

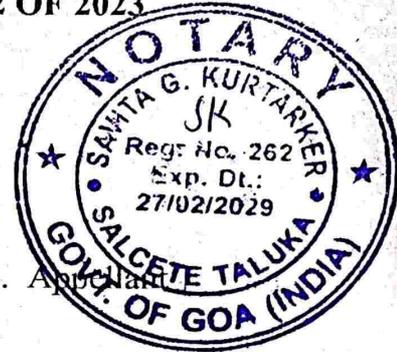
BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH (WZ), PUNE

APPEAL No. 32 OF 2023

Between

J.B. Guest House through Manager/Proprietor, C/o.,

Isabel Fernandes & Lawrence Fernandes



And

Goa Coastal Zone Management Authority & ORS.... Respondents

**AFFIDAVIT IN REPLY OF THE RESPONDENT 3 (COLVA
CIVIC & CONSUMER FORUM) TO APPEAL**

I, Judith Almeida, aged 68 years r/o 257/1.Bagdem, ward 3, Colva, Salcete, Goa, Indian National, President of the Respondent 3 Organisation, do hereby solemnly affirm and state as under:-

1. I have gone through the averments made in the Appeal and have fully understood the contents therein. At the outset, it is submitted that the contents of the present Appeal are denied unless specifically admitted herein or are matter of record. It is further submitted that the present Appeal should be dismissed, as it is entirely devoid of merits.

2. The above titled Appeal has been filed by the present Appellant Mr. Lawrence Fernandes herein challenging the Order/Directions dated 11.10.2022 passed by the Goa Coastal Zone

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Management Authority against 1) M/s J. B. Guest House through its manager/proprietor C/o Isabel Fernandes. 2) Mr. Lawrence Fernandes both r's/o Ho.no. 108, Ambeaxir, Sernabatim, Colva, Salcete, Goa.

PRELIMINARY SUBMISSIONS

3. In the instant case the primary question for the consideration of the GCZMA related to the legality of the existence of 2 structures i.e. 'J.B. Guest House' and one outhouse on Sy. No. 12/3 of Adampoi of village Sernabatim, Salcete Taluka, Goa [*Hereinafter, "subject plot"*]. While other questions including nature of mundkarial rights were considered by the G.C.Z.M.A., ultimately, the impugned demolition order 11.10.2022 was passed by the Authority as it concluded that "the Respondent failed to prove that his structure is legal and constructed prior to 1991". In coming to this Conclusion, the Authority noted the following:

- a. No documents or approved plans were produced to show that the 2 structures were situated on the subject plot i.e. Sy. No. 12/3 of Adampoi of village Sernabatim in NDZ of CRZ-III;
- b. No documents were produced to show that the 2 structures were in existence prior to 1991;
- c. Form I and XIV of the subject plot does not reflect any existing structure thereon;



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- d. Survey Plan (refer page 77 of Memo) attached to the Sale Deed dt. 03/07/2011 of the subject plot does not mention/reflect any standing structures thereon;
 - e. The outhouse was ordered to be demolished by the Village Panchayat in its Meeting dt. 15.06.2009;(refer para 4 page 49)
 - f. No approvals produced from any Departments for extensions/alterations of structures;

All of the above points establish without a shred of a doubt that there were no structures existing on the subject plot Sy. No. 12/3 of Adampo of village Sernabatim, Salcete Taluka, prior to 1991, and accordingly, the G.C.Z.M.A. has rightly passed the impugned demolition order seeking the removal of the 2 structures erected without permissions in the N.D.Z. of C.R.Z Area of Sernabatim village.

BRIEF FACTUAL BACKGROUND

4. This is a case of SMWP 02/2006 which was assailed before the R1 Authority during which the Appellant has not produced any authorized Conversion Sanad, permissions, licenses from the Environment Development Council (EDC), Goa State Committee for Coastal Environment (GSCCE), GCZMA, Town and Country Planning Department under TCP Act 1974, Panchayat Raj Act 1994.
5. The said first party Isabel Piedade Fernandes filed a first application seeking declaration as a Mundkar and was declared as Mundkar of H.No. 108 in Sy. No 71/9 in Ambeaxir of Sernaabt看 village vide



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Declaration Judgement dt. 30.11.2012 JM/MUND/DECL/7/2010. ⁴
 The Form I & XIV of the same Sy. No 71/9 states " % Right
 acquired under Section 16 of Mundkar Act and Section 17 is
 applicable ". Annexed is a copy of the Judgment dt 30.11.2012
 alongwith the form I & XIV as Exhibit A-1 Colly.

6. Ms Isabel P Fernandes filed a second application followed by a
 Restoration Application dt. 05.11.2009 and 14.07.2015 respectively
 under the Mundkar Act 1975 to the Mamlatdar of Salcete
 JM-III/MUND/Decl/Reg/Colva/1/2010 in Sy. No. 12/3 of Adampoi
 , Sernaabatim using the same H. No. 108 of Ambeaxir in
 Sernabatim village which is evidence that it was used only to
 circumvent the law to bring legality to the illegal structures and
 hoodwink the CRZ Notification (refer to page no 171 of Memo).
**The Purchase Application filed on 24.10.2018 has been dismissed
 for default on the part of the applicants on 04.07.2022 Annexed
 as Exhibit A-2 are relevant pages of the Roznamma/order.**

7. Annexed as Exhibit A-3 is a copy of the form I & XIV of Sy. No
 12/3 it is noted that under the heading of " Un-Cultivable area" the
 column shows NIL which clearly means and indicates that there was
 never any old structure standing in the property bearing survey no
 12/3 of Sernabatim village . Till date the Appellant has not produced
 any final Declaration & Registration as a Mundkar in the name of
 Ms Isabel P. Fernandes in Sy. No. 12/3 of Adampoi, Sernabatim
 village, Salcete.

8. A complaint dt 17.12.2018 was filed in the office of the
 Collector South Goa who directed the Dy. Collector (Revenue) to
 conduct an inquiry Annexed as Exhibit A-4 Colly .is a copy of



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complaint dt 17.12.2018 & the report dt 18.01.2019. the Report concludes " The Ld. Mamlatdar has satisfied with the ingredients as required under law but it is not known whether the applicant was in possession of the dwelling house as on the appointed date which is 12/03/1976 as there is no evidence produced by the applicant for the said claim. The Ld. Mamlatdar has considered the No objection given by the landlord and came to the conclusion in appreciating the material evidence on record and thus erred in deciding the possession of dwelling house as on appointed date. The decision given by the Jt. Mamlatdar as per the Judgement and order in the said Mundkar case can be reverted back to the Appellate Court i.e. the Deputy Collector and SDO".

9. Annexed as Exhibit A-5 is the reply received under the RTI Act 2005 from the VP Colva, dated 13.03.2024 . Point no 3 states that House tax records are not maintained as per survey numbers however H.No. 108 stands registered in Ambeaxir ward at Sernabatim village and no such records found in Panchayat records pertaining to H.No. 108 at Adampoi, Sernabatim.



10. A letter issued by the Village Panchayat of Sernabatim, Vanelim, Colva & Gandaulim dt 03.05.2008 which states that the H.No. 108 situated at Ambeaxir, Sernabatim was transferred to Smt. Isable Fernandes in the year 2000-2001 I say that the present subject property is in Adampoi, Sernabatim.(refer page 154 of Memo)

11. The present Appeal is filed by the Second party ie Lawrence Fernandes Power of Attorney holder for Ms Isabel Fernandes who purchased the property through a Sale Deed on 03.07.2011, and the

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 plan attached does not show any structure in the property. Ms Isabel P. Fernandes acted as the confirming party. Mr. Lawrence Fernandes appeared throughout the hearings before the R1 Authority but hid the fact that a Sale Deed was effected. It was this Respondent (*original complainant*) who obtained the Sale Deed under RTI Act 2005 and produced the same before the G.C.Z.M.A.

12. The D.S.L.R Survey plan of No 12/3, Sernabatim village dt 21.10.2009 produced by the Appellant in their Sale Deed (refer page 77 of Memo) does not show any structure in the property purchased and highlighted in survey no 12/3 of Sernabatim village.

PARA WISE REPLY

13.I state that am not replying to each and every statement and averment made in the Appeal No. 32/2023, and nothing may be deemed to be admitted unless the same is specifically admitted herein but should be treated as though the same has been set out seriatim and denied and disputed specifically.

14. With regard to para 3, the reliance placed by the Appellant on the 30.06.2017 order declaring Mundarship on Sy. No. 12/3, village Sernabatim cannot be accepted, as the said order has been set aside/ordered to be decided afresh by the Dy. Collector in 2019 [See *Exhibit A-4 colly*] Details regarding the 18.01.2019 order are explained by this Respondent in para 8 above and subsequent paragraphs.



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15. With regard to para 7, the answering Respondent craves leave to rely upon documents on record in this Appeal and produced along with this affidavit to show more than sufficient material for the G.C.Z.M.A. in the current order choosing to disagree with past reports.

16. While the term of the GCZMA expired and the matter was placed before the Committee to decide on CRZ matters as per Notification No. GCZMA/CONST/05/STE/98 dt 03.08.2016 before the said Committee, the meeting was adjourned. (refer para 3 page 43)

17. I say that GCZMA in the meeting held on 26-10-2018 has differed with the findings of the Inquiry Report & stated that no case number was mentioned in the order of Mundkarial declaration. (page 44 para 5)

18. With regard to para 10, it is explicitly denied that the structures forming the subject matter of the impugned order were constructed prior to 1991, and the contents of paragraph 3 of this Reply are reiterated. The following facts also bear mentioning in support of this Respondents' submissions that no structures existed on the subject plot prior to 1991:

- a. I say that Form I & XIV which shows the Occupant as Mr Rui Aguiar only in Sy. no. 12/3 does not mention nor show any structures and this is corroborated with the 2006 DSLR map confirming that no structures including 'ancestral' house existed prior to 1991. The structures constructed are thus 'illegal & unauthorised'.

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- b. I say that no approved plans from GCZMA & Town and Country Planning Department(TCP), no **Completion Order from TCP, construction licences/Occupancy from the Panchayat no conversion Sanad** is submitted to substantiate the legality of the structures.
- c. I say that during joint site inspection on 14-05-2013 by Expert Member of Respondent 1 (GCZMA) observed that additional structures & additions have been erected & Panchayat could not produce any permissions.
- d. I say that in PT Sheet No. 11 of Sernabatim village the legend shows that the buildings shown in beige mapped in 2006 were new buildings and further large extensions in orange color between 2006 and Feb. 2022 carried out by J. B. Guest House without any permissions . **Annexed as Exhibit A-6 is a copy of the colored P.T. Sheet No. 11.**
- e. I further say that on 02-09-1998, after 1991, Dy. Collector through Case no. LRC/Illeg-Conv /57/98 stated that the structure is illegally converted and constructed and failed to show the permissions obtained under Land Revenue Code 1968, (*refer para 1, page 45 of R1 order dt 11.10.2022*) survey records do not show existence of any structures in sy.no. 12/3.(*refer page77 of Memo*)
- f. I say that on 22-10-2007 GCZMA had issued Show Cause notice to owner Ms. Ruth Aguiar, referring to illegal structure in sy. No. 12/3 & on 12-11-2007 she replied having no objection for demolition. I say that illegal



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structure were not demolished as per order dated 02-09-1998 of Dy. Collector and also by GCZMA despite owner Ms. Ruth Aguiar having no objection, thus encouraging further illegalities.

19. With regards to para 11 - 15, 17, 18, of the Appeal, I state that the order dt. 30.06.2017 referred to by the Appellant to claim mundkarship rights on the subject property has been set aside by Dy. Collector (Revenue) in terms of the order dt. 18.01.2019, and the Ld. Dy. Collector has directed the Dy. Collector & SDOs to decide the matter afresh. In such circumstances, with the Dy. Collector finding fault with the 30.06.2017 order and directing the issue of mundkarship to be decided afresh, there is no question of any mileage/right being sought to be drawn out of the old 30.06.2017 order.
20. With regards to para 25 of the Appeal, the submission of this Respondent with regards to the order dt. 30.06.2017 in para 19 above are reiterated. Apart from the 2017 order (which is reverted back to be decided afresh), no approved plans or documents have been produced by the Appellant to show the existence of the 2 structures on the subject plot prior to 1991.
21. With regard 21:- (i) I say that Isabela Fernandes was registered & declared as a lawful Mundkar vide case no. JM-III/MUND/DECL/7/2010 on 30-11-2012 of H. No. 108 in sy.no. 71/9 at Ambeaxir, of Sernabatim Village for an area of 500 sq.mts of Sernabatim village by the Mamlatdar as per Goa Mundkar Act, 1975 & she had purchased H.No. 108 vide case no. JM-III/Mund/C2/2/2013



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 on 29-04-2013. I say that during hearing before Respondent 1 (GCZMA), second Judgment dated 30-06-2017 was produced by Isabel Fernandes again declaring her as Mundkar in Case no. JM-III/MUND/Decl/Reg/Colva/01/2010 of the same H. No. 108 in sy.no. 12/3 of Adampoi, Sernabatim village. I say that the cause title was missing on the Judgment dated (refer page 157). I say that on 30-10-2018 the GCZMA directed to produce the purchase order but only application was submitted. I say, fearing the fraud of declaring Mundkar twice, Mrs. Isabel Fernandes as well as owner Ms. Ruth Aguiar stopped appearing in the Mamlatdar Court & application for purchase was dismissed for default on part of Applicant. As such, I say that Mrs. Isabela Fernandes is not owner of the so called H. No. 108 in sy. no.12/3 Sernabatim village. I say that Judgment dated 30-06-2017 of Mundakrial rights towards H. No. 108 in sy. No. 12/3 within NDZ of CRZ - III is an attempt to hoodwink the Authority and this Hon'ble Tribunal to show that the structures existed prior to 1974/1991.

(ii) I say that on 17.12.2018 I filed a complaint to the Collector South Goa. The contents of para 9 of this Reply are reiterated and are not repeated to avoid redundancy

22. With regard to para 20:- I say that structures constructed in sy. no. 12/3 were illegal & unauthorized and were ordered to be demolished by the Dy. Collector, The contents of para 21(i) of this Reply are reiterated and are not repeated to avoid redundancy.



AA

. GROUND S :

- 11
- A. With regards to Ground A the same is denied . The order is just and reasonable, as the structures are illegal with no official documentary evidence produced to justify existence of authorized structures in Sy. No. 12/3 of Adampo in Sernabatim village.
- B. With regards to Ground B: The order dt 30.06.2017 of Mundkarship was set aside by the Dy. Collector Revenue in order dt 18.01.2019 as the order dt 30.06.2017 was not decided on merits and had to consider all the documents/evidences and thus erred. Further, the said Ms Isabel P. Fernandes' Purchase application has been dismissed for default on 04.07.2022 as applicant did not appear before the Mamlatdar to pursue the case. The present Appellant purchased the property bearing Sy. No 12/3 of Sernabt看 village through a Sale Deed dt 03.07.2011 and automatically loses any rights under the Mundkar Act 1975.
- C. With regards to Ground C: Authority has considered the written as well as oral submissions made by the parties and the material on record and the analysis of the Points of determination and concluded that the Appellant has failed to produce any official document or plans to prove that his structure are authorized/ legal and constructed prior to 1991.
- D. With regards to Ground D: The Appellant has no right to carry out commercial activities in an illegal structure in the NDZ of CRZ - III in violation of the CRZ Notification.



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- E. With regards to Ground E: There is enough material on record to show why the GCZMA differed, this Respondent craves leave to refer to the same.
- F. With regards to Ground F: The Appellant has not provided evidence that there is provision in the Mundkar Act 1975 whereby an applicant can show residence in two different places at the same time in order to obtain Mundkarship rights. This was a fraud committed to hoodwink the CRZ Notification.
- G. With regards to Ground G: Since no order was communicated pursuant to the meeting held in 2018, the R1 was well within the law to change its mind after new evidence was placed before the Authority which proved that the structures were unauthorized. This Respondent craves leave to rely on para 35 of the Judgment dt 02.03.2022 in WP 406/2021 Annexed as Exhibit A - The Appellant is put to strict notice for using one House No 108 in two difference survey nos of the same village.
28. I therefore submit that the Appellant has not produced any authorized documents to show that the structures existing in sy. no 12/3 of Adampoi in Sernabatim village of Salcete are legal. The structures have been constructed in violation of the Environment Protection Act 1986 and the subsequent CRZ Notifications and hence Environment Compensation must be imposed after all the structures are demolished and the land restored to its original state. For all these reasons, it is submitted that the R1 Authority in its impugned order dt 11.10.2022 order rightly passed for demolition... no reliefs



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are warranted to be granted in favour of the Appellant, as sought in this Appeal.

I do hereby solemnly verify the contents of paragraphs 1 to 27 and grounds A - G are true to my knowledge and the content of paragraph 28 is legal submission which I believe to be true.

Solemnly affirmed at Margao on this 9th day of May 2024.

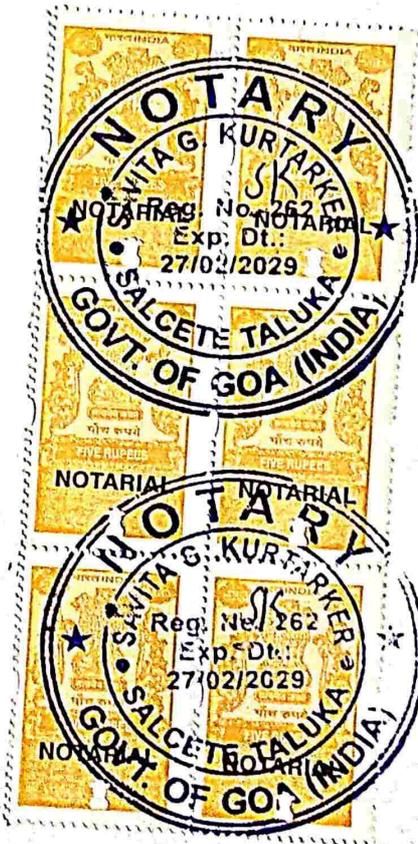


Almeida
DEPONENT



Solemnly affirmed before me by
Judith Almeida
Who is identified to me by
Election card - KNX3050465
to whom I personally know on
this 9th day of May 2024

Reg No. 8435/2024
Ksavita
SAVITA G. KURTARKER
NOTARY
MARGAO-GOA



IN THE COURT OF JOINT MAMLATDAR III OF SALCETE AT MARGAO

Case No. JM-III/MUND/DECL/7/2010

Smt. Piedade Isabel Fernandes alias Isabela
Fernandes alias Piedade Fernandes,
w/o late Antonio Felipe Fernandes,
aged 64 years, housewife,
R/o H. No. 108, Ambeaxir,
Sernabatim, Colva, Salcete Goa.

V/s

..... applicant

1. Smt. Zemira Crasto,
W/o late Anthony Santan Dias,
R/o H. No.29,
Utorda, Majorda
P.O. Salcete Goa.

2. Mr. Augusto Menino Dias

S/o late Anthony Santan Dias
R/o "Villa Dias" Sernabatim, Colva,
Salcete Goa.

3. Mr. Romano Leao Dias,
S/o said late Anthony Santan Dias
R/o "Gold Fields", 3rd Floor,
Flat Nos. 7 & 8, Colva Beach Road,
Colva, Salcete Goa.

4. Fr. Bartolomeu Dias
S/o late Anthony Santan Dias,
658, Fatorda, Margao Goa.

5. Mr. Fidelis des Merces Dias,
S/o said Anthony Santan Dias,
With address at "Goldmist", 2nd floor,
Flat No. 3, Vakola Pipeline Lane
Santa Cruz (E), Mumbai 400 055



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6. Mrs Carolina Aguiar,
D/o Anthony Santan Dias,
R/o 658, Fatorda,
Margao Gon.

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... Respondents

J U D G E M E N T

This shall dispose off application for declaration and registration as Mundkar filed by the applicant under section 8A and 29(4) of Mundkar Act.

In brief it is the case of the applicant that she is a Mundkar of house bearing No.108 situated in the property bearing survey No. 71/9 of village Sernabati belonging to the respondents. The said house consists of laterite stone walls with Mangalore tiles roofing. The dwelling house was constructed by applicant and her late husband with the permission from late Anthony Santan Dias father of the respondents some over 35 years back and since then they are residing there with fixed habitation and continuously as mundkars. The said house has electricity and water connection. The house tax record stands in the name of applicants. The respondent are duly notified and accordingly respondent No. 6 remained present personally and as given her no objection by reply dated 14.8.2012. The other respondent remained absent and matter proceeded ex-parte against them.

In view of no objection given by respondent No. 6 to allow the application of the applicant the statement of the applicant and that of respondent No. 6 has been recorded. The applicant deposed by filling affidavit in evidence reiterating therein all the facts pleaded in her application. Through her deposition she produced on record the documents such as survey form I and XIV and survey plan of survey No. 71/9, as exhibit A-2 and A-3, house tax receipt at exhibit A-4, water bill at exhibit A-5, election photo identity card at exhibit A-6 and ration card copy as exhibit A-7. The perusal of survey Form I & XIV at exhibit A-2 reveals that the name of one Anthony Santan Dias is recorded in the occupant column as owner. The respondent No. 6 has not denied that said Anthony Santan Dias is their father. Therefore there is no doubt in my mind that said Anthony Santan Dias is owner of the property bearing S. No. 71/9 of village Sernabati. The document at exhibit A-4, A-5, A-6 and A-7 proves that applicant is in fixed and continuous habitation of the suit house bearing No. 108. The house tax



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receipt at exhibit A-4 proves that the house bearing No. 108 is in the name of Isabela Fernandes who is applicant. The respondent No. 6 in her statement has stated that the property bearing survey No. 71/9 was gifted to her by her mother and she do not have any objection to declare applicant as Mundkar of house No. 108. To prove her identity she also produce on record election photo identity card which is at exhibit OW1/A.

The perusal of the entire material in the file and the deposition of applicant and respondent No. 6 it can be concluded that applicant is a lawful Mundkar of the suit dwelling house No. 108 situated in the survey No. 71/9 of village Sernabati. The case of the applicant gone unchallenged and have been admitted by respondent No. 6. In view of above I pass the following Order:-

ORDER

The applicant is declared as lawful Mundkar of the house bearing No. 108 situated in the property bearing Survey No. 71/9 of Sernabati village belonging to the respondents.

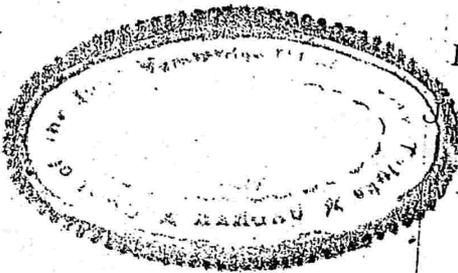
The name of the applicant to be registered in the Mundkar register maintained by this Court.

Pronounced in the open Court.

Given under my hand and seal of this Court on this 30th day of November, 2012.


(S. B. GAONKAR)

Holding Addl. Charge of
M-III, Salcete, Margao Goa.



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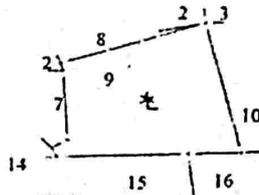


GOVERNMENT OF GOA
Directorate of Settlement and Land Records
PANAJI- Goa

Inward No. 30639



Plan showing plots situated at
Semabatim Village
Salcete Taluka
S.No./Sub Div No. 71/ 9.
Scale 1:1000



SURVEY No.71

Computer Generated by: AJAY

On 17-08-12

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June 10/12



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Date: 15/12/2018

Page 1 of 1

Taluka SALCETE

Survey No. 71

तालुका

सर्वे नंबर

Village Sornaballim

Sub Div. No. 9

गांव

हिंग्या नंबर

Name of the Field Ambexir

Tenure

शेतार्चे नांव

मत्ता प्रकार

Cultivable Area (Ha.Ars.Sq.Mtrs) लागण क्षेत्र (हे. आर. चौ. मी.)

Dry Crop त्रिरायत	Garden बागायत	Rice तरी	Khajan खाजण	Kor कोर	Morad मोरड	Total Cultivable Area एकूण लागण क्षेत्र
0000.00.00	0000.05.00	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0000.05.00

Un-cultivable Area (Ha.Ars.Sq.Mtrs) नाणिक क्षेत्र (हे. आर. चौ. मी.)

Pot-Kharab पोट खराब

Remarks शेर

Class (a) वर्ग (अ)	Class (b) वर्ग (ब)	Total Un-Cultivable Area एकूण नाणिक जागीर	Grand Total एकूण
0000.00.00	0000.00.00	0000.00.00	0000.05.00

Assessment : आकार	Rs. 0.00	Foro फोर	Rs. 0.00	Prodiat प्रैदियाद	Rs. 0.00	Rent रेंट	Rs. 0.00
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S.No. क्र.सं.	Name of the Occupant वस्नेदाराचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेर
1	% Piedado Isabel Fernandes alias Isabela Fernandes alias Piedado Fernandes		58025	

% Right acquired under Section 16 of Mundkar Act and Section 17 is applicable.

S.No.	Name of the Tenant मुक्काचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेर
1	Nil			

Other Rights इतर हक्क	Mutation No. फेरफार नं	Remarks शेर
Name of Person holding rights and nature of rights: इतर हक्क धारण करणा-याचे नांव व हक्क प्रकार Nil		

Details of Cropped Area पिकाखालील क्षेत्राचा तापशील

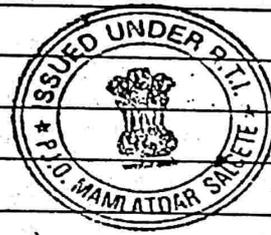
Year वर्ष	Name of the Cultivator लागण करणा-याचे नांव	Mode रीत	Season समय	Name of Crop पिकाचे नांव	Irrigated	Unirrigated	Land not Available for Cultivation नाणिक जमीन		Source of Irrigation सिंचनाचा पारि	Remarks शेर
					Ha.Ars.Sq.Mts हे. आर. चौ. मी.	Ha.Ars.Sq.Mts हे. आर. चौ. मी.	Nature प्रकार	Area क्षेत्र Ha.Ars.Sq.Mts हे. आर. चौ. मी.		
	Nil									

End of Report

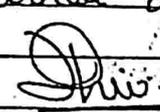
For any further inquiries, please contact the Mamlatdar of the concerned Taluka.

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IN THE COURT OF JOINT MAMLATDAR III OF SALCETE			
Date	No. of Exhibits	Case No. AT MARGAO of 20	Date to which the case is adjourned
		Case No. JM-III/C2/L/2019	
		Mrs. Isabela Fernandes Aged 77 years, widow of late Mrs. Antonio Filipe Fernandes R/o H. No. 108, Ambeaxir, Sernabatim, Salcete Goa.	... Applicant
	v/s		
		Mr. Rui Aguiar (since deceased) Represented by his legal heirs a. Ruth Aguiar ✓ b. Rajiv Aguiar ✓ c. Anabel Aguiar ✓ d. Roy Aguiar ✓ e. Marian Ida Aguiar ✓ f. Reuben Aguiar ✓ g. Joanita Aguiar ✓ h. Ryan Aguiar ✓ i. Swati Aguiar ✓ All R/o. Flat No. 10, Aguiar Apts. N.L.O. Post, Dona Paula, Panaji Goa 403004	... Respondents
		Issued notice u/s 16(i) to all the parties & matter is fixed for hearing on ...	24/1/2019 at 3 PM
24/1/19		Matter called out: Adv. for applicant present. Adv. for opponent present. The order dtd. 30/6/17 passed by this court in case is not maintained.	25/1/19 3:00 pm.
		Bail for applicant steps.	<i>[Signature]</i>



Date	No. of Exhibits	Case No. of 20	Date to which the case is adjourned
25/1/19		Matter called out. Adv. for Applicant present Adv. for Respondent present A schedule to file Valuation. The case no is not mentioned in declaration under bond for stays.	12/3/19 3:00 PM [Signatures]
12/3/2019		Common date issued as per busy with election related work.	6/6/2019 at 10:30 AM
5/6/2019		Case called out in Adv. to Applicant is not present. Adv. to not present in person. Adv. Adv. to the Respondent is present and ready to be tried for stay and fees.	11/8/2019: 3:00 [Circular Stamp: RECEIVED P. J. J. J.]
1/2/19		Matter called out. Adv. A. Almeida second present on behalf of ER Respondent. A filed reply. Applicant about Adv. for Appl. above. Matter fixed for stay. Adv. for Applicant present	10/2/19 10/2/19 3:00 PM [Signatures]

Date	No. of Exhibit	Case No. of 20	Date to which the case is adjourned
		Common date issued as PO appointed as Nodal officer to NDRF to conduct familiarization exercise and awareness/preparedness programme in South-Goa.	25/10/2021
25/10/2021		Common date issued as PO is busy with the work related to election (Summary Revision)	26/11/2021 at 10:30 AM
26/11/2021		Common date issued as PO is busy with the work of Goa State General Assembly Election - 2022	13/1/2022 at 10:30 AM
13/1/2022		Matter called out today. None present for applicant and respondent opportunity granted. Matter adjourned and fixed for hearing on 	24/3/2022 at 10:30 AM
24/3/2022		Common date issued as PO is busy with the preparations of Panchayat Roll...	29/4/2022 at 10:30 AM
29/4/2022			04/7/2022 at 10:30 AM



SP 252
C. P. C.

Date	No. of Exhibit	Case No. of 20	Date to which the case is adjourned
9/4/2021		Common date issued as PO proceeded to Panaji to conduct Inventory in drug sampling under NDPS Act.	09/6/2021 at 10.30 AM
09/06/2021		M.A. called out today before court. Applicant absent. Respondent absent on opportunity to give for N. Police to appear. M.A. fixed for appearance on.	09/06/2021 at 10.30 AM
8/7/2021		Common date issued as PO proceeded to Oupem to second inventory under NDPS Act.	9/8/2021 at 10.30 AM
9/8/2021		Court called out today. None present for applicant as well as respondent. Matter fixed for appearance of	22/9/2021 at 10.30 AM
21/09/2021		M.A. called out today before court. Applicant absent. Respondent absent on opportunity to give for N. Police to appear. M.A. fixed for	

[Signature]
09/06/2021

[Signature]
09/08/2021



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TYPED COPY OF ORDER DATED 04.07.2022

Date 04/07/2022

Matter called out None present for the applicant and respondent. Upon perusal of the roznama it is seen that the applicants and respondents are absent for past several hearings which indicates that the applicants is not serious in pursuing the matter. Therefore the said application is dismissed for default on the part of the applicants.

Pronounced in open court on this 4th day of July 2022.

Sd/-

04/07/2022





FORM I & XIV

Date 19/10/2009

नमुना नं. 1 व 14

Page 1 of 1

Taluka SALCETE

तालुका

Survey No. 12

सर्वे नंबर

Village SERNABATIM

गांव

Sub Div. No. 3

हिस्ता नंबर

Name of the Field Adampoi

शेताचे नांव

Tenure

सत्ता प्रकार

Cultivable Area (Ha.Ars.Sq.Mtrs) लागण क्षेत्र (हे.आर.जौ.मी.)

Dry Crop जिरायत	Garden वगायत	Rice तरी	Khajan खाजण	Ker केर	Morad मोरड	Total Cultivable Area एकूण लागण क्षेत्र
0000.00.00	0000.35.50	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0000.35.50

Un-cultivable Area (Ha.Ars.Sq.Mtrs) नापिक क्षेत्र (हे.आर.जौ.मी.)

Class (a) वर्ग (अ)	Class (b) वर्ग (ब)	Total Un-Cultivable एकूण नापिक जमीन	Grand Total एकूण	Remarks शेरा
0000.00.00	0000.00.00	0000.00.00	0000.35.50	

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

S.No.	Name of the Occupant क वजेदाराचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं	Remarks शेरा
1	Rui Aguiar			

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

Other Rights इतर हक्क	Mutation No. फेरफार नं	Remarks शेरा
Name of Person holding rights and nature of rights: इतर हक्क धारण करणा - याचे नांव व हक्क प्रकार Nil		

Details of Cropped Area पिकखालील श्रेत्राचा तपशील

Year वर्ष	Name of the Cultivator लागण करणा-याचे नांव	Mode रीत	Season मौसम	Name of Crop पिकचे नांव	Irrigated वगायत Ha.Ars.Sq.Mts हे.आर.जौ.=	Unirrigated जिरायत Ha.Ars.Sq.Mts हे.आर.जौ.=	Land not Available for cultivation नापिक जमीन Nature प्रकार	Area क्षेत्र Ha.Ars.Sq.Mts हे.आर.जौ.=	Source of irrigation सिंचनाचा प्रारि	Remarks शेरा
१९८६९८८	Rui Aguiar				००००.००.००	००००.००.००		००००.००.००		
१९८८९९८९	Rui Aguiar				००००.००.००	००००.००.००		००००.००.००		

End of Report

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

S. Aguiar
MAMLATDAR IN CHARGE

LAND RECORDS

GOVERNMENT OFFICE

65/1/2001 - RD (7376)

dated 22/10/2001.

Infocem Private Limited

Date of Issue: 19/10/09

Mamlatdar - Salcete

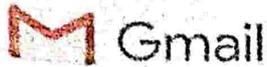


EXHIBIT A-4 COLLY

Judith Almeida <judith.almeida1707@gmail.com>

26

Mundkarial Rights illegally obtained in survey number 12/3 as mundkarial rights already obtained in survey no. 71/9 of the same village of Sernabatim in Salcete.

1 message

Judith Almeida <judith.almeida1707@gmail.com>

Mon, Dec 17, 2018 at 12:36 AM

To: cols.goa@nic.in, gcзма gcзма <goacoastalzone@gmail.com>

COLVA CIVIC AND CONSUMER FORUM

H.No. 257/1, Bagdem, Ward 3, Colva, Salcete, Goa 403 708
Regd. No 268/09 Goa. Mob. No. 9823085206

Ref. No. CCCF/Coll-S/GCZMA/122/2018-19. 17.12.2018

To,
The Collector, DM,
4th Floor, M.S.Admin Complex,
Margao, Salcete, Goa.

The Member Secretary,
Goa Coastal Zone Management Authority,
1st Floor, Pandit D.D. Bhavan,
Porvorim, Goa.

Sub : Second Mundkarial right fraudulently obtained in another i.e 12/3 within 500m in sy.no. 71/9 of existing residential house of the same Sernabatim village, Salcete.

Ref : Documents annexed in support of Mundkarial rights false and misleading by Mrs. Isabela P. Fernandes, needs a thorough investigation, dated 22.10.2018.

Sirs,

Further to my complaint to the Collector South Goa under reference number CCCF/Coll-S/104/2018-19 dated 22.10.2018, calling for a thorough investigation into the documents relied upon for obtaining Mundkarial rights by Ms Piedade Isabela Fernandes alias Isabela Fernandes in sy. No. 12/3 of Sernabatim village, Weare hereby filing a fresh complaint to bring on record that the same Piedade Isabela Fernandes alias Isabela Fernandes had earlier obtained Mundkarial rights in Sy. No. 71/9 of the same village i.e Sernabatim, Salcete showing mutation number 58025. Copy of Form I & XIV of both the survey numbers i.e 12/3 & 71/9 are annexed as **Annexure A1 Colly**.

It is evident that the documents and the house number 108 relied upon before the Mamlatdar to obtain mundkarial rights were not relevant to survey number 12/3. The said Isabel Fernandes, the Power of Attorney including the owners, the Aguiars, of property bearing survey number 12/3 have all lied under oath and must be severely punished for misleading the authorities. The house number 108 actually exists in sy. No. 71/9 where Ms Isabel Fernandes and her family resides and not in sy.no. 12/3. The State government is also cheated of revenue in the form of house tax as it now clear that there are two different structures in two different survey numbers with one house number.

The Goa Coastal Zone Management Authority has also been lied to and misled to believe that the Structure in Survey number 12/3 existed prior to 1991 due to the Mundkarial judgement produced by Ms Isabel Fernandes to prove that she resided in the so called residential house

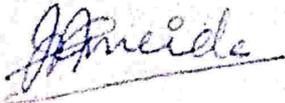
True copy JH

which has been operated as a Guest house since 2011. The Village Panchayat has repeatedly filed affidavits in the Hon'ble High Court in SMWP stating that J.P. Guest house was certified as house number 108. The election rolls of 1988 and the village plan told the true story that the house existed within the village and not near the Sernabatim Beach. All records proved that the survey numbers on the periphery of Sernabatim Beach was a pristine area till the late 1990's when illegal constructions mushroomed.

The Collector, D.M. South Goa is requested to immediately take action to stop the purchase application from being executed and the investigation which must include the fresh evidence produced in this complaint must be jointly investigated and action be taken as per law.

The Member Secretary of the GCZMA is requested to also take action as per law for being misled and to order the commercial activities in J.P. Guest House in survey number 12/3 be immediately stopped and the illegal structures be demolished.

Thanking You,
Yours sincerely,



Judith Almeida

2 attachments

 Form I & XIV Sernab 12 of 3.pdf
117K

 Isabel Form I & XIV sy no 71 of 9.pdf
118K

True copy JA

EXHIBIT 1



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OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE
SOUTH GOA DISTRICT

Matanby Saldanha Administrative Complex,
Room No: 338, Revenue Branch, Margao- Goa.

Phone No: 0832-2794381 Fax No: 0832- 2794402 Email: dycrev-south.goa@nic.in

No. 42/1/2017/Mund-Ten/REV/Part-I/

Date: - 18/01/2019

R E P O R T

The Collector of South Goa District vide Note No. 4/11 (27729) 2018-CVS dated 13/11/2018 has directed undersigned to conduct detailed enquiry and submit findings in respect of petition filed by Judith Almeida, Secretary, Colva Civic & Consumer Forum, Colva, Salcete - Goa. Accordingly, the records and proceedings of the case No. JM-III/MUND/DEC & REG/COLVA/1/2010 Were called.

Applicant Isabela Fernandes, r/o. H. No. 108, Ambeaxir, Sernabatim, Salcete - Goa, has filed application dated 05/11/2009 under Section 8-A and 29(4) of the Goa, Daman & Diu Mundkar (Protection from eviction) Act, 1975 and prayed to declare her as mundkar of the Opponent and also prayed to enter her name in the Register of Mundkars under Section 29(4) of the Mundkar (Protection from Eviction) Act, 1975.

It is her case that the dwelling house is situated in the property bearing survey No. 12/3 of Sernabatim village of Salcete Taluka and the property is owned by the Opponent. The applicant along with her family are residing there as mundkars.

The applicant stated that Mr. Rui Aguiar, major, landlord, r/o. Flat No. 10, Aguiar Apts., NIO Post, Dona Paula, Panaji - Goa, is the Bhatkar of the said property. Originally the dwelling house was constructed by the husband and the brother-in-law of the applicant with the permission of the opponent. That the said dwelling house is made up of laterite stone and mud walls in roof covered with mangalore tiles. The roof is made up of coconut rafters. Although the applicant's husband and brother-in-law had been looking after the said property over the years, presently no services are rendered by the applicants to the Opponents.

The applicant stated that the said dwelling house is electrified and the electricity meter stands in the name of the applicant. the house tax was being regularly paid by the applicants brother-in-law before the Village Panchayat of Sernabatim and since the death of the brother-in-law of the applicant. Earlier the house tax was paid in the name of the applicants brother-in-law and now it is being assessed in the name of the applicant and the applicant fulfills all criteria to be registered and declared as mundkar of the opponent.

The applicant stated that access through the property of opponent to proceed to the main road and also to use the well water situated in the neighboring property surveyed under the same survey number is utilized by the applicants

.....2/-

True Copy DTT

The applicant stated that the brother-in-law of the applicant has died without any issues behind him, therefore the applicant is the sole mundkar of the property bearing survey No. 12/3 of Sernabatim village, Amboazir Colva.

Notice was issued by the Joint Mumhatar III of Balcoete to the opponent Rul Agular which was received by one of the family member and on the date of hearing one Shri Rajeev Agular appeared before the Court and filed an application stating that the opponent had expired on 20.05.1980 and produced the death certificate. Thereafter applicant has filed application to bring legal heirs of opponent on record, which was allowed and the notices were issued to them and duly served. The Regd. Post A/d, courts are also placed in the file. The legal heirs of opponent i.e. Respondent No. 1(a) for self and as constituted attorney of 1(d), (e), (f), (g), (h), and (i) and Respondent No. 1(b) and Respondent No. 1(c) filed reply dated 01/07/2011 stating that :

1. the said case is filed by the Applicant against the Respondents to declare and register them as Mundkar of the house bearing H. No. 108 along with the surrounding land both admeasuring 335 sq.mts.
2. The said house is situated in the property bearing survey No. , 12/3 of village Sernabatim, within the jurisdiction of Village Panchayat of Sernabatim, Vanellim, Colva and Candaulim.
3. The said case was initially initiated against the dead person Mr. Rul Agular who has expired years ago on 20.05.1980.
4. After getting it to the notice of the Court the L/R's of the Respondents are brought on record as 1(a) to 1(i).
5. The L/R's of the Respondents have no objection to register and declare the Applicant as their Mundkar in respect of the house bearing H. No. 108 along with the surrounding land both admeasuring 335 sq.mts. provided they do not interfere with the balance area belonging to the L/R's of the Respondents.
6. The applicant, her legal representatives, successors, executors, administrators and assigns shall also not claim for any other right in the future in the balance property of the L/R's of the respondents.
7. In view of the above the L/R's of the Respondents hereby give their no objection provided the applicant her legal representatives, successors, executors, administrators and assigns abides by the clauses mentioned at para 5 and 6.

The applicant's power of attorney holder Mr. Lawrence Fernandes filed Affidavit in evidence and examined himself and produced the following documents before Court :

1. Notarized copy of Power of Attorney dated 03/05/2016.
2. Original copy of Survey Plan of Survey No. 12/3.
3. Original copy of Form I & XIV of Survey No. 12/3.

4. Notarized copies of House Tax R. No. 57 dated 30/12/1997, R. No. 72 dated 23/7/1996 & Book No. 211 dated 16/12/2001.
5. Notarized copy of Certificate from Village Panchayat Sernabatim, Vanelim, Colva & Gandaulim, Salcete.
6. Notarized copy of Electricity Bill dated 15/02/2016 & 24/10/2007.
7. Xerox copy of Election Card of the applicant i.e. Smt. Isabel Piedade Correia e Fernandes.

After going through the record, it is seen that there is enough material on record to substantiate the claim of the applicant that she is mundkar of her dwelling house. The Ld. Mamlatdar has satisfied with the ingredients as required under the Law but it is not known whether applicant was in possession of the dwelling house as on appointed date which is 12/03/1976 as there is no evidence produced by the applicant for the said claim. The Ld. Mamlatdar has considered the No Objection given by the landlord and came to the conclusion in appreciating the material evidence on record and thus erred in deciding the possession of dwelling house as on appointed date.

The decision given by the Jt. Mamlatdar as per Judgment and Order passed in the said mundkar case can be reverted back by the Appellate Court i.e. Dy. Collector and SDO.


(Paresh M. Fal Dessai)
Deputy Collector (Revenue)
South Goa District, Margao.

To,
The Collector,
South Goa District, Margao.

File copy in



EXHIBIT A-5

31

**Office of the Village Panchayat
Sernabatim, Vanelim, Colva & Gandaulim**

Salcete - Goa Pin Code 403 708

Ph: 0832-2788485

Email: vpcolva@gmail.com

www.colvapanchayat.in

Date 13/3/2024

Ref. No.: VP/SVCG/ 2613/2023-2024

To,
Mrs. Judith Almeida
257/1, Bagdem, Ward No.3,
Salcete-Goa.

Sub: Application under Right to information Act 2005.

Madam,

With reference to RTI application dated 12.02.2024, requesting to furnish certified copies of following information/documents in respect to H.No.108 issued to Isabela Fernandes or Mr. Lawrence Fernandes or any other, r/o Ambeaxir, Sernabatim, Please find furnished the required information /documents point wise as under;

1. Provide Copies of the date on which the H.No.108 was first allotted to any of the above referred persons in Survey No. 71/9 of Ambeaxirm Sernabatim.
--- H.No.108, situated at Ambeaxir Sernabatim first allotted in the name of Custodio Fernandes from the year 1982-83 as per House tax records, certified copy of House tax register from the year 1982-83 is enclosed.
2. Provide Copies of the Panchayat Resolution taken to issue the House Number 108 and copy of House tax receipt.
--- Panchayat body Resolution to issue House Number is not found in Panchayat records, Certified Copy of House tax receipt dated 20/10/2021 is enclosed.
3. Provide copies of the date on which the House No.108 was first allotted to any of the above referred persons in Sy.No.12/3 of Adampoi, Sernabatim.
--- House tax records are not maintained as per Survey Numbers, However H.No.108 stands registered in Ambeaxir ward at Sernabatim Village and no such records found in Panchayat records pertaining to H.No.108 at Adampoi, Sernabatim.
4. Provide Copies of Panchayat resolution taken to issue House No. 108 and copy of House tax receipt.
--- Refer to information Point No.2.

/s/



The Copy on



Office of the Village Panchayat 32
Sernabatim, Vanelim, Colva & Gandaulim

Salcete - Goa Pin Code 403 708

Ph: 0832-2788485

Email: vpcolva@gmail.com

www.colvapanchayat.in

Ref. No.: VP/SVCG/ ←

Date 13/3/2024

5. Provide information if the Village Panchayat of Colva (SVCG) Issues same House Number to the same individual to two different houses in the name of same person within the Jurisdiction of one Village, if yes provide copies of House tax receipts of any in two such individuals.

--- Panchayat does not issue same House Numbers twice in One ward and same Revenue Village.

Yours faithfully

Public Information Officer

WV
Village Panchayat
(YOGESH B. FATERPEKAR)
Sernabatim, Vanelim, Colva & Gandaulim



True Copy 2024

Ciba

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 406 OF 2021

HOTEL SILVER SANDS, REP. BY ITS
AUT. DIRECTOR, DIGVIJAY GUJRAL ...PETITIONER
Versus
STATE OF GOA, THR. ITS CHIEF
SECRETARY AND 2 OTHERS ...RESPONDENTS

Mr. Nitin N. Sardesai, Senior Advocate with Mr. Abhay Nachinolkar, Mr. Shivam Fadte, Mr. Kabir Sabnis and Mr. H. Vaze, Advocates *for the Petitioner.*

Mr. Prashil Arolkar, Additional Government Advocate *for Respondent Nos. 1 and 2.*

Mr. Nigel Da Costa Frias with Mr. Vishal Sawant, Advocates *for Respondent No. 3.*

CORAM: MANISH PITALE, J.

RESERVED ON: 22nd February 2022.

PRONOUNCED ON: 2nd March 2022.

ORDER:

1. The petitioner has approached this Court challenging an order dated 25.10.2021, passed by the respondent no. 2-Goa Coastal Zone Management Authority (GCZMA), whereby the GCZMA has reiterated its earlier directions to the petitioner to demolish all the structures in the property located in Colva village

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at Salcete, Goa. According to the petitioner, the impugned order, passed by the GCZMA, was passed on a review of its own earlier order, passed in review jurisdiction, which was impermissible, and on this sole ground, the impugned order deserves to be set aside.

2. The facts leading up to the filing of this Writ Petition are that, this Court in a Public Interest Litigation issued directions to Authorities, including the GCZMA, to take action against illegal constructions in the State of Goa. In pursuance of the same, the GCZMA caused inquiry to be conducted. On the basis of the material collected, the GCZMA issued notices for personal hearing to various parties, including the petitioner herein. The petitioner was heard on the allegations of construction of illegal structures in the aforesaid village in the 187th meeting of the GCZMA, held on 30.10.2018. The petitioner was present alongwith its Advocate. The GCZMA found that the petitioner had failed to place on record approvals for the structures in question and upon taking into consideration survey plans and documents on record, as well as mapping carried out by the office of the Survey Records, it resolved that the petitioner had failed to justify the existence of the said structures in Colva village and further resolved to pass demolition order against all the aforesaid structures of the petitioner in Colva village.

3. In pursuance of the same, on 05.12.2018, the GCZMA issued a direction under Section 5 of the Environment (Protection) Act, 1986, read with the Rules framed thereunder, directing demolition of the aforesaid structures at the expense of the petitioner and for submission of compliance report.

4. Aggrieved by the same, the petitioner filed an Appeal before the National Green Tribunal (NGT) under Section 16 of the National Green Tribunal Act, 2010 (Act of 2010, for short). Various grounds of challenge were raised on behalf of the petitioner. By order dated 03.01.2019, the NGT dismissed the Appeal, thereby confirming the directions issued by the GCZMA.

5. Aggrieved by the same, the petitioner filed an Appeal before the Hon'ble Supreme Court under Section 22 of the Act of 2010. The said Appeal was dismissed on 18.01.2019, as a consequence of which, the order/direction issued by the GCZMA on 05.12.2018, attained finality.

6. The petitioner then filed a Review Application before the NGT, claiming that there was an error apparent on the face of the record of the order of the NGT. The petitioner also filed a Review Application before the GCZMA on 20.01.2019, claiming that it was filing a procedural review and not a review on the merits of the matter. On 01.05.2019, the NGT dismissed the

Review Application filed by the petitioner. Thereafter, the Review Application on procedural grounds, filed by the petitioner, came up for consideration before the GCZMA in its 210th meeting. The respondent no. 3 opposed the Application filed by the petitioner and contended that there was no necessity for re-hearing the matter.

7. In the 215th meeting of the GCZMA held on 22.10.2019, the Application filed on behalf of the petitioner was taken for consideration and it was noted that the petitioner had mainly raised two issues in the Review Application, claiming procedural flaws committed by the GCZMA. Firstly, it was claimed that the quorum of the GCZMA as per the relevant notification was defective when the 187th meeting was held, and secondly, it was contended that a procedural review could be granted because the GCZMA had ignored vital documents and there was a lapse of due procedure before arriving at the decision/minutes of the 187th meeting of the said Authority. Thereafter, further meetings of the GCZMA were conducted, wherein the petitioner as well as the respondent no. 3, were heard. Some directions were issued for checking the structures existing on the ground and after hearing the parties afresh, in the 253rd meeting of the GCZMA held on 04.03.2021, it was found that the ground truthing report indicated that some structures of the petitioner were constructed

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without approvals from the relevant Authorities and Licensing Body, while in the entirety, all the structures could not be said to be illegal. On this basis, it was concluded that the decision taken by the GCZMA in its 187th meeting deserved to be partly rescinded and the alleged structures constructed by the petitioner, which were not part of the approved plans and identified by the Inspector of Survey and Land Records, were to be demolished and not the entire set of structures as a whole. It was also recorded that the proceedings stood disposed of. The minutes of the aforesaid meeting were uploaded on the website of the GCZMA. The petitioner claims to have downloaded the same on 17.03.2021.

8. Immediately in the next meeting i.e. the 254th meeting of the GCZMA held on 18.03.2021, it was recorded that upon deliberation, it was decided that the parties would have to be heard on the aspect of procedural review and also on the aspect as to in what manner the GCZMA could review its own decision taken in its 187th meeting held on 30.10.2018. The minutes of the meeting recorded that certain intricate facts may not have been brought to the notice of the Authority and further that the question as to whether the GCZMA had the power to review its own decision was yet to be decided finally. On this basis, fresh notices were issued to the petitioner as well as the respondent no.

3 for hearing on the aspect of maintainability of the Review Application.

9. Thereafter, hearings were conducted in various meetings and ultimately, in the 276th meeting held on 21.10.2021 and 23.10.2021, the GCZMA found that it had no jurisdiction to entertain the Review Application of the petitioner against the decision taken in the 187th meeting. The GCZMA framed three issues pertaining to the questions as to whether it had become *functus officio* after the decision recorded in the 253rd meeting; whether it was justified to review its own decision taken in the 187th meeting and whether the petitioner had suppressed material facts about the filing and subsequent dismissal of Appeal filed before the NGT. The GCZMA found on all the aforesaid three issues against the petitioner, holding that the directions dated 05.12.2018, issued in pursuance of the decision taken in the 187th meeting, had been confirmed by the dismissal of the Appeals by the NGT as well as the Supreme Court and also the dismissal of the Review Application filed by the petitioner before the NGT. By applying the doctrine of merger, the GCZMA found that the Review Application preferred by the petitioner alleging procedural flaws was not maintainable.

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10. In pursuance of the findings in the 276th meeting of the GCZMA, the impugned order dated 25.10.2021 was issued, whereby direction was issued to the petitioner to demolish all the structures in the aforesaid property in Colva village.

11. The petitioner filed the present Writ Petition before this Court, claiming that the aforesaid impugned order dated 25.10.2021, issued by the GCZMA, was without jurisdiction as it amounted to reviewing an order passed in review proceedings. It was further claimed that upon the procedural review of the petitioner being granted in the 253rd meeting of the GCZMA, on facts, it was found that only some additional structures deserved to be demolished and therefore, the impugned order was wholly unsustainable. Since it was claimed that the impugned order was without jurisdiction, it was asserted that the Writ Petition was maintainable before this Court.

12. On 24.11.2021, this Court issued notices and granted interim stay of the impugned order dated 25.10.2021. Thereupon, the respondents entered appearance and filed their replies and thereafter, the Petition was taken up for hearing.

13. Mr. Nitin Sardesai, learned Senior Counsel appearing for the petitioner submitted that the impugned order dated 25.10.2021 was passed by the GCZMA wholly without

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jurisdiction, for the reason that it amounted to reviewing of the order/decision issued by the GCZMA, while exercising review jurisdiction. It was submitted that such a review of an order passed in review proceedings could not be countenanced and therefore, the impugned order deserved to be set aside. On this very ground, it was claimed that the Writ Petition was maintainable before this Court.

14. The learned Senior Counsel submitted that the procedural review preferred by the petitioner before the GCZMA was clearly maintainable in the light of the law laid down by the Supreme Court in the case of **Kapra Mazdoor Ekta Union Vs. Birla Cotton Spinning and Weaving Mills Ltd. & Another, (2005) 13 SCC 777**. By placing reliance on paragraphs 18 and 19 of the said judgment, it was claimed that the procedural review belonged to a different category as compared to a review sought on merits. It was claimed that the petitioner had brought to the notice of the GCZMA that there were major procedural flaws culminating in the 187th meeting in respect of which order/direction dated 05.12.2018, was passed against the petitioner. It was submitted that the GCZMA itself appreciated the procedural flaws and upon obtaining a ground truthing report found substance in the contentions of the petitioner and thereby, correctly reviewed its own decision in the 253rd meeting. It was

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submitted that such a procedural Review Application was clearly maintainable, despite dismissal of the Appeals of the petitioner by the NGT as well as the Supreme Court and even upon dismissal of the Review Application by the NGT.

15. It was submitted that the decision of the GCZMA in its 253rd meeting came into effect immediately. The minutes of the said meeting were uploaded on the website and the decision stood pronounced, published, notified and communicated as the petitioner downloaded the same on 17.03.2021. By relying upon the judgment of the Supreme Court in the case of **State Bank of India & Others Vs. S.N. Goyal, (2008) 8 SCC 92**, the learned Senior Counsel submitted that upon such publication, notification and communication of the decision contained in the minutes of the 253rd meeting of the GCZMA, the said Authority being a quasi-judicial authority became *functus officio* and it could not have taken any further proceedings in the matter, much less by exercising *suo motu* jurisdiction. The learned Senior Counsel appearing for the petitioner referred to Sections 4, 5 and 15 of the Environment (Protection) Act, as also, Rule 4 of the Rules framed thereunder and the provisions of the Right to Information Act, 2005 and Section 4 of the Indian Contract Act, 1872, to contend that the moment the decision/minutes of the 253rd meeting stood communicated to the petitioner, no further

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proceedings could have been undertaken. Therefore, the impugned order dated 25.10.2021, was wholly without jurisdiction and deserved to be set aside.

16. As regards the aspect of finality attained by the order dated 05.12.2018, due to dismissal of the Appeals by the NGT as well as the Supreme Court, it was submitted that in view of the Review Application on procedural flaws being entertained by the GCZMA, no contention regarding finality could be accepted. It was submitted that when reality and true facts had come on record, on account of the ground truthing report obtained by the GCZMA, leading to its decision in 253rd meeting, justice required that the impugned order be set aside. It was emphasized that in pursuance of the decision taken in the 253rd meeting of the GCZMA, the petitioner had already demolished the offending additional structures. On this basis, it was submitted that the Writ Petition deserved to be allowed.

17. Mr. Prashil Arolkar, learned Additional Government Advocate appeared for respondent nos. 1 and 2. He submitted that a proper interpretation of the provisions of the Environment (Protection) Act and the Rules framed thereunder would show that the Review Application preferred on the alleged procedural flaws by the petitioner was not finally decided in the 253rd

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meeting of the GCZMA. This was evident because no directions were issued under Section 5 of the Environment (Protection) Act, in pursuance of the said minutes of the meeting. It was emphasized that when the decision was taken in the 187th meeting of the GCZMA, specific direction was issued under Section 5 of the Environment (Protection) Act read with Rule 4 of the Rules, to the petitioner regarding demolition of the entire structures in the said property. As opposed to this, only the minutes of the 253rd meeting of the GCZMA were uploaded on the website and no direction or order was issued by the GCZMA under Section 5 of the Environment (Protection) Act read with Rule 4 of the Rules. It was at this stage itself, that at the 254th meeting of the GCZMA, it was found that the question of maintainability of review on procedural flaws preferred by the petitioner was yet to be decided and hence, notice was issued to the parties on the said aspect of the matter. After hearing was conducted on various dates, in the 276th meeting of the GCZMA, findings were rendered against the petitioner on three issues, including the very maintainability of the review on alleged procedural flaws. Accordingly, it was found that the Review Application could not be entertained and the said decision taken in its 276th meeting of the GCZMA resulted in the impugned order/direction dated 25.10.2021. On this basis, it was submitted that the contention of the petitioner that the

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impugned order dated 25.10.2021 amounts to reviewing of an order passed in review jurisdiction, was fallacious and wholly unacceptable.

18. The learned Additional Government Advocate referred to the grounds raised in the Appeal filed by the petitioner before the NGT, as well as before the Supreme Court to emphasize that all grounds sought to be agitated under the garb of Review Application on procedural flaws were already raised and they stood rejected by the NGT as well as the Supreme Court. In fact, the Review Application filed before the NGT was dismissed, thereby indicating that the same grounds were re-agitated under the garb of procedural flaws. It was submitted that on this basis, the Writ Petition deserved to be dismissed.

19. Mr. Nigel Da Costa Frias, learned Counsel appearing for respondent no. 3 i.e. the original complainant, supported the contentions raised on behalf of respondent nos. 1 and 2. The learned Counsel took this Court through the grounds of challenge raised in the Appeal memo filed before the NGT as well as the Supreme Court. The contents of the Review Application filed before the NGT were also brought to the notice of this Court. He also invited attention of this Court to the contents of the Review Application filed before the GCZMA, in order to

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emphasize that the very same grounds were already raised and therefore, the Review Application filed by the petitioner by relying upon the judgment of the Supreme Court in the case of **Kapra Mazdoor Ekta Union Vs. Birla Cotton Spinning and Weaving Mills Ltd. & Another** (supra) was wholly misplaced and it was clearly not maintainable.

20. It was further submitted by the learned Counsel appearing for respondent no. 3 that the minutes of the 253rd meeting, although uploaded on the website of the GCZMA, did not amount to an order or a direction as contemplated under Section 5 of the Environment (Protection) Act read with Rule 4 of the Rules. It was submitted that the contents of the minutes of the said meeting did not fructify into an order or direction. It was submitted that at this stage itself, the GCZMA realized that the question of very maintainability of the Review Application was yet to be decided and therefore, notices were issued to the parties and after hearing the parties, the GCZMA found that the petitioner had suppressed the fact of dismissal of the Appeal as well as the Review Application by the NGT and the fact that an Appeal was filed by the petitioner before the Supreme Court, which was also dismissed. The GCZMA on this basis found that there was a merger of the order dated 05.12.2018, passed by the GCZMA directing demolition of the entire structures in the said

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property with the dismissal of the Appeal by the Supreme Court. Hence, it was found in the 276th meeting of the GCZMA that the Review Application claiming procedural flaws, filed by the petitioner was itself not maintainable and therefore, the impugned order dated 25.10.2021 was issued. It was submitted that the petitioner was not entitled to rely on any material that came on record pursuant to the said Review Application preferred before the GCZMA and even otherwise, the plan that came on record carried a note that the legality/illegality of the structures shown in the plan was not known and therefore, the plan could not be used for any purpose. Reliance was also placed on the judgment of the Supreme Court in the case of **Kunhayammed & Others Vs. State of Kerala & Others**, (2000) 6 SCC 359 and **Bipromasz Bipron Trading SA Vs. Bharat Electronics Limited (BEL)**, (2012) 6 SCC 384.

21. Having heard the learned Counsel for the rival parties, the principal contention raised on behalf of the petitioner needs to be addressed. The said contention is that the impugned order dated 25.10.2021 amounts to review of an order/direction passed by the GCZMA in a review proceeding, which is impermissible and that therefore, the impugned order is without jurisdiction. This is the very contention on the basis of which, the petitioner claims that the present Writ Petition is maintainable before this Court. A

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necessary concomitant of this contention is that according to the petitioner, the decision in the 253rd meeting of the GCZMA was an order/direction of the said Authority, entertaining and disposing of the Review Application on procedural grounds moved by the petitioner and that the GCZMA had become *functus officio*, upon rendering the said decision in the 253rd meeting.

22. In this regard, a perusal of the minutes of the 253rd meeting of the GCZMA becomes necessary. A perusal of the same shows that there is reference to the Review Application on procedural grounds moved by the petitioner and the background in which the proceedings were initiated against the petitioner for removal of the alleged unauthorized structures in the aforesaid property and the procedural flaws sought to be highlighted by the petitioner. The minutes of the said meeting recorded that after issuing notice on the Review Application filed by the petitioner, the GCZMA thought it fit to call for a ground truthing report concerning the structures in the said property. After referring to such report, the GCZMA indeed recorded that some structures were constructed in the absence of approvals of the relevant Authorities and the Licensing Body and further, that such offending structures were required to be demolished and not the entire set of structures as a whole.

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23. The minutes of the 253rd meeting of the GCZMA were signed by the Chairman and the Member Secretary. There is no serious dispute about the fact that these minutes were uploaded on the website of the GCZMA. The petitioner claims that it downloaded the said minutes of the meeting on 17.03.2021. According to the petitioner, since the said decision in the form of minutes of the meeting was uploaded on the website of the GCZMA, the requirement of the law as laid down by the Supreme Court in the case of **State Bank of India & Others Vs. S.N. Goyal** (supra) stood satisfied, thereby indicating that the GCZMA as a quasi-judicial Authority, had become *functus officio*, upon the minutes of the 253rd meeting being uploaded on the website.

24. It was submitted that the uploading of the minutes of the 253rd meeting, which also contained the aforesaid decision pertaining to the Review Application, amounted to publication, notification and communication of the decision to the petitioner and the parties concerned, thereby showing that the GCZMA was rendered *functus officio*, at that very moment. The relevant portion of the judgement of the Supreme Court in the case of **State Bank of India & Others Vs. S.N. Goyal** (supra) reads as follows:

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"The position is different with reference to quasi-judicial authorities. While some quasi-judicial tribunals fix a day for pronouncement and pronounce their orders on the day fixed, many quasi-judicial authorities do not pronounce their orders. Some publish or notify their orders. Some prepare and sign the orders and communicate the same to the party concerned. A quasi-judicial authority will become *functus officio* only when its order is pronounced, or published/notified or communicated (put in the course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become *functus officio*. The order dated 18-1-1995 made on an office note, was neither pronounced, nor published/notified nor communicated. Therefore, it cannot be said that the appointing authority became *functus officio* when it signed the note dated 18.1.1995."

25. In this context, the learned Senior Counsel appearing for the petitioner referred to Section 5 of the Environment (Protection) Act read with Rule 4 of the Rules to contend that the minutes of the 253rd meeting, uploaded on the website of the GCZMA, satisfy the expression "directions" used in the aforesaid provisions and therefore, the GCZMA, being a quasi-judicial authority, became *functus officio*. On this basis it was claimed

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that the GCZMA could not re-open the matter for passing the impugned order dated 25.10.2021.

26. In this context, it is necessary to refer to Section 5 of the Environment (Protection) Act, which pertains to powers to give directions. The said provision mandates that the directions shall be issued in writing to any person and that such person shall be bound to comply with such directions. Rule 4 of the Rules framed under the aforesaid Act specify that any direction issued under Section 5 shall be in writing and it shall specify the nature of the action to be taken and the time within which it shall be complied with by the concerned person. According to the petitioner, the contents of the minutes of the 253rd meeting of the GCZMA, uploaded on the website were not required to be followed up with any order or direction and that uploading of such minutes of the meeting was itself a self-contained order of the GCZMA. Much emphasis was placed on the fact that the minutes of the meeting of the GCZMA contained a decision, which partly rescinded the decision in the 187th meeting, thereby showing that nothing further was required to be done. It was claimed that since the Review Application of the petitioner on procedural grounds stood partly allowed, no further order or directions were necessary and the proceedings stood closed.

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27. A perusal of the record of the present case and the manner in which the GCZMA functions under the Environment (Protection) Act and Rules framed thereunder, shows that after proceedings are recorded in the minutes of the meeting, depending upon the contents thereof and the decision taken therein, specific orders/directions are issued under Section 5 of the Environment (Protection) Act. The record shows that the decision taken in the 187th meeting of the GCZMA culminated in directions dated 05.12.2018, issued under Section 5 of the Environment (Protection) Act and the Rules framed thereunder, whereby the petitioner was directed to demolish the entire structures in the property in question as they were found to be unauthorized and illegal. It is this direction of the GCZMA, which was made subject matter of challenge by the petitioner before the NGT under Section 16 of the Act of 2010. It is an admitted position that the NGT dismissed the Appeal and the Appeal filed by the petitioner before the Supreme Court under Section 22 of the Act of 2010, against the order of the NGT, was also dismissed by the Supreme Court. Thus, the directions issued by the GCZMA against the petitioner under Section 5 of the Environment (Protection) Act attained finality by dismissal of the Appeal by the Supreme Court.

28. The petitioner admittedly filed a Review Application before the NGT, which was also dismissed. The petitioner filed a Review Application before the GCZMA, claiming that it was a procedural review, which had nothing to do with the merits of the matter and claimed that the GCZMA could entertain the same as per the law laid down by the Supreme Court in the case of **Kapra Mazdoor Ekta Union Vs. Birla Cotton Spinning and Weaving Mills Ltd. & Another** (supra). It is significant that the aspect of maintainability of such Review Application was for consideration before the GCZMA and the parties were heard. No doubt, in the minutes of the 253rd meeting of the GCZMA, the Review Application was considered and a decision was arrived at, regarding necessity to demolish some of the structures and not the entire set of structures in the property in question. It was recorded that the decision taken in the 187th meeting of the GCZMA was required to be partly rescinded. The most crucial part is that no specific directions were issued by the GCZMA in pursuance of the 253rd meeting. The GCZMA did not issue a direction under Section 5 of the Environment (Protection) Act, as it had done by issuing direction dated 05.12.2018, after recording the minutes of the 187th meeting of the GCZMA. Even if the GCZMA had recorded that the minutes of the 187th meeting were required to be partly rescinded, a direction or order partly modifying the direction dated 05.12.2018 issued under Section 5

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of the Environment (Protection) Act was necessarily required to be issued for the process of review initiated by the petitioner to reach its culmination. Admittedly, no such direction/order was issued. It is crucial that at this stage, in the 254th meeting itself, it was recorded that the question whether, GCZMA had power to review, was itself open in the backdrop of the fact that the issue had attained finality by dismissal of the Appeal by the Supreme Court. It was also recorded that when the aspect of procedural review was pressed into service on behalf of the petitioner, the matter having already attained finality, required detailed consideration. On this basis, notices were issued to the parties on hearing regarding the maintainability of the Review Application.

29. Pursuant thereto, the parties were heard on various dates and minutes of such meetings were recorded and also uploaded on the website of the GCZMA and ultimately, three specific issues were framed, which read as follows:

- (1) *Whether the Authority became functus officio after the decision recorded in the minutes of 253rd meeting?*
- (2) *Whether the Authority has jurisdiction to review its decision taken at the 187th meeting held on 30/10/2018?*
- (3) *Whether the applicant/original respondent suppressed a material fact from this Authority regarding the filing and*

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subsequent dismissal of its review petition by Hon'ble National Green Tribunal in its order dated 01.05.2019 in Review Application no. 1/2019 (WZ) ?

30. While rendering findings on the aforesaid three issues in the 276th meeting of the GCZMA, it was found that the petitioner had not approached the GCZMA with clean hands. The petitioner having filed Review Application before the NGT, was concealed from the GCZMA and that it was a clear case of forum hunting on the part of the petitioner. The GCZMA also found that the doctrine of merger clearly applied because the petitioner had challenged the decision dated 05.12.2018, pertaining to demolition of the entire structures before the NGT in Appeal and thereafter, upon dismissal of appeal by the NGT, before the Supreme Court, where the Appeal was also dismissed. The dismissal of the Appeal by the Supreme Court led to merger of findings and directions issued by the GCZMA on 05.12.2018. It is after the 276th meeting of the GCZMA leading to the impugned order dated 25.12.2021, issued for specific directions under Section 5 of the Environment (Protection) Act and Rule 4 of the Rules, that the Review Application stood dismissed and that the petitioner was directed to demolish all the structures on the property.

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31. It is after passing of the impugned order/direction dated 25.10.2021, that it can be said that the Review Application stood disposed of and the matter pertaining to Review Application reached its culmination. The petitioner is not justified in contending that the uploading of the minutes of the 253rd meeting on the website of the GCZMA was enough to show that the GCZMA had become *functus officio*. Once this conclusion is reached, the principal contention raised on behalf of the petitioner that the impugned order dated 25.10.2021 amounts to a review of an order passed on a Review Application, is wholly unsustainable. The impugned order dated 25.10.2021, therefore, cannot be said to be an order without jurisdiction.

32. It also becomes clear that the reliance placed on behalf of the petitioner on judgement of the Supreme Court in the case of **State Bank of India & Others Vs. S.N. Goyal** (supra) is misplaced. In the said judgment also, in the context of quasi-judicial authorities, it is laid down that when "an order" of such an Authority is pronounced, published, notified or communicated, then such an Authority becomes *functus officio*. This Court finds that the minutes of the 253rd meeting of the GCZMA, although uploaded on the website may amount to notification, publication or communication thereof, but since the minutes of the meeting do not have the status of an

order/direction of the GCZMA as a quasi-judicial Authority, the ratio of the said judgment is inapplicable.

33. There is another important aspect of the present matter, which concerns finality of orders in the backdrop of the doctrine of merger. In the present case, it is an admitted position that the direction/order dated 05.12.2018, issued by the GCZMA attained finality by dismissal of Appeal by the Supreme Court and its merger into the order of the Supreme Court. The petitioner exhausted the statutory remedies of Appeal before the NGT and the Supreme Court and met with failure. It is also an admitted position that the petitioner filed a Review Application before the NGT, which was also dismissed.

34. Yet, the petitioner filed the aforesaid Review Application before the original Authority i.e. GCZMA itself, claiming that it was a procedural review and not a review on merits. Therefore, this Court examined the grounds raised on behalf of the petitioner in the Appeal filed before the NGT and the Supreme Court, as also the grounds raised before the NGT in review and thereafter the Review Application filed before the GCZMA. A perusal of the Appeal Memo filed before the NGT shows that emphasis of the petitioner was on the aspect that findings recorded in the survey plan were not justified and that principles

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of natural justice were violated and the documents produced by the petitioner were not considered. In the Appeal filed before the Supreme Court also, similar grounds of challenge were raised and specific grounds of challenge were raised pertaining to alleged violation of principles of natural justice, illegal and defective constitution of the GCZMA itself, illegal delegation of powers to the GCZMA, the said Authority acting in excess of jurisdiction, non-consideration of the material produced by the petitioner and that the fundamental rights of the petitioner were violated. As noticed above, the Supreme Court dismissed the Appeal after considering such grounds of Appeal.

35. The grounds on which the petitioner sought review before the NGT also show that the very same grounds pertaining to violation of principles of natural justice, illegal and defective constitution of the GCZMA and non-consideration of material were raised on behalf of the petitioner. Even in the Review Application filed before the GCZMA, in which the petitioner claimed that a review was not sought on merits, but only on procedural flaws shows that, again the very same grounds were raised on behalf of the petitioner. This Court has perused the Review Application filed by the petitioner allegedly on procedural flaws and it is found that the grounds therein are nothing but repetition of the grounds raised before the NGT as well as the

Supreme Court in Appeal as also the grounds raised in the Review Application before the GCZMA. Thus, it becomes clear that the petitioner was merely repeating the grounds of challenge and there was not an iota of procedural defect demonstrated on behalf of the petitioner. Hence, reliance placed on the judgment of **Kapra Mazdoor Ekta Union Vs. Birla Cotton Spinning and Weaving Mills Ltd. & Another** (supra), particularly paragraph 19 thereof, can be of no avail to the petitioner. It is found that the petitioner was only making desperate attempts to avoid the directions issued by the GCZMA in the order dated 05.12.2018. In this connection, it becomes clear that the petitioner is not justified in contending that this Court ought to look at the material that came on record during the process of the Review Application being considered by the GCZMA, to hold in favour of the petitioner. This Court is convinced that the findings rendered by the GCZMA on all the three issues in its 276th meeting, which culminated into the impugned order dated 25.10.2021, are correct and in consonance with the position of law. Once the direction dated 05.12.2018 attained finality, by dismissal of the Appeal by the Supreme Court and the doctrine of merger operated against the petitioner, there was no question of the GCZMA entertaining the Review Application. Merely because some observations were made in the 253rd meeting of the GCZMA, which in fact did not culminate into any order or

direction, it cannot be said that the same would accrue to the benefit of the petitioner in the face fact of the findings reached in the order/direction dated 05.12.2018 issued by the GCZMA, which had attained finality.

36. After the hearing was over, the learned Senior Counsel for the petitioner handed over judgment of the Supreme Court in the case of **L. Chandra Kumar Vs. Union of India & Others, (1997) 3 SCC 261**, to contend that judicial review being a part of the basic structure of the Constitution, jurisdiction of this Court under Articles 226 and 227 of the Constitution of India cannot be hampered in any manner. As against this, the learned Counsel appearing for the respondent no. 3 placed reliance on **Natural Resources Allocation, In Re, Special Reference No. 1 of 2012** reported in **(2012) 10 SCC 1**, to emphasize on finality of orders.

37. There can be no doubt about the fact that the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India is a special jurisdiction and discretion can be exercised in special cases in the interest of justice, but, the same would not stretch to the extent that reliefs can be granted to the petitioner herein. This Court has already disagreed with the principal ground of challenge in the present Writ Petition that the

impugned order dated 25.10.2021 amounts to a review of a review. It is also found that the direction dated 05.12.2018, issued against the petitioner for demolition of the entire structures in property attained finality by dismissal of the petitioner's Appeal by the Supreme Court. The inevitable fallout of the finality of the directions cannot be avoided by the procedure sought to be adopted by the petitioner.

38. As noted above, the grounds stated in the Review Application before the GCZMA, claiming it to be a procedural review, were identical to the grounds raised by the petitioner on merits against the order/direction dated 05.12.2018, issued by the GCZMA, while filing Appeal before the NGT as well as the Supreme Court. The challenge raised on the very same grounds stood rejected finally by the Supreme Court. Therefore, there is no question of miscarriage of justice or any situation warranting exercise of discretion in favour of the petitioner in the context of the impugned order dated 25.10.2021.

39. It is brought to the notice of this Court that a party claiming to be the original owner of the property, also filed a Writ Petition before this Court raising similar grounds against the directions of the GCZMA. Admittedly, the Petition stood dismissed and the same also attained finality. This gives an

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impression that the petitioner has undertaken all kinds of steps to somehow avoid the inevitable fallout of the findings of the GCZMA issued in the order/direction under Section 5 of the Environment (Protection) Act. The attempt on the part of the petitioner to claim procedural review before the GCZMA met its logical end in the impugned order/direction dated 25.10.2021, wherein the Review Application was found to be not maintainable, thereby leading to directions to the petitioner to demolish the entire structures in the property in question.

40. The petitioner has failed to make out any case for interference with the impugned order, passed by the GCZMA, under writ jurisdiction sought to be invoked in the present Petition. Hence, the Petition is found to be without any merit and accordingly, it is dismissed.

MANISH PITALE, J.

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ORDER CONTINUED:

41. Upon pronouncement of the Order, the learned Counsel appearing for the petitioner submitted that the interim Order granted by this Court may be continued for eight weeks.

42. The said request is opposed by the learned Counsel appearing for the respondents.

43. This Court has given detailed reasons in the Order as to why it is found that the Petition is without any merit and does not deserve consideration. Hence, the prayer for continuation of interim relief is rejected.

MANISH PITALI, J.