

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH PUNE
APPEAL NO. 54/2022(WZ)

CAVELOSSIM VILLAGERS FORUM.....APPELLANTS

VS.

THE STATE OF GOA THROUGH CHIEF SECRETARY AND ORS..... RESPONDENTS

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 1

I, Gipson Miranda, son of Remedios Miranda, 45 years of Age, adult, Executive Engineer Works Div II, Water Resources Department, having my office at Rawanfond, Salcete Goa, do hereby solemnly affirm and state as under:

1. I say that I am the Executive Engineer, Works Div II of the Water Resources Department, i.e. Respondent No.7, and am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the same and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned Appeal. Nothing in the memorandum of the above-



Gipson Miranda

captioned Appeal may be deemed to have been admitted for mere want of specific denial.

2. I say that the Appellant has filed the present Appeal inter alia against the Respondent No.4- GCZMA & 6- M/s Shri Balaji Concepts for the ongoing construction of the proposed Resort in Survey Nos. 90/1, 5,6(p), 91/1, 3 to 10 of Village Cavellosim, Salcete, Goa be declared to be in violation of the CRZ notification 2011, Environment Protection Act 1986 and other enactments. The Appellant is also seeking that Respondent No.6 be directed to demolish the construction carried out over the water body in Survey No. 91/1 of Village Cavellosim and to have the water body restored to its original condition.
3. I say and submit that the answering Respondent states that Respondent No.6 i.e. M/s Shri Balaji Concepts applied to the Executive Engineer, Works Division II, Water Resources Department on 17/02/2014, Gogol, Margao, Goa for permission to divert/ relocate of existing storm water drains within their property under Survey No. 90 & 91 of Cavellosim Village.
4. I say that earlier on 09/07/2009 the Answering Respondent issued NOC to Respondent No. 6 during Conversion Sanad of the Property. I say that later in the year 2014 since Respondent No.6 was proposing diversion of the drains, they applied for the NOC . I say that Respondent No.6 incorporated the proposed diversion of the drains and requested to grant permission to the same. Hereto annexed and marked Annexure A Colly are the applications by Respondent No. 6 , NOC dated 23/05/2014 and the sketch



map of the proposed diversions of the drains attached by the Respondent No.6.

5. I say that the site was inspected on 11/02/2014 along with the members of the Appellant Forum. It was found that in Survey No. 90/6 in V.P. Cavelossim, a nallah was diverted from its original alignment which was not permitted. Also another nallah in S.No. 90/5 situated in V P Cavelossim was completely filled with mud. At the time of inspection it was found that a JCB was used to excavate to open the closed nallah. It was also found that the banks of another nallah in S.No. 90/1 situated in V.P. Cavelossim are constructed with RCC walls without any permission from WRD.

I say that the ponds situated in S.No. 90/1 and 91 were filled with mud and RCC columns were erected to construct the building. One of the existing pond shifted close to nallah and side wall of the nallah was damaged. The nallah at entry point in S.No.91/1 was closed with plywood planks and thereby stopping free flow of water. This lead to stagnation of water in the paddy field on upstream side thus leading to breeding of mosquitoes.

I say that damage was also caused to the nallah located in S. No. 91. RCC columns were erected where water table was very high.

I say that in view of these circumstances, Respondent No.6 was requested to stop the work of further construction activities in the above said affected areas and restore all the existing water bodies within 15 days vide letter dated 18/02/2014 by the Office of the Asst. Engineer Sub-Division I, Works Division II, Water Resources Department, Gogol Margao, Goa, failing which



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further action would be taken. Hereto annexed and marked Annexure B is the said letter dated 18/02/2014 addressed to Respondent No. 6.

I say and submit that another letter was received from the Appellant dated 8/1/2014 stating that RespondentNo.6 had not stopped any construction activities and restored the water bodies in spite of the request. Thereafter a joint inspection was held on 13/03/2014. It was found that neither the construction activities were stopped nor the illegal structures in the water bodies rectified or removed in response to the above mentioned letter. Only a nallah in S.No. 91/5 which was filled with mud was restored but with changes from its original alignment at the middle to allow the construction of their structures conveniently. Secondly, location of the pond in S.No. 91/1 was not restored. The work of construction of banks of nallah with RCC was still being carried out vigorously in defiance of the request. Hereto annexed and marked Annexure C is the said Report dated 21/03/2014.

6. I say and submit that vide a letter dated 21/05/2014, Respondent No. 6 sought NOC for modifications to improve hydraulics of the existing water bodies / storm water drains which was scrutinized by the answering respondent and an NOC was issued on 23/05/2014, subject to certain conditions. Hereto annexed and marked Annexure D is the said NOC dated 23/05/2014.

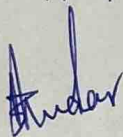
7. I say and submit that the Appellant filed Writ Petition No. 06/ 2015 before the Hon,ble NGT, Western Zone Bench against State of Goa and 6 others



A handwritten signature in blue ink, appearing to be "A. Manjrekar".

including the Appellant wherein a report was filed by the Answering Respondent dated 05/02/2021. As mentioned in the said Report, there also existed a water body in S.No. 91/1 admeasuring 450.00 Sq.Mts. that has already been filled up and the present Respondent No.6 had been granted conditional NOC/ permissions by the answering Respondent to carry out the same provided they create a new water body as per permissions granted by the conditional NOC mentioned above at Annexure D. However, the proposed new water body had not been created by Respondent No.6 which was in violation of the NOC granted by WRD. Hereto annexed and marked Annexure E is the said Report filed in the above matter .

In view of the above, it is most humbly submitted that the Appeal may be dealt with appropriately with the above information .

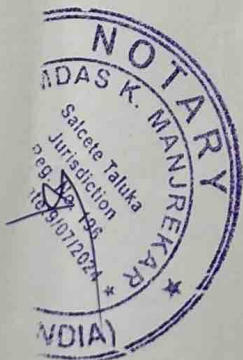


Deponent

VERIFICATION

I, the deponent above-named do solemnly affirm that all that is stated in this Affidavit is True to the best of my knowledge and belief, which is based on the records available in respect of the issue involved in the above-captioned Appeal. Nothing false has been stated herein.

Solemnly affirmed this...^{12TH} day of March 2024



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Solemnly affirmed before me by
Shri/Smt. Gipsan Miranda
Who is identified to me by
Shri/Smt. Adhen C. J. 7766 2994
Who is personally known to me 3561
this 12th day of March 2024.
Reg. No. 63142

Handwritten signature
(SOMDAS K. MANJREKAR)
ADVOCATE & NOTARY
MARGAO
STATE OF GOA, INDIA



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A

209

46

M/S. SHREE BALAJI CONCEPTS

A Partnership Firm

Kadar Manzil, 1st Floor, Margao 403 601 GOA - INDIA

Ph. ++91-0832-2720100

5089

18-2-2014

Ref No.: SBC/014/02/2014

Date: 17/02/2014

To
The Executive Engineer,
Works Division - II, WRD,
Gogol, Margao - Goa

10840

17/2/14

Sub: Diversion / relocation of existing storm water drains within
our property under Survey No. 90 & 91 of Cavelosim Village.

Ref: WRD/MI/WDH/Adm/F-168/2009-10/197 dated 09/07/2009.

Dear Sir,

Please find attached sketch of Survey Plan of our property in Cavelosim
village wherein there exist some old storm water drains. We have
obtained a Conversion for the said land and an NOC from your office
during conversion vide letter referred above.

We have now been informed that an NOC needs to be obtained once
again for diversion of the same although we had obtained an NOC during
Conversion Sanad of the property. We have incorporated the proposed
diversion of the drains on the attached sketch and request you to kindly
grant us the permission for the same at the earliest.

Thanking you,

Yours faithfully,
For M/s SHREE BALAJI CONCEPTS

Varun V. Vainganker
VARUN V. VAINGANKER
Authorised Signatory

- ✓ Sketch Plant,
- ✓ Conversion Sanad Plan
- ✓ Copy of Letter from Deputy Collector
- ✓ Copy of letter from you Office.

Copy of Letter from Deputy Collector

is requested

Signature

No. WRD/SDI/WDII/F. 45/590/2013-14

Government of Goa
Office of the Assistant Engineer
Sub-Division I, Works Division-II
Water Resources Department
Gogol Margao-Goa

Dated: 18/02/2014. 210

To,
M/s. Balaji Concepts,
Khandi-Bandoi,
Village Cavelossim
Salcete, Goa.

Sub: Destruction of original water bodies and nullahs
regarding

Sir,

The site was inspected on 11.02.2014 alongwith Vinod Kapoor, Gaurish Kandeparkar, site Engineer, and the Members of Cavelossim Villagers Forum alongwith its President.

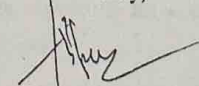
It is found that in Sy. No. 90/6 in V.P. Cavelossim, a nullah is diverted from its original alignment which is not permitted. Also another nullah in S. No. 90/5 situated in V.P. Cavelossim is completely filled with mud. At the time of inspection it was found that a JCB was used to excavate to open the closed nullah. It is also found that the banks of the another nullah in S. No. 90/1 situated in V.P. Cavelossim are constructed with R.C.C walls without any permission from WRD.

The ponds situated in S. No. 90/1 & 91 are filled with mud and R.C.C. columns are erected to construct the building. One of the existing pond shifted close to nullah and side wall of the nullah is damaged. The nullah at entry point in S. No. 91/1 was closed with plywood planks and there by stopping free flow of water. ~~is closed~~. This leads to stagnation of water in the paddy field on upstream side thus leading to breeding of mosquitoes.


The damage is also caused to the nullah located in S.No.91. RCC columns are erected where water table is very high.

In view the above negligence, you are requested to stop the work of further construction activities in the above said affected areas and restore all the existing water bodies within 15 days failing which further action will be taken.

Yours faithfully,


(Franklin D'Souza)
ASSISTANT ENGINEER

Copy to:

1. The Collector of South, Margao - Goa.
2. The Executive Engineer, WDII, WRI, Gogol, Margao Goa, for kind information.
3. Cavelossim, Village Forum, H.No.314/LIBR-Plaza, Patrecantem, Village Cavelossim, Salcete, Goa. 

GOVERNMENT OF GOA
OFFICE OF THE ASSISTANT ENGINEER
SUB DIVISION I, WORKS DIVISION II
WATER RESOURCES DEPARTMENT
GOGOL, MARGAO GOA.

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No. WRD/WDII/SDI/F. 3 /713 /2013-14

Dated: 21/03/2014.

REPORT

A letter was received from Cavelossim Village Forum dated 8th January 2014 stating that M/s Balaji Concepts has undertaken a construction of a building at Khandi-Bandoi, of village Cavelossim of Salcete Taluka and has destroyed the natural water bodies completely either by diverting, blocking, relocating or by filling with mud. Thereafter a joint inspection was fixed alongwith Cavelossim Village Forum & M/s. Balaji Concepts on 11/02/2014 intimating with a letter No. WRD/WD II/SDI/F.45/535/13-14. which was then requested by M/s Balaji Concepts to postpone as their one of the Officers-in-Charge was sick and indisposed. Further M/s Balaji Concepts has sent a letter to this office by submitting a sketch of Survey Plan of same property in Cavelossim Village showing some existing storm drain, proposed diversions, closures of nallahs and stating that they have already obtained a conversion for the same land in Survey Nos.90/1,5,6(Part),91/1,3,4,5,6,7,8,9,10 of Cavelossim village and a NOC from the Office of Executive Engineer, WD II vide No. WRD/MI/WD II/Adm/F-168/2009-10/197. dt.09/07/2009 with a request from Deputy Collector (Rev), Collectorate of South - Goa. This letter states that the general levels at the sites are higher than the High tide levels. The Sanad copy of conversion of the same land is also enclosed by them.

The joint inspection at the site of Balaji Concept at Khandi-Bandoi was held on 11.02.2014 along with Shri Gonsalo Rodrigues, Technical Assistant, Vinod Kapoor, Gaurish Kandeparkar, Site Engineer of Balaji Concept, the Members of Cavelossim Villagers Forum and its President.

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.

Another letter was received to this office from Cavelossim Villagers Forum by bringing to the notice that so far M/s. Balaji Concept has not stopped any construction activities and restored the water bodies inspite of the request.

B. S. S.

[Signature]
P.T.O
[Signature]
[Signature]

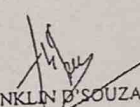
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A Joint inspection was held on 13.03.2014 at the site of Balaji Concept at Khandi Bandoi along with Shri. Gonsalo Rodrigues, Technical Assistant, Vinod Kapoor, Gaurish Kandeparker, site Engineer of M/s. Balaji Concepts, the Members of Cavelossim Villagers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

M/s. Balaji Concepts may once again be requested to restore the nallahs and pond in their original alignment and location and not to cover some portions of nallahs with R.C.C slabs to avoid ecological imbalance. A FIR may also be filed against M/s. Balaji Concepts for undertaking these illegal activities and a detailed report may be sent to Higher Authority to take appropriate action. The Dy. Collector, South Goa may also be requested to direct the land survey department to demarcate the water bodies in the above mentioned Sy. No. 90/5, 90/1 & 90/4.

A Copy of Survey Plan, Sanad, Form I & XIV and a letter from Executive Engineer II, dt.09/07/2009 is enclosed herewith for kind reference.

Submitted please.


 FRANKLIN D'SOUZA
 ASSISTANT ENGINEER

Franklin D'Souza

E.E-II

ANNEXURE (D)

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No: W.R./2011/114/14/201/14-15

Office of the Executive Engineer,

Government of Goa,

Water Resources Department,

Gogol, Marga - Goa.

23rd May 2014

To,

M/S Shree Balaji Concepts,

Kadar Manzil, 1st Floor,

Marga - 403601

Sub: Issue of NOC for modification to Improve Hydraulics of existing water bodies/storm water drains -
Reg...

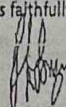
Ref: Your letter no. SBC/103/05/2014 dated 21.05.2014

Sir,

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 out cross sections are approved and returned back.

Yours faithfully,



(Peter DeSouza)

Executive Engineer - II & Canal Officer (South)

Encl: Seven approved drawings

Information under RTI Act 2004

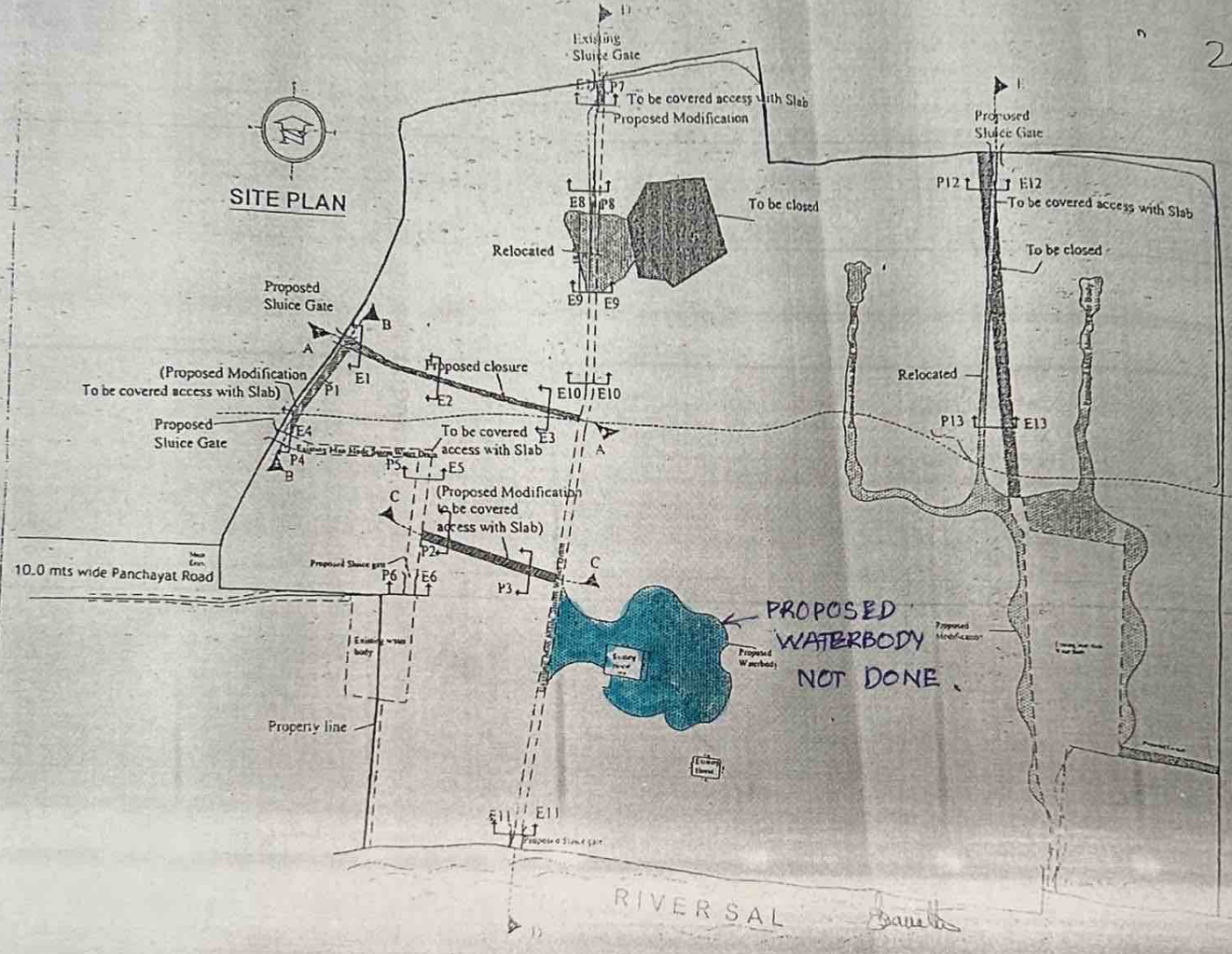
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ASSISTANT SURVEYOR OF WORK,
Office of the Executive Engineer

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PAGE No - 1



Information under RTI Act 2005
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ASSISTANT SURVEYOR OF WORKS
OFFICE OF THE EXECUTIVE ENGINEER
WORKS DIVISION
RAJAWADI, SALLUITE - GOA

Seen
EXECUTIVE ENGINEER
WORKS DIVISION
GOAL-MARGAO

PROPOSED MODIFICATION IN THE STORM WATER DRAIN
ON PLOT BEARING
SURVEY NO. 90 / 1, 5, 6 (PART), 91 / 1, 3, 4, 5, 6, 7, 8, 9 & 10
SITUATED @ CAVELURSSIM VILLAGE, SALLCETE TALUKA

OWNERS
M/S SHREE BALAKONCEPTS

RIVERSAL

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GOVERNMENT OF GOA
OFFICE OF THE ASSISTANT ENGINEER
SUB DIVISION I, WORKS DIVISION II
WATER RESOURCES DEPARTMENT
MINOR IRRIGATION COMPLEX
AQUEM-BAIXO, RAWANFOND,
SALCETE GOA.

No. WRD/WDII/SDI/F.3/207/2020-21

Dated: 05/02/2021.

REPORT

Sub: PIL Writ petition No.6 of 2015 filed by Cavelossim Villagers Forum against State of Goa and 6 others.(including M/s. Shree. Balaji Concepts.) Before the Hon'ble NGT, Western Zone Branch, Pune.

The site belonging to M/s. Shree. Balaji Concepts. in S.No.90/1,5,6(Part),91/1,3,4,5,6,7,8,9,10 at Cavelossim was inspected by the undersigned in the presence of Executive Engineer WD II, Junior Engineer Shri. Apricio D'Costa, SDI, WDII along with the GCZMA officials, representatives of M/s Shree Balaji concepts and members of Cavelossim Villagers Forum on 14th January 2021 at 11.00 am.

As noticed on site and after perusing the documents it can be ascertained that, there exists two nallahs that drains the water from low lying lands in Sy.No.89 and 88 to the river Sal passing through Sy.No.90 and Sy.No.91.

One connecting nallah flows from Sy.No.89/125 and 89/126 passes through Sy.No.90/1 and 91/1, 90/6-E, 91/7 and then flows into the river Sal. There also existed a water body in Sy.No.91/1 admeasuring 450.00 m² that has been already filled up and M/s Shree Balaji Concepts, has been granted conditional NOC /permissions by WRD to carry out the same provided they create a new water body as per permissions granted by conditional NOC(vide Ref. No.WRD/WDII/Adm/F.14/201/14-15 dated 23-05-2015- Copy placed in the file at Pg. No. c/1 to c/8)

However the proposed new water body has not been constructed by M/s. Shree. Balaji Concepts. Therefore we may get clarification from the agency as to why the same has not been completed as per the NOC granted to them.

As such the agency may begin the procedure of taking permissions from CRZ or GCZMA immediately, pending which the conditional NOC from WRD may have to be withdrawn as the area of pond/water bodies has not been maintained as granted in the WRD NOC.

There also exists another nallah flowing through and along Sy.No 88/39 &S.No.88/46 then flows into and along Sy.No. 91/4,91/5,91/3,91/8,91/9 &91/10 as a nallah and flows into a water body admeasuring 1350.00 m², and then into the river 'Sal. The connecting nallah has been slightly realigned but the nallah width and slope appears to be not maintained as per the original section to maintain smooth flow of water between the low lying lands in Sy.No. 88 &S.No.89.and the river Sal.