



BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

EXECUTION APPLICATION NO.03/2024(WZ)
IN
APPEAL NO.75/2016

THE CHICALIM VILLAGERS ACTION
COMMITTEE ...PETITIONER

VERSUS

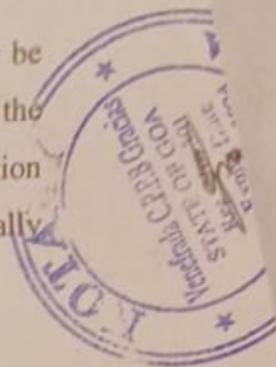
M/s ABHISHEK ENGINEERS
& ORS ... RESPONDENTS

**AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 8
GOA COASTAL ZONE MANAGEMENT AUTHORITY**

I, Johnson Bedy Fernandes, Member Secretary of the Respondent No. 8 Goa Coastal Zone Management Authority, having my office at 4th Floor, Dempo Tower, Patto Panaji Goa, do hereby solemnly affirm and state as under:

1. I am the Member Secretary of the Respondent No. 8 Goa Coastal Zone Management Authority [hereinafter "GCZMA"]. I have examined the relevant records available in my office apropos the above-captioned Execution Application and I am thus aware of the facts and circumstances from which the above-captioned Original Application arises. I am competent to affirm the present Counter-Affidavit on behalf of the Respondent No. 8

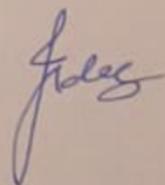
GCZMA. Nothing in the present Counter-Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned Execution Application for want of specific denial, unless the same is categorically admitted herein.



2. The Applicant above-named has filed the above-captioned Execution Application seeking execution of the order dated 07/10/2016 passed by the Respondent No. 8 and order dated 01/08/2022 passed by this Hon'ble Tribunal in Appeal No.75/2016.
3. I say that the answering Respondent had initially initiated an inquiry into matter of illegalities/violations done by M/s Abhishek Engineers (Respondent No.1 in the present matter) in properties bearing Survey Nos.16/6, 16/7 and 72/1 village Dabolim, District South Goa [hereinafter "*subject property*"] pursuant to complaint/representation filed by the present Applicant who was the original complainant before it.
4. I say that there was no consensus and or clarity in so far as identification of 3900 sq. mts. in subject property which had to be restored to its original condition. The Authority deemed fit to carry out re-inspection of site in question through its Expert Member of GCZMA along with concerned executing authorities so as that proper mapping and report could be prepared to restore the area.

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

5. I say that said re-inspection was carried out on 21/03/2024 at 11.00 am. I say that for the said re-inspection done by the Expert Member GCZMA along with Technical officials in presence of the present Applicant, Respondent No.1 herein and representatives of the executing authorities.
6. I say that the Expert Member GCZMA along with Technical officials of the Answering Respondent has submitted a report along with map. The said report under the heading "Conclusions and Recommendations" has given following observations and finding:-
- 1. It is recommended that the area as identified in the map which has been prepared through the DSLR Goa which is part of this report shall be taken into account for the purpose of scooping the soil by manual means for an area of 3939 sq.mts.*
- 2. Restoration has to be done by removing the reclaimed portion of the land starting from the black line as identified on the DSLR Goa plan beginning from zero degree and then tapering at a degree of $\sim 45^\circ$ towards HTL. In doing so, the 1.5 mt laterite wall (as mentioned in point no. 6 of observations) has to be totally removed. The slope of $\sim 45^\circ$ is necessary to prevent the erosion of the stabilized soil over a period of time due to water ingress. Care should be taken to see that there is no further damage done to the environment while carrying out the restoration work. The debris generated during the restoration cannot be dumped into the water body/river and should be disposed of with proper precautionary measures outside the CRZ area.*

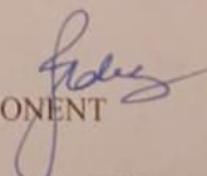


7. I say that the upon receipt of the above-mentioned report along with map the Answering Respondent vide letter bearing No. GCZMA/MORM/DAB/10-11/11/552 dated 15/05/2024 has communicated the same to the Captain of Ports (Respondent No.4 herein) clearly identifying area to be restored and other relevant authorities including the present Applicant and violator contained in original order bearing No. GCZMA/MORM/DAB/10-11/11/1516 dated 07/10/2016.

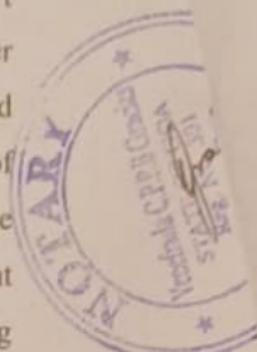
A copy of the said letter dated 15/05/2024 along with site inspection report and map is enclosed herewith as Annexure R-8-1 colly.

8. I say that the Captain of Ports (CoP) (Respondent No.4 herein) was originally entrusted with the work to undertake execution and restoration work in consultation with Goa State Biodiversity Board (GSBB) as contained in original order bearing No. GCZMA/MORM/DAB/10-11/11/1516 dated 07/10/2016.

9. In view of the aforesaid report and its finding, the answering Respondent most humbly submits that execution and restoration work would be done expeditiously as contained in original order bearing No. GCZMA/MORM/DAB/10-11/11/1516 dated 07/10/2016. It is therefore most humbly prayed that the above-captioned Execution Application be dismissed and disposed off accordingly.


DEPONENT

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA



VERIFICATION

I, the Deponent above-named, do hereby solemnly affirm and state on oath that the facts stated hereinabove are true to the best of my knowledge and belief, based on the on records available in the office of the answering Respondent.

Verified at Panaji Goa on this 16th day of May 2024.



[Signature]
DEPONENT

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

Executed before me
At Calangute Bardez - Goa
Reg. No. 79/05/2024/P
Dated: 16/05/2024

[Signature]
Venefrada C.P.P.B Gracias
Advocate & Notary Goa State

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Environment, (Govt. of Goa)

4th Floor, Dempo Tower, patto Plaza,

Panaji-Goa 403001

Website: www.czma.goa.gov.in

Ref. No.GCZMA/MORM/DAB/10-11/11/552**Date:15/05/2024****MOST URGENT**
NGT MATTER**To,**
The Captain of Ports,
Dayanand Bandodkar Road,
Panaji-Goa.**Sub: Execution of directions contained in**
order bearing no. GCZMA/MORM/
DAB/10-11/11/1516 dated 07/10/2016.**Sir,**

The GCZMA after holding inquiry in the matter was pleased to pass an order dated 07/10/2016 interalia directing M/s Abhishek Engineers to restore reclaimed area of 3900 Sqmts in the property bearing Survey No.16/6, 16/7 and 72/1, village Dabolim, Mormugao.

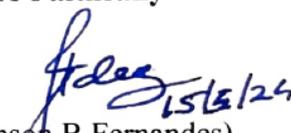
The said order dated 07/10/2016 was challenged before the Hon'ble National Green Tribunal, Pune in an Appeal bearing No.75/2016 (WZ) by M/s Abhishek Engineers. The Hon'ble Tribunal, Pune vide order dated 01/08/2022 was pleased to dispose off the said Appeal bearing No.75/2016 (WZ) thereby dismissing the same.

The said order dated 01/08/2022 passed by Hon'ble Tribunal, Pune in Appeal bearing No.75/2016 (WZ) was challenged before the Hon'ble Supreme Court of India, New Delhi in Civil Appeal bearing No.6786/2022 by M/s Abhishek Engineers. The Hon'ble Supreme Court of India, New Delhi vide order dated 26/09/2022 was pleased to dismiss the said Civil Appeal bearing No.6786/2022.

In the meanwhile the original complainant has approached the Hon'ble National Green Tribunal vide Execution Application bearing No.03/2024 (WZ) in Appeal No.75/2016 (PB) for purpose of execution of directions issued by this Authority which have been upheld right upto the Hon'ble Apex court. As there was no clarity in so far as identification of 3900 sqmts which had to be restored to its original position, the Authority deemed it fit to carry out re-inspection of site in question through its expert Members so that proper mapping and report could be prepared in so far as the restoration is concerned. The report of the Expert Member along with technical officials of GCZMA is enclosed herewith which is self explanatory. So also the mapping of the area which has to be restored by means of manual scooping of the soil is also enclosed for ready reference.

You are hereby called upon to accordingly act as per directions contained in our order bearing no. GCZMA/MORM/DAB/10-11/11/1516 dated 07/10/2016 and report compliance.

Yours Faithfully


 (Johnson B Fernandes)
Member Secretary (GCZMA)
 O/C

(Enclosed as above)

Copy to:-

1. **The Member Secretary, Goa State Biodiversity Board, Opp, Saligao Seminary, Saligao, Goa...***for information and necessary action.*
2. **M/s Abhishek Engineers, through its proprietor Mr.Uday K Naik, Karma Empress 5 to 15, 1st Floor, Opp. Laksh Jyot Complex, Near KTC Bus Stand, Vasco Da Gama...***for information and necessary action.*
3. **The Chicalim Villagers Action Committee through Mr.Rui M Costa Araujo having office at 118, Gina Chicalim, Goa 403711...***for information.*

Report of joint Site Inspection held on 21/03/2024 at Dabolim Village, Mormugao, Goa as per Notice No. GCZMA/MORM/DAB/10-11/4600 dated 19/03/2024 of the Member Secretary, Goa Coastal Zone Management Authority as per the Order of the Hon'ble Supreme Court of India dated 26/09/2022 in Civil Appeal No. 6786 of 2022.

As per the Notice No. GCZMA/MORM/DAB/10-11/4600 dated 19/03/2024 of the Goa Coastal Zone Management Authority, a site inspection was carried out by Dr. Sushant Naik, Expert member, GCZMA, Shri. Satishkumar Naik, Field Surveyor, GCZMA, Miss. Bhargavi Kelkar, Environmental Assistant, GCZMA, Mrs. Varsha Hoble, Project Assistant, GSBB, Mr. Vinay Shirodkar, Official from the Captain of Ports, in presence of the Complainant Mr. Jose A.M. D'Costa and Mrs. Marry D'Costa, Members of The Chicalim Villagers Action Committee, and the Respondent-Mr Uday Naik, on 21/03/2024 at 11.00 a.m. The site is situated in Dabolim Village of Mormugao Taluka and as per the order we had to ascertain the area to be restored by M/s Abhishek Engineers admeasuring 3900 sq.mtrs in respect of the property bearing Survey No. 16/6, 16/7 and 72/1 Village Dabolim, Mormugao.

BRIEF FACTS OF THE CASE

1. That GCZMA after holding inquiry in the matter passed an order dated 07/10/2016 directing M/s Abhishek Engineers to restore a reclaimed area of 3900 sq. mts in the property bearing Survey No. 16/6, 16/7 and 72/1, Village Dabolim, Mormugao.
2. That order dated 07/10/2016 of GCZMA was challenged before the Hon'ble National Green Tribunal, Pune in an Appeal bearing No.75/2016 (WZ) by M/s. Abhishek Engineers and the Hon'ble NGT, Special Bench, Pune vide Order dated 01/08/2022 upheld the Order of the GCZMA and held M/s Abhishek Engineers liable to pay a compensation for the past violations and also restore the area.
3. The Hon'ble National Green Tribunal, Special Bench vide order dated 01/08/2022 in Appeal No. 75/2016(WZ), M.A. 372/2016 and Caveat No. 37/2016 did not find any merit in the Appeal and dismissed it upholding the impugned order and disposed the M.A.372/2016. The appellant i.e M/s Abhishek Engineers was held liable to pay compensation for the past violations and also to restore the area. The GCZMA accordingly to take remedial action

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within two months. The GZMA will also be at liberty to assess and recover compensation for the past violations following due process of law.

4. That Order dated 01/08/2022 of Hon'ble NGT was challenged before the Hon'ble Supreme Court of India, New Delhi in a Civil Appeal bearing No.6786/2022 by M/s Abhishek Engineers. The Hon'ble Supreme Court of India, New Delhi vide order dated 25/09/2022 stated that the appellant had carried out reclamation activities of a substantial nature in a mudflat area and upheld the directions issued by the GCZMA and dismissed the said Civil Appeal.

OBSERVATIONS

1. The Survey No. 72/1 is abutting the river and presently major part of the property is submerged under water and forms part of the River Zuari, and the name of Govt. of India, Ministry of Surface Transport and Uday Kamlakant Naik is recorded in the occupant's column of the online computerized form I & XIV.
2. As per CZMP 2011 the major part of Survey No 72/1 is classified as a Waterbody - CRZ IVB, partly as Jetty/Shipyard/Ramp, and partly as a No Development Zone - CRZ III.
3. The Survey No 16/6 and 16/7 are located on the eastern side of Survey No. 72/1 and abutting the road leading to Vasco da Gama. The name of Govt. of India, Ministry of Surface Transport and Uday Kamlakant Naik is recorded in the occupant's column of online computerized form I & XIV of Survey No. 16/6. The name of Govt. of India, Ministry of Surface Transport and Canuto Rodrigues and 10 others is recorded in the occupant's column of the online computerized form I & XIV of Survey No. 16/7.
4. As per the CZMP 2011 the entire Survey No. 16/6 and 16/7 is classified as a No Development Zone - CRZ III.
5. As per the CZMP 2011 the HTL is depicted in Survey No. 72/1 and the Jetty/Shipyard/Ramp is depicted in the riverine area influenced by tidal waves.
6. The bank of the land-filling area is surrounded with a laterite stone retaining wall constructed with cement, abutting the water body. The land filling is done to a height of 1.50 meters from the water level as visible during low tide (photographs attached).
7. There is a Slip Way on the western side of the land filled area.

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8. There are two metal structures of G+1 located within Survey Nos. 16/6, 16/7 and 72/1. There is a corrugated metal sheet fencing erected on the eastern side of Survey No. 16/6 and 16/7. There is a metal shed for electric panel board and metal shed for generator in survey No. 16/6. There are metal sheds in Survey No. 72/1.

CONCLUSIONS AND RECOMMENDATIONS

1. It is recommended that the area as identified in the map which has been prepared through the DSLR Goa which is part of this report shall be taken into account for the purpose of scooping the soil by manual means for an area of 3939.00sq.mtr.
2. Restoration has to be done by removing the reclaimed portion of the land starting from the black line as identified on the DSLR Goa plan beginning from zero degree and then tapering at a degree of $\sim 45^\circ$ towards HTL. In doing so, the 1.5 mt laterite wall (as mentioned in point no. 6 of observations) has to be totally removed. The slope of $\sim 45^\circ$ is necessary to prevent the erosion of the stabilized soil over a period of time due to water ingress. Care should be taken to see that there is no further damage done to the environment while carrying out the restoration work. The debris generated during the restoration cannot be dumped into the water body/river and should be disposed of with proper precautionary measures outside the CRZ area.

Place: Dabolim, Mormugao

Dated: 21/03/2024.



Dr. Sushant S. Naik
Expert Member,
GCZMA



Mr. Satishkumar G. Naik
Field Surveyor,
o/o GCZMA



Mrs. Bhargavi Kelkar
Env. Assistant,
o/o GCZMA



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

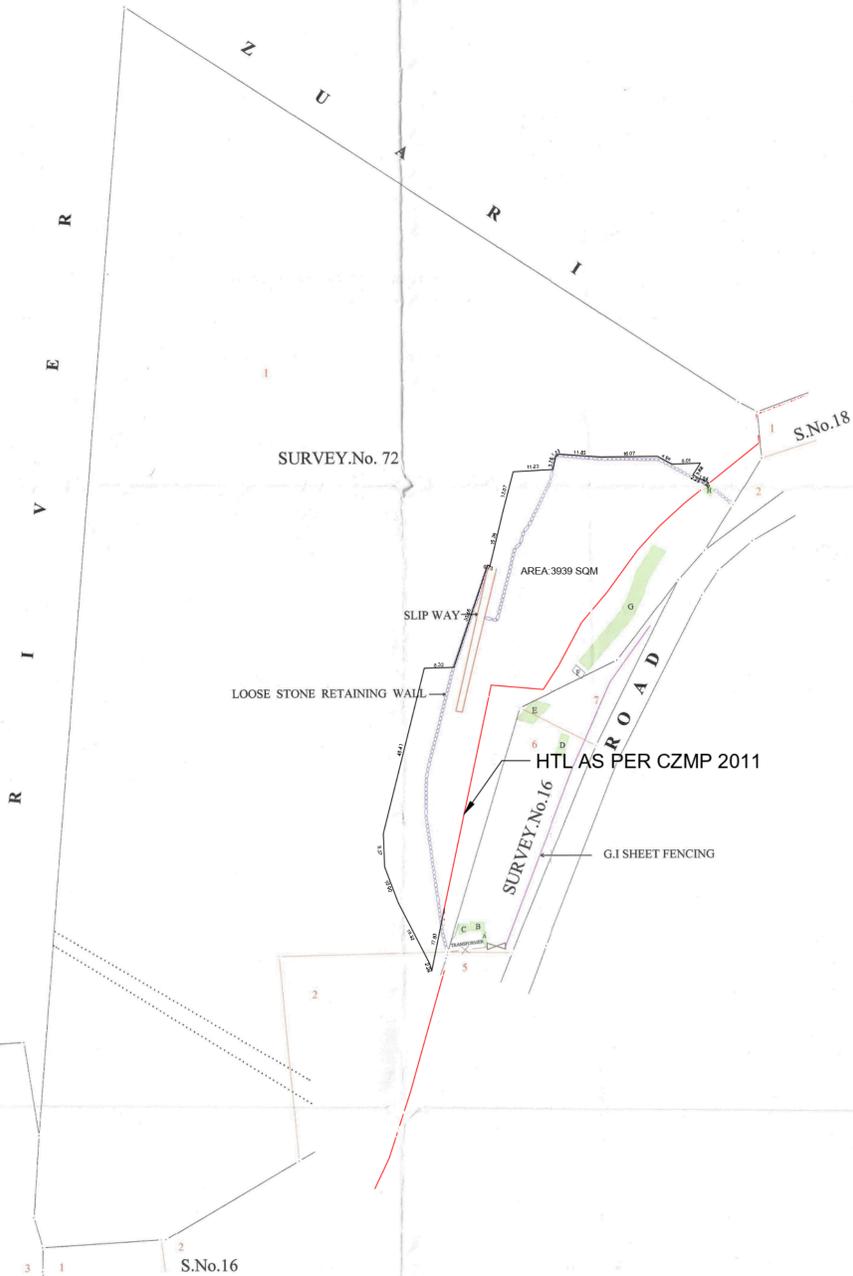
Site plan showing structures surveyed as per the request of Goa Coastal Zone Management Authority, Saligao Goa vide their Notice No:GCZMA/GEN-MISC/12-13/1020 dtd: 14-11-2012 in S.No./ Sub Div. No.72/1(part) & 16/ 6,7 of Dabolim village of Mormugao Taluka.

Scale 1:1000

NOTE:-

THE LEGALITY / ILLEGALITY OF STRUCTURES SHOWN ON THIS PLAN IS NOT KNOWN AND THEREFORE THIS PLAN SHALL NOT BE USED FOR ANY PURPOSE SUCH AS DEVELOPMENT OF STRUCTURES, REVENUE SURVEY MATTERS, OBTAINING LICENSES, PERMISSIONS, CONVERSION OF LAND, ETC. THIS PLAN SHALL BE USED FOR REFERENCE PURPOSE ONLY.

Superintendent of Survey
 Land Records, Panaji
 पंचायत शासकीय निकाय
 पणजी



LEGEND:

- MAIN GATE
- G.I MESH FENCING
- G.I SHEET FENCING
- SECURITY CABIN
- SHED FOR GENERATOR
- SHED FOR ELECTRIC PANEL BOARD
- SITE OFFICE
- STEEL SHED
- CEMENTED FLOORING
- TOILET
- STEEL RAIL SLIP WAY
- LOOSE STONE RETAINING WALL

Note :-
 This plan shall be read in conjunction with the letter No.19/DSL/R/Resurvey cell/CRZ-Mapping/50/12/19 dtd. 28/12/2012.
 Surveyed on :- 05-12-2012
 Surveyed by :- Rajesh Harmalkar (F.S) [Signature]
 :- Siddesh B Naik (F.S) [Signature]
 Prepared by :- Nayana Kerkar (F.S) [Signature]
 Computer Generated On 27-12-2012

Compared by : Anankumar S Dhale (H.S) [Signature]