

BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE

I.A. NO. 195/2024(WZ)

IN

O.A. NO. 05/2023(WZ)

Sagardeep Sirsaikar

...Appellant

V/s

Goa Coastal Zone Management

Authority & Ors.

... Respondents

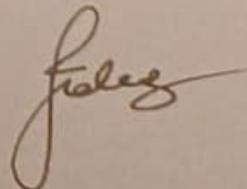
**AFFIDAVIT IN REPLY ON BEHALF OF THE  
RESPONDENT NO. 1.**

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. The Respondent No. 1, states that an Affidavit in Reply was filed on 26/09/2023 to O.A. 05/2023. Subsequently, this Hon'ble Tribunal passed an order on 19/03/2024 whereby in para 11 of the said order specific directions were issued to the Answering Respondent to arrive at a conclusion on the

Show Cause Notice and communicate the decision to this Hon'ble Tribunal within a period of one month.

2. The Respondent No. 1 states that the suit structure in question was also a subject matter of consideration before the Hon'ble High Court of Bombay at Goa in PIL SUO MOTU No. 2/2022 as well as Contempt Petition No. 76/2024(F) in Writ Petition No. 825/2023 whereby specific orders of demolition were passed by the Hon'ble High Court on 23/04/2024. A copy of the impugned order dated 23/04/2024 is annexed and is marked as ANNEXURE A.
3. The Respondent No. 1 submits that pursuant the directions passed by the Hon'ble High Court the Respondent has carried out demolition and has reported compliance of the same on 27/05/2024. A copy of the compliance given by the Respondent is annexed and is marked as ANNEXURE B.
4. The Respondent No. 1 submits that in the 401<sup>st</sup> Meeting held by the GCZMA on 28/05/2024 it has decided to carry out inspection of the site in question to verify if the Respondent has indeed carried out self demolition or not. The inspection is scheduled on 30/05/2024 and the next date of hearing is fixed on 13/06/2024.
5. The Respondent No. 1 states that the above facts are brought to the notice of this Hon'ble Tribunal so as to appraise the action as to what the Authority has taken which is also closely monitored by the Hon'ble High Court.



600

- 6. The Respondent No. 1 submits that the Authority could not take the decision within the period of 30 days as there were a number of other High Court monitored matters as well and in the course of the heavy amount of various proceedings we could not take the said proceedings to its logical end.
- 7. The Respondent No. 1 submits that there was no willful intention to disobey the directions of this Court and thus we seek pardon for the same.
- 8. The Respondent No. 1 submits that the decision which would be taken by the Authority on 13/06/2024 would be placed before this Court immediately thereafter.

*[Handwritten Signature]*  
 DEPONENT

**VERIFICATION**

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

Verified at Panaji on this 28<sup>th</sup> day of May, 2024.

Executed before me  
 At Calangute Bardez - Goa  
 Reg. No. 85 | 05 | 2024/P  
 Dated: 28 | 05 | 2024

*[Handwritten Signature]*  
 Venefrada C.P.P.B Gracias  
 Advocate & Notary Goa State



*[Handwritten Signature]*  
 DEPONENT

Santosh

**IN THE HIGH COURT OF BOMBAY AT GOA  
CONTEMPT PETITION NO. 76 OF 2024(F)  
IN  
WRIT PETITION NO.825 OF 2023**

NILESH PHADTE. .... PETITIONER.

*Versus*

STATE OF GOA, THR.  
CHIEF SECRETARY & 2 ORS. .... RESPONDENTS.

Mr Hrudaynath Shirodkar, Advocate *for the Petitioner.*

Mr D.J. Pangam, Advocate General with Mr Deep Shirodkar,  
Additional Government Advocate *for the Respondent-State.*

Mr Parag S. Rao, with Ms S. Drago, Advocates *for Respondent Nos.3  
and 4.*

Mr Jorge Noronha Ferreira, Court Commissioner.

CORAM : M. S. SONAK &  
VALMIKI MENEZES, JJ.

DATED : 23<sup>rd</sup> April 2024.

P.C.:

1. Heard learned Counsel for the parties and Mr Jorge Noronha Ferreira the independent Commissioner appointed by the Court.
2. Mr Ferreira has submitted his Site Inspection Report and copies of the same have been furnished to the learned Counsel for the parties including Mr Shirodkar the learned Additional Government Advocate.

3. Mr Shirodkar for the Petitioner and Mr Rao, who appears with Ms Drago for Respondent Nos.3 and 4 seek some time to consider the independent Commissioner's Report.

4. The Report dated 22.04.2024 records the following conclusions:-

*“12. The report of the ISLR Mapusa indicates that the northern side of the encroachment has been demolished and the existing structure as on date, on the northern side is within the boundary of 213/4 and 213/5.*

*13. However, an encroachment of 42 sq. mts. continues to exist on the eastern side as indicated as “A” in the ISLR report dated 19/04/2024. Annexed hereto as Annexure F is the image of the encroachment on the eastern side.*

*14. The demolished area on the northern side needs further demolition and restoration to its original under the guidance of an environmental expert/Government agency. Similarly, the platform and retaining wall on the Northwest side needs to be further demolished and restored to its original.*

*15. It is suggested that the Tourism department, with the assistance of ISLR, Mapusa, immediately place boundary stones along the Northern side of the property bearing survey Nos. 213/4 and 213/5.”*

5. Although we are granting the Petitioner and the 3<sup>rd</sup> and 4<sup>th</sup> Respondents time to respond to this Report, we record Mr Shirodkar's statement that the GCZMA officials would inspect the site, with the assistance of the Biodiversity Board officials and give a restoration plan as suggested in paragraph 14 of the independent Commissioner's Report.

6. Similarly, the Tourism Department must also comply with the suggestions in paragraph 15 of the independent Commissioner's Report and file a compliance report so that there is no encroachment of Government property by citing some ambiguity in the actual boundary.

7. Mr Rao, learned Counsel for the Third and Fourth Respondents, on instructions, states that the encroachment referred to in paragraphs 10 and 13 will be removed within a period of 30 days from today. This includes the retaining wall seen in Annexure F at page 25 of the Independent Commissioner's report, debris and the platform.

Although, Mr Rao seeks 30 days' time to remove all these encroachments, according to us, these works should be completed within 15 days from today, considering the impending monsoons. If necessary, the Third and the Fourth Respondents should engage greater work force to complete the works within 15 days from today. These Respondents should not make any excuses for avoiding demolition or removal of the encroachments, such as their removal might endanger the stability of the remaining structure which is beyond the Government property and within the Survey Nos. 213/4 and 213/5 claimed by the Third and Fourth Respondents.

8. Further, Respondents No.3 and 4 cannot put up structures on the edge of the beach and then ask to derive support for such structure by making encroachments on the public beach. All this is possible only

because the Government is not vigilant in taking action. In this case, we noted that even after this Petition was dismissed based, after a spirited defence put up by the Government in this Court, the Director of Tourism did not enforce the demolition order until the tourist prime season passed. Therefore, grant of any further indulgence to the Third and Fourth Respondents, would not be proper.

9. The Third and the Fourth Respondents should give intimation of the completion of the above works to the GCZMA no sooner the works are completed. The Third and the Fourth Respondents must also file a compliance report in this Court along with photographs on completion of the works directed in the above paragraphs. A copy of the same must be furnished to the learned Counsel for the Petitioner. The GCZMA to examine the site and file its own compliance report confirming or otherwise status of the compliance. The GCZMA must also file photographs. Registry to accept these compliance reports even during the vacations.

10. The GCZMA, by taking assistance of the ISLR, must now demarcate northern and eastern boundaries of Survey Nos. 213/5 and 213/4 from the Government Land, so that there is no encroachment into the Government land. The Tourism Department should then place the appropriate boundary marks at the site.

11. Simultaneous with the removal of the encroachments by the Third and Fourth Respondents, the GCZMA and the Biodiversity Board must prepare a restoration plan within 15 days from today. Such

a restoration plan is necessary because there is environmental damage due to the illegal construction and the encroachment carried out by the Third and the Fourth Respondents. Restoration will also have to be undertaken by the Third and the Fourth Respondents, once such a plan is placed on record by the GCZMA and the Biodiversity Board. The report should also indicate the tentative costs for such restoration, so that the Third and the Fourth Respondents can be directed to deposit such costs.

12. From the conclusions drawn by the independent Commissioner, at least, *prima facie*, it looks like encroachment of 42 square metres continues to exist and further, the demolished area on the northern side needs further demolition and restoration. The independent Commissioner's Report is presently only tentatively accepted. If the Petitioner and the 3<sup>rd</sup> or 4<sup>th</sup> Respondents wish to file any objections, etc., they should do so by 11.06.2024.

13. Initially, we had directed the Petitioner to deposit the amount of Rs.50,000/- towards tentative expenses that might have to be paid to the Independent Commissioner. This is because the Director of Tourism had claimed that there was full compliance and the Petitioner had contested this position.

14. Now that the Petitioner's contention has been vindicated at least to some extent, the Commissioner's costs will have to be borne by the Third and Fourth Respondents. Mr Rao, on instructions, states that the Third and the Fourth Respondents will deposit a some of

Rs.1,00,000/- in this Court, out of which, a sum of Rs.50,000/- would go towards the Goa State Legal Services Authority. This gesture of the Third and the Fourth Respondents in offering to pay amount of Rs.50,000/- to the Goa State Legal Services Authority, is appreciated. The amount of Rs.1,00,000/- to be deposited by the 7<sup>th</sup> of May 2024, in this Court.

15. Registry to pay an amount of Rs.50,000/- to Mr Jorge Noronha Ferreira, Independent Commissioner appointed by this Court. Mr Ferreira is requested to furnish his bank details to the Registrar (Judicial), so that this amount can be transferred directly into his Bank account and this transfer can be effected immediately.

16. Once the Third and the Fourth Respondents deposit the amount of Rs.1,00,000/- in this Court, Rs.50,000/- must be returned to the Petitioner by transferring this amount into his Bank account

17. We post this matter for further consideration on 18.06.2024, on which date, we will consider the status of compliances.

**VALMIKI MENEZES, J.**

**M.S. SONAK, J.**

599

ANNEXURE B

Member Secretary

G. C. Z. M. A.

Inward No. 839

Date: 27/05/2024

27.05.2024

To,

The Member Secretary (GCZMA),  
The Goa Coastal Zone Management Authority,  
Dept. of Environment and Climate Change (Govt. Of Goa),  
4<sup>th</sup> Floor , Dempo Towers, Patto, Panaji -Goa.

Subject : Ref.no.GCZMA/HC.M/PILSUOMOTO/2/2022/699 dated  
24.05.2024

Sir/Madam,

1. The undersigned states that the advocates of the undersigned were informed that the aforementioned matter is fixed for orders on 29.05.2024.
2. The undersigned states that pursuant to the directions of the Hon'ble High Court of Bombay at Goa the undersigned has been carrying out demolitions . The undersigned states that time to time this Hon'ble authority has been informed of the demolitions ongoing by the respondent.
3. The Hon'ble court thereafter appointed a Commissioner who went to the site and submitted the report and has indicated further

demolition to be carried out by the respondent to complete the entire demolition of 450 sq Mtr's . Annexed hereto is a copy of the commissioner's report. The respondent accordingly has carried out the balance demolition and as such the entire built-up area of 450 sq mtr's has been demolished. I say that in the view of the above nothing survives in the Show Cause Notice issued by this Hon'ble Authority which pertained to the very such same structures and therefore the present proceedings have become infructuous and maybe disposed off accordingly. The Hon'ble High Court has now fixed the matter on June 18th 2024 to consider the compliances.

*I am also placing on record the photos evidencing the demolitions carried out by the Respondent.*

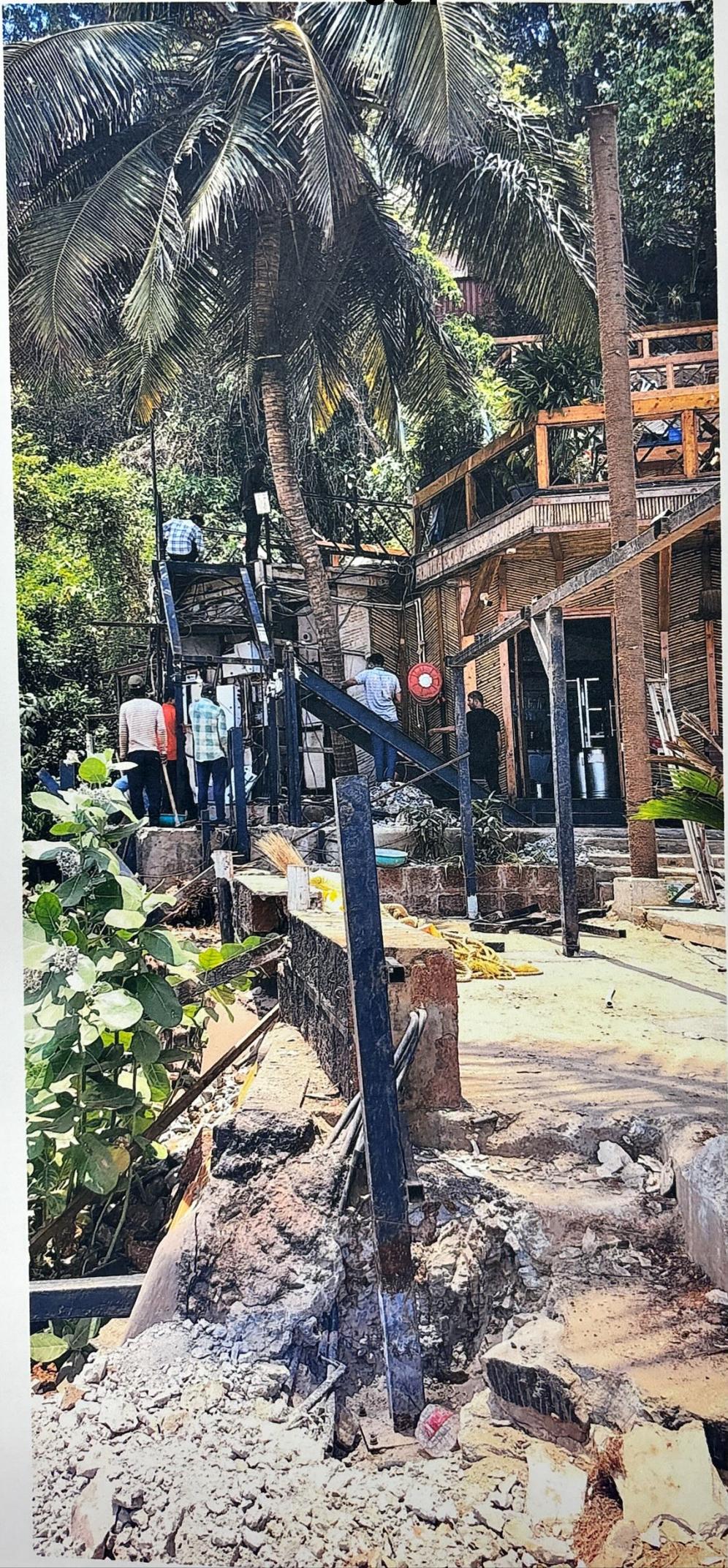
*Sd/-*

Adv Sowmya Drago

Parag Rao and Associates

# 603, Citi Centre Building  
Patli - PAKSIM.

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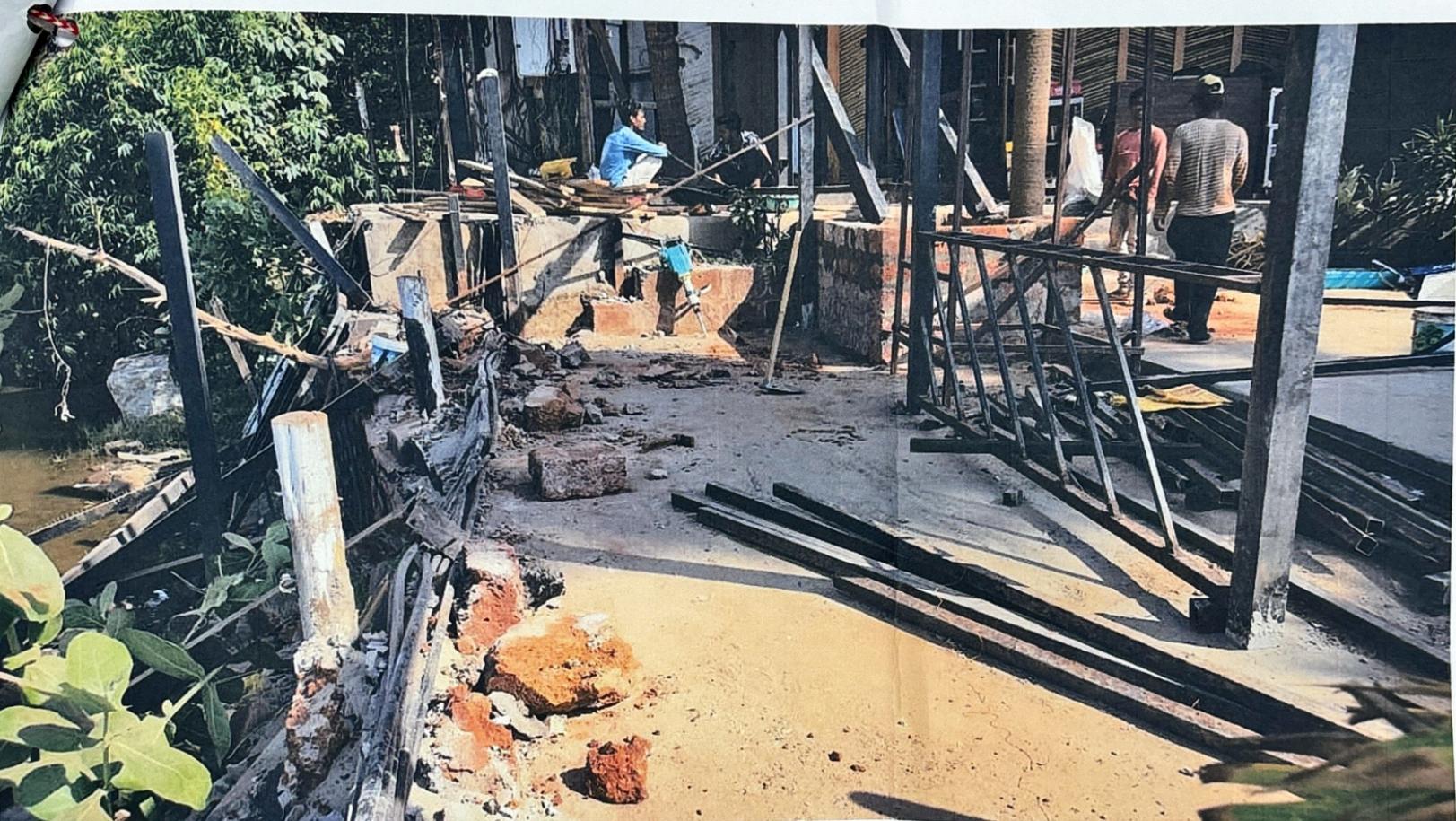
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