

BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN ZONE
BENCH, PUNE

Appeal No. 16/2025 (WZ)



DHARMA GOPAL PEDNEKAR & anr. .. Appellant

Versus

GCZMA & ors .. Respondents

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

I, MICHAEL X. D'SILVA, S/o Paul M. D'silva, aged 60 years, Indian National, R/o H. No. 1355/B, Tembwada, Morjim, Pernem, Goa; the Respondent No. 2 herein, do hereby solemnly state on oath and affirm that -

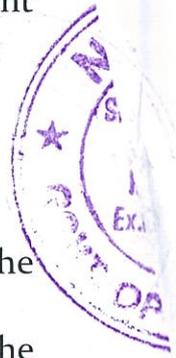
1. I say that I have read and understood the contents of the present Appeal. I deny the contents and grounds urged in the present Appeal in so far as the same are inconsistent with my case. Any allegation/claim/content of the present Appeal that is not specifically denied and/or dealt with by me

hereinafter ought not to be construed as an admission for want of specific denials.

2. I say that I am filing the present Reply to place on record the facts and records pertaining to my case and also to deal with the allegations made in the appeal.

CASE OF THE RESPONDENT NO. 2

3. At the outset, I say that the present proceedings are motivated by a personal grudge held against me by the Appellants who have an ongoing dispute with me being RCS 27/2013 pending before the Civil Court in Pernem, Goa. Copy of the Memo of Complaint in RCS 27/2013 is annexed herewith as **Annexure R2-1**.
4. Be that as it may, I say that the property in question is Survey No. 119/4(A) of Morjim Village, Pernem, Goa (hereinafter, "the said property"). The said property is within the CRZ III area and is located between the 200-500-meter CRZ area.
5. I say that my late Father is declared MUNDKAR of the dwelling house in said property by the Authority vide Order dated 30-08-1983 under the Goa, Daman and Diu Mundkars (Protection



from Eviction) Act, 1975. I say that such Declaration is available only to those Mundkars who have a dwelling house with fixed habitation in the said property. I say that the Declaration Order dated 30-08-1983 which is at page 30 of the Appeal clearly states that there is a dwelling house in the said property.

6. I say that, post the Declaration, I applied for a Statutory Certificate of Purchase and the same was granted to me in accordance with Sub Section (8) of Section 16 of the Mundkar Act, 1975 vide Order dated 23-03-2011. The Purchase Order dated 23-03-2011 is annexed at page 31 of the Appeal and has a plan of the dwelling house attached, which states that the dwelling house admeasures an area of 58.42 sq. meters. I say that the dwelling house in question has been in existence even before I was born. I say that the Dwelling house was registered in the House Tax Records in the year 1988 in the office of the Village Panchayat of Morjim and currently bears H. No. 1355/(B). I am annexing herewith the house Registration certificate issued by the Village Panchayat of Morjim, as also House Tax receipt of the years 1981 to 1984 which is Annexure R2-2 Colly.



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7. I say that on 25-09-2011, part/portion of the dwelling house collapsed due to heavy rainfall. Infact I have carried out the reconstruction of the said portion with the aid of gratuitous relief given to me as I could not afford the reconstruction costs (Pg 36C of the Appeal Memo) and after being accorded due permission(s). I say that I was accorded the following permissions for the purpose of carrying out the reconstruction of my dwelling house, viz., –

- 7.1. **NOC from GCZMA** dated 24-07-2012 (Pg 38 of the Appeal Memo)
- 7.2. Technical Clearance from TCP dated 14-11-2013 (Pg 39 of the Appeal Memo))
- 7.3. NOC from Health dept dt. 09-12-2013 (Pg 40 of the Appeal Memo))
- 7.4. Permission from the Village Panchayat dt. 13-12-2013 (Pg 41 of the Appeal Memo))

8. I say that the Appellant herein filed complaints against my dwelling house in the year 2020 before the GCZMA complaining of violations. I say that an inspection was carried



out by the officials of the Village Panchayat and the TCP, who found no violations and reported that the area of the dwelling house is 64.47 square meters. Similarly, the GCZMA officials conducted an inspection and the GCZMA Report is at page 57 of the Appeal memo. I say that the GCZMA has come to the clear finding that the difference in area of 6.04 square meters from the original is nothing but area holding the septic tank and that there are no CRZ violations.

9. In any case, I say and submit that the said property falls within 200-500 meters of CRZ III zone where not only RECONSTRUCTION but a full-fledged NEW construction is permissible under the CRZ Notifications 1991 and 2011 so long as the construction or reconstruction confirms with the local town and country planning rules with overall height of construction not exceeding 9mts with two floors (ground + one floor). I say that I have every right to carry out re-construction in the said property after taking permissions, which I have done.



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PARAWISE REPLY

10. The contents of paragraphs 1 to 4, 6 to 8, 13 and 14 merit no reply.

11. With respect to the contents of paragraph 5, the same are denied. I say that this Tribunal, neither the CRZ Authority has powers to look into the aspect of deviations from approved plans or for that matter is a RCC roof is installed instead of a Mangalore tiled roof. I say deviations from approved plans are within the domain of local construction and planning laws.

The further allegation of extension of the structure beyond the approved plan is also false. The dwelling house as seen is originally of area 58.42 sq. meters. The inspection report of the Village Panchayat and the TCP which is at pg 49-50 and the GCZMA Report which is at page 57 state that area of the dwelling house is 64.47 square meters. I say that the GCZMA has come to a clear finding in the Impugned Order that the difference in area of 6.04 square meters from the original is nothing but area holding the septic tank.

12. With respect to the contents of paragraphs 9, 10 the claims therein are denied.





13. The contents of paragraphs 12, Grounds (A) to (J) are denied.

14. I say that the contents of the foregoing Reply are true to my own knowledge and belief, except the legal submissions which I believe to be true.

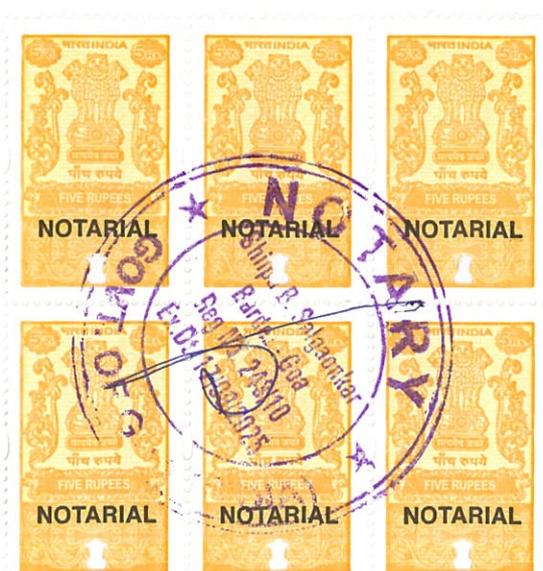
15. I say that the Annexures are true copies of their respective originals.

16. I say that whatever is stated hereinabove is true to my own knowledge and belief.

Solemnly affirmed this 05th day of April 2025 at Panaji, Goa.

Michael X D'Alva

Deponent



SOLEMNLY AFFIRMED AND VERIFIED
BEFORE ME BY *Michael X D'Alva*
WHO IS IDENTIFIED BY
CN Pan card A7KPDG590P
INFORM I IDENTIFY
DATE 05/04/2025

Shilpa B. Salgaonkar 05/04/2025

SHILPA B. SALGAONKAR
NOTARY AT BARDEZ - GOA
STATE OF GOA-INDIA
REG. NO. 243/10

ANNEXURE R2-1

IN THE COURT OF THE CIVIL JUDGE JUNIOR DIVISION AT PERNEM

REGULAR CIVIL SUIT NO. 2013

SHRI SUDAM GOPAL PEDNEKAR,
major aged 54 years, married, son of Late
Babu @ Gopal Pednekar, businessman,
resident of House No. 1335 Temb Waddo,
Morjim, Pernem, Goa.

..... PLAINTIFF

V/s

[Handwritten Signature]

1. MR. PAULU @ PAUL D'SILVA.

major, married, businessman,

2. MR. MICHAEL X. D'SILVA @

MR. MICKY D'SILVA,

major, son of Mr. Paulu D'Silva, businessman,

Both residents of House No. 1355/B,

Temb Waddo, Morjim, Pernem, Goa.

----- DEFENDANTS

SUIT FOR PERMANENT & MANDATORY INJUNCTION

MAY IT PLEASE YOUR HONOUR,

The Plaintiff begs to state and submit as under :-

1. That within the limits of the Village of Morjim there exists a property known as "PIRACHE KHAZAN", this property bearing Survey No. 119/5 of the Village of Morjim in the Taluka of Pernem admeasuring an area of 7,754 square metres, this property being hereinafter referred to as the "said property".
2. That the said property belonged to one Mr. Savlo Mukund Naik Beri of Chapora, Anjuna vide a Deed of Division dated 7.6.1950 recorded at folio 44v of Book No. 502 in the Office of the Notary of Bardez Tabeljan G. Lobo.
3. That the grandfather of the Plaintiff had constructed a house in the said property and the father of the Plaintiff Late Gopal Dharma Pednekar was residing in this house along with his family members since birth. Presently the mother of the Plaintiff is residing in this house and the same is also occupied by the Plaintiff as and when the Plaintiff visits Morjim. In another house in this property, there reside the brother of the Plaintiff Shri Dharma Gopal Pednekar along with his wife Smt. Chandrabaga Dharma Pednekar.

4. That Mr. Savlo Mukund Naik Beri had vide Agreement dated 9.2.1951 leased the said property in favour of the father of the Plaintiff Shri Babu alias Gopal Dharma Pednekar and since then the father of the Plaintiff along with his family members have been in exclusive and uninterrupted possession of the said property, except for some structures constructed thereon .

5. That the said Savlo Mukund Naik Beri expired sometime in the year 1952/1953 and since his demise , none of his heirs or any other persons on his behalf have at anytime claimed any rent or any right or interest in the said property.

6. That consequently , since about the year 1956 , the father of the Plaintiff , came to be in the exclusive and uninterrupted possession and enjoyment of the said property , by way of adverse possession to the exclusion of all others . After the demise of the father of the Plaintiff , All the rights came to vest unto the Plaintiff and his brothers .

7. That however , Mrs. Vanita Naique and Mr. Amar Naik , claiming themselves to be the heirs of Savlo Mukund Naik Beri , have filed a Suit against the father of the Plaintiff as also the Plaintiff and his brothers seeking an injunction from interfering in the said property. This suit bearing Regular Civil Suit No. 9/2007 is pending disposal before this Hon'ble Court .

8. That adjoining to the property of the Plaintiffs is the property bearing Survey No. 119/4 wherein the house of the Defendants is situated . That the house of the family of the Defendants was partitioned and the Defendants were allotted a portion of the house .

9. That somewhere in November, 2011, the Defendants completely demolished his portion of the house and commenced construction in Survey No. 119/4 , without leaving the necessary set back .

10. That the brother of the Plaintiff, Mr. Dharma G. Pednekar then made a Complaint dated 18.11.2011 to the various authorities being the Panchayat of Morjim, Block Development Officer, Pernem and also the Pernem Police Station, informing them of the illegal construction being carried out by the Defendants in his property without leaving the requisite set back.
11. That the Panchayat then, on carrying out necessary inquiries, issued a Notice under Section 66(1) dated 21.11.2011 directing the Defendants to stop the illegal construction carried out by the Defendants. This Notice also mentioned that no permission was sought from the Village Panchayat of Morjim by the Defendants for carrying out the construction works, as required under Section 66(1) of the Goa Panchayat Raj Act.
12. That from the above Notice it was therefore clear that the Defendants were not only carrying out construction without leaving the requisite set back, but also the Defendants did not have the licenses and permissions from the concerned authorities for carrying out the said construction.
13. That the Defendants however, in utter violation of the Stop Notice issued by the Panchayat, continued with the construction work.
14. That subsequently the Block Development Officer, Pernem, vide Stop Notice dated 10.5.2012, in terms of Section 66 (6) of the Goa Panchayat Raj Act, 1994 required the Defendant No. 2 to stop the illegal construction work being carried out as the Defendant No. 2 failed to produce any authentic documents authorizing him to carry on the construction of his house.
15. That so also, the Deputy Collector and S.D.O Pernem, on a Complaint by the Plaintiff, vide Order dated 7.6.2012 required the Defendants to stop the illegal construction work and also directed the Police authorities Pernem Police Station, to provide necessary assistance to the Mamlatdar to stop the work and also to keep a watch whilst patrolling so that the work is not re-started. The Order also

mentioned that in case the work was re-started , stringent action would be taken including seizure of plant and machinery as well as sealing of the premises pending completion of enquiry .

16. That thereafter , the illegal construction work which was being carried out by the Defendants was stopped for sometime .

17. That subsequently in March 2013 , the Plaintiff noticed that the Defendants again commenced the illegal construction work . On a complaint made by the Plaintiff , the Deputy Collector and S.D.O. Pernem , issued a Memorandum dated 19.3.2013 to the Police Inspector Pernem , requiring them to stop the Illegal Construction work carried out by the Defendants .

18. That the Defendants then vide their reply dated 21.3.2013 informed the Deputy Collector that the Goa Coastal Zone Management Authority vide N.O.C. bearing No. GCZMA/N/12-13/32/682 dated 7.9.2012 had granted permission to the Defendants for repairs of their house bearing No. 1355-B in Survey No. 119/4-A of Morjim Village in Pernem Taluka .

19. That this N.O.C. issued by the Goa Coastal Zone Management Authority shows that the Defendants were granted permission for repairs of the existing house bearing No. 1355-B in Survey No. 119/4-A of the Morjim Village , not exceeding the existing FSI , existing plinth area and existing density and further subject to confirmation with local building bye laws .

20. That the Goa Coastal Zone Management Authority had granted permission to the Defendants only to repair their existing house and the Defendants on the force of this N.O.C. has commenced re-construction of his portion the house by demolishing the existing structure thereby misusing the permission granted by the Goa Coastal Zone Management Authority . Apart from that , it was necessary that the defendant obtain the Permission from the Town & Country Department u/s 44

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of the town & Country Planning Act and the Permission from the Village Panchayat of Morjim under Sec. 66 of the Goa Panchayat Raj Act .

21. That vide this reply of the Defendants , it also came to the knowledge of the Plaintiff that the Defendants had carried out Mutation of their portion of the house which was now allotted the Survey No. 119/4-A of the Village of Morjim . The Plaintiff for all this time , and at the time of making the complaints to the various Government Authorities was under the impression that the part of the property where the Defendants were carrying out the illegal construction was a part of the property bearing Survey No. 119/4 of the Village of Morjim .

22. That subsequently , it was also seen that apart from the construction of the Defendants being illegal , without any requisite permissions from the concerned Authorities , and without leaving the requisite set back , the Defendants had also encroached in the property bearing Survey No. 119/5 claimed by the Plaintiff by about 1.0 meter in width and having a length of 15.50 metres . This illegal construction carried out by the Defendants without necessary licenses and without leaving the necessary set back along with the encroachment in the property of the Plaintiff is hereinafter collectively referred to as the "SUIT CONSTRUCTION".

23. That the Plaintiff then vide letter dated 28.3.2013 informed the Goa Coastal Zone Management Authority that the construction carried out by the Defendants was without any licenses obtained from the Village Panchayat Morjim and had also encroached upon the property claimed by the Plaintiff bearing Survey No. 119/5 .

24. That the SUIT CONSTRUCTION carried out by the Defendants is completely illegal since the law requires a minimum set back of 3.00 metres to be maintained from the boundary of the property , on all sides of the house . Apart from that , the construction is completely illegal , the same encroaching upon the property bearing Survey No. 119/5 of Morjim Village , thereby being in violation of the proprietary rights of the Plaintiff , in addition to the violation of air , light and ventilation , thereby causing serious injustice to the Plaintiff and his family .

Apart from that the construction as being carried out indicates that the Defendants also desire to maintain windows facing the property bearing Survey No. 119/5. Such windows cannot at all be maintained without maintaining the requisite set back.

25. That the Plaintiff has also got done a Survey Report from Shri Snehal D. Pednekar dated 30.3.2013 and the Plaintiff relies upon the same. The Survey Report apart from the construction being carried out by the Defendants also indicates the barbed wire fencing erected by the Defendants as also the house of the Plaintiff as also the house of the brother of the Plaintiff. The Plaintiff has got clicked photographs of the construction being carried out, on 22.3.2013 as also the photographs later taken on 30.3.2013 and the Plaintiff relies upon the same. The said photographs clearly indicate the construction being undertaken hurriedly and with space left for erecting columns later on.

26. That in the circumstances, the Plaintiff is entitled to a Judgement and Decree requiring the Defendants to stop the SUIT CONSTRUCTION forthwith.

27. That the Plaintiff is also entitled to a Judgement and Decree of Permanent Mandatory Injunction requiring the Defendant to demolish the portion of the construction that comes within the set back area of 3 meters from the property of the Plaintiff and that which encroached upon the property bearing Survey No. 119/5 of Morjim Village. The Plaintiff is also entitled to a Mandatory Injunction requiring the Defendants to remove the barbed wire fencing erected in Survey No. 119/5 of Morjim Village.

28. That on account of the encroachment and the erection of the barbed wire fencing the movement of the Plaintiff and his other family members in the property bearing Survey No. 119/5 of Morjim Village is restricted and the Plaintiff therefore is entitled to damages at Rs. 500/- per day from the date of filing of the suit till the Defendants remove the barbed wire fencing and the encroachment done in the property bearing Survey No. 119/5 of Morjim Village.

29. That the pending the hearing and final disposal of the suit , Plaintiff is also entitled to a Temporary Injunction requiring the Defendants to maintain status quo and not to carry out any further construction .

30. That the cause of action for the present suit arose in March 2013 when the Defendants commenced the Suit Construction without maintaining the mandatory set backs and by encroaching in the property bearing Survey No. 119/5 claimed by the Plaintiff .

31. That the Plaintiff has not filed any other similar suit on the same cause of action and this suit is therefore not barred by res-judicata . The addresses as set out in the Cause title are the registered addresses of the parties .

32. That for the purpose of jurisdiction and valuation, the suit is valued at Rs. 100/- , on which an appropriate court fee is paid .

33. That the SUIT CONSTRUCTION is carried out at Morjim , which is within the jurisdiction of this Hon'ble Court .

34. That the Plaintiffs shall rely upon the documents, a list whereof is annexed hereto.

That the Plaintiff therefore prays:

- a. For a Judgement and Decree of Permanent Injunction restraining the Defendants from carrying out the SUIT CONSTRUCTION .
- b. For a Judgement and Decree of Mandatory Injunction requiring the Defendants to demolish the construction carried out within the 3.00 metre set back from the property bearing Survey No. 119/5 as also the construction carried out by encroaching in the property bearing Survey No. 119/5 of

Morjim Village as also the barbed wire fencing erected in Survey No. 119/5 of Morjim Village .

- c. For an Order of Temporary Injunction , pending the hearing and final disposal of the Suit , directing the Defendants his agents , servants or any other person/s acting for and on behalf of the Defendants to stop the SUIT CONSTRUCTION .
- d. For damages at Rs. 500/- per day from the date of filing of the suit till the Defendants remove the barbed wire fencing and the encroachment done in the property bearing Survey No. 119/5 of Morjim Village .
- e. For costs .

Pernem, Goa.

34.2013

PLAINTIFF

Advocate for the Plaintiff

JVR

VERIFICATION

I , Mr. Sudam Gopal Pednekar , major , married , resident of House No. 1335 , Temb Waddo , Morjim , Pednem , Goa , do hereby verify and state that the contents of paras 1 , 3pt , 5pt , 6pt , 7 , 8 , 9 , 10 , 11 , 12 , 13 , 14 , 15 , 16 , 17 , 18 , 19 , 20pt , 21pt , 22pt , 23 , 24pt , 25pt , 26 , 27 , 28 , 29 , 30pt , 31 , 32 , 33 and 34 are true to my knowledge and the contents of paras 2 , 3pt , 4 , 5pt , 6pt , 20pt , 21pt , 22 pt , 24pt , 25pt and 30pt are on information received and believed to be true .

PLAINTIFF

Identified by me

Advocate.

AFFIDAVIT

I , Mr. Sudam Gopal Pednekar , major , married , resident of House No. 1335 , Temb Waddo , Morjim , Pernem , Goa , do hereby verify and state on oath that the contents of paras 1 , 3pt , 5pt , 6pt , 7 , 8 , 9 , 10 , 11 , 12 , 13 , 14 , 15 , 16 , 17 , 18 , 19 , 20pt , 21pt , 22pt , 23 , 24pt , 25pt , 26 , 27 , 28 , 29 , 30pt , 31 , 32 , 33 and 34 are true to my knowledge and the contents of paras 2 , 3pt , 4 , 5pt , 6pt , 20pt , 21pt , 22 pt , 24pt , 25pt and 30pt are on information received and believed to be true .

Solemnly affirmed at Pernem)

On this 3rd day of April 2013)

Deponent

Identified & explained in Konkani by me

Advocate



VILLAGE PANCHAYAT MORJIM
TAL. PERNEM GOA

E-Mail:- grampanchayatmorjim@gmail.com www.vpmorjim.com

Phone no. 2244310

Ref. No. VP/MOR/PER/CERT./2024-25/ 2143

Date:- 27 /02/ 2025

HOUSE REGISTRATION CERTIFICATE

This is to certify that the Structure bearing house No. 1355/(B), situated at Tembwada Morjim, Pernem – Goa is found registered in the House tax assessment Register (Form No. VII) of this Panchayat in the name of Shri./Smt. Paulo D'Silva since year 1988 to 2025 & the same is found registered in his/her name till date.

This certificate is issued at the request of Mrs./Mr. Michael X. D'Silva R/o. Tembwada, Morjim, Pernem –Goa.

Place:- Morjim.

Date:- 27.02.2025.




SECRETARY
Village Panchayat Morjim,
Tal: Pernem-Goa.

