

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

Appeal No. 144/2024 (WZ)

**ALCHEMIST ASSET
RECONSTRUCTION COMPANY LTD. ...Appellant**

V/s.

**GOA COASTAL ZONE MANAGEMENT
AUTHORITY & ANR. ...Respondents**

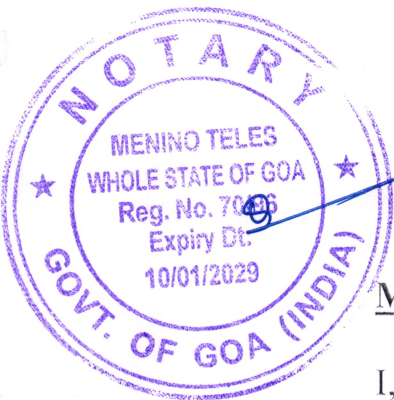
**AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NO. 2**

MAY IT PLEASE YOUR LORDSHIP:

I, **MR. SELSO FERNANDES**, resident of H. No. 439, Val Aframento, Agonda, Canacona, Goa, 403702, the Respondent No. 2 herein, do hereby on solemn affirmation, state and submit as follows:

1. I say that I have been impleaded as Respondent No. 2 in the present Appeal filed by the Appellant. I say that the averments made against me are wholly baseless, false, and untenable.





2. At the outset, I say that Judgement and Order dated 03.01.2024, passed by this Tribunal in Original Application No. 15/2023, has been assailed by me in Civil Appeal No. 553/2024 before the Hon'ble Supreme Court of India. Vide Order dated 22.01.2024, the Hon'ble Supreme Court observed as under:-

“Till the next date of hearing, there will be stay of demolition of the property in question. However, the appellants and their assignees/purchasers will not carry out any commercial activities in the property in question. The said direction, if not adhered to/complied, may result in vacation of the interim order passed today. The directions with regard to remand have not been stayed. The order passed would be placed on record.”



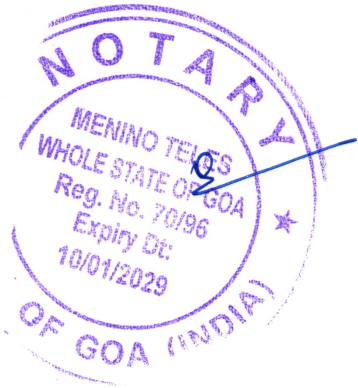
Annexed herewith and marked as **ANNEXURE R-1** is a copy of the Order dated 22.01.2024.

3. Vide Order dated 14.10.2024, passed in Civil Appeal No. 553/2024, the Hon'ble Supreme Court observed as under:-

“.....In the meanwhile, we request the National Green Tribunal to decide the appeal, stated to have been preferred by respondent No. 1. We also clarify that all pleas and contentions raised by the parties are left open to be decided by the NGT. Interim order shall continue to operate till the next date of hearing”

(Emphasis Supplied)

Annexed herewith and marked as **ANNEXURE R-2** is a copy of the Order dated 14.10.2024.



4. I say that I am filing the present reply without prejudice to my rights and contention raised before the Hon'ble Supreme Court in Civil Appeal No. 553/2024.
5. I say that I have read the contents of the Appeal Memo and annexures filed along with said Appeal. That the Appeal is clearly misconceived and filed on the grounds unsustainable in law. It is apparent from the reading of the Appeal that the Appellant is not concerned about environmental issues as sought to be projected, however, seeks to redress civil disputes in the present proceedings.
6. The Appeal filed by the Appellant is completely misconceived and liable to be dismissed on more counts than mere unsustainability of the grounds raised in the Appeal.
7. I say that the Appeal filed by the Appellant herein is incompetent and/or not maintainable as other co-owners are not party to the present proceedings. I say that my wife Mrs. Conceicao Fernandes, being a co-owner, is a necessary



party to the present proceedings without whom no effective orders can be passed. I say that a perusal of the cause title of the Original Application No. 15/2023 would demonstrate that the Appellant was completely conscious of the fact that said Mrs. Concecao Fernandes was a necessary party and had impleaded her in the said proceedings and, despite the same, the Appellant herein has chosen to add only me in the present proceedings.

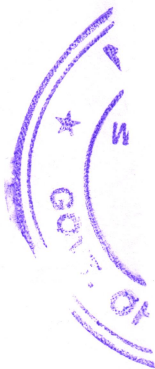


8. It is apparent to me from the reading of the Order dated 03.01.2024, passed by this Tribunal, that the Appellant herein has misled this Hon'ble Tribunal. I say that present reply is filed for the limited purpose to bring on record certain facts suppressed by the Appellants and to oppose grant of any relief to the Appellant.
9. At the outset, I deny and dispute each and every averment, contention, and allegation made by the Appellant in the Memo of Appeal. I say that the contents of the Appeal are misleading and bereft of merit. I say that nothing not

specifically admitted hereunder shall be deemed to have been denied for want of specific traverse. I specifically deny the averments/allegations made by the Appellant qua and/or regarding the allegations of connivance and/or land grabbing.

10. I say that the present Appeal is nothing but an abuse of process. I say that the claims of the Appellant are motivated by ulterior motives rather than any legitimate grievance. I say that the Appellant has resorted to this litigation as a pressure tactic for collateral purposes.

11. I say that the present appeal and the grounds raised by the Appellant are unsustainable in law and in the facts of the present case. I say that the Respondent No. 1, after considering the directions by this Hon'ble Tribunals, and the Orders passed by the Hon'ble Supreme Court of India, has duly considered the documents filed by the parties to the present appeal and further, considered all the records available including the plans submitted by me and approved



by the Respondent No. 1 at the time of obtaining permissions.

12. I say that the Appellant is misusing the jurisdiction of this Hon'ble Tribunal to further their private agenda under the guise of environmental concern. What is, in essence, a civil dispute is being disguised and agitated before this Hon'ble Tribunal.

13. I say that subsequent to the filing of this Appeal, the Appellant has also instituted a Civil Suit, being Special Civil Suit No. 62/2024/I before the Court of 1st Addl. Civil Judge Senior Division and JMFC at Margao, Goa. This conduct exposes the real purpose of above appeal which is to harass and intimidate me through multiple proceedings. Annexed herewith and marked as **ANNEXURE R-3** is a copy of the Complaint filed by the Appellant herein in Special Civil Suit No. 62/2024/I.



14. A perusal of the appeal memo reveals allegations that the Respondents have connived for the purpose of *land grabbing*, the Appellants herein have further alleged connivance of the Respondent Nos. 1 and 2 in order to attempt to grab land belonging to *DPDCL*. The Appellant herein has further alleged that Respondent No. 1 is a party to conspiracy and evil design for the purpose of facilitating encroachments.
15. The Appellants herein in fact at several parts of the Appeal alleged that the Respondent No. 2 is involved in land grabbing or encroachment in connivance with Respondent No. 1 which allegations are absolutely de hors of merits and/or cannot be considered by this Tribunal.
16. The Appellant clearly lacks any locus to maintain present proceedings.
17. The Appellant herein, to enforce their purported rights in the subject property and in order to seek mandatory injunction



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against this Respondent and his wife, has already filed a Suit in the Court of Civil Judge Senior Division at Margao seeking following reliefs: -

“A. Pass a judgement and decree declaring that the Defendant Nos. 1 and 2 are not entitled to an area of land exceeding 50 sq. mtrs. in the Suit Property i.e. properly surveyed under Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa;

B. Pass an order directing the Defendants to vacate and handover the possession of the area occupied in excess of 50 sq. mtrs. in Survey No. 100/10 of Village Agonda, Canacona, Goa, to the Court Receiver/ Resolution Professional of 'Dugal Projects Development Co' Ltd" (DPDCL), as the case may be, and/ or to their successors in-interest;



A blue ink signature.

C. Pass a judgement and decree of permanent and mandatory injunction against the Defendants, their legal heirs, representatives, servants, agents, employees and/ or any other person acting for and on their behalf, restraining them from further encroaching and/or in any manner interfering with the suit Property, including but not limited to erecting structures thereon, creating third party rights/ interests and also from carrying business therefrom;

D. pass a judgement and Decree of permanent and mandatory injunction directing the Defendants to demolish all existing structures on the suit property, and to remove the material stacked at the site of the suit property thereby restoring the land/ suit property to its original condition;"



18. A perusal of the plaint would reveal that the Appellant is virtually seeking the same relief before the Civil Court and before this Hon'ble Tribunal, which tantamount to forum shopping. As such, on this count alone, this Hon'ble Tribunal ought to reject the present appeal.



19. I say that the concerns raised by the Appellant herein are overlapping and/or subsume with the case set up the Appellant herein in the pleadings envisaged in civil suit referred above.

20. In the interregnum, I have obtained documents which would demonstrate that the Appellant herein was conscious of the development and re-constructions that were being carried out in the year 2018-2019. Pertinently, the same is completely contrary to whatever stated by the Appellant in the present proceedings and/or the Original Application No. 15/2023, wherein the Appellant had stated as follows:

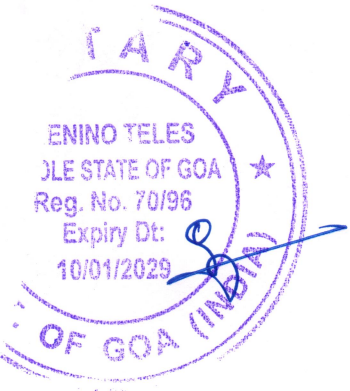
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“11. The Cause of action arose for the first time in June 2022 when the Applicant first complained to the Respondent No. 1 vide Letter dated 08.06.2022 (Annexure – A18). The cause of action once again arose when the Applicant received the DGPS aerial survey report on 23.12.2022. The cause of action arose again when the Applicant found out through Google Search that the Respondent No. 2 has commenced operations in full swing and is running the said illegal structures as full-fledged beach resort cum beach café. The cause of action for filing this application in any case is a continuing cause of action and arises till the Respondent No. 1 initiated any action in the matter of the said illegal structures in the demised property. The present Application is therefore within the limitation period.”

Annexed herewith and marked as **ANNEXURE R-4** is a copy of the Memo of the Original Application No. 15/2023.



21. I say that the aforesaid facts about the Appellant filing complaints against the structures specifically in the subject property was suppressed from this Hon'ble Tribunal in Original Application No. 15/2023, to wriggle out of law of limitation in such proceedings. I say that the conduct of the Appellant in suppressing such material from this Tribunal and even before the Civil Court disentitles him to any material relief as claimed in the appeal.



22. Vide letter dated 12.06.2019, addressed to the SHO, Police Station, Canacona, Goa, the Appellant herein has categorially stated that there were illegal constructions / encroachments going on in the project land including landed property bearing Survey No. 100/10 of Village Agonda. Annexed herewith and marked as **ANNEXURE R-5** is a copy of the letter dated 12.06.2019.

23. Before advertng to the merits of the matter, I crave leave to bring out the factual melee involved in the dispute.

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24. I say that the dispute sought to be raised by the Appellant in the present Appeal revolves around two existing house structures situated on property bearing Sy. No. 100/10 of Village Agonda. These house structures have belonged to me, Respondent No. 2, for the past several decades and are lawfully owned and occupied by me.
25. I say that my wife and I are the owners in possession of said two house structures bearing H. Nos. 438 and 439 along with the land appurtenant thereto. I say that I have been in peaceful, open and interrupted possession of the said house structures and/or the said property and in fact, these two house structures have existed since much prior to the year 1991.
26. I say that I have been exercising all rights of ownership without any objection or hindrance from any quarter. I say that my possession is well-established, continuous, and within the knowledge of all concerned parties, including the Appellant.



27. I say that the documents reveal that structure bearing H. No. 438 has a plinth area of 338 sq. mts., which plinth existed much prior to the year 1991. Similarly, H. No. 439 has a plinth area of 465 sq. mts. and in addition thereto, the plinth area of 250 sq. mts. of the wooden structure, which plinth existed much prior to the year 1991.

28. I say that there is copious documentary evidence available at hand to show that said house structures have been in existence since much prior to the year 1991 and in effect, these are authorized structures.

29. I say that I shall rely on the following documents which are relevant to the matter at hand:

- a) Form I & XIV of property bearing Sy. No. 100/10 of Village Agonda, Taluka Canacona.
- b) Plan of property bearing Sy. No. 100/10 of Village Agonda, Taluka Canacona.



- c) Photograph depicting the completion of the Industry Registration Process.
- d) House Tax Receipt dated 15.04.1989 issued by the Village Panchayat of Agonda.
- e) House Tax Receipt dated 08.10.1999 issued by the Village Panchayat of Agonda.
- f) Excise License dated 11.11.1996 for retail sale of liquor.
- g) Certified Copy of the N.O.C. dated 30.03.1985 bearing No. VPA/CAN/1984/85/146 issued by the Village Panchayat of Agonda, Canacona.
- h) Certified Copy of the N.O.C. dated 09.05.1984 bearing No. VPA/CAN/1984-85/23 issued by the Village Panchayat of Agonda, Canacona.
- i) Certified Copy of the N.O.C. dated 17.01.1991 bearing No. VPA/CAN/1990-91/228 issued by the Village Panchayat of Agonda, Canacona.

Annexed herewith and marked as **ANNEXURE R-6 (COLLY)** are copies of the documents enlisted above.



30. I say that it is apparent from the reading of the appeal and the submissions made by the Appellant herein that the Appellant seeks that the present authorities statutory authorities and particularly, this Hon'ble Tribunal believes the contents of a private document which is merely registered i.e., the Sale Deed dated 28.06.1982, in contrast with the documents provided by the local Village Panchayat and other documents issued by the Government of Goa which demonstrate existence of structures in dispute.

31. I say that somewhere in the year 2016-2017, a need was felt for conducting repairs and/or renovation and/or carrying out improvement works for the portions of the said house structures. I say that it is evident from the records available in public domain and with the Respondent No. 1 herein, that I had not applied under the category as a fisherman or fisher folk.

32. I say that accordingly, I, with help and assistance, duly applied for and obtained all the necessary permissions



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and/or approvals as required and mandated under the existing provisions of law.

33. I say that subsequently, the Respondent No. 1 herein, vide Approvals dated 04.04.2017, granted me permissions to carry out the necessary repairs/renovations/improvement works in terms of the conditions mentioned therein. Annexed herewith and marked as **ANNEXURE R-7 (COLLY)** are copies of the Approvals dated 04.04.2017.

34. I say that the Approvals dated 04.04.2017 was granted for re-construction of authorized structures in Survey No. 100/10 of Agonda, Village. Approval dated 04.04.2017, bearing No. GCZMA/S/16-17/70/35 pertains to the structure bearing H. No. 438 and the Approval dated 04.04.2017 bearing No. GCZMA/S/16-17/69/34 pertains to the structure bearing H. No. 439.

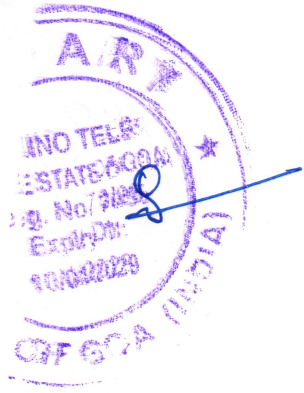


35. I say that the aforesaid Approvals dated 04.04.2017 were granted by Respondent No. 1 only after conducting detailed site inspection and satisfaction of expert bodies.

36. I say that whilst carrying out works pursuant to Permissions dated 04.04.2017, neither did I shift the plinth nor extent the same. In fact, the joint site inspection report dated 10.04.2023 produced by Respondent No. 1 endorses such contention.

37. I say that a cumulative reading of the documents on record shall make it evident that the existing house structures were re-constructed and/or renovated in terms of the permissions and the same are not in any manner in violation of CRZ Notification.

38. I say that the Minutes of the Meeting dated 21.03.2017, passed by Respondent No. 1 clearly reveal that the structures bearing H. Nos. 438 and 439 were authorized structures within CRZ-III. Annexed herewith and marked as



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existing authorized structures not existing Floor Space Index.

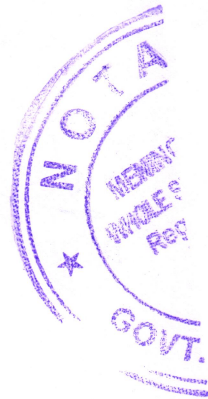
43. I say that additionally, that the Permissions were granted under Regulation 8 (III) and the same is apparent from reading the permissions and minutes of the meeting.

44. I say that the approvals dated 04.04.2017, were not granted under Regulation 6 (d). It is apparent from the records that the structures were authorized structures, which did not require any regularization.

45. Moreover, I say that Condition (iv) of the Approvals dated 04.04.2017 is not applicable to the subject construction in as much as the same is applicable only in the event of regularization of structure in terms of Regulation 6 (d), which is applicable only in respect of dwelling units of traditional coastal communities and therefore, is not applicable in case of existing authorized structures which are approved for repairs or reconstruction.



46. I say that the subject structures were used for commercial purposes even prior to 19.02.1991 and therefore, there is not even a change of user on my part.
47. Therefore, I say that there is no restriction on transfer or sale of authorized structure under CRZ norms, particularly against the backdrop of the fact that even prior to 1991, the subject structures were always used for commercial purposes only.
48. Vide Judgement and Order dated 03.01.2024, this Tribunal had directed the Respondent No. 1 to consider matters pertaining to the legality of the existing structures and to take appropriate action in case the Respondent No. 1 concludes that there was any illegality involved.
49. Pursuant the aforesaid, Respondent No. 1 has rightly considered all the documentary evidence produced on record by both the parties and has assessed the documents

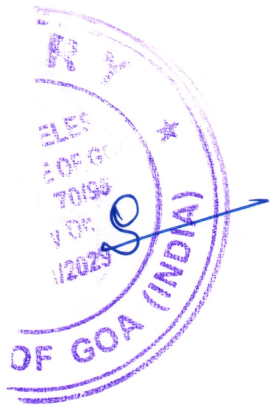


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independently to concluded that these structures having H. Nos. 438 and 439 are legal structures. That they are authorized structures and were accordingly permitted under Regulation 8(3) to be reconstructed or rather, their portions were permitted to be reconstructed and therefore, there was no illegality which had really occurred in the whole process.

50. That the Respondent No. 1 also rightly observed qua the historical background of the surveys conducted in the State of Goa, particularly in the background of the fact that the Goa Coastal Zone Management Authority, which came into existence pursuant to the CRZ notification of February, 1991, would only have jurisdiction to look into the aspects whether these structures were in existence prior to 1991 or these structures which are newly constructed are dehors the permissions issued by the competent authorities.

51. I deny that it is mutualized by me in connivance with the lessee as alleged. I deny that I have produced any document which is false and/or fabricated and/or fraudulent as alleged.



I deny that that there was any connivance and/or collusion as alleged by the Appellant in memo of appeal either between me and the Respondent No. 1 or myself and/or the lessee as alleged. I deny that the proceedings conducted by the Respondent No. 1 are false and fabricated as alleged. I deny that there is any connivance between Respondent No. 1 and me as alleged.

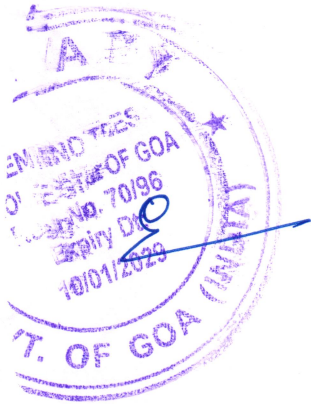
52. I say that the google images produced by the Appellant are clearly doctored and/or do not demonstrate the true and correct position in loco. It is denied that the structures existing on site are within 0 to 100 mts. of HTL as alleged.
53. I say that in the State of Goa, and particularly, in Panchayat areas, the use of terms House for any building which is either used for residential/dwelling purposes or any other commercial purpose is prevalent. I say that the Panchayats in Goa impose House Tax even on structures which are used for commercial purposes as per the mandate of the existing provisions of the Goa Panchayat Raj Act, 1994.



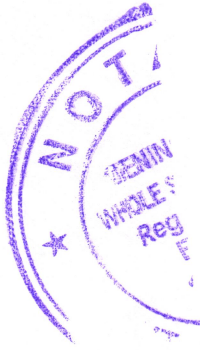
54. I say that references made by authorities to the subject structure as House in various meetings, orders and/or records do not signify the exact usage and/or purpose of subject structure.

55. I say that the Respondent No. 1 herein has passed the Impugned Order after considering all relevant material including the plans submitted for approvals, inspection report made by the expert and particularly the NOC issued by the Panchayat. A combined reading of all the aforesaid material would demonstrate existence of authorized structures as reflected in N.O.C. dated 17.01.1991, N.O.C. dated 09.05.1984 and N.O.C. dated 30.03.1985 and partial re-construction carried out upon obtaining permission dated 4/4/2017.

56. In the light of the above, I say that the present Appeal filed by the Appellant is baseless, devoid of merit, and deserves to be dismissed with costs.



57. I say that the allegations and claims raised by the Appellant are not supported by law or facts and are merely an attempt to harass me by raising frivolous and vexatious disputes.
58. I say that the permissions granted by Respondent No. 1 were issued in compliance with all legal requirements and after proper scrutiny. I say that the Appellant has failed to demonstrate any illegality or irregularity in the said permissions or in the actions of Respondent No. 1 or myself.
59. I say that the Appellant has suppressed material facts and misrepresented the situation to this Hon'ble Tribunal, as evidenced by their simultaneous pursuit of civil remedies in the civil courts.
60. Therefore, I pray that this Hon'ble Tribunal may be pleased to dismiss the Appeal with costs.



61. I say that the contents of the present Affidavit it Reply at Paragraph Nos. 1pt, 2pt, 3pt, 4, 5pt, 6pt, 7pt, 8pt, 9, 10pt, 11pt, 12pt, 13pt, 14, 15, 16pt, 17pt, 18pt, 19pt, 20, 21pt, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39pt, 40pt, 41, 42pt, 43pt, 44pt, 45pt, 46, 47pt, 48pt, 49pt, 50pt, 51, 52, 53pt, 54, 55pt, 56pt, 57pt, 58pt, 59pt and 60 are true and correct to my personal knowledge and belief and/or based on information derived from the records and/or inferences and that the contents at Paragraph Nos. 1pt, 2pt, 3pt, 5pt, 6pt, 7pt, 8pt, 10pt, 11pt, 12pt, 13pt, 16pt, 17pt, 18pt, 19pt, 21pt, 39pt, 40pt, 42pt, 43pt, 44pt, 45pt, 47pt, 48pt, 49pt, 50pt, 53pt, 55pt, 56pt, 57pt, 58pt and 59pt are in the nature of legal submissions which I believe to be true and correct.



Solemnly affirmed at Panaji, Goa,
On this 10th day of December, 2024.

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DEPONENT

Solemnly affirmed/executed before me by
Mr. Seso A. fernandes
No 439 Val Aframent
Agonda Canacona - Goa
who is identified before me by/on the basis of
Driving Licence No. 2-GA0920111003047
REG. No 6/3729/24 DATE 10/12/2024

MENINO TELES
NOTARY
(Entire State of Goa)
PANAJI-GOA



REVISED**

ITEM NO.28

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSCivil Appeal No. 553/2024

SELSO FERNANDES & ANR.

Appellant(s)

VERSUS

ALCHEMIST ASSET RECONSTRUCTION COMPANY LTD. & ORS.

Respondent(s)

(IA No.13288/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.13284/2024-STAY APPLICATION)

Date : 22-01-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Appellant(s)

Mr. Dhruv Mehta, Sr. Adv.
Mr. Ninad Laud, Adv.
Mr. Anubhav Ray, Adv.
Ms. Rashika Narain, Adv.
Mr. Dcosta Ivo Manuel Simon, AOR

For Respondent(s)

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Karan Batura, AOR

Mr. S.S. Rebello, Adv./AOR
Mr. V. Amonkar, Adv.
Mr. Siddhrth, Adv.
Mr. Rajat Mohan Dwivedi, Adv.
Ms. Kritika Grover, Adv.UPON hearing the counsel the Court made the following
O R D E R

Issue notice, returnable in April 2024.

Notice is accepted by Mr. Karan Batura, learned counsel, who
appears on advance notice for respondent no. 1. Hence, notice need
not be served on the said respondent.

Steps will be taken to serve notice on the unrepresented

respondents within ten days from today. Notice will be served by all modes, including *dasti*.

Till the next date of hearing, there will be stay of demolition of the property in question. However, the appellants and their assignees/purchasers will not carry out any commercial activities in the property in question. The said direction, if not adhered to/complied, may result in vacation of the interim order passed today.

The directions with regard to remand have not been stayed. The order passed would be placed on record.

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

** Revised for the purpose of appearance only.

ITEM NO.28

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No. 553/2024

SELSO FERNANDES & ANR.

Appellant(s)

VERSUS

ALCHEMIST ASSET RECONSTRUCTION COMPANY LTD. & ORS.

Respondent(s)

(IA No.13288/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.13284/2024-STAY APPLICATION)

Date : 22-01-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Appellant(s)

Mr. Dhruv Mehta, Sr. Adv.
Mr. Ninad Laud, Adv.
Mr. Jatin Ramaiya, Adv.
Mr. Anubhav Ray, Adv.
Ms. Rashika Narain, Adv.
Mr. Dcosta Ivo Manuel Simon, AOR

For Respondent(s)

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Karan Batura, AOR

Mr. S.S. Rebello, Adv./AOR
Mr. V. Amonkar, Adv.
Mr. Siddhrth, Adv.
Mr. Rajat Mohan Dwivedi, Adv.
Ms. Kritika Grover, Adv.UPON hearing the counsel the Court made the following
O R D E R

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(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

ITEM NO.49

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No. 553/2024

SELSO FERNANDES & ANR.

Appellant(s)

VERSUS

ALCHEMIST ASSET RECONSTRUCTION COMPANY LTD. & ORS.

Respondent(s)

(IA No. 13288/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 18529/2024 - INTERVENTION/IMPLEADMENT and IA No. 13284/2024 - STAY APPLICATION)

Date : 14-10-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE SANJAY KUMAR

For Appellant(s)

Mr. Dhruv Mehta, Sr. Adv.

Mr. Ninad Laud, Adv.

Mr. Anubhav Ray, Adv.

Ms. Rashika Narain, Adv.

Mr. Dcosta Ivo Manuel Simon, AOR

For Respondent(s)

Mr. Maninder Singh, Sr. Adv.

Mr. Karan Batura, AOR

Ms. Ashita Chawla, Adv.

Mr. Anuj Jain, Adv.

Mr. Rohit Gupta, AOR

Ms. Megha Goswami, Adv.

Mr. Shivani Tyagi, Adv.

Ms. Manisha Gupta, Adv.

Ms. Kritika Grover, Adv.

Mr. Salvador Santosh Rebello, AOR

UPON hearing the counsel, the Court made the following
O R D E R

Re-list in the week commencing 27.01.2025.

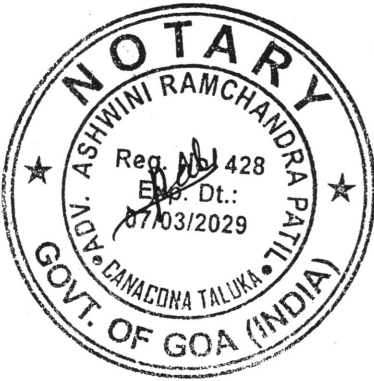
In the meanwhile, we request the National Green Tribunal to decide the appeal, stated to have been preferred by respondent No.

1. We also clarify that all pleas and contentions raised by the parties are left open to be decided by the NGT.

Interim order shall continue to operate till the next date of hearing.

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR



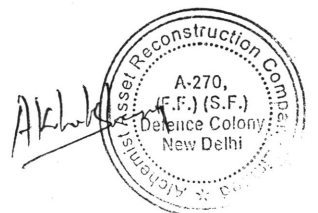
IN THE COURT OF THE HON'BLE CIVIL JUDGE,

SENIOR DIVISION AT MARGAO-GOA

SPECIAL CIVIL SUIT NO. 62 OF 2024

Alchemist Asset Reconstruction Company Ltd.

Being the sole trustee of Alchemist XVI & XXIX Trust



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Having its Registered Office at A-270, Ist and IInd Floor,
Defence Colony, New Delhi – 110 024

Represented herein by its Authorised Officer

Mr. Akshat Sharma

Aged about 36 years

....Plaintiff

Versus

1. Selso Fernandes

S/o Late Mr. Pedro A. Fernandes

Aged about 60 years,

R/o House No. 439, Val Aframento Agonda,

Taluka Canacona, Goa - 403702

E-Mail: not known

2. Concecao Fernandes

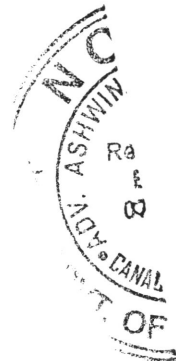
W/o Mr. Selso Fernandes

Aged about 53 years,

R/o House No. 439, Val Aframento Agonda,

Taluka Canacona, Goa - 403702

E-Mail: not known



3. Dream Discovery Sea View Resort & Beach Café

Through Mr. Vijay Gokuldas Komarpant
aged about 50 years
At: 438 & 439, South End of the beach,

Val, Agonda, Goa – 403 702

E-Mail: not known

...Defendants

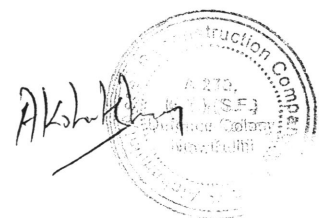


**SUIT FOR DECLARATORY RELIEFS
AND PERMANENT & MANDATORY
INJUNCTION UNDER SECTIONS 34, 38
& 39 OF THE SPECIFIC RELIEF ACT
1963 READ WITH SECTION 9 OF THE
CODE OF CIVIL PROCEDURE, 1908**

MAY IT PLEASE YOUR HONOUR:

The Plaintiff above named most respectfully states and submits as under:

1. The Plaintiff is filing the present suit *inter-alia* for a decree of declaration that the Defendant Nos. 1 and 2 are



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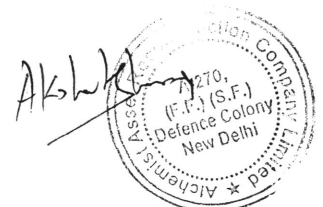
not entitled to an area of land exceeding 50 sq. mtrs. in Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa. The Plaintiff is also filing the present suit seeking permanent and mandatory injunction to *inter-alia* restrain the Defendants, their legal representatives/ assignees/ successors-in-interest/ legal heirs/ servants/ agents/ staff/ employees and /or any other person acting for and on their behalf from further encroaching and/ or in any manner interfering with the Suit Property, including but not limited to erecting structures thereon, creating third party rights/ interests and also from carrying business therefrom. The Plaintiff is further seeking a declaration from this Hon'ble Court to declare that (i) the lease deed dated 12.09.2016; (not available with the Plaintiff) (ii) lease deed dated 23.09.2020 registered in Book-1 under No. CAN-1-118-2022 in the office of Sub-Registrar, Canacona, Goa, executed between Defendant Nos. 1 & 2 on one hand and Defendant No.3 on the other, and, (iii) the rectification of lease deed dated 23.09.2020 registered in Book-1 under No. CAN-1-119-2022 in the office of Sub-Registrar, Canacona, Goa, executed between



Defendant Nos. 1, 2 and 3, be all declared null and void and the originals of the same be directed to be delivered on to the Plaintiff to be forwarded to the office of the Sub-registrar of Canacona, Goa, for the relevant endorsement of nullity/ cancellation to be recorded against the said instrument registered in his books.



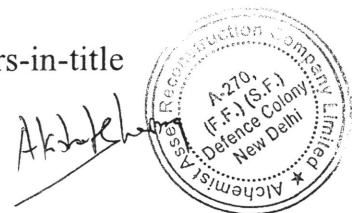
2. The Plaintiff submits that on the face of the documents pertaining to the present case, there is an evident conspiracy, collusion and fraud conducted between the Defendants whereby, by collusion, they have attempted to grab the land, which does not belong to them but is mortgaged to the Plaintiff, by going to the extent of creating questionable/fraudulent documents and, based thereon, creating third party rights in collusion and conspiracy with each other.
3. The Plaintiff submits that facts of the present case (as detailed in subsequent paras) would unequivocally reveal that, historically, one Ms. Maria Fernandes was entitled to an area not exceeding 50 sq. mtrs in Survey No. 100/10 in Village Agonda, Canacona, Goa being a part of Toddy



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tapper community. However, over the course of time, with great degree of manipulation and illegalities, the said area of 50 sq. mtrs. has been increased in different records of Panchayat and Goa Coastal Zona Management Authority (GCZMA) to an area of approx. 1160 sq. mtrs. by way of encroachment (on with about 3200 sq. mtrs. building has been constructed) with the *malafide* intent to grab and usurp land forming part of Survey No. 100/10 in Village Agonda. The Plaintiff submits that the said act has been done with clear motive of depriving the Plaintiff institution from recovering its dues and the Plaintiff reserves its rights to file appropriate complaint / First Information Report for such criminal actions and conduct.

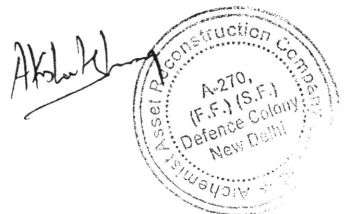
4. The Plaintiff is filing the present suit to protect its rights, title and interest over land admeasuring 5300 sq. mtrs. in Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa (hereinafter referred to as the “**Suit Property**”), being a part of the larger property defined in Para 5 hereinbelow, which rights, title and interest were confirmed in favour of the Plaintiff’s predecessors-in-title





by order dated 06.05.2011 passed by DRT-II, Mumbai in OA No. 224 of 2002 and OA No. 33 of 2011 originally filed as CS No. 2654 of 1990 filed before the Hon'ble Bombay High Court, which has attained finality upon disposal of the DRAT Appeal Nos. 23/12 and 68/13, and which are now vested in favour of the Plaintiff herein in pursuance of registered deeds of assignment dated 13.10.2014, 26.02.2016 & 24.03.2017. It is pertinent to mention that a Court Receiver was appointed in Civil Suit No. 2654/ 1990 before the Hon'ble High Court of Bombay *vide* orders 08.07.1991 and 24.07.1991, who was directed to take physical possession of the mortgaged property and accordingly, the Court Receiver took over physical possession of the entire larger property on 09.08.1991. As such the larger property including, the Suit Property, became "*custodia legis*" in the year 1991.

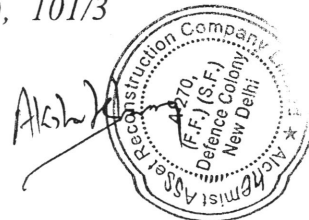
5. The Plaintiff states that, by virtue of the said deeds of assignment, it is the exclusive charge holder and the sole assignee of the mortgage rights over the entire assets, moveable as well as immovable, of 'Dugal Projects



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Development Company Private Limited' (DPDCL) (earlier known as 'Elbee Dugal Engineering Company Private Limited' / 'EDECPL') including the property comprising 70 survey numbers (including survey no. 100/10) situated at Village Agonda, Canacona, Goa (hereinafter referred to as "the larger property") admeasuring 3,58,814 sq. mtrs. (approx. 90 acres of land), the details whereof are as under:

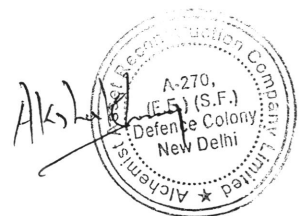
*All pieces and parcels of land admeasuring about 3,58,814 sq. metres. situated at Village Agonda, Taluq Canacona, Goa, having 70 survey nos. viz. 93/1 (part), 93/2 (part), 94/1, 95/3, 95/8 (part), 95/10, 95/13, 95/16, 96/3, 96/4, 96/5, 96/6, 96/7 (part), 96/8, 96/12, 96/14, 96/15, 96/16, 96/17, 96/18, 96/19, 96/20, 96/21, 96/22, 97/7 (part), 97/8, 98/1, 98/2, 98/3, 98/4, 98/6, 98/7, 99/4, 99/5, 100/1, 100/3, 100/5, 100/6, 100/8, 100/9, **100/10 (part)**, 100/11, 100/12, 100/13, 100/14, 100/15, 100/16, 100/17, 101/1 (part), 101/3*



(part), 101/6, 101/7, 101/8, 101/9, 101/14,
 101/15, 101/16, 101/17, 101/18, 101/19,
 101/20, 101/21, 101/22, 101/23, 101/24, 102/1
 (part), 102/3 (part), 102/6, 102/7 & 105/4
 (part)

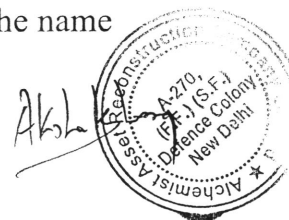


6. The Plaintiff states that it is the sole assignee of the consortium of banks which held mortgage rights over the larger property comprising various survey numbers, including land measuring 5300 sq. mtrs. under Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa. The present suit concerns only that portion of Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa, measuring 5300 sq. mtrs., which area is owned by EDECPL (now known as DPDCL) and mortgaged exclusively with the Plaintiff, a part of which area has been illegally and unlawfully occupied / usurped by the Defendants by way of collusion between the parties. None of the other survey numbers mentioned in Para 5 above are relevant to the reliefs sought in the present suit.



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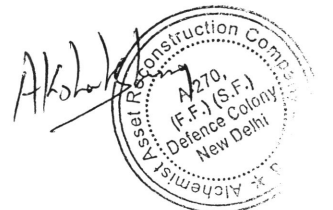
7. The Plaintiff states that the suit property concerning the present suit is the property admeasuring 5300 sq. mtrs., out of the total land admeasuring 5350 sq. mtrs., surveyed under Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa, which has been acquired by EDECPL (now known as DPDCL) *vide* registered Sale Deed No. 142/82 dated 28.06.1982 and stands mortgaged exclusively to the Plaintiff. The total area of the Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa, has been clearly mentioned in the relevant Form I & XIV pertaining to the said survey number as 5350 sq. mtrs. and the said survey number is neither demarcated nor partitioned till date.
8. The Plaintiff submits that the Defendant No. 1 claims to be a son of Late Ms. Maria Fernandes, whose name appears in the other rights column on the concerned Form I & XIV relating to the suit property herein. The Defendant No. 2 is the wife of the Defendant No. 1. The Defendant No. 3 is the purported Lessee of the Defendant Nos. 1 and 2 who is illegally running and operating a full-fledged commercial resort on the suit property in the name



and style of "*Dream Discovery Sea View Resort & Beach Café*".



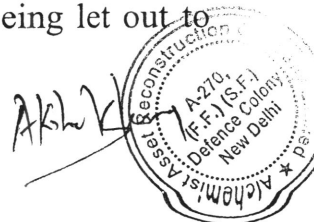
9. The Plaintiff asserts that the Defendant Nos. 1 & 2 have inherited rights to only upto 50 sq. mtrs. belonging to Ms. Maria Fernandes (mother of Defendant No. 1) in Survey No. 100/10 in Village Agonda, Canacona, Goa, as would be evident from a perusal of Form I & XIV of the said Survey No. 100/10. The area of the house belonging to Defendant No. 1's mother could not have been more than 50 sq. mtrs. since an area admeasuring 5300 sq. mtrs. out of the total area of 5350 sq. mtrs. comprising Survey No. 100/10 was sold by the owners of this land namely Janaki Devappa Dessai, Mohan Kashinath Raut Dessai, Kalpana Mohan Raut Dessai, Kum. Vismaya Vassantrai Aigal & Shri Vinodkumar Vassantrai Aigal to EDECPL (now known as DPDCL) in the year 1982 by way of a registered Sale Deed No. 142/82 dated 28.06.1982, which sale deed has remained unchallenged till date. The area of the said house has been sought to be enlarged, over a period of time despite the suit property having become



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custodia legis and more particularly since 2016, by the said Defendant Nos. 1 and 2 by entering into lease deeds dated 2016 and 2020 with the Defendant No. 3, i.e. the purported lessee of the Defendant Nos. 1 and 2, in a conspiratorial connivance with each other, in the form of continual land grabbing, with the *malafide* intention to usurp the Suit Property, details whereof have been elaborated in the paragraphs below.

10. The Plaintiff states that the Defendant No. 3 is a purported lessee of the Defendant Nos. 1 and 2 and has erected illegal structures on the suit property and is conducting business of a hotel & resort in the name and style of '*Dream Discovery Sea View Resort & Beach Café*'.
11. The Plaintiff states that it was for the first time in the month of June, 2022, that the Plaintiff noticed a huge structure on the beachfront side on the suit property. The beach front structure houses a full-fledged Bar and Restaurant, in the name and style of "*Dream Discovery Beach Cafe*" with multiple levels and alongside the said structure was open area with beach beds being let out to





tourists. Behind the said beachfront structure were additional structures, which at the first instance were not clearly visible from the beach side. The said structures are all permanent structures constructed using RCC slabs and cement base. The said illegal structures have also encroached portion of the beach by construction of permanent cemented and tiled platform and steps. The structures were enclosed by construction of permanent compound wall using RCC and laterite stones, on the periphery of the suit property.

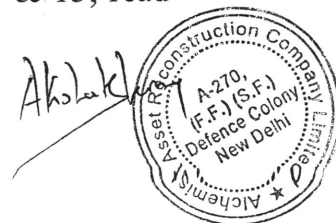
12. The Plaintiff states that upon making enquires, it came to the knowledge of the Plaintiff that the Defendant No. 1 was issued a letter dated 04.04.2017 bearing Ref No. GCZMA/S/16-17/69/34 by the Goa Coastal Zone Management Authority (GCZMA) conveying permission for reconstruction of House bearing No. 439, located in the Suit property, not exceeding the existing plinth area, the existing FAR and the existing density. A similar letter also dated 04.04.2017 bearing Ref. No. GCZMA/S/16-17/70/35 was issued for yet another house bearing No.



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438, located in the Suit property. These permissions were given on the basis of the decisions taken by the GCZMA in its 144th Meeting held on 21.03.2017. Upon a perusal of the minutes of the said meeting of the GCZMA, it was found that the existing plinth area of House No. 439 was shown as 193.48 sq. mtrs. and that of House No. 438, as 217.60 sq. mtrs.

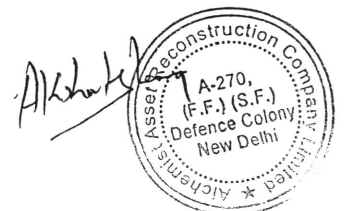
13. The Plaintiff submits that it immediately complained to the GCZMA *vide* letter dated 08.06.2022 informing the said office about the illegal and unauthorized construction carried out in the suit property. However, the GCZMA took no action in the matter and failed to issue any “*stop work order*” or any show cause notice to any of the Defendants. The same clearly spelt out complete abdication of responsibility on the part of GCZMA, besides collusion, and/ or complicity, between the GCZMA and the Defendant No. 3 herein.
14. The Plaintiff states that thereafter, it filed before the Hon'ble NGT, Western Bench at Pune, an Original Application No. 15 of 2023 under Sections 14 & 15, read





with Section 18 of the National Green Tribunal Act, 2016 raising various serious environmental issues breached by the Defendants herein (who were Respondent Nos. 2, 3 & 4 respectively in the said Original Application before the NGT) seeking *inter-alia* the following reliefs:

- a. *For an order setting aside the permissions granted by the Respondent No. 1 in favour of the Respondent No. 2 with respect to the demised property i.e. property bearing Survey No. 100/10 situated in Village Agonda, Canacona Taluka, Goa;*
- b. *For an order or direction directing the Respondent No. 1 to forthwith take appropriate action to demolish all the illegal constructions /development of the Resort, Bar and Restaurant/resort and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café" in the survey No. 100/10 of Agonda Village, Goa, undertaken by the Respondent No. 2 and to have the said area*

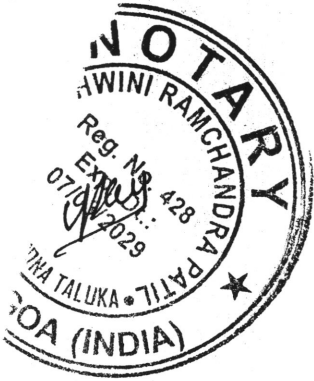


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restored to its original condition.

- c. *For an order or direction, directing the Respondent No. 1 to forthwith take steps to stop commercial operation of the illegal Bar and Restaurant/resort and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café", in the said property bearing survey No. 100/10 of Agonda Village, Goa undertaken by the Respondent No. 2.*
- d. *For an order or direction directing the Respondent Nos. 2, 3 and 4 to stop all/any commercial operation of the illegal Resort, cum Bar and Restaurant/resort and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café", in the said property bearing survey No. 100/10 of Agonda Village, Goa.*
- e. *For an order or direction of levy of penalty on the Respondent No. 2 for illegally deriving income from the commercial operation of the illegal*

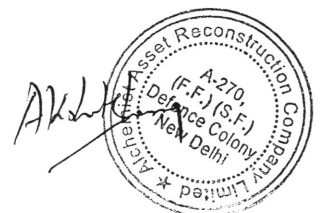




Resort, Bar and Restaurant/ and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café", in the said property bearing survey No. 100/10 of Agonda Village, Goa, by cutting sand dunes, natural vegetation and levelling and ground filling of the said area and constructing permanent structure using RCC, Concrete base, pre-fabricated steel structures.

15. The Plaintiff states that in the said matter, noticing the fact that there existed a substantial question relating to environment, the Hon'ble NGT *vide* order dated 21.02.2023 admitted the said application and *inter-alia* directed to call for a report on the matter in issue from a Joint Committee comprising one member each of:-

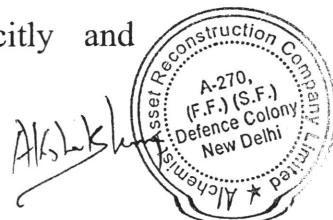
- (i) The Goa Coastal Zone Management Authority (GCZMA),
- (ii) The Goa State Pollution Control Board (GSPCB) &



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(iii) The District Magistrate, South Goa.

16. The Plaintiff states that the Joint Site Inspection of the Suit Property was conducted on 14.03.2023 and a Joint Site Inspection Report dated 10.04.2023 was prepared thereon. The said site inspection report was made available to the Plaintiff herein being a party/ Applicant to the proceedings instituted before the Hon'ble NGT.
17. The Plaintiff states that on a perusal of the Joint Site Inspection Report dated 10.04.2023, it can be inferred unequivocally and unhesitatingly that the structures bearing the name and style of "*Dream Discovery Sea View Resort & Beach Café*" are being used and run commercially without any valid permission whatsoever, and, the same are spread over an area of approx. 1160 sq. mtrs., which is blatantly an act of trespassing and land grabbing by the Defendants.
18. The Plaintiff submits that contents of the Joint Site Inspection Report are being wholly relied upon by the Plaintiff (being an independent report prepared under the directions of the Hon'ble NGT) to explicitly and



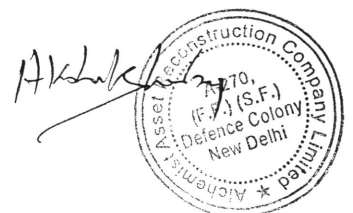


unambiguously demonstrate the extent of encroachment caused by the Defendants.

The Plaintiff submits that without prejudice to the above, the Joint Site Inspection Report prepared under the directions of the Hon'ble NGT unequivocally confirms that the Defendants are presently in occupation of a much larger built-up area (about 1160 sq. mtrs. as would be shown in subsequent paragraphs), under the garb of two permanent houses and some temporary structures, which is a blatant act of land grabbing and encroachment.

20. The Plaintiff submits that the Joint Inspection Report has relied *inter alia* upon the following documents:

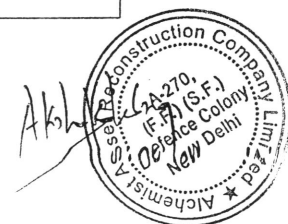
- i) No Objection Certificate dated 09.05.1984 issued by the Village Panchayat, Agonda for repair and renovation of House No. 438 showing its existing plinth area as 338 sq. mtrs.; (which document has surfaced in the year 2023 when it was produced before the Joint Inspection Committee formed by GCZMA and seems to be forged)



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- ii) No Objection Certificate dated 30.03.1985 issued by the Village Panchayat, Agonda for repair and renovation of House No. 439 showing its plinth area as 465 sq. mtrs. and a wooden structure measuring 250 sq. mtrs.; (which document has surfaced in the year 2023 when it was produced before the Joint Inspection Committee formed by GCZMA and seems to be forged)
- iii) GCZMA approval bearing Ref. No. GCZMA/S/16-17/70/35 dated 04.04.2017 for reconstruction of existing H. No. 438 in Survey No. 100/10 as per the existing plinth area and FAR;
- iv) GCZMA approval bearing Ref. No. GCZMA/S/16-17/69/24 dated 04.04.2017 for reconstruction of existing H. No. 439 in Survey No. 100/10 as per the existing plinth area and FAR;
- v) A site plan prepared by the Inspector of Survey and Land Records, Canacona, Goa (ISLR) showing the structures on the said Survey No. 100/10 as follows:

Area of Structure 'A' as per	:	47.00 sq.
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Survey Plan		mtrs.
Area of Structure 'B' as per Survey Plan	:	32.00 sq. mtrs.
Area of RCC Structure 'A' (House No. 438 as per Joint Site Inspection Report)	:	338 sq. mtrs.
Area of RCC Structure 'B' (House No. 439 as per Joint Site Inspection Report)	:	462 sq. mtrs.
GI Tube / Pipe Shed	:	108 sq. mtrs.
Wooden Shed	:	252 sq. mtrs.

Thus, as per Survey Plan, the total area of structures 'A' & 'B' should have been 79 sq. mts. whereas, on ground the total area of the said structures was found to be 800 sq. mts. In addition, two sheds measuring 360 sq. mts were also found on the ground.

21. The Plaintiff, further submits that while Defendant Nos. 1 & 2 have inherited right to occupy an area of not more than 50 sq. mtrs. of land in Survey No. 100/10 by way of a

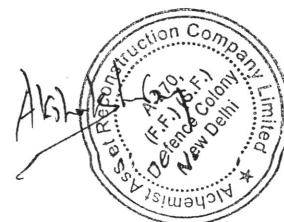


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house, the Survey Plan shows two houses viz. H. No. 438 measuring 47 sq. mtrs. and H. No. 439 measuring 32 sq. mtrs. The site plan further shows that the actual area under the occupation of the Defendants is 1160 sq. mtrs. (338+462+108+252 sq. mtrs.).



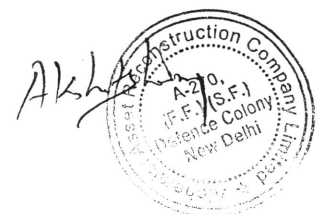
22. A perusal of the said documents reveals a pattern of illegal occupation of land under Survey No. 100/10 by the Defendant No. 1 and 2 over the years, its fraudulent legitimization through the NoCs issued by the office of Village Panchayat and the approvals issued by the GCZMA, and the follow up act of leasing the said usurped land to Defendant No. 3. Pertinent to add that neither the Village Panchayat nor the GCZMA have any authority to determine the legality of occupation of land by the Defendants, yet certificates and permissions issued by them are being misused by the Defendants to claim ownership over a portion of the Suit Property.
23. For the ready and kind perusal of this Hon'ble Court, a chart showing the evolution of occupation of the Defendants in Survey No. 100/10, being manifestly more



than both the legally permissible area as well as the sanctioned plinth area as per GCZMA approvals (though the Defendant Nos. 1 & 2 had no right and title to occupy the said plinth areas), is given below:

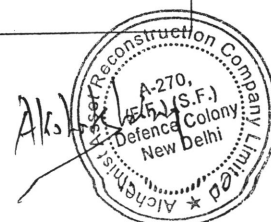


S. NO.	PARTICULARS	AREA IN SQ. MTRS.	REMARKS
1.	Area of inherited land legally available to the Defendant Nos. 1 and 2 in Sy. No. 100/10	50	House as per Form I & XIV.
2.	Area shown in the ISLR Survey Plan	Structure A – 47.00 Structure B – 32.00 ----- Total – 79.00	Two Structures as per ISLR Site Plan enclosed with the Joint Site Inspection

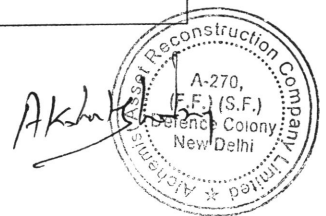
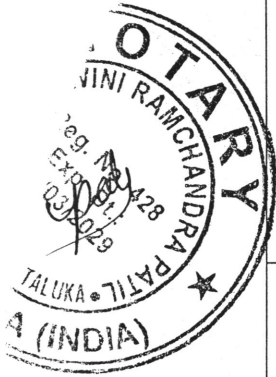


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			Report dated 10.04.2023.
3.	Area of land for which NoCs are stated to have been issued by the Office of Village Panchayat, Agonda, in the year 1984 & 1985 (which document has surfaced in the year 2023 when it was produced before the Joint Inspection Committee	<ul style="list-style-type: none"> • H. No. 438 (Structure 'A' as per Joint Site Inspection Report) - 338 • H. No. 439 (Structure 'B' as per Joint Site Inspection Report) - 465 • Wooden structure in H No. 439 - 250 <hr style="border-top: 1px dashed black;"/> <p style="text-align: center;">- Total - 1053</p>	Survey Number not mentioned in the NOCs.



	formed by GCZMA and seems to be forged)		
4. (a)	Plinth area of houses as per Site Inspection Report of Expert Member of	<ul style="list-style-type: none"> H. No. 438 – 217.60 (existing plinth – 217.60) 	As per the Minutes of the 144 th GCZMA meeting
4. (b)	GCZMA. Area of land for which permission was granted to Defendant No 1 by the Office of GCZMA in the year 2017	<ul style="list-style-type: none"> H. No. 439 – 193.48 (existing plinth – 193.48) <p>----- --</p> <p>Total – 411.08</p>	held on 21.03.2017.
5.	Area of land	• Structure A – 338	

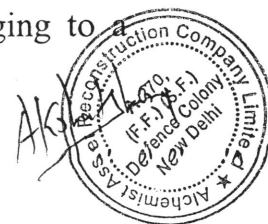


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	<p>actually constructed upon by Defendants (as evident from Joint Site Inspection Report dated 14.03.2023)</p>	<ul style="list-style-type: none"> • Structure B – 462 • Structure C – 108 • Wooden Shed – 252 <hr style="border-top: 1px dashed black;"/> <p style="text-align: center;">=</p> <p style="text-align: center;">TOTAL - 1160</p>	
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24. That, during the pendency of the OA/15/2023 before the Hon'ble National Green Tribunal, the Plaintiff had also applied for and sought information from the office of GCZMA under the Right to Information Act relating to the permissions granted in Sy. No. 100/10 of Village Agonda, Canacona, Goa, *vide* application dated 23.05.2023. The GCZMA thereafter responded to the said request of the Plaintiff with providing information as available in their records *vide* their response dated 13.06.2023. On a perusal of the said records, it is apposite to note that the permission was applied for by the Defendant No. 1 on the strength of him belonging to a

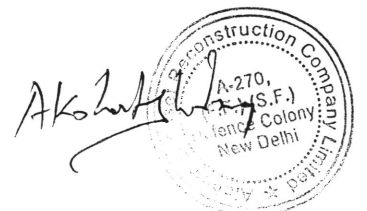


toddy tapper community and the areas for which the permission was granted by the GCZMA *vide* their permissions dated 04.04.2017 (now set aside) were for the following areas:



Area as per GCZMA permissions dated 04.04.2017:	
(i) Plinth area found on ground by the Expert Member of GCZMA during site inspection and the plinth area sanctioned by GCZMA <i>vide</i> permission dated 04.04.2017 for H. No. 438;	217.60 sq. mtrs. of plinth area
(ii) Plinth area found on ground by the Expert Member of GCZMA during site inspection and the plinth area sanctioned by GCZMA <i>vide</i> permission dated 04.04.2017	193.48 sq. mtrs. of plinth area

	Total: 411.08 Sq. mts.

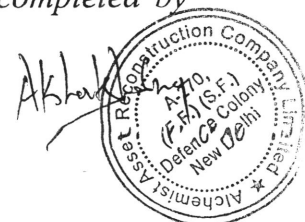


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for H. No. 439	
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25. The Plaintiff submits that it had also filed before the Hon'ble NGT images as obtained/ downloaded by it from the website of Google Earth specifically evidencing the extent of illegal construction/ over-occupation of the land under Sy. No. 100/10 of Village Agonda, Canacona, Goa from the year 2002 onwards.
26. The Plaintiff submits that the abovementioned OA/15/2023 came to be adjudicated by the Hon'ble NGT *vide* final order/ judgment dated 03.01.2024 wherein the Hon'ble NGT *inter-alia* held as under:

"67.we are of the view that the permission which has been granted on 04.04.2017 needs to be set aside and respondent No.1 needs to be directed to consider all these aspects afresh and if it comes to the conclusion that there is any illegal structure in the light of the provisions cited above, the same would be ordered to be demolished by it. We direct that this exercise shall be completed by



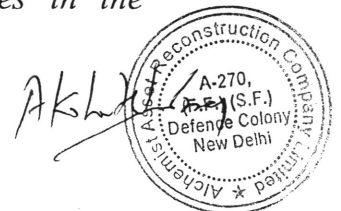


respondent No.1 – GCZMA within a period of three months from the date of uploading of this order. We decide Issue Nos. (iii) and (iv) accordingly.

68. In the result, this Original Application is partly allowed. The impugned permission dated 04.04.2017 is set aside, with the above direction to respondent No.1 - GCZMA.”

27. Thereafter, it is an admitted fact that Defendant Nos. 1 and 2 herein have challenged the judgment dated 03.01.2024 passed by the Hon’ble NGT in OA/15/2023(W) before the Hon’ble Supreme Court by way of a Civil Appeal No. 553 of 2024 titled “*Selso Fernandes Vs. Alchemist Asset Reconstruction Company Ltd. & Ors.*” wherein *vide* order dated 22.01.2024 the Hon’ble Supreme Court *inter-alia* passed the following directions:

“Till the next date of hearing, there will be stay of demolition of the property in question. However, the appellants and their assignees/purchasers will not carry out any commercial activities in the



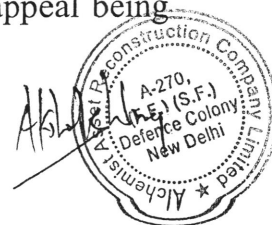
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property in question. The said direction, if not adhered to/complied, may result in vacation of the interim order passed today.

The directions with regard to remand have not been stayed. The order passed would be placed on record.”



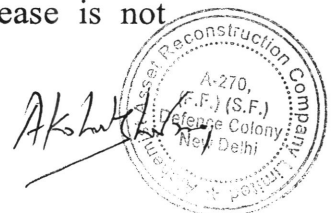
28. The Plaintiff submits that while the above-mentioned civil appeal is pending adjudication before the Hon'ble Supreme Court, in terms of the directions passed, the GCZMA passed an order dated 13.05.2024 *inter-alia* ordering for a part demolition of the structures erected by Defendant Nos. 1 and 2 in the suit property. Pertinent to add that while ordering for part demolition of structures the GCZMA did not identify/specify portions of structures to be demolished.
29. The Plaintiff submits that in order to independently safeguard its legal rights and contentions, the Plaintiff herein has filed before the Hon'ble NGT an appeal being



Appeal No. 144 of 2024 (WZ) challenging the said order dated 13.05.2024, which is pending adjudication as on date.



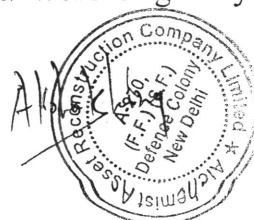
30. In view of the above, the present suit is being filed without prejudice to the grounds on which the Civil Appeal No. 553 of 2024 will be defended by the Plaintiff herein before the Hon'ble Supreme Court, and/ or without prejudice to the grounds on which the Appeal No. 144 of 2024 (WZ) will be pressed by the Plaintiff before the Hon'ble NGT.
31. The Plaintiff submits that it will rely, before this Hon'ble Court, upon the records and proceedings of the OA/15/2023, Appeal No. 144 of 2024 (WZ) before the Hon'ble NGT, and, Civil Appeal No. 553 of 2024 before the Hon'ble Supreme Court at appropriate stage, and, as and when relevant.
32. The Plaintiff submits that records of the present case reveal that the Defendant Nos. 1 and 2 in the capacity of being lessors executed a lease deed dated 12.09.2016 in favour of the Defendant No. 3. The said lease is not



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available with the Plaintiff, however, the Plaintiff has in its possession a copy of the registered lease deed dated 23.09.2020, and the rectification deed dated 23.09.2020, executed between the Defendants. The Plaintiff submits that in the lease deed dated 23.09.2020, the area of House Nos. 438 and 439 have been mentioned as 193 sq. mtrs. each, alongwith a well between the two houses of 100 sq. mtrs. (Total: 486 sq. mtrs.). The Plaintiff submits that since the Defendant Nos. 1 and 2 are legally entitled to only 50 sq. mtrs. in Survey No. 100/10, and without admitting, not more than 79 sq. mtrs. in any case (as per ISLR map), the lease of any area in excess of the same in Survey No. 100/10 is not only fraudulent, but is also mischievous, *malafide* and illegal. Moreover, the illegal occupation of Defendants on the beachfront side of the property is also specifically disputed as the said survey is neither divisioned nor partitioned till date.

33. The Plaintiff submits that the Defendants have been interfering with the Suit property and encroached upon an area much greater than the area they are/ were originally



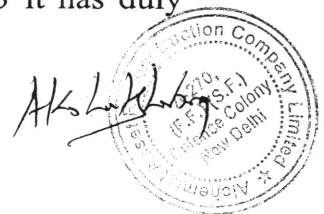
entitled to. Moreover, the Defendant Nos. 1, 2 & 3 have entered into fraudulent unscrupulous lease deeds dated 12.09.2016 and 23.09.2020 and the said deeds are being used to create further encumbrances and encroachments on the suit property.



34. The Plaintiff states that, before proceeding further, the relevant background, material facts and circumstances which impel the Plaintiff to approach this Hon'ble Court are set out herein below.

BACKGROUND OF THE CASE AND THE *LOCUS STANDI* OF THE PLAINTIFF:-

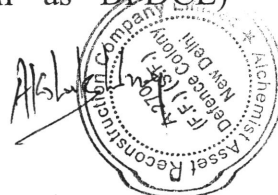
35. The Plaintiff states that the Plaintiff herein is a financial institution, more specifically an asset reconstruction company in terms of Section 3 of the SARFAESI Act, 2002. The Plaintiff is filing the present suit being an asset reconstruction company and also as a Sole Trustee of the 'Alchemist – XVI & XXIX Trusts', *inter-alia* created for the purpose of securitization of the assets, portions of which are subject matter of the present suit. The Plaintiff states that by its resolution dated 06.12.2023 it has duly



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authorized Mr. Akshat Sharma to file the present suit and to sign and verify the pleadings for and on its behalf.

36. The Plaintiff states that the Plaintiff Company was incorporated on 19.09.2002 under the name and style of '*Dhir & Dhir Asset Reconstruction & Securitization Company Limited*'. On 15.03.2007 a certification of registration was issued in favour of the Plaintiff by the Reserve Bank of India under Section 3 of the SARFAESI Act, 2002. Thereafter, the name of Plaintiff Company stood changed from '*Dhir & Dhir Asset Reconstruction & Securitization Company Limited*' to '*Alchemist Asset Reconstruction Company Limited*' on 25.08.2009, and consequently, on 16.12.2009 a certification of registration was issued in favour of the Plaintiff (in its new name) by the Reserve Bank of India under Section 3 of The SARFAESI Act, 2002.
37. The Plaintiff states that the '*Alchemist – XVI & XXIX Trust*' is the exclusive charge holder and the sole mortgagee over the entire assets, moveable as well as immovable, of EDECPL (now known as DPDCL)

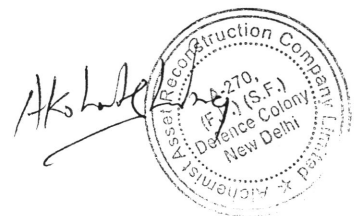




including the larger property comprising 70 survey numbers situated at Village Agonda, Canacona, Goa (hereinafter referred to as "the larger property") admeasuring 3,58,814 sq. mtrs. (approx. 90 acres of land). The details of the said immovable property with reference to the Survey numbers, which are owned by DPDCL, the original title documents whereof are now in the possession of the Plaintiff, and the physical possession whereof is with the Resolution Professional, are already given in para 5 above.

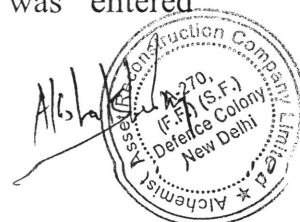
38. The Plaintiff states that the relevant background facts, which are borne out from the official records, show and establish as under:

- a. That, the larger property described above was purchased by various deeds of sale by a company namely 'Elbee Duggal Engineering Company Pvt. Ltd., which was subsequently renamed as 'Dugal Projects Development Company Pvt. Ltd.' (DPDCL).



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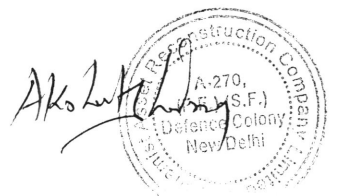
- b. The Plaintiff states that DPDCL as the owner of the larger property executed a lease deed dated 25.11.1987 with one SIMA Hotels Private limited (SHRL) for a period of 98 years, whereby SHRL was put in possession of the larger property.
- c. The Plaintiff states that the records show that SHRL had proposed to construct a five-star hotel on the larger property and had applied for financial assistance from a Consortium of Banks namely IFCI, IDBI and ICICI (predecessors in title of the Plaintiff) and DPDCL was a Corporate Guarantor for the said loans.
- d. The Plaintiff states that the records show that one of the several terms on which financial assistance was agreed to be given to SHRL was that all present and future moveable and immovable properties of DPDCL and SHRL would stand mortgaged to the Financial Institutions (Original Lenders).
- e. The Plaintiff states that the records also show that a loan agreement dated 04.11.1987 was entered





between the above-mentioned Original Lenders and SHRL as the Principal Borrower. In the said agreement, 'Dugal Projects Development Company Private Limited' (DPDCL) was arrayed as a Corporate Guarantor, guaranteeing the loans.

- f. The records show that on 30.06.1988 original title deeds of the aforementioned larger property (*inter-alia* including the Suit Property) were deposited with the Original Lenders by DPDCL creating an equitable mortgage by deposit of title deeds.
- g. The Plaintiff states that the records show that due to default in the repayment of the loan as agreed, the Original Lenders (*viz.* IDBI, IFCI & ICICI) aforementioned, filed a joint suit for recovery of Rs. 6,04,77,858.50 along with interest before the Hon'ble High Court of Bombay (Principal Seat) being Civil Suit No.2654 of 1990 against the Principal Borrower (SHRL), Corporate Guarantor (DPDCL) as well as personal Guarantors.



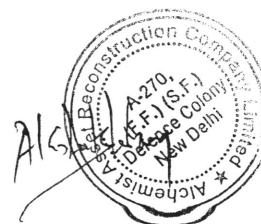
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- h. The Original Lenders/ Plaintiff in Civil Suit No. 2654/1990 had *inter-alia* sought for appointment of a Court receiver in respect of the larger property. The relevant prayer in Civil Suit No. 2654/1990 is quoted herein under:

“h) that pending the hearing and final disposal of the suit, the Court Receiver, High Court, Bombay or some other fit and proper person be appointed receiver of:-

i) the said moveable properties mentioned in Exhibit ‘I’ hereto, and

ii) the said immovable properties mentioned in Exhibit ‘M’ hereto with all powers under Order 40 Rule 1 of Code of Civil Procedure, 1908, with power to take possession thereof and to sell by public auction and/or by private treaty and/or realise and appropriate the net sale proceeds thereof in or towards repayment of the Plaintiff claim in suit;”



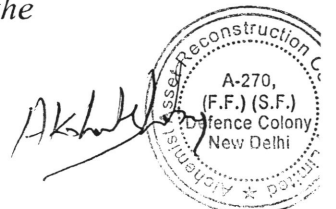


- i. The Plaintiff states that the records show that *vide* order dated 08.07.1991 the Hon'ble High Court, appointed a Court Receiver directing as follows:

"3. Receiver to make an inventory and take symbolic possession of the assets forthwith.

4. Receiver not to take physical possession of the assets if the defendants or any of them deposit in Court a sum of Rs. 50 lacs on or before 30th September 1991 and a sum of Rs. 25 lacs every quarter thereafter, the first of such deposit on or before 30th December 1991 and the subsequent deposits on or before the 30th of each succeeding quarter. In the event of the defendants committing a single default, the Court Receiver to take physical possession of the assets.

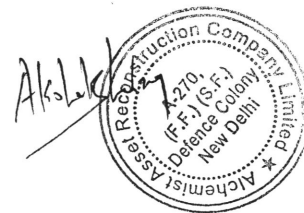
5. The defendant no. 6 is also restrained from taking any steps in respect of the



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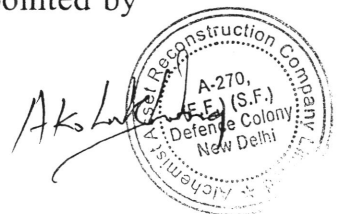
leasehold land mortgaged to the Plaintiff so as to deprive the security of the Plaintiff without leave of the Court.”

- j. The Plaintiff states that the records show that by further order dated 24.07.1991 passed by the Hon'ble High Court, the Court Receiver was directed to take physical possession of the mortgaged properties and accordingly the Court Receiver took over physical possession of the entire larger property, (which includes the undivided and un-partitioned portion of Survey No. 100/10 (part), from DPDCL and SHRL on 09.08.1991). The said order came to be passed in the background that the security guards formerly employed by the Duggal group were not willing to look after the assets, and the said position was not controverted by the any of the Defendants to the said Civil Suit No. 2654/1990.





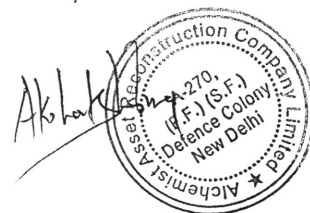
- k. The Plaintiff states that on and from the date of the appointment of the Court Receiver, the entire larger property including the Suit Property became *custodia legis*.
- l. The Plaintiff states that during the pendency of the said CS No. 2654 of 1990, the Recovery of Debts Due to Banks and Financial Institution Act, 1993 (RDDBFI Act), having come into force, the said Civil Suit bearing CS No. 2654 of 1990 came to be transferred to the DRT in the year 2002 and was re-numbered as OA No.224 of 2002.
- m. In the meanwhile, Asset Reconstruction Company of India Limited (ARCIL) took over the debt of ICICI by way of Assignment of Debt on 30.06.2004 under Section 5 of SARFAESI Act and thereafter, being an assignee of ICICI filed its separate OA No. 33/2011 before the DRT.
- n. The Plaintiff states that the records show that even after the transfer of the said Suit No. 2654/1990 to the DRT, the Official Court Receiver appointed by



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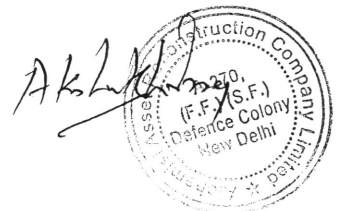
the Hon'ble High Court continued as the receiver of the larger property including the suit property.

- o. The Plaintiff states that by a common judgement and decree dated 06.05.2011, passed by DRT-II, Mumbai, the OA No. 224/2002 (earlier CS No. 2654 of 1990) as well as OA No. 33/2011 came to be decided in favour of the original lenders. The DRAT Appeals bearing Nos. 164/11 and 166/11, and the Appeal No. 68/2013 filed by the Corporate Guarantor i.e. 'Dugal Projects Development Co. Pvt. Ltd.' (DPDCL) were dismissed by the Hon'ble Debts Recovery Appellate Tribunal at Mumbai (Hon'ble DRAT) on 28.10.2015, and the other Appeal No. 23/13 filed by DPDCL was dismissed by the Hon'ble DRAT on 04.02.2017. Thus, the Judgment and Decree dated 06.05.2011 passed by the DRT attained finality *inter se* the original lenders and the Principal Borrower and the Corporate Guarantor.





- p. The Plaintiff states that thereafter Recovery Certificates No. 187/2011 and 14/2013 were issued in favour of the Original Lenders/ predecessors of the Plaintiff herein, which are pending and the dues of the Plaintiff have not been satisfied as on date.
- q. The Plaintiff states that all the rights of the original lenders were assigned in favour of the Plaintiff herein by virtue of the following agreements of assignments;
- i) By assignment agreement dated 13.10.2014, IFCI assigned all its rights, title and interest to the Plaintiff.
 - ii) By assignment agreement dated 30.06.2004, ICICI assigned its rights to ARCIL. Thereafter, ARCIL by an assignment agreement dated 26.02.2016 assigned all its rights, title and interest to the Plaintiff.
 - iii) By assignment agreement dated 24.03.2017, IDBI assigned all its rights, title and interest to the Plaintiff.



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- r. The Plaintiff states that by virtue of the aforesaid Agreements of Assignment dated 13.10.2014, 26.02.2016 & 24.03.2017, the rights of the Original Lenders came to be assigned in favour of the Plaintiff and the Plaintiff became the sole and exclusive charge holder/ mortgagee of the entire assets owned by DPDCL. The Plaintiff states that consequent to the said assignment, the Plaintiff stepped into the shoes of the Original Lenders for all legal effects.
- s. The Plaintiff states that in due course, the Plaintiff filed before the Hon'ble NCLT, Mumbai, an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the Principal Borrower i.e. SHRL bearing No. C.P.(IB)-2528(IB)/MB/2018, and against the Corporate Guarantor i.e. DPDCL bearing No. C.P.(IB)-2527(IB)/MB/2018. The said Insolvency Proceedings bearing C.P.(IB)-2528(IB)/MB/2018





filed against the Principal Borrower were dismissed on technical grounds. However, in so far as the Corporate Guarantor i.e. DPDCL, the C.P.(IB)-2527(IB)/MB/2018 was admitted by the Hon'ble NCLT *vide* order dated 08.05.2019. By way of the said order, an Interim Resolution Professional (IRP) namely Shri Arunava Sikdar was appointed to carry out the functions as prescribed under the IBC, 2016. The said IRP was later confirmed as a Resolution Professional (RP) by the Committee of Creditors of DPDCL in their meeting held on 07.06.2019.

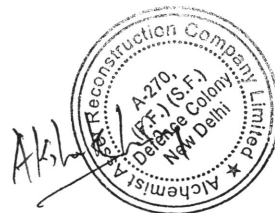
- t. The Plaintiff states that pursuant to the appointment, the said RP issued public announcement in The Free Press Journal (Mumbai Edition) in English language, in Navshakti newspaper in Marathi language, in Times of India (Goa Edition) in English language, and in Goa Doot newspaper in Konkani language, all dated 11.05.2019, which was also uploaded on the official



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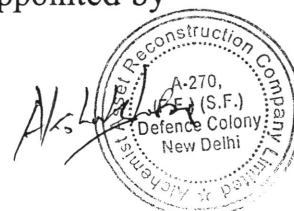
website of the Insolvency and Bankruptcy Board of India (IBBI).

- u. The Plaintiff states that in furtherance of the order dated 08.05.2019 appointing the RP and in due discharge of his duties more particularly under Section 18(f) of IBC 2016, the RP issued various communications including letter to (i) SHO, Canacona Police Station, dated 12.06.2019 (ii) Village Panchayat, Canacona, Goa, dated 18.06.2019 (iii) Sarpanch, Canacona, Goa, dated 12.06.2019 and (iv) Deputy Collector, Goa, dated 12.07.2019 seeking necessary assistance from the said authorities for revoking the licenses/ permissions/ approvals etc., granted to encroachers on the area of land owned by DPDCL, alongwith seeking that no further licenses/ permissions/ approvals etc. be issued to the encroachers on the area of land owned by DPDCL, without their express consent/ approval.





- v. The Plaintiff states that pursuant to the appointment of the RP by the aforesaid order dated 08.05.2019 passed by the Hon'ble NCLT, the possession of the larger property including the Suit Property was handed over to the RP by the Court Receiver attached to the Hon'ble High Court on 23.07.2019 in terms of the order dated 10.07.2019 passed by the Hon'ble High Court on the Court Receiver's Report No. 121 of 2019 in Civil Suit No. 2654 of 1990.
- w. The Plaintiff states that in pursuance of the above directions of the Hon'ble High Court in its order dated 10.07.2019, the Court Receiver handed over physical possession of the larger property including the Suit Property to the IRP on 23.07.2019 on "*as is where is basis*" and "*as is what is basis*".
- x. The Plaintiff states that the record shows that the RP inspected the larger property including the Suit Property and found that while the property was *custodia legis* with the Court Receiver appointed by



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the Hon'ble High Court, several unauthorized structures had come up on the larger property. The Plaintiff states that the records show that the RP approached the Hon'ble NCLT by way of an application bearing MA No. 3257 of 2019 seeking appropriate directions. By order dated 10.10.2019 the Hon'ble NCLT, *inter-alia* directed as follows:

"In view of the circumstances stated above, we hereby allow MA 3257/2019 and direct the local district administration/ police authorities, SHO Canacona, Malmadar Canacona, Panchayat Agonda and SP South Goa to extend assistance to the Applicant in removal of the illegal encroachment upon the land of the Corporate Debtor, situated at village Agonda, Taluka Canacona, Goa."





- y. The Plaintiff states that the orders of the NCLT dated 10.10.2019 were brought to the notice of the various authorities including the GCZMA.
- z. The Plaintiff states that in the meanwhile the Insolvency proceedings under the IBC have been dismissed by the Hon'ble National Company Law Appellate Tribunal, New Delhi (Hon'ble NCLAT) by order dated 07.03.2022 on the limited ground of limitation as applicable to the said legislation. The Plaintiff has filed an appeal bearing Civil Appeal No. 2786 of 2022 (*Alchemist Asset Reconstruction Company Ltd. Vs. Sh. Raju Chappakal Pappu & Ors.*) before the Hon'ble Supreme Court wherein the Hon'ble Supreme Court has been pleased to grant an order of *status quo* as regards the possession of the larger property which includes the suit property herein, by its order dated 18.04.2022. The said civil appeal is pending as on date.
- aa. The Plaintiff states that although by the judgment dated 07.03.2022 passed by the Hon'ble NCLAT in



Company Appeal (AT) (Insolvency) No. 681 of 2019, titled *Sh. Raju Chappakal Pappu & Anr. Vs. Sh. Arunava Sikdar, Resolution Professional of Dugal Projects Development Company Private Ltd. & Anr.*, the order dated 08.05.2019 passed by the Hon'ble NCLT has been set aside, the physical possession of the larger property continues to be held by the RP and the application dated 04.04.2022 filed by him seeking directions for handover of the larger property including the Suit Property is pending adjudication before the NCLT, Mumbai. While the said application was pending adjudication, the Hon'ble Supreme Court *vide* the aforesaid order dated 18.04.2022 directed *status quo* to be maintained.

39. Reverting to the present case, the Plaintiff submits that the records reveal that by Sale Deed No. 142/82 dated 28.06.1982, one Mrs. Janaki Devappa Dessai, and 4 other persons collectively sold their one third shares in several properties bearing Matriz No. 82, 84, 85, 87 and 89 of the





Taluka Revenue Office Canacona Taluka, which correspond to survey No. 100/14 and 100/10, together admeasuring 7200 sq. mtrs. to 'Elbee Dugal Engineering Co. Pvt. Ltd.' (later name changed to 'Dugal Projects Development Company Pvt. Ltd.'). The original of the said sale deed was deposited by DPDCL with the Original Lenders by way of an equitable mortgage, regarding their following share:

"One third of the property denominated Valla, situate at Agonda, Village Panchayat of Agonda, Taluka and Sub-District of Canacona, District of Goa, not described in the land Registration Office at Salcete and enrolled in the Taluka Revenue Office Canacona under matriz no. 82 and bounded on:

the EAST : - Valla of Lximona Paico Naique

the WEST:- Valla of Loximona Paico Naique

the NORTH:- Valla of Loximona Paico Naique

the SOUTH:- Rio que separa Valla de Xencor

Loximona e outros, e Purso



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Govind Naique e outros

ONE THIRD of the property denominated valla situate at Agonda, Village Panchayat of Agonda, Taluka and Sub-District of Canacona, District of Goa, not described in the land Registration Office at Salcete and enrolled in the Taluka Revenue Office Canacona under matriz no. 84 and bounded on:



the EAST : - Valla of Loximona Paico Naique

the WEST:- Esquina que separa Valla de

Devappa Putu Naique e outros

the NORTH:- Valla de Loximona Naique digo

Loximona Paioo Naiquo

the SOUTH:- Valla of Devapa Naique and

Loximona Paioo Naique

ONE THIRD of the property denominated Valla Palmar situate at Agonda, Village Panchayat Agonda, Taluka and Sub-District of Canacona, District of Goa, not described in the Land Registration Office at



*Salcete and enrolled in the Taluka Revenue Office
Canacona under matriz no. 85 and bounded on:*

*the EAST : - Esquina que separa Valla de Devopa
Putu Naique e Loximona Paico
Naique*

the WEST:- Praias,

the NORTH:- Valla of Loximona Paico Naique

*the SOUTH:- Valla of Loximona Paico Naique and
Devapa Putu Naique*

*ONE THIRD of the property denominated Valla
Palmar situate at Agonda, Village Panchayat Agonda,
Taluka and Sub-District of Canacona, District of Goa,
not described in the Land Registration Office at
Salcete and enrolled in the Taluka Revenue Office
Canacona under matriz no. 87 and bounded on:*

*the EAST :- Valla of Loximona Paico Naique and
rio que separa Valla of Shiva Naraina
e outros,*



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the WEST:- Valla of Loximona Paico Naique,
the NORTH:- Valla of Devopa Naique e outros,
the SOUTH:- Rio que separa Valla de Shiva Naraina
Naique e outros e Valla de Balsu,
vitoba Naique.



ONE THIRD of the property denominated Palmar
situate at Agonda, Village Panchayat Agonda, Taluka
and Sub-District of Canacona, District of Goa, not
described in the Land Registration Office at Salcete
and enrolled in the Taluka Revenue Office Canacona
under matriz no. 89 and bounded on:

the EAST : - Valla de Loximona Paico Naique
the WEST:- Praias
the NORTH:- Valla de Devapa Putu Naique e outros,
the SOUTH:- Rio que separa valla de Purso
Govindo Naiqu.

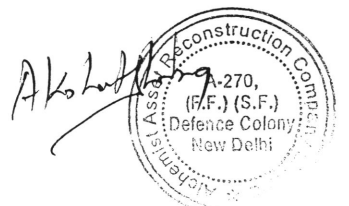
THE ONE THIRD share all the above properties having
an area of 7200 sq. meters of beach land is commonly



surveyed under survey nos. 100 sub-division 14, 100 sub-division 10, of Agonda Village of Canacona Taluka."



40. The Plaintiff states that the above-mentioned original sale deed is presently in the possession of the Plaintiff in the capacity of being the sole secured mortgagee of assets of DPDCL, and as per the knowledge of the Plaintiff, the said registered sale deed has not been challenged till date.
41. The Plaintiff further states that presently, the name of Smt. Janaki Devappa Dessai appears on the Form I & XIV relating to Sy. No. 100/10, and that the names of (i) Shashikala Vasant Aigal *alias* Kalpana Mohan Dessai; (2) Vinodkumar Vasant Aigal, and, (3) Vismaya Vasant Aigal *alias* Reshma Ramesh Naik appear on the Form I & XIV relating to Sy. No. 100/14.
42. The Plaintiff states that at the time of execution of the sale deed in favour of Elbee Dugal Engineering Company Pvt. Ltd. / DPDCL, the property surveyed under Survey No. 100/10 admeasured 5350 sq. mtrs. and the property surveyed under Survey No. 100/14 admeasured 1900 sq.

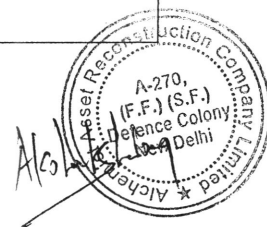


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mtrs., the total area under the two survey numbers being 7250 sq. mts.

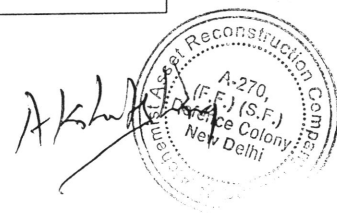
43. The Plaintiff states that since the entire area admeasuring 1900 sq. mts. in Sy. No. 100/14 was sold to DPDCL, therefore, an area admeasuring 5300 sq. mts. was sold to DPDCL in Sy. No. 100/10 under the Sale Deed dated 28.06.1982 thereby leaving, by necessary implication, an area of 50 sq. mts. only in favour of 'Ms. Maria Fernandes' (which corresponds to the residential house belonging to Ms. Maria Fernandes, as recorded in the relevant Form I & XIV.)
44. For the sake of convenience of this Hon'ble Court, a tabulation of areas of the two Survey Nos. i.e. 100/10 & 100/14, as sold under the aforesaid Sale Deed No. 142/82 dated 28.06.1982, are as under:

S.NO.	PARTICULARS	AREA (IN SQ. MTS.) OF	REMARKS





		LAND AS PER FORM I & XIV	
1.	Total Land under Sy. No. 100/10	5350	In the other rights column, there is a mention of Ms. Maria Fernandes having a house.
2.	Total Land under Sy. No. 100/14	1900 (A)	Nil
3.	Total land under Survey Nos. 100/10 & 100/14	7250	Nil
4.	Land under Sy. No. 100/10 & 100/14 sold to Elbee Dugal Engineering Company	7200 (B)	



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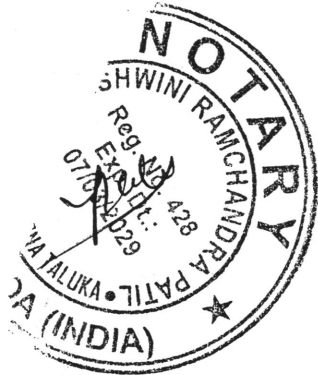
	Private Limited (Now 'DPDCL') <i>vide</i> common registered Sale Deed No. 142/82 dated 28.06.1982		
Land sold/ available to Elbee Dugal Engineering Company Private Limited (Now 'DPDCL') under Sy. No. 100/10 (B - A)			5300



45. The Plaintiff states that based on the aforementioned, the following picture emerges as regards the ownership structure of DPDCL *vis-a-vis* Survey No. 100/10 of Village Agonda, Canacona, Goa: -

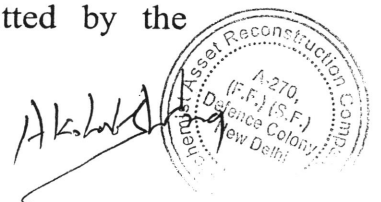
S.NO.	PARTICULARS OF LAND OWNERS	LAND UNDER SURVEY NO. 100/10 (SQ. MTRS.)	REMARKS





1.	Area as per Form I & XIV	5350	
2.	Original sole owner – Ms. Janaki Devappa Dessai	5300	Sold to DPDCL vide registered Sale Deed dated 28.06.1982
3.	A residential house in the name and occupation of Ms. Maria Fernandes	50	

46. The Plaintiff submits that the areas, calculated and tabulated above for convenience, demonstrate that the balance land available under Survey No. 100/10 by implication is only 50 sq. mtrs. which has been inherited by Defendant Nos. 1 and 2 (being the successors of Late Ms. Maria Fernandes). However, the Plaintiff will demonstrate below the illegalities committed by the



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Defendants in having apportioned to themselves an area much in excess of 50 sq. mtrs. in Survey No. 100/10.

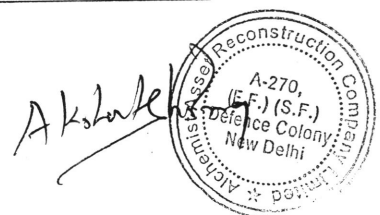
47. The Plaintiff states that there are apparent discrepancies in the plinth areas shown in Panchayat NoCs, GCZMA site reports/ minutes and the lease deeds executed by Defendants No. 1 & 2 with Defendant No. 3. For the ready and kind perusal of this Hon'ble Court, a comparative chart showing the discrepancies in the area as per the sale deed and in the plinth area as per Panchayat NoCs, the GCZMA site reports/ minutes and the lease deeds signed by Defendant Nos. 1 and 2 with Defendant No. 3, etc., are as under:

S. No.	Particulars	Remarks
1.	Area available to Ms. Maria Fernandes in Sy. No. 100/10	50 sq. mtrs. (house)
2.	Area as per Panchayat NoCs: (i) Area for which Panchayat NoC dated 09.05.1984 was	338 sq. mtrs. of





<p>purportedly issued for House No. 438 in favour of Defendant No. 2 (It seems to be fraudulent back dated document created in 2023).</p>	<p>plinth area</p>
<p>(ii) Area for which Panchayat NoC dated 30.03.1985 was purportedly issued for House No. 439 in favour of Late Smt. Maria Fernandes (mother of Defendant No. 1)</p>	<p>465 sq. mtrs. of plinth area</p>
<p>(iii) Area for which Panchayat NoC dated 30.03.1985 was purportedly issued for wooden structure of House No. 439 in favour of Late Smt. Maria Fernandes (mother of Defendant No.</p>	<p>250 sq. mtrs.</p> <hr style="border-top: 1px dashed black;"/> <p>Total: 1053 Sq. Mts.</p>



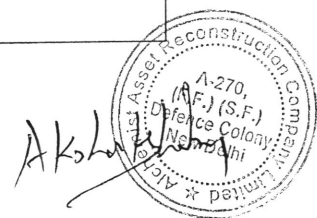
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	1)	
3.	<p>Area as per GCZMA permissions:</p> <p>(iii) Plinth area found on ground by the Expert Member of GCZMA during site inspection and the plinth area sanctioned by GCZMA <i>vide</i> permission dated 04.04.2017 for H. No. 438;</p> <p>(iv) Plinth area found on ground by the Expert Member of GCZMA during site inspection and the plinth area sanctioned by GCZMA <i>vide</i> permission dated 04.04.2017 for H. No. 439.</p>	<p>217.60 sq. mtrs. of plinth area</p> <p>193.48 sq. mtrs. of plinth area</p> <hr/> <p>Total: 411.08 Sq. mts.</p>
4.	Area as per lease deed dated 23.09.2020:	





	(i) House No. 438 as mentioned in the lease deed dated 23.09.2020	193
	(ii) House No. 439 as mentioned in the lease deed dated 23.09.2020	193
	(alongwith a well between the two houses)	100
	(iii) Shade	Total: 486
		Sq. mts.
5.	Actual constructed area actually in occupation as per Joint Site Inspection Report dated 14.03.2023:	
	(i) RCC Structure 'A'	338
	(ii) RCC Structure 'B'	462
	(iii) GI Tube/ Pipe Shed area	108
	(iv) Wooden Shed area	252

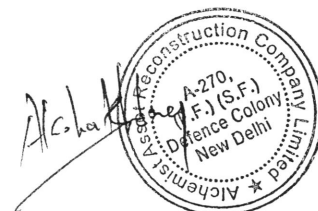


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		<p>-----</p> <p>Total: 1160</p> <p>Sq. mts.</p>
--	--	---



48. The Plaintiff submits that it is apparent from the above that the said NOCs dated 09.05.1984 and 30.03.1985 from the Panchayat are manipulated, back dated forged and fabricated documents issued/ obtained which have surfaced for the first time in 2024 to subserve the malicious design and motive of the Defendants to grab and usurp the land over which they have no right or title. Without admitting, and, without prejudice to the rights of the Plaintiff to challenge the veracity of the said documents, it is submitted that neither the Village Panchayat nor the GCZMA have any authority to determine the legality of occupation of land by the Defendants, yet certificates and permissions issued by them are being misused by the Defendants to claim ownership over a portion of the Suit Property.

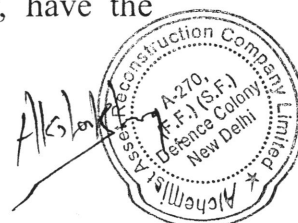


49. The Plaintiff further submits that ready acceptance of the aforesaid Panchayat NOCs by GCZMA which were produced for the first time in the course of Joint Site Inspection ordered by Hon'ble NGT, shows total non-application of mind and abdication of responsibility.
50. The Plaintiff submits that the act of issuance by Panchayat and acceptance by GCZMA of the said manipulated, concocted, forged and fabricated NoCs and permissions shows their complicity and collusion with the Defendants. The said collusion is further apparent from a perusal of the Joint Site Inspection Report dated 10.04.2023 where a representative of GCZMA was present at the time of site inspection, however, the said representative failed to point out/ highlight the area discrepancies between the Panchayat NoCs and the GCZMA permissions.
51. Further, evidently, there has been a manipulation on the part of the Defendants, with or without connivance of officials of Panchayat/ GCZMA, in blatantly usurping of land and operating a full-fledged commercial resort without any valid permission/ authority whatsoever.



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52. The Plaintiff states that as detailed above, the Defendant Nos. 1 and 2 (through the mother of Defendant No. 1 - Late Ms. Maria Fernandes) are entitled to only a house structure measuring maximum 50 sq. mtrs. in Sy. No. 100/10. Further, without admitting, even if we go by the Site Plan prepared by the Inspector of Survey & Land Records, there were two structures measuring 47 sq. mtrs. and 32 sq. mtrs. respectively, aggregating to 79 sq. mtrs. Thus, by any stretch, without prejudice, any occupation of land in Survey No. 100/10 by the Defendant Nos. 1 and 2 over and above 79 sq. mtrs. is illegal and ought to be enjoined by this Hon'ble Court.
53. The Plaintiff further states that the purported Panchayat NoCs and the GCZMA permissions/ minutes do not confer any title to the Defendants in any manner and the question of title has not even been gone into while issuing the said NoCs/ Permissions etc.
54. The Plaintiff states that the actions of the Defendants in constructing and operating illegal commercial structures on the mortgaged land i.e. the suit property, have the





effect of diminishing and prejudicially affecting the mortgagee rights of the Plaintiff thereby giving rise to a cause of action in favour of the Plaintiff. The Plaintiff being the sole secured mortgagee of the assets of DPDCL has an inherent and exclusive right to protect its interest in the suit property against any kind of external threat of alienation, wastage, damage or diminution in value.

55. The Plaintiff states that the said lease deeds dated 12.09.2016 and 23.09.2020, and the rectification deed dated 23.09.2020, are being used against the Plaintiff herein and are creating obstacles in the way of the Plaintiff realising its security interests.
56. The Plaintiff states that the lease deeds dated 12.09.2016 and 23.09.2020, and the rectification deed dated 23.09.2020, are void and unenforceable against the Plaintiff and the conduct of the Defendants clearly demonstrates that the said lease(s), if allowed to subsist, would cause serious and irreparable injury preventing the Plaintiff from realising its security interest. Hence, the Plaintiff would be entitled to an order from this Hon'ble

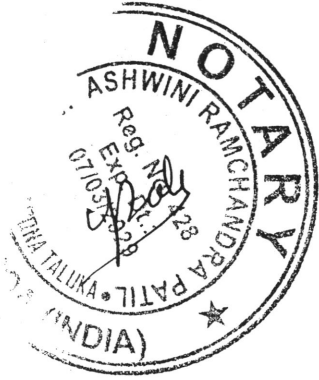


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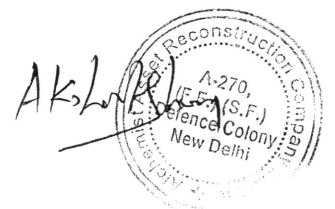
Court declaring that the lease deed dated 12.09.2016 and lease deed dated 23.09.2020 registered in Book-1 under No. CAN-1-119-2022 in the office of Sub-Registrar, Canacona, Goa, and the rectification deed dated 23.09.2020 registered in Book-1 under No. CAN-1-118-2022 in the office of Sub-Registrar, Canacona, Goa, is null and void.

57. The Plaintiff respectfully submits that in the event the submissions of the Plaintiff finds favour with this Hon'ble Court, that the said lease deed is a void document, the Plaintiff would be entitled to a declaration/ direction from this Hon'ble Court ordering the Defendant No. 3 to have the original of the same delivered up to the Plaintiff and to have the same cancelled.
58. The Plaintiff states that the preservation and protection of the suit property by way of a permanent injunction and restraining the Defendants from interfering with the suit property in any manner whatsoever, is necessary for protection of the Plaintiff's rights and interests as the sole and exclusive mortgagee.





59. The Plaintiff respectfully states that if the unauthorized structures are permitted to be illegally (commercially) utilized on the suit property, the value of the larger property will be irreparably diminished. The said larger property which includes undivided & un-demarcated portion of Survey No. 100/10 has been in the possession of the Court receiver and subsequently in the control and possession of the RP and the Defendants have no right to enter upon the said property. The Plaintiff states that once such permanent constructions are permitted to be illegally operated, it will also lead to environmental degradation and it will be impossible to restore the beach to its pristine original condition thereby ruining the ecologically sensitive area, being a designated turtle nesting site and falling under No Development Zone (NDZ) category as per the prevailing CRZ Regulations. The Plaintiff states that if the illegal commercial operations of the said structures are not injuncted by this Hon'ble Court, the Plaintiff will be unable to recover the amounts due to it under the aforementioned decree dated 06.05.2011.



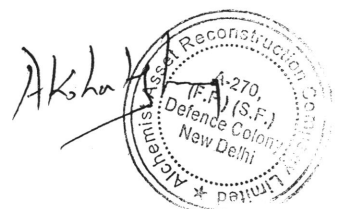
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60. The Plaintiff states that the cause of action for the purpose of filing the present suit arose for the first time in the month of June, 2022, when the officials of the Plaintiff noticed erecting of huge structures on suit property under the name of '*Dream Discovery Sea View Resort & Beach Café*'. Cause of action also arose on 23.12.2022 when the Plaintiff received the DGPS aerial survey report and received information regarding the extent of illegal occupation of the Suit Property by the Defendants. Cause of action also arose when the Plaintiff found out through Google search that the Defendants have commenced operations in full swing and are running a full-fledged beach resort. Cause of action also arose when the Joint Site Inspection Report dated 10.04.2023 was made available to the Plaintiff which report unequivocally confirms the extent of illegal occupation of the Suit Property by the Defendants. The cause of action is a continuing cause of action as the Defendants are continuing their attempts to interfere with the suit property. The cause of action is still continuing and subsisting as on date.



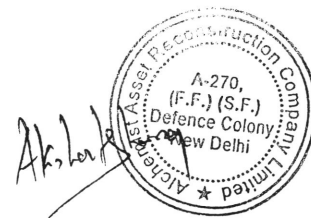


61. The Plaintiff states that the Court Receiver and thereafter the Resolution Professional would be entitled to all profits made by the Defendants through such illegal activities, upon the lands which were *custodia legis* and now in possession of the RP.
62. The Plaintiff states that the Defendants would be liable to restore all profits unlawfully earned as well as *mesne* profits for the wrongful use of the property which was *custodia legis*.
63. The Plaintiff, in the capacity of being the sole secured creditor of the DPDCL having exclusive charge / mortgage over the entire assets of DPDCL, including the suit property, is filing the present suit seeking a decree of permanent and mandatory injunction to restrain the Defendants, their legal representatives, assignees, successors-in-interest and/or any other restructured, amalgamated or de-merged entities and/ or any other institution or designated authority acting for and on their behalf from interfering with the suit property in any way whatsoever.



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64. The Plaintiff respectfully submits that it is entitled to be protected and its rights and interest safeguarded by grant of permanent as also temporary injunction, as prayed for.
65. The Plaintiff submits that the present suit is being filed to protect its rights, title and interest acquired by it under the Deeds of Assignments dated 13.10.2014, 26.02.2016 and 24.03.2017.
66. The Plaintiff has not received any notice of caveat from the Defendants or any one of them.
67. That, for the purposes of court fee and jurisdiction, prayer clause (A) is valued at Rs. ~~2,050,000~~, prayer clause (B) is valued at Rs. 2, 67, 50, 000, prayer clause (C) is valued at Rs. 500, prayer clause (D) is valued at Rs. 500, prayer clause (E) is valued at Rs. 500, prayer clause (F) is valued at Rs. 87, 50, 000, and prayer clause (G) is valued at Rs. 87, 50, 000, and maximum court fees of Rs. 31, 230/- (Rupees Thirty-One Thousand Two Hundred and Thirty only) is paid herewith.



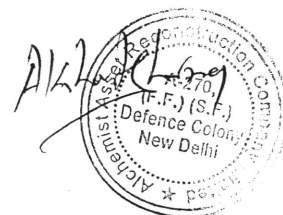


68. The suit property is situated at Village Agonda, Canacona Taluka, Goa and this Hon'ble Court has the territorial pecuniary jurisdiction, to hear and decide the present suit.
69. That, the suit is accompanied by an Affidavit of the Plaintiff in support and all the relevant documents. The Plaintiff craves leave to file further documents as may come to its knowledge from time to time.
70. That, no other or similar suit or petition has been filed by the Plaintiff before this Hon'ble Court or any other Court or Hon'ble Supreme Court of India seeking the same relief(s).
71. For the purpose of service, the address of the parties is as mentioned in the memo of parties as annexed to this suit.

PRAYER

That in light of the aforesaid facts and circumstances, it is therefore respectfully prayed that this Hon'ble Court may kindly be pleased to:

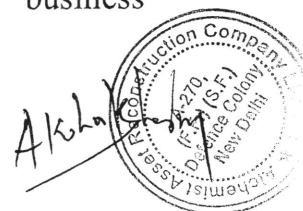
- A. Pass a judgement and decree declaring that the Defendant Nos. 1 and 2 are not entitled to an area of land exceeding



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50 sq. mtrs. in the Suit Property i.e. property surveyed under Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa;

- B. Pass an order directing the Defendants to vacate and handover the possession of the area occupied in excess of 50 sq. mtrs. in Survey No. 100/10 of Village Agonda, Canacona, Goa, to the Court Receiver/ Resolution Professional of 'Dugal Projects Development Co. Ltd.' (DPDCL), as the case may be, and/ or to their successors-in-interest;
- C. Pass a judgement and decree of permanent and mandatory injunction against the Defendants, their legal heirs, representatives, servants, agents, employees and/ or any other person acting for and on their behalf, restraining them from further encroaching and/ or in any manner interfering with the Suit Property, including but not limited to erecting structures thereon, creating third party rights/ interests and also from carrying business therefrom;



- D. Pass a judgement and Decree of permanent and mandatory injunction directing the Defendants to demolish all existing structures on the suit property, and to remove the material stacked at the site of the suit property thereby restoring the land/ suit property to its original condition;
- E. Pass a judgment and decree to declare that the Deeds of Lease dated 12.09.2016, 23.09.2020 and Rectification Deed dated 23.09.2020 do not confer any right on the Defendant No. 3 in respect of the Suit Property;
- F. Pass a judgment and decree of declaration that the lease deed dates 23.09.2020 registered in Book-1 under No. CAN-1-119-2022 in the office of Sub-Registrar, Canacona, Goa, be declared null and void and the original of the same be directed to be delivered up to the Plaintiff;
- G. Grant judgment and decree of declaration in favour of the Plaintiff that the rectification deed dated 23.09.2020 registered in Book-1 under No. CAN-1-118-2022 in the office of Sub-Registrar, Canacona, Goa, executed between



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Defendants, be declared null and void and the original of the same be directed to be delivered up to the Plaintiff;

H. Costs;

I. Pass any such other and further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice, in favour of the Plaintiff and against the Defendants.



Plaintiff

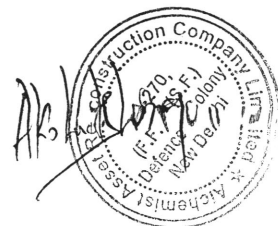
Advocate for the Plaintiff

Place: Morgao, Goa

Dated: 10.10.2024

VERIFICATION

I, AKSHAT SHARMA, Son of Sh. S.K. Sharma, major, age 36 years, Indian National, working for gain with the Plaintiff



abovenamed at its Registered office at A-270, 1st and 2nd floor, Defence Colony, New Delhi – 110 024, do hereby verify and state that the contents of Paragraphs Nos. 1(p), 2, 3, 4(p), 5-37, 38(a) – 38(aa), 39-55, 56(p), 57(p), 58(p), 59(p), 60(p), 61(p), 62(p), 63(p), 64(p), 65, 66, 67(p), 68(p), 69(p), 70 and 71 are true to my knowledge and/or based on records, and, the contents of Paragraphs Nos. 1(p), 4(p), 56(p), 57(p), 58(p), 59(p), 60(p), 61(p), 62(p), 63(p), 64(p), 67(p), 68(p), and 69(p), are legal submissions and/or inferences of facts, which I believe to be true.



Akshay Singh
 DEPONENT
 (Signature of Akshay Singh over a circular stamp of Akshay Singh & Co. Chartered Accountants, Delhi)

Solemnly verified at Canacora,

On this 10th day of October, 2024

Identified by me:

(Signature of Advocate for the Plaintiff)
 10/31/24

(Advocate for the Plaintiff)

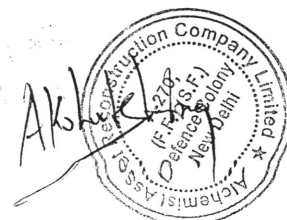
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AFFIDAVIT

I, **AKSHAT SHARMA**, Son of Sh. S.K. Sharma, major, age 36 years, Indian National, working for gain with the Plaintiff above named at its Registered office at A-270, 1st and 2nd floor, Defence Colony, New Delhi – 110 024, do hereby on solemn affirmation state and submit as under: -



- 1) I say that I have filed today the accompanying suit before this Hon'ble Court.
- 2) I say that the annexures to the accompanying suit are the true copies of its originals.
- 3) I say that what is stated by me in Paragraphs Nos. 1(p), 2, 3, 4(p), 5-37, 38(a) – 38(aa), 39-55, 56(p), 57(p), 58(p), 59(p), 60(p), 61(p), 62(p), 63(p), 64(p), 65, 66, 67(p), 68(p), 69(p), 70 and 71 are true to my knowledge and/or based on records, and, the contents of Paragraphs Nos. . 1(p), 4(p), 56(p), 57(p), 58(p), 59(p), 60(p), 61(p), 62(p), 63(p), 64(p), 67(p), 68(p), and 69(p), are legal submissions and/or inferences of facts, which I believe to be true.



4) I say that what is stated by me in Paragraphs 1, 2, and 3 above is true to my own knowledge.



Akshat
DEPONENT

Solemnly verified at Canacona

On this 10th day of October, 2024

Identified by me:

(Advocate for the Plaintiff)



Solemnly affirmed before me by
Mr/Mrs. Akshat sharma

Mr/Mrs.

On this 10th day of 10 2024

ADV. ASHWINI RAMCHANDRA PATIL
NOTARY

CANACONA TALUKA
State of Goa (India)

10/10/2024

10/10/2024

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

Original Application No. _____ of 2023

BETWEEN

ALCHEMIST ARC LTD.

THROUGH MR AKSHAT SHARMA

AUTHORIZED REPRESENTATIVE

...Appellant

v/s

GCZMA & ORS

...Respondents

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PLACE: New Delhi

DATE: 02.02.2023


 Advocate for the Appellant

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

Original Application No. _____ of 2023 (WZ)

BETWEEN

Alchemist Asset Reconstruction Company Ltd.

Through Mr. Akshat Sharma ...APPLICANT

v/s

Goa Coastal Zone Management Authority & Ors

...RESPONDENTS

CHRONOLOGY OF DATES AND EVENTS

DATE	EVENT
	The Applicant herein is constrained to file the present Original Application against the multiple illegal constructions, expansions, encroachment and commercial operation of resort/hotel/restaurant known as " Dream Discovery Sea View Resort & Beach Cafe " by the Respondent No. 2, in the property bearing survey no. 100/10 of village Agonda, Canacona - Goa . The said construction has been carried out in violation of the CRZ Regulations, 2011 and the said property is entirely within No Development Zone.
28.06.1982	By sale deed dated 28.06.1982, one Mrs. Janaki Devappa Dessai, and 4 other persons collectively

	<p>sold their one third shares in several properties bearing Matriz No. 82, 84, 85, 87 and 89 of the Taluka Revenue Office Canacona Taluka, which correspond to survey No. 100/14 and 100/10, together admeasuring 7200 sq. metres to 'Elbee Dugal Engineering Co. Pvt. Ltd.' (later name changed to 'Dugal Projects Development Company Pvt. Ltd.'). The sale deed does not mention existence of any structure existing therein.</p> <p>By virtue of the said Sale deed, DPDCL became the owner of the 5300 sq. mts. out of the total 5350 sq. mts. of the demised property and the said entire area of 5300 sq. mts. of land in the demised property is mortgaged exclusively in favour of the Applicant.</p> <p>In the remainder 50 sq. mts. of the demised property, there apparently existed only one small structure occupied by one 'Ms. Maria Fernandes'. Ms. Maria Fernandes is survived by her son Mr. Selso Fernandes and daughter in law Ms. Concecao Fernandes, the Respondent No. 3 and 4.</p>
25.11.1987	<p>The Applicant Company is an Asset Reconstruction Company and has acquired the debts from the original lenders of a company namely 'Dugal Projects Development Company Pvt. Ltd.', (DPDCL). The Appellant now is a sole</p>

	financial lender of DPDCL with whom all the parcels of land aggregating 3,58,814 sq. mtr. At Village Agonda, Canacona, Goa, which are owned by DPDCL are mortgaged.
August 1990	Civil Suit before the Hon'ble High Court of Bombay seeking recovery of a total amount of Rs. 6, 04, 77, 858.50 by Financial Creditors
July 1991	Hon'ble High Court of Bombay appointed a Court Receiver to take possession of the property belonging to the DPDCL.
30.06.2004	ICICI Assigned its debt to ARCIL.
28.09.2006	DRT Mumbai also recorded the same that the possession of the property belonging to the DPDCL is taken over by the Court Receiver
14.11.2008	Alleged consent decree arrived at between the Plaintiffs and Defendants to Special Civil Suit No. 21 of 2007.
06.05.2011	The Civil Suit No. 2654 of 1990 was transferred to the Debts Recovery Tribunal, Mumbai (hereinafter referred to as 'DRT') which was renumbered as OA No. 224 of 2002 was decreed
13.10.2014	IFCI assigned to the Appellant.
26.02.2016	ARCIL assigned to the Appellant.
24.03.2017	IDBI assigned to the Appellant.
21.03.2017	In the 144 th meeting of the Respondent No. 1 held on 21.03.2017, the Respondent No. 1 granted permission of reconstruction of house to the

	Respondent No. 3. This was done by way of two applications, one for the structure bearing H. No. 438 stated to be admeasuring 217.6 sq. mts. and another for the structure bearing H. No. 439 stated to be admeasuring 193.48 sq. mts.
04.04.2017	Mr. Sello Fernandes was issued a letter dated 04.04.2017 bearing Ref No. GCZMA/S/16-17/69/34 by the Respondent No. 1 conveying permission for reconstruction of House bearing No. 439, located in the demised property, admeasuring 193.48 sq. mts. A similar letter was issued for the structure bearing No. 438, located in the demised property, also admeasuring 193.48 sq. mts.
08.05.2019	The Ld. NCLT admitted the Section 7 application as preferred by the Applicant against the DPDCL <i>vide</i> order dated 08.05.2019
2019	Aggrieved by the order dated 08.05.2019, the then suspended Directors of the DPDCL preferred an Appeal before the Hon'ble National Company Law Appellate Tribunal, New Delhi (NCLAT) being Company Appeal (AT) (Insolvency) No. 681 of 2019.
23.07.2019	The Resolution Professional took over the physical possession of the land situated at Agonda Village, Dist. Canacona, Goa, admeasuring


	358814 sq. mtr. including the demised property bearing Survey No. 100/10.
23.09.2020	The Respondent No. 3 and 4 leased to the Respondent No. 2 the so-called house no. (s) 438 and 439 in the demised property by virtue of a lease deed. The lease deed dated 23.09.2020 also makes a reference to a previous lease deed dated 12.09.2016. It states that pursuant to the execution of the lease deed dated 12.09.2016, the lessee (Respondent No. 2) claims to have invested an amount of Rs. 3,00,00,000/- (Rupees Three Crores) in renovating, reconstructing and repairing the houses and that the lessors acknowledge the same.
07.03.2022	A final order / judgment dated 07.03.2022 came to be passed by the Hon'ble NCLAT in the Company Appeal (AT) (Insolvency) No. 681 of 2019 filed by the then suspended Directors of DPDCL, setting aside the order dated 08.05.2019 passed by the NCLT.
18.04.2022	The Applicant preferred an appeal against the order dated 07.03.2022 passed by the Hon'ble NCLAT before the Hon'ble Supreme Court by way of Civil Appeal No. 2786 of 2022 wherein by way of order dated 18.04.2022 the Hon'ble Supreme Court passed an order to protect the rights and interest of the Applicant herein by

	saying " <i>Status quo, as on today, shall be maintained in the meanwhile.</i> "
June 2022	In June, 2022, the Applicant noticed a huge structure on the beachfront side on the demised property. The beach front structure houses a full-fledged Bar and Restaurant, in the name and style of "Dream Discovery Beach Cafe" with multiple levels and alongside the said structure was open area with beach beds being let out to tourists. Behind the said beachfront structure were additional structures, which are all permanent structures constructed using RCC slabs and cement base. The said illegal structures have also encroached portion of the beach by construction of permanent cemented and tiled platform and steps. The structures were enclosed by construction of permanent compound wall using RCC and laterite stones, on the periphery of the demised property
08.06.2022	The Applicant immediately complained to the Respondent No. 1 <i>vide</i> their letter dated 08.06.2022 informing the Respondent No. 1 about the illegal and unauthorized construction carried out in the demised property.
01.11.2022	On 01.11.2022, the Applicant received an email from a group of concerned citizens informing to the Applicant that construction of over 15000 sq.

	ft. (approximately 1394 sq. mts.) plinth area was being carried out by the Respondent No. 2, in the demised property without any permission or license and that there are violations extending upto to the beach, copy of which email was also sent to the Collector of South Goa District, at Margao.
23.12.2022	In the month of December, 2022, the Applicant availed the services of a private surveying agency for surveying (DGPS survey) and taking aerial photography of the demised property and the illegal constructions therein.
02.02.2023	Aggrieved with the inaction of the Respondent No. 1 in the matter of illegal construction carried out by the Respondent no. 2, the Applicant prefers the present original application.

PLACE: New Delhi

DATE: 02.02.2023


Advocate for the Applicant

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

MEMORANDUM OF APPLICATION

(Under section 14 of the National Green Tribunal Act, 2010)

Original Application No. _____ of 2023 (WZ)

BETWEEN

Alchemist Asset Reconstruction Company Ltd.
Through Mr. Akshat Sharma
Authorized Representative
A-270, 1st and 2nd Floor,
Defence Colony, New Delhi - 110 024
E-Mail: jayantkarn@gmail.com
admin@alchemistarc.com

...APPLICATION

v/s

1. Goa Coastal Zone Management Authority
Through Its Member Secretary
4th Floor, Dempo Towers,
Patto, Panaji,
Goa – 403 001
E-Mail: goacoastalzone@gmail.com
2. M/s. Dream Discovery
Through Mr. Vijay Gokuldas Komarpant
Agonda, Canacona,
Goa – 403 702
E-Mail: not known
3. Mr. Selso Fernandes
S/o Late Mr. Pedro A. Fernandes
Aged about 60 years,
R/o House No. 439, Val Aframento Agonda,



Taluka Canacona, Goa
E-Mail: not known

4. Ms. Concecao Fernandes
W/o Mr. Selso Fernandes
Aged about 53 years,
R/o House No. 439, Val Aframento Agonda,
Taluka Canacona, Goa
E-Mail: not known

...RESPONDENTS

- o All registered addresses.

ORIGINAL APPLICATION UNDER SECTIONS 14. 15

R/W SECTION 18 OF THE NATIONAL GREEN

TRIBUNAL ACT. 2010

1. The address of the Applicant and the Respondents is as stated in the cause title for the purpose of service of notices issued in this Application.
2. The Applicant herein is constrained to file the present Original Application against the multiple illegal constructions, expansions, encroachment and commercial operation of resort/hotel/restaurant known as "Dream Discovery Sea View Resort & Beach Cafe" by the Respondent No. 2, in the property bearing survey no.

9/11/15

100/10 of village Agonda, Canacona - Goa. The said construction has been carried out in violation of the CRZ Regulations, 2011, and in violation of the clearance for reconstruction granted by the Respondent No. 1 *vide* its letter dated 04.04.2017. The said property is entirely within No Development Zone where no new construction is permissible.

Annexed hereto and marked as Annexure – A1 (Collv) are copies of photographs of the said illegal structures

3. FACTS IN BRIEF

3.1. The Applicant Company is an Asset Reconstruction Company and has acquired the debts from the original lenders of a company namely 'Dugal Projects Development Company Pvt. Ltd.', (*earlier named 'Elbee Dugal Engineering Company Pvt. Ltd.'*), hereinafter referred to as 'DPDCL', having registered office at Mohatta Bhavan; 4th Floor, 10, Dr. E. Moses Road, Mumbai – 400 018. The



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Applicant now is the sole financial lender of DPDCL with whom all the parcels of land aggregating 3,58,814 sq. mtr. at Village Agonda, Canacona, Goa, which are owned by DPDCL, are mortgaged.

- 3.2. In the year 1986, SIMA Hotels and Resorts Ltd. (SHRL/ Principal Borrower) had taken financial assistance from Industrial Financial Corporation of India (IFCI), Industrial Development Bank of India (IDBI), and Industrial Credit and Investment Corporation of India (ICICI), for the purposes of setting up a five-star category beach resort in Goa.
- 3.3. The said land on which the hotel project had to be set up was purchased by Elbee Dugal Engineering Company Private Limited (later name changed to 'Dugal Projects Development Company Limited') in its own name and was leased to SHRL *vide* a lease deed dated 25.11.1987. The said land owned by DPDCL was mortgaged by it to the lenders and the original title deeds of the said land were

deposited with the lenders by Mr. G.S. Dugal who was the Director of both SHRL and DPDCL by way of execution of a registered Memorandum of Entry (MoE).

- 3.4. The said land owned by DPDCL and mortgaged to the lenders consists of the land bearing survey nos. viz. 93/1 (part), 93/2 (part), 94/1, 95/3, 95/5, 95/8 (part), 95/9, 95/10, 95/13, 95/16, 96/1, 96/3, 96/4, 96/5, 96/6, 96/7 (part), 96/8, 96/12, 96/14, 96/15, 96/16, 96/17, 96/18, 96/19, 96/20, 96/21, 96/22, 97/7 (part), 97/8, 98/1, 98/2, 98/3, 98/4, 98/6, 98/7, 99/4, 99/5, 100/1, 100/3, 100/5, 100/6, 100/7, 100/8, 100/9, **100/10**, 100/11, 100/12, 100/13, 100/14, 100/15, 100/16, 100/17, 101/1 (part), 101/3 (part), 101/6, 101/7, 101/8, 101/9, 101/14, 101/15, 101/16, 101/17, 101/18, 101/19, 101/20, 101/21, 101/22, 101/23, 101/24, 102/1 (part), 102/3 (part), 102/6, 102/7 & 105/4 (part), together admeasuring 3,58,814 sq. mts. Situated at Village Agonda, taluka Canacona, Goa. (hereinafter referred to as



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the 'larger property')

- 3.5. From within the said entire mortgaged property, there exists property surveyed under survey No. 100/10, admeasuring 5350 sq. mts. in the village of Agonda (out of total land admeasuring 5350 sq. mts. in Survey No. 100/10, DPDCL is the owner of 5300 sq. mts., which has been acquired by DPDCL *vide* registered Sale Deed No. 142/82 dated 28.06.1982). The said property is hereinafter referred to as the "demised property". The demised property bearing survey No. 100/10 is a beachfront property, abutting the Agonda beach, which is a designated turtle nesting site. The violations, illegal construction and commercial operations carried out by the Respondent No. 2 in the demised property are described in detail further on in the present application.

Annexed hereto and marked as
Annexure – A2 is a copy of the Sale
Deed No. 142/82 dated 28.06.1982

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- 3.6. On 04.11.1987, a Loan agreement was entered between the above-mentioned lenders and the Principal Borrower (SHRL). In the said agreement, 'Dugal Projects Development Company Pvt. Ltd.' (DPDCL) was made a party as the Corporate Guarantor, guarantying the said loans. A deed of Corporate Guarantee dated 06.11.1987 was accordingly executed by DPDCL in favour of the lenders.
- 3.7. On account of continuous and persistent defaults in payment of outstanding amounts, the lenders above-named, filed a civil suit for recovery before the Hon'ble High Court of Bombay being Civil Suit No. 2654 of 1990 against SIMA as well as DPDCL as one of the Guarantors. In the said suit, *vide* orders dated 08.07.1991 and 24.07.1991, a Court Commissioner was appointed by the Hon'ble Bombay High Court to take possession of the properties of DPDCL situated at Agonda, Canacona, Goa (including the "demised property").

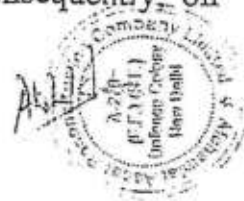


Abhaya Tomar

Thus, the entire property owned by DPDCL, including the demised property, became *custodia legis*.

Annexed hereto and marked as **Annexure – A3 (Colly)** are copies of the orders dated 08.07.1991 and 24.07.1991 passed by the Hon'ble High Court of Bombay in CS No. 2654 of 1990.

- 3.8. However, in view of the subsequent constitution of the Debts Recovery Tribunal, the said Civil Suit was transferred to the Debts Recovery Tribunal, Mumbai (DRT) in the year 2002 and was numbered as OA No. 224 of 2002. In the year 2011, ARCIL (assignee of ICICI) filed a separate recovery suit numbered as OA 33/2002.
- 3.9. Thereafter, on 06.05.2011 a common decree was passed by the DRT in OA NO. 224 of 2002 and OA No. 33 of 2011 in the favour of the Lenders and against the Principal Borrower (SHRL) as well as the Guarantor i.e. DPDCL and consequently, on



22.12.2011 a Recovery Certificate was issued against the Principal Borrower and DPDCL. The said decree passed by the DRT *inter-alia* specifically states that the amounts under the decree are secured by mortgage of leasehold rights of SHRL in the properties belonging to DPDCL, including the demised property herein i.e. Survey No. 100/10 in Village Agonda, Canacona, Goa.

Annexed hereto and marked as **Annexure - A4** is a copy of the common decree dated 06.05.2011 passed by the DRT, Mumbai.

3.10. Over the course of time, the lenders above named i.e. IFCI, IDBI and ICICI assigned their respective debts to the Applicant herein. The gist of the assignments which took place in the favour of the Applicant are tabulated herein below:

S. No.	Date of Assignment	Original Lender/ Assignor	Assignee
1.	13.10.2014	IFCI Limited	AARC
2.	26.02.2016	Asset Reconstruction Company (India) Ltd. (Assignee of ICICI)	AARC

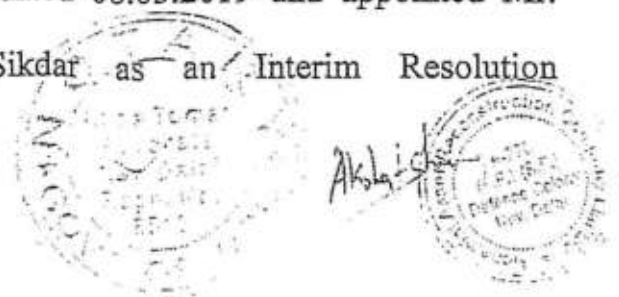


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3.	24.03.2017	IDBI Bank Limited	AARC
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In pursuance of the above assignments, the Applicant herein became the sole secured financial creditor of SHRL and DPDCL having exclusive charge on the entire assets / properties owned by the said company, including the land situated in Survey No. 100/10.

- 3.11. In view of persistent defaults on the part of DPDCL, to repay the outstanding dues, the Applicant in the capacity of being a sole lender filed before the Ld. National Company Law Tribunal, Mumbai Bench, (Ld. NCLT) an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) seeking initiation of Corporate Insolvency Resolution Process (CIRP) of DPDCL which was registered as C.P. No. 2527(IB)/MB/2018.
- 3.12. The Ld. NCLT admitted the Section 7 application as preferred by the Applicant against the DPDCL *vide* order dated 08.05.2019 and appointed Mr. Arunava Sikdar as an Interim Resolution



Professional (IRP).

Annexed hereto and marked as **Annexure – A5** is a copy of the order dated 08.05.2019.

Later, the said IRP was confirmed by the Committee of Creditors (CoC) of the DPDCL as a Resolution Professional (RP).

3.13. Being aggrieved by the order dated 08.05.2019, the then suspended Directors of the DPDCL preferred an Appeal before the Hon'ble National Company Law Appellate Tribunal, New Delhi (NCLAT) being Company Appeal (AT) (Insolvency) No. 681 of 2019.

3.14. The Applicant states that, in the meanwhile, in pursuance of discharging his duties as prescribed under the IBC, the then Resolution Professional of DPDCL had filed before the Hon'ble Bombay High Court an application bearing Court Receiver's Report No. 121 of 2019 in Suit No. 2654 of 1990 *inter alia* seeking handover of physical possession



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of the property of DPDCL from the Court Receiver to himself to enable him to proceed with the Corporate Insolvency Resolution process (CIRP) under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). The Applicant states that *vide* order dated 09.07.2019 read with order dated 10.07.2019, the Hon'ble Bombay High Court *inter alia* directed as follows:

"(i) The Court Receiver shall handover the subject property to the Resolution Professional who exercises control over the assets of Dugal Projects Development Co. Pvt. Ltd., the subject property being part of these assets. This shall be done within a period of two weeks from the date of this order.

(ii) The remaining questions framed by the Court Receiver are kept open to be answered in an appropriate case.

(iii) The Court Receiver is discharged subject to payment of cost and charges or refund if any. The cost of this Report to be borne by the Alchemist ARC to whom the debts of the Plaintiffs have been assigned. The Court Receiver Report is disposed of in the above terms.

Annexed hereto ~~and~~ marked as

Annexure - A6 (Colly) are copies of

the orders dated 09.07.2019 and 10.07.2019 passed by the Hon'ble High Court of Bombay.

- 3.15. Thereafter, the then Resolution Professional issued a letter dated 12.07.2019 to Respondent No.1 bringing to their notice about commencement of Corporate Insolvency Resolution Process.

Annexed hereto and marked as **Annexure – A7** is a copy of the letter dated 12.07.2019

- 3.16. The Applicant submits that, on 23.07.2019, the Resolution Professional took over the physical possession of the land situated at Agonda Village, Dist. Canacona, Goa, admeasuring 358814 sq. mtr. on "*as is where is*" and "*as is what is*" basis from the Court Receiver as per order dated 10.07.2019 passed by the Hon'ble High Court of Bombay, including the demised property bearing Survey No. 100/10.

Annexed hereto and marked as



Annexure – A8 is a copy of site report for taking physical possession by the then Resolution Professional.

3.17. It may be pertinent here to note that the Applicant was and continues to be aggrieved by encroachment and illegal erection and commercial operations being run by unauthorised persons in the properties owned by the Applicant in the Village of Agonda, Canacona, in blatant violation of CRZ Regulations in force.

3.18. One such case of encroachment and illegal construction and commercial operation of a resort was in the property bearing survey No. 101/1 and 101/3 of Village Agonda. The Applicant filed a writ petition bearing Writ Petition No. 184 of 2021 before the Hon'ble High Court of Bombay at Goa against the illegally constructed structures in the said properties i.e. property bearing survey No. 101/1 and 101/3 of Village Agonda.

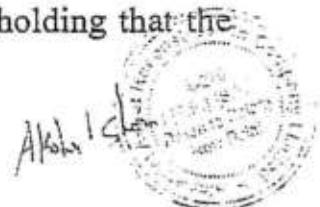
3.19. The violators therein undertook to demolish the said illegal construction therein themselves. *Vide* order dated 01.03.2022, the Hon'ble High Court of Bombay at Goa in WP/184/2021, specifically in para 3 of the order observed as under:

"3. The photographs indicate that debris and construction material is still at the site. This has to be cleared forthwith, because, all concerned must remember that this is an ecologically sensitive area where such construction should not have even come up in the first place. The entire process to put up such construction and thereafter demolishing them is itself a serious concern of environmental degradation"

(emphasis added)

Annexed hereto and marked as **Annexure – A9** is a copy of the order dated 01.03.2022.

3.20. In the meanwhile, a final order / judgment dated 07.03.2022 came to be passed by the Hon'ble NCLAT in the Company Appeal (AT) (Insolvency) No. 681 of 2019 filed by the then suspended Directors of DPDCL, setting aside the order dated 08.05.2019 passed by the NCLT, holding that the

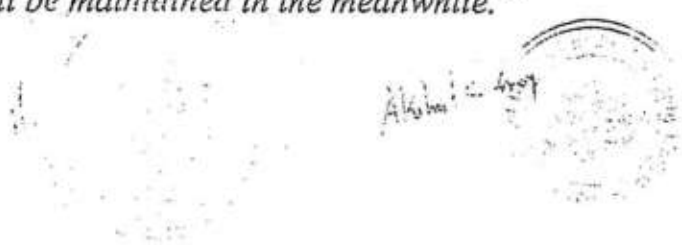


Application under Section 7 filed by the Financial Creditor(Applicant) against the Corporate Debtor, was beyond the period of limitation as provided in IBC, and could not have been admitted by the Adjudicating Authority (*though this has no bearing on the rights of the Applicant for recovery of its dues in execution proceedings under the Decree issued by the Ld. DRT, or under the provisions of SARFAESI Act*).

Annexed hereto and marked as **Annexure – A10** is a copy of the order dated 07.03.2022.

3.21. The Applicant preferred an appeal against the order dated 07.03.2022 passed by the Hon'ble NCLAT before the Hon'ble Supreme Court by way of Civil Appeal No. 2786 of 2022 wherein by way of order dated 18.04.2022 the Hon'ble Supreme Court passed an order to protect the rights and interest of the Applicant herein by saying "*Status quo, as on today, shall be maintained in the meanwhile.*"

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Annexed hereto and marked as **Annexure – A11** is a copy of the order dated 18.04.2022 passed by the Hon'ble Supreme Court in C.A. No. 2786 of 2022.

3.22. By virtue of the said order of the Hon'ble Supreme Court, the physical possession of the property and the management of DPDCL continues to remain with the erstwhile Resolution Professional until the disposal of the said appeal.

3.23. In the meantime, the violators in the case of property bearing survey No. 101/1 and 101/3 of Village Agonda, again applied for permission for construction from the Respondent No. 1.

3.24. Surprisingly, the Respondent No. 1 proactively granted such permissions dated 09.05.2022 and 11.05.2022 along with an addendum to the permissions, dated 20.05.2022 and the violators therein began reconstruction of the illegal construction.

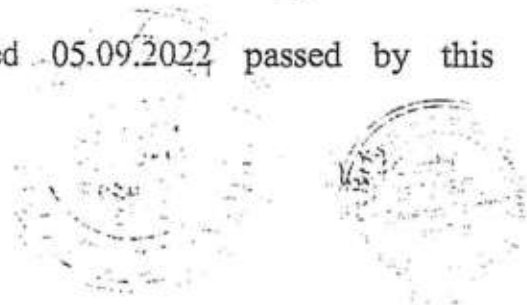


Annexed hereto and marked as **Annexure – A12 (Colly)** are copies of ~~order and~~ permission dated 09.05.2022 and 11.05.2022 along with addendum dated 20.05.2022

3.25. This compelled the Applicant to approach this Hon'ble Tribunal by filing two appeals bearing Appeal No. 22 and Appeal No. 23 of 2022 against the order and permission passed by Respondent No.1.

3.26. *Vide* common order dated 05.09.2022, this Hon'ble Tribunal was pleased to quash and set aside the impugned order and permission dated 09.05.2022 and 11.05.2022, passed by Respondent No. 1. This Hon'ble Tribunal *inter-alia* held that since the impugned construction therein was in the NDZ area, no permission could have been granted.

Annexed hereto and marked as **Annexure – A13** is a copy of the order dated 05.09.2022 passed by this



Hon'ble Tribunal.

3.27. The Applicant fairly submits that the said order was challenged before the Hon'ble Apex Court and *vide* order dated 07.11.2022, the Hon'ble Apex Court has granted *status quo* in the matter.

Annexed hereto and marked as **Annexure – A14** is a copy of the order dated 07.11.2022 passed by the Hon'ble Apex Court.

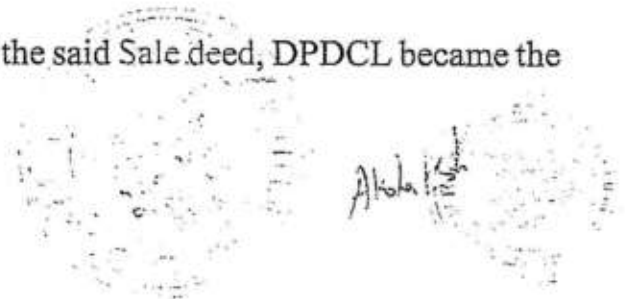
4. The present application concerns the violations carried out by Mr. Vijay Komarpant, the Respondent No. 2 and the Respondents No. 3 and 4 in collusion with each other, by illegally constructing multiple illegal structures and constructing a Hotel/ Resort complex admeasuring approx. 35,000 sq. ft. presently being run in the name and style of "Dream Discovery Sea View Resort and Beach Café" which is a full-fledged resort with a Bar and restaurant and open area with beach beds.

Annexed hereto and marked as **Annexure – A 15 (Colly)** are copies



of images (screenshots) of the said illegal structures available online, along with images of customer reviews and booking portal.

- 4.1. Records of the present case reveal that by sale deed no. 142/82 dated 28.06.1982, one Mrs. Janaki Devappa Dessai, and 4 other persons collectively sold their one third shares in several properties bearing Matriz No. 82, 84, 85, 87 and 89 of the Taluka Revenue Office Canacona Taluka, which correspond to survey No. 100/14 and 100/10, together admeasuring 7200 sq. metres to 'Elbee Dugal Engineering Co. Pvt. Ltd.' (later name changed to 'Dugal Projects Development Company Pvt. Ltd.').
- 4.2. The said sale deed does not mention existence of any structure or any house existing therein and only describes the property as beach property with some trees and plants thereon.
- 4.3. By virtue of the said Sale deed, DPDCL became the

A faint circular stamp is visible at the bottom of the page, partially overlapping the text of item 4.3. To the right of the stamp, there is a handwritten signature in black ink that appears to read "Abhaya K. Desai".

owner of the 5300 sq. mts. out of the total 5350 sq. mts. of the demised property and the said entire area of 5300 sq. mts. of land in the demised property is mortgaged exclusively in favour of the Applicant.

- 4.4. In the remainder 50 sq. mts. of the demised property, there apparently existed only one small structure occupied by one 'Ms. Maria Fernandes'. The survey records indicates the name of Ms. Maria Fernandes in the "other rights" column under "house belongs to" of Form I and XIV in respect of survey no. 100/10.. Ms. Maria Fernandes is survived by her son Mr. Selso Fernandes and daughter in law Ms. Concecao Fernandes, the Respondent No. 3 and 4 herein.

Annexed hereto and marked as **Annexure – A16** is a copy of the Form I and XIV of the said property.

- 4.5. That, it was for the first time in the month of June, 2022, that the Applicant noticed a huge structure on the beachfront side on the demised property. The



AKS

beach front structure houses a full-fledged Bar and Restaurant, in the name and style of "Dream Discovery Beach Cafe" with multiple levels and alongside the said structure was open area with beach beds being let out to tourists. Behind the said beachfront structure were additional structures, which at the first instance were not clearly visible from the beach side. The said structures are all permanent structures constructed using RCC slabs and cement base. The said illegal structures have also encroached portion of the beach by construction of permanent cemented and tiled platform and steps. The structures were enclosed by construction of permanent compound wall using RCC and laterite stones, on the periphery of the demised property.

- 4.6. It appears that in order to construct the said structure, the Respondent No. 2 has cut sand dunes and filled and levelled the land in the demised property.



4.7. Upon making enquires, it came to the knowledge of the Applicant that one Mr. Sello Fernandes was issued a letter dated 04.04.2017 bearing Ref No. GCZMA/S/16-17/69/34 by the Respondent No. 1 conveying permission for reconstruction of House bearing No. 439, located in the demised property, admeasuring 193.48 sq. mts. A similar letter was issued for yet another structure bearing No. 438, located in the demised property, also admeasuring 193.48 sq. mts.

Annexed hereto and marked as **Annexure - A17** is a copy of the letter/permission dated 04.04.2017

4.8. The total area of the said so-called 'two structures' would be $193.48 + 193.48 = 386.96$ sq. mts. The present structures standing on the site are huge structures and not two small structures. In fact, there never existed any two structures in the demised property. This fact clearly proves the hand in glove and *malafide* working on the part of



Respondents. When the land available on site is only 50 sq. mts., then how could the Respondent No. 2 obtain permission for construction of two structures of 193.48 sq. mts. each?

- 4.9. The Applicant immediately complained to the Respondent No. 1 *vide* their letter dated 08.06.2022 informing the Respondent No. 1 about the illegal and unauthorized construction carried out in the demised property.

Annexed hereto and marked as **Annexure – A18** is a copy of the letter dated 08.06.2022

- 4.10. However, the Respondent No. 1 took no action in the matter. The Respondent No. 1 failed to issue “stop work order” or any show cause notice to any of the Respondents in the matter. The same clearly spells out collusion, and/ or atleast complicity, of the Respondent No. 1 with the Respondent No.2.
- 4.11. Upon making further enquires, the Applicant came to know the *modus operandi* of the Respondent No.

2 along with the Respondent No. 3 and 4.

- 4.12. The Applicant learnt that the Respondent No. 3 and 4 had leased to the Respondent No. 2 the so-called house no. (s) 438 and 439 in the demised property. The Applicant obtained a copy of the lease deed dated 23.09.2020 between the Respondent No. 3 and 4 claiming to be lessors and the Respondent No. 2 claiming to be the lessee of the said two houses.

Annexed hereto and marked as **Annexure – A19** is a copy of the lease deed dated 23.09.2020

- 4.13. The said lease deed mentions two structures bearing House No. (s) 438 and 439, admeasuring 193 sq. mts. each along with a well between the said two houses, along with 100 square meters shed. The said lease is for the period of 7 years from 01.10.2034 to 30.09.2041 for the rental of Rs. 12, 50, 000/- every year. (Pertinent to ponder at this stage that in a registered lease deed executed in the year 2020, the Respondent No. 2 has leased the so



called area for the future period of 01.10.2034 to 30.09.2041. The same not only appears suspicious, but also smacks of *malice*.)

4.14. The said lease deed dated 23.09.2020 also makes a reference to a previous lease deed dated 12.09.2016, copy of which the Applicant could not obtain. It states that pursuant to the execution of the lease deed dated 12.09.2016, the lessee claims to have invested an amount of Rs. 3,00,00,000/- (Rupees Three Crores) in renovating, reconstructing and repairing the houses and that the lessors acknowledge the same.

4.15. The Lease Deed dated 23.09.2020 also makes reference to the letters dated 04.0~~4~~⁹.2017 from the Respondent No. 1 granting permission for reconstruction of the house No. 438 and 439 but mischievously states that the said permissions were communicated to the lessee (Respondent No. 2) when in reality they were addressed to the lessor i.e. Respondent No. 3:



4.16. When the Applicant examined the minutes of the 144th meeting of the Respondent No. 1 held on 21.03.2017, in which meeting it decided to grant permission of reconstruction of house to the Respondent No. 3, it was noticed that the Respondent No. 3 under the garb of being a member of the traditional toddy tapper community, and on the pretext of reconstruction his dwelling unit, applied for reconstruction of his house. This was done by way of two applications, one for the structure bearing H. No. 438 stated to be admeasuring 217.6 sq. mts. and another for the structure bearing H. No. 439 stated to be admeasuring 193.48 sq. mts.

4.17. The Respondent No. 3 apparently submitted house tax receipts from the year 1980s and a DSLR plan showing existence of an old house. The Applicant disputes the existence of any two structures in the demised property and has reasons to believe that the Respondent No. 3 has passed off one old structure,



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as two distinct structures and has therefore made two applications. The Applicant also disputes the veracity of the house tax receipts submitted by the Respondent No. 3 to the Respondent No. 1.

4.18. It was suppressed from the Respondent No. 1 that the said so-called two structures were already leased out to the Respondent No. 2 for the purpose of starting a resort/restaurant and other commercial operations. The said structure was never going to be used for residence of the Respondent No. 3 who got the approval for reconstruction of existing structure, on the pretext of being a member of the traditional coastal community thereby making a false statement.

4.19. The contents of the minutes of the 144th meeting of the Respondent No. 1 also revealed that the Respondent No. 3 had previously applied for permission of reconstruction of the said so-called two structures proposing reconstruction by addition of a ground + first floor structure. The said



proposal/ application came to be rejected in the 137th meeting of the Respondent. In the said 137th meeting, the Respondent No. 1 has itself recorded that upon inspection of the demised property by its then Expert Member, it was found that the demised property was located in the No Development Zone (NDZ) i.e. within 200m from the HTL. The Respondent No. 1 thereafter finally held since a comprehensive plan as required under para 8 III A (ii) is not yet formulated and approved by the MoEF, hence, the Authority / Respondent No. 1 decided that the Application for proposed construction of first floor on existing ground floor could not be considered.

Annexed hereto and marked as **Annexure – A20 (Colly)** are copies of minutes of the 144th and 137th Meetings of Respondent No. 1

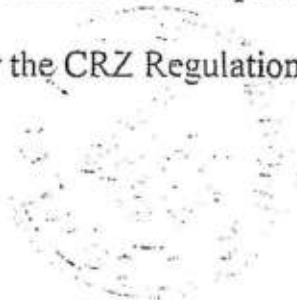
4.20. The Respondent No. 3 subsequently modified the plans and applied for reconstruction of only ground



floor structure by maintaining the plinth and the same came to be mechanically granted by the Respondent No. 1.

4.21. The Respondent No. 1 granted the said permission under 8 III. A (ii) of the CRZ Regulation wherein reconstruction of existing authorized structure not exceeding FSI, plinth, density and reconstruction of dwelling units of traditional coastal communities including fisherfolk may be permitted between 100 and 200 metres from the HTL along the seafront.

- a. The Respondent No. 1 failed to ascertain whether there was in fact any existing authorised structure in the demised property and whether it was being used as a dwelling unit.
- b. Whether the structure was between 100 and 200 metres from the HTL along the seafront.
- c. Whether such proposed reconstruction was in accordance of comprehensive plan as mandated by the CRZ Regulations.



4.22. The said structures are right on the beach and within the closest proximity the turtle nesting site on the Agonda Beach and within less than 100 mts. from the HTL as brought out in the report of survey carried under the instruction of the Applicant (discussed herein under). Therefore, no permission for reconstruction of even dwelling units of traditional coastal communities could be granted by the Respondent No.1 under 8 III. A (ii) of the CRZ Regulation in any case.

4.23. The contents of the Lease Deed dated 23.09.2020, the minutes of the 137 and 144th meeting of the Respondent No. 1 along with permission dated 04.04.2017 issued by the Respondent No. 1 make the *modus operandi* of the Respondents abundantly clear. Taking advantage of the fact that the Respondent No. 3 is supposedly a member of traditional coastal community, and passing off their old structure, which could in any case not have admeasured more than 50 sq. mts., as two separate



structures, admeasuring over 400 sq. mts., the Respondent No. 3 availed permission for reconstruction with two applications. The Respondent no. 3 did this after having already leased the so-called structures to the Respondent No. 2 for running the business of Bar and Restaurant and Resort. After availing the said permission, the Respondent No. 2, who is not a member of any traditional coastal community nor someone who resided in a dwelling unit in the demised property, constructs mammoth structures in the demised property, and used the said structures for commercial operations in the form of a Bar and Restaurant/Resort and open space for beach beds.

- 4.24. The Respondent No. 2 has blatantly violated the orders of the Hon'ble Bombay High Court by virtue of which orders the larger property owned by DPDCL, including the demised property was made *custodia legis*, thereby encroaching upon the property and carrying on the said illegal



constructions.

4.25. The Applicant states that the Bar and Restaurant/ Resort being illegally operated by the Respondent No. 2 has been in operation all throughout and the Respondent No. 2 has been making illegal & unlawful gains from the same.

4.26. The Applicant submits that approval for reconstruction of existing structure dated 04.04.2017 was granted on the following conditions:

- i. *All the provisions of the CRZ Regulations 2011, as amended should be strictly complied with.*
- ii. *This NOC/approval is issued without prejudice to any other permission as required under the law including that of ownership of house, court case etc. As such, prior to the commencement of the 're-construction' work, it will be incumbent upon the applicant to obtain permission for any other authority as required under the law including from the local authority, Town and*

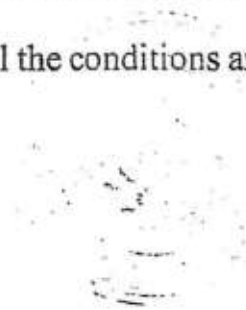



Abha Tomar

Country Planning Department, Revenue Authority etc.,

- iii. Traditional access/easement shall not be blocked. No construction should be carried out in the NDZ area between 0-200 mts. from the High Tide Line.*
- iv. The structure should not be used for commercial purpose and not to be sold or transferred to the non-traditional community.*
- v. This permission is liable to be revoked, if it is found, at any stage, that the application contained false information/ wrong plans /calculations/ documents/ misleading or false information, etc., or account of violation of aforementioned conditions.*

Notwithstanding the fact that the said approval of reconstruction dated 04.04.2017 was obtained by misrepresentation, a perusal of the conditions stated therein shows that the Respondent No. 2, 3 and 4 have violated all the conditions and in particular the

condition no. (iv) which categorically states that the structure should not be used for commercial purpose and not to be sold or transferred to the non-traditional community.

4.27. The said structure has been leased to the Respondent No. 2 by the Respondent Nos. 3 and 4 and the said structure was and is being commercially exploited as a Bar and Restaurant/Resort and open space with beach beds.

4.28. The Applicant has reasons to believe that the original structure, which could not in any case measure more than 50 sq. mts. came to be extended from time to time and its plinth came to be extended, without obtaining any permission therefor by the Respondent No. 3.

4.29. On 01.11.2022, the Applicant received an email from a group of concerned citizens who claim to be monitoring illegal activity and construction on the Agonda beach. In the said email, it was informed to the Applicant that construction of over 15000 sq. ft.



(approximately 1394 sq. mts.) plinth area was being carried out by Mr. Vijay Komarpant, the Respondent No. 2 herein, in the demised property without any permission or license and that there are violations extending upto to the beach i.e. CRZ-I area which can cause massive and permanent damage to the turtle nesting on the Agonda Beach. A copy of the said email was also sent to the Collector of South Goa District, at Margao.

Annexed hereto and marked as **Annexure –**

A21 is a copy of the email dated 01.11.2022.

5. The Respondent No. 2, 3 and 4 have constructed permanent structures using steel fabrication and RCC and the Respondent No. 2 is operating and running the business of full-fledged resort, beach cafe etc.
 - 5.1. Construction of such type of permanent structures is not permissible under the CRZ Regulations and categorically prohibited.
 - 5.2. The demised property also lies extremely close to an Ecologically Sensitive Area (ESA) being a

Atorney's Sign

designated Turtle nesting site in the State of Goa. The ESAs maintain the biological integrity of the coast by providing direct and indirect ecosystem services to the coastal livelihood, including the Olive Ridley Turtles, which is the major nesting species in Goa. Nesting of these Olive Ridley Turtles takes place between October and March each year. The said Agonda beach has been designated as turtle nesting site and protected under the Wildlife Protection Act, 1972 and no developmental activities can be permitted in the turtle breeding areas as per CRZ Regulation, 2011.

Annexed hereto and marked as **Annexure – A22** is a copy of the CRZ Regulation, 2011.

- 5.3. As per the Report titled '*Carrying Capacity of Beaches of for Providing Shacks & Other Temporary Seasonal Structures in Private Areas*', prepared by the National Centre for Sustainable Coastal Management, (NCSCM), MoEFCC,




Government of India, submitted to the Government of Goa, it has been recommended that for Agonda beach, "*no additional shacks, huts / Tents / cottages should be considered as this is a designated turtle nesting site*". The said report has been accepted by the Respondent No. 1 in its 218th meeting of held on 18.12.2019 wherein the Respondent No. 1 observed under Case No: 1.10, that the Beach Carrying Capacity Report (BCCR) has been accepted by the GCZMA and it has been the base for deciding all such applications which are received in the NDZ area.

Annexed hereto and marked as **Annexure – A23** is a copy of the relevant extract of the said Report.

Annexed hereto and marked as **Annexure – A24** is a copy of the 218th meeting of GCZMA held on 18.12.2019.

5.4. It is pertinent to note that even as per CZMP

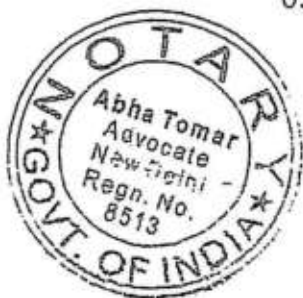


approved in the year 2022, for the coastal zone of Village of Agonda, the “demised property” is shown in the NDZ area and abutting turtle nesting sites, right in front of the “demised property”. The Respondent No. 2 has in fact even encroached a portion of the beach by construction of permanent cemented and tiled platform and steps in the CRZ – I area. The Applicant is annexing the relevant extract from the 1:4000 scale map as well as the 1:25000 map.

Annexed hereto and marked as **Annexure – A25 (Colly)** are copies of the CZMP for the coastal zone of Village of Agonda.

5.5. The Respondent No. 2 has in the most high-handed manner constructed a mammoth structure by playing a fraud on the Respondent No. 1

6. In the month of December, 2022, the Applicant availed the services of a private surveying agency for surveying (DGPS survey) and taking aerial photography of the demised



property and the illegal constructions therein.

6.1. The report of the said agency dated 23.12.2022 revealed that there were in fact three double storey structures in the demised property. In the said report, they are referred to as follows:

- a. Structure A – admeasuring 815 sq. mts. (plinth area) - 4 mts. from HTL
- b. Structure B – admeasuring 496 sq. mts. (plinth area) - 39 mts. from HTL
- c. Structure C – admeasuring 122 sq. mts. (plinth area) – 51 mts. from HTL

6.2. The plan annexed to the said report makes it undauntingly clear that the Respondents have in fact constructed mammoth permanent double storey structures total admeasuring 1433 sq. mts. (plinth area). The said report also categorically mentions that the total area of encroachment on Survey No. 100/10 is 3200 sq. mts.

Annexed hereto and marked as
Annexure – A26 is the survey report
dated 23.12.2022



7. Additionally, when the Applicant was in process of finalizing the present Application, the Applicant searched the name of "Dream Discovery" on the internet. A google search of the said Resort revealed that the Respondent No. 2 is running a full-fledged resort, with multiple rooms, around 20, as per a rough estimate as seen from the pictures uploaded online. The average rental of each room is over Rs. 9000 per night. The said place is running in the name and style of "Dream Discovery Sea View Resort & Beach Café" and is open to bookings. The Applicant has already annexed screenshots of the images of the said illegal structures forming part of the "Dream Discovery Sea View Resort & Beach Café", online booking portal, and online reviews of the said place.
8. Thus, from the aforesaid circumstances, it is abundantly clear that demised property lies within No Development Zone; that the Respondent No. 3 has obtained permission from the Respondent No. 1 by playing a fraud on the Respondent No. 1; that the Respondents No. 3 and 4 have leased the structures in the demised property illegally to the Respondent No. 2; and that the Respondent No. 2 has further constructed new



structures all together admeasuring over 1433 sq. mts. plinth area and approx. 35000 sq. feet built-up area and is running the business of a full-fledged Resort and Bar and Restaurant and beach beds in the demised property.

9. The said structure is illegal and liable to be demolished.
10. Despite the complaint of the Applicant, the Respondent No. 1 authority has failed to take any action in the matter. Far from issuing any "stop work order", the Respondent No. 1 has not even issued a show cause or any site inspection notice, in the matter showing thus collusion/ complicity in this illegal activity. The Applicant is therefore constrained to file the present application before this Hon'ble Tribunal on the following amongst other grounds taken without prejudice to one another:

GROUND

- A. The Respondent No. 2 has constructed mammoth structures admeasuring over 1433 sq. mts. (plinth area) at least, spread over the entire survey no. 100/10 of village Agonda, Canacona. The Respondent No. 2 has constructed permanent structures which is a whole

new construction by itself and not any reconstruction of any dwelling unit of a traditional coastal community. The Respondent No. 2 has used RCC, Cement base, tiles, pre-fabricated steel and also cut the sand dunes and indulged in land filling and levelling in order to construct the said structure. The said structure being in NDZ area abutting the beach and literally on the beach could not have been constructed in the first place being prohibited specifically under the CRZ Regulations.

- B. The Respondent No. 2 has unlawfully and illegally occupied an area of 3200 sq. mts. on which piece of land encroachments have been carried out, as evident upon perusal of the survey report.
- C. The Respondent No. 2 in collusion with Respondent Nos. 3 and 4 is illegally constructing multiple illegal structures and has already constructed a Hotel/ Resort complex admeasuring approx. 35,000 sq. ft. presently being run in the name and style of "Dream Discovery Sea View Resort and Beach Cafe" which is full-



fledged resort with a Bar and restaurant and open area with beach beds.

- D. The 2 out of the three structures identified under the survey report dated 23.12.2022 show the proximity of such double storeyed structures as 4 mts. and 39 mts., respectively from the HTL. Whereas, the third structure is also only 51 mts. from the HTL. Thus, in no manner could the Respondent No. 2 obtain any permission/ sanction from the Respondent No. 1 unless being hand in glove with the said authority as issuance of such sanction is clearly prohibited under the prevailing CRZ Regulations.
- E. The illegal construction of permanent structures is in gross violation of the CRZ Regulations in force. The said entire area falls within the No Development Zone within which no new construction of whatsoever nature is permissible.
- F. The Respondent No. 2 in its 137th meeting had itself recorded that upon inspection of the demised property by its then Expert Member, it was found that the

demised property was located in the No Development Zone (NDZ) i.e. within 200m from the HTL. The Respondent No. 1 thereafter finally held since a comprehensive plan as required under para 8 III A (ii) is not yet formulated and approved by the MoEF, hence, the Authority / Respondent No. 1 decided that the Application for proposed construction of first floor on existing ground floor could not be considered.

- G. Since, the Respondent No. 1 had itself found the illegal structures to be within the NDZ, then no subsequent permission ought to have been granted by them in favour of such offending party.
- H. The said illegal construction is built by cutting sand dunes, land filling and felling of all the natural vegetation in the said area. This will further lead to soil erosion, pollution and disturbance of the ecological balance of the coastal area.
- I. The Respondent No. 2 has even encroached upon a portion of the beach by construction of permanent cemented and tiled platform and steps leading to the



beach which lies in the CRZ – I zone and on the beach which is a turtle nesting site. No construction whatsoever could be permissible in the turtle nesting site.

- J. The permission for reconstruction granted to the Respondent No. 3 by the Respondent No. 1 is a product of fraud played on the Respondent No. 1. The said permission was obtained by the Respondent No. 3 under the garb of being a member of the traditional toddy tapper community, and on the pretext of reconstruction his dwelling unit. The Respondent No. 3 in fact mischievously made two applications for permission for reconstruction and passed off one old structure, as two distinct structures. The Respondent No. 3 suppressed from the Respondent No. 1 that the said so-called two structures were already leased out to the Respondent No. 2 for the purpose of starting a resort/restaurant and other commercial operations.
- K. The Respondent No. 2 has acted in an extremely high-handed manner by proceeding with construction work

Kidai Shetty

knowing well that the permission was obtained by the Respondent No. 3 for supposed reconstruction of his dwelling unit as a member of the traditional local community. The Respondent No. 2 used the permission obtained by the Respondent No. 3 to construct a whole new structure and thereafter use the same for commercial operations in the form of Bar and Restaurant and resort. This was in gross violation of the CRZ Regulations in force.

- L. That it was incumbent upon the Respondent No. 1 to take into cognizance that the demised property is in the No Development Zone and as per Para 8(III)A(ii) of the CRZ Notification, 2011, no construction can be permitted within NDZ except for repairs or reconstruction of existing authorized structure not exceeding existing Floor Space Index, existing plinth area and existing density and for permissible activities under the notification including facilities essential for activities. The Respondent No. 1 failed to ascertain whether there ever existed the so-called two structures



Akshat Singh

and whether it was being used as a dwelling unit. The Respondent No. 1 even failed to consider that the entire demised property was within 50 meters of the High Tide Line and not between 100 and 200 metres from the HTL and that even *bonafide* dwelling units of local traditional coastal community could not be granted permission for reconstruction.

- M. The Lease Deed dated 23.09.2020 between the Respondent No. 2, and Respondent 3 and 4 admittedly records that the Respondent No. 2 has spent a sum of Rs. 3 crores in reconstruction of the structure. Reconstruction of dwelling unit of traditional local coastal community could by no stretch of imagination cost Rs. 3 crores. The amount of expenditure itself points towards construction of a new, much larger and permanent structure, violative of the CRZ Regulations in force.
- N. Even assuming without admitting that the permissions were rightly granted by the Respondent No. 1, the Respondent No. 3 violated all conditions of the

permission and in particular the condition no. 4 which categorically stated that the structure should not be used for commercial purpose and not to be sold or transferred to the non-traditional community.

- O. As per the 'Carrying Capacity of Beaches of for Providing Shacks & Other Temporary Seasonal Structures in Private Areas', prepared by the National Centre for Sustainable Coastal Management, (NCSCM), MoEFCC, Government of India, it has been recommended that Agonda beach has exceeded its carrying capacity. The said Agonda beach has been designated as turtle nesting site and protected under the Wildlife Protection Act, 1972 and no developmental activities can be permitted in the turtle breeding areas as per CRZ Regulation, 2011. The Beach Carrying Capacity report therefore recommends that no additional shacks, huts / Tents / cottages should be considered as this is a designated turtle nesting site. It is this recommendation that the Respondent No. 2 has sought to bypass and encroach portions of the demised



Abhz Tomar

property and the beach itself and set up the business of beach beds.

P. The object of the CRZ Regulation in providing relaxation to traditional coastal communities is to protect their rights as it is they who have lived in the area before coming into force of the CRZ Regulations. That is why the CRZ Regulation provides for relaxation and beneficial provisions for the members of the traditional coastal communities. However, this is subject to the traditional coastal communities not using their dwelling units for commercial activity and not selling and transferring their units to persons of non- traditional coastal communities. The Respondent No. 2, 3 and 4 in connivance with each other have misused the said provision in the CRZ Regulations and committed gross CRZ violations.

Q. The Hon'ble Apex Court in the matter of *Piedade Filomena Gonsalves v. State of Goa & Ors., cited at (2004) 3 SCC 445*, has held that the CRZ Notifications of 1991, 2011 have been issued in the interest of

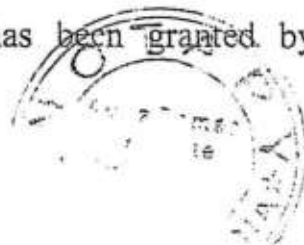
protecting environment and ecology in the coastal area and the construction raised in violation of such regulations cannot be lightly condoned. It is the duty of the Respondent No. 1 in the State of Goa to enforce the said CRZ Notifications. It is the mandate of the Respondent No. 1 authority to take measures for protecting and improving the quality of coastal Environment and preventing, abating and controlling environmental pollution in the areas of State of Goa. However, in contravention of its duty, mandate and objectives, the Respondent No. 1 has not taken any action in stopping the illegal construction in demised property and has allowed the said illegal commercial exploitation of the demised property to continue.

- R. The Respondent No. 1 has failed to exercise supervision and vigilance over illegal operations being carried out in blatant violation of CRZ Regulations. The Respondent No. 1 has also failed to act on the complaint made by the Applicant bringing to its notice the said violations.



- S. The failures of the Respondent No. 1, as brought out above, suggest their being in collusion / complicit to such illegal constructions/activities of the Respondent No. 2.
- T. The Respondent No. 2 has blatantly violated the orders of the Hon'ble Bombay High Court by virtue of which orders the larger property owned by DPDCL, including the demised property was made *custodia legis*, thereby encroaching upon the property and carrying on the said illegal constructions.
- U. This Hon'ble Tribunal in a similarly situated (illegal) resort has ordered for setting aside of the permission and license granted by the Respondent No. 1 to the said resort in Appeal Nos. 22 of 2022 and 23 of 2022. In the said matter this Hon'ble Tribunal has categorically held that the permission for raising the impugned construction could not have been given, the same being NDZ.

On an appeal filed against the above mentioned order, no stay has been granted by the Hon'ble



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Supreme Court and only an order of *status quo* has been passed.

- V. That, in view of the above, the present matter falling squarely within the NDZ area also deserves to be ordered to be demolished and/ or the permissions granted by the Respondent No. 1 deserves to be rejected forthwith.
- W. Such further and other grounds that may be urged at the time of hearing of this application.

LIMITATION

11. The Cause of action arose for the first time in June 2022 when ^{vide letter dated 08.06.2022 (Annexure - A18)} the Applicant first complained to the Respondent No. 1. The cause of action once again arose when the Applicant received the DGPS aerial survey report on 23.12.2022. The cause of action arose again when the Applicant found out through Google Search that the Respondent No. 2 has commenced operations in full swing and is running the said illegal structures as full-fledged beach resort cum beach café. The cause of action for filing this application in any case is a continuing cause of action and arises till the Respondent No. 1 initiated any action in the matter of the said illegal structures in the demised property. The present Application



is therefore within the limitation period.

PRAYERS

The Applicant prays for the following relief:

- a. For an order setting aside the permissions granted by the Respondent No. 1 in favour of the Respondent No 3 with respect to the demised property i.e. property bearing Survey No. 100/10 situated in Village Agonda, Canacona Taluka, Goa;
- b. For an order or direction directing the Respondent No. 1 to forthwith take appropriate action to demolish all the illegal constructions /development of the Resort, Bar and Restaurant/resort and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café" in the survey No. 100/10 of Agonda Village, Goa, undertaken by the Respondent No. 2 and to have the said area restored to its original condition.
- c. For an order or direction, directing the Respondent No. 1 to forthwith take steps to stop commercial operation of the illegal Bar and Restaurant/resort and beach beds operating under the name and style of "Dream Discovery Sea View



Resort & Beach Café”, in the said property bearing survey No. 100/10 of Agonda Village, Goa undertaken by the Respondent No. 2.

- d. For an order or direction directing the Respondent Nos. 2, 3 and 4 to stop all/any commercial operation of the illegal Resort, cum Bar and Restaurant/resort and beach beds operating under the name and style of “Dream Discovery Sea View Resort & Beach Café”, in the said property bearing survey No. 100/10 of Agonda Village, Goa.
- e. For an order or direction of levy of penalty on the Respondent No. 2 for illegally deriving income from the commercial operation of the illegal Resort, Bar and Restaurant/ and beach beds operating under the name and style of “Dream Discovery Sea View Resort & Beach Café”, in the said property bearing survey No. 100/10 of Agonda Village, Goa, by cutting sand dunes, natural vegetation and levelling and ground filling of the said area and constructing permanent structure using RCC, Concrete base, pre-fabricated steel structures;
- f. For *ex-parte* ad-interim reliefs in terms of prayer clauses




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- 'b', 'c', 'd' and 'e';
- g. For costs of this application;
- h. Any other order this Hon'ble Tribunal may be pleased to grant in the facts and circumstances of the case.

PLACE: Delhi

DATE: 02.02.2023


Applicant


Advocate for the Applicant D/3162/10



VERIFICATION

I, Mr. Akshat Sharma, S/o Shri S K Sharma, aged about 32 years, working for gain, at A 270, 1st and 2nd floor, Defence Colony, New Delhi 110024, the authorised representative of the Applicant herein, do hereby verify the contents of the above paras 1, 2(p), 3, 3.1-3.27, 4, 4.1-4.29, 5, 5.1(p), 5.2(p), 5.3(p) 5.4(p), 5.5, 6, 6.1, 6.2, 7, 8, 9(p), 10, 11(p) are true to my knowledge, and the contents of paras 2(p), 5.1(p), 5.2(p), 5.3(p) 5.4(p), 9(p), 10A-10W, 11(p) are based on legal advice.

Verified on this 2nd day of February, 2023.

Place: At New Delhi


Applicant



AFFIDAVIT

I, Mr. Akshat Sharma, S/o Shri S K Sharma, aged about 32 years, working for gain, at A 270, 1st and 2nd floor, Defence Colony, New Delhi 110024, the authorised representative of the Applicant herein above named, do hereby solemnly affirm and state as under:

1. I say that this original Application is being filed before this Hon'ble Tribunal against the multiple illegal constructions, expansions, encroachment and commercial operation of resort/hotel/restaurant known as "Dream Discovery Sea View Resort & Beach Cafe" by the Respondent No. 2, in the property bearing survey no. 100/10 of village Agonda, Canacona - Goa.

2. I say that the contents of paras 1, 2(p), 3, 3.1-3.27, 4, 4.1-4.29, 5, 5.1(p), 5.2(p), 5.3(p) 5.4(p), 5.5, 6, 6.1, 6.2, 7, 8, 9(p), 10, and 11(p) of the Application are true to my knowledge and/or based on information derived from the documents available and the contents of the remaining paras



Akshat Sharma

viz. 2(p), 5.1(p), 5.2(p), 5.3(p) 5.4(p), 9(p), 10A-10W, and 11(p) are based on the legal submissions and/or inferences of facts, which I believe to be true.

3. I say that Annexures to this Appeal are true copies of their respective originals.

4. I say that contents of above-mentioned para 1 to 3 are true to my knowledge.

[Signature]
I certify the deponent/Executant has signed in my presence

Solemnly affirmed at New Delhi

On this 02nd day of February, 2023

[Signature]
A-270
F.F.S.S.T.
Exchange Colony
New Delhi
Notary
DEPONENT



Certified that the foregoing statement was declared on solemn affirmation before me which has been read over to the deponent who has admitted

it as correct

Notary, DELHI



Arunava Sikdar

BSc. F.C.A. DISA (ICAI)

Insolvency Professional Registered Under Regulation 7 of Insolvency
and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016
Registration No.: IBBI/IPA-001 / IP-P00022/2016-17/10047



12.06.2019

To
The SHO, Police Station
Cancona, Goa

Dear Sir,

Re:- HON'BLE NATIONAL COMPANY LAW TRIBUNAL (NCLT) ORDER DATED 08.05.2019 IN
DUGAL PROJECTS DEVELOPMENT COMPANY LIMITED

This is to bring to your kind notice that the Hon'ble National Company Law Tribunal, Mumbai Bench vide order dated 08.05.2019 had admitted the Insolvency Petition filed u/s 7 of IBC 2016 against Dugal Projects Development Company Limited ("DPDCL") and has appointed the undersigned as the Insolvency Professional, who has now taken over the management and control of DPDCL. This is to bring to your kind notice that the undersigned has visited the property belonging to DPDCL, situated at Agonda Village having survey no. 93/1,93/2,95/3,95/10,95/16,96/1,96/2,96/3,96/4,96/5,96/6,96/7,96/9,96/10,96/11,96/12,96/13,96/14,96/15,96/18,96,96/16,96/17/19,96/20,97/7,97/8,98/1,98/2,98/3,98/4,98/5,98/6,98/7,99/4,100/1,100/2,100/3,100/4,100/5,100/6,100/7,100/8,100/9,100/10,100/11,100/12,100/13,100/14,100/15,100/16,100/17,101/1,101/2,101/3,101/6,101/7,101/8,101/9,101/14,101/15,101/16,101/17,101/18,101/19,101/20,101/21,101/22,101/23,101/24,102/1,102/3,102/3A,102/3B,102/3C,102/3D,102/6,102/7 on 05.06.2019 and also on 11.06.2019. That after visit / survey of the property it was observed that lot of illegal constructions / encroachments have taken place at the project land and even today rampant illegal construction / encroachment is taking place on the said property especially on the beach facing front of the property. Lot of illegal shacks and restaurants have come up, though no lease or any documentation has been done by DPDCL in their favour, allegedly on the basis of permissions given by the Panchayat.

It seems that the permissions have been given by the Panchayat on the basis of some fabricated documents. You are therefore requested to please look into the matter, investigate and lodge an FIR against the encroachers and people responsible for the same.

Thanking You

Arunava Sikdar
Arunava Sikdar
Resolution Professional
DUGAL PROJECTS DEVELOPMENT COMPANY LIMITED



Cc :

1. The Sarpanch, Agonda Village, Cancona
2. The Coastal Zone Regulatory Authority
3. Hon'ble National Green Tribunal,
4. Hon'ble National Company Law Tribunal
5. Alchemist Asset Reconstruction Company Ltd

Sikdar
12/6/19
Secretary
Village Panchayat
Agonda, Canacona - Goa

Office : D-3, LGF Lajpat Nagar Part-I, New Delhi-110024 India • Ph.: 011-29814508, 41726878
Mob.: 9810063161 • Email : asikdar1990@gmail.com



True copy
@



FORM I & XIV

Date : 01/09/2016

Page 1 of 1

Taluka CANACONA

तालुका

Village Agonda

गांव

Name of the Field Val

शेताचें नांव

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	0000.52.50	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0000.52.50

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 जमीन	Grand Total एकूण
0000.01.00	0000.00.00	0000.01.00	0000.53.50

Assessment : आकार	Rs. 0.00	Foro फोर	Rs. 0.00	Predial प्रेदियाल	Rs. 0.00	Rent रेंट	Rs. 0.00
----------------------	----------	-------------	----------	----------------------	----------	--------------	----------

S.No.	Name of the Occupant कब्जेदाराचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेरा
1	Janki Devappa Dessai One			

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

Other Rights इतर हक्क	Mutation No. फेरफार नं	Remarks शेरा
Name of Person holding rights and nature of rights: इतर हक्क धारण करणा-याचे नांव व हक्क प्रकार		
House belongs to: A: 1) Maria Fernandes One		

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 बागायत Ha.Ars.Sq.Mts हे. आर. चौ. मी.	Unirrigated जिरायत Ha.Ars.Sq.Mts हे. आर. चौ. मी.	Land not Available for cultivation नापिक जमीन Nature प्रकार	Area क्षेत्र Ha.Ars.Sq.Mts हे. आर. चौ. मी.	Source of irrigation सिंचनाचा प्राप्ति	Remarks शेरा
	-----Nil-----									

End of Report

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

Copy applied on _____
 Copy ready on _____
 Copy delivered on _____
 Fees charge _____
 C.A.R. Rt. No. _____
 Date _____

Mamlatdar of Canacona Taluka
 Canacona Goa
 01/09/2016



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

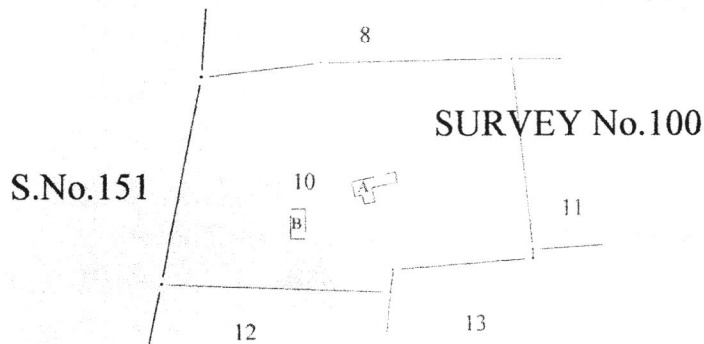
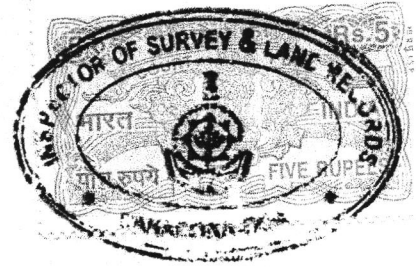
CANACONA-GOA

Inward No: CCAN 21-185



Plan Showing plots situated at
Village : AGONDA
Taluka : CANACONA
Survey No./Subdivision No. : 100/ 10.
Scale :1:2000

(SUDESH K.N. BHAIRESI)
Inspector of Survey & Land Records.



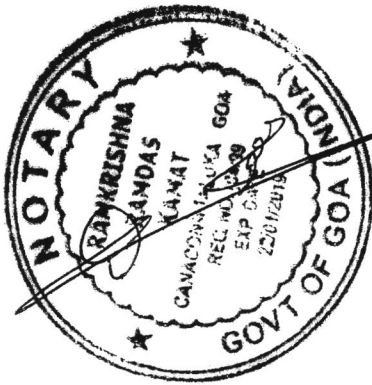
Generated By : Dinesh Naik (D,Man Gr. II.)
On : 08-01-2021.

Compared By:

Industry Registration completed successfully as User ID:
H2023S9792407 and Temporary Password: 72640

Registration For:

<input checked="" type="radio"/> INDUSTRY	<input type="radio"/> HOTELS/RESTAURANT /SHACKS
<input type="radio"/> FABRICATION	<input type="radio"/> RESIDENTIAL
<input type="radio"/> WASTE AUTHORIZATIONS (BMW, HWM, PWH, MSW, Battery, E-Waste, Construction and Demolition Waste)	



TRUE COPY

Form No. 4

RECEIPT

Receipt Book No. 118

No. 024

The Village Panchayat of Agarda
Received with thanks from Maria Fernandes - Wd
Rupees (850) eight and paise

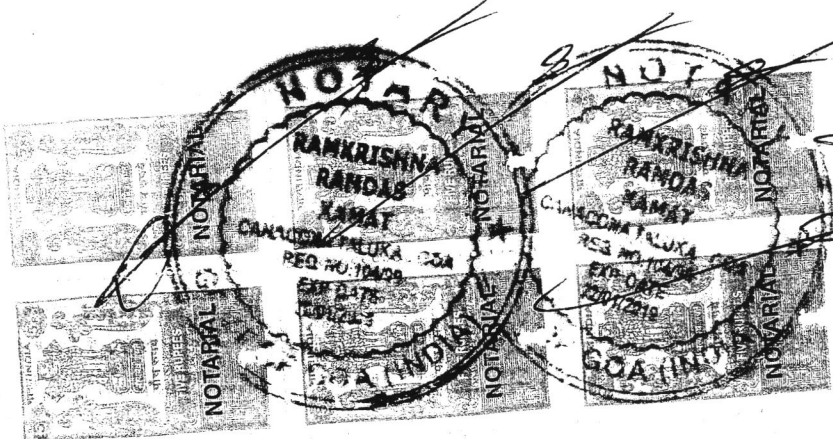
on account of House tax of house number 139
for the year 1979-80, 1980 & 1981
Date 18/11/1981 number plate

Reference cash entry.
Book _____
Page No. _____



Signature & Designation of
issuing Officer (V.P. Secretary)

The seal of the fund shall be affixed to each Receipt before it is issued.
The carbon copy shall be retained and the original issued.



IDENTIFIED TO BE TRUE COPY OF THE ORIGINAL

RAMKRISHNA R. KAMAT
NOTARY
CANACONA
STATE OF GOA, INDIA
REG. No. 991
DATE 20/08/2015



Handwritten: COPY

Handwritten: Val - A transit

Form No. 4
RECEIPT



Receipt Book No. 228

Receipt No. _____

The Village Panchayat V. P. Agonda

Received with thanks from conceicao fernandes

Rupees (35/-) Rupees Thirty five

on account of House tax of house no 438 for the

Date 8-10-99

Yer 1981-82 to
94-95

Reference to cash entry _____

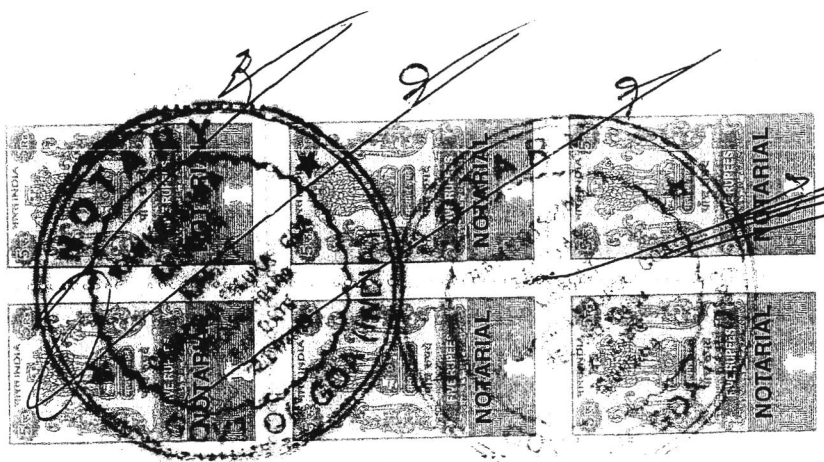
Book _____

Signature and Designation of

Issuing Officer

Page No. _____

The seal of the fund shall be affixed to each Receipt before it is issued.
The carbon copy shall be retained and the original issued.



CERTIFIED TO BE TRUE COPY OF THE ORIGINAL

Handwritten: [Signature]
RAMKRISHNA KAMAT
NOTARY
CANACONHA

STATE OF GOA (INDIA)
REG. NO. 1636 of 2015
DATE 08-05-2015

License granted vide
letter No. GE/5-160-96/
Rm/Cas/2726 dated 1-11-96. (See Rules (2A) and (3))

DEPARTMENT OF EXCISE
FORM No. 15

Timings for sale
9.00 a.m. to 11.00 p.m.

License for retail sale of ~~Indian~~ Indian made foreign liquor country liquor for consumption
on the ~~Restaurant~~ Restaurant premises.

Register No. **18/EXPL & CL/Cons/275.**

Name of license holder **Shri. Selo Amro Presentaseo Fernandes.**

Locality **Val Agonda, Canacona Goa.**

This license authorizes Shri ~~XXXXXXXX~~ **Selo Amro Presentaseo Fernandes.**

residing at **Val Agonda, Canacona Goa.**

to sell by retail ~~XXXXXXXX~~ Indian made foreign liquor country liquor for consumption on the ~~XXXXXXXX~~
Restaurant premises part of H.No. 437 situated at Val, Agonda Canacona.

subject to the provisions of the Excise Duty Act, 1911 and the Rules made thereunder.

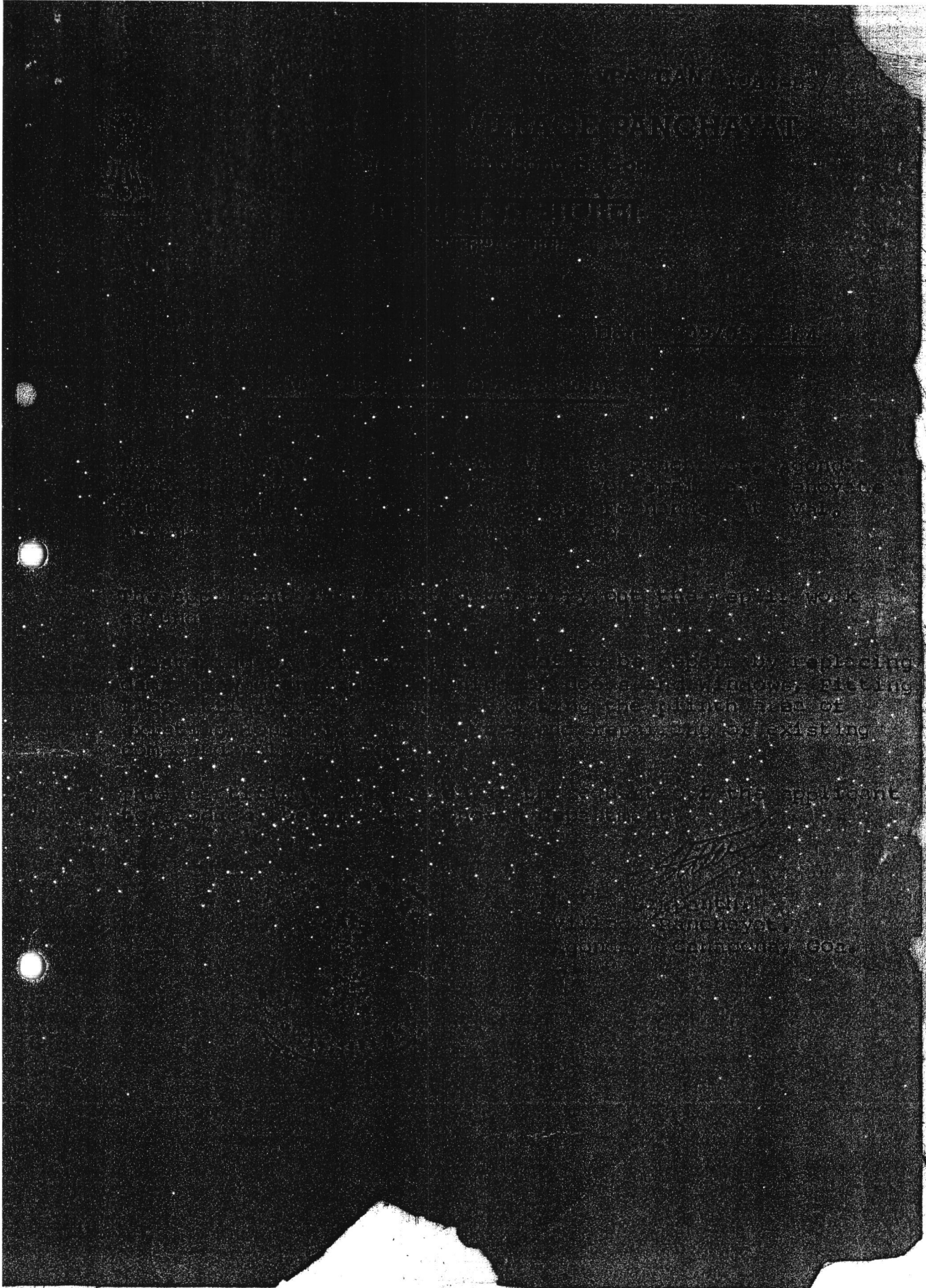
This license is valid from **11-11-1996** to **31-3-1997.** provided
that the license fee is paid according to the provisions of the Rules. The non-payment of license fee in
time shall render this license liable to be cancelled.

The premises shall be closed on every **Bar & Restaurant.**

See license fee up to 31-3-1997
paid U/C No. 623 dated 11-11-1996.

FORM 15, Part I, 1996 - 2000 - 11/96

(Signature)
(N. S. Chodas)
EXCISE INSPECTOR
Canacona Taluka



No. /VPA/CAN/1990/91/278



OFFICE OF THE VILLAGE PANCHAYAT

Agonda, Canacona S. Goa

ग्राम पंचायत आगोंदा

काणकोण - गोवा.

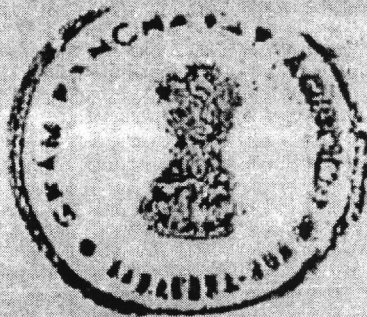
Date 17_1_1991

Read : Application dated 27th Dec. 1990 from Maria Fernandes, R/o Val, Aframat, Agonda, Canacona, Goa, .. Request for NOC to start Guest House & Restaurant in House bearing No. 439.

NO OBJECTION CERTIFICATE

This panchayat has no objection to start Guest House & Restaurant in the premises, House bearing No. 439, situated at Val, Aframat, Agonda, Canacona Goa by Smt. Maria Fernandes, R/o Val, Aframat, Agonda, Canacona, Goa provided the necessary formalities from the authorities, concerned or complied.

This certificate has been issued to her at her own request.



[Signature]
Sarpanch
Village Panchayat AGONDA
Agonda, Canacona, Goa.

Annexure A-3 (Colly)**124**

INFORMATION ISSUED UNDER RTI ACT, 2005

191c

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, (Govt. of Goa)
 1st Floor, Pandit Deendayal Upadhyay Bhavan, Pundalik Nagar, Porvorim-Goa.
 Email: dir-ste.goa@ nic.in, goacoastal zone @ gmail.com.

Ref. No. GCZMA/S/16-17/69/34

Dated: 04/09/2017

To,
Mr. Selso Fernandes
 Agonda-Canacona

Sub: Clearance for proposed reconstruction of house bearing H.No. 439 located in the property bearing Survey No. 100/10 at Agonda Village Canacona Taluka
Ref: Your application no. nil dated 19/07/2016.

With reference to your application on the above mentioned subject, it is hereby conveyed that the Goa Coastal Zone Management Authority (GCZMA) has examined your proposal in the 144th GCZMA Meeting held on 21/03/2017 in accordance to the para 8 of the CRZ Notification 2011, as amended. Accordingly approval/clearance is hereby granted in terms of CRZ angle in terms of the CRZ Notification 2011, as ammended, to you for re-construction of the existing house bearing H.No. 439 located in Sy. No. 100/10 of Agonda Village, Canacona Taluka, as per enclosed plan thereby not exceeding existing FAR, existing plinth area and existing density, subject to the confirmation with local building bye laws.



Certified Copy of The Document
 Available in Office Records

This approval is subject to the compliance of following conditions:

1. All the provisions of the CRZ Notification 2011, as amended should be strictly complied with.
2. This NOC/Approval is issued without prejudice to any other permission as required under the law including that of ownership of house, court case etc. As such, prior to the commencement of the 're-construction' work, it will be incumbent upon the applicant to obtain permission for any other authority as required under the law including from the local authority, Town and Country Planning Department, Revenue Authority etc.,
3. Traditional access/easement shall not be blocked. No construction should be carried out in the NDZ area between 0-200 mts. from the High Tide Line.
4. The structure should not be used for commercial purpose and not to be sold or transferred to the non-traditional community.
5. This permission is liable to be revoked, if it is found, at any stage, that the application contained false information / wrong plans / calculations / documents / misleading or false information, etc. or account of violation of aforementioned conditions.

Yours faithfully,

Agnelo Fernandes
 (Agnelo Fernandes)
 Member Secretary (GCZMA)

Encl: As above

Copy to:

1. P.A to Secretary (Environment) / Chairman (GCZMA), Secretariat, Porvorim.....for kind information.
2. The Chief Town Planner, Town & Country Planning Department, Patto, Panaji - Goa..... for information and necessary action.
3. The Deputy Collector & S.D.O. (Canacona), Canacona - Goa.... for information and necessary action.
4. The Secretary, Village Panchayat of Agonda, Canacona - Goa....for information and necessary action.

True Copy

INFORMATION ISSUED UNDER RTI ACT, 2005

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, (Govt. of Goa)
1st Floor, Pandit Deendayal Upadhyay Bhavan, Pundalik Nagar, Porvorim-Goa.
Email: dir-ste.goa@nic.in, goacoastal zone @ gmail.com.

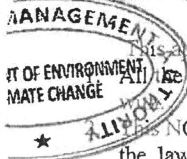
Ref. No. GCZMA/S/16-17/70/35

Dated: 04/04/2017

To,
Mr. Selso Fernandes
Agonda-Canacona

Sub: Clearance for proposed reconstruction of house bearing H.No. 438 located in the property bearing Survey No. 100/10 at Agonda Village Canacona Taluka
Ref: Your application no. nil dated 19/07/2016.

With reference to your application on the above mentioned subject, it is hereby conveyed that the Goa Coastal Zone Management Authority (GCZMA) has examined your proposal in the 144th GCZMA Meeting held on 21/03/2017 in accordance to the para 8 of the CRZ Notification 2011, as amended. Accordingly approval/clearance is hereby granted in terms of CRZ angle in terms of the CRZ Notification 2011, as ammended, to you for re-construction of the existing house bearing H.No. 438 located in Sy. No. 100/10 of Agonda Village, Canacona Taluka, as per enclosed plan thereby not exceeding existing FAR, existing plinth area and existing density, and further subject to the confirmation with local building bye laws.



This approval is subject to the compliance of following conditions:
All the provisions of the CRZ Notification 2011, as amended should be strictly complied.

Certified Copy of The Document
Available in Office Records

1. NOC/Approval is issued without prejudice to any other permission as required under the law including that of ownership of house, court case etc. As such, prior to the commencement of the 're-construction' work, it will be incumbent upon the applicant to obtain permission for any other authority as required under the law including from the local authority, Town and Country Planning Department, Revenue Authority etc.,
- Traditional access/easement shall not be blocked. No construction should be carried out in the NDZ area between 0-200 mts. from the High Tide Line.
 - The structure should not be used for commercial purpose and not to be sold or transferred to the non-traditional community.
 - This permission is liable to be revoked, if it is found, at any stage, that the application contained false information / wrong plans / calculations / documents / misleading or false information, etc. or account of violation of aforementioned conditions.

Yours faithfully,

(Agnela Fernandes)

Member Secretary (GCZMA)

Encl: As above

Copy to:

- P.A to Secretary (Environment) / Chairman (GCZMA), Secretariat, Porvorim.....for kind information.
- The Chief Town Planner, Town & Country Planning Department, Patto, Panaji - Goa..... for information and necessary action.
- The Deputy Collector & S.D.O. (Canacona), Canacona - Goa.... for information and necessary action.
- The Secretary, Village Panchayat of Agonda, Canacona- Goa....for information and necessary action.

True Copy

MINUTES OF THE 144TH MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 21/03/2017 (TUESDAY) AT 3:00 P.M. IN THE CONFERENCE HALL, 2ND FLOOR, SECRETARIAT, PORVORIM – GOA.

The 144th meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Principal Secretary (Environment), on 21/03/2017 (Tuesday) at 3:00 p.m. in the Conference Hall, 2nd Floor, Secretariat, Porvorim – Goa.

The following members were present during the meeting:

1. Principal Secretary (Environment) / Chairman(GCZMA)
2. Deputy Conservator of Forests, represented the Principal Chief Conservator of Forests, Department of Forests
3. Representative on behalf of Director, Directorate of Tourism
4. Representative on behalf of Director, Directorate of Settlement and Land Records
5. Representative on behalf of Chief Engineer, Water Resources Department represented the Chief Engineer, WRD
6. Representative on behalf of Directorate of Panchayats
7. Director, Directorate of Fisheries, Government of Goa
8. Dr. Prabhakar Shirodkar, Expert Member (GCZMA)
9. Shri. Audhoot Bhonsule, Expert Member (GCZMA)
10. Shri. Suhas Godse, Expert Member (GCZMA)
11. Shri. Shrirang Jambhale, Expert Member (GCZMA)
12. Member Secretary (GCZMA)

At the outset, the Chairman (GCZMA) welcomed the Members of GCZMA present for the meeting and thereafter the following agenda items were taken up for discussion and decision:

Item No.1: To confirm the minutes of the 143rd Meeting of the GCZMA held on 07/03/2017.

The minutes of the 143rd Meeting of the GCZMA held 07/03/2017 were circulated amongst the members of the Authority during the meeting for their comments and suggestions. There were no comments / suggestions received from the members as such the Authority confirmed the minutes of the 143rd Meeting held on 07/03/2017.

The Expert Members before starting with the discussion on the Agenda items brought to the notice of the Chairman of the GCZMA about the abusive /filthy language and threatening messages sent through e-mails and also on personal mobile numbers by Mr. Aleixo Pereira with respect to his complaints pending before the GCZMA as well as the matter pending before the Hon'ble NGT, Pune and requested for strict action against him.

Decision: The Authority noted the said fact and decided to compile all the abusive messages / mails received from Mr. Aleixo Pereira and to place the same before the Hon'ble NGT and request to take necessary action against him.

Item No. 2:

Case No. 2.1:

To discuss and decide on the Complaints received from Mr. Menino Gomes with regard to the alleged illegal construction of temporary shed, hauling ramp for fishing trawler and repair of retaining wall in the property bearing Sy. No. 40/2 at Ella Dauji, Old-Goa carried by Mr. Teofilo D'Souza further requesting for revocation of the NOC dated 25/10/2011 issued by the GCZMA.

1. An application dated 15/10/2010 was received by GCZMA from Mr. Teofilo D'Souza seeking permission to renovate the temporary shed, repair of existing hauling ramp for fishing trawler and repairs of demolished retaining wall in the property bearing Sy. No. 40/2 at Ella Dauji, Old-Goa.
2. The said application was placed before the Authority in the 63rd of the GCZMA held on 20/09/2011 and the same was approved subject to certain conditions. Accordingly, NOC bearing no. GCZMA/N/11-12/81/816 dated 25/10/2011 was issued to Mr. Teofilo D'Souza.
3. A complaint was also received from Mr. Menino Gomes requesting the Authority to withdraw / revoke the NOC /permission issued to Mr. Teofilo D'Souza for temporary shed, hauling ramp for fishing trawler and repair of retaining wall in the property bearing Sy. No. 40/2 at Ella Dauji, Old-Goa stating that as per the plans produced to the Authority based on which permission was issued to Mr. Teofilo D'Souza, it clearly proves that the portion of the plot wherein the slip way is shown falls in his

property bearing Sy. No. 40/5 and not in Sy. No. 40/2 as shown in the plans accompanying the application.

4. In view of the complaint received from Mr. Menino Gomes, the GCZMA vide letter as referred above at Sr. No. (2) directed Mr. Teofilo D'Souza to submit his detailed reply as to why the permission granted to him vide letter no. GCZMA/N/11-12/81/816 dated 25/10/2011 should not be revoked / cancelled. And, in the meanwhile the permission / NOC dated 25/10/2011 granted was kept in abeyance.

In view of the above, matter was placed before the Authority in order to grant personal hearing to the parties and for final decision in the matter.

Proceedings: The Complainant, Mr. Menino Gomes was present. Adv. Pratik Korgaonkar represented Mr. Teofilo D'Souza, who was also present in person.

Mr. Menino Gomes placed on record written submissions and further orally submitted that he is the owner of Sy. No. 40/5 and Mr. Teofilo D'Souza has damaged his property by carrying out construction activities and has also obtained NOC / Approval fraudulently from the GCZMA for construction of temporary shed, hauling ramp for fishing trawler and repair of retaining wall in Sy. No. 40/2 which is adjacent to his property. That the slipway, shed, compound wall with steel gate have been constructed in his property i.e. 40/5 and brought stay against the Order of demarcation passed by the Deputy Collector of Tiswadi for demarcation of the boundaries of the property bearing Sy. No. 40/5. Mr. Teofilo D'Souza had illegally encroached upon 225 sq. M of his plot i.e. Sy. No. 40/5 which is admeasuring 1525 Sq. M. He further submitted that a Show Cause Notice was issued by the GCZMA which was replied by Mr. Teofilo D'Souza stating that as far as the slipway is concerned there is no such construction exists in the property bearing Sy. No. 40/2. Mr. Teofilo D'Souza has himself said that there is no existence of slipway in Sy. No. 40/2 and then on what basis he has applied for repair of slipway. He further submitted that no retaining wall existed in Sy. No. 40/2.

Adv. Pratik Korgaonkar on behalf of Mr. Teofilo D'Souza submitted that he has not carried out any construction in Sy. No. 40/5 and whatsoever construction is been done is in his property i.e. Sy. No. 40/2. All the Authorities after conducting inspection of the site has granted permissions. The Complainant has not produced any document to show that construction has been carried out in Sy. No. 40/5.

He further submitted that detailed reply will be filed by him within a period of three days to the written submissions filed by the Complainant.

Decision: The Authority after detailed discussion and due deliberation and in view of the written as well as oral submissions made by both the parties, decided to inspect the site

under reference through its Expert Members alongwith the Officials of DSLR and thereafter to take up the matter before the Authority.

Case No. 2.2:

To discuss and decide on the Complaint dated 07/11/2016 received from Mr. Joao Pereira with regard to alleged illegal construction of swimming pool, compound wall (three sides), retaining wall towards Gonsua Beach with gate in Sy. No. 6/1, 8/7 & 8 of Gonsua, Betalbatim, Salcete – Goa carried out by M/s. Devyani International Pvt. Ltd / R. K. Jaipuria & Sons.

1. A complaint letter dated 07/11/2016 was received from Mr. Joao C. Pereira, R/o. H. No. 40, Acsona, Utorda, Salcete – Goa with regard to alleged illegal construction of swimming pool, compound wall (three sides), retaining wall on western side towards the Gonsua Beach alongwith Gate in the property bearing Sy. No. 6/1, 8/7 & 8 of Gonsua Betalbatim, Salcete – Goa within 200 m from the HTL carried out by M/s. Devyani International Pvt. Ltd / R. K. Jaipuria & Sons.
2. Subsequently, upon receipt of the said complaint a Show Cause Notice bearing No. GCZMA/S/ILLE-COMPL/16-17/47/1779 dated 25/11/2016 was issued to M/s. Devyani International Pvt. Ltd / R. K. Jaipuria & Sons.
3. Accordingly, a letter dated 14/12/2016 was filed by Mr. Ravikant Jaipuria & Sons (HUF) through his Power of Attorney Mr. Gajanan Porob denying the contentions of the Show Cause Notice and seeking extension of time in the matter.
4. Further a detailed reply dated 31/01/2017 was filed by Mr. Gajanan Porob, POA to Mr. Ravikant Jaipuria & Sons which interalia states as follows:
 - a) The said complaint is the result of the enmity between the Complainant and Mr. Alex Pereira who was the earlier owner of the said property.
 - b) That the house bearing No. 12/B, situated at Gonsua, Betalbatim, Salcete – Goa belonging to Ravikant Jaipuria is a residential house which is built after obtaining all the necessary approvals from the Village Panchayat of Betalbatim and the same is not used for any commercial purpose.
 - c) The Village Panchayat of Betalbatim has also granted the Occupancy Certificate to the said house after inspection conducted by the GCZMA.
 - d) That the construction was approved by the Goa State Committee on Coastal Environment and as such was done by obtaining all the required approvals from the statutory authorities.
 - e) That as far as claim of erection of swimming pool is concerned, it is an existing water body / pond which has only been beautified. The said body / pond was an existing depression which was filled with rain water and the peculiar

- topography of the land permitted to retain the water body / pond with beautification in front of the house. There is absolutely no construction carried out except that the existing water body has been renovated.
- f) It may be noted that, in respect of retaining wall the Chief Town Planner upon taking into account the particular topography and terrain of the neighbouring property and had stated the same requires proper protection for stability and necessary provision for retaining the earth and drainage will have to be provided.
- g) That the subject matter was adjudicated by the Hon'ble High Court of Bombay at Goa in suo moto Writ Petition No. 2/ 2006 and the Panchayat had withdrawn the show cause notice issued to them. The withdrawal of the Show Cause Notice received the approval of the Hon'ble High Court.
5. Further, it is pertinent to note that the GCZMA received another letter dated 27/02/2017 from Mr. Joao Pereira alleging that the illegal construction of a palacious bungalow under the garb of traditional house in NDZ which has been allegedly approved in the name of Alex Pereira by erstwhile GSCCE. He further objected on the 9th meeting of the GSCCE held on 20/10/1995 wherein he stated that the said proposal i.e. proposal for residential house in Sy. No. 6/1, Gonsua was never discussed in the said meeting. Therefore the approval letter of residential house in Sy. No. 6/1/ is illegal and fraudulent.
6. He further pointed out on the reply filed by Mr. Gajanan Porob, POA to Ravikant Jaipuria wherein he stated that at no point of time there existed a water bodies in the nature of 'pond'.
7. Further in order to protect the compound wall and retaining wall, the violator is trying to take shelter of letter of GCZMA dated 03/01/2003 regarding embankment which is also of no value as at that point of time Devyani International Pvt. Ltd. were owners of only one Sy. No. 6/1 and the present illegal construction of compound wall and retaining wall are in 3 Survey numbers i.e. 6/1, 8/7 & 8.
8. An inspection of the site under reference was carried out by the Technical Officer and Jr. Scientific Assistant of the GCZMA. The site inspection report will be circulated during the meeting.

Now, in view of the above, the matter was placed before the Authority for grant of personal hearing to the parties.

Proceedings: The Complainant, Mr. Joao Pereira was present in person. Adv. C. Coutinho was present on behalf of M/s. Devyani International Pvt. Ltd. / R. K. Jaipuria & Sons.

Mr. Joao Pereira submitted that illegal construction of Bungalow, swimming pool, retaining wall and compound wall has been carried out in NDZ area. The property was purchased by Mr. Aleixo Pereira in the year 1994 and obtained permission from the GSCCE dated 17/04/1997 and also obtained another approval dated 05/08/1998. He further stated that as per the approval letter dated 17/04/1997 the proposal for construction of residential house was approved in the 9th meeting of the GSCCE held on 20/10/1995, however, on perusal of the minutes of the 9th meeting of the GSCCE does not mention any proposal with regard to construction of residential house. The second approval dated 05/08/1998 was issued based on the minutes of the 16th meeting of the GSCCE held on 15/06/1998 which was the last meeting of the GSCCE and thereafter, GCZMA was constituted, however, the minutes of the 16th meeting of the GSCCE were not confirmed by the GCZMA in its 1st meeting held on 21/04/1999 and it was agreed that in the event any decision of the GSCCE is found to be in contravention of the CRZ Notification the same could be reopened by the Authority for scrutiny and appropriate action.

He further submitted that Mr. Aleixo Pereira had obtained construction license from Village Panchayat and thereafter the said property was sold to Mr. R.K. Jaipuria i.e. M/s. Devyani International in April, 2001 who thereafter started with construction activities in the year 2002. Subsequently, Show Cause notice was issued by the GCZMA. Matter came up before the Authority in its 10th meeting held on 13/11/2002 wherein under item no. 2 in two cases of Gonsua Village, Salcete it was decided to issue final directions under Section 5 of the Environment (Protection) Act, 1986.

Also, Writ petition bearing No. 422/1998 before the High Court of Bombay at Goa put restriction on grant of any approval / permission for carrying out any construction activity till the matter is disposed of. In spite of the same, approval was granted for the said construction. He further submitted that Mr. Aleixo Pereira, the original owner of the property had submitted an Affidavit somewhere in January 2003 before the Village Panchayat stating that he is no more the owner of the said property inspite of that somewhere in April 2003 he has signed the plans in respect of the said structure. He also submitted that the revised plans has no approval of the GCZMA and the same were approved by the Town and Country Planning Department.

Adv. C. Coutinho representing the Respondent submitted that the structure in question is a residential Guest house of the Chairman, Mr. R. K. Jaipuria and entire building is falling beyond 200 m. He further submitted that the swimming pool in question is an existing water body / pond which has only been beautified. The said body / pond was an existing depression which was filled with rain water and there is absolutely no construction carried out except that the existing water body has been renovated.

He further submitted that occupancy certificate was granted on 03/01/2003 by the Village Panchayat. He also submitted that the subject matter was before the High Court in Writ Petition No. 422/1998 however, the Village Panchayat after conducting due inquiry filed an Affidavit stating that the proceedings with respect to the structure were dropped. He also submitted that the property when purchased was a vacant plot and the bungalow was constructed with necessary permissions.

Decision: The Authority after detailed discussion and due deliberation and in view of the submissions made by both the parties, decided to refer the matter to the inquiry Committee of the GCZMA to conduct necessary inquiry in the matter and to also conduct inquiry from vigilance angle. The Authority further granted one month's time period to the inquiry Committee of the GCZMA to conduct necessary inquiry and submit its report.

Case No. 2.3:

To discuss and decide on the Complaint letter dated 02/02/2017 received from Mr. Pascoal Fernandes with regard to alleged illegal construction of a building in hte property bearing Sy. No. 216/1 situated at Varca Village of Salcete – Goa within 500 m from the HTL carried out by Mr. Alecino Rodrigues.

1. A complaint letter dated 02/02/2017 was received from Mr. Pascoal Fernandes, R/o. Pedda no Meio, Varca, Salcete - Goa with regard to alleged illegal construction of a building in the property bearing Sy. No. 216/1 situated at Varca Village of Salcete – Goa within 500 m from the HTL carried out by Mr. Alecino Rodrigues, R/o. Pedda Utordoxe, Varca, Salcete – Goa without obtaining prior approval from the concerned Authorities.
2. Subsequently, upon receipt of the said complaint a Show Cause Notice bearing No. GCZMA/S/ILLE-COMPL/16-17/78/2205 dated 20/02/2017 was issued to Mr. Alecino Rodrigues.
3. Accordingly, a reply dated 06/03/2017 to the Show Cause Notice was received from Mr. Alecino Rodrigues stating that the structure in question is existing in Sy. No. 216/2D even prior to 1991.

Now, in view of the above, the matter was placed before the Authority for grant of personal hearing to the parties.

Proceedings: Heirs of Mr. Alecino Rodrigues, the Respondent were present. The Complainant was absent. Also, Mr. Antonio Alemao, owner of the property bearing Sy.

No. 216/1 of Varca Village to which survey number Show Cause Notice was issued remained present.

Heirs of Mr. Alecino Rodrigues brought to the notice of the Authority that the Complainant, Mr. Pascoal Fernandes is not traceable. Further submitted that their structure is located in Sy. No. 216/2D and the Show Cause Notice has been issued to Mr. Alecino Rodrigues for illegal construction in property bearing Sy. No. 216/1 of Varca Village of which Mr. Antonio Alemao is the owner.

Mr. Antonio Alemao owner of the Sy. No. 216/1 of Varca Village stated that there is no construction activity in the said survey number.

Decision: The Authority after detailed discussion and due deliberation and in view of the submissions made by the parties present, decided to conduct inspection in respect of both the Survey Numbers i.e Sy. No. 216/1 and 216/2D of Village Varca, Salcete – Goa through the Expert Members of the GCZMA and to take up thereafter.

Case No. 2.4:

To comply with the Order dated 26/09/2016 passed by the Hon'ble NGT in Application bearing No. 105/2016 in the matter of Mr. Eliano Pereira V/s. Shalai Resort

1. The GCZMA was in receipt of a complaint letter dated 08/12/2015 from Mr. Eliano Pereira with regard to the alleged illegal construction of a Resort in the NDZ area in the property bearing Sy. No. 213/4 at Ozrant Vagator at Anjuna, Bardez- Goa carried out in the name and style of "Shalai Resort".
2. The said complaint letter was forwarded to the Inquiry Committee of the GCZMA for conducting necessary inquiry and submission of report.
3. Accordingly, the Inquiry Committee of the GCZMA conducted the necessary inquiry which includes inspection of the site and grant of personal hearing to the parties and submitted its report on 21/07/2016.
4. The report of the Inquiry Committee interalia in brief states as under:
By taking into consideration the Gut Book, the survey records, Form I & XIV, NOC for reconstruction of the year 1982, Deed of Sale of the year 1989, the structures A to G shown in the sketch plan attached to the Sale deed and in the survey No. 213/4 of Village, Anjuna were existing prior to the date of CRZ Notification 1991.
5. An Application bearing No. 105/2016 (WZ) was preferred before the Hon'ble NGT, Pune thereby challenging the alleged illegal construction of structures being

carried out by M/s. Shalai the Cliff Resort in the property bearing Sy. No. 213/4 of Village Anjuna, Bardez – Goa.

6. The said matter was disposed of vide Order dated 26/09/2016 with a direction that the Applicant, Mr. Elaino Pereira, Respondent No. 1, M/s. Shalai the Cliff Resort and Respondent No. 5, the Village Panchayat of Anjuna – Caisua are required to appear before the Respondent No. 3, the GCZMA for the purpose of hearing on 24/10/2016. Further, the GCZMA is required to dispose of the complaint dated 08/12/2015 filed by Mr. Eliano Pereira in accordance with law within 8 weeks. The Hon'ble NGT further directed Respondent No. 1 M/s. Shalai the Cliff Resort and Respondent No. 5, the Village Panchayat of Anjuna – Caisua to place on record the necessary documents in support of their case before the GCZMA on or before 07/10/2016.
7. As per the direction of the Hon'ble NGT, Mr. Eliano Pereira placed on record his relevant documents vide Application dated 07/10/2016 also, the Village Panchayat of Anjuna placed on record their reply on 12/10/2016.
8. The Office was in receipt of another complaint dated 31/08/2016 from Mr. Francis Fernandes, R/o. Tropa- Siolim, Bardez – Goa with regard to the same subject matter wherein it is alleged that Mr. Shantanoo V. Rane has carried out massive illegal hill cutting and illegal construction in Sy. No. 213/4 of Village Anjuna, Bardez – Goa in gross violation of CRZ Notification. Upon receipt of the said complaint letter, a show cause notice dated 09/09/2016 was issued to Mr. Shantanoo V. Rane to which reply was filed accordingly.
9. Subsequently, also received another complaint letter dated 07/11/2016 from Goa Paryavaran Savarakshan Sangharsh Samittee with respect to the alleged illegal construction carried out by M/s. Shalai the Cliff Resort at Ozrant Vagator, Anjuna, Bardez – Goa.
10. In view of the direction of the Hon'ble NGT, the matter was placed for hearing before the Secretary (Env.) on 24/10/2016 wherein the Complainant, Mr. Eliano Pereira was present in person. However, none remained present on behalf of M/s. Shalai - The Cliff Resort nor for the Village Panchayat of Anjuna – Caisua. It was decided to fix the matter for further hearing on 02/11/2016 on which date of hearing the Advocates and the parties present were apprised that since the GCZMA has been duly constituted vide Order dated 26/10/2016 the concerned parties to be heard before the newly constituted Authority.

The said matter was placed in the 139th GCZMA meeting held on 07/02/2017 for grant of personal hearing to the parties wherein the Authority noted that Original Complainant, Mr. Eliano Pereira was absent for the personal hearing and in his absence could not conduct effective hearing. The Authority noted that the time granted by the Hon'ble NGT to decide the complaint has lapsed and hence the Authority after detailed discussion and due deliberation decided to take up the matter for 21st February with final opportunity to the complainant, the respondents and the Village Panchayat. In the event the parties fail to remain present for the next hearing, the Authority will be compelled to take decision ex-parte. The Authority decided to communicate this to all parties concerned well in advance and take this matter on 21st of February at 3.00 pm

The said matter was placed in the 141st GCZMA Meeting held on 21/02/2017 wherein the Complainant, Mr. Eliano Pereira was present in person. Mr. Shantanoo Rane, The Respondent was also present for the hearing.

Mr. Shantanoo Rane stated that as directed by the Authority he has already submitted relevant documents in support of his case before the Office of the GCZMA and placed on record letters dated 13/02/2017 addressed to Mr. Eliano Pereira and Mr. Francis Fernandes serving the copies of the documents pertaining to the land bearing Sy. No. 213/4 of Village Anjuna, Bardez – Goa.

The Complainant, Mr. Eliano Pereira stated that he does not wish to proceed just 2 days back he received the documents furnished by the Respondent and upon perusal of the same it is seen that the structure is shown on the Survey plan. He further stated that since a complaint was filed / action was taken against his structure, he filed a complaint against M/s. Shalia Cliff Resort and now he does not wish to proceed ahead with his complaint and withdraw the same.

After detailed discussion and due deliberation and in view of the submissions made by the parties, the Authority directed the Complainant / Applicant, Mr. Eliano Pereira to place on record his submissions in writing vide an Affidavit on or before 27/02/2017 (i.e. by Monday) and in case the same is not filed by 27/02/2017 (i.e. by Monday) the Authority to take final decision in the matter based on the documents which are there on record. Further, upon perusal of the Inquiry Committee report and upon considering the submissions made by the parties, the Authority decided as follows:

- a) To forward the copy of the approved plan attached to the letter dated 28/12/1982 issued by the Village Panchayat to the Town and Country Planning Department and Village Panchayat of Anjuna to verify the authenticity of the document / plan.

- b) To request the Directorate of Settlement and Land Records to conduct the survey and to submit the plan of the survey depicting the authorized structures as per the survey records.
- c) Forward the copy of the Sale Deeds dated 09/02/1989 and 10/02/2014 to the sub – registrar to specifically seek clarification of the authenticity of the documents.
- d) To direct the Respondent to remove the 10 temporary structures referred to in the Inquiry Committee report within 15 days as no approval is obtained from the GCZMA for erection of the same.

It is pertinent to note that M/s. Shalai Resort vide letter dated 09/03/2017 submitted clarification with respect to the nature and status of the structures standing in the property bearing Sy. No. 213/4 of Anjuna Village stating as follows:

That there are all together 7 existing plinths, the details of which are as follows:

i) on the plinth marked as “A” – there exists one wooden clad structure, which was constructed as per the approved plan on the existing plinth.

ii) on the plinth marked as “B” & “C” – there exists 5 wooden clad structures, constructed on the existing plinth.

iii) on the plinth marked as “D” – there exists one wooden clad structure, constructed on the existing plinth.

iv) on the plinth marked as “E” – there exists one wooden clad structure, constructed on the existing plinth.

v) on the plinth marked as “F” – there exists one wooden clad structure, constructed on the existing plinth.

vi) on the plinth marked as “G” – there exists one wooden clad structure, constructed on the existing plinth.

Thus there exists 10 structures clad with wood on the external side in Sy. No. 213/4 of Anjuna Village.

Accordingly, the Inquiry Committee submitted a Corrigendum dated 15/03/2017 to their report dated 20/07/2017 stating that a word “clad” to be added after the word wooden.

In view of the above, the matter was placed before the Authority for discussion and decision.

Decision: The Authority noted that the Inquiry Committee of the GCZMA had submitted its report dated 20/07/2016, to which corrigendum dated 15/03/2007 has now been submitted by the Inquiry Committee of the GCZMA it is stated that the 10 structures

mentioned in its report dated 2/07/2016, which are referred to as wooden structures in the earlier report dated 15/03/2017 are in fact 10 wooden clad structures, further clarifying that the said structures are Structure A is one wooden clad, B & C five wooden clad, D one wooden clad, E one wooden clad, F one wooden clad and G one wooden clad. Thus, the Inquiry Committee, GCZMA, confirmed vide its report dated 20/07/2016 and corrigendum dated 15/03/2017 the existence of 10 wooden clad structures standing in the said property, of the Respondent, since prior to the year 1991.

The Authority after detailed discussion and due deliberation and in view of the corrigendum of the Inquiry Committee of the GCZMA and also the survey plan submitted by the Respondent, decided that the said 10 wooden clad structures of the Respondent are in existence in the property bearing Sy. No. 213/4 of Anjuna Village, Bardez – Goa and has not violated the CRZ Notification and the aforesaid proceedings are therefore dropped.

Case No. 2.5:

To comply with the directions of the Hon'ble NGT, Pune issued vide Order dated 03/11/2016 passed in Misc. Application no. 326/2016 in Application No. 82/2015

Background:

1. An Application bearing No. 82/2015 was filed before the Hon'ble NGT, Pune by Mr. Sagardeep Sirsaikar thereby challenging the inaction and dereliction from duty by the various authorities in restraining the Respondent No. 10 i.e. M/s. Diana Buildwell Pvt. Ltd. from carrying out the illegal construction in total violation of the CRZ Rules and Regulations in the property bearing Sy. Nos. 354/2, 355, 354/7A, 340/1, 354/8, 356/7, 353/5 and 356/8 of Village Anjuna, Bardez - Goa.
2. The said Application has been argued by the representatives / Advocates of the concerned parties and Judgement has been delivered on 3rd of November 2016.
3. Subsequently, a Miscellaneous Application bearing No. 326/2016 was filed by M/s. Diana Buildwell Pvt. Ltd.
4. After hearing the arguments on 12/05/2016 in Application No. 82/2015 the Hon'ble tribunal at the conclusion of the arguments was pleased to pass an order upon instructions from the State of Goa that the State would not issue completion certificate or Occupancy certificate to the project proponent in respect of the project in question till the next date of hearing and that the statement would continue until further Orders.

5. M/s. Diana Buildwell Pvt. Ltd. in order to commence commercial activities in their hotel required various licenses under the relevant laws concerned and which would take a considerable time for being processed unless and until completion certificate from the TCP and Occupancy certificate from the Village Panchayat is obtained due to which M/s. Diana Buildwell Pvt. Ltd. was unable to apply for all the licenses / permissions concerning the operation of the Hotel. As a result a Misc. Application No. 326/2016 was filed before the Hon'ble NGT by M/s. Diana Buildwell Pvt. Ltd. seeking permission from the Hon'ble NGT to apply for and obtain the completion certificate and Occupancy certificate from the Village Panchayat.
6. The said Application came up for hearing on 03/11/2016 wherein the Hon'ble NGT was pleased to dispose of the Misc. Application as well as the Main Application bearing No. 82/2015 with various directions for the reasons recorded in the Judgement separately. The directions issued by the Hon'ble NGT are as follows:
 - i) The Respondent no. 2-GCZMA shall place the case of the Resp. No. 10 (M/s Diana Buildwell Pvt. Ltd.) for reconstruction and extension of the proposed resort / hotel with its recommendations , both positive and/or negative, before the Goa SEIAA for taking its decision in the matter of grant of CRZ clearance to the proposal for reconstruction and extension of resort/hotel referred to hereinabove **within a period of (4) weeks.**
 - ii) Respondent no.1- State of Goa, The Respondent no. 2-Goa Costal Zone Management Authority , the Respondent no. 3- Dy. Collector & Sub Divisional Officer, Bardez, Sub Division, Mapusa, Goa shall ensure the demolition of Rain Water Harvesting Tanks and other illegal structures referred to herein situate in the NDZ area falling in the property owned possessed by the Respondent no.10- M/s Diana Buildwell Pvt. Ltd. **within (8) weeks.**
 - iii) The Respondent no. 2-GCZMA shall appoint a Committee of its Experts including a Representative of Bio-diversity Board to assess the damage caused to the environment by unauthorized and the illegal construction of helipad, stepped access and prepare a plan of its restoration and give tentative costs for such restoration **within (8) weeks.**
 - iv) The Respondent no. 2-GCZMA shall execute such plan **within next three (3) months.**

- v) The Respondent-2 GCZMA and Respondent no. 4- Town and Country Planning Department, Goa shall re-examine the issue of development of road and parking in Sy. No. 354/2 and 340/1 of Village Anjuna, Bardez-Goa **within next one month** and there shall be no construction / development work at the said site (in judgment para no. 53 said site is defined as both the survey numbers 354/2 and 340/1) till the issue is re-examined as afore said , and if such permission is not granted, the Respondent no. 10- M/s. Diana Buildwell shall restore the said land to its original condition at his own cost.
- vi) Entire costs of restoration and restitution as envisaged above shall be borne by Respondent no. 10- M/s Diana Buildwell Ltd. and Respondent no. 10- M/s Diana Buildwell Ltd. shall tentatively deposit Rs. 5 crores (Rs. Five Crores) in the escrow account of the Collector, North Goa **within (8) weeks** and the amount shall be utilized by the Collector, North Goa for restoration work with the assistance of Respondent no. 2- GCZMA.
- vii) The Respondent no. 10- M/s Diana Buildwell Ltd. shall pay an additional amount of Rs. 10 lakhs (Rs. Ten lakhs) to Collector, North Goa **within (8) weeks** which shall be spent on Coastal Protection, sanitation facilities in the Coastal area for tourists in consultation with the Respondent no. 2- GCZMA.
- viii) Respondent no. 2- GCZMA shall deposit an amount of Rs. 5 lakhs (Rs. Five Lakhs) as the costs of the Application in escrow account of the Collector, North Goa **within (4) weeks** which shall be spent for activities such as Coastal Protection, sanitation facilities in the coastal area.
- ix) No completion or occupation certificate shall be granted in respect of the properties developed by Respondent no. 10- M/s Diana Buildwell Pvt. Ltd. till the directions at the clause no. 2,6 and 7 herein are complied with are complied with.
7. In order to verify and ensure the compliance of directions at Para (ii) of the Order dated 03/11/2016 of the Hon'ble NGT, an inspection was carried out by the Technical Officer of the GCZMA on 11/11/2016 only with respect to the rain water harvesting tanks and inspection report was accordingly submitted stating that the rain water harvesting tanks constructed in the property owned by M/s Diana Buildwell Pvt. Ltd. are demolished and lawn has been developed over it with ornamental grass.
8. Thereafter another inspection was carried out by the Expert Members of the GCZMA alongwith the representatives from the Office of GSBB, TCP, Deputy

Collector of Bardez and Village Panchayat of Anjuna on 22/11/2016 and accordingly, report was submitted by the Expert Members of the GCZMA on 07/12/2016 so also by the Deputy Collector of Bardez on 25/11/2016.

9. Subsequently, Execution Application bearing No. 40/2016 in Application bearing No. 82/2015 by Mr. Sagardeep Sirsaikar stating that M/s. Diana Buildwell Pvt. Ltd. has not demolished the rain water harvesting tanks as per the directions at para (ii) of the Order dated 03/11/2016 and thus has not complied with the directions of the Hon'ble NGT dated 03/11/2016.
10. The said review Application was taken up for hearing on 22/12/2016 on which date of hearing the Hon'ble NGT was pleased to direct the GCZMA to conduct inspection of the site with respect to rain water harvesting tanks within a of 2 days and to file categoric report alongwith the photographs about the present condition of the rain water harvesting tanks and also to report as to whether the directions issued vide Order dated 03/11/2016 are complied with by the GCZMA.
11. Accordingly, the site was inspected by the Technical Officer on 24/12/2016 and submitted his report accordingly before the Hon'ble NGT Pune on 27/12/2016.

The report in brief states that:

- 1) The Rain Water Harvesting Tanks which in NDZ of the property owned by M/s Diana Buildwell Pvt. Ltd were demolished and covered with ornamental grass.
- 2) M/s Diana Buildwell Pvt. Ltd was asked to dig up the area where rain water harvesting tank were constructed it was noticed that the tanks were demolished and all debris of the rain water harvesting tanks were found.
- 3) No ongoing construction activity was found at the time of inspection.

Copy of the Order dated 03/11/2016 alongwith the detailed site inspection report of Expert member (GCZMA) dated 07/12/2016, inspection report dated 25/11/2016 of the Deputy Collector, Bardez and site inspection report dated 24/12/2016 were enclosed and circulated with the agenda item as **Annexure II**.

The said matter was placed in the 136th GCZMA meeting held on 17/01/2017 wherein the Members perused the agenda note and noted that directions no. (i) to (v) and (viii) issued by the Hon'ble NGT vide Order dated 03/11/2016 are to be complied with by the GCZMA . The Authority after detailed discussion and due deliberation decided as follows:

- a) The Authority noted that the direction at Sr. No. (i) pertains to placing the case of M/s. Diana Buidwell Pvt. Ltd for reconstruction and extension of the resort / hotel with its recommendations before the Goa SEIAA for taking its decision in the matter

of grant of CRZ clearance. However, the Authority observed that the term of the Goa – SEIAA has expired on 8/12/2016 and a proposal has been forwarded by the State Government to MoEF requesting for reconstitution of Goa – SEIAA afresh and the same is under consideration with the Ministry. As such the Authority is ready with the report with recommendations as per Hon'ble NGT's directions and decided to forward its recommendations in respect of the proposal of M/s. Diana Buidwell Pvt. Ltd. pertaining to reconstruction and extension of the proposed resort / hotel before the Goa-SEIAA only after its reconstitution Notification issued by the MOEF & CL.

- b) The direction at Sr. No. (ii) pertains to demolition of Rain Water Harvesting Tanks and other illegal structures situated in the NDZ area in the property owned by M/s Diana Buildwell Pvt. Ltd. by the GCZMA. In this regards, the Expert Members of the GCZMA who visited the site informed the Authority that the Rain Water Harvesting Tanks has already been demolished and the land is restored to its original position with grass planted on it and that there are no other illegal structures observed in NDZ area. As such in view of the observations of the Expert Members of the GCZMA, the Authority noted that the said direction at Sr. No. (2) is duly complied with by the GCZMA.
- c) The direction at Sr. No. (iii) & (iv) pertains to appointment of a Expert committee including a representative of Bio-diversity Board in order to assess the damage caused to the environment by the illegal construction of helipad, stepped access and prepare a plan for restoration along with tentative costs for such restoration and thereafter the GCZMA to execute such plan accordingly.

In this regard, the Authority decided to constitute a Expert Committee comprising of three (3) Expert Members of the GCZMA namely Dr. Prabhakar Shirodkar, Shri. Audhut Bhounsule and Dr. Suhas Godse and 2 experts/officials/representatives to be nominated by the Member Secretary of Goa State Biodiversity Board (GSBB). The Authority decided to issue a letter to the GSBB requesting to furnish / suggest the names of two experts / representatives/officials on their behalf.

The Expert Committee is required to prepare a restoration plan within a period of 8 (eight) weeks and thereafter to execute the said plan within a period of 3 (three) months.

- d) The direction at Sr. No. (v) pertains to re-examine the issue of development of road and parking in Sy. No. 354/2 and 340/1 of Village Anjuna, Bardez-Goa by the GCZMA and the Town and Country Planning Dept. and also to ensure that no construction / development work should take place at the site till the issue is re-examined and if no such permission is granted. The Authority decided to comply with this directions in consultation with the TCP on site.

- e) The direction at Sr. No. (viii) pertains to deposit of an amount of Rs. 5 lakhs as the costs of the Application in the account of the Collector, North Goa by the GCZMA. The Authority noted that the payment of Rs. 5 Lakhs has not been deposited in the account of the Collector, North Goa and as such decided to deposit the said amount within a week's time period.

Accordingly, as per the decision of the Authority and in compliance of the direction at Sr. Nos. (ii) & (iv), a letter dated 31/01/2017 was issued to GSBB requesting to furnish the names of the two experts / representatives / Officials on their behalf in order to prepare the restoration plan and thereafter to execute the same.

Similarly a letter was also issued to the Senior Town Planner, Town and Country Planning Dept. Requesting to examine if the development of road and parking in Sy. No. 354/2 and 340/1 of Village Anjuna, Bardez – Goa is in accordance / conformity with the planning norms and report accordingly to the Office.

It is pertinent to note that the Execution Application no. 60/2016 filed in O.A. No. 82/2015 came up for hearing on 16/02/2017, on which date the Advocate for the Applicant stated that the demolition of certain structures within the premises of Diana Buildwell Ltd. are not carried out in compliance of the directions of the Hon'ble Tribunal, Pune. As such the Hon'ble Tribunal directed the concerned parties to visit the premises and to verify the compliance made and make necessary observations. Further with regard to direction at Sr. No. 1 i.e. recommendation of the proposal of M/s. Diana Buildwell Pvt. Ltd. to SEIAA, the Hon'ble Tribunal directed that since SEIAA is not in existence the same shall be sent to MoEF for appropriate decision regarding CRZ clearance.

Accordingly, as directed by the Hon'ble NGT, the proposal was referred to the MoEF vide letter dated 02/03/2017 and also inspection of the site was conducted by the Expert Members of the GCZMA alongwith the Complainant, Respondent as well as Member Secretary and Scientific Officer of the GSBB and submitted their report which inter alia states as follows:

- a) The earth (mud) filled in Sy. No. 354/2 and 340/1 for making a vehicle parking area is not yet removed whereas it is leveled and compacted even after instructing the violators during the last inspection to remove it.
- b) The main water harvesting tanks are refilled and the lawns are grown on top of it.
- c) The Hydraulic perennial waterway crossing the Hotel plot is to be restored. Even extra recharging has to be provided.

- d) On the eastern side, abandoned five wooden platforms are seen in open space which the Respondent claims that they are the remnants of the rooms made earlier and now dismantled as per the Order and kept aside in the area.
- e) The upper side of the plot towards the North, there is a provision of road partially with concrete paver blocks and partially with laterite dressed stones fixed with cement mortar. The road is 6 m in width.
- f) Helipad which was made earlier has been removed and the lawn grass is grown over the surface.
- g) The steps made from the road to go to the pool area and to the sea shore side are constructed out of dressed laterite stones and kotah stones tread with grass in the crevices.
- h) The swimming pool made is of stone coloured fibre glass material planted in natural laterite.
- i) Surrounding the pool there is terracing with laterite stones and the greenery is provided.

The GCZMA is also in receipt of a letter dated 17/03/2017 from M/s. Diana Buildwell Ltd. submitting the compliance report alongwith photographs with regard to the removal of mud filled in parking area in Sy. No. 340/1 of Village Anjuan, Bardez- Goa. The compliance report further states that the natural perennial hydraulic perennial waterway is restored, no cement / concrete is used for steps and landscaping around the pole is only for safety purpose to ensure stability and no cement or concrete is used for the purpose. The matter was thereafter taken before the Hon'ble Tribunal on 17/03/2017 and is now adjourned on 19/04/2017 for submitting compliance report.

In view of the above, the matter was placed before the Authority for discussion on the report submitted by the Expert Members of the GCZMA.

Decision: The members noted that the GCZMA has complied with the directions at Sr. No. (i), (ii), and (viii) passed by the Hon'ble NGT vide Order dated 03/11/2016. The Authority noted as follows:

- I) That pursuant to the direction at Sr. No. (i) of the Judgment dated 03/11/2016 and subsequent Orders dated 16/02/2017 passed in the Execution Application no. 60/2016 filed in O.A. No. 82/2015, the GCZMA has already forwarded its recommendations in respect of the proposal of M/s. Diana Buidwell Pvt. Ltd. pertaining to reconstruction and extension of the proposed resort / hotel to the MOEF & CL, Government of India. The members noted that the direction at Sr. No. (1) including the direction contained in order dated 16/02/2017 is duly complied with by the GCZMA.

II) In respect of the direction at Sr. No. (ii) for demolition of Rain Water Harvesting Tanks and other illegal structures situated in the NDZ area in the property owned by M/s Diana Buildwell Pvt. Ltd. the same is duly complied with. However, in Execution Application no. 60/2016 filed in O.A. No. 82/2015, it was alleged that demolition of certain structures within the premises of Diana Buildwell Ltd. are not carried out in compliance of the directions of the Hon'ble Tribunal, Pune. As such, the Hon'ble NGT had further directed the concerned parties to visit the premises and to verify the compliance made and make necessary observations. The GCZMA accordingly, conducted inspection of the site through its Expert Members alongwith the Complainant, Respondent as well as the Member Secretary and Scientific Officer of the GSBB on 07/03/2017 and submitted its report which interalia indicates the compliance of the said direction since all the rain water harvesting tanks and other illegal structures situated in the NDZ area owned by M/s. Diana Buildwell Pvt. Ltd. are demolished

The members perused the report dated 07/03/2017 of the Expert Members of the GCZMA which interalia states:

- the earth (mud) filled in Sy. No. 354/2 and 340/1 for making a vehicle parking area is not yet removed whereas it is leveled and compacted even after instructing the violators during the last inspection to remove it.
- The upper side of the plot towards the North, there is a provision of road partially with concrete paver blocks and partially with laterite dressed stones fixed with cement mortar. The road is 6 m in width.
- The steps made from the road to go to the pool area and to the sea shore side are constructed out of dressed laterite stones and kotah stones tread with grass in the crevices.

Subsequently, vide letter dated 17/03/2017 M/s. Diana Buildwell Ltd. has submitted the compliance report alongwith the photographs with regard to the removal of mud filled in parking area in Sy. No. 340/1 of Village Anjuna, Bardez- Goa, restoration of the natural perennial hydraulic waterway, statement that no cement / concrete is used for steps and landscaping around the pole is meant only for safety purpose to ensure stability and no cement or concrete is used for the purpose.

The contention of M/s. Diana Buildwell Ltd is that the road under reference is pre-existing and it is shown in the sanction plan of 1989 and 1994.

The Authority perused the inspection report of the Expert Members dated 07/03/2017 and compliance report dated 17/03/2017 of M/s. Diana Buildwell Ltd. and decided to conduct an inspection for verification of the said compliance made by M/s. Diana Buildwell Ltd.

III) In respect of the direction at Sr. No. (iii) & (iv) of the Judgment dated 03/11/2016, the Authority has already constituted a Expert Committee comprising of three (3) Expert Members of the GCZMA namely Dr. Prabhakar Shirodkar, Shri. Audhut Bhounsule and Dr. Suhas Godse and 2 Experts/officials/representatives to be nominated by the Member Secretary of Goa State Biodiversity Board (GSBB). The Authority noted that a letter dated 31/01/2017 has been issued to GSBB requesting to furnish the names of the two experts / representatives / Officials on their behalf in order to prepare the restoration plan and thereafter to execute the same. Further, the Expert Committee is required to prepare a restoration plan within a period of 8 (eight) weeks and thereafter to execute the said plan within a period of 3 (three) months. The Authority noted that the restoration plan is under finalisation stage with the Goa State Biodiversity Board (GSBB) in consultation with the Expert Members of the Authority. After detailed discussion and due deliberation and in order to comply with directions at Sr. No. (iv) of the Judgment dated 03/11/2016 the Authority decided to direct M/s. Diana Buildwell Ltd to execute said plan upon receipt of the same from the GSBB so as to comply with the directions of the Hon'ble NGT in a time bound manner.

IV) The direction at Sr. No. (v) pertains to re-examination of the issue of development of road and parking in Sy. No. 354/2 and 340/1 of Village Anjuna, Bardez-Goa by the GCZMA and the Town and Country Planning Dept. The Authority decided to comply with this directions in consultation with the TCP on site. Accordingly, a letter was issued to the Senior Town Planner, Town and Country Planning Dept. thereby requesting to examine if the development of road and parking in Sy. No. 354/2 and 340/1 of Village Anjuna, Bardez – Goa is in accordance / conformity with the planning norms and report accordingly to the Office.

The Authority upon perusal of the report dated 07/03/2017 of the Expert Members of the GCZMA noted that the Expert members in their report has pointed out on the issues pertaining to development of road and parking in Sy. No. 354/2 and 340/1 which interalia states:

- the earth (mud) filled in Sy. No. 354/2 and 340/1 for making a vehicle parking area is not yet removed whereas it is leveled and compacted

even after instructing the violators during the last inspection to remove it.

- The upper side of the plot towards the North, there is a provision of road partially with concrete paver blocks and partially with laterite dressed stones fixed with cement mortar. The road is 6 m in width.
- The steps made from the road to go to the pool area and to the sea shore side are constructed out of dressed laterite stones and kotah stones tread with grass in the crevices.

The Authority also noted that a letter dated 17/03/2017 M/s. Diana Buildwell Ltd. has submitted the compliance report alongwith the photographs with regard to the removal of mud filled in parking area in Sy. No. 340/1 of Village Anjuna, Bardez- Goa.

The Authority in view of the above, decided to conduct an inspection for verification of the compliance made by M/s. Diana Buildwell Ltd. in order to ascertain whether the compliance is as per the report of the Expert members and as pointed out by the Applicant in Execution Application No. 60/2016.

- V) The direction at Sr. No. (viii) pertaining to deposition of an amount of Rs. 5 lakhs as the costs of the Application in the account of the Collector, North Goa by the GCZMA. The Authority noted that the same has been complied with.
- VI) To file a detailed compliance report in respect of compliance of all directions in the matter by the GCZMA before the Hon'ble Tribunal at Pune before the next date of hearing.

Case No. 2.6:

To comply with the Order dated 16/11/2016 passed by the Hon'ble High Court of Bombay at Goa in Writ Petition bearing No. 550/2016 in the matter of M/s. Colonia Santa Maria Resort V/s. State of Goa & Ors.

1. The Office of the Goa Coastal Zone Management Authority (hereinafter referred to as 'the GCZMA' in short) was in receipt of a complaint letter dated 15/12/2014 from M/s. Colonia Santa Maria Resort, through its General Manager, having office at Cobrawada, Calangute, Bardez-Goa with regard to the alleged illegal construction of additional rooms beyond the existing cottages in Sy. No. 240/1 of Village Calangute, Bardez-Goa and construction of compound wall in Plot No. 16 of the property bearing Sy. No. 240/1 of Village Calangute, Bardez-Goa carried

out by Mr. Inacio Fernandes, R/o Plot No. 16, Colonia Santa Maria Resort, Calangute, Bardez-Goa without obtaining prior permission / approval from the concerned authorities.

2. Upon receipt of the said complaint letter dated 15/12/2014, a Show Cause Notice cum Stop Work Order bearing no. GCZMA/ILLE-COMPL/14-15/174/1790 dated 09/01/2015 was issued to Mr. Inacio Fernandes calling upon to stop the work with immediate effect and show cause as to why a direction to restore the land to its original condition should not be issued. However, the said Show Cuse Notice cum Stop Work Order issued to Mr. Inacio Fernandes returned unserved with an endorsement **“Unclaimed”**.
3. As no reply was received from Mr. Inacio Fernandes, an inspection of the site under reference was carried out on 17/04/2015 by the Expert Member of GCZMA.
4. As no further final action was taken by the GCZMA, the complainant M/s. Colonia Santa Maria Resort filed a Writ Petition bearing no. 550/2016 before the Hon’ble High Court of Bombay at Goa.
5. The said Writ Petition was subsequently disposed of vide Order dated 16/11/2016 with a direction to GCZMA to decide the Show Cause Notice dated 09/01/2015 within a period of three months.
6. In this regard, the matter was placed before the Authority inorder to grant personal hearing to the parties concerned and to take a final decision in the matter.

The said matter was placed in the 140th GCZMA meeting held on 15/02/2017 wherein the Authority noted that Mr. Inacio Fernandes, the Respondent was absent for the hearing. After detailed discussion and due deliberation the Authority decided to grant a final opportunity to Mr. Inacio Fernandes to remain present for the meeting and present his case alongwith relevant documents in support of his case during the GCZMA meeting and the notice of hearing to be served through the Police Inspector, Calangute and the Secretary, Village Panchayat of Calangute.

Accordingly, notice of personal hearing was served to the Respondent, Mr. Inacio Fernandes through Police Inspector, Calangute and Village Panchayat of Calangute.

The matter was placed in the 143rd GCZMA meeting held on 07/03/2017 wherein the Authority after detailed discussion and due deliberation and on considering the oral as well as written submissions made by both the parties, decided to grant only 2 days to Mr. Inacio Fernnandes to place on record his detailed written submissions alongwith the relevant documents in support of his case by serving a copy of the same to the complainant. Further, the parties were informed that no further personal hearing will be granted and that the matter will be decided based on the documents available on record.

Accordingly, Mr. Inacio Fernandes submitted his reply which interalia states as below:

i) Prior to the entering into the Agreement dated 07/03/1988 the property belonged to one Mr. Finton Machado and with his consent the father of the Respondent, Mr. Inacio Fernandes used to keep / store fishing nets and other fishing related equipments in a hut constructed over the said property during the monsoon season. The said hut was located on the structure which is now identified as Block A on the plan produced by the Complainant. In the second hut the father of Mr. Inacio Fernandes was residing which is now identified as Block B on the plan produced by the Complainant and since then the said property was used by the family of Mr. Inacio Fernandes.

iii) The additional rooms and the compound wall in Plot No. 16 of Sy. No. 240/1 has been in existence prior to 1991. The Block B (G+1) shown in the plan by the complainant is used by Mr. Inacio Fernandes and is having electricity meter connection showing the date as 07/08/1993.

iv) Block A is used by the mother of Mr. Inacio Fernandes for her residential purpose for which there is a separate electricity meter showing the date as 26/12/1991. That the said structures were already in existence prior to 1991 as the electricity cannot be provided unless the structures are provided in all respects.

v) Valid Registration certificate of Establishment issued by the Labour inspector in Form II under shops and establishment rules 1975 and the same is renewed periodically by the Respondent.

vi) The Trade Licence dated 11/03/2013 issued by the Village Panchayat of Calangute to carry out the business of Hotel / Guest house with 8 number of rooms and the said licence is also renewed.

vii) Certificate of registration issued by the Department of Tourism which shows that the Respondent has been registered under the Tourist Trade Act, 1882 to carry out the business of Guest house.

Viii) Since there were existence of huts over Block A & B the same are required to be regularised as the huts were used by the father and his grandfather for fishing activities to keep their nets and fishing equipments and for residential purpose.

ix) That the structures were existing prior to the CRZ Notification 1991 and are not being used for any commercial activities nor sold / transferred to non-traditional coastal community, Mr. Inacio Fernandes is entitled to regularise the said blocks A & B under para 6 clause (d) of CRZ Notification 2011 as the structures were constructed over the area wherein the seasonal huts were existing.

Also, M/s. Colonia Santa Maria submitted their written submissions which interalia states as follows:

a) That the Mr. Inacio Fernandes is in occupation of three rooms on the ground floor of the cottage (G+1) in the plot No. 16 which is constructed prior to 1990 and the structures marked as block A & B on the plan annexed to the Complaint are constructed recently. The approved cottage is independent and has no connection with the illegal structures.

b) It is evident that Mr. Inacio Fernandes has Agreement of only 3 rooms on ground floor of a cottage in Plot No. 16 and there is no mention of 8 rooms at any place. The plan prepared by the surveyr Mr. Prazares Gonsalves is fabricated and has sought to include the illegal structures marked as Block A & B as the structures of Mr. Inacio Fernandes. The plan of the surveyor does not have any date and the plot area is shown as 602 sq. m when in fact Plot No. 16 has an area of 400 sq.m as per the original layout plan prepared by the Architect in the year 1987 when Mr. Gill Ostwald Rebeiro had developed the property.

c) With respect to the Trade Licence Certificate dated 11/03/2013 the same refers to H. No. 6/173/D at Khobrawaddo and it does not mention of any Survey Number.

d) That the license states that Hotel / Guest house with 8 rooms when in fact the approved cottage has 3 rooms on ground floor and 3 on first floor. The license is of the year 2013 and does not relate to the period prior to 1991.

e) The Certificate of registration dated 20/06/2014 issued by Department of Tourism does not refer to any survey Number / Cottage in Plot No. 16. The Complainant shall dispute the same and take the matter to Department of Tourism and get it cancelled.

f) The house tax receipt dated 04/05/2016 and fees for Guest house is 15/05/2015 which do not relate to the period prior to 1991 and also do not give any details of the location / survey number.

g) The NOC dated 29/04/2016 of Fire and Emergency services does not relate to a period prior to 1991 and does not give any details of the person.

h) That Mr Inacio Fernandes has not produced any evidence of construction / approved plan / any document from Mr. Gill Ostwald Ribeiro to prove the purchase of the illegal structures.

In view of the above, the matter was placed for discussion and decision.

The Authority perused the reply / written submissions filed by Mr Inacio Fernandes and also the written submissions made by M/s. Colonia Santa Maria and noted that none of

the documents submitted by Mr Inacio Fernandes proves the existence of the structures i.e Block A & Block B and compound wall located in Plot No. 16 of the property bearing Sy. No. 240/1 of Village Calangute, Bardez-Goa prior to 1991 and as such all the documents submitted by Mr Inacio Fernandes are irrelevant.

Decision: The Authority after detailed discussion and due deliberation and upon perusal of documents on record as well as upon considering the written and oral submissions made by both the parties, decided to issue directions under Section 5 of the Environment Protection Act, 1986 directing Mr. Inacio Fernandes to demolish Structures / additional rooms i.e. Block A & B constructed beyond the existing cottages located in the property bearing Sy. No. 240/1 of Village Calangute, Bardez-Goa and also to demolish a compound wall situated in Plot No. 16 of the property bearing Sy. No. 240/1 of Village Calangute, Bardez-Goa and restore the land to its original state within 15 days time period.

Case No. 2.7:

To discuss and decide on the letter / representation dated 15/07/2016 received from M/s. Villa Goensa in Sy.Nos. 211/1 & 212/3 of Calangute Village, Bardez Taluka by Mr. Antonio Lobo.

Background:

1. The proponent desire to carry out extension of existing Hotel in Sy.Nos. 211/1 & 212/3 of Calangute Village, Bardez – Goa. The said matter was placed in the 8th GCZMA meeting wherein it was decided to refer the project to Ministry of Environment & Forests (MoEF) for grant of environment clearance. The applicant has submitted the copies of NOC's from concerned Authorities (i.e. GSPCB, PWD, Electricity Department). Accordingly, the Office of GCZMA had forwarded the said project along with the requisite documents to the MoEF. Further, the MoEF vide letter no. 16-9/2007-IA.III dated 30/12/2013 had granted CRZ Clearance for construction of additional rooms to the existing Villa Goesa Beach Resort at Calangute.
2. It may be noted that the Office of GCZMA received a letter / representation dated 17/06/2014 from Villa Goesa, a unit of M/s Calangute Hotels enclosing the set of plans of the extension project of Villa Goesa Beach Resort, Calangute which were submitted for clearance to the MoEF obtained from the MoEF under RTI Act. Vide said letter / representation it was informed that the MoEF has granted approval for the said project of Villa Goesa Beach Resort vide letter dated 30/12/2013 further submitting the plans sent by MoEF vide letter dated

29/05/2014 to GCZMA for further steps in the matter and onward transference / reference of the said plans to the Town and Country Planning Department.

3. Accordingly, the site was inspected by Shri. Rangunath Dhume and Dr. Antonio Mascarenhas, Expert Member (GCZMA) on 17/09/2014. The site inspection report indicates the plot has a Hotel / Resort that is already functioning. The existing land use is settlement. The proposed site falls beyond 200 mts. from HTL, based on a photocopy of DSLR plan dated 18/07/2007. There exists a hotel buildings / cottages / dwellings. The applicant has produced a sanction letter from MoEF dated 30/12/2013, based on which CRZ clearance appears to have been granted. However, it appears this letter is obtained through RTI. The original letter / approval is not attached.
4. The proposal alongwith the site inspection report was placed before the GCZMA in its 113th meeting held on 26/02/2015. The Authority after detailed discussion and due deliberations and on considering the report of the site inspection conducted on 17/09/2014 by Shri. Rangunath Dhume and Dr. Antonio Mascarenhas, Expert Member of GCZMA, the Authority decided to refer the matter to the MoEF for clarification of the authenticity of the plans submitted by the MoEF through RTI which are submitted to the Office of the GCZMA by the applicant and thereafter to re-examine the case in the next meeting.
5. Accordingly, a letter bearing no. DB/8590/241 dated 05/05/2015 was issued to the Director, CRZ, Infrastructure and Building Construction, MoEF & CC, Govt. of India seeking clarification regarding the authenticity of the plans, so as to enable the Office of GCZMA to process the proposal of the project proponent. Thereafter, issued Reminder –I vide letter no. DB/8590/666 dated 30/06/2015 to the Director, CRZ, Infrastructure and Building Construction, MoEF & CC, Govt. of India. However, did not receive any reply letter / communication from the MoEF.
6. Meanwhile, a Writ Petition bearing no. 366/2015 was filed by M/s Calangute Hotels Pvt. Ltd. before the Hon'ble High Court of Bombay at Goa for not taking any action / decision by GCZMA on the representations dated 17/06/2014 and 18/09/2014 of the Petitioner i.e. M/s Calangute Hotels Pvt. Ltd.
7. The said Writ Petition was disposed of by the Hon'ble High Court of Bombay at Goa with a direction to GCZMA to decide the representations dated 17/06/2014 and 18/09/2014 as expeditiously as possible and in any event within a period of three months from the date of passing of the Judgement.
8. As such, another letter no. DB/8590/1758 dated 16/10/2015 was issued to the Director, CRZ, Infrastructure and Building Construction, MoEF & CC, Govt. of India for necessary clarification. Thereafter issued Reminder-II bearing no.

DB/8590/1982 dated 24/11/2015 requesting to submit details at an early date. However, no reply / communication received from MoEF.

9. Subsequently, received a legal notice dated 15/02/2016 from Adv Nigel da Costa Frias on behalf of his client M/s Calangute Hotels Pvt. Ltd. informing that the three months time has expired on 21/12/2015 with a further notice that if no action / decision is taken within a period of two weeks from the date of receipt of the legal notice, appropriate contempt proceedings will be initiated / filed before the Hon'ble High Court of Bombay at Goa.
10. In view of the legal notice received, another letter bearing no. DB/8590/2952 dated 01/03/2016 was issued to MoEF informing about the legal notice received with a further request to expedite the clarification sought by GCZMA.
11. In this regard, the matter was placed before the Authority in its 126th meeting held on 29/03/2016 for final decision in the matter wherein the Authority noted that the present subject matter is pertaining to the Authenticity of the plans approved by the Ministry of Environment, Forests & Climate Change (MoEF & CC), Govt. of India which were submitted by the proponent to the GCZMA. Further, the Office of the GCZMA vide letter bearing no. DB/8590/241 dated 05/05/2015 and various Reminders to the MoEF & CC had sought clarification with regard to the authenticity of the above said plans however, no reply has been received from the MoEF & CC. Further, the Authority also noted that M/s Calangute Hotels Pvt. Ltd. had filed a Writ Petition bearing No. 366/2015 before the Hon'ble High Court of Bombay at Goa for not taking any action / decision by GCZMA on the representations dated 17/06/2014 and 18/09/2014 of the Petitioner i.e. M/s Calangute Hotels Pvt. Ltd. and the same was disposed of with a direction to GCZMA to decide the representations dated 17/06/2014 and 18/09/2014 as expeditiously as possible and in any event within a period of three months from the date of passing of the Judgement.

After detailed discussion and due deliberation and upon perusal of all the documents and taking in to consideration the fact that, the GCZMA has earlier recommended the proposal to the MoEF, the Authority decided to consider and approve the said proposal and accordingly recommend the proposal to the Planning Authority and local body in terms of the CRZ Notification, 2011.

Accordingly, vide letter dated 01/04/2016 the GCZMA issued recommendation for extension to the existing Hotel i.e. M/s. Villa Goensa Beach Resort (M/s. Calangute Hotels Pvt. Ltd.) located in the property bearing Sy. No. 211/1 & 212/3 of Calangute Village Bardez – Goa.

Upon issuance of the clearance letter dated 01/04/2016 by GCZMA, a letter dated 26/04/2016 was received from M/s Villa Goensa Beach Resort submitting two sets of the plans for approval from GCZMA.

Subsequently, the Office of the GCZMA received a letter / representation dated 15/07/2016 from M/s. Calangute Hotels Pvt. Ltd. seeking for Amendment in the clearance letter dated 01/04/2016 wherein the Basement area is shown as NIL and further asking for the approved plans from GCZMA.

As no response was received from the GCZMA, a Writ Petition bearing no. 982/2016 has been filed by M/s Calangute Hotels Pvt. Ltd. before the Hon'ble High Court of Bombay at Goa challenging the inaction on the part of GCZMA on the letter / representation dated 15/07/2016 submitted by M/s. Calangute Hotels Pvt. Ltd.

The said matter came up for hearing before the Hon'ble High Court on 22/12/2016 on which date of hearing the Ld. Addl. Adv. General made a statement that the Petitioner will be given the approved plans and as far as the representation dated 15/07/2016 is concerned the same will be decided by the GCZMA in its meeting as and when it is scheduled. Accordingly, the Hon'ble High Court has now adjourned the matter on 16/01/2017.

It is pertinent to note that upon perusal of the plans submitted by M/s. Villa Goensa Beach Resort alongwith the letter dated 26/04/2016 it is seen that the Basement is shown however, the area of the same is not mentioned in the site plan which are submitted for approval of the GCZMA.

The said matter was placed in the 136th GCZMA meeting held on 17/01/2017 wherein the Authority after detailed discussion and due deliberation and upon perusal and examination of the plans of the proposed extension of the existing hotel located in survey no 211/1 & 212/3 in Calangute Village noted that the basement has been shown in the sectional drawings, however, the area of the basement is not reflected in the area statement of the proposed extension of existing Hotel in Sy.Nos. 211/1 & 212/3 of Calangute Village, Bardez – Goa. As such the Authority decided that the plans submitted by M/s. Villa Goensa Beach Resort cannot be stamped/approved as the basement area has not been included in the area statement and also cannot amend the Clearance letter issued to M/s. Villa Goensa Beach Resort by the GCZMA vide letter dated 01/04/2016.

As decided by the Authority the decision was communicated to M/s. Villa Goensa Beach Resort.

Thereafter Writ Petition No. 982 /2016 was taken up for hearing before the Hon'ble High Court of Bombay at Goa, on which date of hearing, the Advocate for the Petitioner i.e. M/s. Villa Goensa Beach Resort submitted that they would submit an amended area statement on the plans to the GCZMA in order to examine the Application filed by them in accordance with law.

Accordingly, the matter was disposed of with a direction to the GCZMA that in case such rectification is submitted by the Petitioner the same shall be examined as expeditiously as possible in accordance with law.

Accordingly, a letter dated 14/03/2017 has been received from M/s. Villa Goensa Beach Resort submitting 4 copies of the site plan of the extension to the Hotel with the new area statement including the area of the basement.

In view of the above, the matter was placed for discussion and decision in the matter.

Decision: The Authority noted that the Applicant, M/s. Villa Goensa Beach Resort has submitted fresh plans showing the basement area which was not reflected in the earlier plans submitted to the GCZMA. As such the Authority after detailed discussion and due deliberation and in view of the above, decided to forward the fresh plans to the Ministry of Environment, Forests & Climate Change (MoEF &CL) for recommendation.

Case No. 2.8:

To discuss and decide on the Order dated 30/11/2015 passed by the Hon'ble High Court of Bombay at Goa in Contempt Petition No. 21/2012 filed in W.P. No. 422/1998 by Mr. Kashinath Shetye V/s. Mr. Anil Hoble & 5 Ors.

1. A complaint dated 19/03/2012 was filed by Mr. Kashinath Shetye with regard to illegal encroachment in Government land and filling up of land and creek, illegal construction of a compound wall / retaining wall, gate for entering the premises near ice plant at Ribandar, Panaji carried out by Mr. Anil Hoble.
2. Accordingly, upon receipt of the said complaint a Show Cause Notice dated 25/05/2012 was issued to Mr. Anil Hoble so also, a letter was issued to the Deputy Collector & S.D.O, Tiswadi for necessary action in the matter.
3. Subsequently, a reply dated 11/06/2012 to the Show Cause Notice was filed by Mr. Anil Hoble.
4. Further, a site inspection was conducted by Dr. Untawale, the then Expert Member of the erstwhile GCZMA, so also the site was again re-inspected by Dr. Savita Kerkar, the then Expert Member of the erstwhile GCZMA on 24/09/2012.

Copies of the site inspection reports of the Expert Members of the GCZMA are annexed herewith as Annexure I.

5. It is pertinent to note that, in this regard, a Contempt Petition bearing No. 21/2012 in W.P. No. 422/1998, has been filed by Mr. Kashinath Shetye wherein the Petitioner sought direction to the GCZMA to take action on account of an alleged breach of the provisions of the CRZ Notification 1991 by Mr. Anil Hoble. The Ld. Additional Government Advocate appearing for the GCZMA had pointed out that an action with that regard has already been initiated by issuing a Show Cause Notice dated 25/05/2012 which is still under consideration by the authorities. However, the Ld. Counsel appearing for the Petitioners, stated that GCZMA be directed to take a final decision on the said Show Cause Notice as early as possible.
6. Accordingly, in view of the above, the Hon'ble High Court of Bombay at Goa disposed off the said Petition vide Order dated 30/11/2015 with a direction to the GCZMA to dispose of the complaint within a period of four months.
7. Now, in view of the aforementioned Order dated 30/11/2015 passed by the Hon'ble High Court of Bombay at Goa in Contempt Petition No. 21/2012 filed in W.P. No. 422/1998 the said matter is placed before the Committee for grant of personal hearing to the parties with reference to the Show Cause Notice bearing No. GCZMA/TIS/RIB/12-13/02/237 dated 25/05/2012 issued by the erstwhile GCZMA.
8. The said matter was taken up for personal hearing before the Committee to decide on CRZ matters in its 2nd meeting held on 23/08/2016.

The brief proceedings of personal hearing held before the Committee are as follows:

- Mr. Kashinath Shetye was present in person. Mr. Anil Hoble remained present alongwith his Advocate Jitendra Supekar. Both the parties made oral as well as written submissions.
- Mr. Kashinath J. Shetye denied the contents of the reply filed by the Respondent. He stated that he had filed two complaints dated 19/03/2012 and 05/03/2014. He also stated that the NOC dated 08/12/2008 issued by the GCZMA was for re-flooring and re-roofing and in the guise of it Mr. Hoble has constructed huge structure extending the FSI/FAR and changed the user to Restaurant, Bar, wine shop and oil lubricant shop. The permissible coverage is 16 sq. m total buildup area of garage is 800 sq. m but in actual coverage is 16 sq. m. the compound walls have been built in 2012. The H. No. 212 has been extended to more four shops which is in setback area of River Mandovi. The Google images of 2004 and 2015

shows there is existence of the mangroves in that area and the building is in NDZ Setback area.

- He further stated that based on the CZMP 1996 Ribandar area falls under CRZ – III zone and incase of existence of mangroves it falls under CRZ – I Zone:

“ B) CRZ along banks of rivers, backwaters and creeks:

vi. The areas at mouth of the river having reserved / protected forests, sand dunes of Caranzalem – Miramar and Nerul and all areas including Nerul, Verem, Ourem, Ribandar, Betim to Britona, outskirts of Mapusa, San Pedro, Banastarim, Volvoi and Savoi- Verem are classified as CRZ – I and rest of the areas without mangroves and ecologically sensitive areas, are classified as CRZ – III.”

- He also relied upon the letter issued by the MoEF dated 03/12/2001 to the Chief Secretary, Govt. of Goa with regard to proposal for reclassification of CRZ stretches of Goa wherein following coastal stretches were proposed for reclassification:
 - i) The areas from Cabo Raj Niwas to Donapaula Cove /Bay – Map No. 1,
 - ii) The area from Donapaula Cove /Bay to Vainguinim Beach – Map No. 2,
 - iii) The area from Vainguinim Beach up to Panjim Municipal limits towards Siridao –
Map No. 3 and
 - iv) The entire stretch of land at Ribandar (within Panjim Municipality limits along
the Mandovi River) – Map No. 4 and 5.
- He further relied on the Judgment passed in the matter of Carlos Noronha in W.P. No. 519 of 2007 with M.C.A. No. 617/09 with Writ Petitions No. 420 & 474 of 2007. He also pointed out the Page No. 54 of the RSI Report on identification and delineation of structures / dwelling units along rivers, creeks and estuaries upto the tidal point experienced towards land which reveals that at prior to 1991, there existed 374 structures in that area i.e. Panaji (Sr. No. 41 of Pg. 54 of RSI) and after 1991,106 new structures were observed in addition to the already existing structures.
- Advocate Jitendra Supekar representing the Respondent, Mr. Anil Hoble stated that the Complainant, Mr. Kashinath Shetye has deleted him as a party in a Contempt Petition bearing No. 21/2012 filed by the Complainant. He further stated that there is an Application No. 51/2014 before the Hon’ble NGT on the very same grounds as urged in the Contempt Petition. The said proceedings

have concluded vide Order dated 29/05/2015 before the Hon'ble NGT to which the GCZMA was also a party Respondent and is aware of the entire proceedings and inspite of it the present notice has been issued without even having reference to the said proceedings. As such he requested to withdraw the said notice and no further action is required in view of the fact that the appropriate Court of law has already dealt with the same. He further stated that the time period granted by the Hon'ble High Court vide Order dated 30/11/2015 have expired and without there being appropriate Order from the Hon'ble High Court thereby extending the time period.

Decision of the Committee: The Committee after detailed discussion and due deliberation and on considering the oral as well the written submissions made by both the parties decided to direct the Respondent to clarify on the para Nos. 3, 4 and 5 of the written reply to the notice dated 12/08/2016 filed by him and the Committee further granted 4 weeks time to Mr. Anil Hoble to provide the necessary clarification with respect to the contents of his reply and to hear the parties thereafter.

9. Accordingly, Mr. Anil Hoble filed his written submissions / clarification in respect of the decision of the Committee on 04/10/2016 which in brief interalia states as under:

- The Authority could not have conducted any proceedings in pursuance of the Show Cause Notice dated 25/05/2012.
- Complaint dated 19/03/2012 was filed by Mr. Kashinath Shetye only in respect of the illegal land filling belonging to the Government based on which the Show Cause Notice dated 25/05/2012 by the GCZMA.
- The Complainant, Mr. Kashinath Shetye thereafter filed contempt petition bearing No. 21/2012 in W.P No. 422/1998 before the Hon'ble High Court of Bombay at Goa in which proceedings Mr. Anil Hoble was made as a party Respondent No. 1. During the course of hearing the Complainant on 15/12/2012 deleted the name of Mr. Anil Hoble as party Respondent No. 1 which is recorded in the Order dated 15/12/2012 in Contempt Petition No. 21/2012.
- The Complainant thereafter filed an Application bearing No. 51/2014 before the Hon'ble National Green Tribunal at Pune thereby challenging the alleged illegalities committed by Mr. Anil Hoble. The said Application is based on the complaint dated 19/03/2012 filed by the Complainant. This fact was never brought to the notice of the Hon'ble High Court while hearing Contempt Petition No. 21/2012 nor did this Hon'ble Authority / GCZMA informed the Hon'ble High Court about the same.

- That Mr. Anil Hoble could not bring this fact to the knowledge of the Hon'ble High Court about the proceedings of the Hon'ble NGT as he was deleted as party Respondent No. 1 in Contempt Petition No. 21/2012.
- The Hon'ble NGT was pleased to partly allow Application No. 51/2014 thereby directing the demolition of the structures located in Sy. No. 65/1-A and the same has been accordingly demolished by the GCZMA on 02/07/2015.
- The said Order dated 29/05/2015 of the Hon'ble NGT was challenged before the Hon'ble High Court vide W.P. No. 400/2015 on the ground that the impinged Order is illegal, arbitrary and suffers from non application of mind to the facts on record.
- The Hon'ble High Court vide its Order dated 01/07/2015 was pleased to dismiss the Writ Petition on the ground that Mr. Anil Hoble has substantive relief under Section 22 of the National Green Tribunal Act, 2010, and that no case was made out by Mr. Anil Hoble for the High Court to exercise the jurisdiction under Article 226 and 227 of the Constitution of India.
- As against the dismissal of the said W. P. No. 400/2015 Special Leave Petition bearing No. 19535/2015 was preferred before the Hon'ble Supreme Court and also preferred Civil Appeal bearing No. 5347/2015 against the Judgement and Order dated 29/05/2015 of the Hon'ble NGT.
- After filing Civil Appeal Mr. Anil Hoble sought leave by way of an Application seeking permission to file additional documents on record obtained by way of RTI Act, 2005 and certain other documents such as text receipts , survey paln issued by the CCP, Approved plan of the year 1977 issued by the Village Panchayat of Morambi – O - Grande clearly showing approved structures in Survey No. 65 of Village Merces and in Chalta No. 1 of P.T.S No. 10 of CCP which plan proves that the structures Ordered to be demolished were existing prior to the CRZ Notification of 1991 came into effect.
- The Hon'ble Supreme Court vide its Order dated 3/8/2015 was pleased to allow the Application for production of additional documents. Further, on being informed to the Hon'ble Supreme Court that the aforesaid documents were not placed before the Hon'ble Tribunal at the time of passing of Judgement and Order dated 29/05/2015, the Hon'ble Supreme Court was pleased to direct the undersigned to withdraw the Civil Appeal and file appropriate Review Application before the Hon'ble Tribunal. In pursuance thereof the undersigned withdrew the Civil Appeal with liberty to approach the Hon'ble Tribunal by filling Review Application.

- In view of the liberty granted by the Hon'ble Supreme Court Mr. Anil Hoble preferred Review Application No. 15/2015 before the Hon'ble Tribunal alongwith Misc. Application 180/2015, inter alia, on the ground that Mr. Anil Hoble after the said Judgement was passed found certain documents in respect of the old records pertaining to the existing structures in the said properties. The documents include 10 house tax / light tax records issued by the Village Panchayat in respect of the structure bearing H. No. 62/3 situated in the property bearing Sy No. 65/1-A which receipts relate to the years 1977 until 1990, 6 House tax / light tax receipts issued by the Panjim Municipal Council in respect of the structures bearing H. No. 2/212, which receipts relate to the year 1978 till 1998, Sales tax receipts dated 25/4/1975 till 30/4/1976, Sales tax Challans dated 21/10/1975 and 19/1/1976, letter dated 17/5/1975, letter dated 13/1/1993 addressed to the Assistant Sales Tax Officer by Pundalico Oblo and letter dated 7/3/31975 addressed to M/s. Kapro Workshop by the Assistant Sales Tax Officer. The said documents clearly showed that the existence of the allegedly illegal structures, much prior to year 1991. The letter dated 6/6/2015 issued by the Village Panchayat of Merces that the House No. 62/3 is situated in Sy. No. 65 (old) and 65/1-A (new) of Village Morambi – O- Grande and that H. No. 62/3 was assessed to House tax in the name of Pundalico Datta Oblo and letter dated 07/03/1975 addressed to to M/s Kapro Workshop by the Assistant Sales Tax Officer which documents clearly shows that the existence of the alleged illegal structures much prior to year 1991. Further, the survey maps, letter adted 06/06/2015 issued by the Village Panchayat of Merces that the House no. 62/3 is situated in Sy. No. 65 (Old) and 65/1-A (New) of Village Morombi-O-Grande and that House No. 62/3 was assessed to House Tax in the name of Pundalio Datta Oblo (Hoble) in the year 1977 to 1990 and post 1990 in the name of Mr. Anil Hoble, letter dated 22/07/2015 alongwith the approved plan of the structure of Khapro Garage and workshop, indicating that the area of 1341 sq. mts. as approved vide Resolution dated 23/02/1977 which shows the existence of old structures in Sy. No. 65 way back in the year 1977 which was certainly prior to the CRZ Notification 1991 came into effect.
- Vide Judgement and Order dated 14/12/2015, the Hon'ble Tribunal was pleased to dismiss the Review Application against which Writ Petition no. 3024/2016 was preferred by the Hon'ble Bombay High Court. The Hon'ble Bombay High Court vide Order dated 08/06/2016 was pleased to dispose

of the Writ Petition with liberty to approach the Hon'ble High Court of Bombay at Goa.

- Accordingly a Writ Petition bearing no. 600/2016 was preferred before the Hon'ble High Court of Bombay at Goa and the same was disposed of vide Order dated 29/06/2016.
- The said Order of the Hon'ble High Court of Bombay at Goa was challenged before the Hon'ble Supreme Court of India vide Civil Appeal No. 26024/2016. The Hon'ble Supreme Court of India after hearing the parties finally on 23/09/2016 was pleased to reserve the matter for judgement.
- The complainant also filed an application for speaking to the minutes bearing Application no. 113/2015 in the disposed off Application no. 51/2014 thereby trying to include two more survey numbers and structures standing thereon and is seeking demolition of the same. However, the same was dismissed by the NGT, Pune vide Order dated 04/08/2016.
- In so far as the complaint dated 19/03/2012 is concerned based on which the Show Cause Notice was issued, the same pertains only with respect to illegal filling of Government land and other lands.
- In so far as the written arguments filed by the complainant is concerned the same are required to be rejected as the allegations in the complaint find no mention in the written arguments and both the complaint and the written arguments are completely distinct to each other. The Show Cause Notice was never issued on the basis of the newly averred facts pleaded for the first time in the written arguments. So also, the written arguments are not in consonance with complaint dated 19/03/2012.
- As regards the complaint dated 19/03/2012, no illegal land filling has been done by Mr. Anil Hoble. Even the activities conducted are licensed activities with due permission from the Hon'ble Authority. Even the Inquiry Committee of GCZMA vide their report dated 30/04/2014 has given a finding that the structures in the property exists from the year 1967 i.e. prior to 19/02/1992 and that there are no violations under the CRZ Regulations.
- That Mr. Anil Hoble purchased from the erstwhile owner a piece of land forming part of the property bearing Chalta No. 1 of P.T. Sheet No. 10 Panaji which Sale Deed makes a mention that there was a structure in the said plot of land which was being used as a garage at the relevant time. The said structure in Chalta No. 1 of P.T. Sheet No. 10 extended towards the South of the said Chalta No. 1 of P.T. Sheet No. 10 and into Survey No.

65/1-A of Morombi-O-Grande, Mercedes Village. Mr. Anil Hoble was in physical possession of Survey No. 65/1-A as also Sy. No. 83/2-A.

- The garage that was in existence in said two survey nos. i.e. Chalta No. 1 of P.T. Sheet No. 10 and survey no. 65/1-A of Village Morombi-O-Grande. A portion of the property that was located in Sy. No. 65/1-A was duly registered with the Village Panchayat of Mercedes under H.No. 62/3 and was assessed for house tax in the name of Mr. Anil Hoble for the first time in the year 1990.
- The portion of the garage which is located in Chalta No. 1 of P.T. Sheet No. 10 of Panaji, is assessed for House Tax with the Corporation of City of Panaji under H.No. 2/212 and Mr. Anil Hoble has been regularly paying House Tax thereon.
- There is also an approved plan of the structure of Khapro Garage and workshop indicating that the area of 1341 sq.mts. as approved vide Resolution dated 23/02/1977 by the Village Panchayat of Morombi-O-Grande which shows the existence of old structures. The said plan clearly showed the existence of legal and approved structure in Sy. No. 65 way back in the year 1977 which certainly was prior to the CRZ Notification 1991.
- There also existed a very old compound wall in Sy. No. 83/2-A as well as Sy. No. 83/1-A and Chalta No. 1 of P.T. Sheet No. 10 and Sy. No. 65/1-A. The compound wall encloses the entire property of Mr. Anil Hoble on three sides viz. East, West and South.
- The Survey Plan issued by the DSLR in respect of Sy. No. 65/1-A clearly demonstrates the existence of the structure in the said survey.
- That Mr. Anil Hoble has the following documents:
 - a) 10 house tax / light tax records issued by the Village Panchayat in respect of the structure bearing H. No. 62/3 situated in the property bearing Sy. No. 65/1-A which relates to the years 1977 until 1990;
 - b) 6 house tax / light tax receipts issued by the Panjim Municipal Council in respect of the structures bearing H. No. 2/212 which relates to the year 1978 till 1998;
 - c) Sales Tax Receipts dated 25/04/1975 till 30/04/1976;
 - d) Sales Tax Challans dated 21/10/1975 and 19/01/1976;
 - e) Letter date 17/05/1975;
 - f) Letter dated 13/01/1993 addressed to the Assistant Sales tax Officer by Pundalico Oblo; and

g) Letter dated 07/03/1975 addressed to M/s Kapro Workshop by the Assistant Sales Tax Officer.

- As such, the structure existing in Chalta No. 1 of P.T. Sheet No. 10 and Sy. No. 65/1-A were both in existence much prior to the coming into force of the CRZ Notification, 1991. In the year 2008 the undersigned took permission from the GCZMA for re-roofing and re-tiling the existing structure in Sy. No. 65/1-A and Chalta No. 1 of P.T. Sheet No. 10 of Panaji pursuant to which Mr. Anil Hoble carried out necessary repairs to the said structure.

The said matter was placed in the 139th GCZMA meeting held on 07/03/2017 wherein Mr. Kashinath Shetye remained present in person. Mr. Anil Hoble also remained present alongwith his Advocate Jitendra Supekar.

Mr. Kashinath Shetye relied upon Orders passed by the Hon'ble NGT dated 29/05/2015 vide which Order the Hon'ble Tribunal was pleased to direct demolition of the structures including Bar & Restaurant alongwith other allied structures located in Sy. No. 65/1-A or in Sy. No. 83/2-A of Village Morambi – O- Grande. He further stated that the Order of the Hon'ble NGT is only with respect to Sy. No. 65/1-A and Chalta No. 1 of P.T. Sheet No. 10 is not mentioned in the said Order. However, the said ambiguity has been removed by the Hon'ble Supreme Court vide its Judgement dated 07/10/2016. The Hon'ble Supreme Court in its Judgement stated that the Hon'ble NGT negated the plea of the Appellant i.e. Mr. Anil Hoble that the structures as it exists at present was constructed prior to 19/02/1991 based on the contents of the registered Sale Deed dated 03/08/1992 executed in favour of Mr. Anil Hoble by the original owner of the plot alongwith other documents. The Order of the Supreme Court further stated that the structure as it existed when the plot was purchased by Mr. Anil Hoble was a small structure and was used only as a garage for repairs of vehicles and other allied activity. The structure in respect of which complaint has been made was completely different in shape, size and location for which reason the Tribunal issued directions to remove the same which finding has been agreed by the Hon'ble Supreme Court. The Sale deed dated 03/08/1992 is with respect to property bearing Chalta No. 1, P.T.S. No. 10. Thus, though the Order of Hon'ble NGT does not make mention of Chalta No. 1, P.T.S. No. 10 the same is dealt by the Hon'ble Supreme Court.

He further stated that vide Judgement dated 13/10/2006 passed by the Hon'ble High Court of Bombay at Goa in Writ Petition No. 422/1998 barred GCZMA not to issue any permission for any new construction except for repair and renovation of houses. The GCZMA by issuing permission in the year 2008 has violated the direction No. (E) of the Judgment dated 13/10/2006 of the Hon'ble High Court of Bombay at Goa and as such a Contempt Petition bearing No. 21/2012 was filed. The Hon'ble High Court vide Order

dated 30/11/2015 was pleased to dispose of the said contempt Petition with a direction to the GCZMA to dispose of the Show Cause Notice dated 25/05/2012 which was issued pursuant to his complaint dated 19/03/2012 which is till date is not decided by the GCZMA. As far as the directions issued by the Hon'ble High Court of Bombay at Goa in W. P No. 422/1998 the Hon'ble Supreme Court in its Judgment dated 07/10/2016 at page 14 stated that the State Authorities / Municipal authorities were bound by the same and they could not have granted permission to any Applicant in breach thereof. Any permission given / issued 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 i.e. Mr. Anil Hoble by the GCZMA would be of no avail as it is not consistent with the directions of the High Court.

He further stated that there are two complaints filed by him dated 19/03/2012 and 05/03/2014 both of which are not yet decided by the Authority.

Also stated that he had already placed on record his written submissions for the last hearing and same be also taken into consideration.

Adv. J. Supekar relied upon the contents of his detailed written submissions filed by him on 04/10/2016. The written submissions inter alia states as under:

- a) The Complaint dated 19/03/2012 was filed only in respect of the illegal land filling belonging to the Government based on which Show Cause Notice 25/05/2012 was issued by the GCZMA. Subsequently, filed Contempt Petition No. 21/2012 before the Hon'ble High Court of Bombay at Goa in W. P. No. 422/1998 in which Mr. Anil Hoble was made Party Respondent No.1. However, subsequently the Petitioner, Mr. Kashinath Shetye deleted Mr. Anil Hoble as Party Respondent No. 1 as per Order dated 15/12/2012 and Mr. Anil Hoble was no more a party in the said Contempt Petition before the Hon'ble High Court. As such the GCZMA could not conduct any proceedings against Mr. Anil Hoble in pursuance to the Show Cause Notice dated 25/05/2012. Further stated that, the GCZMA should have brought this fact to the notice of the Hon'ble High Court during the hearing before passing of the Order dated 30/11/2015.
- b) That the Complainant deleted Mr. Anil Hoble as Party Respondent No. 1 in said Contempt Petition and further initiated proceedings against Mr. Anil Hoble before the Hon'ble National Green Tribunal (NGT) by filing Application bearing No. 51/2014 thereby challenging the illegalities carried out by Mr. Anil Hoble which is also based on the Complaint dated 19/03/2012 filed by the Complainant.
- c) This fact of filling of Application before the Hon'ble NGT was also not brought to the notice of the Hon'ble High Court while hearing the Contempt Petition by

- the Petitioner as well as by the GCZMA nor could Mr. Anil Hoble bring this fact to the knowledge of the Hon'ble High Court as he was deleted as the Party Respondent No. 1 in the said Contempt Petition.
- d) The Hon'ble NGT was pleased to partly allow the Application No. 51/2014 thereby directing the demolition of the structures located in Sy. No. 65/1-A.
 - e) The said Order of the Hon'ble NGT was challenged before the High Court of Bombay at Goa vide W. P. No. 400/2015. However, the same was dismissed.
 - f) The Order of the Hon'ble NGT as well as the dismissal of the Writ Petition was further challenged before the Hon'ble Supreme Court. The Hon'ble Supreme Court directed to file review application before the Hon'ble NGT.
 - g) Accordingly, review application was filed before the Hon'ble NGT. However, the same was dismissed by the NGT. Against which order Writ Petition was filed before the Hon'ble Bombay High Court which was further disposed of with liberty to approach the High Court of Bombay at Goa.
 - h) In pursuance of the liberty granted a W.P no. 600/2016 was filed before the Hon'ble High Court of Bombay at Goa which was further dismissed by the Hon'ble High Court of Bombay at Goa. The said Order was then challenged before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court vide Judgement dated 07/10/2016 was pleased to dispose of the Appeal upholding the Judgement of the Hon'ble NGT, Pune dated 29/05/2015.
 - i) As far as the Judgement of the Hon'ble NGT, Pune dated 29/05/2015 is concerned the same has been complied with by conducting demolition of the structures located in Sy. No. 65/1-A on 02/07/2015.
 - j) Adv. Supekar further stated that the complainant Mr. Kashinath Shetye also filed an application seeking correction of the operative part of the Judgement dated 29/05/2015 thereby seeking direction for demolition of the structures located in Chalta No. 1 of P.T. Sheet No. 10 of Panaji City in which property the Bar and Restaurant is situated. However, the said request of the complainant was not granted by the NGT vide Order dated 04/08/2016.
- At this point of argument of Adv Supekar, Mr. Kashinath Shetye brought it to the notice of the Authority that by the very same order dated 04/08/2016 of the Hon'ble NGT, Pune, the Tribunal did not dismissed his application / rejected his request but directed / granted liberty to file review of the Order dated 29/05/2015. The same has been filed and will be taken up accordingly before the Hon'ble NGT, Pune.
- k) As far as the two complaints filed by Mr. Kashinath Shetye are concerned the same were mentioned / part of in the Application no. 51/2014 which was filed subsequently to the complaints and all the aspects are dealt with by the

Hon'ble NGT, Pune and as such nothing survives in the matter to be decided by the Authority.

- 1) By invoking the directions of the Hon'ble High Court of Bombay at Goa passed in Contempt Petition No. 21/2012 vide Order dated 30/11/2015, the Complainant is trying to get relief from the Authority to decide on the structures located in Chalta No. 1 of P.T. Sheet No. 10 of Panaji City where the Bar and Restaurant is situated which could not be looked into as the complaint dated 19/03/2012 as well as 05/03/2014 are very vague and without any factual averments and do not mention of any survey number nor any Chalta number. More specifically, both the complaints are dealt with in Application No. 51/2014 by the Hon'ble NGT, Pune.

Observations of the Authority:

After hearing the arguments of both the parties, the Authority observed that the main contention of the Complainant is that the Show Cause Notice dated 25/05/2012 has to be decided by the Authority in view of the directions of the Hon'ble High Court of Bombay at Goa in Contempt Petition No. 21/2012 besides his second complaint dated 05/03/2014 which is till date not decided by the Authority.

The Authority upon perusal of the Show Cause Notice dated 25/05/2012 noted that the same was issued to Mr. Anil Hoble for alleged illegal encroachment on the Govt. Land and for alleged illegal construction of a compound wall / retaining wall, gate for entering his premises by reclamation of the land adjacent to the salt pans near ice plant at Ribandar-Panaji Old Highway based on a complaint letter dated 19/03/2012 received from Mr. Kashinath Shetye. The Authority also noted that no specific survey number is mentioned in the complaint letter in which the alleged illegal activities are carried out by Mr. Anil Hoble. The members noted that complaint under reference was vague and not specific.

Further as regard to the second complaint of Mr. Kashinath Shetye dated 05/03/2014 is concerned, the members noted that the same pertains to the alleged destruction of mangroves and construction of retaining wall and restaurant carried out by Mr. Anil Hoble near old market at Ribandar Patto. It was also noted that the said complaint letter also do not make reference of any survey number of the property in which the alleged illegal activities are carried out. Based on the said complaint letter, a Show Cause Notice dated 10/03/2014 was issued to Mr. Anil Hoble to which reply was accordingly filed.

Subsequently, the complaint letter alongwith the reply was forwarded to the Inquiry Committee of GCZMA vide letter dated 24/03/2014. The Inquiry Committee after conducting due inquiry into the matter prepared and submitted their report dated

30/04/2014. The report inter alia in brief stated that the structure 'A' located in Chalta No. 1 of P.T. Sheet No. 10 was existing way back in the year 1967 and as such there is no question of destruction of the mangroves or filling of salt pans. The report also stated that though the structure A is situated within the area of NDZ, the record indicates the existence of structure 'A' prior to 19/02/1991. Hence, there is no violation of CRZ Notification.

The said report of the Inquiry Committee was accordingly placed before the Authority in its 109th meeting held on 12/11/2014. The Authority after detailed discussion and due deliberation and considering the documents submitted by Mr. Anil Hoble before the Inquiry Committee decided to accept the findings of the Inquiry Committee and drop the proceedings and as such dispose of the complaint accordingly by passing a final order to that effect.

As per the decision of the Authority, a final Order bearing no. GCZMA/ILLE-COMPL/13-14/66/1594 dated 25/11/2014 was issued informing the parties about the dropping of the proceedings with regard to the alleged illegal construction of restaurant located in the property bearing Chalta No. 1 of P.T Sheet No. 10 of Panaji City of Tiswadi Taluka carried out by Mr. Anil Hoble.

The second complaint of Mr. Kashinath Shetye dated 05/03/2014 was duly considered and decided by the Authority and as such, the contention of the complainant Mr. Kashinath Shetye about non disposal of his second complaint 05/03/2014 could not be taken consideration.

The Authority also observed that both the complaints filed by Mr. Kashinath Shetye were subject matter before the Hon'ble NGT in Application No. 51/2014 and all the aspects / allegations were duly considered and decided by the Hon'ble NGT vide Judgement dated 29/05/2015 which has been further upheld by the Hon'ble Supreme Court of India.

The Authority also perused the order dated 04/08/2016 of the Hon'ble NGT, Pune vide which the Hon'ble Tribunal did not consider the request of the complainant to include the Chalta No. 1 of P.T Sheet No. 10 of Panaji City of Tiswadi Taluka in the operative part of the Judgement dated 29/05/2015 with a liberty to file necessary review of the Judgement dated 29/05/2015.

Further, the Authority considered that the compliance of the directions of the Hon'ble NGT, Pune are also complied with by carrying out demolition of the structures located in Sy. No. 65/1-A of Village Morombi-O-Grande. And as such, nothing survives in the matter.

The matter was placed in the 136th GCZMA meeting held on 17/01/2017 wherein the Authority after detailed discussion and due deliberation and in view of the fact that the

Review Application is filed before the Hon'ble National Green Tribunal, Pune decided to await the decision till the Review Application is decided by the Hon'ble NGT, Pune.

It is pertinent to note that Mr. Kashianth Shetye vide his Application dated 06/02/2017 placed on record the Order dated 28/01/2017 of the Hon'ble NGT, Pune passed in Review Application No. 30/2016 in Application No. 51/2014 filed by Mr. Kashianth Shetye V/s. GCZMA & Ors.

Upon perusal of the Order dated 28/01/2017 it is seen that the Review Application has been dismissed by the Hon'ble NGT as the same was filed much beyond the period prescribed under Rule 22 (1) of the NGT Rules 2011. Further, the Hon'ble NGT stated that the Judgement & Order dated 26/10/2016 passed in Civil Appeal No. 26024/2016 by the Hon'ble Supreme Court reveals that after considering the case of the original Applicants and Respondents regarding construction of commercial building carried out by Mr. Anil Hoble on plot of land bearing Chalta No. 1 of P.T.S No. 10, Panjim city and Sy. No. 65/1-A of Village Morambi –O- Grande in Merces Panchayat the material placed before the Tribunal and the findings of the Tribunal, the Hon'ble Supreme Court dismissed the Appeal upon the following observation which are in short as follows:

- a) The Structure as it existed when the plot was purchased by the Appellant on 03/08/1992 was a small structure at the corner of the subject plot and was used only as a Garage for repairs of vehicles and allied activities and the structure in respect of which complaint was made before the Tribunal was completely different in shape, size and also location for which reason the Tribunal issued direction to remove the same.
- b) The view taken by the Hon'ble Tribunal relying on the decision of the Hon'ble High Court, permitted retention of only dwelling units within CRZ III area and constructed prior to 19/02/ 1991. Thus, the permission granted to Anil Hoble by GCZMA would be of no avail as it is not consistent with the directions of the Hon'ble High Court of Bombay at Goa.

Thus the Hon'ble NGT, Pune came to a conclusion that the lis between the parties came to an end and nothing survives to be considered any further in Review Application. As such the Review Application has been dismissed.

The Member Secretary informed the Authority that Shri Kashinath Shetye vide his letter dated 06/02/2017 submitted the Order dated 28/01/2017 passed by the Hon'ble NGT with regard to his review application to include Chalta No. 1 of P.T. Sheet No. 10 in the Judgement dated 29/05/2015.

The Authority perused the said order passed by the Hon'ble NGT in Review Application No. 30/2016 in Application No. 51/2014 decided to seek a legal opinion in the matter.

Accordingly, file was forwarded to the legal cell, Law Department as well as to the Ld. Advocate General seeking for legal opinion in the matter. Accordingly, received the file from the Office of the Advocate General stating in brief as follows: “removal of all structures of whatever kind in Sy. No. 65/1-A and Sy. No. 83/2-A of Village Morambi – O- Grande would constitute complete compliance with the direction issued by the Hon’ble Tribunal and the order passed by the Hon’ble Tribunal as it stands does not warrant removal of structures if any situated in Chalta No. 1 of P.T.S. No. 10 of city Survey, Panaji.”

In view of the legal opinion of the Ld. Advocate General the matter was placed before the Authority in order to discuss and decide in the matter.

Decision: The Authority after detailed discussion and due deliberation and upon considering the legal opinion of the decided that in view of the fact that this very complaints made by Shri Kashinath Shetye were subject matter before the Hon’ble NGT in Application No. 51/2014 and the Hon’ble NGT has already decided the matter and passed an order which has been upheld by the Hon’ble Supreme Court and the fact that the Hon’ble NGT has not agreed to include the concerned P.T. Sheet No.10 of Chalta No. 1 City Survey of Panaji in its order dated 28/01/2017 in Review Application No. 30/2016 and also the fact that the order of the Hon’ble NGT has been complied with as far as demolition of structures in Sy. No. 65/1-A and Sy. No. 83/2-A of Village Morambi – O- Grande and affidavit to that effect has also been filed before Hon’ble NGT. The Authority in view of the above decided to drop the Show Cause Notice dated 25/05/2012 issued to Shri. Anil Hoble.

Item No.3 (Approval for the Community Projects)

The GCZMA was in receipt of following project proposals / applications pertaining to the community projects from the concerned Government Departments / Autonomous bodies / local bodies, seeking clearance / NOC from this Authority under the CRZ Notification 2011.

In view of the above, following cases / applications received from various project proponents / Government Departments were placed before the GCZMA for deliberation and decision:

Case No. 3.1

N.O.C/ Permission for proposed addition and alteration to existing Hanger in the property bearing Sy.No. 86/13 of Reis Magos Village, Bardez Taluka by Indian Navy (GCZMA/N/14-15/35).

Background: The GCZMA had earlier granted approval for the said project vide NOC dated 20/08/2014. Now, the Indian Navy, INS Mandovi, NSWTTTC Verem, Goa intends to carry out addition and alteration to the existing hanger with revision to the earlier plans. The said facility is required to maintain the National Security and intelligence and for special operation, BHIBS Safety hangar is required for operational purpose.

It may be noted that the earlier approved plans was to extend deck slab of the proposed hanger platform to 4 m in order to provide storage of existing crafts and maintenance. Now, keeping in mind the future requirements with regard to procurement of new assets and induction of new crafts the plan has been modified so as to meet the existing and future operational requirement of Indian Navy which requires extending the deck slab of the platform by another 16 m beyond the approved 4 m.

The said site was earlier inspected by Shri. Rangunath Dhume and Dr. Antonio Mascarenhas, Expert Members (GCZMA) on 11/07/2014. The inspection report indicates that the existing land use is for defence activities. The area falls on the HTL. There are existing structures within the plot. Two pillars of 30 cm diameter are proposed in the rivers 6 mts. A way from the bank and 16 mts, apart.

In the view of the above, the matter was placed for presentation by the Applicant.

Representatives on behalf of Indian Navy (INS) were present and gave a detailed presentation wherein they informed the Authority the need for increase in size of the existing Hanger which is for hoisting/ lowering of special operations RHIBS (fast boats - dimensions - length 11.5m, width 3.5 m, draught 1m, weight 7 ton).

They explained the operational necessity of the project which includes:

- Advanced boats acquired from the us for training of the marine commandos of the indian navy
- Craft cannot be left in water for prolonged duration due to deterioration of the hull. thus boats need to be hoisted after each use.
- Presently no arrangement to hoist/ lower the boat
- Structural experts from Chief Engineer Navy, Mumbai determined the requirement of additional 16 m (total 20 m) to install a different crane catering to the new boats.
- The construction is mandatory towards enhancing operational efficiency of the Indian Navy and sustained waterborne training of the marine commandos at ins Mandovi

They further explained the impact of the project wherein they stated that:

- There are no hindrances for normal traffic in the channel as the existing jetty extends to 33m compared to 04 + 16 m extension for crane
- No damage to marine environment as depths in the proposed area are negligible, mostly drying heights

Decision: The Authority after detailed discussion and due deliberation and upon considering the aforementioned presentation, decided to carry out inspection of the site under reference and also to examine the proposal from the EIA angle.

Case No. 3.2:

CRZ Clearance / Permission for proposed extension / expansion to the existing jetty of Kala Academy, Panaji submitted by Goa State Infrastructure Development Corporation Limited (GSIDC).

Background: Earlier a proposal was received from the Goa State Infrastructure Development Corporation Limited, vide letter bearing No. GSIDC/Engg/Works/956/5461 dated 23/12/2013 seeking permission / clearance / NOC of the GCZMA for proposed reconstruction of existing jetty at Kala Academy, Panaji and upon receipt of the said proposal a site inspection was conducted by Shri. Ragnath Dhume on 08/01/2014. The site inspection report indicated that there exists a jetty along with wooden platform at River Mandovi. The existing jetty is damaged. Reconstruction of new jetty is required. Existing jetty is of steel structure. Further, the said proposal was placed in the 98th GCZMA meeting held on 10/02/2014 wherein the project proponent, GSIDC gave a detailed presentation before the authority and after deliberating on the project and examining all the issues, the GCZMA members decided that the project can be completed in 2 phases, Phase 1: Construction is approved up to the existing length i.e. upto 75 mts as per the project plan and as far as Phase 2 of construction is concerned, the project proponent is directed to undertake detailed studies in respect of the impact of the construction on tidal currents / river bank as the above site is ecologically sensitive being at the mouth of the river. It was further decided that the above mentioned studies in respect of project are to be carried out through N.I.O.

In view of the decision taken in the 98th GCZMA meeting, the GSIDC vide letter dated 23/11/2015 had submitted the copy of the Rapid Environmental Impact Assessment (REIA) Report in respect of the above said project prepared by SV Enviro Labs & Consultants and requested to grant permission for further portion of jetty from 75 m to 121 m as approved earlier.

Further, the said proposal for extension / expansion of the Kala Academy jetty i.e. from 75 m up to 121 m was placed in the 123rd GCZMA meeting held on 21/12/2015 wherein the Authority noted that the said proposal of further extension to the existing

jetty i.e. from 75 m to 121 m does not serve any additional purpose so also, the morphological condition of the bank of the River is highly unstable and is prone to erosion thus setting up of a jetty for this extended portion/ length will cause threat to the ecosystem etc. After detailed discussion and due deliberations, the Authority decided to reject the said proposal of further extension of jetty i.e. from 75m up to the extent of 121 m at Kala Academy, Panaji submitted by Goa State Infrastructure Development Corporation Limited. Accordingly, the GSIDC was communicated about the abovesaid decision vide letter bearing No. GCZMA/N/13-14/78/2606 dated 03/02/2016.

Subsequently, the office of the GCZMA was in receipt of a letter bearing No. KA-TECH-JETTY-2015-16/8599 dated 22/02/2016 from the Member Secretary, Kala Academy, Goa forwarding the Rapid Environmental Impact Assessment (REIA) Report and further providing clarification in respect to the queries raised by the Authority which is as follows:

1. As far as purpose of further extension of the jetty is concerned it is stated that as per the report there is insufficient depth at 75 m and as such vessels will not be able to dock at the jetty. Moreover, the variations in tide can cause damage to boats and also endanger the lives of the passenger attempting to embark and disembark at the jetty. The jetty was only usable at high water as the depth available at low water was about 0.8 m. Now, considering the design of new jetty it is brought to the notice the depth is 3 m at this subject distance i.e. 121 m and does not require any dredging. Further, if the length is restricted to 75 m it will involve dredging, which will annually cost over two crores plus there is an added disadvantage that it may change the flow pattern of the Mandovi River, thus causing Environmental damage to the river bank and ecosystem.
2. Further, as far as the morphological condition of the bank of the River is concerned it is stated that the river bank at Kala Academy is already reinforced with laterite and is stable, the earlier constructed jetties also had not noticed any affect on the river bank. Moreover, if the river bank is not affected by erosion during construction of the jetty up to 75 m it is highly unlikely that extension of the jetty beyond 75 m will affect the River bank and have ecological effects. In fact not extending the length will have ecological consequences as it will involve annual dredging and recurring unnecessary expenditure of scarce Government resources. The new jetty structure is congenial for water to pass and hence there is no significant stagnation and ecological disturbance. The New jetty is more environmentally friendly and its adverse impacts are insignificant on the Environment.

The aforementioned project proposal was placed in the 126th GCZMA meeting held on 29/03/2016 for brief presentation by the representatives of the Kala Academy wherein Mr. Nilkant Signapurkar, Member Secretary, Kala Academy made a technical presentation providing clarification in respect to the queries raised by the Authority. However, there were various issues raised by the members of the Authority in respect of the architectural design of the jetty and the Authority was not convinced with the concept of the architectural design presented before it as it seemed to be a huge platform which may be further used for private activities other than the mandate of Kala Academy. The Authority after detailed discussion and due deliberation and on considering the presentation of the Kala Academy decided not to approve the proposal of the extension / expansion of the jetty i.e. from 75 up to 121 m as per the proposed design which was presented before the Authority and further decided to direct the Kala Academy to submit a revised plan / design of the said jetty to a completely floating type jetty without use of piles for its examination.

The representatives of Kala Academy were requested to make detailed technical presentation before the Authority in its 128th meeting.

Mr. Nilkant Signapurkar, Member Secretary, Kala Academy was present for the presentation along with Mr. Dilip Joshi, GSIDC and Mr. Milind Prabhu. Mr. Milind Prabhu informed the members that earlier a 75 m steel jetty was existing on the proposed site and the same deteriorated after 3 to 4 years. The depth available at 75 m length of jetties is just 0.8 m and the same is insufficient for a vessel to dock and the same will block around 30 m of river area. He further informed that the bank gradually goes down to 2 m at 110 m length and at 121 m it is 3 m and as such with this depth it is possible to dock a vessel. At 75 m length it will involve dredging, which will annually cost over Rupees two crores. Further, there will be disadvantage that it may change the flow pattern of the Mandovi River, thus causing damage to the river bank and ecosystem. The proposed jetty is 121 m long with 2 floating pontoons. He further stated that the said jetty will have all inbuilt facilities as per Marine Pollution Standards (MARPOLS). He also informed that a Rapid EIA has also been carried out for the said project.

He further stated that the tidal height is around 2.4 m and the same may hit the jetty and endanger the lives of passengers / tourists. In the present proposal, the number of piles have been reduced, pile spacing reduced from 2 pile jetty to single pile, larger diameter and deeper boring depth, extra temporary piles may be required for piling gantry, lower reliability to accidental damage from stray vessels, re-entrant elevation due to deeper pier beam at each support, same concrete consumption as 2 pile jetty but 15-25 % increased

R/F Consumption i.e. no saving in concrete due to greater diameter, more depth and pier beam.

He further stated that the proposal does not include use of braces as it will affect the flow of the river. He also presented a front view of the proposed jetty and stated that the front structure is designed so as to articulate the load and to cater for danger to the vessels (i.e. by taking into consideration a possibility wherein if the vessel hits the jetty at 15 degrees, the jetty may develop cracks) and also an impact of 250 ton vessel was taken in to consideration and further to give it a good shape to improve the aesthetics of the jetty. He also informed that they have already obtained permissions from the Captain of Ports Department and informed the Authority that it being a Government body they are ready to submit an undertaking that the usage of structure will be purely operation of jetty and for no other activity.

Dr. Antonio Mascarenhas Expert Member (GCZMA) reiterated his earlier observations which are as follows:

From an oceanographic viewpoint, (a) the river bank from Miramar to childrens' park presents contrasting geomorphologic characteristics, (b) Miramar and Childrens' park shows beaches which show an accretionary trend, whereas the portion on either side of Kala Academy has been eroding drastically, (c) the light house once on land is presently found 10 metres in the river, (d) since the structure would require a number of piles, it is well established that any interference in the flow (waves and tidal currents) indeed create drastic imbalances in the flow regimes, sedimentation patterns and river bank stability, (e) the eroding part of the bank comes under direct attack by high waves particularly during monsoon, (f) the said bank is highly vulnerable (although reinforced), and as such, the morphological condition of the bank of the river is highly unstable and is prone to erosion, (g) Therefore, fixing a jetty in such a hostile environment is by itself unscientific.

Dr. Antonio Mascarenhas and Mr. Sandeep Nadkarni further raised concern as the proposed area is under turmoil as it is prone to heavy erosion and is a zone of accretion and is not in equilibrium with the surroundings.

The members noted that there is a Rapid EIA carried out for this project by SV Enviro Labs & Consultants and the Expert members need to thoroughly verify the said EIA report. Further, as far as the load scenario is concerned there is proper future traffic survey required to be conducted.

After detailed discussion and due deliberation and considering the various aspects of the proposed area i.e. water current, flow of river, dynamic pattern etc. so also need to take into account the past historical data pertaining to tourist flow, the Authority noted that the EIA Consultant needs to give detailed technical presentation before the Authority and directed the Member Secretary, Kala Academy to make a detailed presentation alongwith:

- i) The representative of S V Enviro Labs & Consultants who have prepared the said rapid EIA report for the project.
- ii) A representative from River Navigation Department in this sector who is required to brief the Authority on the Holistic view of the whole project
- iii) A representative from Captain of Ports to give brief idea on the survey conducted with respect to load scenario in this area.
- iv) A special invitee from the National Institute of Oceanography (NIO), Donapaula who is an Expert in the field and has carried out research studies in that area to appraise the Authority in this regards.

In this regard, the proposal was placed before the Authority for presentation in the matter.

Member Secretary, Kala Academy alongwith other representatives from Kala Academy were present for the meeting. The Member Secretary, Kala Academy informed the Authority that they have already obtained approval upto 75 m and the current proposal is for further extension by another 46 m i.e. total length of up to 121 m. He further stated that hydrographic data indicates sufficient depth of 3 meters at 121 m and has obtained the necessary permissions from Captain of Ports, Goa State Pollution Control Board. He further highlighted on the status of the existing jetty stating that the jetty has structurally failed and the jetty was only usable at high water as the depth available at low water was about 0.8m, the use of MS in construction without requisite devices and schedule of maintenance to reduce corrosion has resulted in accelerated corrosion, also, the absence of an anodic protection system has accelerated the deterioration of the structure especially in the intertidal zone and the only solution is to dismantle the jetty at the earliest before it collapses and poses danger to incoming/outgoing boating traffic from the Mandovi, the jetty is also causing environmental damage by releasing oxides and the toxic components of coatings which may be adversely affecting marine life and at present the old jetty has been demolished and removed.

He further invited the attention of the Authority on the proposed Jetty will be 121 m long, spreading in an area of about 2500 Sq.mts and Pontoon will be 200 Sq.m having erected on 101 piles. There will be no dredging or reclamation of the water front area of Mandovi river as the construction activity of jetty will be on pile foundation (No cross braces). Total foot print of the pile structure on river bed is only 29 Sq. mts.

He further informed the Authority that Indian and International design standards will be used for design criteria for proposed jetty and also the design used for floating pontoons. He further highlighted on the NIO conclusion on shoreline change wherein he pointed out that as per the conclusion of NIO:

- No significant change in the local flow dynamics is observed 500m from the proposed jetty. Reduction in flow speeds between 10 to 70% are expected very close to the jetty.
- The river bed morphology undergoes accretion/erosion of the order 0.75m beyond the jetty which is within the river bed change regimes. This change in bed levels are not significant. Accretion near the jetty region of the order of 0.25m is expected.
- It is also recommended to monitor Kala academy stretch periodically and if required strengthen the existing shore protection along the beach.

He further stated that requisite impact and mitigation measures will be taken during the construction of the said jetty.

He further concluded stating that the Potential Environmental Impacts associated during the construction and operation phases can be prevented and mitigated to an acceptable level by implementation of various preventive and control measures as suggested in various chapters of this EIA report. The benefits of the project are much more significant due to its tourism Importance visa vie to the adverse Environmental impact is insignificant. He also stated that the said jetty will be used to conduct events which will generate revenue.

The Authority noted that under the para 4 (i) (f) of the CRZ Notification 2011, as amended:

“Regulation of permissible activities in CRZ area.- The following activities shall be regulated except those prohibited in para 3 above,-

- (f) construction and operation for ports and harbours, jetties, wharves, quays, slipways, ship construction yards, breakwaters, groynes, erosion control measures;”

The Authority further took note of the amendment dated 28/11/2014 issued by the MoEF which is as follows:

In paragraph 4.2, in sub – paragraph (ii), after clause (b), the following clause shall be inserted, namely:-

“(c) SEIAA, for the projects specified under paragraph 4 (i) (except with respect to item (d) thereof relating to building projects with less than 20,000 sq.m of built up area) and for the projects not attracting EIA notification, 2006”

Decision: The Authority after detailed discussion and due deliberation and in view of the aforementioned presentation and in view of the amendment to the CRZ Notification 2011 dated 28/11/2014 issued by the MoEF decided to recommend the said proposal to the State Environment Impact Assessment Authority (SEIAA).

Item No. 4: To discuss and decide on the applications received seeking approval/ permission / NOC / Recommendations pertaining to construction / reconstruction / repair/ renovation of structures etc

Case No. 4.1:

Recommendation / Permission for proposed reconstruction of a structure located in the property bearing Sy. No. 54/1-B, Velsao Village, Mormugao Taluka by Mrs. Tasleem Lalji through her POA Mr. Jenzil Savio P. Pereira.

Background: The applicant has sought permission / recommendation for proposed reconstruction of a structure located in the property bearing Sy. No. 54/1-B, Velsao Village, Mormugao - Goa. The applicant has submitted a copy of Deed of Sale executed between M/s. Beachfront Resort Pvt. Ltd. (referred to as the Sellers) and Mrs. Tasleem Lalji (referred to as the Purchaser) and has also submitted General Power of attorney of Mrs. Tasleem Lalji appointing Dr. Saidutt Kuvelkar as attorney on her behalf with respect to the said property and also submitted Power of Attorney of Dr. Saidutt Kuvelkar appointing, nominating and constituting Mr. Jenzil Pereira as a lawful attorney in respect of the said property. The applicant has also submitted a letter dated 19/02/2016 issued by the DSLR stating that the said property is partly falling within 200 m from HTL and partly in the zone of 200 to 500 m from the HTL. The Applicant has also submitted a copy of NOC issued by the erstwhile GSCCE vide letter dated 29/08/1997 and a certificate dated 27/07/2007 issued by the Village Panchayat of Velsao Pale Issorcim stating that the structures shown on the cadastral plan of the said property were existing prior to 1991, prior to building rule, 1997. The name of Tasleem Lalji is reflected in Form I & XIV.

Site Inspection Report: The site was inspected by Dr. Prabhakar Shirodkar and Shri. Audhoot Bhonsule, Expert Member (GCZMA). The inspection report indicates that:

At site, the Power of Attorney of Tasleem was present who showed the site area and explained about the proposed construction.

- i) The site was purchased by Mrs. Tasleem Lalji, person of Indian origin, having PIO Card No. P 0029314 and resident of Anjuna, from M/S Beachfront Resort Pvt Ltd Company on 30th Aug. 2007 and she is not the native of the place.
- ii) At site, old structures were not seen but the survey plan produced by POA showed two dotted line structures.
- iii) The ground at site showed the steel rails in the form of piers of shed cut at ground level. They were in the sand dunes area and within 200m of the CRZ.
- iv) Attorney says that they want to reconstruct a small structure of laterite masonry with Mangalore tile roofing only for residential purpose and not for any other activity.
- v) The site shows many sand dunes and it is sloppy towards the seaward side.
- vi) Also, there is no proper road but only a foot way exists to reach the place of construction.

Conclusion & Recommendations

- i) No earlier structures were seen at the site, except for marking of structures on survey plan produced by the applicant.
- ii) The authenticity of the markings on the survey map should be verified from the DSLR.
- iii) The proposal is for construction of house in land having sand dunes within 200m of the NDZ area by taking advantage of the steel rail markings.
- iv) The applicant is not a native of the place neither is she is a fisher.
- v) Such a construction of house in NDZ area with sand dunes all around will lead to tempering and damage of the sand dunes.
- vi) Hence the matter may be placed before the Board for deliberation for final decision.

Decision: The Authority perused the site inspection report of the Expert Members of the GCZMA and noted that proposal is for construction of house in land having sand dunes within 200m of the NDZ area and the same will lead to tempering and damage of the sand dunes. As such the Authority after detailed discussion and due deliberation decided to reject the said proposal.

Case No. 4.2:

Clearance for proposed construction of proposed temporary pier for fishing net mending activities in the property bearing in the property bearing Sy. No. 41/1 (part) at Ella, Tiswadi Taluka by Mr. Teofilo D'Souza.

Background: The applicant has sought clearance for construction of proposed temporary pier for fishing net mending activities in the property bearing in the property bearing Sy. No. 41/1 (part) at Ella, Tiswadi – Goa. The applicant has submitted Deed of Lease executed between Gopal V. Naik & Anr. (referred to as the Lessors) and Mr. Teofilio D’Souza @ Teofilo Desouza (referred to as the Lessee), the applicant has also submitted the copy of the NOC issued by the GCZMA dated 18/05/2015 for construction of temporary net mending shed in the said property and also submitted a copy of Impact Assessment studies carried out for the project. The Applicant in his application has stated that the same is required for transport of the fishing nets to the net mending shed, and transporting the repaired fishing nets to the fishing trawlers. The name of Vaman Gopal Naik is reflected in Form I & XIV.

Site Inspection Report: The site was inspected by Dr. Prabhakar Shirodkar, Prof. Suhas Godse and Eng. Audhoot Bhonsule, the Expert Members (GCZMA). The inspection report indicates that:

i) The site in Sy. No. 41/1 is on the southern bank of Mandovi River at Ella Village and falls in CRZ III area.

ii) The site has been procured by Mr. Teofilio D’Souza ON 99 yrs lease from Mr. Gopal Naik and Mr. Ratnakar Naik on 4th January 2016.

iii) The specific site, where Mr. Teofilio D’Souza proposes to construct the temporary pier, is devoid of mangroves.

iv) the mangroves do exist on the eastern and the western side of the proposed site, whereas, there exist a public road towards south of proposed temporary pier site.

v) the proposed pier is a small temporary structure to be made out of timber and stainless steel plates, nuts and bolts.

vi) The Impact Assessment Report dated 16/02/2017, by Jt. Secretary, Mangrove Society of India provided by the Applicant subsequently suggests that there would be no obstruction to the tidal flow as well as to the navigation.

vii) the report also says that there are no endangered plant species or wildlife existing in the site vicinity. Also, no major loss of biomass has been envisaged.

viii) The increase in turbidity of water applicable only for the construction phase is temporary and would be of short duration and minor.

ix) The Applicant has committed that he would not cause damage to the mangroves in any case.

Conclusions and Recommendations:

- i) The proposed construction of pier is a temporary structure to be made out of timber, with minor amount of stainless steel.
- ii) The pier will facilitate conduct of fishing and fisheries related activities.
- iii) The mangrove plants do not exist in the area where pier would be constructed and the proponent does not require to cut the mangroves for any purpose.
- iv) However, in the event of any mangrove cut for any reason, the applicant should be strictly instructed to plant 10 times more mangroves in the surrounding area. An affidavit can also be obtained from the applicant to this effect, if felt necessary.
- v) A NOC for the construction of temporary net mending shed has been issued to the Applicant earlier by the GCZMA vide letter No. GCZMA/N/14-15/85/331, dated 18/05/2015 in Sy. No. 41/1 at Ella Village.
- vi) Para 4 (i) (a) of CRZ Notification 2011 also suggests that the clearance shall be given for fisheries activity within CRZ if it requires waterfront and foreshore facilities.
- vii) Considering all these points, the GCZMA may deliberate for a decision on the matter.

Decision: The Authority noted that the proposal is for temporary pier for fishing net mending activities and the same is a permissible activity as per the CRZ Notification, 2011, as amended. The Authority after detailed discussion and due deliberation and on considering the site inspection report of the Expert members of the GCZMA, decided to approve the said proposal of construction of proposed temporary pier for fishing net mending activities in the property bearing in the property bearing Sy. No. 41/1 (part) at Ella, Tiswadi – Goa in terms of the CRZ Notification, 2011, as amended.

Case No. 4.3

Clearance for proposed reconstruction of house bearing H. No. 438 located in the property bearing Sy. No. 100/10, Agonda, Canacona Taluka by Mr. Celso Fernandes.

Background: The applicant has sought clearance for proposed reconstruction of house bearing H. No. 438 located in the property bearing Sy. No. 100/10, Agonda, Canacona – Goa. The applicant has submitted a copy of Certificate issued by the Village Panchayat of Agonda wherein it is stated that the said house was assessed for house tax in the name of Smt. Conceicao Fernandes since the year 1990-91 to 2000-01 and the same was transferred in the name of Selso Fernandes in the year

2001-02 and has also submitted a certified copies of house tax receipts for the year 1981-82 to 1994-95, a copy of plan issued by DSLR wherein the structure is reflected and a copy of Certificate issued by the Toddy Tappers Association stating that Mr. Selso Fernandes, S/o. Late Mr. Pedro Fernandes and Maria Fernandes belongs to the “Christian Renders” Community / Class which is recognised as OBC. The name of Applicant’s mother i.e. Maria Fernandes is reflected in the column of other rights.

Site Inspection Report: The site was inspected by Shri.Ragunath Dhume,the then Expert Member of the GCZMA. The inspection report indicated that the existing land has residential houses. There exists an access. There exists ornamental trees within the plot. The proposed plot is within 200 m of HTL. There exists an old house. The house is shown on DSLR plan. The name of Applicant’s mother is reflected in Form I & XIV. The applicant belong to a toddy tappers community, Certificate is enclosed to the file. The Applicant has a Certificate of Panchayat stating that the house tax is paid from 1991 to present. Since the Applicant belong to local community Applicant may be allowed for construction.

The said proposal was placed in the 137th GCZMA meeting held on 24/01/2017 wherein the Authority observed that the said proposal is for construction of a First floor on existing ground floor as could be seen from the plan attached to the Application. The said plot is located in the No Development Zone (NDZ) i.e. within 200m from the HTL.

As provided in para 8 III. A (ii) “No construction shall be permitted within NDZ except for repairs and reconstruction of the existing authorized structure not exceeding the Floor Space Index, existing plinth area and existing density. In case of traditional coastal communities including fisherfolks constructions and reconstructions is permissible for dwelling units between 100 to 200 m from the HTL along the seafront in accordance with the comprehensive plan prepared by the State Government in consultation with traditional coastal communities including fisherfolks and incorporating necessary disaster management provision as recommended by State Coastal Zone Management Authority to the National Coastal Zone Management authority for approval of Ministry of Environment and Forests ”

The Authority noted that a comprehensive plan as required under para 8 III A (ii) is not yet formulated and approved by the MoEF and hence the Authority decided that the present Application for proposed construction of first floor on existing ground floor cannot be considered and the Applicant may be informed accordingly.

Now, the Applicant has submitted revised plans in respect of ground floor on the existing plinth.

Area of the plinth = 217.60 sq. m

Proposed Ground floor area = 217.60 sq. m

Decision: The Authority noted that the Applicant has now submitted revised plans only in respect to the ground floor by maintaining the existing plinth. As such the Authority after detailed discussion and due deliberation and on considering the site inspection report of the then Expert members of the GCZMA, decided to approve the said proposal of reconstruction of house bearing H. No. 438 located in the property bearing Sy. No. 100/10, Agonda, Canacona – Goa in terms of the CRZ Notification, 2011, as amended.

Case No. 4.4

Clearance for proposed reconstruction of house bearing H. No. 439 located in the property bearing Sy. No. 100/10, Agonda, Canacona Taluka by Mr. Celso Fernandes.

Background: The applicant has sought clearance for proposed reconstruction of house bearing H. No. 439 located in the property bearing Sy. No. 100/10, Agonda, Canacona – Goa. The applicant has submitted a copy of Certificate issued by the Village Panchayat of Agonda wherein it is stated that the said house was assessed for house tax in the name of Smt. Maria Fernandes since the year 1980-81 to 2004-05 and the same was transferred in the name of Selso Fernandes in the year 2005-06 and has also submitted a certified copies of house tax receipts from the year 1979-80 etc. And a copy of Certificate issued by the Toddy Tapers Association stating that Mr. Selso Fernandes, S/o. Late Mr. Pedro Fernandes and Maria Fernandes belongs to the “Christian Renders” Community / Class which is recognised as OBC. The name of Applicant’s mother i.e. Maria Fernandes is reflected in the column of other rights.

Site Inspection Report: The site was inspected by Shri.Ragunath Dhume, the then Expert Member of the GCZMA. The inspection report indicated that the existing land has residential houses. There exists an access. There exists ornamental trees within hte plot. The proposed plot is within 200 m of HTL. There exists an old house. The house is shown on DSLR plan. The name of Applicant’s mother is reflected in Form I & XIV. The applicant belong to a toddy tappers community, Certificate is enclosed to the file. The Applicant has a Certificate of Panchayat stating htat the house tax is payed from 1980-81 till 03/06/2015 regularly. Since the Applicant belong to local community Applicant may be allowed for construction.

The said proposal was placed in the 137th GCZMA meeting held on 24/01/2017 wherein the Authority observed that the said proposal is for construction of a First floor on existing ground floor as could be seen from the plan attached to the Application. The said plot is located in the No Development Zone (NDZ) i.e. within 200m from the HTL.

As provided in para 8 III. A (ii) “No construction shall be permitted within NDZ except for repairs and reconstruction of the existing authorized structure not exceeding the Floor Space Index, existing plinth area and existing density. In case of traditional coastal communities including fisherfolks constructions and reconstructions is permissible for dwelling units between 100 to 200 m from the HTL along the seafront in accordance with the comprehensive plan prepared by the State Government in consultation with traditional coastal communities including fisherfolks and incorporating necessary disaster management provision as recommended by State Coastal Zone Management Authority to the National Coastal Zone Management authority for approval of Ministry of Environment and Forests ”

The Authority noted that a comprehensive plan as required under para 8 III A (ii) is not yet formulated and approved by the MoEF and hence the Authority decided that the present Application for proposed construction of first floor on existing ground floor cannot be considered and the Applicant may be informed accordingly.

Now, the Applicant has submitted revised plans in respect of ground floor on the existing plinth.

Area of the plinth = 193.48 sq. m

Proposed Ground floor area = 193.48 sq. m

Decision: The Authority noted that the Applicant has now submitted revised plans only in respect to the ground floor by maintaining the existing plinth. As such the Authority after detailed discussion and due deliberation and on considering the site inspection report of the then Expert members of the GCZMA, decided to approve the said proposal of reconstruction of house bearing H. No. 439 located in the property bearing Sy. No. 100/10, Agonda, Canacona – Goa in terms of the CRZ Notification, 2011, as amended.

Case No. 4.5

NOC/Permission for revised plans for proposed for re-construction of existing houses bearing Nos. A, B & C and construction of Swimming pool located in the property’s bearing Nos. 125/2 & 125/3 respectively of Candolim Village, Bardez Taluka by Sharan Morajkar (POA to Dreamsmiths Exim Private Limited).

Background: The aforementioned proposal was received from Mr. Sharan Morajkar (POA to Dreamsmiths Exim Private Limited) which was placed in the 115th GCZMA meeting held on 04/05/2015 wherein the Authority after detailed discussion and due deliberation decided to approve the said proposal for proposed re-construction of existing houses bearing Nos. A & B located in the property’s bearing Nos. 125/2 & 125/3 respectively of Candolim Village, Bardez - Goa by imposing the conditions as specified

under the CRZ Notification 2011. So also, there was another proposal received for re-construction of house bearing No. 423 located in the property bearing No. 125/2 of Candolim Village, Bardez Taluka and Bio-fencing within 200 mts. & Compound wall beyond 200 mts. from the HTL by Sharan Morajkar (POA to Dreamsmiths Exim Private Limited) which was also approved by the Authority in its 115th meeting.

It may be noted that the aforementioned Applications received from Mr. Sharan Morajkar (POA to Dreamsmiths Exim Private Limited) which were supported with copies of NOC's bearing Nos. GCZMA/N/09-10/70/45 dated 09/04/2010 and GCZMA/N/10-11/47/729 dated 31/12/2010 granted by the Office of the GCZMA with regard to proposed repairs & renovation of the above said houses. The Deed of Sale between Rudraa Homebuild Pvt. Ltd. (referred to as 'the Vendor') and Dreamsmiths Exim Pvt. Ltd. (referred to as 'the Purchaser). With respect to proposal of house bearing No. 423, the Applicant had also submitted a copy of Agreement between Mr. Malcolm Darius Pedder and Mrs. Sushma Agarwadekar (referred to as the First & Second Party) and Mrs. Vijaya P. Mandrekar (referred to as the Confirming Party). The name of the applicant is reflected in Form I & XIV.

Subsequently, the site was inspected by Shri. Ragnath Dhume, then Expert Member (GCZMA) on 11/04/2015. The site inspection report with respect to proposal of re-construction of houses bearing Nos. A & B located in the property's bearing Nos. 125/2 & 125/3 respectively of Candolim Village, Bardez – Goa indicated that there exists residential houses in the adjoining properties. The proposed reconstruction falls between 200 mts. to 500 mts. from the HTL. There exists a structure within the plot. The DSLR plan shows the existing dilapidated structure. Ownership documents verified.

Further, the site inspection report with regard to re-construction of house bearing No. 423 indicated that there exists residential houses in the adjoining properties. The proposed reconstruction falls between 200 mts. to 500 mts. from the HTL. There exists a dilapidated house with asbestos sheets and manglore tile roof. The H. No. 423 is existing since 1989 as per Village Panchayat records in the name of Vijaya Mandrekar. Final transfer in name of Dreamsmiths Exim Private Limited in the year 2015. Notarized copy submitted.

In this regard, the Office is in receipt of a letter from NGPDA bearing No. NGPDA/CAL/44/80/294/16 dated 27/06/2016 forwarding the revised plans for proposed additional basement floor for re-construction of residential houses block A, B & C and Swimming pool in the property bearing Sy. No. 125/2 & 125/3 of Candolim and further stating that the revised plans submitted by the project proponent are within the permissible limit as per Goa Land Development & Building construction Regulation 2010.

In view of the above, the proposal was placed in the 137th GCZMA meeting held on 24/01/2017 wherein the Authority noted that the aforementioned proposal is with regard to revised plans in respect of already approved proposal and as such the Authority decided to re-inspect the site under reference.

Accordingly, the site was re-inspected by the Expert Members of the GCZMA wherein the observations recorded are as follows:

- i) There are dilapidated houses A, B and C in the plot and the plot is within 200 – 500m of the CRZ area of Candolim village in the Sy. Nos. 125/2 and 125/3.
- ii) The original sanction is for G+1, and the plans for reconstruction were approved by GCZMA, with NOC Nos. GCZMA/N/09-10/70/45, dt. 9/4/2010 and GCZMA/N/10-11/47/729, dt.31/12/2010 issued for their proposed repair and renovation.
- iii) The revised plan however indicates the basement as utility/store/laundry and the full basement structure is with walls.
- iv) Height restriction for G+1 structure is 9.00m in CRZ, but when basement as utility/store/laundry is added, the height increases to 11.40m.

Conclusion & Recommendation

- i) CRZ regulation facilitates the height of the reconstructed G+1 structure to be 9.00m.
- ii) Addition of basement as a utility room, considers it as a floor, the height, which then becomes 11.40m. This defeats the CRZ regulation.
- iii) So the matter may be discussed in the Board meeting for a decision.

Subsequently, the Applicant has submitted new revised plans restricting the height to 9 m from the basement.

Decision: The Authority noted that the Applicant has now submitted revised plans restricting the total height including the basement to 9m. As such the Authority after detailed discussion and due deliberation and on considering the site inspection report of the Expert members of the GCZMA, decided to approve the revised plans for proposed re-construction of existing houses bearing Nos. A, B & C and construction of Swimming pool located in the properties bearing Nos. 125/2 & 125/3 respectively of Candolim Village, Bardez – Goa in terms of the CRZ Notification, 2011, as amended and subject to the condition that a prior approval from the Ground Level Authority under Water Resources Department in respect of the basement .

Case No. 4.6

Clearance for proposed residential house and compound wall located in the property bearing survey No. 113/1-C-2 of Dando, Candolim Village Bardez Taluka by Mr. Yuvraj Kirtikumar Bandodkar.

Background: The project proponent has sought permission for construction of residential house and compound wall in the property bearing survey No. 113/1-C-2 of Dando, Candolim Village Bardez - Goa. The proponent has submitted the copy of zoning certificate dated 15/09/2016 issued by the NGPDA wherein it is stated that the said property is earmarked as Settlement zone as per RP 2001 and also as per RP 2021 (on hold). The Applicant has also submitted a copy of letter dated 31/01/2014 issued by the DSLR wherein it is stated that the said property is falling in the zone of 200 to 500 m from the HTL as extracted from certified CRZ map of Candolim and has also submitted a copy of Will and deed of consent and has also submitted general power of Attorney between Maria Camila Olimpia Pinto Lobo nominating, constituting and appointing Mr. Yuvaraj Kirtikumar Bandodkar as her lawful attorney. The name of Maria Camila Olimpia Pinto Lobo is reflected in Form I & XIV.

Site Inspection: The site was inspected by Dr. Prabhakar V. Shirodkar and Mr. Audhut J. Bhounsual, Expert Members of GCZMA on 23/02/2017. The site inspection report indicates that:

1. The proposed site falls between 200-500 mts of CRZ as certified by DSLR (letter enclosed)
2. There is no any old structure seen at site and the proposal is totally new construction.
3. Although applicant has asked for NOC for residential house, the serial arrangement of bedroom all with attached toilets does not seem to be residential house but it could be used for commercial purpose, NOC for such project has to be obtained from proper forum.
4. The purpose of stilt are occupying full building is not stated for what purpose, it would be used, but the arrangement of columns clearly shows that additional seven room can be erected in due course which raises doubt.
5. The area statement shows FAR for 1st Floor as 227.08 sq.mtrs whereas for stilt area shows as 311.34 sq.mtrs and accordingly effort is made to show that FAR is within permissible limits. Height of the building is maintained within 9.00 mtrs.

Conclusion and recommendation

From the site inspection and perusing the project on plan; it is doubtful that the building use would be residential or commercial. Again stilt being ground floor provided with additions rooms after occupation; then the FAR would be doubled which would be clear violation of the CRZ as well as Town and Country planning rules. Hence; in order to avoid such a doubt; applicant may be asked to give an affidavit to that effect; that the construction would be maintained to the submitted plan and that no addition in stilt area only would be done at any time and FAR of 227.05 sq.mtrs would be maintained at all times.

The Expert Members, GCZMA informed the Authority that the project plan submitted by the Applicant consists of a stilt and the same being ground floor, there are chances of the same being provided with additional rooms after occupation as such the FAR would be doubled. Also the plan submitted does not give the profile of a residential house and it resembles more to a commercial structure having a kitchen and series of 5 Bedrooms with toilets.

The said matter was placed in the 143rd GCZMA meeting held on 07/03/2017 wherein the Authority after detailed discussion and due deliberation and in view of the above, decided to defer the said proposal and to direct the applicant to submit revised plans strictly in respect to the residential house.

Accordingly, in view of the above, the Applicant has now submitted revised plans in respect of G+1 Structure.

Area of the plot	: 900.00 sq.m
Covered area of the proposed building:	253.88 sq. m
Ground Floor area	: 253.88 sq.m
First Floor area	: 203.50 sq. m
Total	: 457.38 sq.m
F.A.R	: 30.46 %

Decision: The Authority noted that the Applicant has now submitted revised plans in respect of residential house having G +1 floor. As such the Authority after detailed discussion and due deliberation and on considering the site inspection report of the Expert members of the GCZMA, decided to approve the said proposal for proposed residential house and compound wall located in the property bearing survey No. 113/1-C-2 of Dando, Candolim Village Bardez – Goa in terms of the CRZ Notification, 2011, as amended.

Case No. 4.7

Clearance for proposed reconstruction of house located in the property bearing survey No. 25/18-A of Chopdem village Pernem Taluka by M/s. Capricon Realty Ltd.,

Background: The project proponent has sought permission for reconstruction of existing house. The proponent has submitted the copy of the Deed of Sale between M/s. Intrepid Travel Pvt. Ltd. & Anr. (referred to as the Vendors) and M/s. Capricon Realty (referred to as the Purchaser). The proponent's name is reflected in Form I & XIV. The said structure/house is shown in the survey record.

Site Inspection: The site was inspected by Dr. Prabhakar V. Shirodkar and Mr. Audhut J. Bhounsual, Expert Members of GCZMA on 23/02/2017. The site inspection report indicates that there is demolished plinth of the existing house is seen at site and the said structure is also seen on survey plan in Survey No. 25/18-A of Chopdem village Pernem Taluka. The said house falls in NDZ area within 100 mtrs of river bank. The existing house was single storied with mangalorean tiles measuring 129 sq.mtrs as seen from the sale deed. The new structure plan shows built up area of 213.89 sq.mtrs with net floor area of 163.00 sq.mtrs. The drawing submitted shows G+1 structure with roof slab of concrete and height of structure is 11.09 mtrs including water tank. There is a small structure with a cross adjacent to this old plinth.

Conclusion and Recommendation:

Area being in NDZ and structure to be constructed is within 100 mtrs of bank of river; the height restriction of 9.00 mtrs, has to be maintained. However, since this is NDZ area the repair and renovation of the existing structure would be allowed only to the extent of ground floor and no first floor can be allowed. The concrete water tank should not be allowed. The roof concrete structure has to be changed to mangalorean tiles only. At the site one room with holy cross which is not part of earlier plinth has to be kept outside this reconstruction/renovation keeping gap in between these structures.

The said proposal was placed in the 142nd GCZMA meeting held on 28/02/2017 wherein the Authority upon perusal of the site inspection report of the Expert members of the GCZMA noted that the proposed structure is G+1 and the same falls within 100 mtrs of bank of river i.e. in NDZ and as per the provision at para 8 III A (ii) of the CRZ Notification, 2011:

“No construction shall be permitted within NDZ except for repairs or reconstruction of existing authorized structure not exceeding existing Floor Space Index, existing plinth area and existing density”

After detailed discussion and due deliberation and in view of the above, the Authority decided to defer the said proposal and direct the Applicant to submit the revised plans only with respect to the ground floor not exceeding existing Floor Space Index, existing plinth area and existing density.

Accordingly, the Applicant has now submitted an Affidavit of Mr. Andrew Gregorio Mascarenhas showing the flow of the said property alongwith the structure / house to M/s. Capricon Realty Ltd. the Applicant has also submitted Deed of Sale and Deed of Succession.

The Applicant has also submitted the revised plans in respect of ground floor .

Area of plot : 2500.00 sq.m

Existing covered area to be demolished : 93.29 sq. m

Covered area of proposed Reconstruction of house on existing plinth : 93.29 sq. m

Decision: The Authority noted that the Applicant has now submitted revised plans restricting the reconstruction to the existing plinth. As such the Authority after detailed discussion and due deliberation and in view of the above, decided to approve the proposed reconstruction of house located in the property bearing survey No. 25/18-A of Chopdem village Pernem – Goa in terms of the CRZ Notification, 2011, as amended.

Case No. 4.8:

Clearance for proposed repair and renovation of house / bungalow bearing H. No. 199/B located in the property bearing bearing Sy. No. 111/7 at Candolim, Bardez Taluka by Mr. Aniceto Fermino Fernandes.

Background: The applicant has sought clearance for proposed repair and renovation of house / bungalow bearing H. No. 199/B located in the property bearing in the property bearing Sy. No. 111/7 at Candolim, Bardez – Goa. The applicant has submitted Deed of Sale executed between Mr. HectorD’Souza & 2 Ors. (referred to as the Vendors) and Mr. Aniceto Fermino Fernandes (referred to as the Purchaser) and has also submitted a copy of DSLR survey plan wherein the structure is reflected. The name of the applicant is reflected in Form I & XIV.

Site Inspection Report: The site was inspected by Shri. A. Untawale, the then Expert Member (GCZMA). The inspection report indicates that in the existing land there exists a new house. There exists an access. The proposed plot falls beyond 200 m from the HTL. There exists a new house within the plot. The Applicant does not have CRZ NOC for constructing the house. The Applicant wants to repair the house. Unless the Applicant submits all the relevant documents his proposal cannot be considered.

As per the Inspection report the said property is located beyond 200 m from the HTL.

Details of the project:

Area of the plot	575.00 sq.m
Net effective plot area	433.52 sq.m
Covered area of proposed Bungalow	111.00 sq.m
Ground floor area	111.00 sq.m
First floor area	103.50 sq.m
FAR Consumed	44. 65 %

The said proposal was placed in the 142nd GCZMA meeting held on 28/02/2017 wherein the Authority noted that as per the site inspection report of the then Expert Member of the GCZMA the Applicant is required to submit relevant documents in respect of the structure . The Authority after detailed discussion and due deliberation and in view of the above decided to direct the Applicant to submit all the relevant documents which includes all the permissions / approvals with respect to the structure and if the party fails to produce the same the Authority to decide accordingly based on the documents available on record.

It may be noted that there was a complaint received for illegal construction of a compound wall and a G+1 guest house in Sy. No. 111/7 of Candolim Village carried out by Mr. Aniceto Fermino Fernandes without obtaining approvals from the concerned authorities . The said matter was forwarded to the Inquiry Committee for conducting inquiry in the matter and submission of report. The Inquiry Committee accordingly submitted their report dated 28/10/2014 which in brief states that considering that the survey plan shows the existence of a structure in Sy. No. 111/7 of Candolim Village from the time the survey records were prepared in the year 1971 and the structure in site plan was reconstructed in the area of old structure only in the year 1994 and considering that the CRZ Notification permits the reconstruction of the existing structure within 200 to 500 m it would be proper that the Authority may regularise reconstruction of the structure existing in Sy. No.111/7 of Candolim Village in accordance with law.

The Applicant has now submitted a copy of the Certificate issued by the Village Panchayat, Candolim dated 08/10/2010 wherein it is stated that the said house bearing H. No. 199/B situated at Dando, Candolim was registered in the name of Mrs. Carlota Fernnades which existed prior to 1971 and the said house is transferred in the name of her son Mr. Aniceto Fermino Fernandes in the year 1994. The Applicant also submitted copies of the house tax receipts in respect of the said house for the year 1994-95, 1997-98, 1998-99.

Decision: The Authority noted that it is an old proposal which was inspected by the Expert members of the erstwhile GCZMA and the current Expert members of the newly constituted Authority are not aware of the existing site reality. As such the Authority after detailed discussion and due deliberation and in view of the above decided to inspect the said site afresh alongwith the Expert Members of the GCZMA and decide the matter upon receipt of the report.

Item No. 5: Other Projects

Case No. 5.1:

NOC for proposed glass fibre jetty in the property bearing survey no. 66/5, Chicalim, Mormugao Taluka P.O. Bogmallo submitted by M/s. Bogmallo Beach Resort.

Background: The Office of the GCZMA was in receipt of a project proposal from M/s. Bogmallo Beach Resort seeking CRZ Clearance / NOC for erection of a temporary floating jetty in survey no. 66/5, Chicalim, Mormugao – Goa and the project proponent had submitted a copy of letter bearing No. CE/Estate/BBR/2013/1209 dated 06/06/2013 issued by Mormugao Port Trust stating that they have received license fee from M/s. Bogmallo Beach Resort and as such their request for setting up of temporary floating jetty at Bogmallo Beach Resort has been considered by the Port from 05/04/2013 to 28/02/2014. The name of Trade Wings Hotel Ltd. is reflected in Form I & XIV.

Accordingly, upon receipt of the said proposal an inspection of the said site was conducted. The site was inspected by Shri. Ragnath Dhume, Expert Member (GCZMA) on 28/07/2015. The inspection report indicated that there exists Hotel / Resort in the adjoining property. There exists an access. The said plot is within 200 m from the HTL. There exists a hotel, temporary shack within the plot. The proposed jetty is on the cliff which is 5 m above the beach. The length of the jetty is about 40 m from cliff to Sea including the floating pantoon. The width of gangway is 1.5m and the dimension of floating pontoon is 20.00 X 3.50m. The jetty has wooden piles which will be drilled about 2.5 m in the sea bed. The project proponent has not carried EIA for the proposed jetty.

The said proposal along with the site inspection report was placed in the 123rd GCZMA meeting for discussion and decision wherein Dr. Antonio Mascarenhas informed the Members that he had visited the said site earlier and commented that: (a) there is no provision in the CRZ 2011 guidelines for a ramp over a public beach, as sandy beaches are classified as CRZ I, (b) the beach undergoes annual erosion and is hence dynamic and not stable, (c) the adjacent cliff is prone to collapse, and has in fact crumbled several

times before, (d) the sea waves are of the order of 4 metres particularly during rough weather during monsoon, (e) any interference in the form of piles in the nearshore seabed is therefore bound to create profound alterations in the geomorphology of the swash zone. In short, the stretch of coast that faces the open ocean, the beach – cliff interface in particular, is highly dynamic (beach) and extremely vulnerable (cliff).

After detailed discussion and due deliberations and on considering the report of the site inspection conducted on 28/07/2015 by Shri. Ragnath Dhume, Expert Member (GCZMA), the Authority decided to reject the said proposal of proposed temporary floating jetty in survey no. 66/5, Chicalim, Mormugao – Goa as the site proposed for the said jetty is a highly vulnerable cliff and is prone to erosion thus causing threat to the ecosystem and lives.

In this regard, the Office of the GCZMA was now in receipt of another proposal / application dated 18/04/2016 wherein the project proponent desires to erect a glass fibre jetty for water sports activities in the property bearing survey no. 66/5, Chicalim, Mormugao Taluka P.O. Bogmallo - Goa. The project proponent submitted a copy of Environmental Impact Assessment Report (EIA – Report) alongwith a letter bearing No. CE/Estate/BBR/2013/6986 dated 26/02/2013 issued by Mormugao Port Trust for installation of temporary floating jetty at Bogmallo Beach Resort. Further, the applicant in its application has informed that they have proposed water sports activities such as Jet Skis, Speed Boat Rides, Banana Boat Rides, Kayaks, Skiing, Island Trips and snorkeling and these activities require services of jetty.

The proposed project involves construction of fibre glass jetty of size 29.47 m X 1.50 m followed by two wooden pontoons of dimensions 10 m X 3.50 m, each.

The said matter was placed in the 129th GCZMA meeting held on 19/05/2016 wherein after detailed discussion and due deliberations and on considering the report of the site inspection conducted by Shri. Ragnath Dhume, Expert Member (GCZMA) dated 28/07/2015, the Authority decided to direct the Project Proponent i.e. M/s. Bogmallo Beach Resort to give a detailed technical presentation with respect to the said proposal before the Authority. The Authority also directed the Member Secretary to circulate the copies of EIA to the expert members immediately.

Accordingly, now the proposal is placed for detailed technical presentation by M/s. Bogmallo Beach Resort.

Copy of the site inspection report was enclosed with the Agenda Item as **Annexure ‘XI’**.

The said proposal was placed in the 133rd GCZMA meeting held on 20/07/2016 wherein the representative of M/s. Bogmallo Beach Resort stated that the said project will involve use of wooden piles which will be fixed 3 m below the Sea bed. The proposed gangway is 29.47 in length with 1.5 m width and 22 piles will be used for fixing the gangway i.e.

11 piles on each of 2 sides and the spacing maintained between the 2 piles will be 5m. There are pontoons (2 in nos.) proposed having dimensions of 10 X 3.50 m each. A ground clearance of 2.5 m is proposed for movement of people to access the beach. It was further stated that during monsoon season, pontoons will be dismantled and stored.

The Authority raised an issue with respect to permission obtained by M/s. Bogmallo Beach Resort for use of the beach wherein the Manager of M/s. Bogmallo Beach Resort stated that they have obtained permission from the Mormugao Port Trust (MPT) as the said beach comes under their jurisdiction.

Further, Dr. Antonio Mascarenhas raised concern with regard to the proposed site wherein he stated that it is a highly vulnerable cliff and is prone to collapse, to which M/s. Bogmallo Beach Resort stated that the cliff in question is at the backward side and the same will not interfere in the present proposal. M/s. Bogmallo Beach Resort also stated that EIA studies have been carried out in respect of the said project.

Accordingly, after detailed discussion and due deliberation and on considering the presentation made by M/s. Bogmallo Beach Resort, the Authority decided to defer the said proposal as prior approval of the Collector, Department of Tourism and Fisheries Department is required to be obtained for the said project for the same to be considered. The Project Proponent shall obtain required lease of Government Land from the Revenue Department, NOC from Tourism

Department and Fisheries Department and then the matter be placed for decision.

Subsequently, M/s. Bogmallo Beach Resort submitted following documents

- i) Provisional NOC dated 13/04/2012 granted by the Village Panchayat, Chicolna – Bogmalo.
- ii) NOC dated 27/08/2012 issued by the Captain of Ports Department.
- iii) NOC dated 26/02/2013 issued by the Mormugao Port Trust for installation of temporary floating jetty at Bogmallo Beach Resort
- iv) Letter dated 26/09/2014 issued by the Directorate of Fisheries.
- v) In- Principle approval / NOC dated 20/02/2017 issued by the Office of the Collector, South.

As far as the NOC / Approval of Department of Tourism is concerned, M/s. Bogmallo Beach Resort has made Applications to the Department of Tourism for issue of NOC for the said project. However, there is no reply received from the Department of Tourism till date.

The representatives of M/s. Bogmallo Beach Resort were present during the meeting and stated that as requested by the Authority they have already placed on record the necessary approvals i.e. Approval from the Directorate of Fisheries and Office of the Collector, South. They have already applied for permission to the Department of Tourism, however, no reply has been received till date.

Decision: The Authority noted that the said proposal was inspected by the Expert members of the erstwhile GCZMA and the current Expert members of the newly constituted Authority are not aware of the site details. As such the Authority after detailed discussion and due deliberation and in view of the above decided to inspect the said site afresh alongwith the Expert Members of the GCZMA and to take up the proposal thereafter.

Item No. 6: Any other item with the permission of Chair.

Case No.: 6.1:

Most of the issues of the GCZMA requires a survey to be carried out and a survey plan to be provided with a structure / violation / Application concerned. The DSLR is not in a position to conduct the said survey within the time frame as required to comply with the Order issued by the Hon'ble Courts / NGT.

Hence it is proposed to empanel agency on behalf of GCZMA to conduct the said survey and assist in preparation of report.

Decision: The Authority noted as informed by the DSLR that their Office do not have sufficient staff to carry out the work generated by the GCZMA and as such decided to issue E-Tender to empanel agency on behalf of the GCZMA to conduct survey and to superimpose structures on the survey maps and assist the GCZMA.

Additional agenda:

Case No.:2.9:

To Comply with the Order dated 18/03/2016 of the Hon'ble National Green Tribunal at Pune in Appeal No. 08/2016 filed by Mr. Kashinath Shetye V/s. Aditya Puri & ors with regard to the alleged illegal construction of a structure / Bungalow opposite Adv. Gopal Tamba's House at Ribandar, Tiswadi – Goa

The said matter was placed in the 140th GCZMA meeting held on 15/02/2017 wherein after detailed discussion and due deliberation and taking into consideration the directions of the Hon'ble NGT and in the interest of justice, the Authority decided to grant time to file the declaration as required, however, directed to file the same on or before Friday i.e.

17/02/2017 by serving a copy to Mr. Kashinath Shetye and thereafter to remain present for further hearing before the Authority in its next i.e. on 21/02/2017. The same was agreed to by the parties present.

The said matter was placed before the Authority for personal hearing in the 141st GCZMA meeting held on 21/02/2017 wherein after detailed discussion and due deliberation and on considering the oral as well as written submissions made by both the parties, the Authority decided to forward the plan attached to the Deed of sale to the Office of the DSLR in order to verify the authenticity of the documents / plan and to take up the matter thereafter for final decision.

It may be noted that the proposal file has been traced wherein the permission was granted to Mr. Eric Sequeira in respect of Chalta No. 6 and 7 of P.T Sheet No. 2 of City Survey Panaji.

In view of the above, the matter was placed before the Authority for discussion and decision in the matter.

Decision: The Authority perused proposal file of Mr. Eric Sequeira for reconstruction of existing house in the property bearing P.T.Sheet No. 2 of Chalta No. 5,6,7, 27, 28, 28-B, 30 & 42 of Panaji City, Tiswadi and decided to forward all the documents to the Complainant, Mr. Kashinaht Shetye in order to seek his comments on the permission granted to Mr. Eric Sequeira by 31/03/2017 and to take up the matter thereafter.

Case No.:2.10:

To comply with the Order dated 28/09/2016 passed by the Hon'ble NGT in Application bearing No. 181/2015 in the matter of Mr. Anthony D'Souza and Goveia Waterfront

- A complaint letter dated 31/05/2012 was also received from the Residents of Vaddy Siolim, Bardez – Goa with regard to the alleged illegal construction of a huge unauthorized development destroying sluice gate, fish pond (agor) and several other water bodies (poinn) and also encroached in the property of Captain of Ports / hereby blocking the traditional access carried out by M/s. Goveia Resorts Pvt. Ltd. in the property bearing Sy. No. 318/2 of Siolim, Bardez – Goa.
- Upon receipt of the complaint a Show Cause Notice was issued by the GCZMA and subsequently a reply was filed by the party.
- The reply in brief states as follows:

- i) The Applicant has submitted that all the structures seen on the property have been existing as seen on the Sale deed of the said property.
 - ii) Repairs to retaining wall were carried out prior to CRZ Notification 2011 and erosion control measures is not listed in the prohibited activities.
- Further an inspection of the site under reference was carried out by the Expert Members on 04/03/2016 in respect of Sy. Nos. 318/2, 319/2 and 320/2, Siolim and submitted their report accordingly.
 - The site inspection report in brief states as follows:
 - i) Major portion of the property comprises of a lagoon which is connected to the creek with a 12 m wide opening.
 - ii) A cemented pathway is constructed around the lagoon.
 - iii) Southern part of the property is converted into Garden with ornamental trees.
 - iv) Two cabins have been provided on the southern boundary.
 - v) A 12 m wide and 32 m long concrete platform has been constructed on the North eastern corner of the property along the bank of the creek.
 - vi) Google images show that the size of the lagoon was approx. 125 x 80 m in the year 2003 whereas the present lagoon area is 90 x 70 m. the size of the lagoon has been reduced due to reclamation by filling rectangular portion 25 x 80 m with mud.
 - vii) Similarly the opening into the creek was very narrow as per the google image of 2003 and has subsequently widened to 12 m.
 - Accordingly, M/s Goveia submitted a Rejoinder dated 18/10/2016 he has denied to all the observations recorded in the report.
 - The said Application bearing No. 181/2015 vide Order dated 28/09/2016 with a direction that Mr. Anthony D'Souza alongwith another, the original Applicants and the Respondent No. 3 i.e. (Teso Waterfront) and Respondent No. 4 i.e. (Goveia Waterfront) to place their relevant documents before the GCZMA on 18/10/2016 and further directed Respondent No. 3 i.e. (Teso Waterfront) to remain present for the personal hearing before the GCZMA on 15/11/2016 and the Respondent No. 4 i.e.

(Goveia Waterfront) on 16/11/2016 and thereafter GCZMA to take final decision within a period of four weeks.

- As per the records available with the GCZMA, the Respondent, Goveia Waterfront has not obtained any permissions from the GCZMA for erection of the structures.

The said matter was placed in the 142nd meeting of the GCZMA held on 28/02/2017 wherein the Authority after detailed discussion and due deliberation and in view of the Order of the Hon'ble NGT and upon considering the submissions made by the parties and in view of the site inspection report of the then Expert Member of the GCZMA so also, in comparison with the Google images for the year 2003 to 2016, the Authority decided to direct M/s. Goveia Waterfront to carry out restoration of the said lagoon in consultation with the Expert Members of the GCZMA within 45 days time period.

In view of the above, the matter was placed before the Authority to decide on the restoration measures to be adopted by M/s. Goveia Waterfront.

Decision: The Authority after detailed discussion and due deliberation and taking into consideration the report prepared by the then Expert Members of the GCZMA decided to direct Goveia Waterfront / Resort to:

- a) Restore the opening of the sluice gate from 12 m wide to its original size.
- b) Remove the mud filling carried out in the lagoon and restore the lagoon to its original dimensions i.e. 125 m X 80 m.
- c) To remove the concrete platform alongwith columns in the lagoon constructed along the river bank.
- d) To remove / demolish the boundary wall of laterite masonry constructed up to the edge of the river.

The Authority further decided to place the compliance report for teh same within 1 month and also to conduct inspection of the said site inorder to verify the compliance and to place before the Authority thereafter.

Case No.:2.11:

The Director, Department of Fisheries brought to the notice of the Authority that their Department has been issued a Show Cause Notice by the GCZMA. She further stated that the Department of Fisheries had sought for approval for development / Extension / up-gradation of 4 fishing harbours / fish landing centres at Malim, Cutbona, Chapora and Cortalim before the GCZMA and had submitted relevant documents including the Detailed Project Report, EIA Report and EMP Report. Accordingly, the GCZMA had placed the said proposal in the 83rd GCZMA Meeting and had approved the same and an

NOC dated 10/06/2013 was issued for development / Extension / up-gradation of 4 fishing harbours / fish landing centres at Malim, Cutbona, Chapora and Cortalim in the State of Goa.

She further stated that a detailed reply to the Show Cause notice has already been filed before the GCZMA wherein it is included that the development / Extension / up-gradation of 4 fishing harbours / fish landing centres at Malim, Cutbona, Chapora and Cortalim, which includes 226 m jetty and 483 m Training wall to be constructed at the mouth of River Sal at Mobor side and also informed that the Department vide letter dated 28/02/2017 had requested GCZMA for grant of NOC for the temporary access road to take the construction material.

The Member Secretary, GCZMA informed the Authority that the Office of the GCZMA was in receipt of a complaint dated 07/02/2017 from Mr. Iris Passanha, President, Cavelossim Villagers Forum regarding illegal dumping of mud, destruction of sand dunes and illegal construction of roads within NDZ area at Cavelossim, Salcete – Goa and the Show Cause Notice cum Stop work Order was issued based on the same.

In this regard, a site inspection was conducted by the Expert Members of the GCZMA and report of the same was placed before the Authority. The Expert Members of the GCZMA informed that the construction of trailing wall is beneficial from the point of view of siltation of river mouth and also helpful for fishermen using their boats. They further informed that for construction of the same a temporary approach road is required during the construction phase and after completion of the training wall the land to be restored to its original state.

The Director, Department of Fisheries requested for approach road for the purpose of construction of the training wall.

Decision: The Authority after detailed discussion and due deliberation and on considering the report of the site inspection decided to approve the proposal for approach road which is essential for construction of training wall by the Department of Fisheries at Cavelossim subject to the condition that the land is restored to its original condition upon completion of said work including replanting of vegetation and restoration of sand dunes.

The meeting ended with thanks to the Chair.

(Member Secretary)
Goa Coastal Zone Management Authority
