

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 142 OF 2024**

IN THE MATTER OF:

LLOYD ST. JUDE JOAQUIM FERNANDES

...APPELLANT

VERSUS

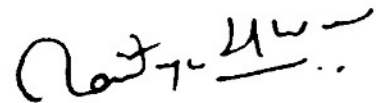
GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS.

...RESPONDENTS

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THROUGH



OM D'COSTA**MAITREYA PRITHWIRAJ GHORPADE
ADVOCATE**

COUNSEL FOR THE RESPONDENT NO. 3

Mobile: 7024102546

Email: maitreya.ghorpade@gmail.com**Place: Goa****Date: 17.10.2024**

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GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS.

...RESPONDENTS

AFFIDAVIT-IN-REPLY ON BEHALF OF RESPONDENT NO. 3 GOA

FOUNDATION

IN RESPONSE TO MEMORANDUM OF APPEAL NO. 142/2024(WZ)

I, Dr. Claude Alvares, the authorized signatory of the Respondent No. 3 Goa Foundation, having my office at Flat No. G-8, St. Brittos' Apartments, Feira Alta, Mapusa, Goa – 403507, do hereby state on solemn affirmation as under:

1. I say that I am presently the Secretary of Respondent No. 3, and I am authorized to file the present Affidavit. I am filing this Affidavit-in-Reply in response to the contents of the Memorandum of Appeal No. 142/2024(WZ) preferred by the Appellant Lloyd St. Jude Joachim Fernandes challenging the Demolition Order dated 12.04.2024 (hereinafter referred to as the 'impugned order') issued by the Goa Coastal Zone Management Authority ('GCZMA') for demolition of properties illegally constructed on Sy. No. 158/1 of Calangute Village, Goa, in violation of the Coastal Zone Regulation Notification 2011 ('CRZ 2011') and No-Objection Certificates ('NOC') dated 24.12.2019, 11.02.2020 and 8.07.2022 granted by the GCZMA to the Appellant.

2. At the outset, I deny each and every averment and conclusion made in the present Appeal No. 142/2024(WZ) which is contrary to and/or inconsistent with what has been submitted on record in the present Affidavit-in-Reply. Furthermore, nothing stated in the present Affidavit-in-Reply on behalf of the Respondent No. 3 shall be construed as an admission for the want of any specific and para-wise denial or non-traverse unless and until the same is specifically admitted hereinafter.
3. At the outset, I submit that the following preliminary issues, which are germane to the present Appeal, are being furthered by the Respondent No. 3 so that the same may be considered by this Hon'ble Tribunal while deciding on the legality and correctness of the impugned order dated 12.04.2024:

I. Unauthorized development undertaken by Appellant on Sy. No. 158/1

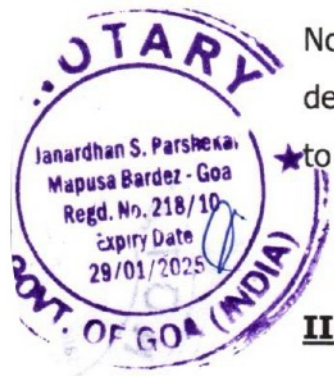
4. It is submitted that the impugned order dated 12.04.2024 has observed that the Appellant has illegally constructed various structures on the impugned Sy. No. 158/1, as has been observed by the GCZMA.
5. That such observation is *inter alia* based on the GCZMA Report of Site Inspection dated 03.03.2023 which reveals numerous structures and development works that were undertaken without obtaining any NOC from the GCZMA whatsoever. That such unauthorized structures have been listed in 'Table 1.0' on page 2 of said GCZMA Site Inspection Report.
6. These structures, identified at Sr. Nos. 2, 4, 5, 6, 7 and 8 of Table 1.0, include Reception Block, Security Cabin, Electrical Panels with concrete base, Water Fountain, swimming pool, as well as landscaping work, all of which have been undertaken without any prior clearance or permission being issued by the GCZMA to the Appellant. As the area is NDZ, no such permissions indeed can be granted.



7. Furthermore, it is submitted that the Appellant vide present Appeal No. 142/2024(WZ) also does not dispute the fact that no valid permission has been obtained by the Appellant prior to construction of the above-mentioned structures. In fact, on a previous occasion, the Appellant has even admitted to the said illegalities, i.e., vide Reply dated 18.04.2023 submitted by the Appellant to the GCZMA in response to the said Site Inspection Report. A copy of the Reply dated 18.04.2023 submitted by the Appellant to the GCZMA is annexed and marked herewith as **ANNEXURE R-1**.
8. Therefore, it is submitted that it is indisputable that there have been deliberate violations and unauthorized constructions, as enumerated in Table 1.0 at Sr. Nos. 2, 4, 5, 6, 7, and 8, and accordingly, such structures are liable to be demolished and the land upon which they are situated in Sy. No. 158/1 is liable to be restored.

II. Violation of NOCS Dated 24.12.2019, 11.02.2020 and 8.07.2022

9. It is submitted that the GCZMA NOC dated 24.12.2019 was granted to the Appellant for construction of 'temporary wooden cottages and shack made of wood or natural/biodegradable material only.'
10. That as per Condition No. 4 herein, no structure of permanent nature was allowed to be erected/constructed. Furthermore, as per Condition No. 21 herein, all structures were mandated to be of ground floor in nature.
11. That the GCZMA thereafter issued a Revised NOC dated 08.07.2022. That the Appellant vide Revised NOC dated 08.07.2022 was granted approval for revised plans for "erection of temporary wooden cottages and shack made of wood and/or natural/biodegradable material only." That all the conditions contained in the NOC dated 24.12.2019 would continue to remain applicable.



II. 1. Utilization of Impermissible Materials for Construction

12. It is submitted that the GCZMA Site inspection report dated 03.03.2023, as well as various photographs submitted to the GCZMA by Respondent No. 3, have clearly evidenced the use of material like cement, tiles, metal railings, and steel framework in construction of structures on the impugned Sy. No. 158/1. Such materials are destructive of the beach area which is declared NDZ for this purpose.

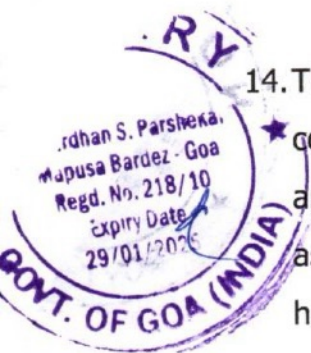
13. That the GCZMA Site Inspection Report observes that the Appellant has constructed a plinth of ceramic tiles supported on Mild Steel ('MS') Frame for 8 Nos. of Cottages. Additionally, the Appellant has constructed a permanent electric panel structure with concrete flooring, and used bison boards for the construction of the Restaurant/Shack.

14. That bison boards are a hybrid product made from cement bonded particles comprising about 62% cement, 28% wood, and 10% non-hazardous chemicals and water. A copy of Brief Note on Cement Bonded Particle Board (Bison Panel) as released by the Ministry of Housing & Urban Affairs is annexed and marked herewith as **ANNEXURE R-2.**

15. That therefore, it is submitted that a Bison Board cannot be stated to be a natural/biodegradable material, as its primary constituent is that of cement, which comprises nearly 2/3rd of its total composition.

16. It is submitted that the GCZMA NOC dated 24.12.2019 at Condition No. 4 states:

*"4. The proposed **temporary seasonal structure** should be made of **wooden material** and as per the recommendation of Beach Carrying Capacity report. **No cement/concrete should be used for flooring. No structure of permanent nature shall be erected/constructed.**"*



17. Therefore, it is submitted that ceramic tiles, concrete flooring, and bison boards, which have all been observed to be used in the construction on Sy. 158/1 are all impermissible materials.

18. That such materials have not only been prohibited by the GCZMA NOC dated 24.12.2019, and Revised NOC dated 8.07.2022, but are also prohibited as per the recommendations as contained in the said 'Beach Carrying Capacity Report'.

19. That the report titled 'Carrying Capacity of Beaches of Goa for Providing Shacks & Other Temporary Seasonal Structures in Private Areas' (also known as the 'Beach Carrying Capacity Report') as prepared by the National Centre for Sustainable Coastal Management clearly recommends the following with regards to types of materials to be used by private huts/cottages/shacks:

*"Shacks, huts, tents, cottages and huts/ tents/ cottages in private areas shall be erected using **eco-friendly materials such as bamboos/wooden poles with thatched palm leaves/ thatched bamboo mat roofing** as far as possible and for structural support wherever required GI-pipes / mild steel framed structures could be permitted. However, in case of paucity of wood the same may be erected out of the other modern materials such as synthetic, steel, nylon fabric etc. for the purpose of frame work due to unpredictable weather conditions. However the same shall not exceed 30% of the total material required. **Use of concrete is banned.** Grouting, plastering, laying of PCC/ RCC on the floor/ structure/ digging of soak pits/ digging and laying of pipes/ metal staircases grouted in cement etc. shall not be permitted as per the guidelines issued by the GCZMA."*

(emphasis supplied)

A copy of the relevant extracts of report titled 'Carrying Capacity of Beaches of Goa for Providing Shacks & Other Temporary Seasonal Structures in Private Areas' as prepared by the National Centre for Sustainable Coastal Management is annexed and marked herewith as **ANNEXURE R-3.**



20. Accordingly, it is submitted that the constructions as raised by the Appellant have been observed to have utilized ceramic tiles, concrete flooring, bison boards, etc. all of which are materials that do not conform to the specifications of the GCZMA NOC dated 24.12.2019, as well as the Beach Carrying Capacity Report. That therefore, such structures are patently illegal and liable to be demolished.

II. 2. Permanent Structures erected by the Appellant

21. Notwithstanding the material used for construction of the illegal structures, it is submitted that the structures raised by the Appellant were unequivocally of a permanent nature. That in support of such submission, Respondent No. 3 relies on the ratio laid down by this Hon'ble Tribunal in a recent relevant judgment.

22. That in *Appeal No. 22/2022(WZ) titled Alchemist Asset Reconstruction Company Ltd. v. Goa Coastal Zone Management Authority and Ors.*, this Hon'ble Tribunal adjudicated upon a factually similar situation wherein construction was carried out with fabricated steel frames in a property situated in Agonda village, South Goa.

23. That vide Order dated 05.09.2022, this Hon'ble Tribunal had held that it is the intention of the Project Proponent which must be considered in order to reach a conclusion regarding whether a construction is of permanent or temporary nature. A copy of Order dated 5.09.2022 in *Appeal No. 22/2022(WZ) titled Alchemist Asset Reconstruction Company Ltd. v. Goa Coastal Zone Management Authority and Ors.*, is annexed and marked herewith as **ANNEXURE R-4.**

24. Therefore, it is submitted that a cumulative assessment of the actions of the Appellant and constructions carried out by the Appellant, such as identified permanent construction in the form of electricity panel, copious use of cement, construction of water fountain, swimming pool, and the landscaping of tiles,



etc., across the entire property, do not indicate any intention to ensure that the impugned project is executed as a construction of temporary nature whatsoever. Photographs depicting the Permanent Nature of Structures on Sy. No. 158/1 are annexed and marked herewith as **ANNEXURE R-5**.

II.3. Dimensions of Structures Exceed Permissible Limits

25. It is further submitted that independent from the issue of the nature of structures, the dimensions of the structures in question are also contrary to the approved plans. That 6 out of 8 cottages exceed the approved area as per the plan, as the permitted dimensions for the cottages was 133.3 sq. mtrs., while the observed construction for the said 6 of 8 approved cottages was 143.30 sq. mtrs each.
26. That similar violation has been observed with respect to the restaurant structure permitted by the GCZMA in an area of 200 sq. mtrs. However, the Appellant has constructed the restaurant structure having an area of 354.29 sq. mtrs., i.e., 1.5 times greater than the approved area.
- ★ 27. Additionally, the height of each of the 8 cottages was approved at 3 metres. However, the Appellant has violated the condition by constructing 8 cottages of 4.5 metres height, i.e 1.5 times higher than the approved height of 3 metres.
28. Lastly, the Appellant was also observed to have undertaken construction of First Floor, on top of the existing cottage structures. That such construction of First Floor is completely unauthorized as no such provision was made by the GCZMA while permitting the Appellant to erect temporary structures on Sy. No. 158/1.
29. It is submitted that as far as all these changes in dimension are concerned, they are contrary to the approved plan as per the GCZMA NOCs dated 24.12.2019 and 08.07.2022, and accordingly have been held by the GCZMA as liable to be demolished.



III. Violation of the CRZ 2011 by the Appellant

30. It is further submitted that notwithstanding the above-mentioned factual issues, Respondent No. 3 submits that the activity of operating Hotel/Resort in the NDZ of CRZ-III Areas is itself impermissible as per the provisions of the CRZ 2011, viz., Regulation 8(i)(III)(ii), which states that:

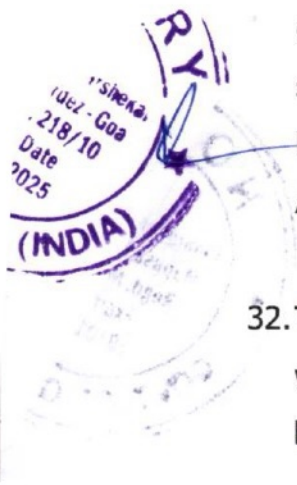
"No construction shall be permitted within NDZ except for repairs or reconstruction of existing authorized structures not exceeding existing Floor Space Index, existing plinth area and existing density and for permissible activities under the notification including facilities essential for activities"

31. Furthermore, it is submitted that as per the Regulation 8(i)(III)(B)(i) of CRZ 2011, Hotels/resorts are permitted only in the 200-500 mtrs area of CRZ-III, as opposed to the 0-200 mtrs area, wherein the present impugned property is situated. Furthermore, said Regulation 8(i)(III)(B)(i) states that such hotels/resorts may only be constructed subject to the conditions as specified in Annexure-III.

32. That Para I of Annexure-III clearly states that resorts may only be constructed with prior approval of the MoEF&CC. That no such approval has been obtained by the Appellant for the present impugned property situated on Sy. No. 158/1.

33. In the present case, under the garb of putting up wooden shacks, the Appellant has set up a full-fledged hotel/resort business at the subject site - 'Amara by the Sea' with 39 rooms, a restaurant and a spa, which are all completely impermissible activities in the NDZ of an area which is undoubtedly CRZ-III.

34. Furthermore, the Appellant does not have the prior approval of the MoEF&CC for the said Hotel/Resort, which in any case is impermissible in the NDZ 0-200 metre area of the CRZ-III as per CRZ 2011.



35. Additionally, as per CRZ 2011, special consideration has been provided to the State of Goa. Accordingly, Regulation V. (3) of CRZ 2011, which prescribes specific regulation of activities for CRZ areas in the State of Goa, unequivocally prohibits construction of any sort of permanent structures. That Regulation V.(3)(iii) only permits "purely temporary and seasonal structures customarily put up between the months of September and May."

36. That the structures erected by the Appellant have been demonstrated to be of a permanent nature, therefore, such construction can be said to be in violation of the CRZ 2011. Accordingly, Respondent No.3 submits that there have been multiple violations of the CRZ 2011 as caused by the Appellant, in addition to the various violations of the GCZMA NOCs as above-mentioned.

IV. Permission for Revision Sought Post-Construction

37. Respondent No. 3 submits that it is indisputable that construction of multiple structures has been carried out in violation of the NOCs as granted by the GCZMA. That such fact has also not been contested by the Appellant, who has in fact agreed to have deviated from the NOCs granted.

38. That such deviations from the NOCs were observed by the GCZMA during Site Inspection dated 03.03.2023, and such have been reproduced in the Site Inspection Report aforementioned.

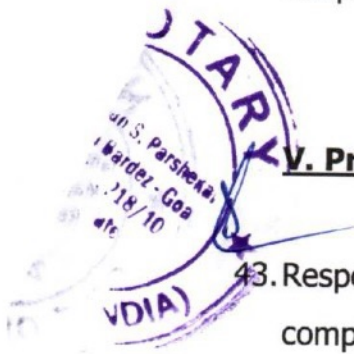
39. It is submitted that the Appellant has thereafter sought approval for Revised Approval Plans for construction on the impugned Sy. No. 158/1. However, Respondent No. 3 submits that such sanction for Revised NOC cannot be countenanced whatsoever, as the Appellant had already undertaken construction which is now sought to be regularized by the said Revised Plans.



40. Respondent No. 3 submits that if revision of the approved plan was sought prior to construction, it may have been within the powers of the GCZMA to consider the same, subject to the permissible limits of the CRZ 2011.
41. However, this is far from the case at hand. It is submitted that the Appellant had already erected structures in abject violation of the approved plan of the GCZMA, which was then sought to be Regularized, in the name of seeking Revision.
42. That such an attempt at regularization of illegally constructed structures is a blatant attempt at circumventing the provisions of the law and therefore, Respondent No. 3 states that such cannot be permitted whatsoever.

V. Prior History of Non-Compliance of Law

43. Respondent No. 3 submits that the Appellant has a prior history of non-compliance with the conditions of permissions granted by the GCZMA and causing environmental damage to the pristine ecology of the CRZ-III areas, especially its NDZ.
44. That the GCZMA has previously issued Show Cause Notice cum Stop Work Order dated 22.03.2021 for illegal concrete construction in the impugned Sy. No. 158/1. That upon inspection thereafter, 36 RCC footings with Mild Steel Base Plate and anchor bolts within 100 metres of the High Tide Line ('HTL') were found to be constructed in the impugned property.
45. That the GCZMA had observed that such construction had caused major environmental damage, and accordingly, the GCZMA directed the Appellant to remove the RCC columns and restore the land to its original condition within 10 days. However, as observed on **Pg. 12** of the impugned order dated 12.04.2024, the Respondent never complied with the directions issued by the



GCZMA and has ignored the GCZMA's directions by covering the illegalities and misguiding the GCZMA to believe that the Appellant had complied with all directions.

46. That such prior history of violations of regulations, permissions and directions has led to the GCZMA observing that the Appellant is a habitual offender, and accordingly, the GCZMA has correctly decided to revoke the approvals granted to the Appellant vide NOC dated 24.12.2019 and 11.02.2020 and to issue Show Cause Notice for all the compensation on environmental damages.

VI. GCZMA Empowered to Revoke Permissions due to Violations

47. It is submitted that Condition No. 7 of the GCZMA NOC dated 24.12.2019 clearly and unequivocally grants the GCZMA the authority to revoke the clearance granted to the Appellant in case of non-compliance of any one or more of the conditions contained in the said NOC.

48. That the GCZMA has observed that there have been violations of the GCZMA NOC Conditions which are reproduced as follows:

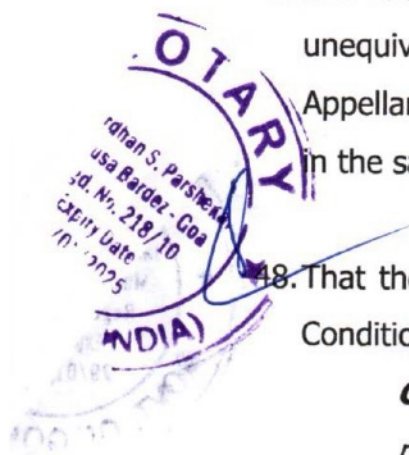
Condition No. 4 – *The proposed temporary seasonal structure should be made of wooden material and as per the recommendation of Beach Carrying Capacity report. No cement/concrete should be used for flooring. No structure of permanent nature shall be erected/constructed.*

Condition No. 5 – *In the event if any change in the project profile, a fresh reference shall be made to the GCZMA.*

Condition No. 10 – *The said structures should be one meter above the ground on stilts of wooden poles wherever possible. However, the ground clearance should not be more than 1.5 m.*

Condition No. 14 – *All temporary structures shall maintain a standard buffer of minimum of 3 m from adjacent huts/tents/cottages.*

Condition No. 21 – *All the structures shall be of ground floor in nature.*



49. That therefore, the Respondent No. 3 submits that a substantial number of conditions have been observed to have been violated by the Appellant in constructing various structures in the impugned Sy. No. 158/1.

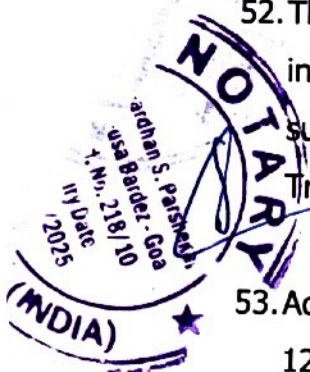
50. That the Appellant has repeatedly stated that they have not exceeded the FAR permitted by GCZMA, and are therefore not in violation of any of the conditions. However, the Respondent No. 3 submits that the issue of compliance with stipulated FAR is a distinct legal requirement that is enforceable upon any persons desirous of undertaking any construction whatsoever.

51. That simply stating that the mandated FAR has been complied with does not *ipso facto* entitle the Appellant to violate the other conditions mandated by other applicable regulations, such as the CRZ 2011 and the GCZMA NOCs dated 24.12.2019 and 08.07.2022.

52. That compliance of one law or regulation does not allow any person to claim an inherent right to violate any other applicable law or regulation. That therefore, such submissions as furthered by the Appellant must necessarily be rejected by this Hon'ble Tribunal.

53. Accordingly, the Respondent No. 3 submits that the GCZMA Order dated 12.04.2024 has been passed after factoring the various observed violations during Site Inspection, granting the Appellant multiple opportunities at contesting the observed violations, considering the multiple written submissions made by the Appellant and Respondent No. 3, assessing the photographs submitted by the Respondent No. 3, and analyzing the applicable statutory and regulatory regime.

54. That therefore, Respondent No. 3 submits that the GCZMA Order dated 12.04.2024 is correct and valid in law, and must necessarily be upheld by this Hon'ble Tribunal due to the above-mentioned reasons. Directions also ought to be issued to the R.1 authority to initiate proceedings for the imposition of



environmental compensation costs in terms of the orders of this Hon'ble Tribunal.

55. I state that the contents of paragraphs 1 - 54 are in the nature of facts true to my own knowledge and official documents/records, and in the nature of submissions made on legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom, and the annexures enclosed are true copies of their originals.

Solemnly affirmed on the 17th day of October, 2024, at Mapusa, Goa

APPLICANT/DEPONENT



Solemnly affirmed before me by Dr. Claude A. Traves who has been identified to me

who is known to me personally, Mapusa-Goa

on No. 5299/24 Date 17/10/2024

JANARDHAN S. PAKSHEKAR
NOTARY AT MAPUSA, BARDEZ-GO.
STATE OF GOA (INDIA)



ANNEXURE R-1

From:

Date: 18/04/2023

MR. LLOYD ST JUDE JOAQUIM FERNANDEZ

H. No. 160, Gaura Vaddo,

Calangute, Bardez Goa 403516

To

THE MEMBER SECRETARY

Goa Coastal Zone Management Authority

4th floor Dempo Towers

Panaji – Goa 403001

Det 21/4/23.
O/o Member Secretary
Goa Coastal Zone Management Authority
C/o Department of Environment & Climate Change
Dempo Tower 4th Floor,
Patto Plaza Panjim-Goa. 403001

Sub: Response to Report of Site Inspection held on 03/03/2023 in Survey

No. 158/1 of Village Calangute, Bardez – Goa

Sir/Madam,

The undersigned is the owner of the property bearing Survey No. 158/1 of Village Calangute, Bardez – Goa (Subject Property). The undersigned is in receipt of the Site Inspection Report conducted by the GCZMA in the Subject Property. In response thereto, the undersigned seeks to state as under:

1. With regard to Observation A read with Sr. No. 1.0 of Table 1.0, the Undersigned states that in terms of the approved plan, the undersigned has been granted permission for 10 huts admeasuring approx. 133.3 sq.mts each. Undersigned states that the undersigned has constructed only 8 huts of varying areas and the additional permitted areas is used for other smaller ancillary structures required for operations. It is pertinent to note that the total permissible FAR is not exhausted and considerable FAR is available. Therefore the variance in areas of huts is not per se illegal. However, by way of abundant caution, the undersigned shall seek revision of plans in order to be fully compliant with the approvals.
2. With regard to the Observation B read with Sr. No. 2.0, the undersigned denies that the structure is permanent in nature with concrete flooring. The said observation is erroneous. undersigned states that the structure is made up of MS Frame on top of which bison board is placed which gives the effect of a permanent structure. Annexed herewith as Annexure A are photos which clarify the situation on loco.

3. With regard to Observation C read with S. No. 3.0, the structure is fully temporary and the height is within the permissible limit. Undersigned denies that the roofing of the shack is extended till the property compound. The undersigned has made a provision for temporary roof using natural material such as coconut tree leaves in order to cover the STP.
4. With regard to Observation D and E, read with S. No. 4.0 and 5.0, of the Table the same are temporary structures. The same are within the total permissible FAR available to the subject property. Be that as it may, the undersigned shall submit revised plans in respect of the same.
5. With regard to Observation F, read with Sr. No. 6.0, the swimming pool is temporary in nature. It would be wrong to say that the same is embedded in ground by approx. 1.5m. in as much as the same is placed above the ground whilst taking advantage of the height variations in the subject property.
6. With regard to Observation G and H, read with Sr. No. 7.0 and 8.0, the same are landscaping features installed using temporary

materials. The said features do not add to the FAR and cannot be construed as "structures". Even otherwise the same are temporary in nature using temporary materials.

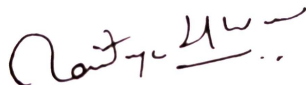
7. In light of the above, the undersigned seeks this authority to take into consideration the above response and furthermore to grant approval to the revised plans annexed herewith.

Yours Sincerely



Mr. Lloyd St Jude Joaquim Fernandez

TRUE COPY





GLOBAL
HOUSING
TECHNOLOGY
CHALLENGE INDIA



सत्यमेव जयते

Ministry of Housing & Urban Affairs
Government of India



आज़ादी का
अमृत महोत्सव



स्वच्छ
भारत
एक कदम स्वच्छता की ओर

CATEGORY

BUILDING MATERIALS/COMPONENTS



PRODUCT / TECHNOLOGY



Scan QR Code for
Technology Detail

CEMENT BONDED PARTICLE BOARD (BISON PANEL)

Alternative to conventional wooden boards/panels



Scan QR Code for
Video

CONTACT DETAILS

M/s NCL Industries Ltd.

Contact Person: Shri Aman Bharti Dutta

Address: D-82, 2nd Floor, Malviya Nagar, Delhi

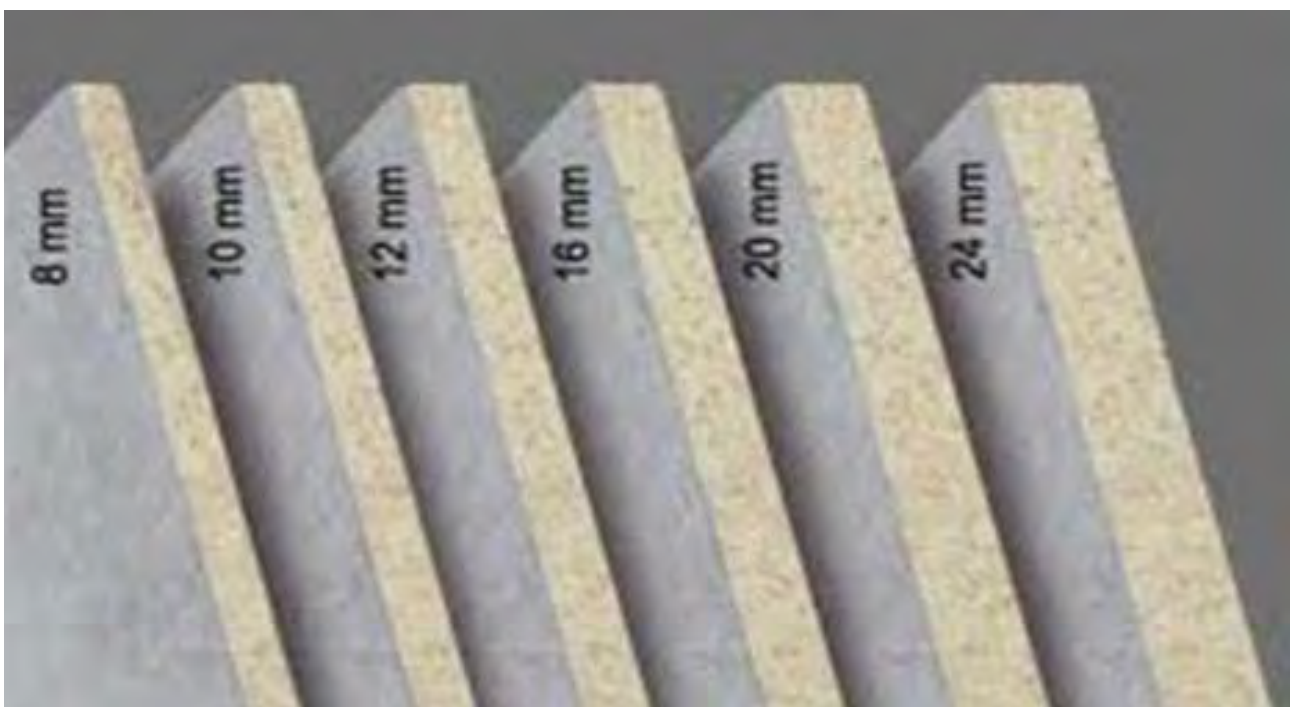
E-mails: amanbharti@bisonpanel.com

Mob: 9650131653, 9250415295



BRIEF

Bison Panel is a cement bonded particle board made out of about 62% cement & 28% wood and 10% of non-hazardous chemicals and water. The wood used is of fast-growing species like Eucalyptus/ Poplar, waste of wood logs. As the wood particles in the board are mineralized with chemicals during the manufacturing process, the particles become termite & vermin resistant. These panels are available in thickness of 6mm to 40mm used for various applications including internal and external. Due to adoption of a special manufacturing process, the panel acquires the strength & durability of cement, & the easy workability of wood - a combination of qualities absent in other boards. Cement is strong & durable, & is not affected by fire, weather, termites, etc. Wood is light & strong, & is easily workable.





SALIENT FEATURES

- Facilitates speedy construction.
- Texture and laminated, which are termite proof, moisture and fire resistance, durable, the life is more than 25 years.
- The boards are fire, water, weather, termite, vermin resistant, & do not support fungal growth.
- Bison Panel is highly fire resistant.
- With cement constituting 62% of its composition, Bison offers excellent resistance to weather.
- Bison is radiologically fit for use as per BARC (Bhabha Atomic Research Center) test reports.
- Highly sound proof material.
- Moisture resistant.
- No special machinery required for installation.

ECONOMIC ASPECTS

- Bison is affordable and cost saving.
- Construction with Bison is, extremely, time efficient. Resulting in additional savings in labour & transport.
- Bison structures can be dismantled with ease & transported elsewhere.





SUSTAINABILITY ASPECT

- Bison is eco-friendly with IGBC certificate & GRIHA / SVAGRIHA compliance.
- Environment friendly as includes use of agro-industrial wastes, using farm wood or waste of wood logs.

SUITABILITY AND AVAILABILITY

- Bison contains no hazardous material like Asbestos or Formaldehyde. Its process dust is harmless.
- Bison Panel has innumerable applications - it can be used in all places where an ordinary particle board can be used.
- Suitable for all kind of weather -40 to +90 Celsius.
- For applications involving furniture which is not required to be moved often, Bison is both economical & durable.
- Bison Panel confirms to I.S. 14276 / 2016.

LIMITATIONS, IF ANY

- The product does not offer much insulation properties.
- The product is not recyclable.





MARKET LINKAGES

- The product is available across India.

MAJOR PROJECTS

- BMTPC Demonstration Housing Project, (G+3 House), Hyderabad

CERTIFICATION/INDIAN STANDARD/ ENDORSEMENT

- IS: 14276:2016, IS: 1578BIS – 14276:1995
- ISO-9001:2008
- GRIHA CERTIFIED
- IGBC CERTIFIED
- DNV- Management System Certificate
- CE Certified
- FSC certified
- Radioactive Test by Department of Atomic Energy
- Fire test by CBRI
- Thermal Conductivity test by ISOLLOYED
- STC Test by Prasar Bharti





Carrying Capacity of Beaches of *Goa*

for Providing Shacks & Other Temporary Seasonal Structures in Private Areas

Submitted to
Government of Goa



Prepared by



NATIONAL CENTRE FOR SUSTAINABLE COASTAL MANAGEMENT
Ministry of Environment, Forest and Climate Change
Government of India

Executive Summary

Assessment of carrying capacity for beaches of Goa for providing shacks & other temporary seasonal structures was undertaken on the basis of the order issued by Hon'ble National Green Tribunal (NGT) Western Zone Bench, Pune (Order dated 17th December 2014) to the Goa Coastal Zone Management Authority (GCZMA), and the task was assigned to National Centre for Sustainable Coastal Management (NCSCM), Ministry of Environment, Forest and Climate Change (MoEF & CC) by the GCZMA. This report addresses the beach carrying capacity qua shacks allotted on beach by the Government of Goa as well as the shacks and other temporary structures on private properties (i.e.) in the area between survey boundary on seaward side and 200m line in CRZ. The outcome of this study would also be relevant for grant of permissions for conduct of various events as well as water sports activities. The following factors were considered for assessing the carrying capacity:

Beach areas:

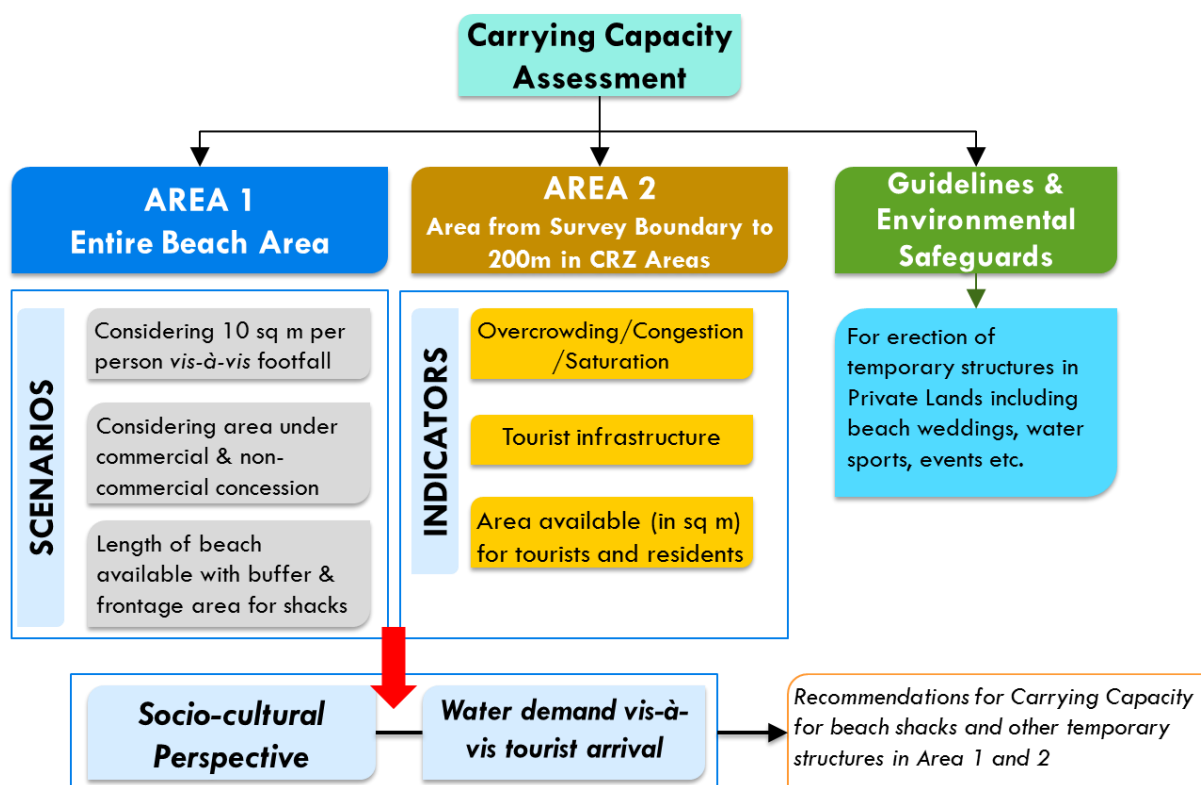
- Ecologically Sensitive Areas (ESAs) such as turtle nesting grounds etc.
- Other areas that include river mouth, creeks, erosion prone areas, fishing space, rocky headlands, etc.
- Area and length of beach available for erection of shacks after deduction of ESAs, villages with fishing activities, entry points, erosion prone areas, etc.
- Number of footfalls as estimated based on survey carried out by the Department of Tourism during peak and off season of 2015 – 2016
- The number of shacks allotted by the Department of Tourism on the beach stretches and areas occupied by shacks with appropriate buffers
- Appropriate distance between each shack and frontage area for accommodating deck beds

Shacks and other Temporary structures in private areas (Survey boundary to 200m in CRZ)

- Regional plan of Goa 2021
- Ecologically Sensitive Areas (e.g. sand dunes) and other no-development areas
- Assessment of potential area available within 200m in CRZ areas
- The maximum number of shacks and other temporary structures registered with the Department of Tourism in private areas
- UDPFI Guidelines of small and medium towns with specific reference to commercial areas
- Census of Goa 2011
- Infrastructure available and proposed by the Department of Tourism/Goa Tourism Development Corporation (GTDC)
- Guidelines for private shacks / huts / in the area between survey boundary and 200m in CRZ and environmental safeguards.

Methodology for Assessment of Carrying Capacity

The flowchart below provides the step-wise process of assessment undertaken in each category.

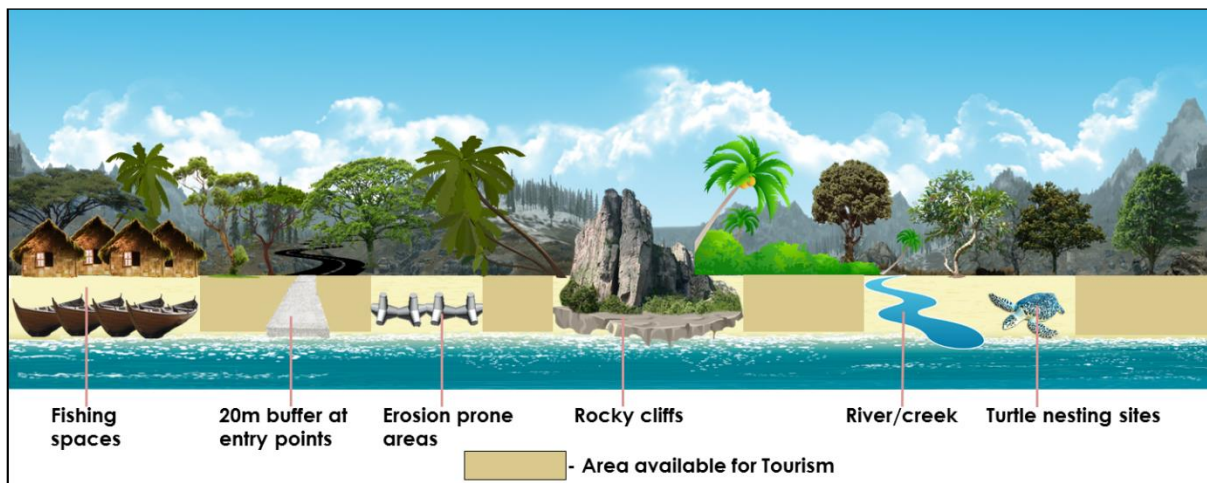


I. Area 1 (Beaches of Goa)

The beach stretches of Goa (headland to headland) has been considered for calculation of the beach area and the following two assessments have been made:

- Carrying capacity w.r.t number of tourists (i.e. number of tourists that can visit a particular beach stretch)**
- Carrying capacity w.r.t number of beach shacks (i.e. number of shacks that can be erected on the beach stretch in addition to those existing)**

(a) In order to determine the carrying capacity with regard to number of tourists, assessment was made considering the entire beach area available (area within the fair weather berm and survey boundary) and the average footfalls based on internationally accepted norms. All ESAs, erosion prone areas, river mouths/creeks, villages with fishing activities were deducted from the available beach areas and the final available space for tourists was determined.



Conceptual Drawing of Beach Area Available for Tourism:

The assessment was approached in the following ways:

	Scenario	Approach
Scenario 1:	Considering 10 sq m. per person vis-a-vis footfalls	Considering the potential beach area available, the carrying capacity is calculated by dividing the beach area available by 10 (area required per person).
Scenario 2:	Considering Area under commercial concession and non-commercial concession	The carrying capacity of the beach was calculated by dividing the beach area under shacks by 7.5 (commercial concession) and the remaining beach area by 15 (non-commercial concession)
Scenario 3:	Length of the beach available with buffers between shacks and frontage areas	Considering potential beach length available for shacks (after deducting ESAs and other factors), the number of shacks that can be erected is determined.

(b) In order to determine the carrying capacity with regard to potential areas for shacks, only the beach areas which falls beyond the High Tide Line (HTL) to survey boundary has been taken into consideration. All ESAs, erosion prone areas, river mouths/creeks, fishing spaces are deducted from the potential areas and the final available space for shacks is determined.

II. Area 2 (area between survey boundary and 200m in CRZ)

In order to determine the carrying capacity of shacks and other temporary structures in private areas, a set of three indicators have been developed based on i) overcrowding, ii) tourist infrastructure and iii) area available for tourists and residents as given below.

Indicator	Approach
Indicator 1:	Overcrowding/congestion/ saturation – Number of beds per hectare (e.g. up to 50 beds/ ha for rural areas and up to 100 beds/ ha for urban areas)
Indicator 2:	Tourist infrastructure (No. of beds to population) (Rural - up to 0.5 and Urban up to 1)
Indicator 3:	Area available (in sqm) for tourists and residents (e.g. 50 sqm per person for rural and 25 sqm per person for urban areas)

As precise estimation of the 200m in CRZ area was not available, the existing secondary data available with the Department of Town and Country Planning were considered while developing the indicators for assessing the carrying capacity. This is bound to have minor differences between calculated values and actual ground scenario. In order to narrow down these differences, field observations were made in addition to receiving available inputs from various Departments of the Government of Goa.

III. Socio-cultural aspects and water availability

The socio-cultural aspects i.e. the ratio of local population to tourist has been used as an indicator to analyze the impact of tourist arrival on local population. The water demand during peak season for the tourists and the local population has been assessed based on secondary data provided by the Public Works Department (PWD).

IV. Establishment of guidelines and environmental safeguards for erecting private shacks and other temporary structures

The guidelines and environmental safeguards for erecting of private shacks/ huts/cottages/ temporary structures were based on Planning Principles, Ecological safeguards, Socio-economic considerations following international best practices.

V. Recommendations

(i) General:

- On application of the two internationally accepted concepts of carrying capacity, it is seen that the carrying capacity has exceeded at Coco beach, Vainginim beach in North Goa and Palolem beach and Agonda beach in South Goa. In view of the fact that carrying capacity has exceeded in Palolem, it is recommended not to allow any shacks and deck beds on this beach stretch. As far as Agonda beach is concerned, the State Forest Department is monitoring nesting of Sea Turtles. Since no structures of any nature are permitted/ erected on this beach, and tourist visits are permitted only during day-time, as this will not have any adverse impact on sea turtle nesting.

- Temporary and Seasonal Structures are permitted in CRZ area except Ecologically Sensitive Areas as per the Coastal Regulation Zone Notification, 2011 with a specific provision for the State of Goa
- The State Government, through the Forest Department and Goa State Biodiversity Board shall endeavor to grow and maintain local species such as Spinifex sp., Ipomoea sp. along with dune parks with proper fencing. In addition, beach nourishment to counter sand depletion (especially along eroding beaches) shall be considered
- Turtle nesting sites have been identified as per the provisions under the CRZ Notification, 2011 and no shacks and/ or beach beds on these beach stretches are allotted at Agonda and Galigibag in Canacona in South Goa and in the area identified by the Forest Department at Morjim
- A satellite imagery-based study of shoreline change in Goa indicated that over a 32 year period, there is large variation in depositional and erosional processes along the coast of Goa. Specifically, the study indicated that net accretion occurs along river mouths. Along the coast however, deposition was observed in coastal stretches of Morjim, Baga, Campal, Miramar and Mobor. Erosion was specifically observed along the coast of Querim, Anjuna and Velsao
- The Goa State Pollution Control Board shall prepare a plan for monitoring the ground water quality in coastal areas
- The State Government shall encourage generation of power through installation of solar panels in hotels/ resorts/ huts and other temporary structures by adopting the Net Metering Policy. The hotels and resorts are also encouraged to install composting units/bio-gas plants
- The State Government shall endeavor to obtain a Blue Flag Beach Certification in a phased manner for appropriate beach stretches through a recognized certifying agency
- The infrastructure such as water supply and roads are adequate to meet the present and future requirements, nevertheless additional parking space needs to be provided. Public amenities such as DRDO-approved toilets & washrooms, showers and changing rooms required are to be provided on the popular beach stretches

(ii) Beach Shacks:

- Beach shacks shall be erected out of eco-friendly material such as bamboo/ wooden poles with thatched palm leaves or thatched bamboo matt roofing
- The final carrying capacity for shacks allotted on the beach area by the Department of Tourism, based on the precautionary principle will be the least among the three scenarios applied for calculation of carrying capacity

- The assessment of carrying capacity based on the principle of 10 sq m per visitor (footfall) indicates that the carrying capacity exceeded in Palolem, Agonda, Siridao, Vainginim and Coco beach.
- From the assessment of carrying capacity based on the commercial activities (Beach Shacks) and balance space available, it is seen that carrying capacity has exceeded in Palolem, Agonda, Siridao, Vainginim and Coco beach
- Assessment of carrying capacity based on length of the beach space available for erection of shacks, after deducting the entry point, ESA etc. , indicated that the carrying capacity exceeded at the stretch between Baga and Siquerim (-21 shacks) and Ozrant (-6 shacks). Applying the precautionary principle and considering the least available capacity based on the three concepts, it is recommended that no shack shall be allotted by Department of Tourism on the beach stretch at Palolem and Siradao. It is also noticed that there are large number of shacks and other temporary structures (huts/ tents/ cottages) in private lands in Palolem and hence would not justify the allotment of any shacks on the beach by the Department of Tourism
- No shacks are allotted by the State Government at Agonda, Vainginim and Coco beach. Similarly the number of shacks allotted by Department of Tourism at Ozrant should be restricted to 3 shacks as against earlier allotment of 8 shacks (-5) and shacks at Baga-Siquerim be restricted to 188 shacks as against the earlier allotment of 196 shacks (-8), although carrying capacity is available on Baga-Siquerim and Ozrant beaches based on the internationally accepted principle of 10 sq.m per visitor
- Beach weddings and other events shall not be permitted in ESA areas. However, it shall be permitted in other areas on a case to case basis with prior permission of the GCZMA

(iii) Shacks and Other Temporary Structures in Private Land:

- The developable area for temporary structures was derived from the maps (“Regional plan of Goa 2021” of the Department of Town & Country Planning). The area that falls under No development slopes, paddy fields/ khazans, rivers, nalas, ponds, sand dunes (based on data from NCSCM), archeological and heritage sites have been excluded and the potential area was derived. Out of this potential area, only 4% (UDPFI) was considered to be available for temporary structures.
- Based on the data available with the Department of Tourism, a majority of shacks and other temporary structures in private areas have been registered in those beach stretches of South Goa i.e. Polem, Galgibag, Agonda, Cola where there is no allotment of shacks by the Department of Tourism on the beach. The largest number of such temporary structures in private lands is on Palolem beach, where

the State Government was allotting 3 shacks on the beach and now it is recommended that Government shall not allot any shack on the beach

- The Calangute-Baga-Candolim-Siqurim belt has in total 1169 hotels with 11,693 rooms and 12,460 beds. In addition, there are 196 shacks allotted by the State Government on the Baga-Siqurim beach belt. Considering the availability of hotels and rooms, it is recommended that no additional temporary structures huts/ tents/ cottages may be permitted for erection in private areas. In case of other beach stretches in North Goa, i.e. Anjuna-Vagator and Pernem Taluka, the erection of shacks and other temporary structures huts/tents/cottages shall be permitted in private lands based on the guiding principles and following the procedures recommended
- Structures existing prior to 19th February 1991 could be permitted to carry out regulated commercial activities such as homestays, guest house and restaurants without any further increase in coverage or FAR/FSI, as it would not occupy additional vacant land in the coastal area
- As shacks, huts, cottages and tents are primarily meant for livelihood of the local inhabitants who are unable to construct hotels/restaurants, the hotels in these beach stretches shall not be permitted to erect more than one shack within their private land. Hotels could be permitted to provide deck-beds within the private areas/on beach, in the area available, after due approval from GCZMA and registration with the Department of Tourism
- GCZMA shall consider applications for erecting of beach shacks/ huts/ cottages/tents in private lands on case-to-case basis by carrying out physical inspection through empanelled engineers/ architects and verifying the site-feasibility vis-a-vis ascertaining the access and other environmental safeguard approaches and guidelines provided and shall not exceed the carrying capacity area derived

VI. Guiding Principles for Shacks/ Huts/ Other Temporary Structures in Private Land

The guiding principles for carrying capacity of beach shacks and private surveyed plots have been classified under four distinctive headings:

- **Planning Principles**: the concept of 33% developable area and 67% open spaces for recreational, safety and other activities have been considered in beach stretches as well as for each private plot within 200m in CRZ areas. 4% of the total developable area (excluding ESAs) was considered available for temporary structures in areas within 200m in CRZ.
- **Ecological safeguards**: ESAs such as turtle nesting sites on the beach stretch and sand dunes within 200m in CRZ are No-Go areas. This has already been demarcated and the maps are provided along with this report.

- **Environmental safeguards:** The key environmental safeguards that are taken into consideration are clean potable water, safe disposal of solid wastes, safe disposal of sewage, no extraction of groundwater, promoting use of renewable energy and fire safety.
- **Social considerations:** Beach areas adjacent to fishing villages shall be avoided for erection of private shacks and huts/ cottages/ tents and diversification of coastal livelihood is encouraged. Also the ratio of local population to tourist population has also been used as an indicator for assessing the social carrying capacity.

Guidelines for use of beach or private lands in CRZ area for recreational activities such as destination weddings, private parties, water sports activities, night bazaars/ flea markets, erection of fisherman huts, and beach safety scheme shall be followed. The guideline pertains to the use of material, location of site, permission from concerned authorities, solid waste management, noise management, accessibility and identification of appropriate areas for such events.

5. Guiding Principles for Shacks/ Huts/Tents/ Cottages and events in Private Lands

5.1 Guidelines for shacks, huts/ tents/ cottages:

The guiding principles for determining the carrying capacity of shacks and huts / tents/ cottages in private surveyed plots have been classified under four distinctive headings:

- i) Planning Principles
- ii) Ecological safeguards
- iii) Environmental safeguards
- iv) Socio-economic considerations

i) Planning Principles:

- 33% of coverage in a plot, in which shacks, huts / tents / cottages are proposed, should be permitted, based on the principle adopted in the CRZ Notification, 2011.
- Geocoding of all shacks and huts / tents / cottages in private areas shall be undertaken by GCZMA through any expert organization in order to monitor the area occupied by the shacks and huts / tents / cottages.
- For surveyed plots (private plots), the number of shacks and huts / tents / cottages should be determined on the case to case basis by applying precautionary principle so that the total area occupied by such shacks and temporary structures do not exceed the carrying capacity arrived for respective panchayat stretches in between survey boundary and 200 m in CRZ.

The criteria that are proposed for erection of shacks, huts/cottages/tents on private lands are detailed in Table 25.

Carrying Capacity of Beaches of Goa for Providing Shacks & Other Temporary Seasonal Structures in Private Areas

Table 25: Criteria proposed for erection of shacks, huts/cottages/tents on private lands

S.No.	Criteria	Remarks
1.	Area of land in possession of applicant should not be less than 100 sq.mts	GCZMA should consider the number of shacks, huts / tents / cottages on case to case basis in between survey boundary to 200m in CRZ. However the total area occupied by such shacks, huts / tents / cottages should not exceed the carrying capacity arrived at for a particular space in private areas.
2.	Presence of ESAs	No-Go Areas
3.	Presence of fishing villages and creeks	No Activity Area
4.	Entry points to the beach	Buffer of 10m on either side of the entry point in private areas
5.	Availability of Road access and Water Supply	No shacks or huts/tents/cottages shall be permitted in properties which do not have road access
6.	Distance between shacks (e.g. fire safety, accessibility)	No existing policy; national & international standards provided
7.	The applicant shall submit Consent to Establish (CTE) obtained from the Goa State Pollution Control Board (GSPCB) as per the provisions under the Air / Water Acts. And upon approval of the GCZMA, obtain Consent to Operate from the GSPCB establishment of STP compulsory for erection of more than 25 huts/tents/cottages / tents / cottages.	As per provision of the CRZ Notification, 2011 as well as provisions under Water/ Air Acts.
8	Validity of NOC / Permission granted by the GCZMA	<ul style="list-style-type: none"> (i) Five years from the date of issuance for the relevant season from September to May. (ii) Certificate from Architect for removal of a structure(s) during monsoon (June to August) to be submitted on yearly basis. (iii) In case any violations reported / confirmed, NOC / Permission shall be withdrawn forthwith and not considered until the five-year period has expired.

- **Type of Material to be used:**

Shacks, huts, tents, cottages and huts/ tents/ cottages in private areas shall be erected using eco-friendly materials such as bamboos/wooden poles with thatched palm leaves/ thatched bamboo mat roofing as far as possible and for structural support wherever required GI-pipes / mild steel framed structures could be permitted. However, in case of paucity of wood the same may be erected out of the other modern materials such as synthetic, steel, nylon fabric etc. for the purpose of frame work due to unpredictable weather conditions. However the same shall not exceed 30% of the total material required. Use of concrete is banned. Grouting, plastering, laying of PCC/ RCC on the floor/ structure/ digging of soak pits/ digging and laying of pipes/ metal staircases grouted in cement etc. shall not be permitted as per the guidelines issued by the GCZMA.

- **Height of temporary Structures:**

Shack, huts, tents, cottages and huts/ tents/ cottages in private areas shall be at a maximum height of 9m including the height of boards displayed above the roof. Height of the temporary structures shall be limited to 9mt.

- **Architecture**

The architecture guidelines recommend construction of traditional tropical architecture made up of local materials and other materials which should stimulate the work of local artists, craftsman and trades people.

- **Approval:**

For seeking permission from the authority, the applicant/plot owner has to submit the plan, section, elevation, site plan, and survey plan, along with septic tank/soak pit / DRDO Eco/Bio-toilets or equivalent STP drawings including GPS co-ordinate and Google map from a registered architect/ engineer as well as the signature of the owner/ authorized representative.

ii) Ecological safeguards:

The ESAs such as sand dunes, turtle nesting sites, archeological and heritage sites, no development slopes, paddy fields/khazans, river, creeks, nallas etc., located on the beaches and along the coast are No-Go areas. This has already been demarcated on the maps.

iii) Environmental safeguards:

Environmental safeguards have been developed in response to the perception that it was becoming increasingly necessary to encourage tourism while conserving natural resources and protecting their cultural and milieu. This would enable Goa's market position as one of the world leaders in ecotourism and environmentally sensitive conventional tourism. Coastal vegetation should be maintained to maintain the natural

façade and to guard against coastal erosion. In addition, the following key environmental safeguards that are potential health hazards shall be considered:

- **Clean potable water**

Portable water requirement for domestic and tourist population has to be made available. The quality of water to be supplied should meet the national standard. Measures like Rain Water Harvesting should also be encouraged to have access to clean and potable water.

- **Safe disposal of solid wastes**

Separate bins for different types of solid wastes (source segregation of solid wastes) shall be provided by the operator. It will be the responsibility of the plot owner to dispose the waste generated from their plots to the respective bins. The municipality/ Village Panchayat or the contractor appointed by the Department of Tourism, as the case may be, shall collect waste from time to time and hand over the non-biodegradable waste to the Monitoring Cum Working Committee/ Solid Waste Management Cell of Department of Science and Technology for baling and transportation to cement plants. Solid waste to be transported to the Solid Waste Management Facility at Calangute by the Village Panchayats in North Goa whereas in South Goa it will be responsibility of the owner/ authorized representative to dispose the same by composting/biogas plant or to transport to the piggeries for the bio degradable waste.

- **Safe disposal of sewage to sewage treatment plants and levy charges on use of public amenities**

The sewage generated (shack, huts, tents, cottages and huts / tents / cottages in private areas) from each plots are to be directed to a septic tank. The sewage tankers shall be deployed by the owner to collect the sewage at his own cost from time to time and dispose it to the nearest STP. Low water demand toilet (5litres per flush), Low volume showers and wash basins nozzles (1/3rd the conventional) and utilization of grey water for gardening shall be implemented. The GTDC should install public conveniences at locations on top priority in the locations as stated in the **Annexes 4 &5** of this report. The DRDO-developed eco/ bio toilets or equivalents should be considered for installation.

- **No extraction of groundwater**

Bore wells for water requirement of shacks and huts in private plots shall not be permitted.

- **Promote use of renewable energy**

Appropriate use of renewable energy such as solar and wind energy is recommended

- **Fire safety**

All temporary structures shall maintain a standard buffer of a minimum of 2m - 3m from huts / tents / cottages.

iv) Social considerations:

Fishing spaces along the Beach areas shall be avoided for private shacks and huts/ cottages/ tents to encourage coastal livelihood diversification. The ratio of local population to tourist population has also been compared to analyze the carrying capacity.

5.2 Procedure for considering application for shacks/ beach huts/ cottages in private areas

The owner of private property/ lessee shall submit an application accompanied by appropriate fees as prescribed by the GCZMA from time to time with the following details/ documents –

- Ownership documents / Form I-XIV / Leases Deed / Sale Deed
- Survey plan with HTL / 200 and 500m line marked on survey plan as issued by the DSLR
- Six copies of plan, elevation, section and site-plan of the proposed temporary structure (shack / huts / cottages and huts / tents / cottages) duly signed by the owner / authorized representative and a registered Architect / Engineer
- Duly filled Form-1 as prescribed in CRZ Notification, 2011
- Details of road access
- Copy of NoC / Registration issued by the local bodies / other State Government
- Consent to Establish issued by the Goa-PCB for the proposed temporary structure
- Copies, if any, of the previous permissions / NoC issued by the local authority / Government Department
- On receipt of a complete application with all documents prescribed above, a panel of registered engineers and Architects nominated by the GCZMA or its officials or expert members will conduct site-inspection and submit a technical report of the site conditions.

The said report will be placed before the GCZMA for its decision and the decision of the Authority for granting NoC / Rejection, as applicable be conveyed to the applicant. In cases where the Authority decides to grant NoC, the same will be conveyed along with four copies of the plans, duly stamped, by the engineer / authorized official of the GCZMA and Member Secretary of the GCZMA. The copies of the permission / NoC / Rejections shall also be conveyed to the GSPCB, Department of Tourism and the local body concerned.

The Authority may in cases where it feels necessary conduct inspection through the expert members for verifications / confirmation of the findings in the technical report the panel of registered engineers / Architects.

5.3 Guideline for use of beach or private area in CRZ for wedding and other recreational purposes:

- (i) While encouraging **wedding tourism**, the following guidelines are recommended. However, such activities shall not be permitted in ecologically sensitive areas -sand dunes and designated turtle nesting sites:
1. The stage set up for beach weddings should be done without use of any cement, concrete or permanent material. Use of modular steel stages which can be easily assembled and dis-assembled should be adopted.
 2. Care should be taken not to damage the vegetation of the area such as creepers and other flora.
 3. Separate bins for different types of solid wastes (source segregation of solid wastes) shall be provided by the operator. It will be the responsibility of the plot owner to dispose the waste generated from their plots to the respective bins. The municipality/ Village Panchayat or the contractor appointed by the Department of Tourism, as the case may be, shall collect waste from time to time and hand over the non-biodegradable waste to the Monitoring Cum Working Committee/ Solid Waste Management Cell of Department of Science and Technology for baling and transportation to cement plants. Solid waste to be transported to the Solid Waste Management Facility at Calangute by the Village Panchayats in North Goa whereas in South Goa it will be responsibility of the owner/ authorized representative to dispose the same by composting/biogas plant or to transport to the piggeries for the bio-degradable waste.
 4. Department of Tourism currently issues permissions for organizing **weddings on public beach area**. The same should be issued after obtaining one time approval from GCZMA for the particular locations. The Department shall ensure that such beach wedding set up does not unreasonably block the free movement of public on beaches and no permanent damage should be caused to the beach and natural surfaces such as rock formations etc. should not be altered or changed in any manner. There shall be no digging or disturbance of sand on public beaches for putting up such temporary structures. The structures on public beach areas should not remain for more than 3 days per event, and the same should be dismantled and the beach must be restored to its original condition without keeping behind any debris/residue. Cleanliness of the beaches shall be the complete responsibility of organizers when such weddings are organized on

public beach areas. Tourism Department/GCZMA shall refuse permission to organizers in case of violation of any above terms and conditions.

- (ii) The following guidelines are prescribed for setting up of **temporary structures while organizing destination weddings** within the village boundaries (surveyed land areas) within survey boundary to 200m in CRZ, the following measures are recommended:
1. The setup such as shamiana, pandal, temporary stage, food stalls and sitting arrangements shall be of purely temporary in nature, without causing any permanent damage to the environment.
 2. Proper system of scientific garbage management and disposal shall be resorted to, by providing separate bins for bio degradable and non-bio degradable waste and the entire area is maintained clean and garbage free.
 3. The noise decibel limit should be as prescribed by prevailing laws.
 4. No alteration of natural surfaces such as rocks, etc. or destruction of natural vegetation should be permitted.
 5. Encouragement to be given for tree plantation in such areas where the destination weddings are organized, and for increasing the green cover, so as to prevent surface run off and erosion in such areas where beach weddings are conducted.
- (iii) The following guidelines are prescribed for setting up of temporary structures while **organizing events by Private parties** in CRZ areas. However, such activities shall not be permitted in ecologically sensitive areas and designated turtle nesting sites:
1. The event set up generally includes stage, sound, light décor, temporary kiosks, food stall, green rooms, temporary toilets, temporary fencing, barricading, etc. While setting up the above infrastructure for such events in CRZ areas, it is recommended that the set up will be purely temporary in nature which can be easily assembled and dis-assembled. There shall be no use of cement or concrete, and landscape should not be permanently altered in any manner. Once the event is over, the land shall be restored in original condition.
 2. Permission may be given by concerned authorities to organize such events in CRZ II and CRZ III areas and plateaus / headlands located within 200 m in CRZ except areas identified as ESAs.
 3. In case special events are sought to be organized to popularize the culture, traditions and history of the State against the backdrop of archeological sites located within CRZ areas such as forts, etc., then such events shall also need prior permission from Department of Archives. No damage of any kind shall be caused to such archival monuments.
 4. Separate bins for different types of solid wastes (source segregation of solid wastes) shall be provided by the operator. It will be the responsibility of the plot owner to dispose waste generated from their plots to the respective bins.
-

The municipality/Village Panchayat or the contractor appointed by the Department of Tourism, as the case may be, shall collect waste from time to time and hand over non-biodegradable waste to the Monitoring Cum Working Committee/ Solid Waste Management Cell of Department of Science and Technology for baling and transportation to cement plants. Solid waste to be transported to the Solid Waste Management Facility at Calangute by the Village Panchayats in North Goa whereas in South Goa it will be responsibility of the owner/ authorized representative to dispose the same by composting/biogas plant or to transport to the piggeries for the biodegradable waste.

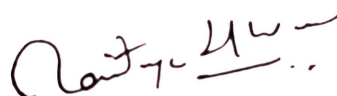
5. In case any set up involves public beach area, then prior permission from the Tourism Department shall be obtained. However, while according permission, the Department shall ensure that no inconvenience is caused to free public movement.
 6. Beach events which involve cordoning of specific beach areas should not be permitted on public beach, unless such events are organized by government departments in public interest.
 7. All norms pertaining to sound pollution and management of decibel levels shall be strictly followed and monitored. Once the event is over, the entire set up on site shall be restored to its original condition.
 8. It is recommended that the State Government identifies certain parcels of land belonging both to government/private owners and Institutions like Comunidade, etc. where such events could be organized in a regulated manner and to provide supporting facilities such as potable drinking water, electricity connection, toilet facilities, garbage disposal facilities, etc. so that the foot print of the tourists and the public attending such events is restricted only to those designated areas. While designating such areas, it should be preferably be equipped with adequate parking facilities and proper approach roads.
 9. In case of major events, the organizers should obtain prior permission from GCZMA and GCZMA shall inspect the area and convey its approval/rejection, subject to above guidelines. The event shall not be organized near ecological sensitive areas such as mangroves, sand dunes and turtle nesting sites etc.
- (iv) The following guidelines are prescribed for setting up of **temporary structures while organizing watersports activities** along the coastal areas of the State. However, such activities shall not be permitted in ecologically sensitive areas and designated turtle nesting sites:
1. Kiosks for watersports activities should not exceed an area of 20sq.m and the kiosks shall not be installed using any cement or permanent construction.
 2. The kiosks shall not be located adjacent to turtle nesting sites or sand dunes and an exact area for placing the kiosk shall be identified by a team comprising of GCZMA, Tourism Department, Capt. of ports and Coastal Police.

3. During the rainy season from 1st June to 15th September, such kiosks shall be dismantled and taken away without keeping any debris or residual matter on the public beach so as to prevent any obstruction to the natural process of sand accretion.
 4. Similarly, the Tourism Department may allow temporary sheds to store watersports equipment in public beach areas without obstructing free flow of public.
 5. Prior approval will have to be obtained from GCZMA annually for setting up of watersports sheds and kiosks on public beach areas.
 6. Permission may be rejected by GCZMA in case the watersports kiosks are found to be violating any of the above norms.
 7. Temporary sheds shall be constructed of natural material such as wood, thatched roof without any cement or concrete. The sheds shall be used by a community/association of watersport operators and permission will not be granted to any individual person.
 8. Such temporary shed permission for watersports should be denied if the presence of such temporary sheds affects the aesthetics of the area and free movement of the public. Permission should be withdrawn / cancelled in case the watersports sheds are used for any other activity other than watersports equipment. Permission for the same shall be granted only on a need basis and shall not be claimed as a matter of right.
 9. No disposal of grease/oil from watersports equipment shall be done in the sand or in seawater.
 10. The servicing of the water sports equipment shall be done without causing any pollution on the public beach area. Unusable and condemned watersports equipment shall be promptly disposed or towed away from the public beach area.
- (v) The following guidelines are prescribed for setting up of **temporary structures for Beach safety scheme**. However, such activities shall not be permitted in ecologically sensitive areas and designated turtle nesting sites:
1. Such towers may be permitted by GCZMA after undertaking proper site inspection.
 2. The towers should be used only for manning by lifeguards and their equipment and shall not be used for any other purpose.
 3. The towers shall not be located adjacent to ecological sensitive areas such as sand dunes, turtle nesting sites, mangroves, etc. a joint inspection of GCZMA and tourism officials shall be undertaken before according permission to such lifeguard towers.
- (vi) **Erection of fisherman huts** may be permitted on case to case basis after proper inspection and approval by GCZMA. However, such activities shall not be permitted in ecologically sensitive areas and designated turtle nesting sites.

Such fishing huts shall be constructed by using wood, bamboo, thatched roof without use of cement and concrete. No effluents/oil, grease should be stored within the huts and the location shall be determined and approved after a joint inspection by GCZMA, Fisheries Department and Tourism Department. Such fisherman huts shall not be used for any other activities, failing which the permission shall be revoked from the GCZMA.

- (vii) The following guidelines are prescribed for the **night bazaars/ flea markets**-
1. The event set up includes stage, sound, light décor, temporary kiosks, food stall, green rooms, temporary toilets, temporary fencing, barricading, etc. while setting up the above infrastructure for such areas in CRZ areas, it is recommended that the set up will be purely temporary in nature which can be easily assembled and dis-assembled. There shall be no use of cement or concrete, and landscaping should not be permanently allowed in any manner. Once the event is over, the land shall be restored in original condition. Permission may be given by concerned authorities to organize such events in CRZ II and CRZ III areas and plateaus / headlands located within 200m in CRZ except areas identified as ESAs.
 2. Separate bins for different types of solid wastes (source segregation of solid wastes) shall be provided by the operator. It will be the responsibility of the plot owner to dispose the waste generated from their plots to the respective bins. The municipality/ Village Panchayat or the contractor appointed by the Department of Tourism, as the case may be, shall collect waste from time to time and hand over the non-biodegradable waste to the Monitoring Cum Working Committee/ Solid Waste Management Cell of Department of Science and Technology for baling and transportation to cement plants. Solid waste to be transported to the Solid Waste Management Facility at Calangute by the Village Panchayats in North Goa whereas in South Goa it will be responsibility of the owner/ authorized representative to dispose the same by composting/biogas plant or to transport to the piggeries for the bio degradable waste.
 3. Flea markets and night bazaars shall not be organized on Public Beach area.
 4. All norms, sound pollution and management decibel levels shall be strictly followed. Once the event is over, the entire set up on site shall be restored to original condition.
 5. Adequate parking facilities and proper approach roads should be available for such markets. The event shall not be organized near ecological sensitive areas such as mangroves, sand dunes and turtle nesting sites etc.

TRUE COPY



ANNEXURE R-4

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

Appeal No. 22/2022(WZ)
(I.A. No. 66/2022 & I.A. No. 69/2022)

IN THE MATTER OF:**ALCHEMIST ASSET RECONSTRUCTION COMPANY LTD.**

Through Mr. Akshat Sharma
A-270, 1st & 2nd floor,
Defence Colony, New Delhi-110 024.

.....Appellant(s)

Versus

1. GOA COASTAL ZONE MANAGEMENT AUTHORITY

Through its Member Secretary,
4th Floor, Dempo Towers, Patto,
Panaji, Goa- 403001.

2. M/S COSTEIRO AZUL RESORTS

Through its partner Ms. Arati Menon,
H. No. 398/H-1, Tambdem,
Agonda, Canacona, Goa.

.....Respondent(s)

WITH

Appeal No. 23/2022(WZ)
(I.A. No. 67/2022)

ALCHEMIST ASSET RECONSTRUCTION COMPANY LTD.

Through Mr. Akshat Sharma
A-270, 1st & 2nd floor,
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4th Floor, Dempo Towers, Patto,
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2. M/S COSTEIRO AZUL RESORTS

Through its partner Ms. Arati Menon,
H. No. 398/H-1, Tambdem,
Agonda, Canacona, Goa.

.....Respondent(s)

Counsel for the Applicant(s):

Appellant(s) : Mr. Nikhil Nayyar, Sr. Advocate along-with
Mr. Karan Batura and Mr. Jayant Karn, Advocates

Counsel for the Respondent(s):

Respondent(s) : Mr. Abhay Anturkar, Advocate for R-1
Mr. Shivan Desai and Mr. S. Swaminathan, Advocates
for R-2

PRESENT:

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Reserved on : 23.08.2022

Pronounced on : 05.09.2022

JUDGMENT

1. This appeal has been preferred against the order dated 09.05.2022 passed by the Respondent No. 1/GCZMA under Section 5 of the Environment (Protection) Act, 1986 read with sub-rule (3)(a) of Rule 4 of the Environment (Protection) Rules 1986 and read with power vested with the GCZMA/ Respondent No. 1 vide Order S.O. 3975 (E) dated 31.10.2019 issued by the Ministry of Environment, Forest and Climate Change, Government of India, rejecting the objections dated 19.04.2022 raised by the Appellant/complainant-Alchemist Asset Company Ltd. through Mr. Akshat Sharma regarding the structures in Survey No.101/1 (part) and Survey No. 101/3 (part) at Agonda Village, Canacona Taluka, Goa, being raised

by the Project Proponent/Respondent No. 2 (M/s. Costeiro Azul Resorts).

2. In the second Appeal No. 23/2022(WZ), the same Appellant has challenged the order dated 11.05.2022 passed by the Respondent No. 1/GCZMA, granting approval for erection of "7 Twin Cottages, 1 Restaurant, 1 Reception/lounge & Open Recreational Space" on total built up area of 636.99 sq. mtrs. made of wood and/or natural/biodegradable material only in the above mentioned survey numbers to be constructed by the Respondent No.2/Project Proponent.

3. Since both the appeals are relating to the same survey numbers, these appeals are being taken up together.

4. The Appellant company is an Asset Re-construction Company which had acquired the debts from the original lenders of a company called 'Dugal Projects Development Company Pvt. Ltd.', (DPDCL) with whom are all the parcels of land aggregating 3,58,814 sq. mtrs. At Village Agonda, Canacona, Goa. The land in question on which the hotel project had to be set up, was purchased by the DPDCL in its name and it was leased to SIMA Hotels and Resorts Ltd. (SHRL) vide a lease deed dated 25.11.1987. The said land owned by DPDCL, was mortgaged by it to the lenders along-with depositing original title deeds with the lenders. The said land owned by DPDCL and mortgaged to the lenders (Appellant herein) admeasured 3,58,814 sq. mtrs. which included survey numbers in question i.e. Survey No. 101/1 and Survey No. 103/1 of the Village Agonda ('Proposed Resort

Land'). The said property i.e. Survey Nos. 101/1 and 101/3 have many co-owners as the land has not been demarcated, therefore, no co-owner is entitled to claim any specific area of land under the said survey numbers. The Appellant is the sole secured financial creditor of SHRL and DPDCL, having exclusive charge on the entire assets/properties owned by the said company including the said survey numbers in question.

5. The Appellant subsequently came to know that Respondent No. 2/Project Proponent had filed before the Respondent No. 1/GCZMA, an application dated 28.09.2017, seeking CRZ clearance for setting up temporary structures and restaurants in the "Proposed Resort Land", whereon Respondent No. 1 vide its letter dated 12.02.2018 informed the Respondent No.2 about the pre-existence of temporary structures and restaurants in the said land which had been constructed without permission and directed the Respondent No. 2 to demolish/dismantle the same by 28.02.2018. The final demolition of the said illegal structures by Respondent No. 2 was finally done in January/February, 2022. In the meanwhile, the litigation was going on with respect to the said property in respect of its title in various forums. We are not referring to the pleadings relating to the said litigation as the same is not of any significance for the purposes of the jurisdiction of this Tribunal as the title to the land in question, does not fall in the domain of this Tribunal.

6. It is further submitted that the Appellant noticed that right after the carrying out of demolition of the previous illegal structures on

the land in question, the Respondent No. 2/PP illegally began work of reconstruction almost immediately, as construction material and steel fabrication works were found lying on the said land. This work was being done without any permission, in contempt of the orders of the Hon'ble High Court of Bombay at Goa which compelled the Appellant to file a Contempt Petition No. 976 of 2022 on 26.04.2022. On the said contempt petition, notice was issued to the Contemnor i.e. the Managing Partner of the Respondent No. 2 and the Contemnor was directed to stay the construction activities. The Hon'ble High Court had also directed Respondent No. 1 to take action in accordance with law if they found any such activity contrary to law.

7. It is further submitted that in the matter of grant of permission to Respondent No. 2 along with the application for intervention filed by the Appellant, was heard by the Respondent No. 1 on 28.04.2022 and on the same day, the Appellant also made a complaint against the Respondent No. 2 before the Respondent No. 1, bringing to their notice that the new illegal construction was being carried out by the Respondent No. 2. It was contended by the Respondent No. 1 that as per the Respondent No 1's own site inspection report dated 11.11.2021, the "Proposed Resort Land" illegally occupied by the Respondent No. 2, fell within 200 mtrs. of HTL, hence, no permission of construction could be granted, it being No Development Zone (NDZ). It was also contended by him that the said

survey numbers are just few meters away from the designated turtle nesting sites which is an Ecologically Sensitive Area.

8. It was further contended that a report titled “carrying capacity of beaches for providing shacks and other temporary seasonal structures in private areas” prepared by the National Centre for Sustainable Coastal Management (NCSCM), MoEF&CC, submitted to the Government of Goa, recommended that for Agonda beach, "no additional shacks, huts/Tents/cottages should be considered as this is a designated turtle nesting site" Even as per the draft CZMP for the coastal zone of Village of Agonda, the "Proposed Resort Land" is shown in the NDZ area, abutting turtle nesting sites, right in front of the "Proposed Resort Land". But in the meeting held on 05.05.2022, Respondent No. 1 decided to reject the intervention application of the Appellant and granted the permission as applied for by the Respondent No. 2.

9. It is further submitted that the said grant of permission would lead to serious environmental degradation. The Respondent No. 2 even before passing the impugned order, began construction of permanent nature using metal fabrication in the "Proposed Resort Land", just 2 days after the Respondent No. 2 demolished and cleared debris of the earlier illegal construction erected by them.

10. It is further submitted that the proposed resort falls in No Development Zone (NDZ) 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 for permissible activities under the notification including facilities essential for activities.

11. It is further stated that the Respondent No. 1 failed to take into consideration that in this very matter for the same Respondent No. 2 for the same site, the Hon'ble High Court vide order dated 01.03.2022 in WP No. 184 of 2021 had expressed serious concerns about environmental degradation and categorically held 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."

12. It is further mentioned that it is shocking to note that the Respondent No. 1 has observed in impugned order that "mere alleged fabrication work of metal as alleged in the complaint dated 28.04.2022 cannot be considered as a construction activity" and "that placing base frames on ground does not constitute violation of CRZ Notification". The Respondent No. 1 seems to be completely oblivious of the fact that the said area abuts an Ecologically Sensitive Area, being a designated turtle nesting site. Hence, it is prayed that the impugned order dated 09.05.2022 be set aside.

13. Pleadings in the Appeal No. 23/2022 (WZ) are identical in nature. Hence, they are not being reproduced here to avoid repetition. But only this much is being mentioned that prayer is

made in this appeal to set aside the impugned order dated 09.05.2022 regarding which reference has already been made above.

Affidavit dated 19.07.2022 on behalf of Respondent No. 1/GCZMA

14. The stand of Respondent No. 1/GCZMA is that the disputes as set out in the appeal between the Appellant and the Respondent No. 2 are raised before the Hon'ble Supreme Court of India, National Company Law Tribunal and the National Company Law Appellate Tribunal, arising out of the title to the land containing Survey numbers in question. Such civil and commercial disputes fall beyond the jurisdiction and mandate of the Respondent No. 1. The answering Respondent submitted that an application dated 16.03.2022 was received from the representative of the Respondent No. 2 in respect of the proposed temporary cottages, restaurant and allied structures for tourism purpose in survey numbers in question with supporting documents which are mentioned in para 5 of the counter affidavit from a to h. Pursuant to the said application, the Expert Member of the Authority inspected the property on 23.03.2022 and vide report of the same date, recommended the proposal. Some additional details requested by the Expert Member were also furnished by the Respondent No. 2. Reference is made to the order of Hon'ble High Court of Bombay at Goa dated 23.03.2022 in Writ Petition No. 13 of 2021 wherein following was observed:

"7. The learned Advocate General states that normally issues of title etc. are usually quite irrelevant before the GCZMA. In any case and without any prejudice, the GCZMA will inform the petitioners about the receipt of

any application from respondent No. 2 seeking approvals, permissions, etc.

8. According to us, it will be quite premature at this stage itself to hold that the petitioners have some kind of an unqualified right to appear before the GCZMA and to oppose any applications that may be made in the future by respondent no. 2. Ultimately, it will be for the petitioners to apply before the GCZMA seeking intervention and such application if made, will be disposed of by the GCZMA in accord with law and on its own merits. At this stage, it will not be appropriate for us to make any further observations on this issue.

11. The limited statement made by the learned Advocate General is accepted and the GCZMA will have to act based upon the same.

12. Leave is granted to withdraw this petition with liberty as prayed for. This petition is disposed of as withdrawn. All contentions of all parties are kept open as clarified above.” [Emphasis supplied]

15. Thereafter, the GCZMA received a letter dated 18.04.2022 from the Appellant, requesting for intervention and in terms of the statement made by the Learned Advocate General before the Hon'ble High Court, the GCZMA issued notice of personal hearing dated 21.04.2022 to the Appellant. Pursuant to the complaint dated 28.04.2022, another site inspection dated 29.04.2022 was conducted by the Expert Member of GCZMA who concluded that there was no construction activity on the site of the property and Respondent No. 2 also filed an affidavit dated 28.04.2022 before the GCZMA along with photographs of the site in question to show that no construction had been undertaken without GCZMA's permission. The Appellant neither in oral nor in written submission has referred to contravention of any provisions related to the statutes or the CRZ Notification, rather the emphasis was laid by him upon the civil and commercial disputes which are pending between the Appellants and

the Respondent No. 2 before different judicial forums and hence GCZMA concluded that it had no jurisdiction to adjudicate upon the issues other than the environmental matters and accordingly, granted NOC to the Respondent No. 2, in terms of its application. The contention of the Appellant that the Respondent No. 2's property fell within 200 meters of HTL hence, no permission of construction could be granted, is in ignorance of the relevant statutory provisions and judicial pronouncements. The CRZ Notification *interalia* provides that in CRZ-III area, an area up-to 200 meters from the HTL on the landward side in case of seafront is to be earmarked as "No Development Zone (NDZ)", no construction is permitted within NDZ except for such construction activity which is categorically permitted under Regulation 8(i)(III)(A) of the CRZ Notification. The CRZ Notification has specific provisions for the State of Goa, the relevant extract of the Regulation 8(i)(V)(3) is as under:

"3. CRZ of Goa.-

In view of the peculiar circumstances of the State Goa including past history and other developments, the specific activities shall be regulated and various measures shall be undertaken as follows:-

...

(iii) purely temporary and seasonal structures customarily put up between the months of September to May:

(iiia) such structures shall not be removed and dismantled during the month of June to August:

Provided that the facilities available in these structures remain non-operational during the month of June to August.

....

(vii) the beaches such as Mandrem, Morjim, Galgiba and Agonda has been designated as turtle nesting sites and protected under the Wildlife Protection Act, 1972 and these areas shall be surveyed and management plan prepared for protection of these turtle nesting sites;

(viii) no developmental activities shall be permitted in the turtle breeding areas referred to in subparagraph (vii)."

16. It is further submitted that having regard to the Regulation 8(V)(3)(iii) and (iiia), temporary structures are permitted as a special case in the CRZ areas of the State of Goa. That issue also came up for consideration before this Tribunal in *Aleixo Arnolfo Pereira v. State of Goa and Ors.* Where-in *vide* judgment dated 17.12.2014, the GCZMA was directed to carry out a study to assess the carrying capacity of different beaches in the State of Goa, for providing such shacks and other temporary structures, in environmentally sustainable manner to protect the coastal environment which was based on the 'precautionary principle'. Accordingly, the GCZMA assigned the task to the National Centre for Sustainable Coastal Management (NCSCM), research institute under the Ministry of Environment, Forest and Climate Change (MoEF&CC), Government of India which carried out the said assessment and submitted its report.

17. The temporary structures are permitted on the beach stretches and the private properties, adjoining such public beaches, falling within CRZ areas including the "No Development Zone". The above mentioned Beach Carrying Capacity Report categorizes the CRZ area wherein temporary shacks are permitted into two –

“(i) Area 1: Beach stretches where the State Government (through the Department of Tourism) allots shacks on the beach. This area includes ecologically sensitive areas like turtle nesting sites.

(ii) Area 2: Private areas adjacent to the beach stretches (between the HTL and seaward survey boundary) that are utilized for erection of shacks and other temporary structures like huts, cottages and tents. This area is the “No Development Zone” as contemplated by the CRZ Notification.”

18. The Agonda beach (falling within Area 1) has been designated as a turtle nesting site and no shacks or beach beds on the beach stretches of Agonda are allotted. Pertinently, the property in question falls in Area 2, where the GCZMA is authorized to grant permission for erection of temporary shacks and structures subject to the guidelines laid down in the Beach Carrying Capacity Report and the judgments and orders of the Hon’ble Bombay High Court at Goa as well as of this Tribunal for Village Agonda. According to the Draft Coastal Zone Management Plan Map for Village Agonda, property clearly falls in the “No Development Zone” of CRZ-III area and not on the turtle nesting site. Accordingly, the impugned order does indicate that impugned permission dated 11.05.2022 was granted considering all the relevant facts and the appeal should be dismissed.

Affidavit-in-reply dated 12.07.2022 of Respondent No. 2.

19. It is submitted that in the affidavit dated 12.07.2022, the order passed by the Respondent No. 1 dated 09.05.2022 and permission dated 11.05.2022 are stated to be consistent with law and it is vehemently stated that there is no violation of CRZ Notification made

by the Respondent No. 1 in passing the above mentioned orders. Rest of the pleadings are nothing but repetition as they pertain to the title of the land as well as litigation relating thereto which need not be mentioned here.

Affidavit in rejoinder dated 21.07.2022 on behalf of the Appellant

20. From the side of the appellant, rejoinder affidavit dated 21.07.2022 has been filed, reiterating the same version which was mentioned by him in earlier affidavit and rebutting the case of the Respondent Nos. 1 & 2 taken in defence. We are not reproducing the same in detail rather only relevant arguments made by the Learned Counsels for the Appellant as well as the Respondents, would be referred for the sake of brevity.

21. On the basis of pleadings, this Tribunal has to decide following points:

- (i) Whether the Survey No. 101/1 and Survey No. 101/3 at Agonda Village, Canacone Taluka, Goa fell in Eco-Sensitive Zone, covered under CRZ-I, CRZ-II or CRZ-III and whether the permission of any kind of construction can be granted over such property?
- (ii) Whether the structures, for construction of which the permission has been granted by the Respondent No. 1 to Respondent No. 2, would fall in the category of temporary and seasonal construction of structures and whether permission for

raising such kind of construction can be given by Respondent No. 1 in the area in question.

(iii) To what relief, the Appellant is entitled?

22. Finding on Issue No. 1: It has been argued by the Learned Counsel for the **Appellant** that the Respondent No. 1/GCZMA in its 193rd Meeting held on 21.02.2019 has opined as below:

“Therefore, exercising the precautionary principle to conserve the unique ecology of beaches and also to prevent overcrowding of beach areas, Authority is of considered opinion that NO new applications for huts/shacks/tents/cottages in private properties/hotels along the beach area (0-200 mtrs. from HTL) is to be accepted and processed by GCZMA till the finalization of CZMP by the State Government.”

23. Having pointed out above extract, it is argued by him that as per its own policy, the Respondent No. 1 should not have allowed any construction even of huts/shacks/tents/cottages within 0-200 mtrs. from HTL till the finalization of CZMP nor any application should have been entertained in that regard but they have violated this policy themselves by allowing the application of the Appellant for raising construction of the huts/restaurants etc. mentioned above.

24. He has also drawn attention to Annexure ‘C’ to the said report of 193rd Meeting of the GCZMA which is a photograph and indicated there-in the iron rods etc. stacked there and argued that the said area is very close i.e. within 200 meters from the HTL which falls in NDZ and it is also very close to turtle nesting site, hence no construction could be permitted and also emphasised that the said

area is within 200 mtrs. of HTL, as is admitted to the Authority/Respondent No. 1.

25. Then, he has drawn attention to the Beach Carrying Capacity report at page no. 489 of the paper book at internal page 63 wherein in respect of Agonda, recommendation is made that *“Rural, Medium intensive use, low-infrastructure area. No additional shacks, huts/Tents/cottages should be considered as this is a designated turtle nesting site.”*

26. Having cited the above reference of the Beach Carrying Capacity report, it is vehemently argued by the Learned Counsel that despite the above recommendation in the said report, the Respondent No. 1 went ahead with entertaining the application of the Respondent No. 2 for construction of “7 Twin Cottages, 1 Restaurant, 1 Reception/lounge & Open Recreational Space” and other structures which is a violation of the said recommendations.

27. Further, it is argued by him that by no stretch of imagination, can such a huge construction be treated to be of temporary nature.

28. Then, he has drew attention to page no. 599 of the paper book which contains the plan of construction which has been permitted to be raised by the Respondent No. 2 and specifically has drawn attention to the references made of pre-fabricated bio-digester units, steel section/girder/rafter etc. which all would be used for raising the construction in question and pointed out that the use of steel and material of that nature would indicate that the construction

which has been permitted to be done is of permanent nature and not temporary/seasonal nature, which is a violation of the CRZ Notification, 2011. Then, he drew attention to page 613 and 614 of the paper book which relates to the inspection report made by the GCZMA and drew attention to entry at serial no. 5 wherein in front of the entry, survey plan with superimposition of HTL 200-500 mtrs. line and the proposed structure in front of that, is mentioned, 'not enclosed' and at page no. 614 at sr. no. 2, it is recorded that 'DSLR plans showing HTL 200 mtrs. line and 500 mtrs. line to be submitted' and at the bottom of recommendation column, it is recommended that NOC for proposal is recommended subject to above compliances and Beach Carrying Capacity.

29. Having drawn attention to the above, it is argued that this NOC has been granted to them without enclosing the survey plan with superimposition of High Tide Line and the NOC was subject to the filing of the same along-with the Beach Carrying Capacity but all this has been violated.

30. He has drawn attention to the site inspection report at page no. 664 conducted in respect of the Agonda beach wherein following observation and conclusion is recorded;

“Observation:

Fabricated base frames made of steel tubes with 8.00 m width and 6.40 m length consisting of 5 tubular members are found on site. These base frames, altogether seven in number, resembling the layout/pattern of twin-type cottages, are seen placed over the area of the demolished/dismantled plinth of the old cottages. These frames are not embedded into

the ground. In addition, some steel tribes, pipes etc. are seen kept on the ground of the site with welding units. No construction or any other activity was noted on the site at the time of inspection. Photographs taken during inspection are attached herewith, that would enable to visualise the site position.

Conclusion:

There was no construction activity going on at site at the time of inspection, and, in my considered opinion, the aforesaid activity (of placing of base frames on the ground) does not constitute violation of CRZ Notification. However, Authority may deliberate and decide on the matter.”

31. Having pointed out above, it is vehemently argued that the said observation and conclusion clearly shows that the Respondent No. 1 has not considered the finding of fabricated frames made of steel tubes in the building unit to be objectionable as that would indicate the nature of construction to be of permanent kind and it has been wrongly held in conclusion that the same does not constitute the violation of NDZ Notification.

32. The Learned Counsel for the Appellant has further argued that it was the policy of the Respondent No. 1/Authority not to consider any application where there is litigation going on among the parties, which decision was taken in one of its meetings, but even there being such a policy, there being dispute of title existing between the parties, the Respondent No. 1 went ahead to grant permission to Respondent No. 2/PP to raise the construction on the disputed survey numbers.

33. Further, the Learned Senior Counsel for the Appellant has drawn attention to page no. 545 of the paper book which is part of the

Beach Carrying Capacity report in which Agonda turtle nesting site is shown located in whole of Survey No. 101 hence the same includes the present survey number in question.

34. In rebuttal, the Learned Counsel for the **Respondent No. 1** has drawn attention to page no. 416 of the 218th pertaining to Meeting of the Goa Coastal Zone Management Authority (GCZMA), wherein following is observed;

“As regards the other request to modify Clause 25 of the Shack Policy to be read as “the beach shack shall be erected out of eco-friendly material like bamboos/wooden poles with thatched palm leaves/thatched bamboo mat roofing as far as possible. However, in case of paucity of wood the same may be erected out of the other modern materials like steel, synthetic, nylon fabric etc., for the purpose of framework due to unpredictable weather conditions”. This request for modification was approved by the Authority as the Beach Carrying Capacity report permits the use of such material and usage of the same would not be environmentally benign as it would also ensure stability of the shack and safety of the people who visit the same.”

and having pointed it out, it is argued that even modern materials like steel, synthetic, nylon fabric etc. may be used for the purposes of framework due to unpredictable weather conditions and that the Beach Carrying Capacity report also permits the use of such material as the uses of the same would not be environmentally benign and it would also ensure the stability of the shack.

35. Then, he drew our attention to the Beach Carrying Capacity report at page no. 448, relevant para 1.3.10 which quoted herein below;

“These are temporary structures built on surveyed plots for providing inexpensive accommodation to tourists. Huts are mainly made of bamboo poles with a thatched roof, similar to that of the shacks. Cottages are made up of wood and other temporary structural frameworks whereas tents are basically pitched out of cloth or canvas material and have basic amenities for tourists to stay. They are generally arranged in a linear pattern, with semi-open verandah in front with a sloped roof; stilt type of construction is also adopted in some places. The huts usually measure 3m by 4m. The height of the structure is restricted to 5.5m. The provision of toilets facilities for these huts can be common for a group or individual (attached) depending on the plot owner.”

36. Having drawn attention to it, it is argued by him that it is this kind of huts which have been permitted to be constructed with the aid of bamboo poles and thatched wood which is permissible.

37. Then, he has drawn attention to page no. 500 of the report which deals with the type of material to be used which is as follows:

“Shacks, huts, tents, cottages and huts/ tents/ cottages in private areas shall be erected using eco-friendly materials such as bamboos/wooden poles with thatched palm leaves/ thatched bamboo mat roofing as far as possible and for structural support wherever required GI-pipes / mild steel framed structures could be permitted. However, in case of paucity of wood the same may be erected out of the other modern materials such as synthetic, steel, nylon fabric etc. for the purpose of frame work due to unpredictable weather conditions. However the same shall not exceed 30% of the total material required. Use of concrete is banned. Grouting, plastering, laying of PCC/ RCC on the floor/ structure/ digging of soak pits/ digging and laying of pipes/ metal staircases grouted in cement etc. shall not be permitted as per the guidelines issued by the GCZMA.”

38. Having pointed it out, it is argued by him that for structural support, the GI pipes/ mild steel framed structures are permitted to be used for raising the construction. Hence, it cannot be held that

the impugned permission is given for permanent structure rather the same would be treated to be of temporary nature.

39. The Leaned Counsel for the Respondent No. 1 has also drawn attention to the Notification of MoEF&CC dated 03.05.2017 which has brought amendment in the notification of 06.01.2011 (CRZ Notification, 2011).In clause 3 relating to CRZ Goa, following amendment has been inserted;

(ii) in clause 3 relating to CRZ of Goa, after item (iii), the following item shall be inserted, namely:-

“(iiia) such structures shall not be removed and dismantled during the month of June to August:

Provided that the facilities available in these structures shall remain non-operational during the month of June to August”.

40. This amendment has been pointed out by him in order to show that the permission which have been granted to raise the structures would though be treated to be temporary but they would not be ordered to be dismantled during the months of June and August under the above cited provision.

41. Most importantly, he has argued after drawing attention to page no.690 of the paper book, which is a draft CZMP, wherein Survey No. 101 is indicated, below which there are survey nos. 1 & 3 shown, to the right side of the said survey, is shown by green dotted line, 200 mtrs. CRZ line and hence, it is argued by him that this would fall in CRZ-III NDZ area and to the left of the said survey number, there is shown turtle nesting ground and argued that the same is far away from the said survey number. Therefore, it cannot

be said that the survey numbers in question are turtle nesting ground. Hence, the permission could have been granted for raising the construction in the said survey numbers.

42. The **Respondent No. 2/PP** has made the same arguments which were made by the Respondent No. 1 and justified the granting of permission to raise the construction and in addition to the arguments made by the Respondent No. 1, he has relied upon the Judgment of Hon'ble High Court of Bombay at Goa in *PIL Writ Petition No. 04 of 2018 (Goa Foundation v. Panchayat of Morjim)*- Decided on 17.09.2019. Relevant paragraph is quoted herein below;

144. A perusal of the record further indicates that State of Goa under enabling powers conferred upon it under 1991 CRZ Notification prepared Goa CZMP thereby identifying and classifying various CRZ areas. The plot of the respondent no. 7 was classified in CRZ-III under the 1991 CRZ Notification read with the Goa CZMP AND RPG-2021. The said classification, in our view, by the State of Goa is binding on all the authorities. Under 2011 CRZ Notification with regard to CRZ of Goa, special provision is made. Regulation 8(V) 3(vii) clearly provides that management plan has to be prepared for protection of the turtle nesting sites at Mandrem, Morjim, Galgibag and Agonda. It is not in dispute that provisional turtle plan for Galgibag is already prepared. The said turtle plan for Galgibag provides for short term and long term recommendations for the conservation and protection of turtle nesting sites.

145. Regulation 8(V) 3(viii) clearly provides that no development activities shall be permitted in the said turtle nesting sites. The purpose of preparing Turtle Management Plan is that the turtle nesting sites are fully protected and remain undisturbed and accessible to turtles. Such sites area to be protected and remain undisturbed and accessible to turtles. Such sites area to be protected from intrusions and obstructions affecting turtle nesting. The respondent no. 7 does not fall in CRZ-I areas. Mr. Mehta, learned counsel for the respondent no. 7 is right in his

submission that by preparing a Turtle Management Plan for protection of the turtle nesting sites, the said plan cannot alter/amend/override/abrogate the provisions of the CRZ Notification or the CZMP.

146. A perusal of Regulation 8(V) 3(viii) clearly indicates that the said provision does not apply to the lands falling in CRZ-III areas. Under the said Regulation, development activities in CRZ-I areas and more particularly on turtle nesting sites are prohibited. The said turtle management plan is required to be prepared by the Forest Department under the Wildlife Protection Act, 1972. We have perused the report dated 26.09.2018. A perusal of the said affidavit clearly indicates that a new Goa Coastal Zone Management Plan is proposed to be prepared by the National Centre for Sustainable Coastal Zone Management, Chennai. A perusal of the said report indicates that the designated turtle nesting site is only the limited stretch of area of CRZ-IA at the mouth of the river. The draft map attached or order issued does not indicate this demarcation. We do not find any Notification or order issued by any of the authorities designating the entire Morjim beach as a turtle nesting site.

43. We do not have any quarrel with the law which has been stated above and are of the opinion that the said Judgement would not help the case of the Respondent No. 2. As far as the raising construction on the impugned survey numbers is concerned, the same being located in NDZ area.

44. We would like to rely upon the Judgment laid down by the Hon'ble Apex Court in *Purushottam Das Bangur & Ors. Versus Dayanand Gupta in the case of Civil Appeal No. 7710 of 2012, decided on October 31, 2012 [(2012) 10 SCC 409]*, the relevant paragraph is quoted herein below:-

“20. To sum up, no hard-and-fast rule can be prescribed for determining what is permanent or what is not. The use of the word “permanent” in Section 108(p) of the Transfer or Property Act, 1882 is meant to distinguish the structure from what is

temporary. The term "permanent" does not mean that the structure must last forever. A structure that lasts till the end of the tenancy can be treated as a permanent structure. The intention of the party putting up the structure is important for determining whether it is permanent or temporary. The nature and extent of the structure is similarly an important circumstance for deciding whether the structure is permanent or temporary within the meaning of Section 108(p) of the Act. Removability of the structure without causing any damage to the building is yet another test that can be applied while deciding the nature of the structure. So also the durability of the structure and the material used for erection of the same will be help in deciding whether the structure is permanent or temporary. Lastly, the purpose for which the structure is intended is also an important factor that cannot be ignored.

21. Applying the above tests to the instant case the structure was not a temporary structure by any means. The kitchen and the storage space forming part of the demised premises was meant to be used till the tenancy in favour of the respondent occupant subsisted. Removal of the roof and replacement thereof by a concrete slab was also meant to continue till the tenancy subsisted. The intention of the tenant while replacing the tin roof with concrete slab, obviously was not to make a temporary arrangement but to provide a permanent solution for the alleged failure of the landlord to repair the roof. The construction of the passage was also a permanent provision made by the tenant which too was intended to last till the subsistence of the lease. The concrete slab was a permanent feature of the demised premises and could not be easily removed without doing extensive damage to the remaining structure. Such being the position, the alteration made by the tenant fell within the mischief of Section 108(p) of the Transfer of Property Act and, therefore, constituted a ground for his eviction in terms of Section 13(1)(b) of the West Bengal Premises Tenancy Act, 1956.

22. We may at this stage refer to the decision of this Court in Ranju v Rekha Ghosh" where this Court found that cutting of a collapsible gate by 5/6" and replacing the same without the consent and permission of the landlord was tantamount to violation of Section 108(p) of the Transfer of Property Act read with Section 13(1)(b) of the West Bengal Premises Tenancy Act, 1956. It is thus immaterial whether the structure has resulted in creating additional usable space for the tenant who

carries out such alteration and additions. If addition of usable space was ever intended to be an essential requirement under Section 108(p) of the Act, Parliament could have easily provided so. Nothing of this sort has been done even in Section 13(1)(b) of the State Act which clearly shows that addition of space is not the test for determining whether the structure is permanent or temporary.

45. It is apparent from the above that we should also gather intention of the Project Proponent who is going to raise construction, in order to reach the conclusion whether the construction is of permanent nature or temporary. Here in the present case, the intention of the Respondent No. 2 is to raise construction of a hotel consisting of 7 Twin Cottages, 1 Restaurant, 1 Reception/lounge & Open Recreational Space etc. which is a huge construction which also is not to be demolished for any duration. Therefore, intention would lead us to believe/conclude that the said construction was going to be of permanent nature.

46. On the basis of above rival submissions, we are of the view that in the present case, Regulation 8 of CRZ (V) sub clause (iii) would be applicable which provides as follows;

“(iii) In CRZ-II areas-

The development or redevelopment shall continue to be undertaken in accordance with the norms laid down in the Town and Country Planning Regulations as they existed on the date of issue of the notification dated the 19th February, 1991, unless specified.

.....

3. CRZ of Goa.-

(iii) purely temporary and seasonal structures customarily put up between the months of September to May;”

47. The above kind of temporary and seasonal structures only are permissible under CRZ of Goa and therefore, we are of the view that the kind of material which has been allowed to be used of steel and pre-fabricated material, would tend to indicate that the construction is of permanent nature. Moreover, it has also been pointed out by the Learned Counsel for the Respondent No. 1 that the same would not be removed/dismantled even for the months of June to August. Therefore, he did admit that they will be allowed to be continued. Therefore following precautionary principle, it would be appropriate for us to not allow this kind of construction to be raised in ecologically sensitive area which are very close to the place of a turtle nesting ground as is apparent from the evidence on record. The kind of construction which has been permitted, is very huge as is apparent from the plan approved by the Respondent No. 1. The plea taken by the Respondent No. 1 that it is within their jurisdiction to grant this kind of permission, we do not agree to the said argument because at the most, temporary structure which would have used only bamboo or wood for construction purposes, could have been allowed to be used. Even if some policy has been brought into force by the GCZMA, permitting use of steel or pre-fabricated material, the same does not appear to be sound policy, which would also need revision on the part of the GCZMA.

48. It would also require to be taken note of that the construction which have been permitted to be raised are on the same survey numbers which were earlier ordered to be demolished by the GCZMA

and that order when challenged, was finally upheld up to the level of Hon'ble High Court and it was only after the invention of the Hon'ble High Court, going to the extent of invoking contempt jurisdiction, that the said offending structures had to be removed/dismantled. It is very strange that GCZMA/Respondent No. 1 has permitted the constructions almost of the same kind to be raised on the same pieces of land. We hold that the permission for raising the impugned construction could not have been given, the same being NDZ. This issue is decided accordingly.

49. Finding on Issue no. (ii) : Consequently, we are of the view that the impugned construction which has been allowed, would not fall in the category of temporary construction, rather the same would fall in the category of permanent structure. We decide this issue no. (ii) accordingly.

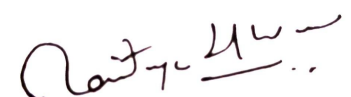
50. Finding on Issue no. (iii): We are of the opinion that both the appeals deserve to be allowed and impugned orders dated 09.05.2022 and 11.05.2022 deserve to be set aside and are accordingly set aside. There shall be no order as to cost.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 05, 2022
 Appeal No. 22/2022(WZ)
 (I.A. No. 66/2022 & I.A. No. 69/2022)
With
 Appeal No. 23/2022(WZ)
 (I.A. No. 67/2022)
 P.kr

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Photographs showing villas, swimming pool and other permanent structures erected on Sy. No. 158/1, Calangute village, dt. 24.11.2022. Plot boundary outlined in red.

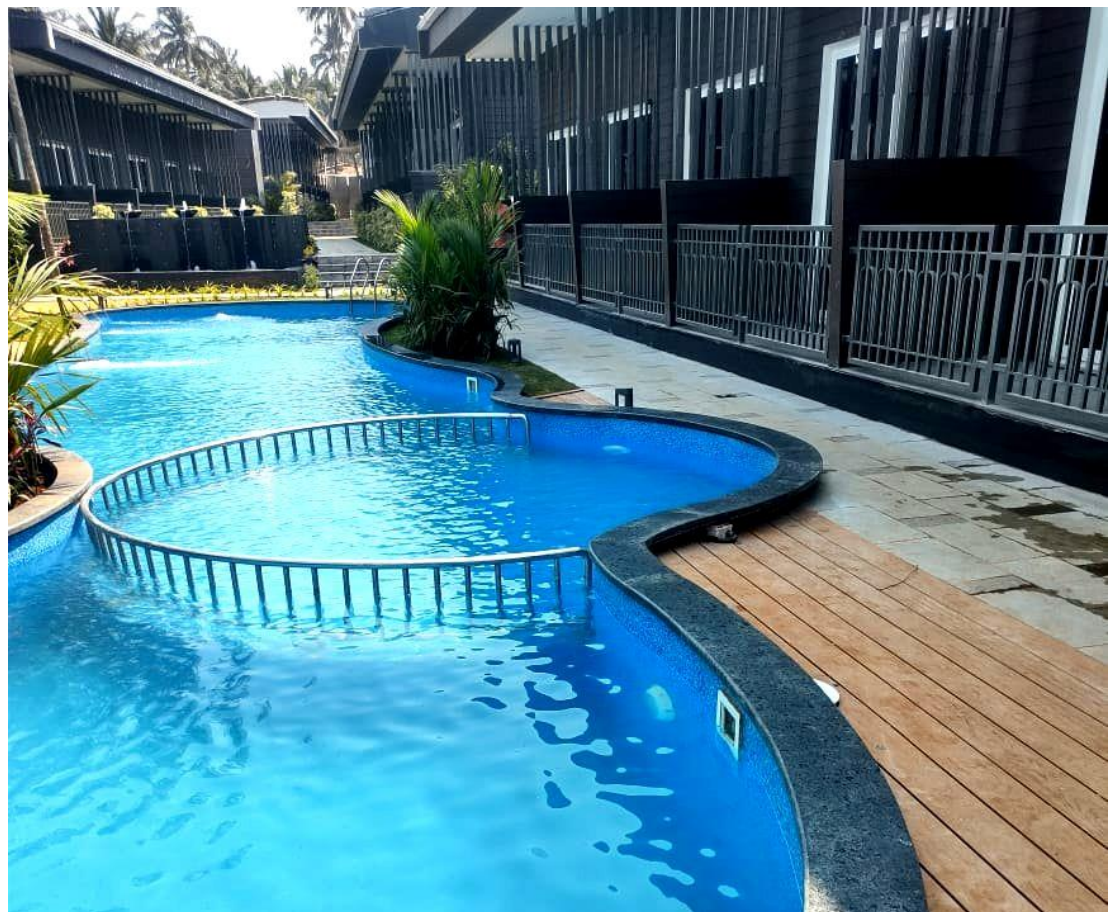


**Photographs dt. 03.03.2023 of structures at Sy. No. 158/1,
Calangute village, Bardez Taluka.**

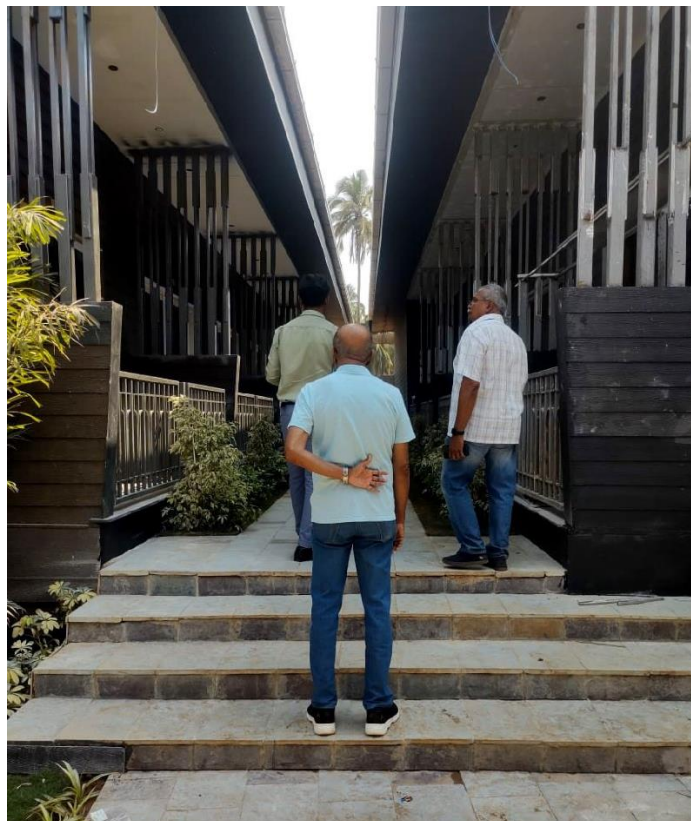
Large metal gate & overhead metal beams seen at property entrance.



Swimming pool and huge villas seen.



Close up photographs of villas – some completed, some under construction. Marble and granite flooring, metal railings seen. GCZMA NOC permits only ground floor structures.



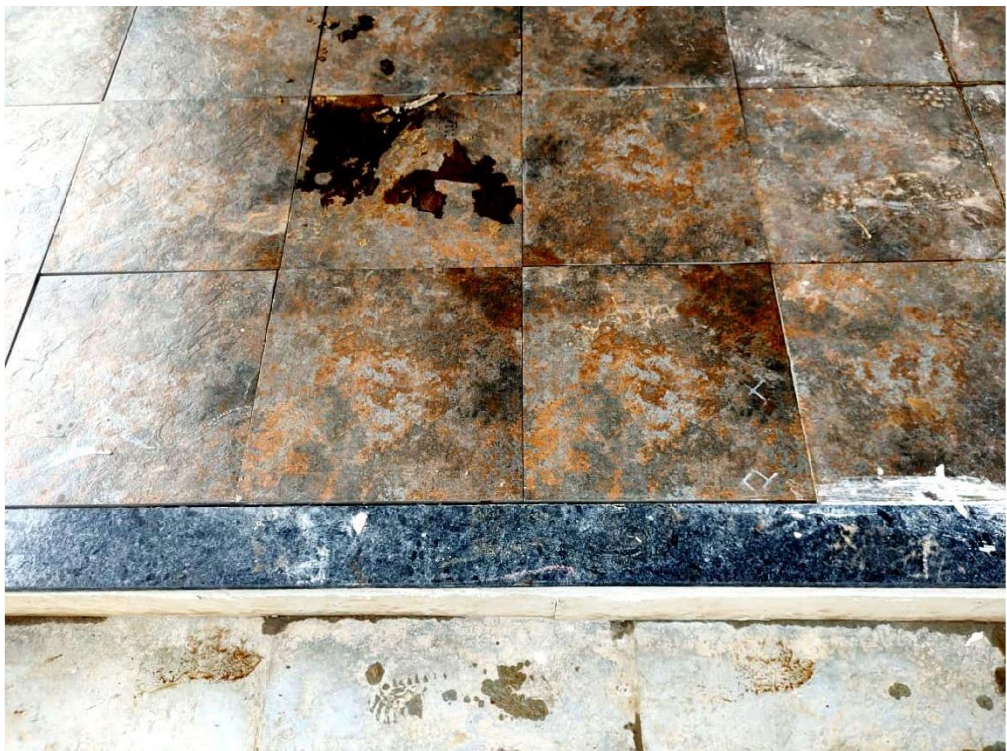
Permanent villa with roofing, metal beams seen. Granite/marble water fountain arrangement and concrete steps also present.



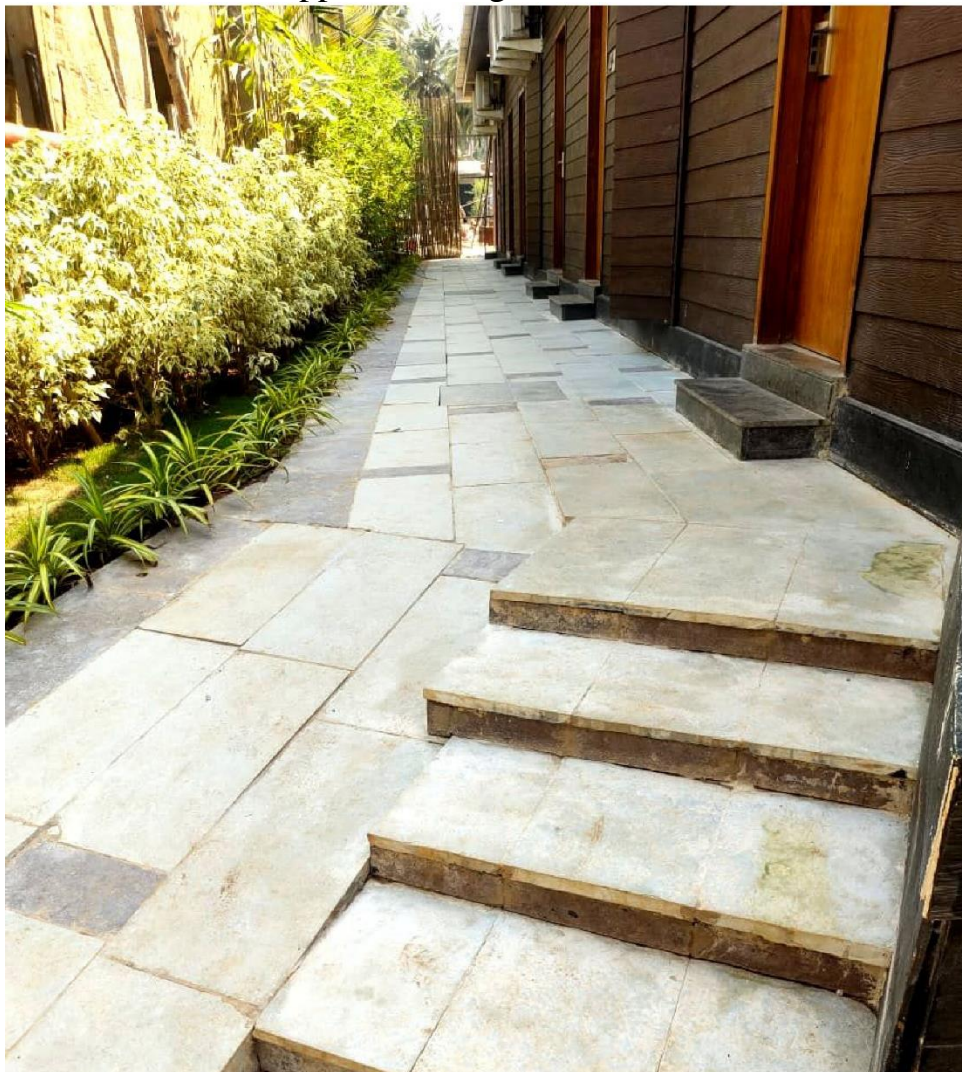
Foundation of villa structures seen to be made of cement.



Porch of the villas is of stone and marble, and has metal railings.
Outside, marble and tiled flooring of the walkway observed.



Tiled walkway around the villas. ACs seen attached to villas. Foundation here appears to be granite, marble and/or cement.



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Anty 44