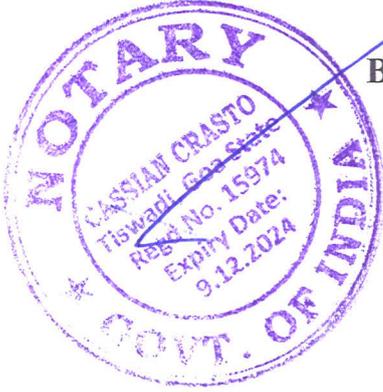


**4605**



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

Misc. Application No.03/2023

In

Original Application No. 478/2018

**THE GOA FOUNDATION**

**...APPLICANT**

**VERSUS**

**THE STATE OF GOA & ORS.**

**...RESPONDENTS**

**AFFIDAVIT IN REPLY ON BEHALF OF  
RESPONDENT NO. 4**

I, **MR. RAJESH SHETH** S/o Sadanand Sheth, Age 51 years, Indian National, R/o H.No. C-14,/208-3 F5, Near Hotel Libdoran, Caranzalem, Goa 403002, the authorized representative of the Respondent No. 4, do hereby on solemn affirmation state and submit as under:

1. I say that I am in receipt of the misc. application filed by the Applicant above named. I deny and dispute the contents of the application to the extent that the same



are contrary to the case set out by me. Anything that is not specifically denied shall not be deemed to be admitted.

2. I say that Respondent No. 4 is a Society registered under the Societies Registration Act, 1960 and is an Association of Real Estate Developers carrying on its business of construction and real estate development in the State of Goa.
3. I say that Respondent No. 4 is a body constituted to espouse the cause of its members as well as the other stakeholders in the industry. By way of the above Application, the Applicant herein has challenged the interim reports submitted by the Forest Department of Government of Goa before this Hon'ble Tribunal on identification of private forest land in state of Goa with reference to Thomas and Araujo Committee Reports.
4. I say that the Application is misconceived and without any merit. The grounds of challenge are based on

surmises and conjectures and do not warrant any indulgence from this Hon'ble Tribunal.

5. I say that the Terms of Reference of the Review committee are subject to their true and correct interpretation. It bears mentioning that the TOR of the sub-committee contemplates use of FSI data. Furthermore, considering the technological advancement and taking into consideration the change in various factors that has taken place over the years, the latest FSI data and maps shall be more relevant to the present status of the lands and for preparation and finalization of private forests. The interim reports of the forest department cannot be construed as vitiated for using the latest data available with the FSI. Contention of the Applicant that the 2 decade old FSI maps ought to be taken and only as a 'guiding indicator' is erroneous and misconceived. Therefore use of latest FSI maps cannot be taken as a ground to challenge the interim reports.



6. I say that issue pertaining to the identification and demarcation of private forests has been pending for over two decades. Numerous committees have carried out their surveys and submitted their reports.



7. I say that in pursuance to the directions of the Supreme Court, the Government of Goa constituted the Sawant Committee for identification of government forest and private forest. However since the exercise carried out by the Sawant Committee was not complete, the Karapurkar Committee was constituted for the purpose of identifying Government and Private forests. The following criteria was adopted by Sawant and Karapurkar Committee for identification of private forest which criteria was adopted on the basis of directions issued by the Hon'ble High Court, Panaji Bench in W. P. No. 162/1987 in the matter of Sadanand Salgaonkar vs. State of Goa

- i. 75% of the land must have forestry species.
- ii. The canopy density of the land should be minimum of 0.4 %.



iii. The land should be a minimum of 5 hectares.

8. I say that both the Committees submitted their reports to the State Government and the same were also placed before the Supreme Court in the said proceedings of T. N. Godavarman Tirumulpad vs. Union Of India.
9. I say that in 2003, a Writ Petition No. 286/2003 came to be filed by the Goa Foundation in the High Court of Bombay at Goa, alleging that despite classification of certain lands as private forest by the Sawant and Karapurkar Committees, permissions for development of land for non forest/development purposes were being granted by the State Authorities. On behalf of the developers, it was contended before the High Court that the State Level Committees had classified some survey holding as part forest, and that development was being permitted in these parts which were non forest. In this context, vide order dated 02/07/2003, the Hon'ble High Court of Bombay issued certain

directions, one of them being direction No. 3 which reads as under :-



*“(3) The First Respondent [State of Goa] if it has not already done, to demarcate the non-forest areas from the forest areas based on either Sawant Committee or Karapurkar Committee reports and submit the same to this Court within six months from today.”*

10. I say that in the order dated 02/07/2003, the Hon'ble High Court directed the State of Goa to demarcate the non-forest areas from forest areas based on either Sawant Committee or Karapurkar Committee reports and submit the same to the Hon'ble High Court. In view of the same, the State Government constituted a State Level Committee.
11. I say that it was in furtherance of orders of the Hon'ble High Court dated 02/07/2003 that the forest Department carried out survey in Goa for the purpose of demarcation of forest in pursuance to the Sawant



and Karapurkar Committee report and submitted various reports to the Hon'ble High court of Bombay at Goa in W.P 286/03.

12. However, in view of the fact that some areas in the state of Goa were not surveyed by Sawant and Karapurkar Committee, in 2006 the Applicant (Goa Foundation) filed a writ petition No. 334/2006 before the Hon'ble High Court of Bombay at Goa seeking directions to the State Government to complete the process of identification of forests and also identify the degraded forest lands. This application was subsequently transferred to the Hon'ble National Green Tribunal (NGT) and re-numbered as Application No. 16 (THC)/2013 and then to OA No. 478/2018.

13. I say that on 30.06.2008, the Chief Conservator of Forests filed an affidavit before the Hon'ble High Court in WP No. 286/2003 stating that it had completed the exercise of survey and demarcation of 612 out of 640 land holdings, and a consolidated report with respect to the same was placed on record.



14. I say that the reports submitted by the forest dept were challenged before the Hon'ble High Court in W. P. No. 673/2008. The said petition was filed by Goa Foundation on the ground that the reports submitted by the forest dept. are contrary to the orders of the Hon'ble high court since in the reports, some lands which are classified as forest in the Sawant and Karapurkar Committee have been omitted.
15. By an order dated 15.10.2012 in WP No. 334/2006, the Hon'ble High Court directed the State of Goa to identify the balance private forest areas.
16. Accordingly, the State Government by a notification dated 27.11.2012 constituted the North Goa Forest Division Committee (headed by V. T. Thomas) and South Goa Forest Division Committee (headed by F. X. Araujo).
17. I say that in pursuance of the directions of this Hon'ble Tribunal from time to time, the Forest Department of State of Goa filed interim reports before this Hon'ble Tribunal in OA Nos. 477/2018 and

478/2018 inter alia stating the total area surveyed and demarcated as private forest from the provisionally identified areas.



18. Vide order dated 23/04/2018, a review committee under the Chairmanship of Deputy Conservator of Forests, Working Division Plan - (*Ms. Deepshikha Sharma*) was constituted to identify on loco the properties, which were partly reflected in the Sawant and Karapurkar Committee as forests.
19. The said Deepshikha Sharma committee carried out the exercise of identification and demarcation of lands which were identified as '*forest*' by the Sawant and Karapurakar committee, however, cleared by the forest department as being non forest in the reports filed by the forest department.
20. Vide Order dated 12/10/2018, this Hon'ble Tribunal disposed of the said OA Nos. 477/2018 and 478/2018 - earlier registered as Application Nos. 14(THC)2013/WZ and 16(THC)2013(WZ), and

directed the forest department to complete the work by March 2019 and file compliance report.



21. To the extent of identification of additional area by the Deepshikha Sharma Committee, the same was not accepted by the government, and vide notification dated 23/08/2019, a committee under the Chairmanship of Anthony D'Souza was set up to consider the objections to the Sharma Committee Report. The report of the said committee recommended exclusion of some areas identified by Deepshikha Sharma Committee. The said report was accepted by the Government. The said Anthony Dsouza committee report along with the report of the committee by Deepshikha Sharma was filed before the Hon'ble NGT in Application No. 18/2013.

22. By notification dated 21/01/2020, the Government constituted a committee under the Chairmanship of the Conservator of Forests to review the identification of forests by Thomas and Araujo Committee and the report was to be submitted by 10/03/2020.



23. By Order dated 18/08/2020 passed by the Hon'ble National Green Tribunal (Western Zone) in OA No. 18/2013 (THC) (WZ) renumbered as Original Application No. 479/2018, the Hon'ble National Green Tribunal was pleased to confirm the report of the committee headed by Deepshikha Sharma and direct that an area of 41.20 sq. km. demarcated by the Forest Department and 4.91 sq. mt. identified by Sharma Committee totaling 46.11 sq. km is confirmed and identified as private forest.

24. The said Order of the NGT was challenged by the State of Goa before the Hon'ble Apex Court in Civil Appeal No. 1 of 2021. Vide Order dated 01/02/2021, the Hon'ble Apex Court refused to interfere and accordingly dismissed the Appeal.

25. I say that as the said compliance report in terms of Order dated 12/10/2018 passed in OA Nos. 477/2018 and 478/2018 was not filed by the forest department within the stipulated time period, Goa Foundation filed an EA No. 21/2021. In the said proceedings, the Forest



Department sought extension of time to complete the exercise, which was granted by this Hon'ble Tribunal.

Finally vide Order dated 30/11/2021, the Hon'ble NGT disposed of the said Application whilst issuing a direction to the Forest Department to submit final report by 30/04/2022.

26. In pursuance of the above Order dated 30/11/2021, the forest department produced five interim reports, which are challenged by the Applicant in the present proceedings.

27. I say that the issue of identification of private forest in the state of Goa is pending for the last more than 20 years. It is in the interest of all the stakeholders involved in the real estate industry that the issue attains closure at the earliest. I say that the Respondent herein represents the interest of the principal stakeholders in the real estate industry.

28. I say that the Real Estate industry is grappling with the issue of identification of private forest for the last

more than 20 years and it is in the interest of the state of Goa that the issue attains closure at the earliest.

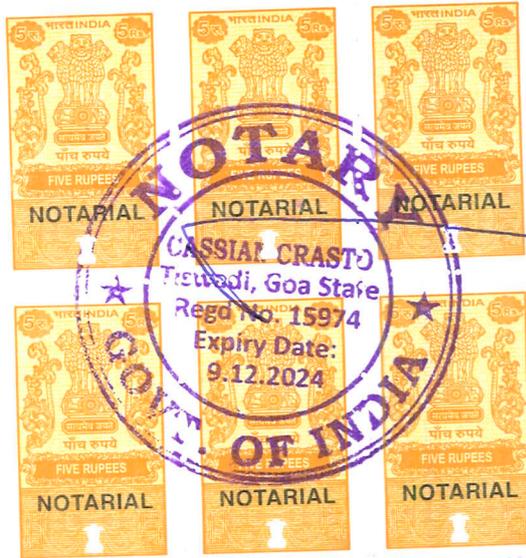


29. The exercise of undertaking survey and inspection and filing of the interim reports has been undertaken by experts in the field and therefore the exercise has the necessary sanctity. Applicant has been challenging practically every report/action taken by the forest department on account of which there has been a lot of uncertainty in the investment climate in the state of Goa and the issue of identification of forest has become convoluted leading to inordinate delays in the closure of the said issue. The above application is one such attempt which needs to be nipped in the bud.
30. In view of the above, the Application is liable to be dismissed.
31. I say that the contents of foregoing paras are true to my knowledge and/or based on legal submissions which I believe to be true.

Solemnly affirmed at Panaji – Goa

On this 3<sup>rd</sup> day of May, 2023

DEPONENT



Solemnly affirmed before me by  
Rajesh Sheth

Reg. No. 3359 Date: 3/5/23  
known/Identified to me by

**CASSIAN CRASTO**  
Advocate & Notary  
(Govt of India)  
Panaji, Tiswadi, Goa