

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE MAHARASHTRA

Appeal No. 54/2022

Cavelossim Villagers Forum

...Appellant

V/S

State of Goa and Others

...Respondents

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Place: Pune

Date: 11/09/2023

Advocate for Respondent no. 5 and 6



**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, WESTERN ZONE BENCH
AT PUNE MAHARASHTRA**

APPEAL NO. 54/2022

CAVELOSSIM VILLAGERS FORUM ...APPELLANT

V/S

STATE OF GOA AND OTHERS ...RESPONDENTS

AFFIDAVIT-IN-REPLY OF RESPONDENT NOS. 5 AND 6

MAY IT PLEASE THE HONOURABLE TRIBUNAL:

We, Respondent No.5, Radha Satish Timblo, and Respondent No. 6, M/s Shree Balaji Concepts, herein most respectfully state and submit as under :-

1. We have read a copy of the present Appeal and are making this Reply for the purpose of opposing the same and/or the grant of any relief thereon.
2. At the very outset and as and by way of a prefatory submission, we deny the contents of the Appeal in its entirety. Nothing in the Appeal should be deemed to have been admitted unless specifically admitted by these

Respondents in this Reply.

3. The reliefs sought in the present proceedings are, briefly, as follows:

A. *That the ongoing construction of the proposed resort in Survey Nos 90/1, 5, 6 (p) and 91/1, 3 to 10 of village Cavelossim, Salcete Goa be declared to be in violation of CRZ Notification, 2011, Environment (Protection) Act, 1986, and other enactments and be directed to be stopped forthwith until environment impact assessment studies are carried out and CRZ and Environmental Clearances are obtained.*

B. *The Respondent No. 6 be restrained from carrying out any further construction or development activities in respect of the proposed construction of a resort in survey nos. 90/1, 5, 6(P) and 91/1, 3 to 10 of Cavelossim Village, Salcete Goa, pending the hearing and final disposal of this application,*

C. *The Respondent No. 6 be restrained from carrying out any further construction or development activities in respect of the proposed construction of a building in Survey No. 91/5 and 6 of village Cavelossim, Salcete Goa, pending the hearing and final disposal of*



this application,

D. The Respondent No. 6 be restrained from carrying out the construction of proposed water body in NDZ in Survey No. 91/1 and 7 of Village Cavelossim.

E. That the Respondent No. 6 be directed to demolish the construction carried over the water body in survey no. 91/1 of Village Cavelossim and to have the water body restored to its original condition.

F. For ex-parte ad interim reliefs in terms of prayer clause B.

G. For costs of these proceedings

H. Any other order this Hon'ble Tribunal may deem fit in the facts of this case

4. As and by way of a preliminary objection it is submitted that said reliefs are **barred by limitation** and/or **principles of res judicata/constructive res judicata.**

5. By way of amendment, the following reliefs were added to the proceedings which are as follows:

I. That the Respondent no. 6 be directed to



remove the reclaimed and filling done within the NDZ area of River Sal as reported in the Site Inspection Report dated 24/06/2014 of the GCZMA and have the land restored to its original conditions.



J. For an order quashing and setting aside the order dated 12/9/2022 issued by the Respondent no. 4 which was served through a registered AD on the appellant on 15/09/2022.

6. Prayer clauses “I” and “J” were also added by the amendment carried out by the Appellants herein pursuant to the Order dated 30/01/2023 passed by this Hon’ble Tribunal. This was prior to issuance of notice to these Respondents and before registration of appeal or filing the application for condonation to file the appeal.

7. With respect to the prayers from “A” to “I”, these Respondents submit that the same have been sought in the most casual manner. In fact, the perusal of the above prayers shows that the same are nothing but a compendium of prayers from earlier proceedings which were duly disposed off by various Judicial Forums including this Hon’ble Tribunal, Hon’ble High Court of Bombay and Hon’ble Supreme Court. Incorporating such prayers again only demonstrates that the Appellant herein has approached this Hon’ble Tribunal to cause harassment to these Respondents

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and this is a sheer attempt to misuse the law by filing frivolous proceedings. It is respectfully submitted that the said reliefs are not available to the Appellants anymore; and the instant Appeal is an abuse of process of Law. Hereto annexed and marked as **Exhibit A** colly are the copy of Memo of Original Application No. 61/2014 filed before National Green Tribunal; Memo of Original Application No.1 /2018 and PIL Writ Petition No. 6/2015.

8. The reliefs sought in the instant proceedings have also been the subject matter of a *lis* which was previously adjudicated in the Original Application No. 61/2014; Original Application No.01/2018 and PIL Writ Petition No.06/2015. All these three proceedings were filed by the Appellant herein against the Respondents. The said proceedings were disposed off by following orders: -

A. Judgment and Order dated 13/10/2016 passed by Hon'ble High Court in PIL Writ Petition No.06/2015 dismissing the Petition with only issue involved pertaining to CRZ to be dealt by Hon'ble Tribunal. The said Judgment and order was challenged by the Appellant by way of SLP(c)No.37738-37739/2016 before the Hon'ble Supreme Court which came to be dismissed as withdrawn vide order dated 13/1/2017,

B. Order dated 24/04/2019 passed by Hon'ble Tribunal in Original Application No. 61/2014 to conduct the



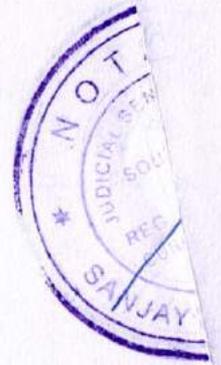


and hence cannot be entertained by this Hon'ble Tribunal. It is further submitted that relief sought in prayers "I" to "J" are in the nature of seeking reliefs against the permissions granted by the statutory authorities under the Goa Town and Country Planning Act and the Goa Irrigation Act. These reliefs are therefore outside the scope and ambit of Section 2 (m) of the Act. Hence, this Appeal is not maintainable before this Hon'ble Tribunal.

10. Before venturing into merits and / or addressing the allegations made in the Memorandum of Appeal, these Respondents state that the Appellant herein has not supplied colour or legible copies of documents which are at page no. 194, 195, 206 and 207. Hence these Respondents reserve their right to file an additional reply or counter affidavit once the said documents are made available to them.
11. On the merits of the allegations made, these Respondents state that no construction activity is carried out in CRZ area. Construction was done in accordance with the statutory permissions granted to the Respondents under the laws in force in the State of Goa. There is no illegality in the same. Furthermore, the construction carried out is beyond the NDZ area which shall be demonstrated hereinafter. There is in fact a categoric finding of the Goa Coastal Zone Management Authority to that effect.
12. These Respondents respectfully submit that the present

proceedings are an abuse of process of law. The present proceedings are not a *bonafide* proceedings. These Respondents deny that the present proceedings are instituted to protect interest of the local villagers or the ecology of the village or to provide free legal aid to poor people and/or to fight against the illegal activities and construction. These Respondents submits that the Appellant herein does not represent the interest of villagers of Cavlossim Village. In fact, the Appellant is an organization of a handful of people who are interested in causing harassments to business establishments by abusing the process of law and seek to derive private gain. The Appellant is registered with the residential address of one Iris Passanha who is allegedly the President of the Appellant. Surprisingly, the present petition is filed by its Secretary Shri Sanford Barretto. These Respondents deny that said Secretary Sanford Barretto has power to file the present petition. The Resolution annexed to the petition is vague and does not provide details of office bearers, the members present for the meeting and the constitution of the Appellant. Hence the present proceedings are liable to be dismissed on this ground alone. These Respondents submits that no public interest is involved in the instant proceedings.

13. The Appellants have filed numerous litigations against these Respondents before this Hon'ble Tribunal, the Hon'ble High Court of Bombay and also before the Hon'ble Supreme Court. Having failed at all these forums /fora, this



is yet another round of litigation before this Hon'ble Tribunal, *albeit*, with distorted facts, once again.

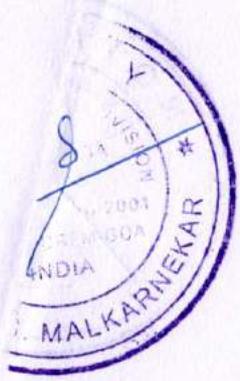
14. These Respondents submit that the construction carried out by them is lawful. Before commencement of development, these Respondents applied for permissions from the concerned statutory authorities in order to carry out construction of Resort and Compound wall which were duly granted to these Respondents. The said permissions are as follows.
- A. Technical Clearance for construction of a resort and compound wall, issued by Town and Country Planning Department, South Goa, dated 17/05/2010.
 - B. Approval of the GCZMA accorded vide their NOC dated 09/04/2010.
 - C. Construction Licence dated 18/06/2010 bearing No. VP/Cav/2010-2011/4 issued by the Village Panchayat of Cavelossim.
15. Thereafter in the year 2016, these Respondents applied for revision of building plans and the Technical Clearance Order was granted by the Senior Town Planner dated 07/12/2016 which was valid till 07/12/2019. Further the Construction License dated 21/6/2017 was granted by the Village Panchayat of Cavelossim which was valid till 21/6/2020. Hereto annexed and marked as **Exhibit C** colly are the copies of Technical Clearance Order dated 7/12/2016 alongwith the plan and Construction License dated



21/6/2017.

16. As on date, it is a matter of record that these Respondents have constructed 28 villas out of 35 villas where construction is duly approved. These villas are in non CRZ areas. No construction is being presently carried out in CRZ area. Besides on account of expiry of period of Construction license, no further construction is ongoing. These Respondents are therefore not doing any construction activities nor filed any application to renew the Construction License. There is no construction activity/s at site since then.
17. These Respondents submit that CRZ regulations are not applicable beyond the 100 mts from River Sal i.e., NDZ area and construction of these Respondent is beyond NDZ area which has been confirmed by various Orders of this Hon'ble Tribunal in O. A. No.61/2014.
18. These Respondents submit that the present proceedings are filed on the same subject and ground, on which earlier proceedings were filed and disposed off. These Respondents state that it has been the *modus operandi* of the Appellant herein to rake up the same issue in the disguise of a new form before this Hon'ble Tribunal after the earlier prayers are not granted by this Hon'ble Tribunal, by filing fresh petitions. These Respondents state that this is impermissible. These Respondents states that the GCZMA





has considered the factors raised in this petition, while passing the order dated 12/09/2022, which is within knowledge of the Appellant. The president of the Appellant is privy to all proceedings of GCZMA in its 317th meeting pursuant to which the Order dated 12/09/2022 was passed. This Hon'ble Tribunal should not entertain the present proceedings. It is pertinent to note that Appellants herein had filed PILWP/6/2015 before the Hon'ble High Court of Bombay at Goa. The said petition was filed seeking a writ of mandamus directing the Respondent nos. 2 to 5 therein to act and take necessary action against the Respondent nos. 6 (M/s Shree Balaji Concepts) and 7 (Radha Satish Timblo) with regard to alleged development of the construction activity in the property surveyed under Survey No. 90/1, 90/5, 90/6E, 91/1, 91/3 to 10 of Cavelossim Village and also for a direction to the Respondent nos. 6 and 7 to stop all such activity in the said property.

19. In the said petition, the said Report dated 24/6/2014 was considered by the Hon'ble High Court. This is reflected in para 4 of the said order dated 13/10/2016. The relevant extract is reproduced hereunder.

.....It is also pointed out that during the site inspection conducted by the Agricultural Department on 24.06.2014 along with the Officers of the Goa Bio-Diversity Board, many illegalities were noticed. It is also pointed out

that the water pond in the property surveyed under no. 91/1 has been filled up with mud.....



20. In para 9 thereafter, the Hon'ble High Court has observed as under.

9. We have considered the submissions of the learned Counsel and we have also gone through the records. It is not disputed that in the duly promulgated survey records, the land in question the property surveyed under no. 91/1 is shown as garden land. There is no reference to any existing pond in the survey records. But, however, it is pertinent to note that after the requisite permissions, the development activity commenced in the subject property. There is no material produced on record by the Petitioners though the present Petition was filed in the year 2015 that on account of filling of mud in the subject pond and relocating the water body, there was any inundation of the surrounding land or that the drainage in the locality had been affected. It is an admitted position that as far as the alleged CRZ violations are concerned effecting the environment, proceedings have been initiated under the Green Tribunal Act, which are



pending for consideration. In such circumstances, we are not inclined to examine the alleged contentions of the Petitioners with regards to the alleged destruction of the water bodies in the present Petition.

21. Thereafter in para 10, the Hon'ble High Court further observed:

10. As far as the contention of the Petitioners that the Town and Country Planning Authorities could not grant the NOC for development on account of such water bodies, it is to be noted that an affidavit filed on behalf of the Respondent no. 3 states that after a complaint was lodged by the Petitioners with that regard, the Respondent nos. 6 and 7 had produced a letter dated 18.02.2014 of the Assistant Engineer of the Water Resources Department directing the Respondent no. 6 to stop the work affecting the area. It is further pointed out that the Respondent no. 3 issued a show cause notice dated 14.03.2014 directing the Respondent no. 6 to stop the on-going work. Thereafter, Respondent no. 6 filed a reply to the said notice with a copy of the NOC dated 23.05.2014 issued by the Executive Engineer Water Resources Department and, consequently, the show cause notice came to be

dropped. It is also to be noted that the diversion of the water bodies to the nullah have been permitted vide letter 23.05.2014 issued by the Respondent no. 5. It is further pointed out that whilst issuing such permissions, the Respondent no. 6 had been directed to comply with the directions in the said letter dated 23.05.2014 for diversion of water bodies.....



22. Then, in para 11, the High Court found as under:

11. Taking note of the said conditions, we find that the contention of the Petitioners that such permission could not be granted by the Executive Engineer, cannot be accepted.....

..... In terms of the said provisions, the permission granted to relocate drains as well as the pond close to such drain, cannot be faulted.

23. Lastly, in para 13, the High Court concluded as under:-

Though it is contended by the Petitioner that such pond which admeasures 400 square meters was used for fishing by the public, the fact remains that there is no material on record to substantiate such contention. the



Pond in question is admittedly located in a private property and the relocation of such pond as pointed out herein above, , cannot be faulted . there is nothing on record to show that such relocation would affect the environment. In such circumstances, we find that there is no infirmity in the grant of permission to the Respondent no. 6 for relocating the drains and the pond in the property surveyed under No 91/1 of village Cavelossim.

24. In view of said findings, the Appellants herein cannot reargue the same issue about relocating the drains and/or the alleged water pond or alleged water bodies in survey no. 91/1 of village Cavelossim.
25. It is worthwhile to note that Appellant herein had filed Special Leave Petition no. 37738-37739/2016 before the Hon'ble Supreme Court of India challenging the said order dated 13/10/2016 passed by the Hon'ble High Court of Bombay at Goa. The same was dismissed as withdrawn by the Hon'ble Supreme Court vide order dated 13/01/2017. Hereto annexed and marked as **Exhibit D** is the copy of order of the Hon'ble Supreme Court dated 13/01/2017.
26. Further in the Original Application No.61/2019, the Hon'ble Tribunal passed an Order dated 24/04/2019 which

is as under :-

Para 24. Since the matter has been pending for the last about five years, having regard to the need for expeditious disposal based on correct and latest factual position, we consider it appropriate to direct furnishing of a joint report by representatives of the MoEF&CC, GCZMA, Goa State Pollution Control Board and Water Resources Department, State of Goa..



27. The said Joint Committee constituted by Hon'ble Tribunal submitted its report to the Hon'ble Tribunal and produced on record factual position of site i.e. within and outside the area of NDZ. Hereto annexed and marked as **Exhibit E** is the copy of Joint Inspection report dated 31/5/2019.
28. Considering the aforesaid Joint Report dated 31/5/2019, the Hon'ble Tribunal finally disposed the OA no. 61/2014 vide Order dated 01/10/2023. The conclusion and recommendation from (i) to (xii) of the said committee are recorded in para 3 of the said order. These Respondents submits that entire conclusions and recommendations are in favour of these Respondents wherein the same were made *vis-a-vis* non CRZ area of the project. The findings in clause no. (x) was with regards to the CRZ part of the property/project, wherein it was recorded as thus:

x) Moreover, the plan approved by the TCP indicating a proposed modification to the said



water body in the S-E direction; Creation of one more water body in survey no. 91/7; construction of three more sluice gates and some other modification as suggested in the revised construction plan to the water ways/drainage system at site though are permitted by WRD, all are falling within the NDZ of Sal River for which permission from the GCZMA is highly necessary.

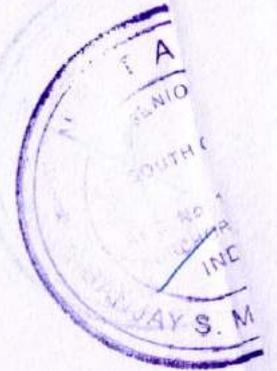
xi) Carrying out these modification /changes as per the plan approved by TCP without obtaining the permission from GCZMA will lead to violation of CRZ regulations.

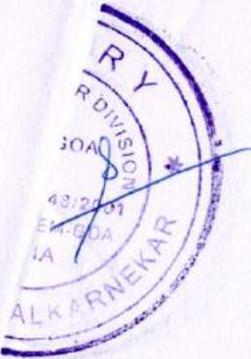
xii) This may be deliberated in the Authority meeting for a decision.

29. In para 4 of its Order, this Hon'ble Tribunal observed that the construction of these Respondent was beyond the NDZ areas of River Sal and that the rest of construction activities appear to be within the applicable norms except certain modification reflecting in clause (x) of the conclusion and recommendations as stated above.
30. In view of said recommendations, this Hon'ble Tribunal directed that the matter shall be looked into by the GCZMA in terms of recommendation no. 3(xii) on the aspect pointed out in that report. This Hon'ble Tribunal further directed

that the GCZMA shall issue notice to the parties and parties were granted liberty to place their respective views and file additional documents, if so advised. GCZMA was directed to dispose of the matter in accordance with law within three months and the OA no. 61/2014 was disposed off.

31. During the proceedings before GCZMA, joint site inspection was conducted by the Expert Member and Executive Engineer of WRD on 14/1/2021 and submitted their respective report to the GCZMA.
32. These Respondents state that there is nothing adverse in the said reports concerning the project undertaken by this Respondent.
33. Firstly, the report speaks, about the non-creation of additional water body as per the approved plan of TCP and NOC of WRD.
34. It is respectfully submitted that the additional water body could not be created by these Respondents as the site of said additional water body falls in the area wherein the CRZ Regulation would apply. Had the Respondents done so, the Appellants would have objected. Secondly, the construction license has also expired.
35. These Respondents submit that in any event, the GCZMA has considered the said Site Inspection Report dated





17/02/2021 submitted by Executive Engineer of WRD to the GCZMA. After the said Report was submitted, the GCZMA conducted their inspection on 29/06/2022 to evaluate the findings of Report dated 17/02/2021. During the site inspection, it was observed that survey no. 91/1, 91/6 and 91/5 partly falls in CRZ III whereas survey no. 90/6 falls in CRZ III NDZ area of River Sal. It was further noted that the WRD has issued NOC and permission for alteration of water bodies and nallahs in the subject properties. It was then concluded that as per the plan for alteration/diversion of water bodies and nallahs approved by the WRD, some part falls within the CRZ area which will require the permission from GCZMA. The said site inspection report dated 29/6/2022 was also given to the Appellant herein. The Appellant has deliberately suppressed this document from this Hon'ble Court and not annexed to this petition. This in fact forms the part of affidavit dated 18/07/2022 filed by the Member Secretary of the GCZMA in OA no.1/2018 filed by the Appellant against the State of Goa including these Respondents. The said affidavit is at page 175 of the present proceeding.

36. The said Report dated 17/2/2021 and subsequent report dated 29/6/2022 were thoroughly deliberated upon in the 317th meeting of the GCZMA held on 28/7/2022. In fact, in the said meeting, these Respondent submitted that they have not filled the water bodies and that they would obtain the required permissions before starting the work from the CRZ



Authority.

37. The relevant extract of the minutes of said meeting are reproduced as under:

The Authority noted that major construction work approved i.e. Villas are beyond the No Development Zone of Sal river. The Authority noted that the Respondent has obtained necessary permissions from Town and Country Planning Department, Village Panchayat of Cavelossim and Water Resources Department.

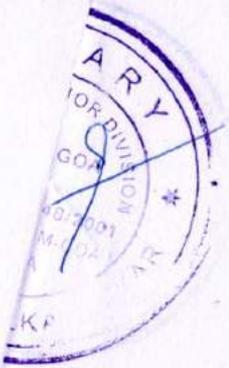
The Authority after considering the all inspection report observed that the any activity including filling of water, creation of water body and nallah etc would mandate N.O.C/ permission under CRZ Notification 2011.

The Authority observed that presently the Respondent has not carried out any activity/ construction activity at site within CRZ area. The mandate of prior N.O.C/ permission from Authority has to be scrupulously followed by Respondent M/s Shree Balaji Concepts for carrying out any activity within CRZ Area. The Authority considering the above accordingly decided to close the proceedings before it.



Hereto annexed and marked as **Exhibit F** is the copy of minutes of 317th meeting of GCZMA dated 28/07/2022.

38. Hence there is no warrant for interference in so far as the order dated 12/09/2022 passed by the GCZMA is concerned.
39. The Reports dated 24/06/2014, 18/02/2014 and 21/03/2014 of various Authorities relied upon by the Appellant have been issued prior to the grant of permission dated 22/05/2014 granted by WRD to these Respondents and are therefore not relevant and cannot be looked into.
40. These Respondents state that no work in the CRZ area would be undertaken by these Respondents without the permission of the GCZMA.
41. As far as the contention that the plans are revised in violation of CRZ regulations is concerned, it is submitted that the revision of plans are in respect of area beyond applicability of CRZ regulations.
42. As far as the contention that the Construction of resort in CRZ area requires prior permission of MOEF, it is submitted that the built-up area is below 20000 sq.mts and hence no permission from MOEF is necessary.
43. As far as the contention that the proposed construction of

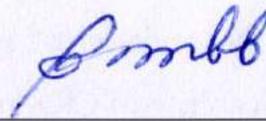


building is within 15 mts from water body in survey no. 91/8 which is influenced by tidal action, the same is denied. It is denied that the drain has any tidal influence and that it is connected naturally to the river Sal. It is a matter of record that there are sluice gates. Water is passing through said drain. As per the permissions, these Respondents are required to maintain the same. These Respondents are in the process of applying permissions from the CRZ Authority for the same.

44. These Respondents have placed only relevant facts in the present reply out of series of events taken place. These Respondents therefore reserves its right to file additional affidavit if the same is necessary.
45. In the light of above, the present proceeding is liable to be dismissed.

Place: Pune

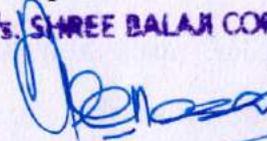
Date: 11 /09/2023



(Radha Satish Timblo)

Respondent no.5

For M/s. SHREE BALAJI CONCEPTS



MAHABALESHWAR R. HEGDE

Constituted Attorney

Respondent no.6



AFFIDAVIT

I, Mahabaleshwar R. Hegde, son of late Ramchandra Hegde, aged 74 years, Indian National, Chartered Accountant, residing at Villa No. A-13, Sapana Harmony, Gogol, Margao, Goa, Pin: 403602, constituted attorney of Respondent No.6 do hereby solemn affirm on oath and declares that the contents of paras 1, 2, 3, 5, 6, 7 (part), 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 (part), 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 (part), 39, 40, 41, 42 (part), 43, 44 and 45 are true to my own knowledge being derived from records and the contents of paras 4, 7 (part), 9, 24 (part), 38 (part) and 42 (part) are based upon legal advise which I believed to be true.

Solemn affirmed at Margao-Goa
on this 11th day of September 2023

For M/s. SHREE BALAJI CONCEPTS

[Signature]
MAHABALESHWAR R. HEGDE
Constituted Attorney

DEPONENT



Solemnly affirmed before me by
Mr. Mahabaleshwar R. Hegde
who is identified to me by

to whom I personally know on
this 11th day of September 2023

Sr. No. 280/2023

[Signature] 11/9/2023
SANJAY S. MALKARNEKAR
NOTARY
SOUTH GOA (INDIA)

MEMORANDUM

TO : [Illegible]

FROM : [Illegible]

SUBJECT : [Illegible]

[Illegible text follows, appearing to be a memorandum body.]



MR. JAMES EARL RAY
 [Illegible signature]
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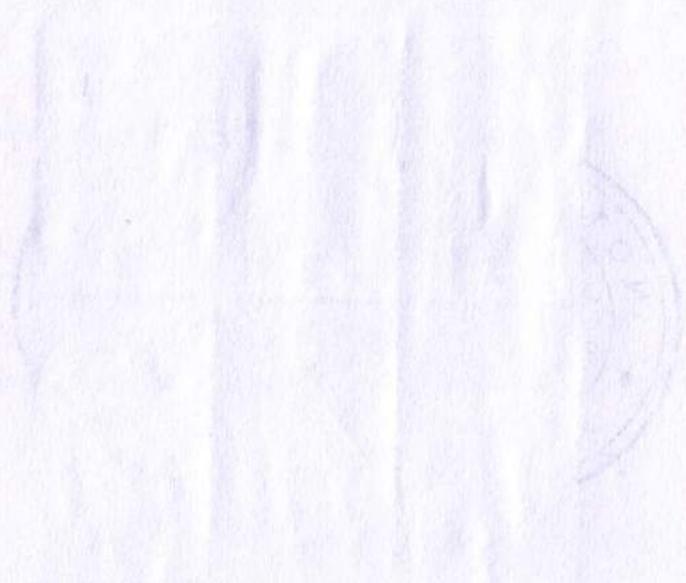


EXHIBIT A COLU 9

BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
PUNE

Application No. 61 /2014

BETWEEN

Cavelossim Villagers Forum
A Society registered under the
Societies Act , 1860 bearing
Registration No. 196/Goa/2013

H.No. 314/L IBR-Plaza

Patecantem, Cavelossim ,

Salcete Goa 403 731

Through its President.

Mr. Iris Passanha

r/o H.No:314/L, Patrecantem,

Cavelossim , Salcete, Goa.

..Applicant

V/S

1. Village Panchayat of Cavelossim
Cavelossiom , Salcete, Goa .
2. Senior Town Planner,
Town and Country Planning Departmet,
South Goa District Office, Margao Goa.
3. The Collector,
South Goa District, Margao Goa.

1.

4. Assistant Engineer, Sub-Division
Sub-Division I, Works Div-II,
Water Resource Dept
Gogal, Margao Goa.

5. Goa Coastal Zone Management Authority
C/o Dept of science, Technology and
Environment, Government of Goa
3rd floor, Dempo Towers,
Patto, Panaji, Goa.

6. Chairman
Goa State Pollution Control Board,
1st Floor, Dempo Towers, Patto, Panaji, Goa.

7. Chairperson,
Goa State Biodiversity Board,
C/o. Department of Science, Technology and Environment,
Opp. Saligao Seminary, Saligao, Bardez, Goa. 403511

8. M/s Balaji Concepts

a Partnership firm,
having its Registered Office at Kadar Manzil,
1st floor, Margao-Goa 403601

--- Respondents

1. The address of the applicant is as given above for the service of notices of the application and that of its representative.

2. The addresses of the respondents are as given above for the service of notices of the application.

3. The applicant above-named begs to present the Memorandum of Application against the respondents on the grounds set out hereunder –

Facts in brief:

a) The respondent no.8 has undertaken a big project of construction of building at Khandi –Bandoi, Cavelossim, Salcete, Goa by destroying the natural water bodies completely. The water bodies are filled with mud. Further the works of construction of buildings have been undertaken by the respondent no.1 in total violation of rule of law.

(Annexed hereto as **Annexure A1(Colly)** are survey records in Form I and XIV of the properties where the illegal construction undertaken bearing Survey No. 91/1, 91/5, 91/6 and 91/8 of Village Cavelossim, Taluka Salcete, State of Goa, along with survey plan, google image of 18.02.2010, report of village Secretary dated 18.12.2013 and two photos dated 18.12.2013 showing the water bodies and paddy fields now illegally filled with mud, undertaken construction and the river Sal is facing acute pollution as a consequence of the illegal construction activities of the respondent no.8).

b) Nallah/ fishing pond / natural water channels / paddy fields are completely destroyed. The construction activities are undertaken in all these survey numbers without due permission from concerned authorities. Water accesses are completely blocked due to the illegal dumping of mud in the fishing ponds, channels and Nallas. This is evident from the letter No:WRD/SDI/WD11/F.45/590/2013-14, dated 18/2/2014 and report No:WRD/WD11/SDI/F.3/713/2013-14, dated 21/3/2014 of the Assistant Engineer, Sub –Div I, Works Div-II, water Resources Dept., Govt. of Goa addressed to the respondent no.1 recording what he found at the site inspection held on 11/2/2014 in

the presence of the respondent no.1 and the applicant but despite having found the illegalities, no action has been taken though the direction to stop the work given in the said letter was not complied with by the respondent no.8.

(Annexed hereto as **Annexure A2** is a copy of the letter dated 18/2/2014 and as **Annexure A3** is a copy of the report dated 21.3.2014).

c) The illegal blockage of water courses having stopped movement of water from the upper front leading to stagnation of water and breeding ground for mosquitos. The waterlogged area is stinking, rendered highly unhygienic thereby causing environmental pollution. (Annexed hereto as **Annexure A4** is a google image and four photos dated 21.05.2014 showing the destruction of water bodies and paddy fields).

(d) The acts on the part of the respondent no.8 in destroying the natural water bodies/water courses /nallahs and diverting the natural channels of water are illegal and are in total violation of the provisions of the Goa Irrigation Act, 1973 and the provisions of sections 24 and 25 of the Water (Prevention and Control of Pollution) Act, 1974."

e) Not only that the respondent No.8 committed acts of destruction of natural water bodies/ water courses/ nallahs but also that the respondent no.8 made a representation No: SBC/014/02/2014, dated 17/2/2014 along with the attached plan to the Water Resources Department requesting them to grant permission to divert the said natural water bodies/nallahs with the sole intention of obtaining a stamp of legality to its otherwise illegal acts.

(Annexed hereto is a copy of the said representation with plan as **Annexure A6** showing the diversion of natural water bodies/nallahs).

f) The acts on the part of the respondent no. 8 in destroying the paddy fields in survey No: 91/5, 91/6 and 91/8 without following the due process of law as laid down in RP 2021 [Regional plan which was later suspended in the year 2012].

(Annexed hereto as **Annexure A7** is a copy of the RP 2021 showing the paddy field areas brought under settlement and **Annexure A8** is a copy of letter No: 1/RTI/Apl.Proc/IP/2014-15, dated 30.4.2014 from Dept. of Agriculture showing that the Respondent No. 8 has failed to comply with legal requirement).

(g) The applicant complained to the Village Panchayat of Cavelossim, Senior Town Planner South Goa, Collector South Goa, Goa State Biodiversity Board, Goa State Pollution Control Board complaining of the violations committed by the respondent no.8 but no action has been taken by the said authorities.

(Annexed hereto as **Annexure A9** is a copy of the complaint to the Village Panchayat of Cavelossim, **Annexure A10** is a complaint to the Senior Town Planner South Goa. **Annexure A11** is a complaint to the Collector South Goa, **Annexure A12** is a complaint to the Goa State Biodiversity Board and **Annexure A13** is a complaint to the Goa State Pollution Control Board).

h) That a site inspection had been conducted by the Goa Coastal Zone Management Authority [GCZMA] on 24/6/2014 and during inspection it was noticed i) that a significant portion of the property under Survey No:91/8 of Village Cavelossim

which comes under the No Development Zone (NDZ) i.e. within 100M of HTL of river Sal has been filled and reclaimed with mud, ii) that a natural water body has been filled up and buildings constructed upon it, iii) That the entire NDZ area was strewn with construction debris and mud and was being reclaimed which is a major CRZ Violation. A copy of the said report dated 24/6/2014 of the Goa Coastal Zone Management Authority is annexed herewith and marked Annexure A 14.

That on 24/6/2014 the officials of the Goa Agriculture Department and Goa State Biodiversity Board carried out a joint inspection. During the inspection it was noticed that:

- a) Survey No:91/1 of Village Cavelossim had been filled with soil and had a construction on it.
- b) A paddy field admeasuring 3250 Square Meters in Survey No:91/6 of Village Cavelossim had been filled with soil and reclaimed and a building was constructed on it.
- c) A paddy field admeasuring 3675 Square Meters in Survey No:91/5 has been filled with soil and a building was constructed on it.
- d) A paddy field admeasuring 2700 Square Meters in Survey No:91/8 had been filled with soil. However construction was yet to be carried out.

The officials of the Goa State Pollution Control Board were also present for the said joint inspection and have prepared a separate report. A copy of the joint inspection report dated 25/6/2014 and the report of the Goa State Pollution Control Board are annexed herewith and marked Annexure A 15 Colly.

The applicant states that these land fillings have been done without permission from concerned authorities. Apart from this, there is a clear violation of the CRZ Notification, 2011 and provisions of Sections 24 and 25 of the Water (Prevention and Control of Pollution) Act, 1974.

i) As the project is highly vulnerable to environmental pollution and ecological degradation, it was absolutely necessary to carry out an Environment Impact Assessment study. The same is not done in respect of the said project. As a matter of fact the authorities ought to have insisted on such an Environment Impact Assessment report before granting approvals for the project.

j) The proposed construction of the respondent no.8 is coming within 100 meters of River Sal where construction activity is prohibited. The 10 meters approach road connecting the project is done without CRZ approval but no action has been taken by the Goa Coastal Zone Management Authority.

k) That the Town and Country Planning Department approved the construction plan of the respondent no.8 dated 17/5/10 using a manipulated plan which is shown to be a part of the conversion sanad dated 22/7/09 issued to the respondent no. 8 by the Collector, South Goa at Margao, However the said plan is not a part of the conversion sanad and does not bear the signature of the Collector. In the said plan the water bodies existing in the properties to be developed are not shown, though they are clearly shown on the survey plan prepared by the Directorate of Settlement and Land Records, Government of Goa. Thus the respondent no.8 got its plans approved by the Town and Country Planning Department and the Village

Panchayat fraudulently by deliberately omitting the water bodies which were subsequently filled /diverted illegally. Copies of the conversion sanad plans and the approved plans along with the government survey plan of survey nos 90/1,5,6 [part],91/1,3,4,5,6,8 &10 of village Cavelossim are annexed hereto and marked as Annexure A-16 colly. The respondent no. 8 thus willfully violated the provisions of Water (Prevention and Control of Pollution) Act, 1974.

Grounds:

- a) The construction activities are undertaken in the properties bearing Survey No. 91/1, 91/5, 91/6 and 91/8 at Village Cavelossim, Taluka Salcete, South Goa, without due permission from the concerned authorities.
- b) Water accesses are completely blocked due to the illegal dumping of mud in the fishing ponds, water channels and nallahs.
- c) The illegal blockage of water courses have stopped movement of water from the upper front leading to stagnation of water and breeding ground for mosquitos. The waterlogged area is stinking, rendered highly unhygienic thereby causing environmental pollution and degradation of ecology.
- d) The acts on the part of the respondent no.8 in destroying the natural water bodies/water courses /nallahs and diverting the natural channels are in total violation of the provisions of sections 24 and 25 of Water (Prevention and Control of Pollution) Act, 1974.

e) ~~Despite there being clear violations of the Water (Prevention and Control of Pollution) Act, 1974 by the respondent no.8, no action has been taken by the respondent no.6 in particular, the action as contemplated under sections 33 and 33 A of the said Act.~~

f) The respondent no.8 has committed serious violations of the CRZ regulations as described hereinabove, which will cause serious environmental degradation in the years to come such as flooding due to destruction of embankments of the water bodies, stagnation of water etc, yet the authority concerned i.e the respondent no.5 has not yet taken action against it in accordance with law.

g) The illegal construction done by the respondent no. 8 in the paddy fields in survey nos 91/5 and 91/6 of village Cavēlossim, the filling of the water bodies in survey nos:91/1and 91/4,which are rich in biological diversity and are important biological resources of importance to the village will cause grave ecological harm and damage to the village. The respondent no. 7 has failed to exercise its powers under section 23 of the Biological Diversity Act 2002, by issuing necessary directions /advisories to the authorities concerned.

h) As the project is highly vulnerable to environmental pollution and ecological degradation, it was absolutely necessary to carry out EIA. The same is not done in respect of the said project.

4. Findings:

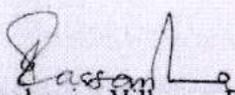
This application is within the limitation prescribed under S.14(3) of the Green Tribunal Act 2010. This applicant came to know the illegalities of this project on the date of inspection dated 18.12.2013 conducted by Village Panchayat of Cavlossim.

Prayers:

- a) The respondent No.8 be directed to forthwith stop the construction activities undertaken at Village Cavlossim, Taluks Salcete, South Goa;
- b) The concerned authorities be directed to initiate prompt action against the respondent no.8 thereby demolishing the already carried out illegal constructions in survey Nos 91/1, 91/4, 91/5 and 91/6 of Village Cavlossim, Salcete, Goa and to direct the respondent no.8 to restore the said natural water bodies /ponds/channels/nallas/paddy fields illegally filled/diverted to their original condition;
- c) The concerned authorities be directed to revoke the NOC/approvals/Licence in view of the illegalities committed without following due process of law while granting the same.

Place: Margao-Goa.

Date: 15.01.2015.


Cavlossim Villagers Forum
Through its President

IN THE HIGH COURT OF JUDICATURE AT BOMBAY AT
PANAJI GOA

Rule 4(E) of the Bombay High Court Public Interest
Litigation Rules, 2010

P. I. L. Writ Petition No.: /2015

PETITIONER:

CAVELOSSIM VILLAGERS FORUM,
A Society registered under the Societies
Act, 1860 bearing registration no.
196/Goa/2013,
H. No. 314/L IBR Plaza,
Patrecantem, Cavellossim,
Salcete Goa 403731.
Through its President Mr. Iris Passanha,
r/o H. No. 314/L, Patrecantem,
Cavellossim, Salcete Goa.
Phone No. 9823214116
Fax No. Nil.
PAN Number: AHUPP7273
National Unique Identity Number: Nil
Email:
cavellossimvillagersforum@gmail.com

RESPONDENTS:

1. THE STATE OF GOA,
Through its Chief Secretary,
Secretariat, Porvorim – Goa.
2. THE VILLAGE PANCHAYAT OF
CAVELOSSIM,
Through its Sarpanch,



Cavelossim, Salcete – Goa.

3. THE SENIOR TOWN PLANNER

Town & Country Planning Department,
South Goa District, Margao - Goa

4. THE COLLECTOR,

South Goa District,
Margao – Goa.

5. THE ASSISTANT ENGINEER,

Sub Division –I, Works Div. – II,
Water Resources Department,
Gogol, Margao – Goa.

6. M/S SHREE BALAJI CONCEPTS,

A Partnership Firm, having its registered
office at Kadar Manzil, 1st Floor,
Margao – Goa. 403601

7. MRS. RADHA SATISH TIMBLO,

Wife of late Satish Timblo,
Partner of Respondent No. 6,
Major of age,
residing at Behind Hotel Majestic,
Porvorim, Bardez – Goa.

PUBLIC INTEREST LITIGATION PETITION



I. Particulars of the cause/order against which the Petition is made:-

1. This Petition is filed to bring to the notice of this Hon'ble Court the proposed illegal development and construction being undertaken by Respondent No. 6 and 7 in the property bearing survey no. 90/1, 90/5, 90/6-E, 91/1, 91/4, 91/3, 91/5 and 91/6 of Village Cavelossim, Salcete Goa.

II. Particulars of the Petitioner

2. The Petitioner is a forum known as 'Cavelossim Villagers Forum' formed by villagers of Cavelossim to protect the interests of the local villagers, to protect the ecology of the village as also to provide free legal aid to poor people, fight against illegal activities, illegal construction etc.

A copy of the Registration Certificate of the Petitioner is annexed herewith as Exhibit 'A'.

III. Declaration and undertaking of the Petitioners:-

3. The Petitioners have filed this petition to bring to the notice of this Hon'ble Court the proposed illegal development and construction being undertaken by Respondent No. 6 and 7 in the property bearing survey



no. 90/1, 90/5, 90/6-E, 91/1, 91/4, 91/3, 91/5 and 91/6
of Village Cavelossim, Salcete Goa.

4. That the entire litigation costs, including the advocate's fee and other charges are being borne by the Petitioners.
5. That a thorough research has been conducted in the matter based on which the grounds are raised in the petition.
6. That to the best of the knowledge of the Petitioners and research done by it the issues raised in this petition were not dealt with or decided in any other petition and that a similar or identical petition was not filed earlier by them.
7. That the Petitioners have understood that in the course of hearing of this petition the court may require any security to be furnished towards costs or any charges and the Petitioners shall comply with such requirements.
8. That to the knowledge of the Petitioners there is no civil or criminal litigation pending with regard to the subject matter of this petition before any other Court.



5

IV. Facts in brief, constituting the cause :-

9. The members of the Petitioner Society are all citizens and residents of Cavelossim Village in Salcete Taluka.
10. The Petitioners state that in the year 2008 the Respondent Nos. 6 and 7 applied for conversion of use of land admeasuring 15336 sq. mtrs bearing survey no. 90/1, 90/5, 90/6-E, 91/1, 91/4, 91/3, 91/5 and 91/6 of Village Cavelossim, Salcete Goa from agricultural to residential use. The application was made to the Collector South Goa under Section 32 of the Goa Land Revenue Code. The application was forwarded to the Mamlatdar of Salcete for comments who vide letter dated 04/11/08 reported that there is no road / access pathway to the site in question, there are no tenants / mundkars in the land, it is beyond 100 mtrs away from the River Sal and is a coconut garden.

Hereto annexed and marked as Exhibit 'B' is a copy of the report dated 04/11/08.

11. The Town & Country Planning Department (TCP) recommended conversion of an area admeasuring 16000 sq. mtrs., forming part of survey nos. 90/1, 90/5, 90/6 and 91/3 to 91/10 of Village Cavelossim for



91/3 to 91/10 of village Cavelossim, the application was forwarded by the Panchayat to the GCZMA on 08/01/2010 for an NOC, which was granted on 09/04/2010.

~~12-25~~. The Petitioners state that on 28/08/09 the Respondents 6 and 7 had applied to the Village Panchayat of Cavelossim for permission for construction of Resort and compound wall in survey nos. 90/1, 90/5, 90/6 part, 91/1, 91/3 to 91/10 of village Cavelossim. The application was forwarded to the TCP for technical clearance. On 17/05/2010 the TCP issued its no objection for construction of Resort and compound wall in the said property. Based on the said NOC the Village Panchayat of Cavelossim issued a construction licence dated 18/06/2010. The construction licence clearly stipulates that no hill cutting or filling of low lying area shall be undertaken without obtaining prior permission of the Chief Town Planner under Section 17A of the Town & Country Planning Act; that all structural work would be carried out under the full supervision and guidance of the Consulting Engineer who shall be responsible for structural stability of the building; that all internal accesses should be strictly



7

developed; existing nullas / water bodies should be protected, etc.

Hereto annexed and marked as Exhibit 'E' Colly are the copies of the NOC dated 17/05/2010 and construction licence dated 18/06/2010 with approved plans.

13. The Petitioners state that thereafter the construction commenced. Around the month of September 2013 it was brought to the notice of the Petitioner that the Respondents 6 was moving truck load of mud into the properties which was used to fill the water bodies, hence a complaint was made to the Village Panchayat on 02/09/13 with a copy to the BDO of Salcete. The BDO forwarded the complaint to the Village Panchayat vide memorandum dated 30/09/13. The Panchayat ultimately held a site inspection on 18/12/13. During the inspection it was found that the storm water drain existing in the property had been blocked and diverted without any permission from the concerned authorities, RCC walls have been constructed on both the sides of the drain without permission from the Irrigation Department, a water body in survey no. 90/1 was completely destroyed; a



road was constructed without the Goa Coastal Zone Management Authority (GCZMA) approval.

Hereto annexed and marked as Exhibit 'F' is a copy of the complaint and the site inspection report.

- 14 ~~17~~. The Petitioners state that the water body (pond) which is destroyed by filling with mud is shown in the survey plan of survey no. 90/1 and is low lying land i.e. more than 1.5 mtrs beyond the adjoining ground level. Another large pond in survey no. 91/1 (also seen in the government survey plan) has also been filled with mud by the Respondents 6 and 7 and the construction is being carried out on the same, nullahs in survey no. 90/5, 90/6 and 91/1 had been diverted from the original course without the permission from the concerned authorities. Reports dated 18/02/14 and 21/03/14 of the Assistant Engineer, Water Resources Department, Sub Division I, Works Division II, Gogol Margao Goa are annexed herewith as Exhibit 'G' colly alongwith the survey plan of suvey nos 90 and 91 of village Cavelossim The petitioners state that there has no further action taken against the respondents 6 and 7 by the respondent no.5 in accordance with the provisions of the Goa Irrigation Act 1973.



9

15 18. The Petitioners state that the filling up of the low lying land mentioned above has been done without the permission of the Chief Town Planner as is required under Section 17A of the Goa Town & Country Planning Act.

16 19. The Petitioner states that in terms of the Circular dated 17/05/2010 issued by the Chief Town Planner, Government of Goa, it is ordered that no construction / development shall be allowed in the following areas: -

- (a) Notified forests
- (b) Private forests identified by the Karapur Committee and Sawant Committee.
- (c) Sloppy land of having gradient more than 25%.
- (d) The mangrove areas.
- (e) Water bodies
- (f) Cultivated paddy fields (low lying and presently under cultivation).

It is directed by the said Circular that no NOC / sub division of land as well as recommendations for conversion of use of land shall be issued in the above



referred areas. Proposals falling within the above category but the land under reference is earmarked as developable zone i.e. settlement zone and industrial zone are to be submitted to the Chief Town Planner to be placed before the Committee constituted for the said purpose vide an order dated 17.5.10. The decision of the Committee in such cases is to be placed before the Town and Country Planning Board and then referred to the Government for consideration. The petitioners state that the water body in survey no. 91/1 could not have been filled and converted to a different use as mentioned above and presently there is a building constructed over it. The construction is not approved by the committee constituted in terms of the circular dated 17/5/10 referred to hereinabove and is ex facie illegal.

Annexed hereto and marked as **Exhibit 'H'** is the copy of the Circular dated 17/05/2010.

- 17-20. The Petitioners state that there are CRZ and other violations noticed during the inspection conducted by the other authorities such as the Goa State Pollution Control Board, Goa Biodiversity Board and the GCZMA, which are all subject matter of M.A. No.



61/14 filed under sections 14 and 15 of the National Green Tribunal Act 2010 by the petitioner which is pending before the National Green Tribunal (NGT) at Pune . A copy of the application is annexed herewith as Exhibit 'I'. The application filed before the NGT is restricted to the issues concerning the violations committed of the enactments specified in schedule -1 of the National Green Tribunal Act 2010.

17 21. The Petitioners state that the construction licence issued by the Panchayat to the Respondents 6 and 7 expired on 18/6/14 and the same has not been renewed till date. The construction work is still going on site despite the fact that the construction licence has not been renewed by the Panchayat.

19 22. During a site inspection conducted by the Agriculture Department on 24/06/14 alongwith the Officers of the Goa Bio-Diversity Board the following observations were made:-

- A water body admeasuring 400m2 under survey no. 91/1 has been filled with soil and has a construction on it.



- Paddy field admeasuring 3250 m² under survey no. 91/6 has been filled with soil / reclaimed and has a construction on it.
- Paddy field admeasuring 3675 m² under survey no. 91/5 has been filled with soil / reclaimed and has a construction on it.
- The course of the nallah meant for drainage of rainwater between the sub division 91/6 and 91/5 appears to have been altered.
- Paddy field admeasuring 2700 m² under survey no. 91/8 has been filled with soil, however no construction has come up on the plot.

Hereto annexed and marked as Exhibit 'J' is a copy of the report dated 16/06/14.

20 23. The Petitioners state that the Petitioners made complaints dated 8.1.14, 19.2.14, 25.2.14, 26.2.14 , 27.2.14 to the Senior Town Planner and other authorities regarding the illegal land filings done by Respondents 6 and 7, however no action has been taken with regard to the same.



Hereto annexed and marked as Exhibit 'K' Colly are the copies of the complaints dated 8.1.14, 19.2.14, 25.2.14, 26.2.14, 27.2.14.

2224. The petitioners are annexing herewith a photograph of the water pond in survey no. 91/1 of village Cavlossim filled with mud with dead fish in it taken during the Panchayat inspection on 18.12.13, the same is marked Exhibit L. These water bodies are ecosystems in themselves and used to contain aquatic and other organisms which are of ecological significance, the damage caused to this water body therefore is therefore an environmental and ecological degradation.

2225. The Petitioners state that it has come to its notice that while applying for the NOC for construction to the TCP the Respondents 6 and 7 attached a plan alongwith the conversion sanad showing the area proposed to be converted to be 16000 sq. mtrs wherein the water bodies existing in survey nos. 90/5, 91/1 and 91/4 were not shown. The said plan is not the approved conversion plan and does not bear the signature of any officer. The Petitioners state that it is a fraud played on the authorities by Respondents 6 and



7 and the Petitioner had filed a complaint dated 22/09/14 to the Collector South Goa and the Senior Town Planner Margao, which have not been acted upon till date. A copy of the complaint dated 22.9.14 alongwith the copy of the sanad and the plan are annexed herewith and marked as Exhibit 'M'.

23 26. The petitioner states that the respondent no.6 applied to the Executive Engineer , Works Divison -II, Water Resources Department , Gogol, Margao, Goa on 17.2.14 for permission to divert some of the existing storm water drains in survey nos 90 and 91 of Cavelossim Village. The Executive Engineer granted the permission vide his letter dated 23/5/14, in the approved sketch/drawing the existing pond in survey no.91/1 is shown as to be 'closed' and relocated. The Executive Engineer does not possess any such powers under the provisions of the Goa Irrigation Act and the permission granted in that regard is illegal and arbitrary. Hereto annexed and marked as Exhibit 'N' Colly are the copies of the application dated 17.2.14 and letter dated 23/5/14 of the Executive Engineer, Works Division -II, Water Resources Department.



24 ~~27~~. The petitioner is annexing herewith a copy of the approved plan of the project with the location of the water bodies and nullahs marked thereon by the petitioner, the same is marked as Exhibit 'O'.

25 ~~28~~. The Petitioners state that on 04/02/15 they have brought to the notice of the Village Panchayat of Cavelossim that the construction licence issued to Respondent no. 6 expired on 18/06/14 and had not been renewed despite that the construction activities are still going on. Various other illegalities committed by the Respondents 6 and 7 were also brought to its notice. The Village Panchayat has failed to take any action on the same till date. A copy of the complaint dated 4.2.15 is annexed herewith and marked as Exhibit 'P'. The petitioners state that the Village Panchayat of Cavelossim vide its resolution dated 18/6/14 resolved to keep the application of the respondent no.6 for renewal of license pending till the show cause notice issued to it by the Town & Country Planning department was withdrawn. A copy of the resolution dated 18.6.14 is annexed herewith as Exhibit Q.



26 29. The Petitioners state that the construction activity is on in full swing and the authorities concerned seem to be taking no action with regard to the same. The petitioners are annexing photographs taken of the site on 5.6.14, the same are marked Exhibit R colly.

27 30. The Petitioners state that as mentioned hereinabove, they have filed an application under Sections 14 and 15 of the National Green Tribunal Act, 2010 before the National Green Tribunal, western zone at Pune, wherein they had also raised the issues pertaining to the filling of the water bodies / nallas by the Respondents 6 and 7 in the site in question. The Respondents 6 and 7 filed a Writ Petition bearing no. 450/2014 before this Hon'ble Court for quashing of the proceedings on the ground that the NGT had no jurisdiction to deal with or decide upon issues other than those pertaining to the statutes covered under Schedule I of the National Green Tribunal Act, 2010. During the course of the hearing of the said petition before this Hon'ble Court and pursuant to the statement made before this Hon'ble Court on behalf of the Petitioner on 29.10.14, the Petitioner filed an application before the NGT for amendment of its



application restricting its grievances to the violations committed of the statutes covered under Schedule I of the NGT Act by the Respondents with liberty to raise other issues before the appropriate fora. The amendment application was granted by the Hon'ble NGT on 10.12.14 whereafter the Writ Petition No. 450/2014 came to be disposed off by this Hon'ble Court on 19/01/15. A copy of the order dated 19/01/2015 is annexed herewith and marked as Exhibit 'S'.

28 31. The Petitioners are therefore constrained to approach this Hon'ble Court by way of this Petition.

V Source of information:-

29 32. The information gathered by the Petitioners is based on the site inspections conducted by them and the documents secured from Respondents 2 to 5 under the Right to Information Act.

VI. NATURE OF THE INJURY CAUSED / APPREHENDED.

33. The inaction of the Respondents 2 to 5 has permitted the Respondents 6 and 7 to carry out large scale damage to the environment and ecology in the Village of Cavelossim thereby violating the Fundamental



Rights of the Villagers under Article 21 of the Constitution of India.

31 ~~34~~. The Respondents 6 and 7 have illegally filled up water bodies, diverted water channels / nallas, filled up low lying land with impunity and the authorities have either condoned these actions or turned a blind eye to the same thereby flagrantly acting in dereliction of their duties.

VII ANY REPRESENTATION ETC. MADE:-

32 ~~35~~. Complaints at Exhibits 'F', 'K', 'M' & 'P'.

VIII DELAY, IF ANY, IN FILING THE PETITION AND EXPLANATION THEREOF:-

33 ~~36~~. The Petitioner states that this Petition has been filed after the authorities have failed to act despite complaints filed by the Petitioners, the delay if any in filing this Petition has occurred in these circumstances.

IX. DOCUMENTS RELIED UPON:-

The documents enlisted as Exhibits A to S hereinabove.

XI. RELIEF'S PRAYED FOR:-



- a) For a writ of mandamus, or any other writ in the nature of mandamus or any order or direction commanding the Respondents 2 to 5 to act and to take necessary action against the Respondents 6 and 7 with regard to the illegal development and construction in survey nos. 90/1, 90/5, 90/6, 91/1, 91/3 to 91/10 of village Cavelossim, Salcete Goa and for restoration of land to its original condition.
- b) For an appropriate writ, order or direction quashing the following permissions granted to the respondent no.6
- i. NOC dated 17/05/2010 issued by the the TCP department for construction of Resort and compound wall in survey nos. 90/1, 90/5, 90/6, 91/1, 91/3 to 91/10 of village Cavelossim, Salcete Goa .
 - ii. Construction licence dated 18/06/2010 issued by the Village Panchayat of Cavelossim .
 - iii. Permission granted by the Executive Engineer, Works Divison -II, Water Resources Department, Gogol, Margao, Goa vide his letter dated 23/5/14.
- c. writ of mandamus or any other writ in the nature of mandamus or any order or direction thereby directing the Respondents 6 and 7 to stop all construction and development activities in survey nos. 90/1, 90/5, 90/6, 91/1, 91/3 to 91/10 of village Cavelossim, Salcete Goa.



- d) Such other reliefs this Hon'ble Court deems fit in the facts and circumstances of this case.
- e) For costs of this petition.

XII. INTERIM ORDER IF PRAYED FOR:-

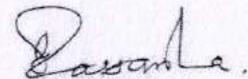
- a) Interim reliefs in terms of prayer clause C hereinabove.

XIII. CAVEAT:-

No notice of caveat has been received by the Petitioner till the filing of this PIL Writ Petition.

Place: Panaji Goa.

Dated: 18 /04/2015


The Petitioner

VERIFICATION

I, Iris Passanha, son of Francisco Passanha, aged 54 years, married, resident of H. No. 314/L, Patrecantem, Cavelossim, Salcete, Goa as President of the Cavelossim Villagers Forum do hereby on solemn oath and affirmation state that the contents of



paragraphs 1 to ^{29 32 39} 32, ~~35~~ and ~~36~~ of this PIL Writ Petition are true and correct to my own knowledge and the contents of the rest of the paragraphs are submissions based on legal advice received which I believe to be true.

Verified at Panaji on this

on this 18th day of April 2015.

Deponent

Identified by me

[Handwritten signature]

IN THE HIGH COURT OF JUDICATURE AT BOMBAY AT
PANAJI GOA

P. I. L. Writ Petition No.: /2015

Cavelossim Villagers Forum Petitioner

V/S

State of Goa & Ors. Respondents

AFFIDAVIT CUM UNDERTAKING ON BEHALF OF THE
PETITIONER

I, Iris Passanha, son of Francisco Passanha, aged 54 years, married, resident of H. No. 314/L, Patrecantem, Cavelossim, Salcete, Goa as President of the Cavelossim Villagers Forum, do hereby declare and undertake as under :-

1. That the members of the Petitioner are all Indian Citizens.
2. That the present petition is with regard to the illegal development and construction in survey nos. 90/1, 90/5, 90/6 part, 91/1, 91/3 to 91/10 of village Cavelossim, Salcete Goa done by the respondents 6 and 7.
3. The Petitioner and /or its members have no personal interest in the subject matter of the petition and the same is not motivated by any private interests.
4. That the entire litigation costs, including the advocate's fee and other charges are being borne by the Petitioner.



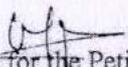
5. That a thorough research has been conducted in the matter based on which the grounds are raised in the Petition.
6. That to the best of knowledge of the Petitioner and research done by them the issues raised in this petition were not dealt with or decided in any other petition and that a similar or identical petition was not filed earlier by them.
7. The Petitioner undertakes to disclose before the Court the source of its information relating to this petition as and when called upon to do so by this Hon.ble Court.
8. That the Petitioner has understood that in the course of hearing of this petition the Court may require any security to be furnished towards cost or any other charges and the Petitioner shall comply with such requirements and shall pay all such costs as may be ordered.

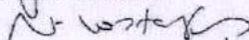
Solemnly affirmed at Panaji

on this 18th day of April 2015

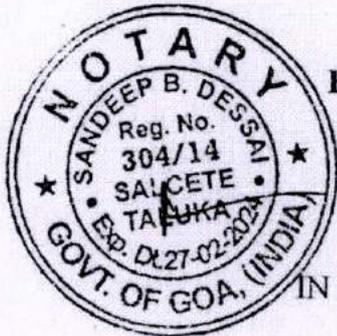
Deponent

Identified by:


Advocate for the Petitioner



The first part of the paper discusses the
 importance of the study and the
 objectives of the research. The second
 part describes the methodology used
 in the study. The third part presents
 the results of the study. The fourth
 part discusses the implications of the
 findings. The fifth part concludes the
 paper.



**AMENDED COPY OF THE APPLICATION
BEFORE THE NATIONAL GREEN TRIBUNAL , WESTERN
ZONE BENCH AT PUNE**

Application No.: 01/2018

IN THE MATTER OF

CAVELOSSIM VILLAGERS FORUM,
A Society registered under the Societies Act, 1860
bearing registration no. 196/Goa/2013,
H. No. 314/L, IBR Plaza,
Patrecantem, Cavelossim,
Salcete Goa 403731.
Through its President Mr. Iris Passanha,
r/o H. No. 314/L, Patrecantem,
Cavelossim ,Salcete, Goa

----- APPLICANT

V/S

1. THE STATE OF GOA,
Through its Chief Secretary,
Secretariat, Porvorim – Goa.
2. THE VILLAGE PANCHAYAT OF CAVELOSSIM,
Through its Secretary,
Cavelossim, Salcete – Goa.
3. THE SENIOR TOWN PLANNER
Town & Country Planning Department,
South Goa District, Margao - Goa

4. THE GOA COASTAL ZONE MANAGEMENT AUTHORITY

Through its Member Secretary,
 Pandit Deendayal Upadhyay Bhavan,
 Pundalik Nagar, Porvorim
 Bardez, Goa

5. MRS. RADHA SATISH TIMBLO,
 Wife of late Satish Timblo,
 Partner of Respondent No. 6,
 Major of age,
 residing at Behind Hotel Majestic,
 Porvorim, Bardez – Goa.



6.M/S SHREE BALAJI CONCEPTS,
 A Partnership Firm,
 having its registered office at Kadar Manzil,
 1st Floor, Margao – Goa. 403601 -----RESPONDENTS
 (All registered addresses) .

Ammendment of ORIGINAL APPLICATION dated 12 /12/2017
UNDER SECTIONS 14 AND 15 OF THE NATIONAL GREEN
TRIBUNAL ACT, 2010 in compliance of NGT order dated 6/7/08

MAY IT PLEASE YOUR LORDSHIPS:

1. This application is filed to bring to the notice of this Hon'ble Court the proposed illegal development and construction being undertaken by Respondent No. 5 and 6 in the property bearing survey

(Signature)

no. 90/1, 90/5, 90/6-E, 91/1, 91/4, 91/3, 91/5 and 91/6 of Village Cavelossim, Salcete- Goa. The said property abuts the river Sal on the southern side.

2. The Applicant is a forum known as 'Cavelossim Villagers Forum' formed by villagers of Cavelossim to protect the interests of the local villagers, to protect the ecology of the village as also to provide free legal aid to poor people, fight against illegal activities, illegal construction etc.

A copy of the Registration Certificate of the Applicant is annexed herewith as ANNEXURE 'A'.



Facts in brief, constituting the cause :-

3. The members of the Applicant Society are all citizens and residents of Cavelossim Village in Salcete Taluka.

4. The Applicants state that in the year 2008 the Respondent No. 6 applied for conversion of use of land admeasuring 15336 sq. mtrs bearing survey no. 90/1, 90/5, 90/6-E, 91/1, 91/4, 91/3, 91/5 and 91/6 of Village Cavelossim, Salcete, Goa from agricultural to residential use. The application was made to the Collector South Goa under Section 32 of the Goa Land Revenue Code. The application was forwarded to the Mamlatdar of Salcete for comments who vide letter dated 04/11/08 reported that there is no road / access pathway to the site in question, there are no tenants / mundkars in the land, it is beyond 100 mtrs away

from the River Sal and is a coconut garden. The respondent no.5 is a partner of the respondent no.6 and is interested in the development in question.



5. The Town & Country Planning Department (TCP) recommended conversion of an area admeasuring 16000 sq. mtrs., forming part of survey nos. 90/1, 90/5, 90/6 and 91/3 to 91/10 of Village Cavelossim for residential use vide report dated 27/02/09. The report mentions that the right of way / access to the site is 10 mtrs.

6. The Collector South Goa issued a conversion sanad on 22/07/2009 to the Respondent no.6 for conversion of an area of 15336 sq. mtrs in survey nos. 90/1, 91/5 and 91/6 part, 91/1, 91/3 to 91/6 of Village Cavelossim for residential use.

7. On 14/07/2010 the Respondent no. 6 applied to the Collector, for change of land use from residential to commercial user (Resort). The TCP submitted its report dated 24/08/2010 recommending the conversion in respect of area of 15336 sq. mtrs., whereafter a sanad was issued by the Collector dated 03/10/2010.

8. The Applicants state that on 28/08/09 the Respondent no.6 had applied to the Village Panchayat of Cavelossim for permission for construction of Resort and compound wall in survey nos. 90/1, 90/5, 90/6 part, 91/1, 91/3 to 91/10 of village Cavelossim. The application

was forwarded to the TCP for technical clearance. On 17/05/2010 the TCP issued its no objection for construction of Resort and compound wall in the said property. Based on the said NOC the Village Panchayat of Cavelossim issued a construction licence dated 18/06/2010. The construction licence clearly stipulates that no hill cutting or filling of low lying area shall be undertaken without obtaining prior permission of the Chief Town Planner under Section 17A of the Town & Country Planning Act; that all structural work would be carried out under the full supervision and guidance of the Consulting Engineer who shall be responsible for structural stability of the building; that all internal accesses should be strictly developed; existing nullas / water bodies should be protected, etc.



Hereto annexed and marked as ANNEXURE 'B' Colly are the copies of the NOC dated 17/05/2010 and construction licence dated 18/06/2010 with approved plans.

9. The Applicants state that thereafter the construction commenced. Around the month of September 2013 it was brought to the notice of the Applicant that the Respondent no. 6 was moving truck load of mud into the properties which was used to fill the water bodies, hence the complaint was made to the Village Panchayat on 02/09/13 with a copy to the BDO of Salcete. The BDO forwarded the complaint to the Village Panchayat vide memorandum dated 30/09/13. The

Panchayat ultimately held a site inspection on 18/12/13. During the inspection it was found that the storm water drain existing in the property had been blocked and diverted without any permission from the concerned authorities, RCC walls have been constructed on both the sides of the drain without permission from the Irrigation Department, a water body in survey no. 90/1 was completely destroyed; a road was constructed without the Goa Coastal Zone Management Authority (GCZMA) approval.



10. The Applicants state that the water body (pond) which is destroyed by filling with mud is shown in the survey plan of survey no. 90/1 and is low lying land i.e. more than 1.5 mtrs beyond the adjoining ground level. Another large pond in survey no. 91/1 (also seen in the government survey plan) has also been filled with mud by the Respondents 5 and 6 and the construction is being carried out on the same, nullahs in survey no. 90/5, 90/6, 91/1 and 91/4 had been diverted from the original course without the permission from the concerned authorities. The Applicants state that the filling up of the low lying land mentioned above has been done without the permission of the Chief Town Planner as is required under Section 17A of the Goa Town & Country Planning Act.

11. The Applicants state that there were CRZ and other

violations noticed during the inspection conducted by the other authorities such as the Goa State Pollution Control Board, Goa Biodiversity Board and the GCZMA, which include leveling of the bank of the river with mud in the NDZ, this led the applicant to approach this Hon'ble Tribunal in M.A. No. 61/14 filed under sections 14 and 15 of the National Green Tribunal Act 2010 which is pending before the National Green Tribunal (NGT) at Pune . A copy of the application is annexed herewith as ANNEXURE 'C'.



12. The Applicant states that the respondent no.6 applied to the Executive Engineer , Works Divison -II, Water Resources Department , Gogol, Margao, Goa on 17.2.14 for permission to divert some of the existing storm water drains in survey nos 90 and 91 of Cavelossim Village. The Executive Engineer granted the permission vide his letter dated 23/5/14, in the approved sketch/drawing the existing pond in survey no.91/1 is shown as to be 'closed' and relocated. The Executive Engineer does not possess any such powers under the provisions of the Goa Irrigation Act and the permission granted in that regard is illegal and arbitrary. Nevertheless, all the relocated drains/water bodies were shown as eco-sensitive areas in Reginal Plan 2021, the said areas are not in settlement and have no conversion sanad. However, illegal constructions were being undertaken in those areas and the same were pointed out in our main application no:61/2014 pending before this

Tribunal.

13. The Applicants state that as mentioned hereinabove, they have filed an application under Sections 14 and 15 of the National Green Tribunal Act, 2010 before the National Green Tribunal, Western Zone at Pune, wherein they had also raised the issues pertaining to the filling of the water bodies / nallas by the Respondent no.6 in the site in question. The Respondents 6 and 5 filed Writ Petition bearing no. 450/2014 before the High Court of Bom,bay at Goa for quashing of the proceedings on the ground that the NGT had no jurisdiction to deal with or decide upon issues other than those pertain to the statutes covered under Schedule I of the National Green Tribunal Act, 2010. During the course of the hearing of the said petition before the Hon'ble High Court and pursuant to the statement made before the Hon'ble High Court on behalf of the Petitioner, the Applicant filed an application before this Tribunal for amendment of its application restricting its grievences to the violations committed of the statutes covered under Schedule I of the NGT Act by the Respondents with liberty to raise other issues before the appropriate forum. The amendment application was granted by the Hon'ble Tribunal whereafter the Writ Petition No. 450/2014 came to be disposed off by this Hon'ble Court on 19/01/15.

14. The respondents 5 and 6 had filed an application before

 8.



this Hon. Tribunal for dismissal of the proceedings on the ground of limitation, the said application came to be dismissed by National Green Tribunal by a detailed and reasoned order dated 08/04/2015. A copy of the order dated 08/04/2015 is annexed herewith and marked **Annexure D'**.

15. Against this order the respondent nos.5 and 6 filed a Writ Petition bearing no.304/2015 before the High Court of Bombay at Goa, the said petition came to be transferred to the Principal Bench of the Bombay High Court at Mumbai as there were other petitions pending before the bench wherein similar issues had been raised.

16. The said writ petition which was renumbered as Writ Petition no. 6754/2015 was heard and disposed off alongwith other writ petitions wherein similar issues were raised by the Bombay High Court by a common judgement dated 9/6/16, setting aside the impugned orders, wherein the National Green Tribunal was directed to hear and decide the matters afresh in accordance with law, the Tribunal was directed to frame preliminary issues on the question of limitation and locus and decide these issues within a period of three months. Against this order the applicant has filed an SLP No.21189/2016 before the Hon. Supreme Court which is pending, in the meanwhile the Hon. Supreme Court vide an order dated 18/11/16 has been pleased to stay the operation of the order of the High Court qua the proceedings of the applicant.

89.



17. The Applicants herein, were constrained to file a Writ Petition (PIL Writ Petition No 6 of 2015), before the High Court of Bombay at Goa with regard to the development being undertaken by the respondent no.6 with the following prayers:

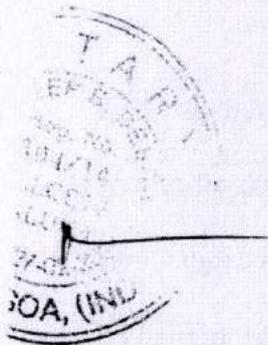
a) For a Writ of Mandamus, or any other writ in the nature of mandamus or any order or direction commanding the Respondents 2 to 5 to act and to take necessary action against the Respondent No 6 and 7, with regard to the illegal development and construction in Survey Nos. 90/1, 90/5, 90/6, 91/1, 91/3 to 91/10 of the Village Cavelossim, Salcete. Goa and for restoration of land to its original condition.

b) For an appropriate Writ, order or direction quashing the following permissions granted to the Respondent No 6:

i. NOC dated 17.5.2010 issued by the TCP department for construction of Resort and Compound Wall in Survey Nos 90/1, 90/ 5, 90/6, 91/1, 91/3 to 91/10 of Village Cavelossim, Salcete Goa.

ii. Construction license dated 18.6.2010 issued by

10.



the Village Panchayat of Cavelossim.

iii. Permission granted by the Executive Engineer, Works Division-II, Water Resources Department, Gogol, Margao, Goa, vide his letter dated 23.5.2014.

c) A writ of mandamus or a writ in the nature of mandamus or any writ, order or direction, thereby, directing the Respondents 6 and 7 to stop all construction and development activities in survey nos. 90/1, 90/5, 90/6, 91/1, 91/3 to 91/10 of village Cavelossim, Salcete Goa, and to restore the land to its original condition.

d) Such other reliefs this Hon'ble Court deems fit in the facts and circumstances of this case.

e) For costs of the Petition.

A copy of this Writ Petition is Annexed herewith and marked as ANNEXURE 'E'.



18. The PIL W.P No. 6/15 came to be disposed off by the High Court vide judgement and order dated 13/10/16, the operative portion of the order reads thus:

“As far as the other contentions raised in connection with the destruction of water bodies and/or other deficiencies in a

 11.

development activities being carried out by the respondent nos. 6 and 7 is concerned, we find that the Petitioners have initiated proceedings before the National Green Tribunal which are pending decision and, as such, it would not be appropriate for this Court to examine such issues raised therein. Needless to say, all the conditions imposed in the permission dated 23.05.2014 by the Executive Engineer, Water Resources Department would have to be strictly followed and the respondent nos. 6 and 7 shall also take all the necessary steps to ensure that the development carried out by them would not cause any inundation or water logging in the properties adjoining to the subject properties belonging to the Petitioners and the other Villagers.



18. With the aforesaid observations, the Petition stands disposed of.”

A copy of the order dated 13/10/16 is annexed herewith and marked **Annexure 'F'**.

19. The Applicant filed SLP No. 37738-37739/2016 against the order of the Hon. High Court before the Hon. Supreme Court which was withdrawn on 13/1/17.

20. The Applicant states that the respondent no. 6 had applied to the TCP and the village panchayat of Cavlossim for revision of the approved plans. In the plans submitted for approval, the respondent no.6 has shown buildings proposed to be constructed barely 15 meters away from an existing water body/pond in survey no.91/4 of village

Cavelossim which is tidally influenced and hence covered under the CRZ regulations 2011. That an area equivalent to the width of the water body or an area upto 100 meters on the land ward side of the water body whichever is less is to be earmarked as a no development zone as per the CRZ regulations, since the width of the water body is about 25 meters an area upto a distance of 25 meters from the edge of the water body would be a no development zone in this case. No such construction is permissible in the NDZ area.

20 A) *"The Applicant states that the location of the said water body and the proposed building which is to be constructed is around 15 metres away from the water body are marked in red and green respectively in the plan annexed herewith as Annexure F-1. The building is to be located in survey no. 91/5 & 6 of village Cavelossim."*

21. The water body in question is connected to the river Sal and the flow of water to and from the same is controlled by sluice gates.

22. The respondent no.6 has also shown in the plans submitted for approval a **new water body** proposed to be constructed less than 100 meters away from the river Sal and in the NDZ. It is stated in the plan that this water body is proposed as per the NOC issued by the Water Resources department. The construction of this water body would be illegal and in violation of the CRZ regulations.

"The proposed water body is to be located in Survey No. 91/1 & 7 of Village Cavelossim. Construction /development of this water body is impermissible under the CRZ regulations". The applicant shall rely on the government survey plan of survey nos: 90/1, 5, 6, 91/1, 91/3 to 8 of



Village Cavelossim which is marked Annexure F-2.

23. The applicant states that in the earlier approved plans the water body in survey no. 91/4 was not shown, the 100 meter NDZ line was not clearly demarcated nor was the proposed water body shown by the respondent no.6. The respondent no.6 neither brought it to the notice of the Hon High Court that it had submitted revised plans for approval.

24. The applicant states that the Town & Country Plannig department issued a technical clearance order dated 7/12/16 to the respondent no.6 based on the revised plans in respect of the proposed construction of a resort in survey nos 90/1, 5,6 (p) and 91/1, 3 to 10 of village Cavelossim. A copy of the technical clearance order dated 7/12/16 with plan is annexed herewith and marked **Annexure 'G'**.

25. The applicant made representations dated 29/5/17 and 27/6/17 to the respondents 2 and 4 bringing to their notice the CRZ violations by the respondent no.6, the respondent no.2 was requested not to approve the revised plans submitted to it. The said respondents took no action on the representations, the respondent no.4 hasn't even conducted a site inspection. Copies of the representations dated 29/5/17 and 27/6/17 are annexed herewith and marked **Annexure 'H colly'**.



26. The respondent no.2 on 21/6/17 issued a construction license to the respondent no. 6 on the revised plans. A copy of the construction license dated 21/6/17 is annexed herewith and marked **Annexure T**.
27. The respondent no.6 is going on with the construction at the site.
28. The Applicants are therefore constrained to approach this Hon'ble Tribunal by way of this application.

GROUND FOR FILING THIS APPLICATION

A. The inaction of the Respondents 1 to 4 has permitted the Respondent no.6 to carry out large scale damage to the environment and ecology in the Village of Cavlossim thereby violating the Fundamental Rights of the Villagers under Article 21 of the Constitution of India.

B. The respondents 2 and 3 could not have approved the revised plans of the respondent no.6 as the same are in violation of the CRZ regulations. No approval has been obtained from the respondent no.4 for the proposed construction near the NDZ area of the river Sal.

C. Construction of a resort in a CRZ area requires prior permission

 15.



of the Ministry of Forests & Environment , Government of India as per the CRZ regulations 2011 which the respondent no.6 does not have.

D. The construction proposed by the respondent no.6 would be environmentally hazardous and will cause environmental degradation in the coastal village of Cavelossim.

E. *The proposed construction of a building within 15 metres from the water body in Survey no. 91/8 of village Cavelossim is contrary to CRZ Regulations as the said water body is influenced by tidal action and is connected to the river Sal."*

F. *The construction of the proposed water body in the NDZ of the River Sal in survey no. 91/1&7 of Village Cavelossim, will be contrary to the CRZ regulations, will cause environmental degradation as it will involve excavation and alteration of the topography of the area and hence will be illegal .*

Limitation

This application is within the limitation prescribed under sections 14 and 15 of the National Green Tribunal Act 2010. The cause of action to file this application arose on 21/6/17 when the respondent no. 2 issued the construction license to the respondent no. 6 and is recurring.

Prayers :

a. That the ongoing construction of the proposed resort in survey nos 90/1, 5,6 (p) and 91/1, 3 to 10 of village Cavelossim, Salcete, Goa be declared to be in violation of the CRZ Notification, 2011, Environment



(Protection) Act, 1986 and other enactments and be directed to be stopped forthwith until environment impact assessment studies are carried out and CRZ and Environmental Clearances are obtained.

b. The respondent no.6 be restrained from carrying out any further construction or development activities in respect of the proposed construction of a resort in survey nos 90/1, 5,6 (p) and 91/1, 3 to 10 of village Cavelossim, Salcete, Goa , pending the hearing and final disposal of this application.

(bb) "The respondent no.6 be restrained from carrying out any further construction or development activities in respect of the proposed construction of a building in survey no. 91/5 & 6 of village Cavelossim, Salcete, Goa pending the hearing and final disposal of this application."



(c) The respondent no.6 be restrained from carrying out the construction of the proposed water body in the NDZ in survey no. 91/1 & 7 of village Cavelossim

cc) The respondent no.6 be directed to demolish the construction if any done within the NDZ of the river Sal and within the NDZ of the water body (pond) in survey no. 91/5 & 6 of village Cavelossim.

d. For ex parte ad interim reliefs in terms of prayer clause b.

e. For costs of these proceedings.

f. Any other order this Hon Tribunal may deem fit in the facts of this case.

Place: Pune

Dated: 18 /08/22

Saxana
Applicant



VERIFICATION

I, Iris Passanha, son of Francisco Passanha, aged 62 years, married, resident of H. No. 314/L, Patrecantem, Cavelossim, Salcete, Goa as President of the Cavelossim Villagers Forum, the applicant abovenamed do hereby verify that the contents of paragraphs 1 & 28 of this application are true and correct to my personal knowledge and that I have not suppressed any material facts and the contents of the rest of the paragraphs are legal submissions which I believe to be true.



Place: Margao-Goa.

Date: 18 .08.2022.



Iris Passanha
Deponent



SIGNED BEFORE ME WHICH I ATTEST

Sandeep B. Desai
SANDEEP B. DESSAI
NOTARY
SALCETE TALUKA
State of Goa (India)
Reg. No: 7268/2022
Date: 18/08/2022

AFFIDAVIT

I, Iris Passanha, son of Francisco Passanha, aged 62 years, married,
resident of H. No. 314/L, Patrecantem, Cavelossim, Salcete, Goa as

President of the Cavelossim Villagers Forum, the applicant
abovenamed do hereby solemnly affirm and state on oath that the
contents of paragraphs 1 to 28 of this application are true and correct to
my personal knowledge.

Solemnly affirmed at Margao-Goa on this 18th day of August, 2022

Iris Passanha
Deponent



Solemnly affirmed before me by
Shri/Smt. Iris Passanha
Who is identified before me by
Shri/Smt. D. No GA08 2010 0050176
Who is personally known to me
in this... 18th day of Aug 2022

Sandeep B. Desai
SANDEEP B. DESSAI
NOTARY
SALCETE TALUKA
State of Goa (India)
REG. No.: 7268/2022
Date: 18/8/2022

TABLE

TABLE I
 Summary of the results of the experiments on the effect of the concentration of the solution on the rate of the reaction.

The following table shows the results of the experiments on the effect of the concentration of the solution on the rate of the reaction. The rate of the reaction was measured by the amount of gas evolved in a given time.

The results show that the rate of the reaction increases with the concentration of the solution. This is because there are more particles of the reactants in a given volume of a more concentrated solution, and therefore there are more collisions between them.

The following table shows the results of the experiments on the effect of the concentration of the solution on the rate of the reaction. The rate of the reaction was measured by the amount of gas evolved in a given time.

The results show that the rate of the reaction increases with the concentration of the solution. This is because there are more particles of the reactants in a given volume of a more concentrated solution, and therefore there are more collisions between them.

EXHIBIT B COLLY

-1-

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WRIT PETITION NO. 6 OF 2015ANDMISC. CIVIL APPLICATION NO. 256 OF 2016

Cavelossim Villagers Forum
 A Society registered under the Societies
 Act, 1860 bearing registration no.
 196/Goa/2013,
 H. No. 314/L IBR Plaza,
 Patrecanem, Cavelossim,
 Salcete, Goa 403 731
 Through its President Mr. Iris Passanha,
 r/o. H. No. 314/L, Patrecanem,
 Cavelossim, Salcete, Goa,
 Phone no. 9823214116
 Annual Income 10,00,000/-
 Fax no. NIL,
 Pan Number: AHUPP7273
 National Unique Identity Number : Nil
 Email : cavelossimvillagersforum@gmail.com ... Petitioners

Versus

1. The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim, Goa.
2. The Village Panchayat of Cavelossim
Through its Sarpanch,
Cavelossim, Salcete, Goa.
3. The Senior Town Planner,
Town & Country Planning Department
South Goa District, Margao, Goa.
4. The Collector,
South Goa District,
Margao, Goa.
5. The Assistant Engineer,
Sub Division-I, Works Div. - II,
Water Resources Department,
Gogol, Margao, Goa.

-2-

6. M/s. Shree Balaji Concepts,
A Partnership Firm, having its registered
office at Kadar Manzil, 1st Floor,
Margao, Goa. 403 601
7. Mrs Radha Satish Timblo,
Wife of late Satish Timblo,
Partner of Respondent no. 6,
Major of age,
residing at Behind Hotel Majestic,
Porvorim, Bardez, Goa. ... Respondents

Mr. Nigel Da Costa Frias with Ms. Laxmi Sawant, Advocates for the
Petitioners.

Mr. D. Lawande, Addl. Advocate General with Mr. P. Dangui, Addl.
Government Advocate for the Respondent nos. 1, 3, 4 and 5.

Mr. Venkatesh Dhond, Senior Advocate with Mr. D. Pangam and Mr. H. D.
Naik, Advocates for the Respondent nos. 6 and 7.

Mr. Amit Palekar, Advocate for the Respondent no. 2.

**Coram :- F. M. REIS,
NUTAN D. SARDESSAI, JJ.**

Reserved for Judgment on : 11th August, 2016
Judgment Pronounced on : 13th October, 2016

JUDGMENT *(Per F. M. Reis, J.)*

Heard Mr. Nigel Da Costa Frias, learned Counsel appearing for
the Petitioners, Mr. D. Lawande, learned Addl. Advocate General appearing
for the Respondent nos. 1, 3, 4 and 5, Mr. Palekar, learned Counsel
appearing for the Respondent no. 2 and Mr. Venkatesh Dhond, learned
Counsel appearing for the Respondent nos. 6 and 7.

-3-

2. Rule. Heard forthwith. Learned Counsel appearing for the Respondents waives service.

3. The above Public Interest Litigation filed by the Petitioners, inter alia, prays for a writ of mandamus directing the Respondent nos. 2 to 5 to act and take necessary action against the Respondent nos. 6 and 7 with regard to the illegal development of the construction activity in the property surveyed under no. 90/1, 90/5, 90/6, 91/1, 91/3 to 91/10 of Village Cavelossim and also for a direction to the Respondent nos. 6 and 7 to stop all such activity in the property surveyed under no. 90/1, 90/5, 90/6, 91/1, 91/3 to 91/10 of Village Cavelossim.

4. Briefly, it is the contention of the Petitioners that in the year 2008, the Respondent nos. 6 and 7 applied to the Collector, South Goa, under Section 32 of the Goa Land Revenue Code for conversion of use of land admeasuring 15336 square metres bearing survey no. 90/1, 90/5, 90/6-E, 91/1, 91/4, 91/3, p1/5 and 91/6 of Village Cavelossim. The said application was forwarded to the Mamlatdar of Salcete on 04.11.2008 and the report was accordingly submitted. It is further contended that the Town and Country Planning Department (TCP) recommended conversion of the property forming part of the property surveyed under no. 90/1, 90/5, 90/6, and 91/3 to 91/10 of Village Cavelossim for residential use. The Collector,

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South Goa, issued a conversion Sanad on 22.07.2009 to the Respondent nos. 6 and 7 for conversion of an area of 15336 square metres in the property surveyed under no. 90/1, 91/5 and 91/6 part, 91/1, 91/3 to 91/6 of Village Cavelossim for residential use. Thereafter, an application was forwarded to convert the land from residential to commercial which was recommended for an area of 15336 square metres by a report dated 24.08.2010 and a Sanad was accordingly issued on 03.10.2010. The Respondent nos. 6 and 7 also applied for permission from the Village Panchayat for construction of an access road in the property surveyed under no. 90/1, 90/5, 90/6 part, 91/1, 91/3 to 91/10 of Village Cavelossim and the application was forwarded by the Panchayat to the GCZMA on 08.01.2010. It is also pointed out that on 28.08.2009, an application was submitted by the said Respondents for permission for the construction of Resort and compound wall in respect of the said property and on 17.05.2010, the Town and Country Planning Authority issued its no objection certificate for the construction of the Resort and the compound wall in the said property. Based on such NOC, the Village Panchayat also granted the requisite permission to the said Respondents. The construction thereafter commenced and it is further alleged by the Petitioners that in September 2013, they complained to the Village Panchayat on 02.09.2013 that the Respondent nos. 6 was moving truck loads of mud into the property. A site inspection was conducted by the Panchayat on 18.12.2013 and noticed that the storm water drain existing in the property has been blocked and diverted

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without any permission from the concerned authorities and that without permission from the Irrigation Department RCC walls were put up on both the sides of the drain. It is also pointed out that the water body (pond) was destroyed by filling with mud beyond the adjoining ground and that another pond is also being filled up. It is also pointed out that the nullah was being obstructed. It is also contended that there are CRZ and other violations noticed during the inspection which are subject matter of proceedings under Sections 14 and 15 of the National Green Tribunal Act of 2010 filed by the Petitioners before such Tribunal. It is also pointed out that during the site inspection conducted by the Agricultural Department on 24.06.2014 along with the Officers of the Goa Bio-Diversity Board, many illegalities were noticed. It is also pointed out that the water pond in the property surveyed under no. 91/1 has been filled up with mud and that a fraud is played on the authorities by the Respondent nos. 6 and 7 and the Petitioners have filed a complaint dated 22.09.2014 to the Collector, South Goa and the Senior Town Planner, Margao. It is further pointed out that Respondent no. 6 applied to the Executive Engineer, Works Division -II, Water Resources Department on 17.02.2014 for permission to divert some of the existing storm water drains in survey nos. 90 and 91 of Cavelossim Village. The Executive Engineer granted the permission on 23.05.2014 showing the relocation in the property surveyed under no. 91/1. It is further pointed out that the Petitioner accordingly filed the above Writ Petition disputing the correction of the permission granted by the Town and Country Planning Authority as well as

the permission to shift the pond issued by the Water Resource Department.

5. The Respondents have filed their objections. The authorities have pointed out that after the complaints were filed, actions were taken and after site inspection it was found that the violations pointed out by the Petitioners were not justified. It was pointed out that there is no low lying area which was filled up. The drains which were relocated were for the purpose of allowing the drainage of water to River Sal after obtaining the requisite permission under the Irrigation Act from the concerned authorities. It was also pointed out that the NOC was granted by the Town and Country Planning Authority much before the notification of the Regional Plan 2021 and, in any event, the effect has been kept in abeyance and the circular of the year 2012 clearly provides that it does not apply to pass permissions granted by the authorities. The Respondent nos. 6 and 7 have raised various grounds and pointed out that the requisite permission under the Irrigation Act has been obtained for shifting the alleged pond which admeasures only 400 square metres. It is further pointed out that it is a man made accumulation of water and not a water body as alleged by the Petitioners. It is further pointed out that while shifting, the Water Resource Department has permitted the shifting after examining the situation at loco and considering all the aspects as according to them it would be more beneficial for draining the water through the existing nullahs into the River. It is also pointed out that the Petition is malafide and barred by laches.

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6. Mr. Nigel Da Costa Frias, learned Counsel appearing for the Petitioners, has pointed out that as far as the CRZ violations, the Petitioners have also filed proceedings before the National Green Tribunal which are pending for consideration. The only grievance of the Petitioners in the present Petition is restricted to the permission granted for shifting of the pond and the diversion of the water drain/nullah as well as the permission granted by the Town and Country Planning Authority. The main grievance of the Petitioners is that the alterations and re-alignment of water bodies will severely affect the hydro-dynamics of the area and it would affect the Eco-sensitivity of the area. In this connection, learned Counsel has produced a report dated 01.03.2016 of a Retired Senior Hydro-geologist. It is further pointed out that the permission granted to the Respondent nos. 6 and 7 on 23.05.2015 is illegal, ultra vires the provisions of the Goa Irrigation Act, 1972 as the said provisions would not be applicable to the facts of the present case. It is further pointed out that the pond in the property under survey no. 91/1 is permitted to be relocated is zoned as eco sensitive in the Regional Plan of 2021 which has to be protected in view of the Circular dated 04.06.2012. It is further pointed out that the Sanad issued in favour of the Respondent nos. 6 and 7 dated 22.07.2009 and 03.10.2010 do not cover the existing pond in the property surveyed under no. 91/1. It is further pointed out that no permission to put up any construction in the water bodies could be granted without following the circular dated 17.05.2010. Learned Counsel

has further pointed out that as the relocation of the pond itself is illegal, the whole development activity of the Respondent nos. 6 and 7 deserves to be stopped and the licence granted be quashed and set aside.

7. On the other hand, Mr. Lawande, learned Addl. Advocate General, appearing for the Respondent nos. 1, 3, 4 and 5, in fact pointed out that the permissions under the Irrigation Act have been duly obtained and, as such, as far as the relocation of pond, the Petitioners do not have any grievance. It is further submitted that the alleged pond is only 400 square metres in a private property and not a pond used in any manner by the public and, as such, the relocation of such pond in question adjoining to the existing water drain would be more beneficial for the purpose of draining the water into the River Sal. Learned Addl. Advocate General further pointed out that after the complaints were lodged by the Petitioners, the site inspections were conducted and it was found that the alleged violations were not existing. It is further submitted that as such the grievance of the Petitioners with regard to the grant of permission or relocation of drains and the pond is not justified. It is further submitted that the NOC from Town and Country Planning Authority was obtained much before the circular of the year 2012 and, in any event, it does not effect the permissions which were already granted to the Respondent nos. 6 and 7.

8. Shri Dhond, learned Senior Advocate appearing for the

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Respondent nos. 6 and 7 has pointed out that the Petition is motivated filed with malafide motives. It is further submitted that the Petitioners have already filed proceedings before the National Green Tribunal alleging violations of the CRZ Notification and environmental issues and, as such, the question of entertaining such Petition would not at all be justified. Learned Senior Advocate further pointed out that the Water Resource Department itself called upon the Respondent no. 6 to even construct a new water body at loco as shown in the plan which the Respondent nos. 6 and 7 accepted to bear on their own cost. It is further submitted that the pond located in the property surveyed under no. 91/1 is being shifted towards the River Sal. It is further pointed out that all the allegations with regard to filling up were found after inspections by the authorities were not at all correct. It is further submitted that as such the Petition deserves to be rejected with heavy cost.

9. We have considered the submissions of the learned Counsel and we have also gone through the records. It is not disputed that in the duly promulgated survey records, the land in question the property surveyed under no. 91/1 is shown as garden land. There is no reference to any existing pond in the survey records. But, however, it is pertinent to note that after the requisite permissions, the development activity commenced in the subject property. There is no material produced on record by the Petitioners though the present Petition was filed in the year 2015 that on account of filling of mud in the subject pond and relocating the water body, there was

any inundation of the surrounding land or that the drainage in the locality had been affected. It is an admitted position that as far as the alleged CRZ violations are concerned effecting the environment, proceedings have been initiated under the Green Tribunal Act, which are pending for consideration. In such circumstances, we are not inclined to examine the alleged contentions of the Petitioners with regards to the alleged destruction of the water bodies in the present Petition.

10. As far as the contention of the Petitioners that the Town and Country Planning Authorities could not grant the NOC for development on account of such water bodies, it is to be noted that an affidavit filed on behalf of the Respondent no. 3 states that after a complaint was lodged by the Petitioners with that regard, the Respondent nos. 6 and 7 had produced a letter dated 18.02.2014 of the Assistant Engineer of the Water Resources Department directing the Respondent no. 6 to stop the work affecting the area. It is further pointed out that the Respondent no. 3 issued a show cause notice dated 14.03.2014 directing the Respondent no. 6 to stop the on-going work. Thereafter, Respondent no. 6 filed a reply to the said notice with a copy of the NOC dated 23.05.2014 issued by the Executive Engineer Water Resources Department and, consequently, the show cause notice came to be dropped. It is also to be noted that the diversion of the water bodies to the nullah have been permitted vide letter 23.05.2014 issued by the Respondent no. 5. It is further pointed out that whilst issuing such

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permissions, the Respondent no. 6 had been directed to comply with the directions in the said letter dated 23.05.2014 for diversion of water bodies. On perusal of the said letter, we find that the following conditions have been imposed :

- “1. The area of pondages/water bodies in the survey numbers should be maintained as per the drawings approved and should not be reduced.
2. Proper connectivity should be ensured to all the nallahs/drains entering in to the property to discharge storm water/any discharges into the river Sal.
3. Proper slopes and cross sections should be maintained as per approved drawings for the nallas/drains.
4. Other necessary permissions if any should be obtained by the applicant.
5. Seven (7) drawing copies showing lay out cross sections are approved and returned back.”

11. Taking note of the said conditions, we find that the contention of the Petitioners that such permission could not be granted by the Executive Engineer, cannot be accepted. Sections 75 and 76 of the Goa Daman and Diu Irrigation Act, 1973 reads thus :

“75. Limitation in respect of canals.- Except as may be prescribed, no person other than the Canal Officer shall-

- (a) interfere with or divert the course

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of a natural stream, or

(b) construct any earthen or masonry bund or weir on any channel or stream, flowing above or below any water-course.

76. Interference with the functioning of cross drainage works.- No person, except with the written permission of the Canal-Officer shall obstruct the proper functioning of the various cross drainage works, such as culverts, aqueducts, super-passages, syphons, weirs and allied works constructed for the safety of the canals or channels."

In terms of the said provisions, the permission granted to relocate drains as well as the pond close to such drain, cannot be faulted.

12. Apart from that, there is no material on record to show that the pond of 400 square metres is a public pond. In fact, as already pointed out herein above, the duly promulgated survey records do not disclose the existence of a pond. In this connection, this Court whilst disposing off Writ Petition no. 297 of 2009 by Judgment dated 16.07.2015, has observed at Paras 8 and 9 thus :

"8. As far as the next contention of Mr. Costa Frias that there was a Village Pond existing in the subject property, we find that on perusal of the survey entries in Form I & XIV, there is nothing to

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point out about the existence of such a pond in such entries. But, however, on perusal of the survey plan, it is seen that there is a blue portion marked therein which according to Mr. Costa Frias is the Village Pond. Exercise of jurisdiction by this Court to protect a pond in a PIL has to essentially be in the context of maintaining a public pond. There can be no public interest to maintain a private water pond, put up in private property as the petitioners do not claim to have any access to such pond. In the present case, Mr. Costa Frias, learned Counsel appearing for the petitioners states that the pond was a private pond, located in the property of the respondent No.5. Apart from that, only when the ponds are natural ponds, which is a natural wealth, the Courts can take measures to protect such ponds. The material resources of the community like forests, tanks, ponds, hillocks, mountain, etc., are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is essence of the guaranteed right under Article 21 of the Constitution. In case, there was a pond on the subject site, it would have been the duty of the Authorities to develop the same which would, on one hand, have prevented ecological disaster and on the other, provided a better environment for the benefit of the public at large.

9. A pond is a body of standing water, either natural or artificial. They may arise naturally in floodplains, as part of a river system, or there may somewhat be situations where there are isolated depressions, which cause water accumulation. Usually, such natural ponds contain shallow water with marsh and aquatic plants and animals. There are also ponds which are frequently human-constructed on country side by farmers and villagers by digging in their backyard. Some ponds are created specifically for habitat restoration, including water treatment. In the present case, considering the photographs produced on record and the location, there is no material to suggest that any natural body was existing at the site. Mere accumulation of water which is stored for consumption of the animals, cannot by itself be the natural pond for the benefits of the Villagers/public at large. As has been pointed out hereinabove, it is always an endeavour of the Court to ensure that ponds for the benefit of the public are protected to maintain the environment and ecological balances.

13. Though it is contended by the Petitioners that such pond which admeasures 400 square metres was used for fishing by the public, the fact remains that there is no material on record to substantiate such contention. The pond in question is admittedly located in a private property and the

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relocation of such pond as pointed out herein above, cannot be faulted. There is nothing on record to show that such relocation would affect the environment. In such circumstances, we find that there is no infirmity in the grant of permission to the Respondent no. 6 for relocating the drains and the pond in the property surveyed under no. 91/1 of Village Cavelossim.

14. As far as the contention of the Petitioners based on the Order dated 04.06.2012 that the development would have to maintain the user as provided in the Regional Plan for Goa 2021 though it has been kept on hold, we find that the said Order itself states at clause (d) thus :

“(d) All applications/proposals decided prior to the issuance of directions dated 9/4/2012 shall be allowed to be executed, as per the approvals.”

15. In the present case, the permission from the Town Planning Authorities was obtained on 17.05.2010 much before the said Order was issued and, as such, the contention of the Petitioners that the user, the FAR, etc., would have to be in conformity with the Regional Plan 2021, cannot be accepted. Similarly, the contention of the Petitioners that the said area is shown as eco sensitive area, is based on the Regional Plan 2021 which is admittedly not notified and is not in operation. In any event, the property of the Respondent nos. 6 and 7 is shown in the Regional Plan as settlement area and, as such, we find that there is no case made out by the Petitioners

to challenge the NOC granted by the Town and Country Planning Authority in the year 2010 by filing the Petition in 2015 when admittedly the development had already started by the Respondent nos. 6 and 7.

16. The Petitioners have sought leave to produce a report of the Senior Hydrogeologist (Rtd.) Water Resources Department, Government of Goa to claim that the paddy fields and other areas around the property in question would be affected in case drainage system as found at loco is modified. But, however, as pointed out herein above, the Water Resources Department has granted the permission which is at Exhibit 'C' to the affidavit filed by the Executive Engineer dated 07.09.2014 in accordance with law. The diversions or the locations of the drainage system have been duly approved after examining the situation at loco. The report sought to be produced lacks particulars and does not disclose that any scientific investigation has been carried out in the subject property before coming to such conclusions. Admittedly, the said expert has not visited the site where the water bodies allegedly were located to examine the underground conditions to draw the conclusion therein. But, however, prevention of any inundation of the paddy fields would be examined by the Court whilst issuing directions in the above Petition as the learned Counsel appearing for the Respondent nos. 6 and 7 pointed out that all steps would be taken to ensure that there is no water logging or inundation of the surrounding land on account of the development carried out by the Respondent nos. 6 and 7. As

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such, the production of such report after the matter was extensively argued would not at all be justified and, in any event, are not relevant for deciding the matter in issue in the above Petition. As already stated herein above, the environment degradation, if any, is under consideration before the National Green Tribunal and not examined in the present Petition.

17. As far as the other contentions raised in connection with the destruction of water bodies and/or other deficiencies in a development activities being carried out by the respondent nos. 6 and 7 is concerned, we find that the Petitioners have initiated proceedings before the National Green Tribunal which are pending decision and, as such, it would not be appropriate for this Court to examine such issues raised therein. Needless to say, all the conditions imposed in the permission dated 23.05.2014 by the Executive Engineer, Water Resources Department would have to be strictly followed and the respondent nos. 6 and 7 shall also take all the necessary steps to ensure that the development carried out by them would not cause any inundation or water logging in the properties adjoining to the subject properties belonging to the Petitioners and the other Villagers.

18. With the aforesaid observations, the Petition stands disposed of.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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Item Nos. 03

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 61/2014 (WZ)
(M.A. No. 24/2015)

Cavelossim Villagers Forum

Applicant(s)

Versus

Village Panchayat of Cavelossim

Respondent(s)

Date of hearing: 24.04.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. N.DA Costa Frias, Ms. Faria M. Mesquita,
Advocate

For Respondent (s): Mr. Krishnan Venugopal, Sr. Advocate, Mr.
Ninad Laud, Mr. Nitin Sawant, Mr. Kaushik
Mishra, Mr. Shivshankar Swaminathan, Mr. Ivo
D'Costa, Advocates for Respondent no. 8
Mr. Anu Tiwari, Mr. Shaurya Garg, Advocates

ORDER

1. This application filed by Cavelossim Villagers Forum has a grievance against illegal construction activities adversely affecting the natural water bodies/*nallas*/channels/paddy fields. The application was filed on 23.05.2014. It is stated that a big project of construction of building has been undertaken by M/s Balaji Concepts, Margao, Goa by destroying natural water bodies at Khandi-bandoi, Cavelossim, Salcete, Goa. Construction has been undertaken without due

permission from the concerned authorities. Water access has been blocked due to illegal dumping of mud in violation of the Goa Irrigation Act, 1973 and Land Revenue Code. The construction is within 100 mtrs of the River Sal. The applicant has relied upon the inspection report dated 21.03.2014 by the Assistant Engineer, Water Resources Department. The applicant has also filed revenue record, Google image, copy of complaint lodged and photographs.

2. In the inspection report dated 21.03.2014, it is stated as follows:

"It is found that in Survey No. 90/5 a nallah is diverted to a length of about 20 mts and the bank of the same are constructed with R.C.C. walls with extra steel reinforcement to cover the nallah with concrete slab from top. An another nallah in Survey No. 90/5 was filled with mud by stopping the free flow of water. The pond in Survey No. 91/1 is encroached by filling mud, is shifted close to nallah and R.C.C. columns are erected to construct the building. A letter No. WRD/SDI/WD II/F.45/590/2013-14, Dt. 18/02/2014 was sent to Balaji Concept requesting to stop all the construction activities in the above said affected area by destroying original water bodies and nallahs which will prevent free flow of water in rainy season and stagnation of water in the paddy fields at upstream side thus leading to breeding of mosquitos and to restore all the water bodies in their existing form within 15 days or to face action.

A joint inspection was held on 13.03.2014 at the site of Balaji Concept at Khandi Bandoi along with Shri. Gonsalo Rodrigues, Technical Assistant, Vinod Kapoor, Gaurish Kandeparker, site Engineer of M/s. Balaji

Concepts, the Members of Cavelossim Villagers forum and its President, the Sarpanch of V.P. Cavelossim and its Panchayat Members. It is found that neither the construction activities of the project of Balaji Concept are stopped nor the illegal structures in the water bodies of the said area are rectified or removed by the builders in Sy. No. 90/5, 90/6 & 90/1 in response to the letter No. WRD/SDI/WDII/F.45/590/2013-14 dt: 18.02.2014. Only a nallah in Sy. No. 91/5 which was filled with mud is restored but with changes from its original alignment at the middle to allow their construction of structures conveniently. Secondly location of the pond in Survey No. 91/1 is not restored. The work of construction of banks of the Nallah with R.C.C. is still carried on vigorously in defiance of the request.”

3. The Village Panchayat of Cavelossim, respondent No. 1 has filed a reply justifying the grant of construction license under the Panchayat Act. On the issue of damage to the water channels, it is stated that the notice was duly issued on 28.05.2014 to the project proponent, respondent No. 8. The project proponent in reply dated 30.05.2014, produced various permissions, including permission granted by the Executive Engineer of the Water Resources Department, vide letter dated 23.05.2014, approving the proposal as follows:

“With reference to your proposal submitted vide your letter referred above, the proposal has been scrutinized by this office and this office does not have any objection to the said modification as suggested from the water resource point of view in your property subjected to the following conditions;

1. *The area of pondages/water bodies in the survey numbers should be maintained as per the drawings approved and should not be reduced.*
2. *Proper connectivity should be ensured to all the nallas/drains entering in to the property to discharge storm water/any discharges into the river Sal.*
3. *Proper slopes and cross sections should be maintained as per approved drawings for the nallas/drains.*
4. *Other necessary permissions if any should be obtained by the applicant.*
5. *Seven (7) drawing copies showing lay outcross sections are approved and returned back."*

4. The applicant also filed an additional affidavit dated 28.10.2014 to the effect that on 24.06.2014, officials of Goa Agricultural Department and Goa State Biodiversity Board carried out a joint inspection. The report of the joint inspection was furnished under the RTI Act, 2005 by the Goa Coastal Zone Management Authority (GCZMA). The said report *inter-alia* states as follows:

"GE image 02-2013: A significant portion of the NDZ (0-100m) has been filled and reclaimed with mud. This activity is tantamount to a major violation of CRZ 2011 laws.

Several buildings are identified beyond the NDZ. A waterbody is seen between the buildings (beyond NDZ).

GE image 12-2013: The water body has been filled up and buildings are seen within it. This aspect has been confirmed in the field.

Field inspection showed clear violations of CRZ 2011 notification: a large part of the mandatory NDZ along the river side is filled with mud. The entire area is

strewn with construction material as debris is dumped here. New boulders and new metal was also observed. An antecedent waterlogged stretch along the river is being reclaimed gradually (see GE image 02-2013).

Also, a road runs parallel and close to the river; a water tanker was seen parked along the river. Some hutments are present along the river bank. Reclamation is confirmed in the field. The mud road (used by trucks?) is again a CRZ violation.

A mangrove creek, elongated in shape, is noted. This saline water body is connected to the river through a functional sluice gate."

5. The project proponent, respondent no. 8 filed a counter affidavit to the amendment application. The project proponent has also filed an application to dismiss the application being M.A No. 17 of 2015 in pursuance of the order of the High Court of Bombay at Goa dated 19.01.2015 to which reference will be made later, raising the plea of limitation. It is stated that the applicant made a complaint on 02.09.2013 seeking inspection of illegal activities and in view of the said application, cause of the applicant accrued on that date. The said information was withheld while filing the application. During the course of hearing, written submissions have also been filed on behalf of the project proponent giving factual background as well as the submissions on the issue of limitation. It is pointed out that the project commenced on 12.12.2010 after construction licence was granted by the Panchayat.

6. We note that against interim order of the Tribunal, the matter was carried to the Bombay High Court by the project proponent by way of

W.P No. 594 of 2015 and decided in a group of matters in *Windsor Reality Pvt. Ltd. v. Ministry of Environment and Forest* and connected matters, *2016 SCC Online Bom 5613* decided on 09.06.2016. The High Court considered the issue of locus and limitation in the light of two judgements of the National Green Tribunal in *Rana Sen Gupta v. U.O.I & Ors, Appeal No. 54/2012* and *Goa Foundation v. Secretary, MoEF, M.A No. 49/2013 in Application No. 26/2012*. In *Goa Foundation (Supra)*, it was held that cause of action arises from the date of knowledge and the date of inaction of the authorities while in *Rana Sen Gupta (Supra)*, the view taken is that the applicant therein did not have the locus not being the an aggrieved party. The High Court held that *prima facie*, cause of action is the starting point of limitation and not the date of knowledge. If date of knowledge is cause of action, complaints can be filed even after ten to twenty years. At the same time, the issue of violation of environment law needs to be looked into through the forum where such question to be raised remains a question. Accordingly, the High Court remanded the matter for fresh decision which is as follows:

“36. Taking an overall view of the matter and considering the importance of the issues which are raised by the Petitioners and original Applicant and also the fact that impugned order does not address the issue in its proper perspective, we set aside the impugned order and remand the matter to the Tribunal to decide afresh on merits and in accordance with law. During the pendency of the said Misc.Application, further proceedings in the main Application are stayed. Tribunal shall also frame a preliminary issue on the

question of limitation and locus after giving an opportunity to both sides and lay down the concept of "aggrieved person" and also on the point whether NGT can entertain an application which is in the nature of PIL which is otherwise maintainable in the High Court and Supreme Court of India. We direct the NGT to decide all these issues within a period of three months."

7. The applicant carried the matter to the Hon'ble Supreme Court by way of *SLP Civil No. 34831/2016* which has been disposed of on 26.10.2018 with the direction that the Tribunal may pass appropriate orders in terms of para No. 36 of the judgement of the High Court.
8. Accordingly, we have heard the learned counsel for the parties and proceed to deal with the matter.
9. Following questions arise for consideration:
 - i. Whether the application is within limitation and whether the applicant has locus to file the petition and is an 'aggrieved person' for the purpose.
 - ii. Whether the NGT can entertain the application in the nature of PIL which is maintainable before the High Court and the Hon'ble Supreme Court.
 - iii. Order required to be passed on merits.
10. Our consideration and findings are as follows:

Re (i): Whether the application is within limitation and whether the applicant has locus to file the petition and is an 'aggrieved person' for the purpose.

11. Shri. Krishnan Venugopal, learned senior counsel for the project proponent submitted that limitation under Section 14 (3) of the NGT Act, 2010 is six months from the date of cause of action when the dispute first arose. Delay can be condoned not exceeding sixty days. It was submitted that the limitation commences when the cause of action first arises and there is no scope for the concept of continuing cause of action. Reliance has been placed on *Khatri Hotels (P) Ltd v. Union of India (2011) 9 SCC 12*, wherein question considered was in the context of Article 58 of the Schedule to Limitation Act, 1963 laying down that limitation for a suit for declaration commences when the right to suit first accrues. It was held that successive violation of right will not give rise to fresh cause of action. In *Popat Bahiru Govardhane v. Land Acquisition Officer (2013) SCC 10 SCC 765*, the question for consideration was in the context of Section 28 A of the Land Acquisition Act, 1984. It was held that Law of Limitation is to be applied with all its vigour. In *N.C Dhoundial v. Union of India (2004) 2 SCC 579*, the issue of limitation in the context of Section 36 of the Protection of Human Rights Act came up for consideration. The violation alleged was wrongful detention and date of detention was held to be the point of commencement of limitation.

12. Learned counsel also referred to the judgement of the Bombay High Court referred to above, wherein *prima facie* observations have been made. No laws has been laid down while remanding the matter. Reference has also been made to two orders of this Tribunal being *Aradhana Bhargava v. MoEF 2013 SCC Online NGT 84* and *Graminee Environment Development Foundation v. balaji Infrastructure Ltd. and Ors 2017 SCC Online NGT 1098*. In *Aradhana Bhargava (Supra)*, it was held that the applicants had knowledge of the project and did not take the remedy for a long period and thus, the application was barred by limitation. In *Graminee Environment Development Foundation (Supra)*, the cause of action started in December, 2008 and the application was filed in the year 2016 which was held to be barred by limitation.

13. Learned counsel for the applicant submitted that the present application is within limitation. Cause of action did not arise merely from sanction of the project or commencement of construction but on arising of 'substantial question of environment' in terms of Section 14 of the NGT Act, 2010. On inspection in December, 2013 and in March, 2014 violations came to light. Representation of 02.09.2013 was general. On that basis alone, the applicant could not involve jurisdiction of the NGT. The judgements relied upon are distinguishable and do not stand against the applicant.

14. It is undisputed that the matter is governed by limitation laid down under Section 14(3) of the NGT Act, 2010. The limitation is six months from the date the cause of action first arose which can be extended up to sixty days. No doubt, the starting point of limitation is the cause of action and not the knowledge but cause of action is a bundle of facts on which it is based. In the said bundle of facts, there may be series of facts. Merely because one part of the fact comes into existence may not be enough if further facts on which the cause is based are of a later date.¹ In *The Forward Foundation v. State of Karnataka & Ors*², it was held:

“24. The expression ‘cause of action’ as normally understood in civil jurisprudence has to be examined with some distinction, while construing it in relation to the provisions of the NGT Act. Such ‘cause of action’ should essentially have nexus with the matters relating to environment. It should raise a substantial question of environment relating to the implementation of the statutes specified in Schedule I of the NGT Act. A ‘cause of action’ might arise during the chain of events, in establishment of a project but would not be construed as a ‘cause of action’ under the provisions of the Section 14 of the NGT Act, 2010 unless it has a direct nexus to environment or it gives rise to a substantial environmental dispute. For example, acquisition of land simplicitor or issuance of notification under the provisions of the land acquisition laws, would not be an event that would trigger the period of limitation under the provisions of the NGT Act, ‘being cause of action first arose’. A dispute giving rise to a ‘cause of action’ must essentially be an environmental

¹ *Kehar Singh v. State of Haryana*, 2013 SCC OnLine NGT 52

² 2015 ALL (i) NGT REPORTER (2) (DELHI) 81

dispute and should relate to either one or more of the Acts stated in Schedule I to the NGT Act, 2010. If such dispute leading to 'cause of action' is alien to the question of environment or does not raise substantial question relating of environment, it would be incapable of triggering prescribed period of limitation under the NGT Act, 2010. [Ref: Liverpool and London S.P. and I Asson. Ltd. v. M.V. Sea Success I and Anr., (2004) 9 SCC 512, J. Mehta v. Union of India, 2013 ALL (I) NGT REPORTER (2) Delhi, 106, Kehar Singh v. State of Haryana, 2013 ALL (I) NGT REPORTER (DELHI) 556, Goa Foundation v. Union of India, 2013 ALL (I) NGT REPORTER DELHI 234].

Furthermore, the 'cause of action' has to be complete. For a dispute to culminate into a cause of action, actionable under Section 14 of the NGT Act, 2010, it has to be a 'composite cause of action' meaning that, it must combine all the ingredients spelled out under Section 14(1) and (2) of the NGT Act, 2010. It must satisfy all the legal requirements i.e. there must be a dispute. There should be a substantial question relating to environment or enforcement of any legal right relating to environment and such question should arise out of the implementation of the enactments specified in Schedule I. Action before the Tribunal must be taken within the prescribed period of limitation triggering from the date when all such ingredients are satisfied along with other legal requirements. Accrual of 'cause of action' as afore-stated would have to be considered as to when it first arose.

25. In contradistinction to 'cause of action first arose', there could be 'continuing cause of action', 'recurring cause of action' or 'successive cause of action'. These diverse connotations with reference to cause of action are not

synonymous. They certainly have a distinct and different meaning in law, 'Cause of action first arose' would refer to a definite point of time when requisite ingredients constituting that 'cause of action' were complete, providing applicant right to invoke the jurisdiction of the Court or the Tribunal. The 'Right to Sue' or 'right to take action' would be subsequent to an accrual of such right. The concept of continuing wrong which would be the foundation of continuous cause of action has been accepted by the Hon'ble Supreme Court in the case of Bal Krishna Savalram Pujari & Ors. v. Sh. Dayaneshwar Maharaj Sansthan & Ors., AIR 1959 SC 798.

28. The settled position of law is that in law of limitation, it is only the injury alone that is relevant and not the consequences of the injury. If the wrongful act causes the injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. In other words distinction must be made between continuance of legal injury and the continuance of its injurious effects. Where a wrongful act produces a state of affairs, every moment continuance of which is a new tort, a fresh cause of action for continuance lies. Wherever a suit is based on multiple cause of action, period of limitation will begin to run from the date when the right to sue first accrues and successive violation of the right may not give rise to a fresh cause of action. [Ref: Khatri Hotels Private Limited and Anr. v. Union of India (UOI) and Anr., (2011) 9 SCC 126, Bal Krishna Savalram Pujari & Ors. v. Sh. Dayaneshwar Maharaj Sansthan & Ors, AIR 1959 SC 798, G.C. Sharma v. Municipal Corporation of Delhi, (1979) ILR 2 Delhi 771, Kuchibotha Kanakamma and Anr. v Tadepalli Ptanga Rao and Ors., AIR 1957 AP 419].

29. A cause of action which is complete in all respects gives the applicant a right to sue. An applicant has a right to bring an action upon a single cause of action while claiming different reliefs. Rule 14 of the National Green Tribunal (Practise and Procedure) Rules, 2011, shows the clear intent of the framers of the Rules that multiple reliefs can be claimed in an application provided they are consequential to one another and are based upon a single cause of action. Different causes of action, thus, may result in institution of different applications and therefore, there is exclusion of the concept of the 'joinder of causes of action' under the Rules of 2011. The multiple cause of action again would be of two kinds. One, which arise simultaneously and other, which arise at a different or successive point of time. In first kind, cause of action accrues at the time of completion of the wrong or injury. In latter, it may give rise to cause of action or if the statutes so provide when the 'cause of action first arose' even if the wrong was repeated. Where the injury or wrong is complete at different times and may be of similar and different nature, then every subsequent wrong depending upon the facts of the case may gives rise to a fresh cause of action.

To this general rule, there could be exceptions. In particular such exceptions could be carved out by the legislature itself. In a statute, where framers of law use the phraseology like 'cause of action first arose' in contradistinction to 'cause of action' simplicitor. Accrual of right to sue means accrual of cause of action for suit. The expressions 'when right to sue first arose' or 'cause of action first arose' connotes date when right to sue first accrued, although cause of action may have arisen even on subsequent occasions. Such expressions are noticed in Articles 58 of the Limitation Act, 1963. We may illustrate this

by giving an example with regard to the laws that we are dealing here. When an order granting or refusing Environmental Clearance is passed, right to bring an action accrues in favour of an aggrieved person. An aggrieved person may not challenge the order granting Environmental Clearance, however, if on subsequent event there is a breach or non-implementation of the terms and conditions of the Environmental Clearance order, it would give right to bring a fresh action and would be a complete and composite recurring cause of action providing a fresh period of limitation. It is also for the reason that the cause of action accruing from the breach of the conditions of the consent order is no way dependent upon the initial grant or refusal of the consent. Such an event would be a complete cause of action in itself giving rise to fresh right to sue. Thus, where the legislature specifically requires the action to be brought within the prescribed period of limitation computed from the date when the cause of action 'first arose', it would by necessary implication exclude the extension of limitation or fresh limitation being counted from every continuing wrong, so far, it relates to the same wrong or breach and necessarily not a recurring cause of action.

30. Now, we would deal with the concept of recurring cause of action. The word 'recurring' means, something happening again and again and not that which occurs only once. Such recurrence could be frequent or periodical. The recurring wrong could have new elements in addition to or in substitution of the first wrong or when 'cause of action first arose'. It could even have the same features but its recurrence is complete and composite. The recurring cause of action would not stand excluded by the expression 'cause of action first arose'. In some situation, it could even be a complete, distinct cause of action hardly having nexus to the

first breach or wrong, thus, not inviting the implicit consequences of the expression 'cause of action first arose'. The Supreme Court clarified the distinction between continuing and recurring cause of action with some finesse in the case of M. R. Gupta v. Union of India and others, (1995) 5 SCC 628, the Court held that:

"The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits. He would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defence of laches etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1.8.1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited

extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action. The Tribunal misdirected itself when it treated the appellant's claim as 'one time action' meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to computation made in accordance with rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (See Thota China Subba Rao and Ors. v. Mattapalli, Raju and Ors. AIR (1950) F C1."

31. The Continuing cause of action would refer to the same act or transaction or series of such acts or transactions. The recurring cause of action would have an element of fresh cause which by itself would provide the applicant the right to sue. It may have even be de hors the first cause of action or the first wrong by which the right to sue accrues. Commission of breach or infringement may give recurring and fresh cause of action with each of such infringement like infringement of a trademark. Every rejection of a right in law could be termed as a recurring cause of action. [Ref: Ex. Sep. Roop Singh v. Union of India and Ors., 2006 (91) DRJ 324,

M/s. Bengal Waterproof Limited v. M/s. Bombay Waterproof Manufacturing Company and Another, (1997) 1 SCC 99].

32. The principle that emerges from the above discussion is that the 'cause of action' satisfying the ingredients for an action which might arise subsequently to an earlier event give result in accrual of fresh right to sue and hence reckoning of fresh period of limitation. A recurring or continuous cause of action may give rise to a fresh cause of action resulting in fresh accrual of right to sue. In such cases, a subsequent wrong or injury would be independent of the first wrong or injury and a subsequent, composite and complete cause of action would not be hit by the expression 'cause of action first arose' as it is independent accrual of right to sue. In other words, a recurring cause of action is a distinct and completed occurrence made of a fact or blend of composite facts giving rise to a fresh legal injury, fresh right to sue and triggering a fresh lease of limitation. It would not materially alter the character of the preposition that it has a reference to an event which had occurred earlier and was a complete cause of action in itself. In that sense, recurring cause of action which is complete in itself and satisfies the requisite ingredients would trigger a fresh period of limitation. To such composite and complete cause of action that has arisen subsequently, the phraseology of the 'cause of action first arose' would not effect in computing the period of limitation. The concept of cause of action first arose must essentially relate to the same event or series of events which have a direct linkage and arise from the same event. To put it simply, it would be act or series of acts which arise from the same event, may be at different stages. This expression would not de bar a composite and complete cause of action that has arisen subsequently. To illustratively demonstrate, we may refer to the challenge to the grant of Environmental

Clearance. When an appellant challenges the grant of Environmental Clearance, it cannot challenge its legality at one stage and its impacts at a subsequent stage. But, if the order granting Environmental Clearance is amended at a subsequent stage, then the appellant can challenge the subsequent amendments at a later stage, it being a complete and composite cause of action that has subsequently arisen and would not be hit by the concept of cause of action first arose.”

15. The above observations fully deal with the issue. Limitation commences not merely from first step in the matter but from continuing facts which show substantial question of environment on account of violation of relevant environmental laws.
16. In the present case it is seen that the cause of action for the applicant is based *inter-alia* on:
 - i. A report dated 21.03.2014 of the Water Resources Department stating that construction activity was destroying the original water body and will prevent free flow of water.
 - ii. Letter dated 23.05.2014 of the Water Resources Department imposing conditions while permitting modification of existing water bodies, particularly, the condition that the area of pondage should not be reduced, connectivity of water bodies may be maintained and slope and cross sections are maintained as per the drawing.

- iii. Report dated 24.06.2014 by the GCZMA to the effect that activity of the project proponent is a violation of CRZ, 2011 laws.

17. The application filed on 27.05.2014 cannot thus be held to be barred by limitation merely because on 02.09.2013, the applicant had made a complaint of general nature. The said complaint can hardly be said to be complete cause of action and foundation of the present application. The said complaint is quoted in full as follows:

"Sub: Fix date to conduct inspection of M/s Balaji Concepts site at Khandi-Bandoi of Village Cavelossim.

Madam,

We have noticed that M/s Balaji Concepts is moving several truckloads of mud into its area to fill the waterlogged bodies thereby destroying the existing ponds and water access within its area. It is also notice that most of the areas within its vicinity got water logged and the stagnant water smells due to blockage of water access. Such act of water blockade is illegal and bound to create disastrous consequences.

As the water is stagnant due to blockage of water passage in the surrounding areas, it is most likely that several types of mosquitoes may start breeding. This may result in spread of several types of epidemics due to breeding of mosquitoes.

It is also noticed that they have blocked the pathways/public access to river which is illegal.

Hence, you are hereby requested to fix date to conduct inspection of the site of M/s Balaji Concepts immediately and intimate us so as to enable us to attend the said inspection."

18. The cause of action for approaching the Tribunal is a substantial question of environment and not merely a general allegation which may not amount to such substantial question. It may be difficult to say that complaint dated 02.09.2013 without further facts of alleged violation as mentioned in the reports which have been relied upon by the applicant by itself was substantial question of environment. We thus hold that the application is within limitation.

Re (ii): Whether the NGT can entertain the application in the nature of PIL which is maintainable before the High Court and the Hon'ble Supreme Court.

19. As regards the applicant being aggrieved party, learned counsel for the project proponent fairly states that this objection is not being raised in the present application but in other cases. However, learned counsel for the applicant points out that the matter is already dealt with by the Tribunal vide order dated 23.08.2016 in *Sameer Mehta v. U.O.I & Ors., 2016 NGTR (3) PB 1*, giving an interpretation to the expression 'aggrieved person' and observing that the expression has to be seen liberally once a substantial question of environment arises. While jurisdiction of the NGT is *sui generis* in terms of statutory provisions under the NGT Act, 2010,

an order necessary for protection of environment can be passed to enforce principles under Section 20 of the Act i.e. 'Precautionary' principle, 'Sustainable Development' principle and 'Polluter Pays' principle. It may be inevitable to pass orders in the nature of public interest. It may be said to be comparable or otherwise to PIL jurisdiction. Fact remains that jurisdiction under Section 15 read with Section 20 of the Act has to be exercised meaningfully to protect environment. The question is answered accordingly.

Re (iii): Order required to be passed on merits.

20. Coming to the merits, we are informed on behalf of the project proponent that 80% of the project has already completed. Learned counsel for the project proponent also states that water bodies have been filled only to the extent permitted by the Water Resources Department of the State of Goa and there is no violation of the environment norms or conditions subject to which the permission has been granted by the Water Resources Department.
21. We may also note that in the application violation alleged is of Goa State laws, learned counsel for the applicant submits that facts disclose violation of Schedule I laws, including Environment (Protection) Act, 1986.
22. Learned counsel for the applicant relies upon the report of the Water Resources Department of the State of Goa and GCZMA

referred to above and submits that the alleged violations need to be gone into.

23. Since the matter has been pending for the last about five years, having regard to the need for expeditious disposal based on correct and latest factual position, we consider it appropriate to direct furnishing of a joint report by representatives of the MoEF&CC, GCZMA, Goa State Pollution Control Board and Water Resources Department, State of Goa. The GCZMA will be the nodal agency for coordination and compliance. Such factual report dealing with the issue may be furnished within three months by email at ngt.filing@gmail.com. A copy of the order be sent each to the MoEF&CC, GCZMA, Goa State Pollution Control Board and Water Resources Department, State of Goa by email.

24. It will be open to the parties to furnish their respective versions to the GCZMA. It will also be open to the joint Committee to carry out inspection to ascertain status and assess the damage to the environment, if any, and suggest remedial measures.

List for further consideration on 28.08.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

April 24, 2019
Original Application No. 61/2014 (WZ)
(M.A. No. 24/2015)
AK



Item No. 06

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 61/2014 (WZ)
(M.A. No. 24/2015 & I.A. No. 24/2019)

Cavelossim Villagers Forum

Applicant(s)

Versus

Village Panchayat of Cavelossim

Respondent(s)

Date of hearing: 01.10.2019

**CORAM : HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. N.DA Costa Frias, Advocate

For Respondent (s): Ms. Ruchira Gupta, Advocate with Mr. Anurag Sharma, Advocate for Respondent No 5
Mr. Krishnan Venugopal, Senior Advocate along with Mr. Ninad Laud, Mr. Nitin Sawant, Mr. Kaushik Mishra, Mr. Shivshankar Swaminathan and Mr. Ivo D'Costa, Advocates for Respondent No. 8.

ORDER

1. This application is filed by the applicant alleging construction of building at Khandi-Bandoi, Cavelossim, Salcete, Goa, by M/s Balaji concepts, the Respondent No. 8 by filling up water bodies with mud in violation of the law. It is contended that the illegal construction is being undertaken on plots bearing Survey No. 91/1, 91/5, 91/6, and 91/8 in Village Cavelossim. As a consequence, the River Sal has been polluted and nallahs, fishing ponds, natural water

channels and paddy fields have been completely destroyed. The construction falls within 100 mtrs of the River Sal and a 10 mtrs approach road has been constructed without obtaining CRZ Clearance. In its reply, the Respondent No. 8 has denied all material allegations and has contended that all necessary clearances have been obtained and that the proposed construction do not fall within the prohibited NDZ Area.

2. The case was first instituted on 23.05.2014 and various orders have been passed from time to time and was last heard by the NGT, Western Zone Bench at Pune on 03.03.2017 before it was transferred to the NGT, Principal Bench at New Delhi where it was first placed on 22.02.2019. On 24.04.2019 it was noted that 80 % of the project was stated to have been completed and, since much time had lapsed during the intervening period, it was felt necessary to seek a report on the present status of the project and the latest factual position. A Committee was thus constituted comprising of MoEF & CC, GCZMA, Goa State Pollution Control Board and Water Resources Department, State of Goa for the purpose.
3. The Report as directed has been furnished by the Committee and placed before us today. The conclusion and recommendations of the Committee is reads as follows:-

"3. Conclusion and Recommendation

- i) *As seen during the site inspection, out of the approved 35 villas' only 28 villas have been constructed at site beyond the NDZ of Sal river but are not yet finished.*

- ii) While granting Technical Clearance for the project' the TCP as well as the V P of Cavelossim laid certain conditions such as not to touch the existing water bodies at site but to protect the water bodies' preserve the existing drainage pattern within the property and not to do the filling of the low lying areas.
- iii) Whereas, it is seen from the Sy. Map shown by the Complainant that the respondent has done the filling of the water body in Sy. No. 91/1 towards north and constructed five buildings at site and also did the diversion of Nullah, which however is done as per the NoC issued by WRD, dated 23 /05 /2074.
- iv) The diversion of the drainage Nullah in Sy. No. 91/1 though is done as per NOC from WRD it is affecting the agricultural field in Sy. No.89. However, all this is done outside the CRZ/NDZ area as per revised plan and is a matter to be dealt by other forum.
- v) Secondly, as per the Complainant, the land filling done by the respondent in low lying riverine NDZ area of Sy. No. 90/6 for making Panchayat Approach Road and also for making an Internal Road falling in Sy. Nos. 90/68, 91/7, 8, 5 and 1 cannot be ascertained at site presently.
- vi) Besides this, there is no debris seen of any kind within the N DZ area of river.
- vii) Thirdly, the construction done by the respondent is only after getting the CRZ/NDZ line demarcated/delineated by DSLR, Panaji. So, if any other NDZ becomes applicable, if at all, due to the presence of water body in the S-E side having an old sluice gate at its mouth should have been pointed out by DSLR.
- viii) As per CRZ Regulation no new construction is permissible within the riverine NDZ area except, repair and renovation or re-construction on the plinth of the old structure existing prior to 1991, without increasing the plinth area and with proper permission from GCZMA.
- ix) Whereas, beyond the sluice gate there is no tidal influence, so the NDZ due to the presence of water body in S-E side does not become applicable.

- x) Moreover, the plan approved by TCP indicating a proposed modification to the said water body in the S-E direction; Creation of one more water body in Sy. No.91/7; Construction of three more sluice gates and some other modifications as suggested in the revised construction plan to the water ways/drainage system at site though are permitted by WRD, all are falling within the NDZ of Sal River for which the permission from GCZMA is highly necessary.*
- x) Carrying out these modifications/changes as per the plan approved by TCP without obtaining the permission from GCZMA will lead to violation of CRZ Regulation.*
- xii) This may be deliberated in the Authority meeting for a decision.*

4. As would be apparent from the above, out of the approved 35 villas, 28 have been constructed beyond the NDZ areas of River Sal and is yet to be completed. The rest of the activities appear to be within the applicable norms except that certain modifications have been made to the project as would be apparent from the observations in recommendation 3 (x). It has been observed that such modifications/changes approved by Town and Country Planning (TCP) without obtaining permission from GCZMA would lead to violation of CRZ Rules and, finally in recommendation 3 (xii), it has been recommended that this issue requires to be deliberated by the authority for taking appropriate decision.

5. We, therefore, direct that the matter shall be looked into by the Goa Coastal Zone Management Authority (GCZMA) in terms of the Recommendation 3 (xii) on the aspects pointed out in the report. The GCZMA shall issue notice upon the parties and fix a date for consideration of the matter. The parties shall be at liberty to place

their respective views and file additional documents, if so advised in the matter.

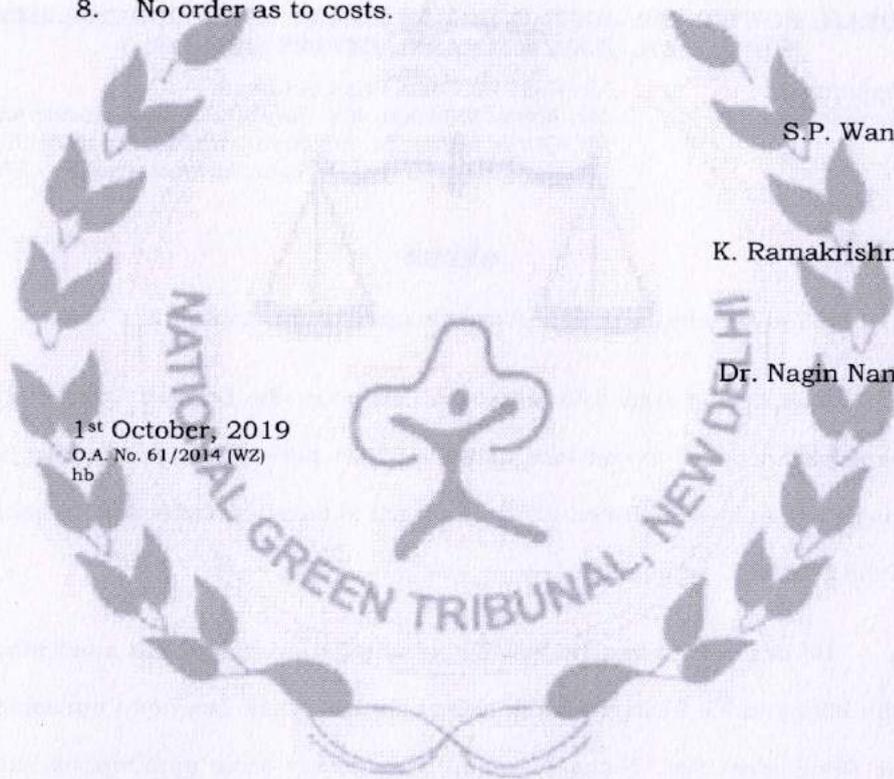
6. The GCZMA shall dispose of the matter in accordance with law expeditiously within three months from hence.
7. With the above directions, the Original Application stands disposed off along with the related M.A. and I.A.
8. No order as to costs.

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

1st October, 2019
O.A. No. 61/2014 (WZ)
hb



Item No.01

(Pune Bench)

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

(By Video Conferencing)

Original Application No. 01/2018 (WZ)

I.A. No. 55/2022(WZ)

Cavelossim Villagers Forum

.....Applicant(s)

State of Goa & Ors.

....Respondent(s)

Date of hearing: 14.09.2022

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

Applicant(s)	:	Mr. Nigel Da Costa Frias, Advocate
Respondent(s)	:	Mr. Abhay Anturkar, Ms. Bhavya Pande, Advocate for R-4
	:	Mr. Dhruv Mehta, Sr. Advocate with Mr. Ninad Laud, Mr. S. Swaminathan, Mr. Ivo D Costa, Advocates for R-5 &6

ORDER

1. Heard the argument of Learned Counsel for the Applicant.
2. After having argued for about half an hour, the Learned Counsel for the Applicant failed to convince us as to which part of the construction he has prayed to be demolished which is alleged to have been raised in violation of the CRZ Notification, 2011.
3. He has prayed that he may be permitted to withdraw this application with liberty to file fresh, which is being opposed by the Learned Counsel for the Respondent Nos. 5 and 6 saying that already three applications have been filed earlier by the Applicant in order to harass the Respondents, therefore, no liberty should be given.
4. We have two courses open either to allow amendment in the present application or to allow this application to be withdrawn with permission to file fresh application with clear facts.

5. After having heard both the sides, we are of the view that it would be appropriate to allow the Applicant withdraw this application with permission to file fresh, if so desired.
6. Accordingly, we dismiss this application as withdrawn with liberty to file fresh application.
7. The pending interlocutory application also stands disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 14, 2022
Original Application No. 01/2018 (WZ)
I.A. No. 55/2022(WZ)
JG

...the ... of ...

REF:- TPM/ 19341/Cavelossim/90/1,5,6(P) & 91/1,3 to 10/16 /5667 DATE:- 07/12/2016

TECHNICAL CLEARANCE ORDER

Technical Clearance is hereby granted for **revision of building plans of a resort** as per the enclosed approved plans in the property zoned as **Settlement Zone** in **Regional Plan for Goa 2001 and 2021** and situated in plot No.-- of survey no. **90/1,5,6(P) and 91/1, 3 to 10** sub-division ___ of **Cavelossim** Village of **Salcete** Taluka with the following conditions:-

1. Construction shall be strictly as per the approved plans No changes shall be effected in the approved plans/approved built spaces without the prior permission of this Authority.
2. The permission granted shall be revoked, if any information, plans, calculations, documents and any other accompaniments of the application are found incorrect or wrong at any stage after the grant of the permission and the applicant will not be entitled for any compensation.
3. The development permission will not entitle the applicant for making/laying any claim on water and any other connection from the Government of Goa.
4. The Developer/applicant should display a sign board of minimum size 1.00mts. x 0.50mts. with writing in black colour on a white background at the site, as required under the Regulations.
5. The applicant shall obtain Conversion Sanad under the Goa Land Revenue Code, 1968, before the commencement of any development/construction as per the permission granted by this order.
6. The soak pit should not be located within a distance of 15.00meters from any existing well in the surrounding area.
7. The commencement and the completion of the work shall be notified to the authority in writing in appropriate forms.
8. Completion Certificate has to be obtained from this Authority before applying for Occupancy Certificate from the licensing authority.
9. Storm water drain should be constructed along the boundary of the effected plot abutting to the road.
10. Adequate Utility space for the dustbin, transformer etc. should be reserved within the plot area.
11. In case of any cutting of sloppy land or filling of low lying land, are involved, prior permission of the Chief Town Planner shall be obtained before the commencement of the works per the provisions of Section 17(A) of the Goa Town and Country Planning Act, 1974.
12. In case of compound walls, the gates shall open inwards only and traditional access, if any passing through the property shall not be blocked.
13. The Ownership of the property shall be verified by the licensing body before issuing the licence.
14. Verification of the tenancy position as on 2/11/1990 and thereafter shall be made by the licensing body before issuing the licence.

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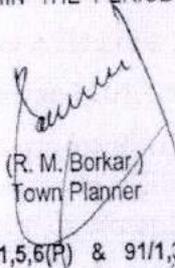
15. As regards complaints, pertaining to encroachments, Judicial orders/directive and other legal issues, the same may be verified and confirmed by the concern Village Panchayat before issuing licence.
16. The set backs shown on the site plan shall be strictly maintained.
17. The Village Panchayat shall ensure about the availability of power and water supply and other required infrastructure before issuing licence.
18. The area under road widening shall be deemed to be public road and shall not be enclosed/encroached. Affidavit / undertaking in this regard shall be sworn before the Village Panchayat/PWD as the case may be on stamp paper of Rs.100/-
19. Technical Clearance Order is for partial modification to the earlier plan approved vide TPM/Const/Cavel/90/1,5,6(P) & 91/1,3 to 10/10/2329 dtd, 17/5/2010.
20. The Technical Clearance issued is based on NOC bearing ref.no. WRD/WD-11/ADM/F.14/201/14-15 dtd. 23/5/2014 issued by Executive Engineer -II and Canal Officer, South Goa, Water Resource Department for the proposed development of Nallah , relocation of pond etc. The conditions laid down in said NOC will have to be strictly followed by the project proponent and necessary steps should be taken to ensure that the development carried out will not cause any inundation for water logging in the adjoining properties as directed by Hon'ble Court in the judgement dtd. 13/10/2016.
21. It is observed that additional area under Water bodies (increase in pondage) has been noticed. As the same area is within No Development Zone, covered under CRZ Regulations prior approval of GCZMA shall be obtained.
22. This Technical Clearance issued is based on letter of Directorate of Settlement and Land Records, Panaji bearing ref.no. 19/DSLRL/Resurvey Cell/CZ-River/23/07/4236 dtd. 7/8/12 with regards to re-delineation of CRZ line in property bearing sy.no. 90/1,5,6 and 91/1,3 to 10 situated at Cavelossim village of Salcete Taluka.
23. The open spaces proposed shall be strictly maintained and shall be used only for re-creational purpose.
24. This Technical Clearance Order will be reviewed pursuant to any specific orders which would be passed by the Courts, if any.
25. The necessary water hygiene of pools and internal drains shall be maintained.
26. The water supply for the water pool shall be made by the applicant at his own cost.
27. The internal roads shall be effectively developed.
28. Any other NOC required for resort project from the competent authority if required shall be obtained.
29. Adequate parking provision shall be made within the complex.
30. Necessary provision for garbage disposal shall be made in consultation with local authorities.

Contd/-

..3..

THIS ORDER IS ISSUED WITH REFERENCE TO THE APPLICATION DATED 27/10/2016 FROM
SHREE BALAJI CONCEPTS

THIS ORDER IS VALID FOR THREE YEARS FROM THE DATE OF ISSUE OF CONSTRUCTION
LICENCE, PROVIDED THE CONSTRUCTION LICENCE IS ISSUED WITHIN THE PERIOD OF
THREE YEARS.


(R. M. Borkar)
Town Planner

Note: Pursuant to this office assessment Order No.TPM/Const/Cavel/91/1,5,6(P) & 91/1,3 to
10/2016/3189 dtd. 01/07/2016 the applicant has already paid the Infrastructure Tax of Rs.9,28,920/-
(Rupees nine lakhs twenty eight thousand nine hundred twenty only) vide challan no.157 dtd.
20/7/2016.

To,
M/s. Shree Balaji Concepts,
Kadar Manzil, 1st floor,
Margao Goa.

Copy to:

- 1) The Sarpanch/Secretary,
Village Panchayat of Cavelossim,
Salcete Goa.
- 2) The Executive Engineer -II,
Canal Officer (South),
Water Resource Department,
Gogal, Margao Goa.

Tn/- 24/11/16

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VILLAGE PANCHAYAT CAVELOSSIM, SALCETE GOA.

CONSTRUCTION LICENCE

YEAR – 2017-2018 DATE: 21/6/2017.
Construction Licence No. VP/Cav/2017-2018/3.



M/s Shree Balaji Concepts

From Kadar Manzil, Opp. Hari Mandir, Margao Goa.

is hereby granted this licence for **Revision of Building plans of a Resort in Sy. No. 90/1,5,6(P) and 91/1,3 to 10 at Cavellossim Salcete Goa.**

In terms of resolution No. 2/50 taken in the Panchayat meeting dated 27/4/2017 as per the plan in Duplicate attached to her/his application vide inward No. 1222 dated 13/12/2016 one copy of the plans concerned with the approval note carrying the embossed seal of this Panchayat and duly signed, is returned to the interested party who shall comply with the following conditions:

1. To limit himself/herself to the plans approved and statement therein.
2. The construction shall be as per plans approved by this Panchayat and condition imposed on it.
3. To inform the Panchayat after excavation and before lying of plinth level.
4. To inform the Panchayat when the construction has been completed upto plinth level.
5. To inform the Panchayat as soon as the construction is completed.
6. Not to in habit the building without the prior permission of this Panchayat.
7. To abide by the other related provision In force.
8. That building or construction is carried out as per the alignment given and the plinth level fixed by the Panchayat.
9. The construction licence shall be revoked.
 - a. If the construction work is not executed as per the plans approved and statements therein;
 - b. Wherever there is any false statement or any misrepresentation of any material /wrong plans/Calculations/documents in any incorrect of wrong at any stage.

.....Other Conditions Continued on Page No. 2.....

THE LICENCE SHALL BE VALID FOR A PERIOD OF THREE YEARS.

Beginning from today he/she has paid the respective tax/fees the tune of **Rs. 7,53,288/-** (Rupees Seven Lakhs fifty three thousand two hundred and eighty eight only)

By receipt no. **22/14** dated **21/6/2017**.

This carries the embossed seal of this Panchayat
Office of Village Panchayat Cavellossim

Date: **21/6/2017**.

Note: - 1. This Construction licence is issued as per the approved order/letter of Senior Town Planner, Margao, Letter No. TPM/19341/Cavellossim/90/1,5,6(P) & 91/1,3 to 10/16/5667 dated 07/12/2016 subject to the conditions from serial No. 1 to 30 of the order and also conditions mentioned behind.

P.T.O.

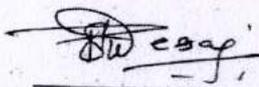


10. Any change to be effected to the approved Plans or prior permission on has to be obtained.
11. Prior to commencement in development work it will be incumbent upon the applicant to have valid conversion sanad of use of land as contemplated under Goa, Daman & Diu Land Revenue code 1968.
12. There should not be any drinking water well within 15 meters from Soak pit, Septic tank vice versa.
13. Trees if any shall be cut only with prior permission from the concerned Authority.
14. The opening of the compound wall gate shall be inward only.
15. Traditional Pathway if any, passing through the property shall not be blocked.
16. Neat and clean environment with special reference to drainages, sewage, garbage etc. shall be maintained.
17. If any HT/LT/electric line is passing through the property then N.O.C. of The Electricity department shall be obtained prior to starting the construction work.
18. Completion certificate should be obtained from Senior Town Planner.
19. It is advisable to plant trees suitable to site condition.
20. The building shall have slopping roof with Mangalore tiles.
21. In case of compound wall adequate openings at the bottom of the Compound wall shall be kept so that no cross drainage is blocked.
22. No hill cutting or filling of low lying area shall be undertaken without obtaining prior permission from the Chief Town Planner under section 17 of T.P. Act.
23. N.O.C. from all concerned authorities shall be obtained before commencement of the development.
24. F.A.R. coverage & Setback shall be strictly maintained as per the Approved plans and as per the rules in force.
25. Curring water should be treated with anti-larval chemicals.
26. The labourers engaged for the construction work shall possess Health Card failing which each labour shall be penalized with a fine of Rs. 1000/- at the first instance and Rs. 50/- daily under section 75AA of Goa, Daman & Diu Public Health Act.
27. The R.C.C. Layout should be conformed to the approved building dimensions.

...Page 3....

28. The setback for construction of compound wall from the center line of the Road may be confirmed from the competent authority.
29. The Owner/Occupier of the building should also provide dust bin for disposal of their garbage etc. and same should be borne from their end.
30. The set backs shown on the site plan shall be strictly maintained.
31. Storm water drain should be constructed along the boundary of the effected plot abutting to the road.
32. Adequate utility space for the dustbin, transformer etc. should be reserved within the plot area.
33. In case of any cutting of sloppy land or filling of low lying land are involved, Prior permission of the Chief Town Planner shall be obtained before the commencement of the works per the provisions of Section 17 (a) of the Goa Town and Country Planning act, 1974.
34. The open spaces proposed shall be strictly maintained and shall be used only for re-creational purpose.
35. The necessary water hygiene of pools and internal drains shall be maintained.
36. The water supply for the water pool shall be made by the applicant at his own cost.
37. The internal roads shall be effectively developed.
38. Any other NOC required for resort project from the competent authority if required shall be obtained.
39. Adequate parking provision shall be made within the complex.
40. The developer shall develop 5 mts wide proposed Panchayat access at the time of obtaining occupancy certificate.
41. All the conditions mentioned in Town and Country Planning Department technical clearance order No. TPM/19341/Cavelossim/90/1,5,6(P) & 91/1,3 to 10/16/5667 dated 07/12/2016 shall be strictly complied with.




 (Shashank P. Gauns Dessai)
Secretary
V.P. Cavelossim

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data.

In the second section, the author outlines the various methods used to collect and analyze the data. This includes both primary and secondary data collection techniques. The primary data was gathered through direct observation and interviews, while secondary data was obtained from existing reports and databases.

The third section details the statistical analysis performed on the collected data. This involves the use of descriptive statistics to summarize the data and inferential statistics to test hypotheses. The results of these analyses are presented in a clear and concise manner, highlighting the key findings of the study.

Finally, the document concludes with a discussion of the implications of the findings. It suggests that the results have significant implications for the field of study and provides recommendations for further research. The author also acknowledges the limitations of the study and offers suggestions for how these can be addressed in future work.

EXHIBIT D

ITEM NO.13

COURT NO.5

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).37738-37739/2016

(Arising out of impugned final judgment and order dated 13/10/2016 in MCA No. 256/2016 and PILWP No. 6/2015 passed by the High Court of Bombay at Goa)

CAVELOSSIM VILLAGERS FORUM

Petitioner(s)

VERSUS

THE STATE OF GOA AND ORS.

Respondent(s)

(with appln. (s) for permission to file lengthy list of dates)

Date : 13/01/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE PRAFULLA C. PANTFor Petitioner(s) Ms. Anitha Shenoy, AOR
Ms. Srishti Agnihotri, Adv.
Ms. Seerabhi Aggarwal, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

After some arguments, learned counsel for the petitioner seeks leave to withdraw the special leave petitions.

The special leave petitions are dismissed as withdrawn.

(SANJAY KUMAR-I)
AR-CUM-PS(JASWINDER KAUR)
COURT MASTER

THE STATE

THE STATE OF TEXAS, COUNTY OF DALLAS, ss. I, the undersigned, Clerk of the County, do hereby certify that the following is a true and correct copy of the original as the same appears in the records of the County of Dallas, Texas, to-wit:

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EXHIBIT E

Report of Site Inspection Pertaining to Sy. Nos. 90/1, 90/5, 90/6-E, 91/1, 91/4, 91/3, 91/5 and 91/6 of Village Cavelossim, Salcete-Goa.

1. Background

An application bearing No. 61/2014 was filed by the Cavelossim Villagers Forum in Hon'ble NGT against M/s Balaji Concepts, Margao, Goa for undertaking illegal construction activities adversely affecting the natural water bodies/nallahs/channels/paddy fields, etc.

In the said application, the Hon'ble NGT vide order dated 24/04/2019 directed as follows;

"Since the matter has been pending for the last about five years, having regard to the need for expeditious disposal based on the correct and latest factual position, we consider it appropriate to direct furnishing of a joint report by the representatives of MoEF & CC, GCZMA, GSPCB and WRD. The GCZMA will be the nodal agency for co-ordination and compliance. Such factual report dealing with the issue may be furnished within three months by e-mail at nat.filing@gmail.com. A copy of the order be sent to each to the MoEF & CC, GCZMA, GSPCB and WRD, State of Goa by e-mail.

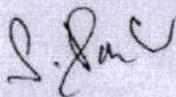
It will be open to the parties to furnish their respective versions to the GCZMA. It will also be open to the Joint Committee to carry out inspection to ascertain status and assess the damage to the environment, if any, and suggest remedial measures".

In view of this a Joint Site inspection was fixed to see the site, verify its CRZ zoning, the construction done at site and the violations, if any.

2. Inspection and Observation

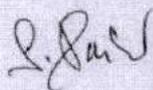
Upon instruction from the Member Secretary GCZMA, a site inspection was carried out on 31.05.2019 jointly by the following:

1. Dr. Prabhakar Shirodkar, Expert Member of **GCZMA**,
2. Dr. S. Prabhu, Scientist 'C', **MoEFCC**, Regional Office, Bangalore.
3. Mr. Sebastiao Barretto, the Engineering Asst. from **GSPCB**
4. Mr. Ashley Pereira the Engineering Asst. from **GSPCB**
5. Mr. Ajay Kudchadkar, Technical Assistant of Water Resource Department (**WRD**), Margao
6. Mr. Yeshwant Bicholkar - a DSLR representative from **GCZMA**



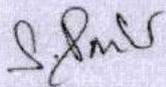
From the **respondent's** side, Mr. R. P. Naik - Estate Manager was present along with his Engineer Mr. Prasad Bhom and two other Advocates, Mr. Sanjay Malkarnekar and Mr. Nitin Sawant, whereas from the **Complainant's** side, Mr. Irish Passanha - President of Cavelossim Villagers Forum was present along with his associate. The details of site inspection are as follows;

- i) The site is a large plot of land having various Sy. Nos. 90/1, 90/5, 90/6-E, 91/1, 91/4, 91/3, 91/5 and 91/6 of Cavelossim Village. The plot is starting from the northern bank of Sal River and extends further towards the north and the east.
- ii) As seen at site, there are agricultural fields lying towards the northern and eastern boundary of the plot, whereas, to the southern boundary of the plot is the Sal River. Towards the western side there is a tar road and other residential houses /dwellings of the settlement area.
- iii) There also exists a rectangular water body towards S-E side of the plot which is having an old sluice at its mouth located at the bank of Sal River. This sluice gate is not maintained properly, so there is a riverine flow into the water body. There are Mangrove trees grown all over the edge of this water body. The Complainant told that the said water body was an old Pond used earlier for fishing, wherein the riverine water used to be taken inside by opening the sluice gate.
- iv) The width of the Sal River is more than 100 m and so the riverine No Development Zone (NDZ) applicable to the plot is a maximum of 100 m from the northern bank of the river towards the landward side in the north.
- v) The respondent got the delineation of Coastal Regulation Zone (CRZ)/NDZ line done through DSLR Panaji (DSLR letter, dated 07/08/2012 submitted). Thereafter, the Conversion Sanad was obtained by the respondent from the Collector, South Goa, Margao, dated 22/07/2009 for conversion of land from agricultural to residential and another Sanad, dated 03/10/2010 for further conversion from residential to commercial.
- vi) Initially, the Technical Clearance was granted by Town and Country Planning (TCP) dated 17/05/2010 for construction of a hotel project at site beyond NDZ (i.e outside CRZ area) with a compound wall to the plot. Later on, the respondent



submitted a revised plan which included the development of existing Nullah, relocation of pond, etc within the plot for which the Technical Clearance was also granted by TCP, vide order, dated 07/12/2016.

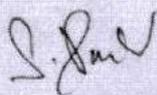
- vii) As per the first Technical Clearance dated 17/05/2010, the TCP suggested no filling to be done of low lying area without prior permission from TCP.
- viii) It also mentioned that the proposed development should not affect the existing drainage pattern and the fields within the surrounding area and that all existing Nullahs and water bodies should be protected.
- ix) So, the Construction License originally issued by the Village Panchayat of Cavelossim, dated 18/06/2010 for the earlier plan was subsequently re-issued, dated 21/06/2016 for the revised plan.
- x) The NOC issued by the V. P. of Cavelossim also mentioned not to touch the existing water bodies at site. Not to do filling of low lying areas without proper permission from TCP and also instructed to protect the water bodies and to preserve the existing drainage pattern within the property.
- xi) Thereafter, the respondent started the construction of hotel project with 35 cottages of which 28 have been constructed at site beyond the riverine NDZ area.
- xii) There are two Nallahs about 1.5 - 2.0 m width passing through the respondent's property and joining the Sal River along its northern bank.
- xiii) Though there is no construction done by the respondent within the riverine NDZ area of the plot, the contention of the Complainant is that the respondent has made an inside road by doing filling of red murrum of more than 2 ft high, which is falling in Sy. Nos. 90/6E, 91/7, 8, 1 and 5 in NDZ area. The said road is starting from the main tar road and going straight towards the eastern end of the plot. The Complainant also says that the filling is also done for the Panchayat Approach Road in Sy. No. 90/6.
- xiv) The other contention of the Complainant is that due to the presence of a water body at the S-E corner of the plot in Sy. No. 91/8 which is influenced by Sal River water due to the non-maintenance of the sluice gate along the river bank, an NDZ equivalent to the width of the water body is applicable.



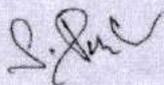
- xv) The width of the said water body as measured by the DSLR representative at site is 48 m and the length of the water body is 23 m.
- xvi) The buildings constructed by the respondent in Sy. No. 91/4, beyond the NDZ line of Sal River and opposite the water body as can be seen in construction plan are 12m away from the edge of the water body. In all there are five buildings constructed by the respondent opposite the tidally influenced water body.
- xvii) The respondent says that they were trying to restore the old collapsed sluice gate located at the mouth of the water body along the bank of Sal River long back, but abandoned it due to the ongoing Court case.
- xviii) The Complainant also told that in Sy. No. 91/1, the respondent has filled up the existing water body of 450 sq. m. area and has constructed 5 buildings on it. Besides this, the existing Nullah towards the western side of the plot, which was draining the water from land to the Sal River has been diverted. Presently, this Nullah is bringing in saline riverine water during the high tide and it is drained into the adjoining agricultural field in Sy. No. 89.
- xix) Moreover, the revised construction plan of the applicant for a proposed resort beyond 100 m of the NDZ of Sal River has been approved by TCP. This approved revised plan also shows a proposed modification to the existing water body in S-E direction, creation of another water body in Sy. Nos. 91/7 and 91/1 and the construction of three more sluice gates and other modifications, all of which are falling within the NDZ of Sal River, and all are permitted by WRD.

3. Conclusion and Recommendation

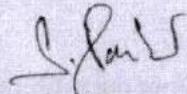
- i) As seen during the site inspection, out of the approved 35 villas, only 28 villas have been constructed at site beyond the NDZ of Sal River but are not yet finished.
- ii) While granting Technical Clearance for the project, the TCP as well as the V. P. of Cavellossim laid certain conditions such as not to touch the existing water bodies at site but to protect the water bodies, preserve the existing drainage pattern within the property and not to do the filling of the low lying areas.



- iii) Whereas, it is seen from the Sy. Map shown by the Complainant that the respondent has done the filling of the water body in Sy. No. 91/1 towards north and constructed five buildings at site and also did the diversion of Nullah, which however is done as per the NOC issued by WRD, dated 23/05/2014.
- iv) The diversion of the drainage Nullah in Sy. No. 91/1 though is done as per NOC from WRD it is affecting the agricultural field in Sy. No. 89. However, all this is done outside the CRZ/NDZ area as per revised plan and is a matter to be dealt by other forum.
- v) Secondly, as per the Complainant, the land filling done by the respondent in low lying riverine NDZ area of Sy. No. 90/6 for making Panchayat Approach Road and also for making an Internal Road falling in Sy. Nos. 90/6E, 91/7, 8, 5 and 1 cannot be ascertained at site presently.
- vi) Besides this, there is no debris seen of any kind within the NDZ area of river.
- vii) Thirdly, the construction done by the respondent is only after getting the CRZ/NDZ line demarcated/delineated by DSLR, Panaji. So, if any other NDZ becomes applicable, if at all, due to the presence of water body in the S-E side having an old sluice gate at its mouth should have been pointed out by DSLR.
- viii) As per CRZ Regulation no new construction is permissible within the riverine NDZ area except, repair and renovation or re-construction on the plinth of the old structure existing prior to 1991, without increasing the plinth area and with proper permission from GCZMA.
- ix) Whereas, beyond the sluice gate there is no tidal influence, so the NDZ due to the presence of water body in S-E side does not become applicable.
- x) Moreover, the plan approved by TCP indicating a proposed modification to the said water body in the S-E direction; Creation of one more water body in Sy. No. 91/7; Construction of three more sluice gates and some other modifications as suggested in the revised construction plan to the water ways/drainage system at site though are permitted by WRD, all are falling within the NDZ of Sal River for which the permission from GCZMA is highly necessary.



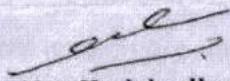
- xi) Carrying out these modifications/changes as per the plan approved by TCP without obtaining the permission from GCZMA will lead to violation of CRZ Regulation.
- xii) This may be deliberated in the Authority meeting for a decision.



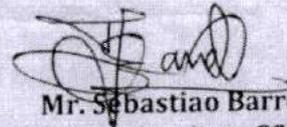
(Dr. S. Prabhu)
Scientist 'C', MoEFCC, Regional
Office Bangalore



(Dr. Prabhakar Shirodkar)
Expert Member of GCZMA



Mr. Ajay Kudchadka
Technical Assistant
Water Resource Department
Margao



Mr. Sebastiao Barretto
Engineering Asst, GSPCB

EXHIBIT F

MINUTES OF THE 317th MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 28/07/2022 at 03.00 PM IN THE CONFERENCE HALL, FOURTH FLOOR, DEMPO TOWER, PATTO-PANAJI-GOA.

The 317th Meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 28/07/2022 at 3.30 p.m. in the Conference Hall, Fourth Floor, Dempo Tower, Patto-Panaji-Goa.

The following members were present for the meeting on 28/07/2022.

- Secretary (Environment) / Chairman (GCZMA).
- Representative on behalf of Principal Chief Conservator of Forest
- Representative on behalf of Director, Department of Tourism
- Representative on behalf of Directorate of Panchayats.
- Representative on behalf of Department of WRD, Panaji Goa.
- ShriSujeetDongre, Expert Member (GCZMA)
- Shri. Flaviano Miranda, Expert Member (GCZMA).
- Shri Shrirang V Jambhale, Expert Member (GCZMA).
- Member Secretary (GCZMA).

Case No. 1.1

To decide on complaint Mr.HanumantMauzo and Mrs. Laxmi H Mauzo regarding Illegal construction of a structure by digging pits for foundation in the property bearing survey no 172/9 of Calangute Village Bardez Goa carried out by Mr. Bento J. S. Dias

Background: The Office of the Goa Coastal Zone Management Authority (hereinafter referred as 'the GCZMA' in short) had received a complaint letter dated 20/01/2021 from Mr.HanumantMauzo and Mrs. Laxmi H Mauzo and MrJanardanPai Anglo resident of NavelimMargaoGoa, and was inwards in the office of on the 20/01/2021, with respect to Illegal construction of a structure by digging pits for foundation in the property bearing survey no 172/9 of Calangute Village Bardez Goa carried out by Mr. Bento J. S. Dias and Santan M Dias, both resident of Madda Vaddo, Calangute, Bardez Goa within 200 mts from HTL.

Accordingly show cause notice cum personal hearing notice has been issued to the alleged violator.

Ld. Adv for the Complainant present and so also Ld. Adv for the Respondent present. Ld. Adv for the Respondent filed the reply.

cancelled due to monsoon Legislative Assembly session and the said matter is postponed to 28/07/2022.

Proceeding: Complainant absent, Ld. Advocate Noronha for the Respondent present. The Site Inspection report is on file. As per the Site inspection report the structure falls beyond the HTL/CRZ

Decision: The Authority perused the records and noted that the property in issue falls outside the CRZ limits and decided to drop the proceedings and discharge the Respondent from the Show Cause Notice bearing no GCZMA/N/ILLE-COMPL/20-21/123/2069 dated 10/03/2021.

Case No 1.4

To decide on application bearing no.61/2014 was filed by Cavelossim Villagers Forum inter alia against M/s Balaji Concepts, Margao, Goa for illegal construction activities adversely affecting the natural water bodies/nallas/channels/paddy fields.

Background: An application bearing no.61/2014 was filed by Cavelossim Villagers Forum inter alia against M/s Balaji Concepts, Margao, Goa for illegal construction activities adversely affecting the natural water bodies/nallas/channels/paddy fields.

The said application came for hearing on 24/04/2019 before the Hon'ble National Green Tribunal. The Hon'ble National Green Tribunal has vide order dated 24/04/2019 directed as follows: *"Since the matter has been pending for the last about five years, having regard to the need for expeditious disposal based on correct and latest factual position, we consider it appropriate to direct furnishing of a joint report by representatives of the MoEF&CC, GCZMA, Goa State Pollution Control Board and Water Resources Department, State of Goa. The GCZMA will be the nodal agency for coordination and compliance. Such factual report dealing with the issue may be furnished within three months by email at ngt.filing@gmail.com. A copy of the order be sent each to the MoEF&CC, GCZMA, Goa State Pollution Control Board and Water Resources Department, State of Goa by email.*

24. It will be open to the parties to furnish their respective versions to the GCZMA. It will also be open to the joint Committee to carry out inspection to ascertain status and assess the damage to the environment, if any, and suggest remedial measures".

In terms of said order dated 24/04/2019, the joint committee conducted the inspection and furnished and placed before the Hon'ble National Green Tribunal.

The Hon'ble National Green Tribunal has vide order dated 01/10/2019 has directed to as follows "*We, therefore, direct that the matter shall be looked into by the Goa Coastal Zone Management Authority (GCZMA) in terms of the Recommendation 3 (xii) on the aspects pointed out in the report. The GCZMA shall issue notice upon the parties and fix a date for consideration of the matter. The parties shall be at liberty to place their respective views and file additional documents, if so advised in the matter. The GCZMA shall dispose of the matter in accordance with law expeditiously within three months from hence*".

During 233rd GCZMA meeting held on 29/10/2020 the matter fixed for hearing on 12/11/2020 at 3.30p.m. The Complainant and Respondent to take note of this date and time and appear to advance final arguments. Complainant Iris Prasanna appeared on behalf of Cavellrossim Villagers Forum. Adv. P Morais appeared on behalf of Respondent. Complainant and Respondent filed written documents before Authority which were taken on record. The Complainant informed that the Respondent had diverted the existing nullah which is denied by the Respondent. Respondent stated that alleged construction is beyond NDZ and that they had obtained required permission to do development in the area. The Authority heard both the parties and the matter is adjourned to 10/12/2020 @ 3.30 pm with a direction to officials from the WRD and Expert member (GCZMA) to inspect the site to check the salinity of water and tidal influence of all water bodies and nullah which have been diverted by tracing their older alignments and submit the report on or before the next date of hearing.

The matter was heard in 239th GCZMA meeting held on 10/12/2020 and 249th GCZMA meeting held on 18/02/2021. In the 254th GCZMA meeting held 18/03/2021 wherein it was decided that "*Items as per Agenda from Case No.1.1 to 1.18 could not be taken up for discussion today as the Secretary Environment & CC and the Chairman CRZ was busy with administrative work and hence this agenda items from serial No.1.1 to 1.18 stands adjourned and fixed for hearing as per the date and time given to the respondent and complainant in respective matters.*"

The matter was placed in the 264th GCZMA meeting held on 06/07/2021. The matter was heard and the matter was posted on 22/07/2021 at 3.30 pm.

Now the Authority has decided to issue fresh notices to both the parties.

During 307th Meeting held on 2/6/2022 the proceeding and decision as follows: Advocate B. Pacheco present for the Complainant present, Ld. Advocate for the Respondent present. The Advocate for the Respondent submitted that the construction is beyond CRZ and has valid permissions. The water bodies are been constructed as approved by WRD. he further informed that there is no intention of the Respondent to do any

further construction or divert water body without the approval of this Authority. He further pointed out that he has filed application.

The Advocate for the Complainant submitted that the Respondent has dumped mud in the water bodies by destroying the same.

The Expert Member and WRD officials had inspected the site and given report and same is available in file. The report speaks about the destruction of the water bodies and requested to pass appropriate order for restoration.

Decision: The Authority after hearing both the parties at length decided to carry fresh inspection on 10/6/2022 from 11.00am onwards through Expert Members in presence of both the parties and further posted the matter on 16/06/2022 at 3.00pm for receipt of report of Expert Member and for further discussion.

During 310th GCZMA meeting held on 16/06/2022 Both the Advocates present and submitted that site inspection has not been carried out.

As site inspection is not carried out the Authority adjourned the matter and posted on 30/06/2022 at 3.30pm. On 30/06/2022 the meeting is cancelled and posted on 07/07/2022 at 3.30 pm.

During 315th GCZMA meeting held on 07/07/2022, the Authority directed both the parties to collect the Site Inspection report from the Authority office and file their objections if any which will be decided by the Authority. The Authority adjourned the hearing and posted the matter on 14/07/2022 at 3.30 p. m.

Proceedings Advocate B. Pacheco present for the Complainant present, Ld. Advocate Morias present for the Respondent. Adv for the Complainant stated that he objects to the Site Inspection report as he was not present for the same at the time of Site Inspection. The Complainant stated that the water body is diverted by shifting the same to another location. The Adv for complainant stated that the WRD cannot grant permission to shift the water bodies. Further, he stated that the 2nd site inspection report states that the Respondent has filled the water body falling outside CRZ with permission of WRD. The Adv for the Respondent states that there are two water bodies in the property one lies in the NDZ and another falls outside NDZ. The Adv for the Respondent states that he has not filled the water bodies and that he would obtain the required permissions before starting the work from the CRZ. He further stated that the respondent had not carried out any construction within NDZ and the constructions which are carried out with the approval of authority are falling beyond NDZ.

Decision: The Authority noted the present matter is before it pursuant to order dated 24/04./2019 passed by the Hon'ble Tribunal in Original Application no.61/2014.

The said order constituted a Joint Committee who was required to present correct and factual position at loco vis-à-vis the property of the Respondent. The said Committee has submitted the report dated 31/05/2019. The Authority perused the said report and noted that no construction has been done by the Respondent within the riverine NDZ area by the Respondent. Further the Joint Committee gave certain recommendation in said report.

The said joint report of Joint Committee was placed before the Hon'ble National Green Tribunal. The Hon'ble Tribunal was pleased to dispose of the Original Application no.61/2014 vide order dated 01/10/2019 and interalia directed to deliberate upon issues raised report of the Joint Committee.

The Authority after hearing the parties in the 236th meeting held on 12/11/2020 was pleased to order joint site inspection along with Department of Water Resources. The report submitted by Expert Member GCZMA also noted no changes at site subject matter property.

Further after hearing the matter, the Authority further called for report in the matter. The officials of GCZMA conducted a site inspection on 29/06/2022 and submitted a report. The said report of the officials of GCZMA have observed that Syno.91/1, 91/6 and 91/5 (partly) (village Cavelossim) falls in CRZ III and partly outside CRZ area. The Syno.90/6 (village Cavelossim) falls within NDZ area of River Sal. The said site inspection has revealed that there is no construction work during site inspection.

The Authority noted that major construction work approved ie. Villas are beyond the No Development Zone of Sal river. The Authority noted that the Respondent has obtained necessary permissions from Town and Country Planning Department, Village Panchayat of Cavelossim and Water Resources Department.

The Authority after considering the all inspection report observed that the any activity including filling of water, creation of water body and nallah etc would mandate N.O.C/ permission under CRZ Notification 2011.

The Authority observed that presently the Respondent has not carried out any activity/ construction activity at site within CRZ area. The mandate of prior N.O.C/ permission from Authority has to be scrupulously followed by Respondent M/s Shree Balaji Concepts for carrying out any activity within CRZ Area. The Authority considering the above accordingly decided to close the proceedings before it.

Case No.1.5

To decide on a complaint letter from M/s Ashwin Holdings Pvt Ltd., through its authorized representative Mr. Ramesh Kumar Singh, r/o 6/194, KhobraVaddo, Calangute, Bardez Goa; with regards to illegal construction and extension to the illegal house; in the property bearing survey no 208/1, at KhobraVaddo, Calangute by Mr. Celestino D'Souza.

Background: the Office of the Goa Coastal Zone Management Authority (hereinafter referred as 'the GCZMA' in short) had received a complaint letter dated 18/04/2022 from M/s Ashwin Holdings Pvt Ltd., through its authorized representative Mr. Ramesh Kumar

