. Nothing in the

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above-captioned Appeal may be deemed to have been admitted for mere want of specific denial.

2. I say that Answering Respondent herein has complied with directions of this Tribunal in the Judgement and Order dated 3/1/2024, passed by this Tribunal in Original Application No. 15/2023 (WZ) whereby this Tribunal has set aside the order dated 04/04/2017 passed by the Respondent GCZMA and a direction was issued to the Answering Respondent that all the aspects raised in this order would be considered afresh and that if any conclusion was arrived at, that there was any illegal structure, in the light of provision cited in the said Judgement, the same would be ordered to be demolished. It is in compliance with the said order that the Answering Respondent GCZMA has passed the impugned order. I say that the impugned order is annexed at Page No. 70 to the Appeal.

3. I say and submit that the matter was placed for hearing in the 388<sup>th</sup> GCZMA Meeting held on 29.02.2024 wherein the Authority heard the parties and directed them to file their counter replies. That the matter was further put up for hearing on 14.03.2024 at 3.30 p.m.

4. I say that the matter was hence posted for hearing in the 391<sup>st</sup> meeting held on 14.03.2024 wherein the parties to the matter submitted that written submissions were filed by them. The complainant apprised the GCZMA of the fact that the Hon'ble National Green Tribunal had set aside the permissions granted by it to Mr. Selso Fernandes and whereby the approvals granted for reconstruction/repair/renovation of his dwelling house have been set aside. That the GCZMA was further apprised that the afore said order if the National Green Tribunal dated 03.02.2024 had been challenged before the Hon'ble Supreme Court in Civil Appeal bearing no. 553.2024.

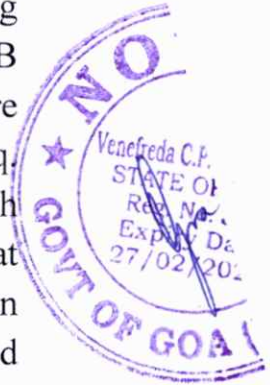




It was further submitted that the Hon'ble Supreme court was pleased to stay the demolition but had refused to stay the remand order passed by the Hon'ble National Green Tribunal and had directed the GCZMA to place the order on record. The Complainant argued that the permission so granted for reconstruction/repair/renovation have been patently misused by executing a commercial lease with the M/s. Dream Discovery and allowing them to construct and operate a mammoth resort/hotel/bar/restaurant in blatant violation of the CRZ notifications. That the lease deed dated 23.09.2020 executed between Mr. Selso Fernandes and Conceicao Fernandes with Vijay Gokuldas Komarpant was also placed on record. As per the permission granted to the said Selso Fernandes in the year 2017, one of the condition which was laid is that he should not carry out any commercial activities but when Complainant knocked the doors of the Hon'ble NGT by way of Original Application No. 15 of 2023, Mr. Selso Fernandes approached the GCZMA and modified the permission to drop the clause 6(d) of commercial activity stating that same ought not to be applicable on him because he is from the traditional community. Thus, the complainant i.e.: M/s Alchemist Asset Reconstruction Company Ltd. stated that it has been an admitted position that the concrete structures located in the NDZ area are illegal which has also been borne out through the joint site inspection report dated 14.05.2024. The complainant i.e. M/s Alchemist Asset Reconstruction Company Ltd also relied upon Google Earth images to substantiate the fact that there was no commercial structure existing prior to 2016-17 and that the commercial construction has commenced prior to the grant of approval by this Authority which has been categorically observed by the Hon'ble NGT as well vide its order dated 03.01.2024 in para 66 of the said Judgement. It was further stated that the mother of Selso Fernandes was entitled to a house Survey No. 100/10 which at best could be upto 50 sq. mtrs. Moreover in terms of the ISLR/DSLRL plan annexed to the joint site inspection report, the areas of the two purported structures are shown as

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only 32 sq. mtrs and 47 sq.mtrs respectively. The complainant i.e. M/s Alchemist Asset Reconstruction Company Ltd. has further stated that that the hon'ble NGT is primarily concerned as to how this Goa Coastal Zone Management Authority could have granted permission to Selso Fernandes for construction of House Number 438 and 439 having an area 217.60 and 193.48 sq. metres respectively in Survey No. 100/10. The second question pertaining to seeking explanation from the GCZMA in relation to structure A and B found on site during site inspection which shows that structure "A" relates to House No. 438 with constructed area of 338 sq. mtrs. and structure "B" relates to House No. 439 with constructed are of 462 sq. mtrs. which area is far above what was actually permitted. Finally, Hon'ble National Green Tribunal was wanting to know what precautionary and supervisory role did the GCZMA play in ensuring that the permissions so obtained by Selso Fernandes for reconstruction of a residential house was not misused and used for commercial purposes. Furthermore, the complainant i.e. M/s Alchemist Asset Reconstruction Company Ltd. submitted that the document of NOC issued by local body of the year 1984-85 which has been broadly placed on record is a forged and fabricated document because as according to the complaint had the Respondent been in possession of such document then he would have relied upon the same while applying permission for reconstruction of his house. He hence prayed that said structure which is illegally built ought to be demolished as it has been obtained by playing mischief by the Respondent.



5. It is submitted that the Respondent i.e. Mr. Selso Fernandes in reply averred that he and his wife are the owners in possession of the two houses bearing H. No. 438 and 439 having plinth area of 338 and 465 sq. mtrs. respectively and in addition to that the plinth area of 250 sq. mtrs. of the wooden structure which existed much prior of the year 1991. To support his

submission the Mr. Selso Fernandes (Respondent) relied upon documents such as Form I & XIV, Survey Plan, Photocopy depicting the completion of the industry Registration Process, House tax receipt dated 15.04.1989 and 08.10.1999, Excise license dated 11.11.1996, NOC dated 30.03.1985, 09.05.1984 and 17.01.1991 issued by the Village Panchayat of Agonda-Canacona. He further stated the Goa Coastal Management Authority had conveyed approvals dated 04.04.2017 for structures bearing H. No. 438 and 439 distinctly and separately. He stated that the documents which have been relied upon by him have to be conjunctively read into each other and not in isolation. Furthermore, he stated that there is no restriction of whatsoever nature on the usage of the said structure for commercial use and the same was in use even prior to 1991. Mr. Selso Fernandes (Respondent) further submitted that the so called approvals dated 04.04.2017 were not issued in accordance with Regulation 6(d) but were granted as per Regulation 8(III) and hence to the question to restrict any commercial activities would not arise. In the backdrop of various documents as well as said structures being used for commercial purposes since prior to 1991 cannot be said to be barred by the constraints as contained in Regulation 6(d) of the impugned regulations. He hence stated that the said structure being legal in nature and having proved about their existence since prior to 1991 cannot be said to be illegal and hence prayed that appropriate decision be taken in favor of the Respondent.



6. I say that the matter was posted for Orders. It is submitted that the Hon'ble National Green Tribunal had called upon Respondent No. 1 i.e. Goa Coastal Zone Management Authority to verify if the permission so granted by it on 04.04.2017 was within the permissible limits and secondly whether commercial activities carried out by the Respondent are permissible as per law and more specifically by leasing out the same to Dream Discovery.

7. I say that Answering Respondent perused all the documents produced by the Complainant and Respondents along with the reply and written submissions so submitted by them and gave due consideration to the oral submissions advanced by the parties and hence the matter was placed for decision in the 392<sup>nd</sup> meeting of the Goa Coastal Zone Management Authority i.e.: Respondent No. 1 wherein it was observed that commercial activity in the nature of restaurant and bar was in vogue since 1996 as per the oldest document placed on record by Mr. Selso Fernandes and hence any commercial activities which are and were in vogue prior to 1990-91 can nevertheless be allowed to be continue as per the provisions of the CRZ notifications. It was further observed that the permissions were granted only for the reconstruction of authorized existing structures. That the Answering Respondent Goa Coastal Zone Management Authority further decided and directed Respondent No. 2 i.e. Mr. Selso to demolish all the additional structures constructed beyond the approved plan. I say that the impugned order is annexed at Page No. 70 to the Appeal.

8. In view of the aforesaid, it is most humbly submitted that the above-captioned Appeal filed by the Appellant above-named deserves to be dismissed.



  
DEPONENT

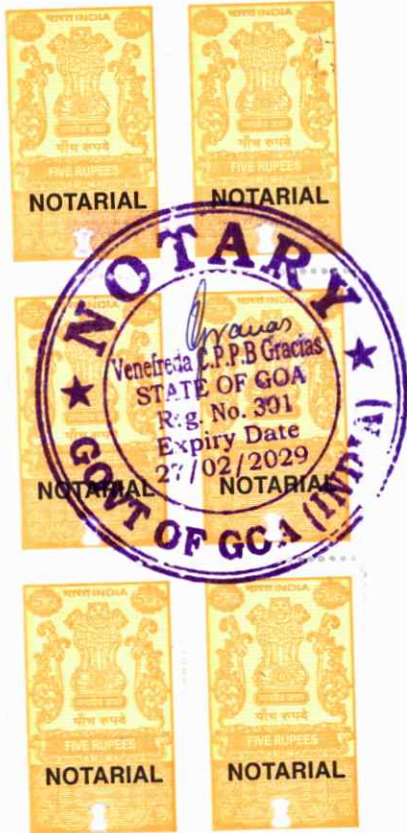
VERIFICATION

I, the deponent above-named do solemnly affirm that all that is stated in this Affidavit is true to the best of my knowledge and belief, which is based on the records available in respect of the issues involved in the above-captioned Appeal. Nothing false has been stated herein.

Verified at Panaji on this 10<sup>th</sup> day of December, 2024.



*Gracias*  
DEPONENT



Executed before me  
At Panjim Tiswadi - Goa  
Reg. No. 186/12/2024  
Dated: 10/12/2024

*Gracias*  
Venefrada C.P.P.B. Gracias  
Advocate & Notary Goa State

