



BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE AT PUNE

I.A. No. 45 /2024(WZ)

In

Original Application No.72/2023 (WZ)

SWAPNESH SHERLEKAR AND ORS ... APPLICANTS

VS

STATE OF GOA AND ORS. ... RESPONDENTS

AFFIDAVIT-IN-REPLY ON BEHALF OF
RESPONDENT NO. 8 TO OPPOSE
AMENDMENT

MOST RESPECTFULLY SHOWETH:

I, MR. AVEZ AZIM SHAIKH, son of Abdul Azim Shaikh, 44 years of age, businessman, married, Indian National, resident of 72 Mohidin Villa, Dabolim, Goa, the Respondent No. 8 hereinabove do hereby on solemn affirmation state and submit as under:

(Handwritten signature)



- 1) I say that the Original Application is ex-facie not maintainable and is barred by law of limitations for reasons more specifically spelt out in the Affidavit in Reply filed by this Respondent. Therefore, the question of entertaining the present Application for amendment does not arise.

- 2) Without prejudice to the above, I deny and dispute the contents of the said application including the proposed amendment in toto. Anything that is not specifically denied shall not be deemed to be admitted.

- 3) The Application is erroneous, misconceived and an abuse of process of law. The application is vague and bereft of specific details in as much as the Applicant has failed to substantiate any ground for permitting amendment of the Original Application other than merely stating that the amendment is on account of subsequent event.

- 4) I reserve my right to file additional reply in case this Hon'ble Tribunal deems it appropriate to allow the Application for Amendment.



- 5) Without prejudice to the above, I say that the 7th Interim Report published on the official website of the Forest Department of Goa in November 2023, is sought to be challenged by way of the proposed amendment. The challenge to the same especially by way of an amendment application dated 28/02/2024 is not maintainable.
- 6) Respondent states that the Applicant has sought to incorporate the proposed amendment as a matter of right by merely stating that the same is a subsequent event. However, the Applicant has failed to substantiate in the Application as to how the said 7th Interim Relief liable to be interfered with. I say that the contentions of the Applicant are misconceived.
- 7) The proposed amendment is based on concocted and colourable cause of action which has the effect of not only changing the entire nature of the original Application but also the effect of revisiting the Judgment dated 12/09/2023 passed in M.A. 03 of 2023 (WZ) in O.A. 478 of 2018; the same is impermissible.



- 8) Applicant has resorted to initiating frivolous litigation with mala fide intent and/or for collateral purpose.
- 9) There is no substance in the main Original Application No. 72/2023(WZ) which is liable to be dismissed in toto. Therefore, the question of permitting the Applicant to amend the pleadings to mislead this Hon'ble Tribunal by including irrelevant events and documents is redundant.
- 10) The application is an abuse of process of law and the same does not deserve any indulgence. Therefore, the application be dismissed with costs.
- 11) Be that as it may, on the basis of the requisite permissions which are already on record, the development has been completed in the larger property bearing survey no. 194/1-A of Village Sancoale in the year 2016 and even Occupancy Certificate is received in the year 2020. Therefore, the subsequent event of release of 7th interim report of the review committee cannot be taken as a ground to wriggle out of the issue of limitation raised as against



the original application. even the challenge to the 7th interim report is barred by limitation and no application is filed for condonation of delay.

12) I say that the Applicant is attempting to prolong the present litigation with a mala fide intent and for collateral purpose. There is no substance or basis in the Application.

13) Even going by the above construction works in the bigger property bearing survey no. 194/1-A of Village Sancoale, limitation under S.14 expired on 13/12/2016 when 8 months from the date of commencement of construction expired or in any case on 04/02/2021, when 8 months elapsed from the grant of the occupancy certificate. The environmental issue, if any, arose in respect of property under survey no. 194/1-A of Village Sancoale and the Applicant cannot be permitted to raise selective issues with regard to different parcels of land which are governed by the same set of permissions. Therefore, for the purpose of limitation, the development

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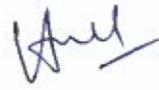
in the larger property bearing survey no. 194/1-A assumes importance.

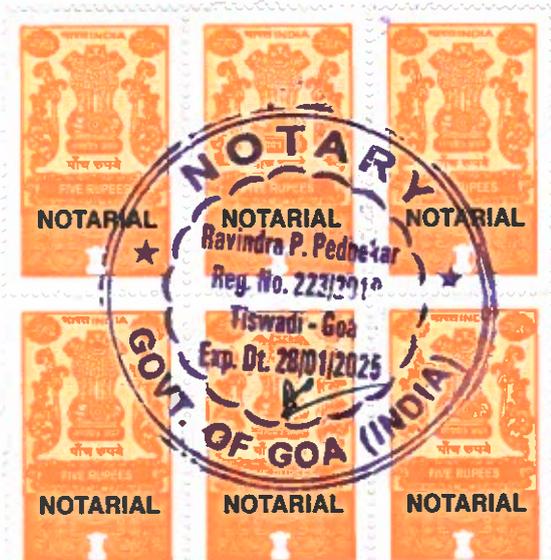
14) In light of the above, the Application for amendment is liable to be dismissed.

15) I say the contents of this reply are true to my own knowledge and/or based on records and/or based on legal submissions which I believe to be true.

Solemnly affirmed at ^{Panaji} ~~Vasco~~, Goa 

On this 4th day of May 2024.


DEPONENT



Solemnly affirmed before me by
Shri/Smt. Avez Azim Shaikh
who has been identified by self
Registration No. 514886773116
whom I personally know.
Reg. No. 235 Dated 04/05/2024


Ravindra P. Pednekar
Notary For Tiswadi Taluka
State of Goa (India)