

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

APPEAL NO. 01/2023 (WZ)

I.A.NO.11/2023 WZ

Hevona Fernandes

.....Appellant

Vs

Goa Coastal Zone Management

Authority & Ors.

...Respondents

INDEX

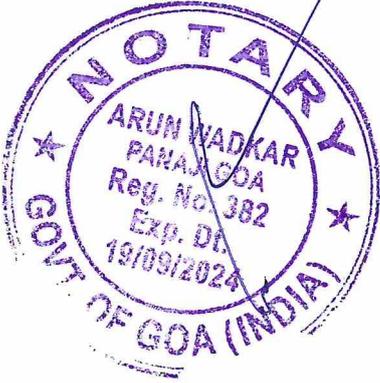
SR. NO.	PARTICULARS	PAGE NO.
1.	Affidavit in reply of respondent no. 3	22-32
2.	Copy of the notices dated 04/04/2008 and 17/01/2009 and order dated 05/11/2009 Exhibit A colly	33-35
3.	Copy of letters dated 12/10/2015 and 02/11/2020 Exhibit B colly	36-37

4.	Copy of Survey plan Exhibit C colly	38-39
6.	Copy of inspection report dated 05/07/2022 Exhibit D	40
7.	Copy of report dated 26/12/2016 Exhibit E	41-42
8.	Copy of order dated 03/01/2023 Exhibit F	43-48

Place: Panaji
Date: 30/03/2023

Adv. For Respondent No. 3





BEFORE THE NATIONAL GREEN
TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPEAL NO. 01/2023 (WZ)
I.A. NO. 11 | 2023 WZ

Hevona FernandesAppellant

Vs

Goa Coastal Zone Management

Authority & Ors.Respondents

AFFIDAVIT IN REPLY OF RESPONDENT

NO. 3

I, Darshan Pissolo Naik Gaonkar, age 54 years old, r/o H. no. 106, Kindlem, Canacona-Goa the Respondent No. 3 herein, do hereby solemnly affirm on oath as under:-

1. I am filing this affidavit in reply opposing the appeal and interim stay. I say that the Appellant is misrepresenting this Hon'ble Tribunal. The construction made by the Appellant is illegal and the appellant is using the same for commercial purpose by renting the rooms to the tourist.

2. I say that the Goa Coastal Zone Management has passed reasoned order and the appellant has failed to show that the structure was existing or legal. I say that the structure is within No Development Zone and the same is illegal. I say that the Goa Coastal Zone Management Authority after conducting the inspection and giving opportunity of hearing to the appellant has passed reasoned order. Therefore the said order cannot be said to be illegal.



3. I say that the appellant Mrs. Manelina alias Liban alias Hevona Fernandes is daughter in law of Joaquim Mariano Fernandes who had his house number 371 in the property under Survey no. 118/7 of Village Agonda whereas illegal structure is constructed in Survey no. 118/8 of Village Agonda and by obtaining additional House number 371A to original house number 371 in the year 2001-2002 she is relating the said number to illegal structure in Survey no. 118/8 of Village Agonda.

4. I say that in Suo Moto WP 2/2006 the Hon'ble High court had directed the Government to survey the area between 0 to 200 meters of High tide line to find out the new structures which have come after 1991. Accordingly map was prepared by Director of Survey and Land Records. Subsequently Village Panchayat



Agonda was directed to take action against illegal construction within 200 mts. of high tide line. The Panchayat had issued Show cause notice dated 04/04/2008 and 17/01/2009 to the Appellant stating that the Appellant had constructed the structure illegally within No Development Zone. Thereafter the Panchayat issued demolition order 05/11/2009 holding that the structure is illegal. I crave leave to produce the said notices dated 04/04/2008 and 17/01/2009 and order dated 05/11/2009 which are enclosed as **Exhibit A** colly.

5. I say that as per the information given by the Panchayat under letter dated 12/10/2015 and 02/11/2020 it is stated that House no. 371/A was assessed in the year 2001-2002 and original House No. 371 was registered in the name of Joaquim Mariano Fernandes which house is in Survey no. 118/7 of Village Agonda.



I crave leave to produce the said letters dated 12/10/2015 and 02/11/2020 which are enclosed as **Exhibit B** colly.

6. I say that by using the House No.371/A which is in Survey no. 118/7 of Village Agonda, the Appellant is claiming that the said house number is of the structure in Survey no. in Survey no. 118/8 of Village Agonda. I say that Assessment of tax of House No.371/A is in the year 2002 which clearly establish that there was no structure /house prior to 1991 when CRZ notification was issued and this house number is also not of any structure in the plot under Survey No. 118/8 . Even the records of giving house number are not available in the Panchayat office as per the information given by the Panchayat.



7. I say that the Survey plan of Survey no. 118/8 also does not show any existing structure. I crave leave to produce the Survey plan which are enclosed as **Exhibit C** colly.
8. I say that the officers of GCZMA had conducted inspection on 05/07/2022 and reported that House does not have any number and used for commercial purpose. I crave leave to refer and rely upon the inspection report dated 05/07/2022 which is enclosed as **Exhibit D**.
9. I say that after I had filed complaint dated 4/12/2015 before the Deputy Collector. The Deputy Collector Canacona had inspected the site and made a report dated 26/12/2016 to the GCZMA. In the said report it has been clearly mentioned that the structure is illegal and it is been constructed within 100 mts of high tide line which is no development zone. I crave leave



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to refer and rely upon report dated 26/12/2016 which is annexed as **Exhibit E**

10. I say that there was previous litigation between the family of Appellant and the previous owner of the property Kantabai Onval Naik and others claiming the said property and the Appellants family who had filed suit bearing RCS No. 104/88 was rejected and Appeal RCA No. 53/1995 filed before the District Judge Margao was allowed by the Judgment dated 20/12/2001 and in Second Appeal No. 24/2002 the suit was dismissed. In the said proceeding there was no claim by Appellant that she and her family have their house in the property under survey no. 118/8 of Village Agonda.

11. I say that the Appellant had subsequently filed application for declaration as Mundkar in the year 2016 of the said property which has been



rejected by the Mamlatdar by order dated 03/01/2023. I crave leave to refer and rely upon the said order dated 03/01/2023 which is annexed as **Exhibit F**. These proceedings were filed after dismissal of the Civil Suit only to claim right in the above property. All these proceedings clearly show that there was no house in the area under Survey No. 118/8 and new structure is illegally constructed.

12. With reference to statement of the Appellant in the appeal memo, I deny that Appellant and her husband reside in House number 371/A in Survey no. 118/8 of Village Agonda. I deny that the Appellant has possession and ownership right from her father in law since 1970. I deny that Appellant father in law was poor and was looking after the property and he was using the structure for storage purpose/ distilled/



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processing the coconut extraction to alcohol as alleged by the Appellant.

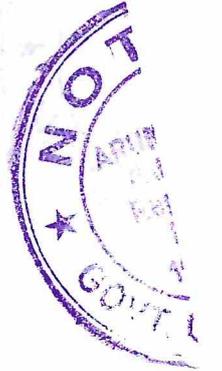
13. I deny the contention of the Appellant in paragraph 2, 3 of the appeal memo. I deny the claim of the Appellant in paragraph 7, 8, 9, 10 of the appeal memo. I say that the appellant has not given any compilation to this respondents and the Appellant is not aware whether any compilation is filed. I deny that the allegation of the Appellant in paragraph 11 of the appeal memo.

14. I say that the Appellant has not produced any documents of house number 371/A. I deny that there is any non-application of mind by the GCZMA. I say that in the order dated 18/11/2022 submission made by the parties as well as finding of the Authority is recorded in which it is clearly mentioned that the structure



is illegal structure. However there was mistake in the concluding paragraph which has been corrected by the Authority by issuing corrigendum dated 05/12/2022.

15. I deny that the impugned order is passed without considering the material on record. I deny the grounds I to XVI in the appeal memo. I say that the Appellant has failed to produce the evidence of existing house and construction permission. Hence the contention of the Appellant is without any basis. I say that the said construction of the structure is done by the Appellant without necessary approval from the government authorities and without complying with terms and conditions of the CRZ Regulations, Planning Laws and provisions of Goa Land Revenue Code (amendment) Act 1988, Goa Panchayat Raj Act.



[Handwritten signature]

16. I say that the said illegal structure is without any permission and falls within 100 mts from the high tide line and it has to be demolished.

17. I deny that the grounds raised by the appellant in the appeal memo. I say that considering above appeal is liable to be rejected.

18. I say that statement of facts in paragraph 1 to 17 are true to my knowledge and contents the legal submissions are based on legal advice which I believe to be true.



Solemnly affirmed at Panaji

On this 30th day of March 2023

Deponent

Identified by me:

Guns
Adv. Nikita Grunes

SOLEMNLY AFFIRMED AND VERIFIED BEFORE / ME BY *Dorshay P. Nork* WHO IS IDENTIFIED BEFORE / ME BY *Adv. Milcifa Grunes* WHOM I KNOW SERIAL No. *E139* DATED *30/3/2023*



ARUN MADKAR
NOTARY AT TISWADI TALUKA
STATE OF GOA-INDIA
REG. No. 382/14
DATED 19/9/2014



OFFICE OF THE VILLAGE PANCHAYAT

Agonda, Canacona - S. Goa.

ग्राम पंचायत आगोंदा

काणकोण - गोवा

Ref. No. VPA/CAN/2007-2008/63

Date 4/2/08

To,

Shri/Smt. ~~M. V. Fernandes~~

Canacona Goa.

Sir,

WHEREAS in terms of the directions of the H'ble High Court, in Sue Moto W.P 2/2006, the Directorate of Settlement and Land Records have submitted the maps to this Panchayat showing the structures existing within 200 mts of high tide line which are governed by CRZ notifications and further directed this Panchayat to identify the structure which have come up after 19/2/1991 and to take action in respect of structures within 200 mts of High Tide Line in Panchayat area.

AND WHEREAS after receiving the said maps, Panchayat has verified the documents maintained by the Panchayat.

AND WHEREAS, after verifying the records the Panchayat has come to the conclusion that the structure belonging to you which is shown on the maps in the property under survey No. ~~118/87~~ of Village ~~Agonda~~ appears to be constructed after 19/02/1991 without obtaining permission/licence from the Panchayat and also from the Goa Coastal Zone Management Authority, Saligao Bardez-Goa.

AND WHEREAS, in the monthly Meeting of the Panchayat held on ~~01/11/2008~~ it has been decided to issue show cause notice to all structures, which were found, constructed after 19/02/1991 directing the parties to produce necessary documents or the action of demolition shall follow.

Now therefore Panchayat hereby direct you to show cause and show that your structure is legally constructed or existing prior to 19/02/1991 and as to why action of demolition shall not be initiated against your structures referred above.

You are directed to file your reply within 7 days from the receipt of this notice, failing which the Panchayat shall take further action to demolish the structure and the expenses required for such demolition shall be recovered from you which you please note.

Yours faithfully

PUBLIC INFORMATION OFFICER
VILLAGE PANCHAYAT AGONDA
CANACONA-GOIA

SARIPANCH
VILLAGE PANCHAYAT
CANACONA-GOIA



OFFICE OF THE VILLAGE PANCHAYAT

Agonda, Canacona - S. Goa.

ग्राम पंचायत आगोंदा

काणकोण - गोवा.

Ref. No. VPA/CAN/2008-09/1310

Date: 17/11/2009

To,

Shri. Hevena Fernandes
r/o Igrejewada Agonda
Canacona-Goa.

Sir,

WHEREAS, in terms of the directions of the H'ble High Court, in Sue Moto W.P. 2/2006, the Directorate of Settlement and Land Records have submitted the maps to this Panchayat showing the structures existing within 200 mts. Of High Tide Line which are governed by CRZ notifications and further directed this Panchayat to identify the structure which have come up after 19/2/1991 and to take action in respect of structures within 200 mts. Of High Tide Line in Panchayat area.

AND WHEREAS, after receiving the said maps, Panchayat has verified the documents maintained by the Panchayat.

AND WHEREAS, after verifying the records the Panchayat has come to the conclusion that the structure belonging to you which is shown on the maps in the property under survey no. 118/8 ^{118/7} of Village Agonda, appears to be constructed after 19/2/1991 without obtaining permission/licence from the Panchayat and also from the Goa Coastal Zone Management Authority, Saligao, Bardez-Goa.

CERTIFIED COPY UNDER R.T.I. ACT

PUBLIC INFORMATION OFFICER
VILLAGE PANCHAYAT AGONDA
CANACONA-GOA



(35)
Exhibit - A colly

OFFICE OF THE VILLAGE PANCHAYAT

Ph. No. : 2647357

Agonda, Canacona - S. Goa.

ग्राम पंचायत आगोंदा

काणकोण - गोवा.

Ref. No. VPA/CAN/2009-10/623

Date: 05/11/2009

ORDER OF DEMOLITION

Whereas the Hon'ble High Court of Bombay at Goa. is seized of the matter pertaining to the illegal structure in the No Development Zone of various Panchayats under the provisions of the CRZ notification in W.P.2/06 and by order dt.26th September 2007 the Panchayats were ordered to issue notices to the owners and occupiers of these structures and final decision and to be taken by the Panchayats within a period of 30 days from the date on which the owner/occupants have been served the notices.

And whereas by order dt. 25th March 2008 the Hon'ble High Court had extended time till 30/06/08 to comply with the directions under order dt. 26/09/2007. By order dt. 6th March 2009 the Hon'ble High Court was pleased to order the village panchayat of Agonda to examine each and every case in its own merits after considering the evidence in record and to pass appropriate orders in accordance with law.

And whereas you were issued a show cause notice dt.4/4/2008 calling upon you to show cause as to why the illegal structures / structure (1) located in survey no - 118/8 should not be demolished in pursuance of powers under Goa Panchayat Raj Act. Your reply was considered by the village panchayat at its meeting held on 29/4/2009 and the Village panchayat noted that you have not supported your case of existence of the unauthorized structure existing prior to 19/2/1991. The Village panchayat noted that the said structures is without licence from the Village panchayat and its existence prior to 19/02/1991 has not been justified. You have not brought any evidence on record. Hence by resolution No.1 passed at its meeting held on 10/06/2009 the Village panchayat of Agonda has rejected the contention raised by you and have passed the resolution directing you to demolish the said structure within a period of 30 days from today. The Village panchayat is pleased to grant a period of 30 days taking into consideration the current monsoon season.

You are therefore ordered to demolish the illegal one structure within a period of 30 days from the receipt of this notice failing which the Village panchayat shall demolish the said structure through the district demolition squad and further recover the cost of demolition from you.

Sarpanch
V.P. Agonda



[Signature]

Secretary

V.P. Agonda.

Secretary

Village Panchayat

Agonda, Canacona - Goa

To,

Smt. Heyana fernandes
r/o Igrejewada Agonda.
Canacona Goa.

CERTIFIED COPY UNDER R.T.I. ACT

36
Exhibit - B colly

Ph. No. : 2647357



OFFICE OF THE VILLAGE PANCHAYAT

Agonda - Canacona - S. Goa

ग्राम पंचायत आगोंदा

काणकोण - गोवा

Ref. No. : VPA/CANI R.T.I./2015-16/841

Date: 12/10/15

To,
Shri Darshan Pissolo Naik Gaonkar
r/o Sheller Chaudi Canacona Goa.

Sub:- Information under RTI Act. 2005.

Sir,

With reference to the above I am submitting herewith the information under R.T.I. Act. 2005 as under,

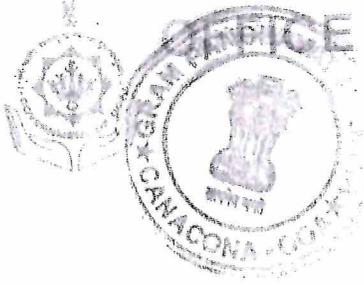
- Is there any house number issued by the Village Panchayat Agonda Mrs. Manelina alias Liban alias Hevona Fernandes in the survey No. 118/8 of Village Panchayat Agonda of the property belongs to Sundarabai Vithal Agondekar & Kantabai Onwal Naik----- House No. 371/A was assessed in the name of Smt. Hevona Fernandes in the year 2001-2002.
- What is the documents you had taken from Liban alias Heavona alias Manuelina Fernandes while issuing house Nos in the survey No. 118/8 of V.P. Agonda please give me the certify copy----- Not traceable in V.P. record.
- Any no objection certificates had taken by Liban alias Manuelina alias Hevona Fernandes from the owner of the land for to issue house nos. in the survey No. 118/8 of V.P. Agonda please give me certify copy----- Not traceable in V.P. record.
- If you had issue house number in the survey no. 118/8 of V.P. Agonda to Liba alias Hevona alias Manuelina Fernandes then what is the number is issued and what is the date of application applied for house Nos. give me the certify copy of the application and other documents enclosed along with the application also you had taken any affidavit or undertaking then give me the certify copy of the said documents----- House No. 371/A was assessed in the name of Smt. Hevona Fernandes in the year 2001-2002 & further application & other documents not traceable in V.P. record.

This is for your kind information.

Yours faithfully

Secretary
Village Panchayat
Agonda, Canacona - Goa





VILLAGE PANCHAYAT OF THE VILLAGE PANCHAYAT

Agonda - Canacona - S. Goa

ग्राम पंचायत आगोंदा

काणकोण - गोवा

Ref. No. : VPA/CAN/ 2020-21/597

Date: 2/11/2020

To,
Shri Darshan Pissolo Naik Gaonkar
r/o Sheller Chaudi Canacona Goa.

Sub:- Information under RTI Act. 2005.

Sir,

With reference to the above I am submitting herewith the information under R.T.I. Act. 2005 as under,

- a) Please kindly give me the house number which are register in your Panchayat in the survey No. 118/7 of Village Agonda and their name of House no. 371 ----- H.No. 371 was registered in the name of Joaquim Mariano Fernandes in Panchayat house tax record in the year 1980-81 to 2012-13 & from the year 2013-14 to till date i.e. 02/11/2020 the said house is transferred in the name of Smt. Hevona Fernandes.

This is for your kind information.

Yours faithfully



Secretary
Village Panchayat
Agonda Canacona - Goa

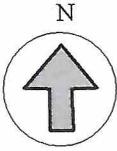
38

Exhibit-c colly

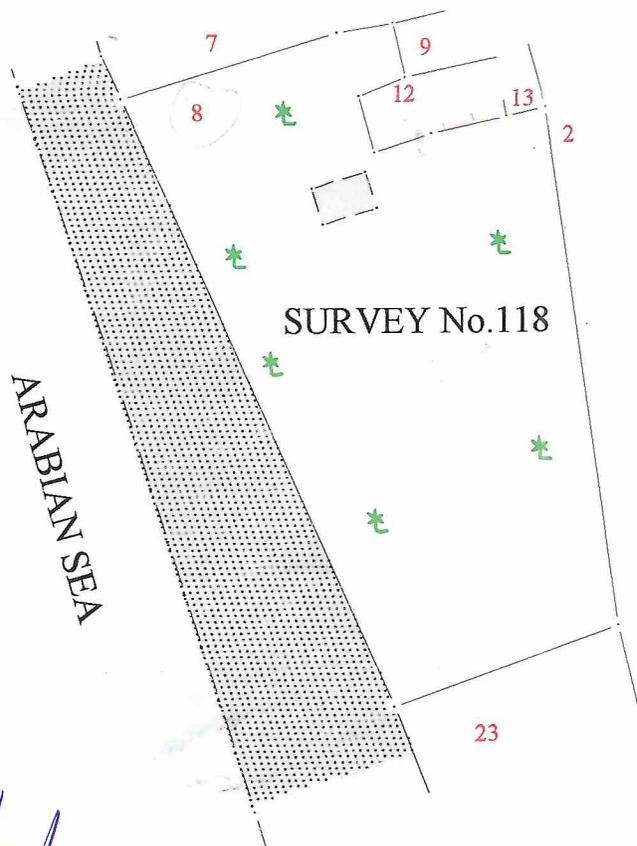


GOVERNMENT OF GOA
Directorate of Settlement and Land Records
Office of Inspector of Survey and Land Records
QUEPEM-GOA

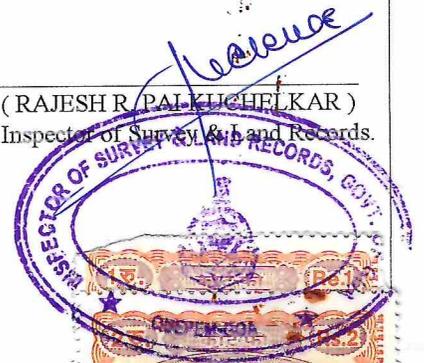
Inward No.242



Plan Showing plots situated at
Village : AGONDA
Taluka : CANACONA
Survey No./Subdivision No. : 118/ 8.
Scale :1:2000



(RAJESH R. PALKICHELKAR)
Inspector of Survey & Land Records.



Rupali
03/05/16

Rupali S. Lotlikar
Compared By: (H.S.)

Generated By: *Dinesh Naik* (D,Man Gr. II.)
On : 03-05-2016.

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Environment, (Govt. of Goa)
4th Floor, Dempo Tower, Pato Plaza,
Panaji-Goa 403001

PROCEEDINGS OF SITE INSPECTION

FILE NO:- GCZMA /SI/Ille-compl/20-21/64

GCZMA/ICM/W.P. NO 212/20-21/21-22/03
DATE: 05/07/2022

SUB: Illegal construction in sy. no 118/8 Agonda

REF:

Village: Agonda Taluka: Canacona Survey: 118 Sub.Div.No. 8

Parties/Officers Present:-

1. Bhargavi Kelkar Engg GCZMA 
2. Siddhi Morajkar F.s GCZMA
3. Mr. Darshan P. Naik Gaonkar (Complainant) 
4. Mrs. Manelia Liban Hevona Fernandes (Respondent) 

Brief description of proceedings:-

Inspection commenced at 11.35 am in the presence of above parties. The survey no falls in CRZ-III NDZ as per draft CZMP 2011. As per the complainant stated the alleged house falls in NDZ and build in year 2001 without any permission from GCZMA, he also stated that the alleged house having house number 371/A, ~~whereas~~ ^{whereas} the 371 house falls in survey no 118/7. Also the alleged house/structure does not have any house number given by panchayat and the same property is used for commercial purpose. On site measurements are taken of the structure 7.80m x 6.2mtr ~~ap~~ with mangrove tile roofing with masonry walls. Inspection concluded at 12.20pm.

Signatures:







INFORMATION ISSUED UNDER RTI ACT, 2005

Member Secretary

A. 4052/F
Date 29/12/16AC-II/Rep-Sub/CAN/26059/2015-16 /132
Office of the Additional Collector-II,
Collectorate of South Goa, Margao Goa.

Dated.26/12/2016.

To,
The Member Secretary,
Goa Coastal Zone Management Authority,
c/o Dept. of Science, Technology and Environment,
3rd Floor, Dempo Towers,
Patto-Panaji, Goa-403001.

Sub: Submission of Enquiry Reports alongwith 9 original files
received from Dy. Collector & SDO., Canacona Goa.
Ref: Letter No.DYC/CAN/CRZ/2016/2514 dated 14/12/2016.

Sir,

Please find enclosed herewith 9 files in original submitted by the Deputy Collector and SDO., Canacona alongwith reports received to this office vide above referred letter dated 14/12/2016. The details of the same are as under:

Sr. No.	Case No. & Survey No.,	Name and address of the violator	Violation	Pages From-to-
1.	DYC/SDO/CAN/CRZ/25/2015 Sy. No.260/8 of Cola Village	Shri. Prakash Babuso Pagui r/o Saleri, Cola, Canacona Goa.	Erection of 2 huts by wooden poles and covered with palm leaves.	N/1 to N/3 & P1 to P/21
2.	DYC/SDO/CAN/CRZ/Nag-Pal-1/2016 Sy. No.118/32 of Nagorcem-Palolem Village	Mr. Ulhas Naik Gaonkar and Smt. Bina Naik Gaonkar, both r/o Patnem, Canacona Goa.	Erection of 12 temporary wooden huts.	N/1 to N/2 & P/1 to P/14
3.	DYC/SDO/CAN/CRZ/14/2016. Sy. No.118/8 of Agonda Village	Mrs. Hevona Fernandes r/o Igrejwada, Agonda, Canacona Goa.	Construction of House of 100 sq. mts.	N/1 to N/2 and P/1 to P/6
4	DYC/SDO/CAN/CRZ/15/2016.	Smt. Perpta Cyril Fernandes Prezil Francisco Fernandes	Construction of columns for RCC slab.	N/1 and P/1 to P/6

Public Information Officer
(GCZMA)

42

INFORMATION ISSUED UNDER RTI ACT, 2005

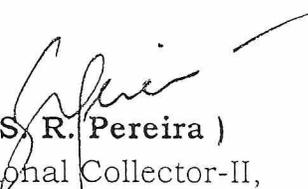
	Sy. No.102/14 of Agonda Village	r/o. Vall, Agonda, Canacona Goa		
5	DYC/SDO/CA N/CRZ/16/20 16. Sy. No.37/2 & 37/3 of Nagorcem-Palolem Village	Shri Ghanshyam Datta Warik, Smt. Anita Chandrakant Varik, both r/o. Patnem, Colombo, Canacona Goa	Construction of RCC slab for septic tank, compound wall and laterite cement foundation to ground level	N/1 and P/1 to P/12
6	DYC/SDO/CA N/CRZ/20/20 16. Sy. No.120/21 of Agonda Village	Smt. Nagai Yesso Pagui & Mahesh Yesso Pagi, both r/o. Devanbag, Agonda, Canacona Goa	Construction of rooms	N/1 and P/1 to P/21
7	DYC/SDO/CA N/CRZ/Stop-Order-29/2016. Sy. No.121/10 of Agonda Village	Shri Franklin D'Costa, r/o. Dhawalkhajan, r/o. Agonda Goa	Erection of 3 huts	N/1 and P/1 to P/7
8	DYC/SDO/CA N/CRZ/Stop- Order 36/2016. Sy. No.102/3 of Agonda Village	Shri Franky Fernandes, r/o. Agonda, Canacona Goa.	Erection of 5 huts	N/1 and P/1 to P/10
9	DYC/SDO/CA N/CRZ/Stop-Order-41/2016. Sy. No.101/3 of Agonda Village	Shri Anish Narendra Gaonkar r/o. Porvorim, Mapusa, Goa.	Construction of 4 rooms at the height of apprx. 2 mts height and foundation to construct rooms.	N/1 and P/1 to P/11

This is for your information and necessary action.

Encl:9 files in original

Yours faithfully,

Public Information Officer
(CCZMA)


 (L.S. R. Pereira)
 Additional Collector-II,
 South, Margao-Goa.

44

- (d) **Shri Sriram K. Shirsagar** and his wife,
 (e) **Smt. Sheetal Sriram Shirsagar**,
 Both R/o A-2 Todkar Residency, Flat No.403,
 Bibewadi Pune, Maharashtra State.
Kantabai Onwal Naik (deceased),
 Rep. by her legal heirs,
2. **Shri Milind Naik**,
 S/o Late Kantabai Onwal Naik,
 Major in age, and his wife,
 3. **Smt. Seema Milind Naik**,
 W/o Milind Naik,
 Both R/o Block No-E/2, 206,
 Bharat Nagar, Grand Road, Mumbai 400 007.
 4. **Smt. Smita Sachin Partgalkar**,
 D/o of Kantabai Onwal Naik,
 W/o Sachin Partgalkar, Major in age, and her husband,
Shri Sachin Partgalkar,
 Major in age, Both R/o 205, Pleasant Park,
 Pedder Road, Mumbai 400 026,
 6. **Shri Kundan Naik**
 S/o Kantabai Onwal Naik,
 Major in age and his wife,
 7. **Smt. Bharti Kundan Naik**,
 W/o Kundan Naik, Major in age,
 R/o EI/408, Bharat Nagar,
 Grand Road, Mumbai 400 007.
 8. **Shri Darshan Pissolo Naik Gaonkar**,
 R/o Sheller, Canacona, Goa. Opponents.

JUDGMENT

This Judgment and Order shall dispose off the application dated 19/06/2006 filed by the applicants under Section 8 A of Goa Mundkar Protection from Eviction) Act, 1975.



45

The brief facts of the case of the applicants that the residential house consisting of 3 rooms including Varanda with an area of 70 Sq. meters on appointed day surveyed under Sy.No. 118/8 of Village Agonda Canacona Goa. The said property is known as Sounde Karachem Bhat.

It is the case of the applicants that the dwelling house is electrified and having water connection and other easementary rights as required to day-to-day life. And further submitted that they are not rendering any service to the Bhatkars nor paying any ground of rent.

It is the case of the applicants that the entire area of the property is having an area of 01.3975 sq. mtrs and from which the applicants are in possession of an area 2675 sq. mtrs. And the applicants are residing in the dwelling house and the same was constructed by her father-in-law prior to commencement of the Act and presently applicants residing along with her family members and carries out seasonal repairs to the said dwelling house as and when required at their own cost and expenses.

The opponents in the matter were duly served through registered post. And filed reply by denying the case of applicants. Further, stated that applicants are not entitled for any relief as claimed in the application.

The applicants have examined applicant No.1 as AW1 and cross of the applicant is also recorded by opponent.

Further the applicants have produced the following documents in support of their claim;



1. Xerox copy of form III of survey No. 118/8 of Village Agonda as exhibit AW-1/ B.
2. Xerox copy of House tax receipt dated 28/11/2002 of house bearing No. 371/A for the financial year 2002-2003 as exhibit AW-1/ C.
Xerox copy of electricity bill for the period from 08/12/2007 to 04/02/2008 as exhibit AW-1/ D.
4. Xerox copy of General Power of Attorney 01/11/1977 as exhibit AW-1/ E.
5. Xerox copy of certificate issued to Emeliano Borges by Excise Inspector A.A.G. Mascarenhas dated 04/12/1978, Judgment and order dated 15/09/1979, Notice in LRC Case No. LRC/APPL/134/88 dated 07/06/1988, Notice dated 10/05/1978 as exhibit AW-1/ F (colly).

In support of their case applicants examined two witness from the same locality namely Shri Cristovam Caitano Fernandes as AW-2 by filling affidavit in evidence and Shri Exltacao Monteiro filed affidavit in evidence as AW-3, both the witnesses have been cross examined by the opponents.

During the course of proceedings applicants filed application to join Shri Darshan Pissolo Naik Gaonkar as opponent to the present case and same was allowed by this court and issued notice. Shri Darshan Pissolo Naik Gaonkar appeared and filed written statement stating that application filed by the applicants for declaration of Mundkars to be dismissed.

Subsequently, applicants filed another application to add necessary parties i.e. Kantabai Onwal Naik as opponent to the present proceedings and same has been allowed and legal heirs of opponents made as parties to the present proceeding.



47

The Applicants filed application for amendment to main application and same was allowed by this Court and applicants made necessary amendment to the main application.

Further, during the proceedings, it is noticed by the Court that survey record is not promulgated and Form III has been placed on record. On inquiry about the Form I & XIV of the said survey number, both the parties stated that said survey number is not promulgated till date.

This court has given several opportunities to the applicant to satisfy this court regarding Form III.

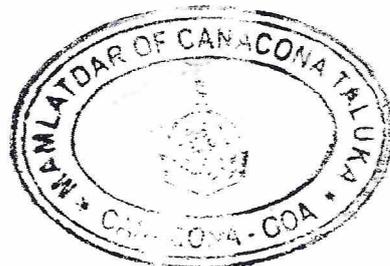
In order to decide the matter promulgation of survey record is very much necessary and without the clear title court cannot come to any conclusion as suit property is still in dispute.

In view of above, I pass the following order:-

ORDER

The application filed by the above named applicants dated 19/06/2006 under section 8A of (Goa Daman & Diu Mundkar Protection from Eviction) Act, 1975 is hereby rejected with a liberty to apply, once the survey record is promulgated.

Given under my hand and seal of this Court on this 3rd day of January 2023.



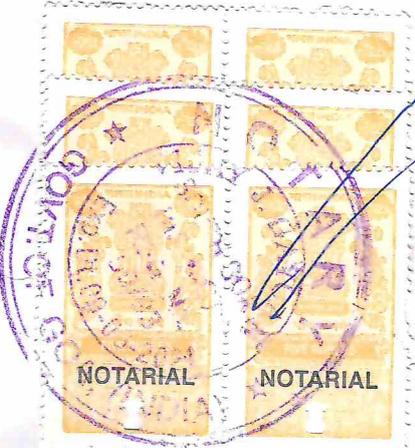
(Signature)
03/01/2023
(Manoj P. Korgaonkar)
Mamlatdar/Holding Charge of Joint
Mamlatdar-I of Canacona Taluka,
Canacona-Goa.

48



CERTIFIED COPY
 Copy applied on 18/01/2023
 Date given to the party for taking delivery of the copy
 and extension there of if any _____
 Copy ready for delivering on _____
 Copy delivered on 19/01/2023
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 Compared by J. P.
 Checked by _____
 Copy No. 121/2304-18/01/2023

[Signature]
**MAMLATDAR OF CANACONA
 CANACONA - GOA**



**CERTIFIED TO BE A TRUE
 COPY OF THE ORIGINAL**
[Signature]
VIJAY J. JAYCAR
 NOTARY
 CANACONA
 SOUTH GOA DISTRICT
 STATE OF GOA
 REG. No. 228/2023
 DATE 21/1/2023