

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

Appeal No. 29/2023(WZ)

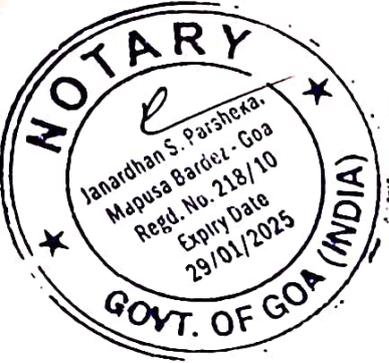
M/s. Riva Resorts Private Limited

...Appellant

Versus

GCZMA & ors.

...Respondents



**AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT**

**NO. 3**

I, Mr. Tousif Ahamad Rafikahamad Momin, major of age, resident of Flat No. 506, Gera Astoria, Behind Harley Davidson Showroom, Caranzalem, Goa- 403002, do hereby on solemn affirmation state and submit as under:

1. I say that I have received, read and understood the contents of the afore-captioned Appeal in response to which I am pleased to state and submit as under.
2. At the outset I say that nothing in this reply should be deemed as an admission of any of the averments made by the Appellant unless any statement has been specifically admitted herein.

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3. I say that the Appeal filed by the Appellant is misconceived and as such deserves to be dismissed in limine.
4. With reference to para 4 of the Appeal the contents thereof are denied for the manner in which they are stated. It is denied that the Impugned Order has been rendered in blatant violation of principles of natural justice inasmuch as the primary defence raised by the Appellant to establish the legality of the Impugned structures viz. the P.T. Sheet Plan prepared prior to the promulgation of the new survey reports during the year 1970-1972 maintained by the Directorate of Settlement and Land Records, Government of Goa has not even been considered or dealt with, much less rejected on legal grounds.
5. With reference to para 5 of the Appeal it is categorically stated that the plea adopted by the Respondent No.3 herein/original Complainant has been sought to be misinterpreted by the Appellant herein. It is entirely incorrect to state that it was a common objection raised by the Appellant as well as the Respondent No. 3 herein/the Original Complainant that the site inspection report in question does not correctly depict the actual structures



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existing at loco and as such a fresh site inspection needs to be carried out.

In this context, it may be noted that as apparent from the records, the Respondent No. 3 herein/ original Complainant before the CRZ Authority dated 27/04/2023 spelled out that in the year 2013 while the Hon'ble Supreme Court vide Order dated 04/03/2013 and 01/04/2013 passed in Civil Appeal No. 1823/2013 was pleased to direct the parties to maintain status quo, admittedly there were only seven structures at loco.

The said orders of status quo passed by the Hon'ble Supreme Court protecting the seven structures were misused by the Appellant herein as a *carte-blanche* to construct more structures in brazen disregard to law and thereafter plead before the CRZ Authority that it would have no jurisdiction to Act against the said construction as the matter was pending before the Hon'ble Supreme Court.

It was the case of the original Complainant/ Respondent No. 3 herein, as apparent from the Complaint dated 25/05/2022 as well as the reply dated 27/04/2023,



that even after the last site inspection carried out on 03/11/2020, there was further construction at loco.

It is stated that the plea for a fresh site inspection on behalf of the Respondent No. 3/ Original Complainant was made in the context of the specific defence taken by the Appellant herein that since the said structures were subject matter of the Special Leave Petition pending before the Hon'ble Supreme Court, the CRZ Authority had no jurisdiction to entertain the Complaint as was filed by the Respondent No. 3 herein/ Original Complainant.

The said plea of the Complainant/Respondent No. 3 herein therefore cannot be misinterpreted to mean that the proceedings could not continue in the absence of a fresh site inspection.

6. With reference to para 6 and 7 of the Appeal though it is admitted that the Complainant/ Respondent No. 3 herein filed preliminary objections restricting itself to the maintainability of the proceedings before the GCZMA, it is however an entirely false statement on oath to say that no submissions were advanced by either side on the merits of the matter and/or without considering the primary



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defence of the Appellant on merits which is founded on the P.T. Sheet Plan. It is categorically stated that the Reply as filed by the Appellant herein before the CRZ Authority would made apparent that exhaustive pleadings were made justifying the illegal constructions as carried out by the Appellant herein, and the records would bear that the matter was infact argued by the Appellant on merits of the case. The Appellant has therefore resorted to making false statements to make out a moonshine case of breach of principles of natural justice, which is infact contrary to the records in the matter.

7. With reference to para 8 of the Appeal the contents thereof are categorically denied for the manner in which they are stated. With reference to the averment made in the said para it may be noted that the Survey Numbers appearing in the complaint dated 25/05/2022 was a clerical error. It may be categorically noted that though the Complainant/ Respondent No. 3 herein had originally filed a complaint before the GCZMA dated 25/05/2022 alleging illegal construction by the Appellant herein, M/s. Riva Resorts Private Limited wrongly mentioning the Survey Nos. as



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274/3 and 277/2. However, subsequently vide communication dated 30/05/2022 the Complainant addressed another communication to the GCZMA pointing out that there was a typographical error in complaint dated 25/05/2022 due to which the Survey No. 273/3 was inadvertently stated as 274/3 which may be accordingly read in the Complaint dated 25/05/2022. In the complaint dated 30/05/2022 it was stated that illegal construction was carried out by M/s. Riva Resorts Private Limited in properties bearing Survey No. 273/3 and 277/2 of Village Mandrem-Goa.

Moreover, the show cause notice as issued against the present Appellant also stated that detailed mapping of the structures was carried out in Survey No. 273/3 of Village Mandrem of Pernem. The said show cause notice dated 22/02/2023 further pointed out that the ISLR of Pernem Taluka carried out site inspection of Survey No. 273/3 of Village Mandrem and also done detailed mapping of site and submitted a report of mapping before the Authority dated 03/11/2020 and on perusal of which it was noted that there were several additional structures erected beside the



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seven original structures which were ordered to be demolished.

Additionally, in the reply that was filed to the said show cause notice extensive reference was made to the structures being constructed in Survey No. 273/3 of Village Mandrem and so also plans were produced by the Appellant of property bearing Survey No. 273/3 justifying the legality of the construction put up by him.

Hence it was apparent that the Appellant was fully aware that the subject proceedings concerned the illegal construction put up by him 273/3 and therefore it is today rather preposterous to argue that that show cause notice was issued in respect to a different property and that there was no site inspection report or site plan prepared in respect of Survey No.273/3 and 277/2 which was an apparent typographical error in one place in the show cause notice dated 23/03/2023.

Annexed hereto and marked as  
**ANNEXURE R3-1** is a copy  
communication dated  
30/05/2022.



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8. With reference to para 9 of the Appeal the contents thereof are categorically denied for the manner in which they are stated. It is categorically denied that the plan prepared to depict illegal structures in Survey No. 273/3 did not provide any measurements regarding area, extent, dimensions, etc of the Impugned structures and that such plan is in the breach of the directions issued by this Hon'ble Tribunal in *Fransisco Francis Rodrigues vs. GCZMA and ors.* (Appeal No. 35/2022 (wz) decided on 19/04/2023.

It is categorically stated that that plan prepared by the ISLR was to the scale of 1:1000 clearly depicting all the structures existing at loco. A comparison of the said inspection report as compared with the inspection report dated 24/07/2012 as produced by the Appellant at page 136 of the Appeal memo would itself show the extensive development caried out by the Appellant following the status quo order passed by the Hon'ble Supreme Court of India. The said ground raised by the Petitioner therefore that the site plan did not provide any measurements regarding the area, extent dimensions therefore is completely misconceived and the Appeal filed deserves to



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be dismissed in limine. It is therefore categorically denied that the entire show cause proceedings have been botched up without basic compliances such as issuance of proper show cause notice and conduct of proper site inspection report and site plan as mandated by law.

9. With reference to para 12 and 13 of the Appeal the contents thereof are categorically denied for the manner in which they are stated. It is categorically denied that there were several structures existing in the said property which were originally used by the Naik joint family for their residence as well as other commercial activities. It is categorically denied that all such structures were constructed prior to coming into force of CRZ Regulations on 19/02/1991. It is categorically denied that the said structures were constructed and in existing prior to promulgation of Survey record in the year 1971-72. It is stated that the google images as were produced by the Complainant along-with the affidavit dated 27/04/2023, the genuineness of which was not disputed by the Appellants would show that there were no structures existing at loco even as recent as 2023 prior to the said property being purchased by the present

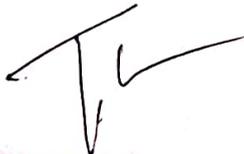


Appellant. The extensive development over years can be clearly seen from the photographs produced of the year 2013, 2018 and 2022. It is therefore categorically denied that there were any structures existing at the subject properties prior to coming into force of the CRZ Regulations.

It is categorically denied that the several existing structures were not depicted in the Survey Plan prepared due to the error of the officials who carried out the survey in the year 1971-72. It is further denied that the existence of the Impugned structures were only made out from other contemporaneous maps/ plans maintained by DSLR, more particularly the P.T. Sheet Plan of Mandrem Village.

10. With reference to para 14 of the Appeal the contents thereof are denied for the manner in which they are stated. It is denied that the Appellant was unaware of the P.T. Sheet Plan and that the Appellant realised the same for the first time in or around the year 2022 pursuant to the inquiries/investigation of land records.

11. With reference to para 16 of the Appeal it is stated that the show cause notice dated 23/10/2009 was restricted to seven



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structures as at the relevant time there were only seven structures existing in the entire Survey No. 273/3 of Village Mandrem and it cannot be urged that there were more structures other than the said seven structure existing at loco during the relevant time as is apparent from the proceedings itself initiated on the basis of show cause notice dated 23/10/2009 and demolition Order dated 26/06/2012.

12. With reference to para 17 and 18 of the Appeal the contents thereof are a matter of record.

13. With reference to para 19 of the Appeal it is stated that though there was some contractual relation between the Respondent No.3 and the Appellant herein in the past, which has also resulted in a litigation with the Director of the Appellant company bearing Commercial Suit No. 23/2021/A before the Commercial Court, Mapusa and Commercial Appeal bearing No. 7/2022 before the Commercial Appellate Court, Mapusa. It is however categorically denied that the Respondent No.3 has filed a false and frivolous complaint with a sole intention of settling personal score without genuine environmental



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concern. It is apparent that in a desperate attempt to defend illegal construction, the Appellant is taking every technical objection under the sky while glossing over the crucial matters including showing the legality of construction carried out by him more particularly in breach of the status quo orders passed by the Hon'ble Supreme Court of India dated 04/03/2012 and 01/04/2013.

14. With reference to para 20 and 21 of the Appeal the contents thereof are a matter of record.

15. With reference to para 22 and 23 of the Appeal it is stated that a clear attempt is being made to mislead this Hon'ble Tribunal on facts and the concerned subject property over which the disputed structures have been constructed. Firstly, it is stated that the complaint filed by the present Respondent as well as the show cause notice dated 23/03/2023 both relate to construction carried out by the Appellant in Survey no. 273/3 and not in respect of Survey No. 274/3 or 277/2. It is stated that the Appellant was throughout aware that the proceedings were infact in relation of the structures existing in Survey No.273/3 and therefore the Appellant today cannot be permitted to raise



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such frivolous technical objections that the site inspection has been carried out in respect of Survey No. 274/3 or 277/2 or that the Complaint dated 25/05/2022 and show cause notice dated 23/03/2023 relate to the said survey numbers.

It is categorically denied that no show cause notice was issued to the Appellant with respect to any illegalities in Survey No. 273/3. It is stated that a perusal of the said show cause notice would disclose that extensive reference has been made to the construction carried out by the Appellant in Survey No. 273/3 including making available the inspection report which marked the exact area, dimensions and extent of the illegal structures existing in the said property.

16. With reference to para 24, 25 and 26 of the Appeal the contents thereof are a matter of record.
17. With reference to para 27 to 32 of the Appeal the contents thereof are specifically denied for the manner in which they are stated. It is stated that the Appellant is systematically trying to mislead the Tribunal about the proceedings held before GCZMA and today again trying to resort to



falsehood while not addressing the legalities of the structure as constructed by him.

Firstly, it ought to be noted that the voluminous reply filed by the Appellant before the GCZMA dated 04/04/2023 extensively dealt with not only preliminary objections but also on the merits of the case including detailed reply justifying the legality of each of the structures. Therefore, it is firstly entirely misconceived to state that the matter was urged before the GCZMA only on the point of maintainability and not on the merits of the case.

Insofar as the stand taken by the Respondent No. 3/Original Complainant is concerned as apparent from the record it is reiterated that the plea for fresh site inspection was made in the context on the stand taken by the Appellant herein that the structures existing at loco were all subject matters of proceedings before the Hon'ble Supreme Court of India in Civil Appeal No. 1823/2013 in which there were orders of status quo dated 04/03/2013 and 01/04/2013 operating in favour of the Appellant.



Therefore, it cannot be urged at this point that the Appellant and the Respondent No. 3 were *ad idem* to state that the matter could not proceed further in the absence of a fresh site inspection being carried out by the GCZMA. Even assuming while not admitting that the Respondent No.3 / original complainant had infact made a plea in the manner as stated by the Appellant the GCZMA having come to a conclusion that no such fresh site inspection was required, the Appellant today cannot be permitted to urge that the impugned order stands vitiated for not carrying out fresh site inspection before issuing the show cause notice dated 23/03/2023.

It is also crucial to note that while arguing the matter for maintainability the Appellant also elaborately dealt with the merits of the case as apparent from the reply itself filed before the GCZMA and therefore it is rather mischievous on the part of the Appellant today state that the matter was argued before the GCZMA only on the maintainability of the proceedings and not on merits of the case.



18. With reference to para 33 of the Appeal the contents thereof are a matter of record.
19. With reference to para 34 of Appeal the contents thereof are denied for the manner in which they are stated. It is denied that under pressure of being hauled up for contempt for its failure in deciding the subject show cause notice within the stipulated time- limit, the Respondent No.1 acted in undue haste and passed the impugned order on merits. It is rather unfortunate that the Appellant not only resorted to falsehood to justify the legality of his illegal construction activity but also not shied from making allegations against the Statutory Body which deserves to be deprecated.
20. With reference to para 35 to 41 of the Appeal it is stated that the same are arguments canvased by the Appellant and not factual submissions which are even otherwise contrary to the records and the present Respondent No.3 seeks leave to reply upon the said records to point out the correct position before this Hon Tribunal.
21. With reference to para 42 of the Appeal it is stated that the grounds raised challenging the Order passed by the



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GCZMA dated 29/09/2023 are frivolous, untenable and devoid of merit of any merit.

22. With reference to para 51 of the Appeal it is stated that no case is made out for interference with the Impugned Order and therefore the present Appeal deserves to be dismissed.

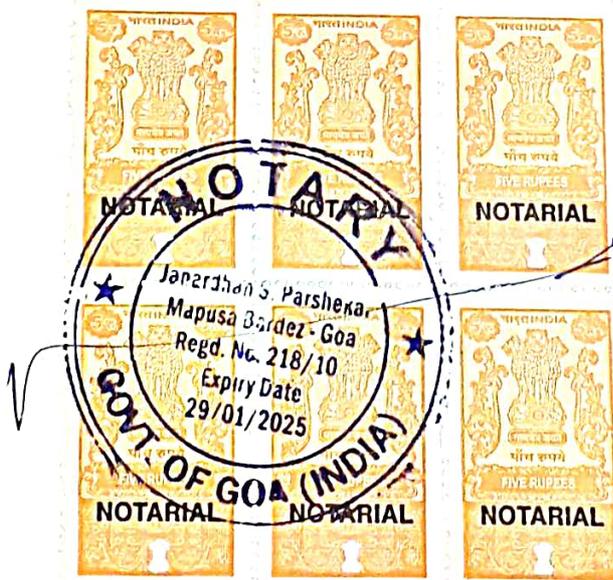
23. I say that the contents of Para 1- 22 are true and correct to my knowledge.

Solemnly affirmed at Panaji- Goa

On this 29<sup>th</sup> day of January 2024

  
DEPONENT

Identified and explained by me:



Abdulrahman Moin  
solemnly affirmed before me by Mr Touseef Ahmed  
Who has been identified by 9966 6654 4830  
Who is known to me personally  
Mapusa-Goa

Reg. No. 396/24 Date: 29/1/24

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

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~~ANNEXURE - C (copy)~~

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ANNEXURE R3-1

Mr. Tousif Ahamad Rafikahamad Momin,  
resident of Flat No.506, Gera  
Astoria, Behind Harley Davidson,  
5<sup>th</sup> Floor, Caranzalem, Panaji,  
Goa.

Dated:- 30-5-2022

To,

1. The Goa Coastal Zone Management  
Authority, through its Member  
Secretary,  
4<sup>th</sup> Floor, Dempo Towers,  
Patto Plaza, Panaji, Goa.

O/o Member Secretary *P. S. S. S.*  
Goa Coastal Zone Management Authority  
C/o Department of Environment & Climate Change  
Dempo Tower 4<sup>th</sup> Floor  
Patto Plaza Panjim Goa - 403001

Sub:- Illegal constructions in the properties bearing  
survey No. survey No.273/3 and 277/2 of  
village Mandrem by M/s Riva Beach  
Resort Pvt. Ltd.

Ref:- Complaint dated 25-5-2022

Sir,

1. I have filed compliant dated 25-5-2022 in the matter of  
various illegal constructions at village Mandrem within the No  
development Zone and in violation of the CRZ and Environment  
(Protection) Act, 1986 and without obtaining any  
license/permissions from the Goa Coastal Zone Management  
authority, the Village Panchayat of Mandrem, Town and Country

Planning Department and other concerned authorities by M/o Riva Beach Resort Pvt. Ltd situated at Junaswada, Mandrem, Pernem, Goa whose Director is Sachin Vishwanth Nalk, r/o Junaswada, Mandrem, Pernem. These illegal constructions are carried out by M/s Riva Beach Resort Pvt. Ltd in the properties bearing survey No. 273/3 and 277/2 of Village Mandrem of Pernem Taluka, Goa. However in my complaint dated 25-5-2022 due to typographical error the survey number 273/3 has been inadvertently stated as 274/3 instead of 273/3 and which stands corrected and may be accordingly read in the said complaint dated 25-5-2022. All the illegal constructions have been carried out by said M/s Riva Beach Resort Pvt. Ltd in utter disregard to all laws in force in the properties bearing survey No.273/3 and 277/2 of village Mandrem and is continuing with its illegalities unabated.

2. Thus the said M/s Riva Beach Resort Pvt. Ltd has carried out further various new illegal constructions and in the year 2018 M/s Riva Beach Resort Pvt. Ltd has carried out illegal construction of Compound wall, swimming pool and 10 pucca structures which includes spa, guest house, kitchen/toilet, Hall/Restaurant, store room, a permanent structure, 4 Guest houses and septic tank using materials like laterite stones, cement, sand, RCC

construction etc. in the properties bearing survey No.273/3 and 277/2 of village Mandrem. In the same year it has also carried out illegal construction of various temporary structures like Pump house, 13 sheds, restaurant, cloth shop, about 41 huts, office, reception, security cabin. All these structures are constructed by using material like G.I Sheets, wooden sheet, glass, plastic, wood etc. in the said properties. Further in year 2019 it carried out illegal construction of Ground plus one permanent structure in the property bearing survey No.273/3. In the period of Covid-19 Pandemic in the year 2021 about 9 pucca structures have been built, two compound walls and a wooden bridge over Mandrem riverlet has been illegally carried out by respondent No.9 in the properties bearing survey No.273/3 and 277/2 of village Mandrem. These structures have been constructed by using material like laterite stones, cement stones, steel, sand etc.

3. The aforesaid illegal constructions in the properties bearing survey No. No.273/3 and 277/2 of village Mandrem apart from being in violation of CRZ Regulations 2011 is in violation of the Goa Panchayat Raj Act, 1994 as no any license/permissions have been obtained from the Village Panchayat of Mandrem. The illegal construction is also in violation of Goa Land Revenue Code since

the illegal construction has been carried out in agricultural property and is done without conversion. Similarly the same is in violation of Town and Country Planning Act as no any permissions have been obtained for in regard to the aforesaid illegal constructions.

4. I therefore request your goodself again and remind you to take immediate action against all the aforesaid illegal constructions carried out by M/s Riva Beach Resort Pvt. Ltd in the properties bearing survey No.273/3 and 277/2 of village Mandrem in violations of all laws in force and the said illegal constructions be demolished.

Thanking you,

Yours faithfully,

(Mr. Tousif Ahamad Rafikahamad Momin)