

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

Appeal No. 03/2023

SUHAS PRABHU

.... APPELLANT

v/s.

**GOA COASTAL ZONE MANAGEMENT
AUTHORITY & ORS**

.....RESPONDENTS

**AFFIDAVIT-IN-REPLY ON BEHALF OF
RESPONDENT NO.2**

I, **DHIRUBAI J. TANDEL**, resident of Nani Daman, through his Power of Attorney **MR. NITIN G. KUDAV**, son of Ganpat Kudav, aged 55 years, Indian National, Resident of House No.479, Arambol, Pernem Goa 403524, do hereby state on solemn affirmation as under:

1. I state that I am Respondent No.2 ("Answering Respondent") and I have perused the contents of the captioned Appeal and understood the contents thereof and filling the present Affidavit-in-Reply in response thereto.

2. The Answering Respondent denies all and singular the contents of the Appeal under reply and no part thereof be deemed admitted for the lack of a specific traverse.
3. I say that, the present Appeal filed by the Appellant challenges the Order passed by the Goa Coastal Zone Management Authority Zone ("GCZMA") dated 06.12.2022, wherein the GCZMA has directed the demolition of structure admeasuring 240 sq. meters situated in NDZ area, located in survey no. 71/10 of Arambol Village, Pernem Taluka. The captioned Appeal is liable to be dismissed at the threshold inasmuch as the Appellant has deliberately suppressed material information/documents which were part of the proceedings before the GCZMA and which documents clearly demonstrates the fact that the documents sought to be relied by the Appellant before the authority were not genuine documents and such documents were relied upon by the Appellant only with an attempt to mislead the Hon'ble Authority namely GCZMA. It is most respectfully submitted that the captioned Appeal is liable to be dismissed solely on the ground that the Appellant has deliberately suppressed such documents. Such documents have



A handwritten signature in blue ink, appearing to be "S. Tiswad".

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been brought on record by the Respondent No. 1 in its reply dated 27.03.2023. The perusal of the said documents clearly reveals that the Appellant is not only guilty of suppression of documents but also liable to be prosecuted for producing documents which are not genuine and clearly appears to be false and fabricated documents. The documents produced by the Appellant in an attempt to suggest that this structure in question is in existence prior to 1991 are clearly false and fabricated documents, which fact is evident from bare perusal the reply given by the Village Panchayat under the RTI in respect of such documents. The answering respondent has dealt with each and every document in detail hereinafter in the reply.

4. Secondly, the contention of the Appellant that the Order dated 06.12.2022 was passed in violation of Principles of Natural Justice and Fair Play is nothing but an afterthought raised by the Appellant inasmuch as the GCZMA had granted ample opportunity to the Appellant to put forward his case and in fact it is the Appellant who on his own volition chose to remain absent for the hearings. Further, the GCZMA has passed detailed and reasoned Order after taking into consideration all contentions



raised in the reply and also dealt with all documents produced along with reply. The Order passed by GCZMA is well detailed and reasoned Order and passed after affording adequate opportunity to the Appellant.



5. The structure in question which has been directed to be demolished is a permanent construction which has been carried out in the NDZ area of CRZ and as such serious violation of CRZ Notification which has caused substantial environmental damage of the NDZ area. The nature of violation being serious in nature i.e. permanent construction in NDZ area, the demolition Order passed by the Respondent No. 1 calls for no interference and the illegal structure constructed by the Appellant is liable to be demolished.

6. I say that, the documents which have been produced by the Appellant before the GCZMA and now along with the captioned Appeal to suggest that the subject matter structure is in existence prior to the year 1991, are clearly false and fabricated documents which do not exist in the official records and consequently it is clear that such documents have been used by

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the Appellant only with an attempt to mislead the Authority and now annexed with the Appeal in an attempt to mislead this Hon'ble Tribunal. The Answering Respondent most respectfully requests the Hon'ble Tribunal to direct appropriate investigation against the Appellant in respect of false and fabricated documents which have been produced along with the captioned Appeal.

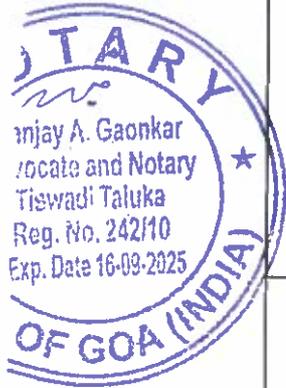
7. The documents which have been produced by the Appellant are being dealt with in the following table:

SR. NO.	DOCUMENTS PRODUCED BY THE APPELLANT	REMARKS
1.	Permission for Reconstruction dated 24.12.1989 bearing Registration No. VPA/71/9	<ul style="list-style-type: none"> • The Village Panchayat of Arambol in its response under RTI has clearly mentioned that no such license has been issued by the Village Panchayat. • As per the documents provided under RTI i.e. certified Copy of the audited Construction License Register maintained by the Village Panchayat for the period from 1984-92, no such construction license is

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		<p>reflected and/or mentioned therein.</p> <ul style="list-style-type: none"> • The Village Panchayat in its RTI reply has clearly stated that no House bearing No.250/1 is registered in Panchayat records. • The permission is purportedly issued on 24.12.1989. The said date happens to be Sunday and a public holiday and the Panchayat Offices are closed on this day.
2.	Receipt issued by the Village Panchayat for the Reconstruction Fees of Rs. 500 dated 24.12.1988	<ul style="list-style-type: none"> • The reconstruction permission is granted on 24.12.1988 whereas strangely the reconstruction fee was purportedly paid 1 year prior i.e. on 24.12.1988. • Also the amount mentioned as reconstruction fee is at variance from the fee which the Panchayat used to charge at the relevant point in time. • The Village Panchayat in its RTI reply has clearly stated that no House bearing No.250/1 is registered in Panchayat records.

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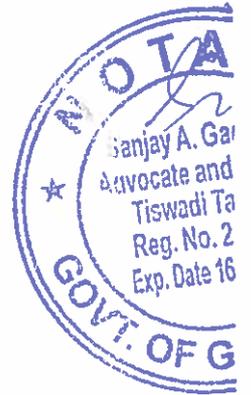
3.	Permission No.10/89-90 bearing Reference No. VPP/SSP/250/89-90 dated 31.03.1990 which is in Reference of House.No.250/1	<ul style="list-style-type: none"> • Firstly as per the Panchayat records there is no House No. 250/1. • Also the perusal of the permission reveals that there is some kind of tampering in respect of Survey No. mentioned in the permission.
4.	Occupancy Certificate dated 31.03.1990 in respect of House No. 250/1	<ul style="list-style-type: none"> • As per the Panchayat records the House No. 250/1 does not stand registered in their records.
5.	Letter bearing No. 3/1/PR/IV/TECH/07/108/2/39 dated 29.10.2007 issued by the Electricity Department Pernem-Goa.	<ul style="list-style-type: none"> • The said letter does not bear House number, nor does it state as to which structure it relates to. • This appears to be the bills relating to the residential house of the Appellant situated at Khalchawada Arambol and the Appellant has attempted to mislead the Authority by producing the same as relatable to subject matter structure.

8. From the perusal of the aforesaid table it is clear that the Appellant had produced documents which either do not exist in the official records and/or produced documents which do not relate to the subject matter structure and produced the same solely with an attempt to mislead the authority.

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9. Now dealing with the Para wise contents it is submitted as below:-

10. In respect of Paras 3 and 4, it is stated that the Respondent No. 1 Authority has rightly issued the demolition Order in respect of brazenly permanent illegal construction carried out by the Appellant admeasuring area of 240 sq. meters in survey No. 71/10 of Arambol Village. The said construction is permanent construction which has been carried out in the NDZ area and the same is without any kind of prior approval from the GCZMA. It is stated that the authority granted adequate opportunity to the Appellant to present forward his case and allegations of violation of Principles of Natural Justice and is nothing but an afterthought on the part of the Appellant as regards the documents produced on record by the Appellant, the Authority has duly considered and dealt with each and every document produced by the Appellant. More importantly as detailed herein above, the documents produced by the Appellant, are infact fabricated documents which do not exist in official records and the answering Respondent prays before the Tribunal that appropriate inquiry must be conducted against the Appellant to



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investigate into the veracity of such documents mentioned in table above.

11. In respect of Para 5 and 6, it is stated that the contention of the Appellant that he has been involved in business of operation of restaurants and cold drinks for over three decades and solely reliant on the said business for the sake of his family's subsistence is factually incorrect and also the same is contrary to the Affidavit filed by the very same Appellant before the Tourism Department, Government of Goa dated 22.09.2008, at the time of seeking permission for the temporary shack, wherein the Appellant had stated that the Temporary shack is their only source of income and further that they are not directly or indirectly engaged in any kind of business/vocation/profession/any service in the Government or private.

12. The contents of Para 7 are denied since they are factually incorrect. It is denied that the structure was constructed in the year 1985-87.



13. In respect of Para 8, it is submitted that this structure in question is a permanent construction carried out in violation of the CRZ regulations. As regards the so called permissions which are mentioned herein, it is stated that most of them are false and fabricated documents which do not find any reflection in official records and/or the same do not relate to subject matter structure. Further, each of the documents have been dealt in detail by the Respondent No. 1 Authority in the Order under challenge.



14. In respect of the Contents of Para 9, the same are denied for being factually incorrect.

15. In respect of contents of Paras 10, 11, firstly it is stated that the answering respondent is the Owner of the interalia property bearing Survey No. 71/10 of the Village Arambol. It is denied that the respondent No. 2 has been filing various vexatious complaints against the Appellant. It would be relevant to note that the illegal structures put up by the Appellant came to be reported during the inspection which was carried out by the GCZMA qua some complaints filed against the Respondent No.2.

16. In respect to Para 12, the contents therein are denied for the want of knowledge.

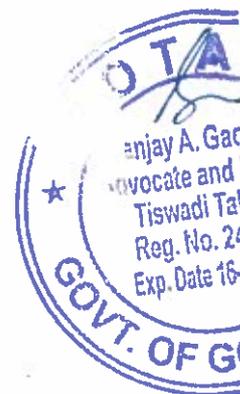
17. The contents of Paras 13, 14, 15, 16 and 17 are matter of record.

18. In respect of Para 18, it is submitted that the content therein are denied in the manner they have been stated. The correct factual position has been recorded in the minutes of meeting of the 324th meeting of the GCZMA is that the Respondent No.2 i.e. the Answering Respondent filed intervention application along with the relevant documents, the Appellant was duly represented and the matter was posted for arguments on 27.10.2022. It is most respectfully submitted that the matter was adjourned for arguments and not merely on arguments of intervention application as contented by the Appellant. Thereafter, the matter was taken up for hearing on 27.10.2022, as per the minutes of earlier meeting (during which the Respondent was duly represented on the date when the matter was fixed for hearing i.e. on 27.10.2022.) The Appellant on their own volition chose to remain absent and therefore the Authority proceeded to hear the



matter on the basis of reply on record and other documents available with the Authority.

19. The contents of Para 19 are denied and the same are nothing but an afterthought and are same of behalf of the Appellant. It is pertinent to note that the date of hearing was fixed on 27.10.2022 and consequently the Appellant was aware of the date of hearing which he failed to remain present for and therefore cannot claim that he was not afforded an opportunity of hearing.



20. The contents of Para 20 are a matter of record.

21. In respect of the contents of Para 21, it is submitted that the Appellant chose to remain absent during the hearing scheduled on 27.10.2022 and consequently the authority proceeded further to decide the matter on the basis of the reply filed by the Appellant and other documents available on record.

22. The contents of Para 22 are denied and the Appellant is put to strict proof thereof.

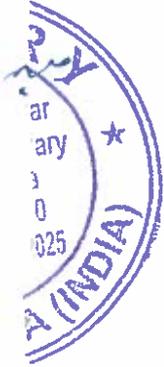
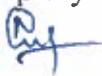
23. The contents of Para 23 and 24 are matter of record.

24. In respect to the contents of Para 25, the grounds taken in the Appeal, the same are denied in totality. The contention of the Answering Respondent which has been stated above are deemed to be reproduced in respect to the contents of Para 25 and the same have not been reproduced for the sake of brevity. It is stated that there is no infirmity in Order dated 06.12.2022 passed by the Respondent No.1 directing demolition of illegal structure constructed in the NDZ area constructed by the Appellant and consequently calls for no interference.

25. In respect of contents of Paras 26 , 27 & 28, the same are denied.

26. The contents of Para 29 and 30 are denied for want of knowledge.

27. In the above conspectus it is most respectfully submitted that the present Appeal is without any merits or basis and is liable to be dismissed with exemplary costs.



28. It is submitted that the Order dated 06.12.2022 passed by the Respondent No. 1 Authority calls for no interference in any matter since the same is passed in accordance with law and has directed demolition of the brazen illegal construction carried out by the Appellant in the NDZ area without taking any prior approval by the GCZMA and therefore liable to be demolished. Consequently the Answering Respondent most humbly prays that the present Appeal be dismissed with exemplary costs.



29. The contents of paragraph pertaining to Jurisdiction, Limitation and Prayers do not warrant any comments.

30. I state that whatever has been stated herein above is true to my own knowledge and based on the documents/records available with the Respondent to which I have access and the contents of the same which I believe to be true and correct.

Solemnly affirmed at Panaji-Goa on this 13th day of May, 2023.




DEPONENT
 Solemnly affirmed and verified before
 me by Shri/Smt. Nitin
G. Khandelav
 who has been identified by _____
 whom I personally know
 Reg. No. 662/2023
 Date 13-05-2023.


SANJAY A. GAONKAR
 Advocate & Notary
 Tiswadi Taluka
 Panaji-Goa.
 Reg. No. 242/10