

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

Appeal No. 06/2024 (WZ)

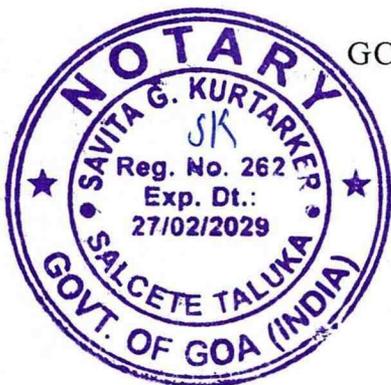
REAGAN RODRIGUES

...APPELLANT

VS.

GCZMA & ORS.

...RESPONDENTS



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

MOST RESPECTFULLY SHOWETH:

I, **MR. ANTONIO JOSE PASSANHA**, son of Alex Caetano Passanha, 57 years of age, India National, businessman, resident of H.No. 260, Kalvaddo, Cavelossim, Salcete, Goa 403731, the Respondent No. 2 in the above proceedings on solemn affirmation state and submit as under:

1. I say that I have read and understood the contents of memo of Appeal filed in the present proceedings. I categorically deny and dispute the contents of the Appeal

*Passanha*

which are contrary to the case set out by me. I dispute the authenticity and veracity of documents annexed to the Appeal. Anything that is not specifically denied shall not be deemed to be admitted.

2. At the outset, I say that the documents annexed to the Appeal are introduced for the first time before this Hon'ble Tribunal at the appellate stage. Such documents do not form part of the records and proceedings before the Ld. GCZMA. Therefore, no reliance can be placed on the said documents at the appellate stage.
3. I say the documents, which do not form part of the proceedings before the Ld. GCZMA and on which no reliance could have been placed whilst passing the Impugned Order, such documents cannot be relied upon at the appellate stage to contend infirmity with the Impugned Order.
4. I say that the Appeal is erroneous and misconceived and malafide. There is no case made out by the Appellant for this Hon'ble Tribunal to interfere with the Impugned



*Sanaha*

Discharge Order. There is no infirmity with the Discharge Order and the same is legal which is passed after hearing all the parties and considering all the relevant factors.

5. I say that the subject structures are authorized structures existing since the 1950s, which stand established by the Permission dated 27/12/1951 granted by the Camara Municipal de Salcete. Therefore the same are beyond the purview of the CRZ Regulations. (Page 126 of the Appeal)
6. I further say that the subject properties bearing Survey Nos. 50/1 and 50/3 are outside the purview of CRZ Regulations in as much as the distance between the subject properties and the High Tide Line (HTL) of River Sal is more than 100mts.
7. I categorically say that mere existence of water bodies in the vicinity of the subject properties does not bring the subject properties under the purview of CRZ Notification. In order for the CRZ Notification to be made applicable, the distance from tidally influenced



*[Handwritten signature]*

water body is a relevant factor as contemplated in the CRZ Notifications.

8. I further say that in terms of Amendment dated 01/05/2020, CRZ Regulations cannot be made applicable to areas beyond a bund or sluice gate, irrespective of whether the said bund or sluice gates are functional. I have placed on record documents and reports from expert agencies which establish that there exist dysfunctional sluice gates close to the subject properties, which have resulted in inlet of water on the landward side forming a cove.
9. I say that in view of the above, it is rightly concluded by the GCZMA that the subject properties are beyond the purview of CRZ Regulations.
10. I say that in support of the above contention I seek to place reliance on a report prepared by Dr. Nandakumar Sawant and Mr. Deepak Kumbhar. The said report forms part of the proceedings before the Ld. GCZMA and reveals as under:



*Jasanka*

- i. There exists a sluice gate on the western bank of Sal River, i.e. at the mouth of the water channel which is at Poiem.
- ii. The said sluice gate is non-operational/dysfunctional which leads to inlet of tidal water up to the Poiem. However, the same cannot be considered as a riverine part and therefore it does not fall under the CRZ area.
- iii. Poiem is a freshwater body which beyond the tidally influenced area. Therefore CRZ is not applicable.
- iv. Similarly, Joe's River Cove Restaurant is lying 300m away from the Western bank of Sal River and therefore it does not fall within 100 m NDZ of Sal River, which is a maximum CRZ applicable from the HTL of Sal River.
- v. The Mangroves present along the bank of the water channel opposite Joe's River Cove Restaurant are scattered and do not account for 1000 sq m. of Mangrove area and thus do not qualify for exerting a buffer of 50m on the landward side.



*Rasaha*

- vi. Satellite image of Landsat 5 dated 5" Dec., 1989 indicates the presence of numerous sluice gates at the inlet area of water channel and in its surrounding, meant for draining the field water into the Poiem. The image also shows silt/sediment accumulation at the mouth of the inlet and also in Poiem creating a shallow depth in Poiem. The cause of this is the non-maintenance of pre-existing Sluice Gate at the inlet of water channel and it's destruction long back in the past.
- vii. All these points go to prove that the elongated water channel on the bank of which the Joe's River Cove Restaurant is located is not a riverine part but is a freshwater body called Poiem which is not a CRZ area.



11. I say that the same has been confirmed by an EIA accreditation agency report of which is also placed on record in the Appeal.

*Jasanka*

12. I say that even otherwise, and without prejudice to the above contention, I have placed on record documents, more particularly the permission dated 27/12/1951 issued by the *Camara Municipal de Salcete* under the then Portuguese Regime which was issued to my father for construction of permanent structure.
13. In view of the above, there is no substance in the present appeal and the same is liable to be dismissed with costs.
14. Without prejudice to the above, I deny the contents of the Appeal which are inconsistent to the case set out by me. anything that is not specifically denied shall not be deemed to be admitted. The Appellant is put to strict proof with regard to contentions raised in the appeal.
15. I categorically deny the contents of Paragraph 'd'. I deny that my mother requested for a house number for an imaginary structure. The said structure has been in existence since 1951. Even in the Application dated 18/07/2009, it is stated that the structure has been in existence for 25 years.



*Sasanka*

16. With regard to paragraph 'e', 'f', 'g' and 'h', I deny that the Survey Nos. 50/1 and 50/3 were vacant properties. I say that since 1951 structures have existed in the Survey No. 50/1. It is pertinent to note that there exists a village road in Survey No. 50/3. I deny that there has been any manipulation and/or that the application is manipulated. I deny that I have gradually increased the size of the structure. I categorically state that the structures are legal and constructed pursuant to applicable permissions and the operations are undertaken in strict compliance of the permissions.

17. I say that the report of the District Level Committee is prepared on the basis of specific direction. The same is merely a fact finding report. The same does not take into account the legal position that CRZ Regulations are not applicable beyond a sluice gate or a bund. Therefore the said report is not of any assistance to the Appellant.

18. I say that CZMP was finalized on the basis of report of NCSCM which was undertaken in the entire coastal belt. The individual objections to the said report are required to



*Jasankha*

be decided on a case to case basis which exercise has been done by the GCZMA whilst dealing with the complaint of the Appellant and the GCZMA has arrived at the conclusion that CRZ Regulations are not applicable to the subject properties. Even otherwise I shall rely on the true and correct interpretation of the CZMP which is subject to rights of the parties.



19. In light of the above, no case is made out for interfering with the Impugned Order. The Appeal malafide and the same is liable to be dismissed with costs.

20. I say that contents of paragraphs 1pt, 5pt, 6pt, 8pt, 10pt, 11, 12, 15pt, and 16pt are true to my own knowledge and/or based on records; and the contents of paragraphs 1pt, 2, 3, 4, 5pt, 6pt, 7, 8pt, 9, 13, 14, 15pt, 16pt, 17, 18 and 19 are based on legal submission which I believe to be true.



Solemnly affirmed at Margao - Goa

On this 20<sup>th</sup> day of March, 2024

  
DEPONENT

Solemnly affirmed before me by  
Antonio Jose Passanha

Election Card - M Pm 6962666

Who is identified to me by  
to whom I personally know on  
this 20<sup>th</sup> day of March 2024

Reg No. 58416/2024

ksavita

SAVITA G. KURTARKEP  
NOTARY  
MARGAO-GOA

