

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 25 OF 2023 (WZ)

In the matter of:

Dileep Nevatia ...Applicant

Versus

Union of India & Ors. ...Respondents

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2. I am filing this Reply for the limited purpose of opposing the Original Application and the grant of any reliefs against Respondent Nos. 8 to 12 (“**answering Respondents**”). I crave leave of this Hon’ble Tribunal to file further affidavit(s), should the need arise.
3. At the outset, I deny all allegations, contentions and submissions made in the Application, which are contrary to or inconsistent with what is stated in this Reply. Further, I oppose the reliefs prayed for in the Original Application in so far as they pertain to Respondent Nos. 8 to 12. None of the allegations, contentions or submissions in the Original Application which have not been specifically dealt with or denied by me, should be deemed to be admitted.
4. I submit that Respondent No. 8 to 12 have filed an Interlocutory Application being Interlocutory Application No. 139 of 2023 (“**I.A. No. 139 of 2023**”) dated 15th June 2023 *inter alia* raising the following preliminary issues regarding maintainability of the present Original Application:

a) Res Judicata/ Issue Estoppel/ Principle Analogous;

b) Suppression of Material Facts; and



c) Violations of DCR And MRTP Act do not come under the purview of NGT.

5. Respondent Nos. 8 to 12 adopt the stand taken in I.A. No. 139 of 2023 without prejudice to the contentions raised in the present reply. However, the issues of maintainability raised in I.A. No. 139 of 2023 have not been reproduced for want of repetition and for the sake of brevity, I.A. No. 139 of 2023 may be read as part and parcel of the present reply.

Credentials of the Applicant

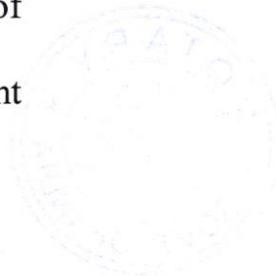
6. Without prejudice to the contentions raised on merits hereinbelow, Respondent Nos. 8 to 12 also questions the credibility of the Applicant more in light of whatever is stated hereinbelow as regards settlement and accepting monetary consideration for the same. It is submitted that this Hon'ble Tribunal ought to look into the credentials of the Applicant filing any proceedings before this Hon'ble Tribunal. The Applicant in the present matter has not come before this Hon'ble Tribunal with clean hands. The Applicant has failed to bring on record the proceedings of Suit No. 5111 of 1994 as well as the Appeal No. 49 of 2020 which was filed by the same Applicant before the



Hon'ble Bombay High Court alleging similar violations being carried out by the erstwhile original owner, M/s. Arkay Holdings Limited. The Applicant also has suppressed the fact that the Applicant had come to a settlement with the answering Respondents and withdrew the Appeal No. 49 of 2020 for a settlement amount of Rs. 1.25 crores in lieu of fully, finally and irrevocably resolving and settling any present and future disputes pertaining to the said property. The same is categorically recorded in the letter dated 16th November 2021 addressed by the answering Respondents to the Applicant duly acknowledged by the Applicant, the relevant portion is reproduced hereinbelow:

*“Our Managing Director, Shri Ghanshyambhai Dholakia personally met you and discussed the above pending matter and requested you that in view of **future** relationship as good neighbours, you withdraw the said Appeal and Interim Application, as it concerns the property of which we have become the owners.”*

7. It is well settled that when the credentials and *bonafides* of litigants are raised and when entertaining the grievance of such litigants which is likely to adversely affect the rights of many, the Hon'ble Tribunal must ensure the *bonafides* and credentials of such litigants at the first instance. It is evident that the Applicant



has filed the present proceedings to extort more money from the answering Respondents and thus, is not a bonafide litigation. Therefore, on this ground alone, the captioned Original Application ought to be dismissed.

8. In light of the aforesaid, Respondent Nos. 8 to 12 submit that this Hon'ble Tribunal ought to decide the issue of maintainability and dismiss the captioned Original Application at the threshold without going into the merits of the captioned Original Application, as the same is not maintainable as per the extant applicable law.
9. Without prejudice to the aforesaid preliminary objections, Respondent Nos. 8 to 12 prefers the present Reply to address issues that have been raised in the captioned Original Application on merits and to place the correct facts on record.
10. Respondent Nos. 8 to 12 state that on reading the captioned Original Application in its entirety, it is evident that the Applicant *inter alia* is challenging the alleged illegal constructions purportedly carried out in the property being Aikyam (formerly known as Pan Har), Plot No. 5, forming part of New Survey No. 3246 and bearing C.S. No. 730 of Worli



Division, Worli Sea Face, Mumbai 400 030 admeasuring 1349.51 sq. mtrs. (“**subject property**”).

11. Brief Background of Respondent No. 8 to 12

11.1 Respondent No. 8 is a private limited company registered under the provisions of the Companies Act, 1956 and is engaged in the business of exporting and manufacturing the diamonds and diamond jewellery and Respondent Nos. 9 to 12 are the directors of Respondent No. 8. Respondent-Company as part of their CSR activities has undertaken several projects promoting social welfare and environmental conservation and has been awarded with several accolades for their contribution towards making a positive impact on the environment. The company has till date planted around 2.5 million trees including certain species of trees nearing extinction. The philanthropic wing of the Respondent No. 8-Company, Dholakia Foundation has received a special accreditation for the United Nations’ 2023 Water conference. Respondent No. 11, in fact, has also received the highest civilian award of India, the ‘Padma Shri’ in the year 2022 for his contribution towards water conservation in drought-prone Saurashtra.



11.2 The subject property is used for residential purposes. The Applicant has filed the present Original Application alleging the illegal constructions purportedly carried out in the subject property by the answering Respondents.

12. *Brief Facts*

12.1 In and around the year 1993, one M/s. Arkay Holdings Limited (“**original owner**”) purchased the subject property and constructed a structure for the purpose of residence after obtaining all the statutory permissions and approvals.

12.2 Thereafter, somewhere in the year 2021, the Respondent Nos. 8 to 12 were desirous of purchasing the subject property for the purpose of residence. Hence, on 30th July 2021, the subject property was purchased by the Respondent Nos. 8 to 12 from the erstwhile original owner.

12.3 In and around the second week of August 2021, the answering Respondents started the work of certain repairs/ renovations/ alterations without any change in the plinth of the subject property structure and after ensuring there is no



adverse impact on the environment. Immediately, thereafter, the Applicant approached the answering Respondents alleging that the said Respondents were causing “nuisance” as well as environmental damage.

12.4 On close scrutiny, the Respondents stumbled upon the litigations already taken up by the Applicant with respect to the same subject property against the original owner being Suit No. 5111 of 1994 wherein identical grounds were taken up that the construction of the subject property by the original owner was illegal and violative of Development Control Regulations for Greater Bombay, 1991 (“**DCR 1991**”), Maharashtra Regional and Town Planning Act, 1966 (“**MRTP Act**”), the Environment (Protection) Act, 1986, the Coastal Regulation Zone Notification (“**CRZ Notification**”) and FSI violations. Vide a detailed Order and Judgment dated 5th December 2019, the Hon’ble Bombay High Court was pleased to dismiss Suit No. 5111 of 1994 and held that the construction carried out by the original owner was in accordance with the sanctioned building plans. Hereto annexed and marked as “**Exhibit-A**” is a copy of the Plaint



of Suit No. 5111 of 1994 without annexures and **“Exhibit-B”** is a copy of the Judgment dated 5th December 2019 passed in Suit No. 5111 of 1994.

12.5 Aggrieved by the Order dated 5th December 2019, the Applicant, the Plaintiff therein, thereafter, filed an Appeal being Appeal No. 49 of 2020. Hereto annexed and marked as **“Exhibit - C”** is a copy of Appeal No. 49 of 2020 without annexures.

12.6 It is pertinent to note that identical issues as regards CRZ violations, DCR, MRTP Act, FSI violations were taken up in the aforesaid proceedings by the same Applicant therein. Therefore, in order to avoid any future litigation, Respondent Nos. 8 to 12 decided to approach the Applicant and settle the issue amicably.

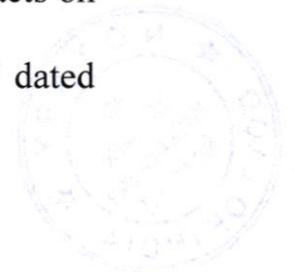
12.7 While work of repairs/ renovation/ alterations was going on, somewhere around October 2021, the Applicant once again made complaints as regards alleged nuisance being caused by the answering Respondents. Therefore, the Respondents approached the Applicant once again and



came to a settlement wherein it was agreed that the Applicant would unconditionally withdraw the Appeal No. 49 of 2020 filed with respect to the subject property and compensation/ damage of sum of Rs. 1,25,00,000/- (One Crore Twenty-Five Lakhs Rupees) was also paid by the Respondents in lieu of fully, finally and irrevocably resolving and settling any disputes including future disputes pertaining to the said property. The same is categorically recorded in the letter dated 16th November 2021 addressed by the answering Respondents to the Applicant duly acknowledged by the Applicant, the relevant portion is reproduced hereinbelow:

*“Our Managing Director, Shri Ghanshyambhai Dholakia personally met you and discussed the above pending matter and requested you that in view of **future** relationship as good neighbours, you withdraw the said Appeal and Interim Application, as it concerns the property of which we have become the owners.”*

12.8 On 16th November 2021, the answering Respondents addressed a letter to the Applicant bringing these facts on record along with a Banker’s Cheque No. 830777 dated



16th November 2021 drawn in favour of the Applicant for a sum of Rs. 1,25,00,000/-. The said letter has been duly acknowledged by the Applicant. Hereto annexed and marked as "**Exhibit - D**" is a copy of the letter dated 16th November 2021 along with Banker's Cheque No. 830777 dated 16th November, 2021.

12.9 In pursuance to the settlement arrived at, vide Order dated 10th June 2022 (*annexed to the captioned Original Application as Annexure-A-21*), Appeal No. 49 of 2020 came to be dismissed as withdrawn as per the request of the Applicant. Hence, the disputes raised by the Applicant as regards the subject property concluded and attained finality. On 13th June 2022, the Applicant addressed a letter to the answering Respondents intimating that he had withdrawn the Appeal No. 49 of 2020 in furtherance of the arrangement/ agreement dated 16th November 2021. Hereto annexed and marked as "**Exhibit - E**" is a copy of the Order dated 10th June 2022 and "**Exhibit - F**" is a copy of letter dated 13th June 2022.



12.10 On 27th February 2023, in complete disregard for the settlement between the Applicant and the answering Respondents, the Applicant filed the present Original Application before this Hon'ble Tribunal challenging the construction carried out in the subject property on identical grounds taken up by him in the Suit No. 5111 of 1994 as well as Appeal No. 49 of 2020.

12.11 It is pertinent to note that the Applicant has completely glossed over the fact of the aforesaid proceedings in the captioned original application and that identical issues have already been adjudicated upon by the Hon'ble Bombay High Court and has attained finality.

12.12 The Applicant has averred in the original application at Paragraph 65 that "*the unauthorized construction carried out after July 2021 onwards has resulted in windfall profit personally to Respondent Nos. 8 to 12....*" Thereafter, on 16th November 2021, the Applicant settled all present and future disputes with the answering Respondents and accepted a sum of Rs. 1.25 crores. In lieu thereof, on 10th June 2022, the Appeal No. 49 of 2020 was also withdrawn



by the Applicant. The Applicant has failed to bring these crucial facts on record. It is submitted that the Applicant has filed this original application only to extract more money from the answering Respondents.

12.13 Without prejudice to the preliminary contentions raised herein, the answering Respondents submit that the present Original Application is devoid of any merit or locus and hence, should not be entertained.

Plinth of the structure of the subject property has remained unchanged

13. The Applicant in the captioned original application contends that Respondent Nos. 8 to 12 have carried out illegal constructions on the subject property and that the said construction is beyond the permissions/ approvals granted thereto. It is submitted that the contention of the Applicant is wholly misconceived and without any basis.
14. The subject property in the present case falls on the landward side of the existing road and is classified as CRZ-II area under the Coastal Zone Management Plan (“CZMP”) and is permissible



under the CRZ Notification 1991, 2011 and 2019. The same is also admitted in the Site Visit Report dated 25th July 2023 of the Joint Committee constituted in the present application by this Hon'ble Tribunal vide Order dated 3rd May 2023. Under the CRZ Notifications 1991, 2011 as well as 2019, buildings categorized under CRZ-II area are clearly permitted on the landward side of the existing road.

Under CRZ Notification 1991:

“Norms for Regulation of Activities:

6(2) The development or construction activities in different categories of CRZ area shall be regulated by the concerned authorities at the State/Union Territory level, in accordance with the following norms:

CRZ-II:

(i) Buildings shall be permitted only on the landward side of the existing road (or roads approved in the Coastal Zone Management Plan of the area) or on the landward side of existing authorized structures. Buildings permitted on the landward side of the existing and proposed roads/existing authorized structures shall be subject to the existing local Town and Country Planning Regulations including the existing norms of Floor Space Index/Floor Area Ratio..”



Under CRZ Notification 2011:

“8. Norms for regulation of activities permissible under this notification,-

(i) The development or construction activities in different categories of CRZ shall be regulated by the concerned CZMA in accordance with the following norms, namely:

II. CRZ-II,-

(i) buildings shall be permitted only on the landward side of the existing road, or on the landward side of existing authorized structures.”

Under CRZ Notification 2019:

“5. Regulation of permissible activities in CRZ:

5.2 CRZ-II:

(i) ...

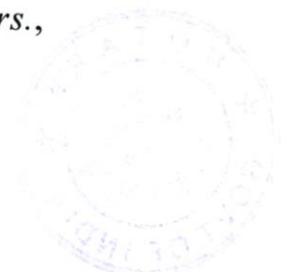
(ii) Construction of buildings for residential purposes, schools, hospitals, institutions, offices, public places, etc. shall be permitted only on the landward side of the existing road, or on the landward side of existing authorised fixed structures..”

Hereto annexed and marked as “**Exhibit - G**” is a copy of the CRZ Notification, 2011 amended from time to time and “**Exhibit - H**” is a copy of the CRZ Notification, 2019.



15. It is submitted that the subject property is a structure on the landward side of the existing road. The structure as existed received the Occupation Certificate on 1st March 2001. Since the structure had become old, Respondent Nos. 8 to 12 decided to renovate/ repair/ make alterations to the subject property without changing the plinth area of the original structure as it stood. Therefore, even today, the plinth area of the old structure and the new structure of the subject property is the same and there is no change to it.

16. Under the DCR, 1991, certain areas were excluded in computation of FSI which were later included in the DCR 2034 which are known as “ornamental projections” under the said regulations. The answering Respondents state that while carrying out repairs/renovations/alterations, so long as the plinth area of the structure remains the same, change in FSI due to ornamental projections which otherwise do not harm the environment require no clearance from the Maharashtra Coastal Zone Management Authority (“MCZMA”), Respondent No. 2 herein. This view has been fortified by the Hon’ble Bombay High Court in its Judgment, *Theodore Fernandes & Anr. v. State of Goa & Ors.*,



2020 (1) Mh.L.J 235. Thus, it is submitted that there being no change in the plinth area of old structure and new structure of the subject property, there is no violation of CRZ Notification.

No environmental damage

17. The Applicant has alleged that there is environmental damage caused by the answering Respondents and that the subject structure is violative of the CRZ Notification 1991 as it is right across the sea. It is pertinent to note that CRZ Notification 2011 is applicable in the present case and not CRZ Notification 1991. This was also pointed out by this Hon'ble Tribunal vide order dated 14th March 2023 wherein the Applicant was called upon to satisfy this Hon'ble Tribunal as to how the CRZ Notification 1991 is applicable. Thereafter, in the next hearing dated 3rd May 2023, the Applicant has apprised the Hon'ble Tribunal that CRZ Notification 2011 will be applicable. However, the entire original application has gone on the basis that there is violation of the CRZ Notification 1991, and the Applicant has not sought to amend the pleadings of the original application.
18. In any event, it is submitted that the contention of the Applicant is wholly misplaced as the subject property falls on the landward



side of the existing road and is classified as CRZ-II area under the Coastal Zone Management Plan (“CZMP”) and is permissible under the CRZ Notification 1991, CRZ Notification 2011 as well as CRZ Notification 2019. This is also evident from the CRZ Report prepared by Institute of Remote Sensing, Anna University, Chennai (“IRS”) wherein it has been stated that the subject property fully falls inside CRZ-II as per approved Coastal Zone Management Plan (“CZMP”) map. Hereto annexed and marked as “Exhibit - I” is a copy of the CRZ Report prepared by IRS including subject property layout superimposed on the CZMP.

19. The present Original Application has been filed under Section 15 read with Section 18 of the NGT Act, 2010. Section 15 *inter alia* provides for relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I of the NGT Act, for restitution of property damaged, for restitution of the environment for such area or areas, as the Tribunal may deem fit. Without prejudice to the contention that the Applicant has already fully settled the matter as regards the subject property with the answering Respondents, it is submitted that the present Original Application



has been filed under Section 15 independently without there being any adjudication of the alleged violations under Section 14 of the NGT Act. The Applicant in the present case has purposefully made allegations with respect to alleged violation committed by the answering Respondents under the DCR and MRTP Act which do not form part of Schedule-I of the NGT Act in respect of which an Original Application under Section 14 and 15 can be filed and entertained by this Hon'ble Tribunal. In any event, the Applicant has mischievously failed to aver any damage to the environment or property damage due to the alleged acts of violation of DCR and MRTP Act by the present Respondents and neither is the Applicant a victim of any environmental pollution for this Hon'ble Tribunal to exercise its jurisdiction under Section 15 of the NGT Act. Thus, the present Original Application is thoroughly misconceived and needs to be dismissed with exemplary costs.

20. The answering Respondents submit that the Applicant has filed the captioned original application alleging that the Respondents are causing environmental damage and that it is in contravention of the CRZ Notification which is contrary to the law and material facts on record. It is evident that the Applicant has filed the



present captioned original application only to create nuisance and extort money from the answering Respondents.

Writ Petition (L) No. 18045 of 2023 –

21. Without prejudice to the contentions raised herein, the answering Respondents also state that during the pendency of the present proceedings on 25th May 2023, the Respondent No. 10 was served with a Notice dated 24th May 2023 under Section 53(1) r/w Section 52(1)(b) and (d) of the Maharashtra Regional and Town Planning Act, 1966 (“**MRTP Act**”) issued by Designate Officer of the Municipal Corporation of Greater Mumbai (“**MCGM**”). By the said Notice, the Respondent was called upon to reinstate/ restore/ remove the alleged unauthorised development/changes in the land/premises situated at the subject property and to apply under Section 44 of MRTP Act within one month from the receipt of the impugned notice. Hereto annexed and marked as “**Exhibit - J**” is a copy of the Notice dated 24th May 2023.

22. Promptly, on 26th May 2023, the Respondent through its Licenced Surveyor replied to the Notice dated 24th May 2023 apprising the Respondent Authorities that an application for

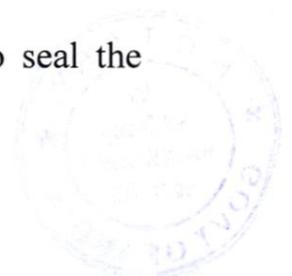


repairs/ renovation/alterations of the development/ changes to the subject property has been submitted in accordance with the provisions of the MRTP Act, 1966 and DCPR 2034 and requested the Authorities to not take any action under the Impugned Notice till the final outcome of the proposal submitted to the Building Proposal Department. Hereto annexed and marked as "**Exhibit - K**" is a copy of Reply dated 26th May 2023 and "**Exhibit - L**" is a copy of the online Application for repairs/ renovation/ alterations along with the payment receipt. Thereafter, the proposal has been returned by the Respondent-MCGM on technical grounds and the Respondent-MCGM directed the answering Respondents to resubmit the proposal with the requisite documents. In response to the same, the answering Respondents through their Architect addressed a letter to the Respondent-MCGM responding to the points raised by MCGM along with the requisite documents and the said proposal is under scrutiny. Hereto annexed and marked as "**Exhibit-M**" is a copy of the letters dated 27th September 2023 duly acknowledged by Respondent-MCGM. Therefore, it is submitted that the said proposal is under process.



23. The answering Respondents also filed a Writ Petition being WP (L) No. 18045 of 2023 *inter alia* challenging the Notice dated 24th May 2023. On 11th July 2023, the Hon'ble Bombay High Court was pleased to dispose off the petition by directing the Respondent-MCGM to process the present Respondents' application, the Petitioner therein for repairs/renovation/alterations and not to take any coercive steps till the time the application is decided. Hereto annexed and marked as "Exhibit - N" is a copy of the Writ Petition (L) No. 18045 of 2023 without exhibits and "Exhibit - O" is a copy of the Order dated 11th July 2023 passed in Writ Petition (L) No. 18045 of 2023. As regards the issues of DCR and MRTP Act concerning additions/alterations/repairs/ renovations, the same are covered by the Order dated 11th July 2023 passed by the Hon'ble Bombay High Court referred hereinabove and thus, the same need not be adjudicated upon on the present proceedings since the Order of the Hon'ble Bombay High Court is binding on this Hon'ble Tribunal including these authorities.

24. I submit that the Applicant has filed three Interlocutory Applications in the captioned original application. Interlocutory Application No. 110 of 2023 was filed *inter alia* to seal the



subject property, Interlocutory Application No. 112 of 2023 was filed *inter alia* to appoint an Architect to inspect the alleged unauthorized construction carried out at the subject property and Interlocutory Application No. 150 of 2023 has been filed *inter alia* raising similar issues as I.A. No. 110 of 2023 and 112 of 2023 praying that the answering Respondents be restrained from using the property in question and the same be sealed with appointment of a Receiver. I.A. No. 110 of 2023 and I.A. No. 112 of 2023 was not pressed by the Applicant as similar issues have been raised by the Applicant in I.A. No. 150 of 2023 and vide Order dated 2nd August 2023, this Hon'ble Tribunal disposed of the I.A. No. 110 of 2023 and I.A. No. 112 of 2023. It is submitted that the contentions raised in I.A. No. 150 of 2023 are wholly misplaced as has been enumerated in the present reply and the same ought to be dismissed.

25. I submit that the Respondent Nos. 8 to 12 have followed due procedure of law and the allegations of the Applicant against the answering Respondents as regards the subject property is wholly untenable and without any basis.



26. In these facts and circumstances, the Respondent Nos. 8 to 12 state that the captioned Original Application deserves to be dismissed *in-toto* as against the Respondent Nos. 8 to 12.

For Hari Krishna Exports Pvt. Ltd.

Date: 27th September, 2023

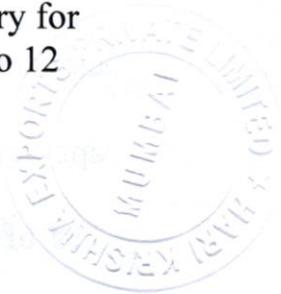
Place: Mumbai



Director



Authorised Signatory for
Respondent No. 8 to 12





VERIFICATION

I, Hasmukhbhai Dholakiya, the Authorised Signatory of Respondent No. 8 to 12, do hereby state that I have submitted this Affidavit on solemn affirmation and oath. I have verified that the facts are true to my personal knowledge. I have not suppressed any material fact known to me and relevant to this matter.

For Hari Krishna Exports Pvt. Ltd.

Date: 27th September, 2023

Place: Mumbai



Hasmukhbhai Dholakiya
Director

Authorised Signatory for Respondent No. 8 to 12

[Signature]
Advocate for Respondent No. 8 to 12

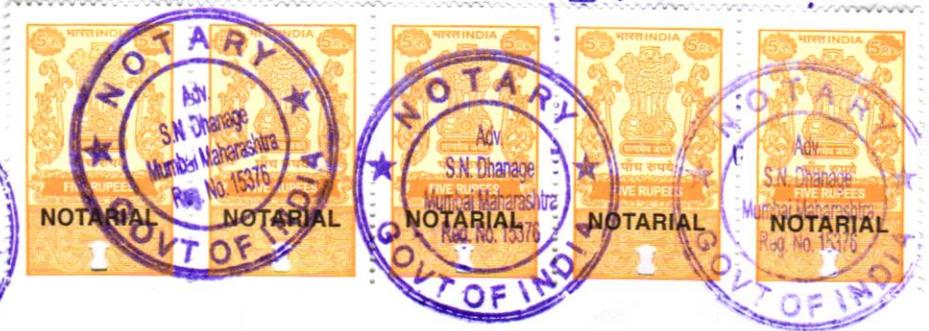
BEFORE ME
[Signature]

Adv. Shivaji N. Dhanage
Notary Govt Of India
Regd. No. 15376 MUMBAI (MS)
404-405, 4th Floor, Davar House,
197/199, Near Central Camera Bldg
D.N. Road, Fort, Mumbai 400001

NOTED & REGISTERED
Page No. 183 Sr. No. 1640
Dated 27 SEP 2023

*Seen Original Board Resolution.
Dt - 6 Sep 2023.*

27 SEP 2023





CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF HARI KRISHNA EXPORTS PVT. LTD. IN ITS MEETING HELD ON WEDNESDAY, 6TH SEPTEMBER 2023 AT THE REGISTERED OFFICE OF THE COMPANY AT UNIT NO. 1701, 17TH FLOOR, THE CAPITAL, B-WING, BANDRA KURLA COMPLEX, BANDRA (EAST), MUMBAI- 400051.

TO FILE AFFIDAVIT IN REPLY TO ORIGINAL APPLICATION NO. 25 OF 2023 TO BE FILED BEFORE THE NATIONAL GREEN TRIBUNAL (NGT):-

“RESOLVED THAT any one of Mr.Ghanshyambhai Dholakia (DIN 01474986), Managing Director and Mr.Hasmukhbhai Dholakiya (DIN 01474973), Whole Time Director of the Company be authorised to file an affidavit in reply to original application no.25 of 2023 to be filed before the National Green Tribunal on behalf of the Company against the original application filed by Mr.Dileep Nevatia.”

“RESOLVED FURTHER THAT any one of Mr.Ghanshyambhai Dholakia (DIN 01474986), Managing Director and Mr.Hasmukhbhai Dholakiya (DIN 01474973), Whole Time Director, be and are hereby authorised to do all such acts, deeds, documents, and sign all the necessary documents as may be required for this application.”

“RESOLVED FURTHER THAT copies of the aforesaid resolution certified to be true be furnished by any Director of the Company to the concerned authorities.”

Date: 6th September 2023
Place: Mumbai

Sheetal

Ms. Sheetal Karkera
Company Secretary

For Hari Krishna Exports Pvt. Ltd.

Hasmukhbhai Dholakiya

Mr.Hasmukhbhai Dholakiya
Whole Time Director
DIN No. 01474973



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hk.co



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 5111 OF 1994

Amended this 9th day
of May 1997 pursuant
to Court's Order dated
25th day of April
1997 passed by
Hon'ble Mr. Justice
Lodha

1. ~~Mrs. Snehlata Nevatia,~~)
2. Mr. Dileep Nevatia,)
of Bombay, Indian Inhabitants,)
residing at Shashi Deep,)
5 A, Worli Sea Face, Bombay)
400 025.) ... Plaintiffs

Versus

1. Messrs. Arkay Holdings Ltd.,)
a Company incorporated under)
the provisions of the Companies)
Act, 1956 and having its registered)
office at Maker Chambers-IV,)
Nariman Point, Bombay 400 021.)
2. Municipal Corporation of Greater)
Bombay, a statutory corporation)
incorporated under the provisions)
of the Companies Act, 1956 and)
having its office at Mahanagar)
Palika Marg, Bombay 400 001.)
3. The Dy. Chief Controller of)
Explosives, Explosives Department)
of Ministry of Industry, Industrial)
Insurance Building, Opp. Churchgate)
Station, Bombay 400 020.)

Amended this 7th day
of February 2014
pursuant to Court's
Order dated 29th day
of January 2014
passed by Hon'ble
G.S. Patel

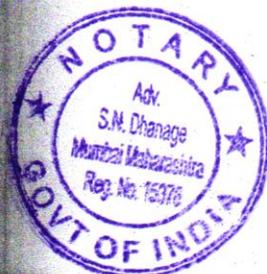


4. The Senior Inspector, Worli Police)
 Station, BDD Chawls, Bombay)
 400 018.)
5. The Commissioner of Police,)
 Office of the Commissioner of)
 Police, D. N. Road, Bombay 400 001.) ... Defendants

THE PLAINTIFFS ABOVE NAMED STATE AS UNDER

1. The Plaintiffs are the owners and occupants of a bungalow constructed on Plot No. 5 A bearing Survey No. 399 (1A), Street No. 301AA, situated at Worli Sea Face, Bombay 400 025. The Plaintiff No. 1 had taken possession of the said leased plot sometime in the year 1953. The Defendant No. 1 is the present lessee of the adjoining Plot No. 5 having survey No. 399 (1) and 399 (1B). The Defendant No. 2 is a Municipal Corporation incorporated under the provisions of the Bombay Municipal Corporation Act and is empowered to grant permission to carry out the construction under the provisions of the Bombay Municipal Corporation Act and Development Control Regulations. The Defendant No. 3 is the Dy. Chief Controller of Explosives. The Defendant No. 4 is Senior Inspector of the Worli Police Station, Defendant No.5 is the Commissioner of Police.

2. The Plaintiffs say that prior to 1954, the original Plot No. 5 was admeasuring 3,500 square yards. Sometime in the year 1954, the said Plot No. 5 was bifurcated into two halves and was leased to the Plaintiff No. 1 as bearing Plot No. 5A and to one Mrs. Pannadevi Harkishore Jain bearing Plot No. 5. The Plaintiffs say that in the year 1960-61 both the said owners



built their houses on their respective plots. The Plaintiffs crave leave to refer to and rely upon the said Lease Deed when produced.

3. The Plaintiff No.1 executed the final Lease Deed with the Defendant No.2, regarding Plot No. 5-A, on the 10th day of December, 1969. This was in continuation of the original Lease Deed executed on the 11th day of June, 1937, for a period of 999 years between the then Municipal Corporation of Greater Bombay with the 1st Lessee of the undivided Plot no.5, which was subsequently bifurcated and now in individual possession of the Plaintiff No.1 and the Defendant No.1. One of the terms of the original Lease Deed dated the 11th day of June, 1937, was that the Lessee was not to make any excavation upon any part of the land hereby demised nor remove any stone sand gravel clay earth or other materials therefrom. Thus, the conditions of the original Lease Deed dated 11th June, 1937, which granted a lease of the land to the lessee for a period of 999 years continue to be binding to subsequent Lessee after the land is transferred in their favour. It can be well understood that as far as the year 1937, the Government authorities had recognized the special condition of the solid rock structure of Worli Sea Face area and hence in order to prevent the execution of this rock structure, which would otherwise create danger to the surrounding areas, this special condition was made as a part of the original Lease Deed. Permission was only granted for minimum excavation of the rock base for making the foundations of the building. Almost the entire stretch of Worli Sea Face is a leasehold land



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and a similar condition has been prescribed by the Defendant No.2, to all the Lessees of lands on Worli Sea Face area.

4. The Plaintiffs say that the entire Worli Sea Face area is situated on a block of rock and hence there was no necessity to go deep into the foundation and the entire construction of both the houses was done on the rock foundation by going four to five feet deep for the foundation.

5. The Plaintiffs say that all the buildings constructed on the Worli Sea Face are constructed on a similar basis and following the profile of the hill. The houses including the multi storeyed apartments are constructed directly on the rock with the minimum depth of foundation, hence all the structures of the Worli Sea Face are dependent on the rock which supports them.

6. The Plaintiffs say that sometime in the year 1989-90, one Bank of Maharashtra took over the possession of the said land bearing Plot No. 5 with structures which was finally transferred to the Defendant No. 1.

7. The Plaintiffs say that sometimes in the year 1993, the Defendant No. 1 fully demolished the old structure of predecessor-in-title. The Defendant No. 1 immediately thereafter shifted heavy construction machinery on the site for constructing a multi storeyed apartments on the said plot, alongwith two floors of basements, by removing the rock in their land to the depth of around 25 feet.



8. The Plaintiffs say that since January 1994 brisk construction activities are going by the 1st Defendants with large number of workers and with heavy construction equipments, the Defendant No.1 has been blasting rock by rock drills and are breaking and chipping the rock to excavate the same from the earth. In some of the area the excavation has already gone upto approximately 15 to 16 feet wherein in other areas the depth is even lower.

9. The Plaintiffs says that Defendant No.1 has now started blasting dynamite at site and it appears that the Defendant Nos. 3 and 5 has granted some permission in favour of the Defendant No.1 for carrying out the construction, subject however, without causing any harm and danger to the adjoining structures.

10. When the Plaintiff No.2 got aware of the proposed construction activities, there was great apprehension in his mind regarding the adverse effect of the construction activity to his building situated on Plot No. 5 A. This is due to the fact that Worli Sea Face consists of a continuous rock structures, which extends right into the sea, and it is necessary to ensure that any disturbances on account of construction activities in one of the plots, do not disturb this rock structure and cause danger to the foundations of the surrounding buildings, especially if we take into consideration the current seismic activities in the state of Maharashtra, which are causing earthquake problems.

11. On a complaint made by Plaintiff No. 2 to Defendant No.1 about the danger to their building and on account of



excavation of the single rock structure and also due to heavy duty construction equipments, representatives of Defendant No. 1 represented by Mr. B. Vishwanath of Essar Projects Limited met the Plaintiff No. 2 and assured him of the following:

- (a) The excavation will be confined to only the middle of the plot and adequate distance will be maintained between the boundary of Plot No. 5 A and the excavation.
- (b) The Defendant No.1 have received permission from Defendant Nos. 3 and 5 for use of explosives to excavate the solid rock in Plot No. 5. Adequate supervision and regular check will be done by Defendant No. 3, so as to ensure that the cracks do not develop and spread to the foundation of adjoining buildings.
- (c) Adequate presence of Police personnel will be maintained during transportation and handling of explosives, so as to ensure that there is no misappropriation of the deadly explosives.
- (d) Adequate safeguards will be taken and heavy duty iron cowls will be provided on the rock drills, so as to dampen the sound and protect the neighbours from flying debris.
- (e) Use of equipment generating very high level of sound like Compressors, etc. would be minimised



and these Compressors will be housed in a sound proof structure.

12. On the basis of the above assurances given by Defendant No. 1 and on the further assurance given by Defendant No. 1 that they are a part of the ESSAR group of Companies, which is a highly responsible group, who will take all steps to ensure the safety and security of the neighbours, Plaintiff No.2 was assured by Defendant No.1 that all will be well during construction.

13. Sometimes in the month of January, 1994 trials of use of explosives were carried out by Defendant Nos. 1 & 3 subsequent to the above discussions. During these trials, instruments called 'Vibrometers' were placed in the compound of the Plaintiffs, and the effects of the blasting were recorded on these instruments. Both Defendant Nos. 1 & 3 assured the Plaintiffs, that these measurements with Vibrometers will be continuously done during each and every blasting that takes place in the solid rock in Plot No. 5 of the Defendant No.1, so as to ensure no excessive charge is used, which may damage the foundations of the structure on the land of the Plaintiffs. Both Defendant Nos. 1 & 3 assured that on this basis, the permission has been granted to them for use of explosives with continuous monitoring, so as to safeguard the adjoining structures.

14. However, the Defendant No.1 has renegaded on all the assurances given to the Plaintiffs at the time of the meeting and has blatantly indulged in the following:-



- 844
- (a) The excavation is not confined to the middle of the plot of the Defendant No. 1, but has almost reached a distance of within 5 - 10 ft. of the adjoining Plot No. 5 A of the Plaintiffs. This has endangered both the building foundations and the water tank in the Plaintiffs land.
- (b) No subsequent monitoring and checking the effect of the blasting was done with the help of Vibrometers in the Plaintiff's land. Hence, there has been continuous and un-controlled use of explosives, which has fully exposed to grave dangers, the foundations of the building on the Plaintiffs' land.
- (c) For the earlier period there always used to be Police personnel deputed by the Worli Police Station, who were present each and every time the explosives were brought to the site and blasting took place. However, for the last few months, there has been a total absence of Police personnel and blasting is going on uninterrupted almost every day.
- (d) No safeguards are being provided on the rock drills to protect the neighbours from flying debris.
- (e) No dampers are provided to reduce the sound from equipments generating high levels of sound and diesel pollution.



15. On an enquiry made by the Plaintiffs with the Defendant No. 2, it has been found that the Defendant No. 2 has given permission to Defendant No. 1 to construct two storeys of Basement having a combined area of 100 per cent of the plot area. This permission has been given by the Defendant No. 2 without assessing the structure of the Worli Sea Face area and the danger, this excavation, can cause to the foundations of the neighbouring buildings.

16. The Plaintiffs say that by their Advocates letter dated 28th October, 1993, the Plaintiffs made representations to the Executive Engineer, Building Proposals (City) of the Defendant No.2 inviting his attention to the activities of the Defendant No. 1 and called upon him to direct the first Defendant to stop the work and not to do so in such a manner so as to adversely damage the property of the Plaintiff. There was no reply to the said letter from the 2nd Defendants. Hereto annexed and marked **EXHIBIT 'A'** is a copy of the said letter dated 28th October, 1993.

Ex.
"A"

17. The Plaintiffs say that the Plaintiffs also requested Shri A. Vishwanathan a leading Chartered Engineer to visit the site and to make a detail opinion on the activities of the 1st Defendants. The Plaintiffs say that the said Shri A. Vishwanathan after visiting the site and after making a detailed study of the building has prepared a technical opinion dated 30th October, 1993. In the said opinion the said Shri Vishwanathan has observed that the entire area including hill consisting of a continuous rock structures are extended right into the sea and the structures of the Plaintiffs is situate at the



WIRE A

Plot No. 5A which is directly situate on the single rock base of the entire Worli Sea Face areas. In the said opinion, he opined that in any case any damage happening to this rock structures there is great danger of the foundation of the building going weak and the building structures may collapse. In the said opinion, he also observed that in the adjoining plot bearing No.5, he found that a very brisk large number of workers and solid construction activities. He also observed that the rock structures was attempted to be blasted by rock drills and broken chipped to excavate from the earth. He also observed that excavation had already gone upto 15 to 16 feets in some areas and whereas in other areas the depth was even lower. He also observed that he was given to understand that the 1st Defendant were planning to excavate the rock structure in a major portion of land in 20 to 25 feets in order to excavate two storey basements. In the said opinion, he has opined that by carrying out the said activities there is likely to be strong possibilities of some cracks being developed on the single rock structure of the whole contour rock which would extend to the adjoining plots and areas. He has further opined that since the building occupied by the Plaintiffs is situate at Plot No. 5A which is adjacent to Plot No.5 there are all possibilities of those cracks extending below the building and foundations. He has further opined that the danger can be further aggravated on account of seismic earthquake problem in Maharashtra State and any strong tremours in these areas again may cause further danger to the structures and occupants situated on the neighbouring plots due to weakening of the structures. Hereto annexed and marked **EXHIBIT 'B'** is a copy of the said opinion dated 30th

Ex.
"B"

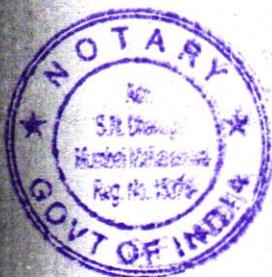
October, 1993 given by the said Shri A. Vishwanathan, a leading Chartered Engineer.

18. The Plaintiffs say that by their letter dated 21st October, 1994 and 24th October, 1994, the Plaintiff No.2 invited the kind attention of the Defendant No.4 to the illegal activities carried on by the first Defendants and requested to take appropriate steps against the Defendant No.1 and to stop the said illegal activities. The Plaintiff No.2 also recorded that he was informed by the Defendant No.4 that the Department will ensure that solid, iron coils were over the rocks drills to ensure that the noise level were maintained within the required limits which will ensure the safety of the Plaintiffs against flying debris. The Plaintiffs also invited his attention to the fact that on 21st October, 1994 regular blasting of dynamites was done without the presence of any staff member of the police station. By the said letters the Plaintiff No.2 requested the Senior inspector of Worli Police Station to take up this matter immediately and to help him in maintaining peace and safety in the areas and for the well being of his family members and other members of the family. Hereto annexed and marked **EXHIBITS 'C' and 'D'** are copies of the said letters dated 21st October, 1994 and 24th October, 1994.

Ex.
"C"

Ex.
"D"

19. The Plaintiffs submit that the construction activities of the 1st Defendant is continuous even after sunset. The machines used at a very high peak sound and heavy compressors rock drills are continuously run over every day and that in the evening causing extreme distress to the family members of the Plaintiffs. The Plaintiffs say that Plaintiff No.1 is



RE MI *

a patient of High Blood Pressure and has been seriously affected by the activities of the 1st Defendants. The Plaintiffs say that the 1st Defendants are blasting dynamites at sites every day without any control on its use which has been affecting the building foundation of the Plaintiffs very badly. The Plaintiffs say that neither the staff members of the 3rd Defendants not the 4th Defendant remain present at the time of the blasting work done by the 1st Defendants. The Plaintiffs submit that the use of a dynamite cannot be resorted for drilling the rock and more particularly when the foundation of the adjoining building are only to the depth of 4 to 5 feet. The Plaintiffs feel that the Defendant No.1 has not been granted any permission to use the dynamite for blasting the rocks and therefore the said activities are illegal without any permission and is dangerous to the adjoining buildings and the occupiers including the Plaintiffs.

20. The Plaintiffs submit that after the first Defendant is allowed to excavate the entire rock of land to the depth of 25 feet. It would create a number of fissures and cracks which would extend to the adjoining areas. The Plaintiffs submit that since the building is situate at Plot No.5A the building of the Plaintiff is closest to the said site of the first Defendants and will be greatly weakened and most affected and thus would be highly unsafe. The Plaintiffs submit that nowhere in the entire stretch of Worli Sea Face any basement has been constructed by excavating the rock. However, in the case of Plot No.5 the 2nd Defendants appear to have illegally permitted the first Defendants to built a two storey basements without considering



the adverse effects of the construction of the adjoining building and long term stability.

21. The Plaintiffs submit that if the first Defendants are allowed to be ahead with the said activities, there is likely to be strong possibilities of some cracks being developed on the single work structure of the whole counter rock which would extend to the adjoining plots and areas.

22. The Plaintiffs say that on several occasions the Plaintiffs have visited the site and called upon the workers working on the site and one Shri B. Vishwanathan who is a representative of the 1st Defendant to stop the said illegal activities but is of no avail. Mr. B. Vishwanathan assured the Plaintiff No.2 that no dynamite would be blasted on the site and the work will be completed in such a manner that the plot of the Plaintiffs or the structure thereon will not be affected in any manner whatsoever. The Plaintiffs say that inspite of the said assurances the Defendant No.1 has been continuously carrying out its illegal activities and are bent upon to cause the maximum loss to the properties of the Plaintiffs, as well as creating a noise pollution to the Plaintiffs and/or their family members and/or the occupants on the said plot of the Plaintiffs.

23. The Plaintiffs say that by letter dated 29th October, 1994, Plaintiff No.2 invited the attention of the Commissioner of Municipal Corporation of Greater Bombay Plaintiff to the illegal activities of the first Defendants and requested him to direct Defendant No.1 to suspend their construction activities and to permit them further progress only after getting it confirmed from



Appropriate Authority that this excavation activity has not endangered the building of the Plaintiffs. Hereto annexed and marked **EXHIBIT 'E'** is a copy of the said letter dated 29th October, 1994.

Ex.
"E"

24. The Plaintiffs say that by his letter dated 2nd November, 1994 to Defendant No.5 the Plaintiffs invited his attention to the fact that since last 4 - 5 months there had been total absence of their authorised explosives experts at the time of blasting which was taking place almost every day. The Plaintiffs also pointed out that on most of the occasions of blasting in the last 4 - 5 months no Police personnel had been present on site which may lead to serious consequences. By the said letter the Plaintiff No.2 requested the Police to make proper enquiry into the uncontrolled and unsupervised blasting taken place on the said plot and take necessary steps. Hereto annexed and marked **EXHIBIT 'F'** is a copy of the said letter dated 2nd November, 1994.

Ex.
"F"

25. The Plaintiffs say that by his letter dated 15th November, 1994 to the Defendant No.4 the Plaintiff No.2 invited his attention to the fact that the Pneumatic Rock Drills was once again being used without any heavy duty iron cowls put over it with the result the Plaintiffs were being exposed to danger from the flying debris. The Plaintiffs also informed him that a large size air compressor had been located right next to their building which was not only emitting highly toxic diesel gas, but was also giving a loud continuous noise. By the said letter the Plaintiff No.2 requested him to depute one of his officers to the site immediately and ensure that those illegal activities were stopped



henceforth. Hereto annexed and marked **EXHIBIT 'G'** is a copy of the said letter dated 15th November, 1994.

Ex.
"G"

26. The Plaintiffs say that by his letter dated 15th November, 1994 to the Defendant No.4, the Plaintiff No.2 invited his attention to the fact that Defendant No.1 has started blasting of ground in the absence of any Police personnel from his Police Station. The Plaintiff No.2 requested him to stop the illegal activities and to take necessary action against the offenders. The Plaintiff No.2 forwarded the copy of the said letter to the Commissioner of Police also. Hereto annexed and marked **EXHIBIT 'H'** is the copy of the said letter dated 15th November, 1994.

Ex.
"H"

27. The Plaintiffs say that by his letter dated 16th November, 1994 to the Defendant No.4 the Plaintiff No.2 invited his attention to the fact that Defendant No.1 had started drilling with compressor that day from 9.30 a.m. without any heavy duty iron cowls put over the drills and blasting of ground from 5.15 p.m. and the same was being done in the absence of any Police personnel from his Police Station. By the said letter Plaintiff No.2 requested him to take proper action in the matter. The Plaintiff No.2 forwarded a copy of the said letter to the Commissioner of Police. Hereto annexed and marked **EXHIBIT 'I'** is the copy of the said letter dated 16th November, 1994.

Ex.
"I"

28. As per Regulation 38, Sub-Regulation (9) (v) (a) of the Development Control Regulations for Greater Bombay 1991, issued by the Government of Maharashtra, the ceiling of the upper basement shall be not more than 1.2 meters above the



FIGURE A)

average surrounding ground level. However, as per the topography of Plot No.5 of the Defendant No.1, there is a very heavy slope of the land and the difference in the height of the land on the front side of the plot and the rear of the plot is between 15 to 20 feet. Thus from the way the excavation is being carried out, the major depth is on the rear side of the plot, whereas on the front side of the plot the depth of excavation is very small. Hereto annexed and marked **EXHIBIT 'J'** is the sketch of the topography of Plot No.5 of Defendant No.1. Hence, as per the sketch annexed as Exhibit "J", the construction which will form as the basement on the rear side of the plot will be atleast 15 to 20 feet above the surrounding ground level in front of the plot, i.e. the front side of the so called basements will not be a basement. This means that the Defendant No.2 has permitted Defendant No.1 to construct the extra F.S.I. under the false guise of a basement.

Ex.
"J"

"28(a) The Plaintiffs also observed a number of violations under the Development Control (DC) Regulations for Greater Bombay, 1991, mainly regarding a very huge structure that was coming up in the site of Defendant No. 1. Thus, they were therefore forced to obtain a copy of an independent report from the renowned Architect's firm, viz. M/s. B. D. Sahasrabhojane and Associates, in that respect. The Plaintiffs say and submit that the partners of the said renowned Architects visited the site on 16th December, 1996 to study the violations of various provisions of the Development Control (DC) Regulations for Greater Bombay, 1991 by the first Defendants and to study the construction on the said plot No. 5, Worli Sea Face, Bombay



400025. The Plaintiffs say and submit that the said building being constructed by the first defendant was under final stage of construction. In the said report, the said architect inter alia opined the following major violations of the DC Regulations :

"Preliminary Observations

The said site lies on the slope of the hillock facing the sea and the Worli Sea face road. Most of the buildings on this sea face have made use of the natural contours of the site while in this building construction the entire portion of the hillock has been dressed by digging upto a depth of approximately 25 feet at the rear end of the building, the entire plot thus leveled is more or less in level with the road in the front.

Further Observations with respect to DC Rules

On visit on 16/12/96, it has been observed that a multi-stories building is under final stages of construction at Plot No. 5, situated adjacent to Plot No. 5-A, occupied by Mr. Dileep Nevatia. The following observations were made :

- (1) As already mentioned, the building under construction is being built on a levelled piece of land created by dressing the hill upto a level slightly above the approach road, Khan Abdul Gaffar Khan Road or Worli Seaface road. Mr. Nevatia has asked me to clarify whether the floor directly approachable from the road could be a 'Basement or Cellar' as is being claimed by the builder. In my opinion the



said floor is the ground floor. As per definition of the ground floor as given in the DC rules the floor at ground level with a direct access to a street or open space shall be called the ground floor, the floor above it shall be termed as floor 1, with the next higher floor being termed as floor 2 and so on upwards. On the said plot of land, a structure consisting of the ground floor and additional 7 floors, viz. floor 1 to floor 7 have been constructed.

- (2) Further, it cannot be called a basement, since the definition of the basement as per DC Regulations No. 3. (10), it is neither fully below or partly below the ground level. This is a floor on the ground level, it is the closest floor to the street and has a direct access to the street and hence as per the DC Regulations, cannot be termed as a Basement or a Cellar.
- (3) In my opinion the builders have claimed the ground floor to be a basement so as to circumvent the height regulations as specified for the category I of coastal area for Greater Bombay as given in the DC Rule (59). As per this rule the maximum building height permissible in the Island city is 22 Mts. If the lowermost storey of this building is shown as ground floor then as per the preliminary calculation shown below this regulation is violated.

- | | |
|--------------------------------------|-----------|
| (a) Ground floor including Plinth .. | 3.6 mtrs. |
| (b) Floor 1 .. | 3.0 mtrs. |



(c) Floor 2 to Floor 7 @ 3.0 mtrs. ..	18.0 mtrs.
each (as built)	-----
Total Height ..	24.6 mtrs.

(4) As the height of the building is thus estimated to be as high as 24.6 mtrs, as per the definition under DC Regulation 3 (11) (i) it is a multi-storied building or a high-rise building. Thus, the minimum open space on all sides, except the front side of the building, shall be 7.0 mtrs. $\{ (24.6 - 3.6) / 3 \}$. However, this minimum open space requirement has been grossly violated on two sides of the building as follows :

- (a) The open spaces on the two sides of the ground floor (North and South sides) is fully covered by the ramps going to the first floor and construction of other structures thereunder.
- (b) The minimum open space on the first floor of the building is 5.5 mtrs, which is much lower than the minimums required open space of 7.0 mtrs.
- (5) The minimum setback left after construction of the building is not only less than the required 7 mtrs. but also further impediments have been created in the available space by extending the lower storey into the side margins. To reach top of these



extensions, ramps are being constructed on either side of the building, going from the ground level to the first floor.

Besides the fact that there is a non-confirming pair of ramps constructed on either side of the building, going from the ground floor to the first floor and is thus blocking the open space around the ground floor, the ramps have not been constructed to meet the safety requirements as per DC Regulation No. 38 (18) (i) (b) which says that 'A ramp shall have a slope of not more than 1 in 10.'

- (6) Fire Protection requirement as per DC Regulation No. 43(1).

As already mentioned, the open space on the ground floor is fully covered by the ramp and extra construction made below the ramp. Thus the ground floor not only violates the open space regulations around the building but also makes it impossible for fire engine to Enter around the ground floor for emergency. The open space on the first floor and above are less than 6 mtrs. wide and are also full of obstructions. This makes them once again very dangerous for entry of fire fighting equipment. The ramps are having a much higher degree of slope than a minimum of 1 in 10 which will make it impossible for a fire engine to climb up to them. Moreover, portion of ramps as well as slabs over extended portions of the lower storey



seen unlikely to take a maximum fire engine weight of 18 tonnes, which again makes them unsafe in emergency.

- (9) As per the details given by Mr. Nevatia, the total area of the plot no. 5 is 1614 sq. yards (14,526 sft). Thus, the maximum FSI permissible on all the floors @ 133 percent of the area of the plot comes to 19,320 sft. From the copy of the drawing enclosed, which has been made near about the dimensions of the construction, the areas on various floors are estimated as follows :

(i) Ground floor and areas constructed under Ramps on ground floor.	..	6250.00 sft.
(ii) Floor 1	..	2596.00 sft.
(iii) Floor 2 to Floor 7	..	19071.00 sft.
Total	..	27917.00 sft.

Thus, from the above report of M/s. B. D. Sahasrabhojane and Associates, it can be said that Defendant No. 1 have indulged in gross violations of Development Control (DC) Regulations for Greater Bombay, 1991, for which they have been fully blessed by the Defendant No.2, inspite of various letters being written by the Plaintiff to Defendant No.2. The violations, as stated in the above report of M/s. B. D. Sahasrabhojane and Associates can be summarised as under :

- a) There is no Basement in the structure and the ground floor is being wrongly termed as a Basement,



so as to circumvent both the FSI and the open space requirement.

- b) The minimum open space, as required for a tall structure, is not being maintained due to which the Plaintiffs are being deprived of light and ventilation.
- c) The open space on the ground floor covered by the ramps and other obstructions have made the site at Plot No. 5 of Defendant No.1 extremely fire hazardous. This has put the lives of the Plaintiffs at a grave risk in case of fire emergencies as the fire engines will not be able to enter the site on Plot no. 5 of the defendant no.1.
- d) The Defendant No. 1 have constructed FSI @ 192% against a maximum permissible FSI of 133% which has come on account of violations of both height and open space requirements.

The Plaintiffs would further like to state that subsequent to the above report of M/s. B. D. Saharashojanee and Associates, the Defendant No. 1 has added one more floor, i.e. floor 8 and are making preparation to add yet another Floor 9. This will further increase the extent of violations of all the above mentioned DC Regulations of Greater Bombay, 1991 by the Defendant No. 1.

Hereto annexed and marked **EXHIBIT (1)** is a copy of the report dated 17th December, 1996 from M/s. B. D. Saharashojanee and Associates along with report of the violation of the activities

Ex.
"1"



carried on by the first defendants with the blessings of the other defendants from time to time.

28(b) The Plaintiffs say that by their letter dated 13th January, 1997, the Plaintiffs provided to the 2nd Defendant, that is the Municipal Corporation of Greater Bombay, a summary of the construction activities being carried out by the first defendant which were found to be in violation of the Development Control Regulations for Greater Bombay 1991, violation of environment (Protection) Act 1986 and the Rules thereunder. The Plaintiffs requested Municipal Corporation to stop construction at the said plot and to take necessary steps to demolish the areas of construction whereby the various above violations namely the DC violation and the Environment Protection Act and Rules Violation have taken place, as are more particularly set out in the said letter. The Plaintiff by their letter dated 18th December, 1996 addressed to executive engineer in the Bombay Municipal Corporation regarding inspection of building plans stated that despite various request and attempts made by the plaintiffs for the same and despite the plaintiffs visiting the site and asking for inspection of the approved plans and specifications, plaintiffs were not furnished with nor shown the plans nor allowed to enter the site. On the contrary they were threatened with dire consequences. Hereto annexed and marked as **EXHIBIT 2 and 3** are copies of the said letter dated 18/12/96 and 13/1/97 addressed by the Plaintiffs to the Bombay Municipal Corporation.

Ex.
"2"

Ex.
"3"



28(c) The Plaintiffs therefore submit that the first defendant has, as opined, committed various breaches and



violations to the prejudice of the plaintiffs, on false premises as granted to the first defendant by the Defendant Nos. 2 to 5 and is continuously committing these breaches till today to the prejudice of the Plaintiffs rights with the blessings of the defendant No.2 to 5. The Plaintiffs say and submit that the said report obtained by the Plaintiffs are given by a Government Institute and renowned architects and are given independently. The Plaintiffs therefore pray that this Hon'ble Court be pleased to take these reports into consideration and pass a proper direction further directing the same and granting appropriate reliefs to the Plaintiffs.

29. It is a well understood fact in Bombay, that on account of such high price of constructed property and especially in the prime area like Worli Sea Face, there has been instances of a number of unscrupulous builders who have constructed extra space more than that is legally provided, under some guise or the other. In this instance the Defendant No.2 has given the permission to construct two storeys of basement to Defendant No.1, either by not being aware of the fact of the topography of the land, or has kept silent on the same.

30. As mentioned earlier, the Defendant No.1, are a part of the Essar Group of Companies who are one of the largest industrial houses in this country. These people have the power and the money to exert influence and get out of the way of other questionable work from the Bureaucracy. A number of complaints made by the Plaintiffs to Defendant No. 2, 4 and 5 and their inaction in the same very strongly supports this view that the Defendant No.1 has exerted very strong influence on



Defendant Nos. 2, 4 and 5 not to proceed against them and to stop the dangerous and illegal activity.

31. The Plaintiffs submit to the Hon'ble Court that the conditions of the original Lease Deed dated 11th day of June, 1937, which granted the land on lease to the original Lessee and which is valid for a period of 999 years, is valid and binding on all subsequent Lessees of the said plot. The original Lease Deed of the year 1937 has called upon the Lessees not to make any excavation, hence, the massive excavation work granted by the Defendant No.2 to the Defendant No.1 and the activity of Defendant No. 1 in carrying out the same after getting the approval of Defendant Nos. 2, 3, and 5, is illegal as it does not confirm to the original Lease Deed of 1937 and hence the excavation is illegal and should be stopped immediately.

32. Since the Defendant No.1. who are in collusion with Defendant Nos. 2, 3, 4 and 5, have grossly violated the terms of the original Lease Deed dated 11th June, 1937, which they are irrevocably bound to observe, the Hon'ble Court may direct Defendant No.2 to cancel the lease of Plot No.5, which is in possession of the Defendant No.1 and the Court may appoint Receiver to take over the possession of Plot No.5 of Defendant No.1.

33. In the premises aforesaid, the Plaintiffs submit that this Hon'ble Court be pleased to call for the records and papers and files pertaining to the issuance of permission granted by the Defendant No.2 in favour of the Defendant No.1 allowing them to construct a multi-storeyed building with two storeyed basements





on the Plot No.5 of the Worli Sea Face and allowing them to use the dynamite for blasting rocks and after going through the legality, validity and propriety thereof be pleased to set aside and cancel the said permission/orders.

34. In the premises aforesaid, the Plaintiffs submit that this Hon'ble Court be pleased to call for the records and papers and files pertaining to issuance of permissions granted by the Defendants Nos. 3 and 5 in favour of Defendant No.1 allowing them use of explosives and other equipment to blast the rock structure for construction of two storeyed basements on Plot No.5 of the Worli Sea Face and after going through the legality, validity and propriety thereof be pleased to set aside and cancel the said permission/orders.

34(a) As per the direction of his Lordship, Mr. Justice Bahuguna, Defendant No.1 produced copies of the 'Licence to Possess Explosives for Own Use', issued under Form 23 by Defendant No. 5 to M/s. Akul Investment Pvt. Ltd., on behalf of Defendant No. 1. The first licence is dated December 1993 and extensions for the subsequent period for use were granted in March 1994, June 1994, September 1994 and December 1994. The major conditions of the licence which has been issued under Rule 154 (4) and 154 (5) of the Explosives Rules 1983, are as follows:

"Condition No. 11

If this licence is granted as per clause (a) of preamble the total quantity of explosives that can be purchased shall



not exceed 5 kgs. of Class 2 and/or Class 3 explosives, 100 Nos. of detonators and 200 metres of safety fuse."

"Condition No. 12

The licensee shall at the time of purchasing explosives have the following particulars endorsed upon his licence and signed by the person delivering the explosives.

- i) Name and address and licence No. of the person delivering explosives;
- ii) Name and address of the person who takes delivery of the explosives purchases;
- iii) The kind and quantities of explosives purchased;
- iv) The date of purchase."

Condition No. 18

"(c) The said workshop shall be situated at a distance of _____ metres as shown in plan no. _____ dated _____ attached hereto."

Condition No. 19- Additional conditions:

- "(b) Mild charges will be used for the controlled blasting operations.
- (d) Blasting will be done in the presence of police personnel."

An additional condition was also added in the form of a Note, which says as follows:



"It should be controlled blasting. They should take all necessary precautions to avoid any mishaps failing which they would be held responsible/liable for action."

Since the subsequent licences issued by the Defendant No. 5 to Defendant No. 1 were only an extension of the time period of the original licence, the total quantity of the explosives purchased was limited to 5 kgs. of Class 2 and/or Class 3 explosives as per the Condition No. 11 of the licence.

On obtaining the copies of the above licences, the Plaintiffs observed that there seemed to have been a gross misuse of the above mentioned conditions of the licence. In this connection the Plaintiffs were forced to appoint Central Mine Planning and Design Institute Ltd. (CMPDI), a Government of India Undertaking and a leading authority in the country on use of explosives, to make an assessment of effect of blasting on the site of Defendant No. 1 to the property of the Plaintiffs, situated at adjoining Plot No. 5-A, Worli Sea Face, Bombay. Accordingly, representatives of CMPDI visited the premises of the Plaintiffs on 11/2/1995 and have reported the following in their Preliminary Study Report of February 1995 :

"The above referred report of M/s. Semcons Corporation (appointed by Defendant No. 1) is deficient as it does not define the major site specific parameters which mainly contributes to the effect of blasting on the nearby buildings; these are:



- WIRE A.
- (a) Pattern of drilling, i.e. depth of hole, burden, spacing and sub-grade drilling;
 - (b) Type of explosive to be used;
 - (c) Quantity of explosive to be used per hole and per delay;
 - (d) Type of Detonators to be used and their delay sequence;
 - (e) The pattern of pre-splitting and quantity of charge per hole have not been specified.

"During the inspection, the visit could not be made in the premises having construction activity for pre-splitting line. From the premises of Shri Nevatia, the pre-splitting line was not visible, which may be the main and physical mark of the total blasting operation conducted.

During the inspection of bungalow of 5 A, Worli Sea Face and as shown by Shri. Nevatia, some cracks were observed in one room and one bath room located on the side facing to the plot having construction/blasting activity.

The cracks in the bed room were seen near the window, one crack was running vertical on the side of the window and line cracks were seen in two walls of the room at about 45 centimeters from the roof. The other place was the bath room where the cracks were seen and here also, the cracks were near the window."



SIGNATURE

Furthermore, by their subsequent letter Ref. RIN/BLASTING/95/86 dated 20/02/1995, CMPDI has reported the following :

“As calculated from the Plan submitted to us, it appears that total volume of rock which has been removed is, approximately 1700 cubic meters (48 x 118 x 11 ft.). For removing this much quantity by blasting operations, the requirement of explosive would be in the range 1200-1400 kg. depending on the type of explosives and pattern of blasting.”

Thus CMPDI has reported gross violations of the explosives licence issued to the Defendant No.1 by the Defendant No. 5, which can be summarised as follows:

- a) Violation of Condition No.11, i.e. against the maximum quantity of explosives that can be purchased (and hence, used on site) not exceeding 5 kgs., the Defendant No. 1 have blasted at site between 1,200 to 1,400 kgs. of explosives, i.e. 240 to 280 times more than the license permission granted.
- b) Against Condition No. 19(b), which specifies that mild charges will be used for the controlled blasting operations, Defendant No. 1 have not carried out controlled blasting, viz. no pre-splitting line has been done before the blasting operations were carried out as a result of which cracks have developed in the structure of the Plaintiffs.



- c) Defendant Nos. 4 and 5 have also abetted Defendant No. 1 in violating various conditions of the explosives licence issued by Defendant No. 5 to Defendant No. 1 as follows :

Violation of Condition No. 12.

- i) As mentioned earlier, this requires particulars of purchases of explosives to be endorsed upon the licence. However, the Defendant No. 5 continued to extend the validity of the explosives licence issued to Defendant No. 1 for a period of over one year, even though such endorsement of purchases of explosives were not made on the licence.
- ii) Violation of Condition No. 18 (c), which requires that the licence is issued alongwith an accompanying site plan, showing areas where explosives will be stored and used and it's required safety distances between adjoining structures and roads. This plan was deliberately not submitted by Defendant No. 1 to Defendant No. 5, at the time of making their application for grant of explosive licence, nor was enclosed alongwith the licence at the time of it's granting by Defendant No. 5 to Defendant No. 1, because had this plan been submitted and enclosed, the site of Defendant No. 1 would not have qualified for use of explosives, since minimum safety distances were not available on this site. Thus, the Defendant No. 5 have permitted Defendant No. 1 to use explosives at





will, all over the site of Plot No.5, Worli Sea Face, Bombay.

- iii) Violation of Condition No. 19 (d) This requires that blasting will be done in the presence of police personnel. However, for most of the time when blasting were carried out by Defendant No. 1, no police were present and a large number of letters written by the Plaintiffs to Defendant No. 4 and 5 have not resulted in any action being taken by these two Defendants.

Hereto annexed and marked **EXHIBIT 4 and EXHIBIT 5** is the copy of the said report and the said letter.

Ex.
"4"

Ex.
"5"

35. The Plaintiff submit that it is in the interest of justice that Defendant No.1, their servants, agents be restrained by a permanent order and injunction of this Hon'ble Court from in any manner carrying on the construction activities on the plot bearing No.5 situate at Worli Sea Face bearing Cadastral Survey No. 731 of Worli Division.

36. The Plaintiffs submit that this Hon'ble Court be pleased to appoint a panel or committee of independent Architects/Experts to investigate in the matter and to submit detailed report/opinion to this Hon'ble Court suggesting steps to be taken in the matter forthwith and further pleased to pass appropriate orders on perusal of such report.



36(a) The Plaintiff says that by an order dated 23/12/94 passed by His Lordship the Hon'ble Mr. Justice Bahuguna in terms of prayer (d) as also that the Defendant No. 1 their servants and agents be restrained from carrying on any construction activities on the said Plot No. 5 for four weeks from the date of passing of the order. His Lordship was in accordance with prayer (d) of the Notice of Motion pleased to direct that the Prothonotary & Senior Master, High Court, Bombay to appoint a or a committee of independent Architects or Experts to investigate in the matter and to submit a report or opinion to the Hon'ble Court suggesting steps to be taken in the matter. Such report was to be submitted to the Hon'ble Court within a period of one month from that day. Accordingly, the Prothonotary and Senior Master by a order dated 9th January, 1995 appointed M/s. B. A. Patell & Co., as the Architects to prepare the report. I say that by an order dated 18th January, 1995 this Hon'ble Court permitted Defendant No. 1 to carry out construction work at their own risk and it shall be subject to the orders passed by the Court on the next date of hearing. The Architect was directed to submit the report within a period of two weeks.

36(b) I say that in accordance with the Orders passed by this Hon'ble Court by the Plaintiffs deposited Rs. 2,500/- with the Prothonotary & Senior Master, High Court, Bombay, towards expenses of the said report. The said report was to be submitted by M/s. B.A. Patell & Co., Architects, on or before 1st February, 1995. I say that several reminders were given to the Prothonotary & Senior Master, regarding submission of the said report including one dated 10th April, 1995, 6th July 1996. I





say that by an order dated 4th July, 1996 passed by His Lordship the Hon'ble Mr. Justice J. N. Patel, His Lordship directed the Prothonotary & Senior Master, High Court, Bombay, to submit to the parties a copy of the report made by M/s. B. A. Patel & Co., Architects. However, on inquiry at the office of the Prothonotary & Senior Master, the Plaintiffs were informed that the copy of the above report was missing from the office records. The Plaintiffs therefore requested the Prothonotary & Senior Master, to request to M/s. B. A. Patell & Co., Architects to furnish a duplicate copy of the said report submitted by him in pursuance of the order passed by His Lordship Bahuguna on 12th January, 1995 and to permit them to take copies accordingly. The Plaintiffs say that till date they have not been furnished a copy of the said report submitted by M/s. B. A. Patell & Co.

37. The Plaintiffs submit that because of the illegal activities on the part of the Defendant No.1 with the blessings of Defendant Nos. 2 to 5 the Plaintiffs and their family members have already suffered tremendous mental agony and breach of peace. The Plaintiffs are therefore entitled to claim a damages Of Rs.10,00,00,000/- (Rupees Ten Crores) from the Defendants as per Particulars of Claim hereto annexed and marked **EXHIBIT 'K'**.

Ex.
"K"

38. The Plaintiffs submit that it is also in the interest of justice that pending the hearing and final disposal of the suit the Defendants Nos. 2 to 5 be directed by a mandatory order and injunction of this Hon'ble Court to stop the construction work of



the 1st Defendant on the Plot No.5 situate at Worli Sea Face forthwith.

39. The Plaintiffs submit that it is also in the interest of justice that Defendant No.1 their servants and agents that pending the hearing and final disposal of the suit the Defendant No.1 their servants, agents be restrained by an order and injunction of this Hon'ble Court from carrying on any construction activities on the said plot No.5 situate at Worli Sea Face.

40. The Plaintiffs submit that the Defendant No.1 is a part of the ESSAR Group of Companies which are one of the large industrial houses in this country. The Directors of Defendant No.1 are the employees/agents of various companies of the ESSAR Group and the main shareholders of the Defendant No.1 are principal promoters of the ESSAR Group and their family members. Through these employees/agents of ESSAR Group of Companies the principal promoters of ESSAR Group have indulged in this illegal and dangerous construction activities, which has greatly exposed the Plaintiffs and their family to grave dangers to their lives. These people have the power and the clout to influence other people and the bureaucracy. This can amply be seen by the fact that inspite of the numerous complaints made by the Plaintiffs to the Defendant Nos. 2, 4 and 5 who are supposed to be the Guardians of the Law, the Defendant Nos. 2, 4 and 5 have not even acknowledged any of their complaints nor taken any action against the Defendant No.1. It is mainly on account of the



inaction of the Guardians of the Law that the Plaintiff are constrained to approach this Hon'ble Court for grant of justice.

41. The Plaintiffs fear that Defendant No.1 will use their power and Defendant Nos. 2, 3, 4 and 5 of gross irregularities as on record of the Defendant Nos. 2, 3, 4 and 5. Hence, it is necessary that this Hon'ble Court ask the Defendant Nos. 2, 3, 4, and 5 to immediately produce copies of the various permissions and orders granted to the Defendant No.1 and take necessary action. Once the above documents are received from the Defendant Nos. 2, 3, 4 and 5 the Plaintiffs may be permitted to make suitable amendments to the Plaint.

42. The Plaintiffs submit that pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to appoint a panel or committee of independent Architects/Experts to investigate in the matter and to submit detailed report/opinion to the Hon'ble Court suggesting steps to be taken in the matter forthwith and be further pleased to pass appropriate orders on perusal of such report.

43. The Plaintiffs submit that the impugned permission has been granted by the 1st Defendant in Bombay. The illegal construction activities are being carried on in Bombay. The office of the Defendants is situate at Bombay, this Hon'ble Court has therefore jurisdiction to entertain, try and dispose of this suit.

44. The Plaintiffs submit that the illegal construction of the 1st Defendants is going on very fast and if they are not



stopped immediately from construction activities, then grave harm and irreparable loss, injury will be caused to the Plaintiffs and if the reliefs are granted then no grave harm and irreparable loss injury will be caused to the Plaintiffs. The Plaintiffs have therefore filed this suit hurriedly for appropriate reliefs.

45. The Plaintiffs have relied on the documents, a list whereof is hereto annexed.

46. The Plaintiffs submit that since the Municipal Corporation of Greater Bombay has granted the permission to Defendant No.1 illegally Notice under section 527 of the Bombay Municipal Corporation Act is not necessary. In any event the Defendant No.2 has deemed to have waived the said notice. In view of the urgency in the matter Notice under section 80 of the Code of Civil Procedure, 1908 has not been given to the Defendant Nos. 3 to 5. The Plaintiffs cannot wait till the expiry of statutory period under section 80 of the Code of Civil Procedure, 1908. This Hon'ble Court, therefore, be pleased to grant Leave to file the present suit without notice under section 80 of the Code of Civil Procedure, 1908 and be pleased to dispense with the same.

47. The Plaintiffs have relied upon the documents, a list whereof is hereto annexed.

48. No part of the suit is barred by law of limitation and the suit is filed in time.



NOTARY
A.

49. The Plaintiffs value their claim at Rs. 10,00,00,000/- (Rupees Ten Crore) and have accordingly paid the maximum Court Fee of Rs. 15,000/-.

The Plaintiffs therefore pray :-

- (a) that this Hon'ble Court be pleased to pass a decree in favour of the Plaintiff and against the Defendant for a sum of Rs.10,00,00,000/- (Rupees Ten Crore only) with interest at the rate of 24% per annum from the date of filing of the suit till the date of decree and/or payment or realisation thereof as more particularly set out in the Particulars of Claim annexed as Exhibit 'K' hereto.
- (b) that the Hon'ble Court be pleased to call for the records, papers and files pertaining to the issuance of permission granted by Defendants Nos. 2 to 5 to the Defendants No.1 allowing them to construct a multi-storeyed building two storeyed basements on the Plot No.5 of Worli Sea Face and/or allowing them to use a dynamite for blasting rocks and after going through the validity, legality and propriety thereof be pleased to set aside and cancel the said permission/orders;
- (c) that pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to pass a mandatory order and injunction directing Defendant Nos. 2 to 5 to immediately produce copies of various permissions and orders granted to



Defendant No.1 for carrying on construction on the said Plot No.5 and allowing the use of dynamites and be further pleased to allow the Plaintiffs to make copies thereof;

- (d) that the Defendant No. 1 their servants, agents be restrained by a permanent order and injunction of this Hon'ble Court from in any manner carrying on the construction activities on the plot bearing No.5 situate at Worli Sea Face bearing Cadastral Survey No. 731 of Worli Division.
- (e) that the Hon'ble Court be pleased to appoint a penal or committee of independent Architects/Experts to investigate in the matter and to submit detailed report/opinion to the Hon'ble Court suggesting steps to be taken in the matter forthwith and be further pleased to pass appropriate orders on perusal of such report.
- (f) that this Hon'ble Court be pleased to direct Defendant No.2 to cancel the Lease of Plot No.5 and to obtain forcible possession of the said plot from Defendant No.1, their servants and agents or any other persons found in possession thereof for committing a breach of the lease deed;
- (g) that pending the hearing and final disposal of the suit the Defendant Nos. 2 to 5 be directed by a mandatory order and injunction of this Hon'ble



Court to stop the construction activities of the 1st Defendants the Plot No.5 situate at Worli Sea Face forthwith;

- (h) that pending the hearing and final disposal of the suit the Defendant No.1, their servants, agents be restrained by an order and injunction of this Hon'ble Court from carrying on any construction activities on the plot No.5 situate at Worli Sea Face bearing Cadastral Survey No.731 of Worli Division;
- (i) that pending the hearing and final disposal of the suit, this Hon'ble Court be pleased to appoint a panel or committee of independent Architects/ Experts to investigate in the manner and to submit report/opinion to this Hon'ble Court suggesting steps to be taken in the matter forthwith and be further pleased to pass appropriate orders on perusal of such report;
- (j) for ad-interim reliefs in terms of prayers (c) and (e) to (h) above;
- (k) for such further and other reliefs as the nature and circumstances of the case may require.

Plaint drawn by:

MR. R. D. DHANUKA,

Advocate.

GAGRAT & CO.,

Sd/-

(Plaintiff No.1)





Partner,
Advocates for the Plaintiffs.

Sd/-
(Plaintiff No.2)

VERIFICATION

I, DILEEP BALKRISHNA NEVATIA, the Plaintiff No.2
herein, do hereby solemnly re-declare that what is ~~stated~~
amended in the foregoing paragraphs 1 - 27 of the plaint is
stated on the knowledge and what is stated in the remaining
paragraphs 28 a, b, c, 34 a, 36 a, b is stated on information and
belief and I believe the same to be true.

Solemnly re-declared)
at Bombay aforesaid)
this 9th day of)
May 1997.)

Before me,

GAGRAT & CO.,

Partner,
Advocates for the Plaintiffs.

TRUE COPY

[Handwritten signature]
(A/b/c/d)





IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 5111 OF 1994

Dileep Nevatia,
of Bombay, Indian Inhabitant,
residing at Shashi Deep,
5-A, Worli Sea Face, Bombay 400 025.

... Plaintiff

Versus

- | | | | |
|----|---------------------------------------|---|----------------|
| 1. | Messrs. Arkay Holdings Ltd. |) | |
| | a Company incorporated under |) | |
| | the provisions of the Companies |) | |
| | Act, 1956 and having its registered |) | |
| | office at Maker Chambers-IV, |) | |
| | Nariman Point, Bombay 400 021. |) | |
| | |) | |
| 2. | Municipal Corporation of Greater |) | |
| | Bombay, a statutory corporation |) | |
| | incorporated under the provisions |) | |
| | of the Companies Act, 1956 and |) | |
| | having its office at Mahanagar |) | |
| | Palika Marg, Bombay 400 001. |) | |
| | |) | |
| 3. | The Dy. Chief Controller of |) | |
| | Explosives, Explosives Department |) | |
| | of Ministry of Industry, Industrial |) | |
| | Insurance Building, Opp. |) | |
| | Churchgate Station, Bombay 400 020. |) | |
| | |) | |
| 4. | The Senior Inspector, |) | |
| | Worli Police Station, |) | |
| | BDD Chawls, Bombay 400 018. |) | |
| | |) | |
| 5. | The Commissioner of Police, |) | |
| | Office of the Commissioner of Police, |) | |
| | D.N. Road, Bombay 400 001. |) | |
| | |) | ... Defendants |



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Mr. Dileep Balkrishna Nevatia, in person present.

Mr. Dinesh Purandare a/w Mr. Jaydeep Raut a/w Ms. Henna D. i/b Crawford Bayley & Co. for Defendant No.1.

Mr. D.S. Shingade for Defendant No.2 – MCGM.

Mr. Hemant Haryan, Assistant Government Pleader, for Defendant Nos.4 and 5.

CORAM : R.I. CHAGLA, J.

RESERVED ON : 26th SEPTEMBER, 2019.

PRONOUNCED ON : 5th DECEMBER, 2019.

ORAL JUDGMENT :

1 This Suit has been filed by the Plaintiff who is the owner and occupant of a bungalow constructed on Plot No.5 A situated at Worli Sea Face, Mumbai 400 025, against his adjoining neighbour, the Defendant No.1 who is claimed to have illegally constructed its building on the adjoining plot No.5 thereby violating the various regulations of the Development Control Regulations for Greater Bombay 1991 (DCR 1991) as well as the Environment (Protection) Act 1986 and the Rules thereunder and the exclusive licence/permission issued to Defendant No.1. The Plaintiff has sought decree against Defendant No.1 for the sum of Rs.10 crores as and by way of damages, with interest @ 24% p.a. from the date of filing of the Suit till the date of decree and/or payment or realization thereof as set out in the particulars of claim, which are annexed at Exhibit-

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K to the plaint. The Plaintiff has also sought for setting aside the permission granted by Defendant Nos.2 to 5 to Defendant No.1 allowing Defendant No. 1 to construct a multi storeyed building with two storeyed basements on the said plot No.5 of Worli Sea Face and/or the permission to use dynamite for blasting the rocks. The other prayers sought for are consequential prayers.

FACTS :

2 It will be necessary to give a background of the facts.

The Defendant No.1 had purchased the suit plot in the year 1993. The suit plot viz. Plot No.5 is the adjoining plot to the plot owned by the Plaintiff viz. Plot No.5A situated at Worli Sea Face. Defendant No.1 upon purchasing the suit plot demolished the old structure thereof and shifted heavy construction machinery on the site to construct a multi storeyed apartment building along with two floors of basements, by removing the rock surface of around 25 feet. It is the Plaintiff's case that Defendant No.1 started blasting dynamite at site on permission granted to him by Defendant Nos.3 and 5. The Plaintiff claims that Defendant No.1 had in 1994, given several assurances to the Plaintiff, on the carrying out of excavation during construction but had reneged on these assurances.





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3 The Plaintiff had addressed communications to Defendant No.4 on 21.10.1994 and 24.10.1994 complaining about the alleged activities carried on by Defendant No.1 and requesting for appropriate steps to maintain peace and safety in the area for the well being of the Plaintiff and his family members. The Plaintiff had also addressed communication to Defendant No.1 on 29.10.1994 to permit work to progress further only after getting it confirmed from the appropriate authority that this excavation and basic activity had not endangered the Plaintiff's building. The Plaintiff had addressed further letters to Defendant Nos.4 and 5 in 1994 which also pertained to the uncontrolled and unsupervised blasting undertaken by Defendant No.1 and to take action against the offenders. However, no action was taken by these Defendants. These communications are exhibited in the plaint filed by the Plaintiff. The Suit was filed in the year 1994.

4 It appears that a substantial amendment to the plaint was carried out on 08.03.1997 pursuant to the order of this Court dated 19.04.1997. This was pursuant to a communication addressed by the Plaintiff to Defendant No.2 claiming that Defendant No.1 had carried out illegal construction in violation of the DCR 1991. It is Plaintiff's case that the Plaintiff had repeatedly made representation to Defendant No.2 to stop



the work of Defendant No.1 which was being done in a manner so as to adversely damage the property of the Plaintiff.

5 Soon after filing of the Suit in 1994, a Notice of Motion No.87 of 1995 had been taken out by the Plaintiff. This Court initially by an order dated 23.12.1994 granted ad-interim injunction in terms of prayer clause (d) thereby restraining the Defendant No.1 from carrying out blasting work. By a subsequent order dated 18.01.1995, this Court had recorded the statement of the learned Counsel for the Defendant No.1 that blasting work was complete and no further blasting had been carried out since 21.12.1994. This Court restrained the Defendant from carrying out any further blasting work at site and ordered that construction work may continue at the Defendant's own risk and subject to orders passed by this Court. It appears that thereafter the Notice of Motion was disposed of as it had become infructuous. With regard to prayer clause (d) therein an Architect had been appointed and who submitted a report. A further Notice of Motion No.1642 of 1997 was taken out in the above Suit in accordance with leave granted by this Court. An order came to be passed on 16.06.1997 in the said Notice of Motion declining to grant relief sought for by the Plaintiff with regard to the construction on the neighbouring plot taking into account that the FSI has been wrongly calculated. The





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calculations had not taken into account the basement area. There were photographs submitted by the Plaintiff which indicated that a 7 storeyed building had come into existence. By further order dated 17.12.1988 passed by this Court, it was observed by the learned Single Judge of this Court (Coram : D.K. Deshmukh, J.) that the construction of the building on the adjoining plot is being constructed according to a sanctioned building plan. The sanction had been granted to the building plan by the Planning Authority. Accordingly, the Notice of Motion had been disposed of.

6 It is the case of the Plaintiff in the Plaint that the building is being built on the suit plot by dressing the hill upto a level slightly above the approach road viz. Khan Abdul Gaffar Khan Road. In the plaint which was thereafter amended, it is stated that on the suit plot, a structure consisting of the ground floor and additional 7 floors has been constructed. The ground floor is the closest floor to the street and has a direct access to the street and hence, as per the DC Regulations, it cannot be termed as a basement or a cellar. It is further claimed in the amended plaint that Defendant No.1 has wrongly treated the ground floor to be a basement in order to circumvent the height regulations as specified for category 1 of coastal area for Greater Bombay as given in the DCR Rule 59. It is



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contended that the height of the building is as high as 24.6 mtrs. and hence it is a multi-storied building. The minimum open space from all sides, except the front side, shall be 7.0 mtrs. which had been grossly violated by Defendant No.1 on two sides of the building. Further, it is contended that the open space on the ground floor is fully covered by the ramps and extra construction made below the ramps. Thus, this makes it impossible for fire engines to enter around the ground floor for emergency. It is further contended in the amended plaint that Defendant No.1 has constructed FSI @192% against a maximum permissible FSI of 133%. The Defendant No.1 had also added one more floor i.e. floor 8th and is making preparation to add yet another floor 9th. The Plaintiff has in the amended plaint thus contended that Defendant No.1 had indulged in gross violation of DCR 1991 with the full blessing of Defendant No.2 and inspite of various complaints written by the Plaintiff to Defendant No.2. Apart from the violations of DCR 1991 which was claimed by the Plaintiff in the amended plaint, the Plaintiff has referred to report of the Central Mine Planning & Design Institute Limited (CMPD Institute) which has reported violations of explosive licence issued to Defendant No.1 by the Defendant No.5. However, it is to be noted that despite the substantial amendment carried out to the plaint in 1997, the prayers in the plaint remain the initial prayers sought for when the Suit was filed in 1994.





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7 The Defendant No.1 had sought leave of this Court to file its written statement several years after the Suit was filed. Leave was granted by this Court to file written statement on 26.02.2014. It is stated in the written statement that the building of Defendant No.1 on the suit plot was complete as far back as in August 1997. The various contentions in the plaint have been denied by Defendant No.1 through one Mr. R. Rengarajan, who has verified the written statement by stating that other than paragraph 55 of the written statement which states that Mr. R. Rengarajan, is the Authorised Signatory of the Defendant, he has based his averments on information which is derived from the records maintained by Defendant No.1 which he believes to be true. The Deponent in the written statement has stated that the ground floor as claimed by the Plaintiff, has no direct access to the street or open space and thus cannot be termed as the ground floor. It is further stated in the written statement that the calculation of the height of the building by the Plaintiff as 24.6 mtrs. is based on the false notion that the basement is the ground floor of the building. It is further stated in the written statement that adequate open space as required under law has been left by Defendant No.1 on all sides as well as on the front side of the building. It has been stated that the building under reference does not come under the fire regulations as the building abuts two roads with easy access in case of an emergency. It is further stated that two ramps

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have been provided at the side of the building for ingress and egress of cars and the same are not located/situated within the limits of compulsory open space. It has accordingly been stated in the written statement that the Defendant No.1 has carried out construction of the building in accordance with the sanctioned plan and as per the provisions of the DCR, 1991, provisions of the CRZ Notification dated 19.02.1991 issued under the Environment Protection Act, 1986.

8 After the pleadings were completed, this Court on 03.03.2014 framed the issues arising out of the Suit. The issues as well as the findings thereon are as under :-

: ISSUES :

SR. NO.	ISSUES	FINDINGS
1.	Whether defendant no. 1 proves that the suit is barred by law of limitation?	Not required to be answered in view of answer to Issue Nos. 5 to 8
2.	Whether the suit is liable to be dismissed on account of non-joinder of necessary parties?	Not required to be answered in view of answer to Issue Nos. 5 to 8
3.	Whether the plaintiff proves that the suit is	Not required to be





	maintainable despite of non-service of statutory notice U/s. 80 of the Code of Civil Procedure?	answered in view of answer to Issue Nos. 5 to 8
4.	Whether the plaintiff proves that the suit is maintainable despite of non-service of statutory notice U/s. 527 of the Bombay Municipal Corporation Act?	Not required to be answered in view of answer to Issue Nos. 5 to 8
5.	Whether the plaintiff proves that defendant no. 1 has committed any illegal construction activity as alleged in the plaint or at all?	In the negative.
6.	If the answer to issue no. 5 is in the affirmative, then whether the plaintiff proves that the plaintiff is entitled to make a claim for damages against defendant no. 1 to the tune of Rs.10 Crore or at all?	Since issue No. 5 is answered in the negative, this issue is answered against the Plaintiff.
7.	Whether the plaintiff proves that he is entitled to claim any amount from defendant no. 1 on account of interest at the rate of 24% per annum from the date of filing of the above suit as alleged or at all?	Against the Plaintiff.
8.	Whether the plaintiff proves that he is entitled to claim exclusively the entire amount of damages (including the amount claimed by the original plaintiff no. 1, viz. Late Mrs. Snehalata Nevatia) prayed in prayer clause (a) of the plaint, in view of the	Against the Plaintiff.



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	suit no. 3598 of 1996 pending before this Hon'ble Court?	
9.	What order?	As per final order.

Evidence and Submissions :

9 After framing of the issues, the Plaintiff led his evidence through himself and 10 other witnesses, which witnesses included the Architect responsible for construction of the building as well as concerned officers of Defendant No.2 who have sanctioned the plans for the said construction. In the affidavit in lieu of examination-in-chief, the Plaintiff has referred to the Deed of Assignment dated 10.07.1992 under which the erstwhile lessee assigned the suit plot to Defendant No.1 for a sum of Rs.4 crores and another Rs.40 lakhs was paid towards stamp duty, making a total of Rs.4.40 crores as cost of consideration by Defendant No.1. It is stated that in order to suppress the actual cost of the project and thereby avoid the Environmental Clearance process, the Defendant No.1 deliberately gave a false cost of acquisition of the land/plot of only Rs.5,20,831/- which was the purported annual "lease" rent of the plot. It is stated that Defendant No.1 submitted to Defendant No.2 a highly understated investment of Rs.2,13,13,181/-. The Plaintiff in the affidavit in lieu of examination-in-chief has deposed that violations of the DCR 1991

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have been committed by Defendant No.1 in the construction of the building on the suit plot. The Plaintiff has stated that the basement as referred to by Defendant No.1 is nothing but the ground floor at ground level obtained after the razing of the hill and continues to be a little above the Khan Abdul Gaffar Khan Road, the only road which is accessible to the suit plot. He has relied upon the photograph (marked as "Exhibit P-38") which according to him, shows the lowermost floor at the ground level, having direct access to Khan Abdul Gaffar Khan Road. He has stated that the two ramps were provided by completely enclosing the side open spaces go upto the first floor level, which has been falsely described as the "Stilt Floor", with podium constructed on three sides of the building, leaving no open space at the ground level on the north and south sides of the building. This is claimed to have blocked the flow of air and light to the Plaintiff's property and also blocked the movement of fire-fighting vehicles. He has relied upon the photograph (marked as "Exhibit P-39") to show that the entry to the alleged basement is directly from the front Khan Abdul Gaffar Khan Road, as it is floor at the ground level with direct access to the said road and front side open spaces and as such the alleged "Basement" is in fact the "Ground Floor". It is stated that Defendant No.2 who had informed the Plaintiff that the construction work on the suit plot is being carried out as per approved plans, had maintained complete silence on the



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Plaintiff's request for inspection of the approved plans and other permissions granted to Defendant No.1 including the purported CRZ clearance granted by the competent authority. The approval granted by the Defendant No.2 on or around 11.08.1997 to the revised building plans submitted by Defendant No.1, has been referred to in the affidavit in lieu of examination-in-chief of the Plaintiff. It is stated that the plan shows the building comprising of floors/areas as set out. It is stated that the plan shows the purported basement for car parking has direct access from Khan Abdul Gaffar Khan Road. The driveway is shown on the other three sides of the building at first floor level is in fact a Podium above the ground floor which has been incorrectly referred as the alleged basement. The stilt floor above the basement for "car parking" on the front (west) side and "Electrical Utilities" on the rear side. Six floors of living area above the stilt floor is shown. The terrace is enclosed with an all around high wall of 5.57 mtrs. or around 19 ft. The minimum side open space of only 2.20/2.80 mtrs. on the south side at the ground floor (basement) level and 4.80 mtrs. at the first floor (stilt) level against the minimum requirement of 10.32 mtrs. The level of the road at the rear of the building i.e. Pochkhanawala Road, has been changed and shown to be above the first floor ceiling level and no access is shown to the plot from this road. The FSI as stated in the said plans, being FSI of all areas of 2.197 times and height of 30.98 mtrs.

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It is stated by the Plaintiff that Defendant No.2 had given permission to construct the alleged terrace, which is fully enclosed upto a height of 5.07 mtrs. and further height of 0.5 mtrs. i.e. a total of 5.57 mtrs. and still continue to exempt it from both FSI and height calculations of the building. The Plaintiff has, in the said affidavit, further stated that the Defendant Nos.1 and 2 have deliberately suppressed the double storey height of 5.57 mtrs. from calculating the total height of the building and at the same time give benefit of extra FSI of an entire floor and maybe even two floors to the Defendant No.1 on the alleged terrace, which is fully enclosed and a roof/slab put thereon. It is further stated that the Defendant Nos.1 and 2 have deliberately suppressed the total height of the building in order to evade the prohibition of height beyond 22 mtrs. as applicable to CRZ-II Zone under the CRZ Notification, 1991 and also the requirement of fire protection and additional open space requirements under the D.C. Regulations, 1991. If the additional height of 5.57 mtrs. together with the height of alleged basement is taken, the total height increases to 30.98 mtrs.

10 The deponent has further stated that there is violation of the Coastal Regulation Zone Notification, 1991 of the Environment Protection Act, 1986, as no mandatory environmental clearance has been taken from



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the Ministry of Environment and Forests, Government of India, despite the investment far exceeding Rs.5 crores, which is in violation of Rule (3)(2) (iv) of the CRZ Notification, 1991. The entire portion of the hill on the suit plot is blasted and permanently flattened, which is in complete violation of sub-rule (xiii) of Rule (2) of the CRZ Notification, 1991. The height of the building is far in excess of 22 mtrs., which is in violation of DC Regulation (59). There is violation of fire safety requirements by suppressing the actual height of the structure to be below 24 mtrs. It is stated in the said affidavit that the Plaintiff and his family members have suffered tremendous mental agony and breach of peace because of unauthorized activities on the part of the Defendant No.1 with the blessings of Defendant Nos.2 to 5. For almost two decades, the Plaintiff and his family members have been deprived of proper light and ventilation on account of illegal construction by the Defendant No.1. The particulars of claim given in the said affidavit is by way of damages of Rs.10 crores for the tremendous mental agony and breach of peace already suffered by the Plaintiff and his family members upto the date of the filing of the suit. Further damages for the tremendous mental agony, breach of peace, deprivation of ingress and egress of air and light claimed to be suffered by the Plaintiff and his family members from the date of filing of the Suit to the date of demolition of the alleged illegal suit building of Defendant No.1, which is required to be

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quantified. Further interest is claimed @ 24% p.a. from the date of filing of the Suit till the date of the decree and/or payment or realisation.

11 The Plaintiff has led evidence through other witnesses viz. PW2 to PW11 in order to prove some of the documents filed by the Plaintiff through the makers of these documents. The Plaintiff has relied upon the evidence of the witness PW2, Shri J.S. Arjani from CMPD Institute. The documents produced by him were marked as Exhibit P-56 to Exhibit P-59, for proving that approximately 1700 mtrs. volume of rock had been removed from the Suit plot by using around 1200-1400 kg. of explosives. The evidence of Plaintiff's witness PW5, Mr. Bohman Irani, who was the Architect who prepared the building plans in 1997 and got them finally approved in the year 2001 on behalf of Defendant No.1 and also obtained completion certificate for the suit building has been referred to by the Plaintiff. This in order to contend that this witness could not give answers to certain questions put to him such as the checking of the basement floor level as well as the work done before or after the witness came into picture and whether either the witness or the Defendant No.1 had applied for CRZ clearance. The witness to a question put to him i.e. Question No.54 viz. "After completing the building, did you personally check whether all the requirements as per the approved plans have been complied with?", has



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answered that, "Approval is only given on plans which are already approved". The Plaintiff has relied upon the evidence of the Plaintiff's witness PW5. He has submitted that from this evidence, it is evidently clear that there is only one entry to the suit plot/building i.e. from Khan Abdul Gaffar Khan Road. There was no further work carried out to make an alleged basement of alleged depth of 0.99 mtrs. From the 0.00 level, the height of the building is 2.40 plus 21.76 plus 3.57 plus 0.50 mtrs. i.e. total of 28.23 mtrs. and thus, a multi-storied building. There was no application made for CRZ clearance and an unauthorized floor 8 and even 9 has been made on the alleged terrace, which is covered with a huge wall and glass facade.

12 The Plaintiff has led the evidence of PW10 Mr. Vilas Ganpati Khilare, who at the relevant time in 2001 was the MCGM Sub-Engineer who had visited the suit site and given approval to the final building plans. The Plaintiff has referred to certain questions put to this witness, including Question No.12 viz. "When you went for inspection, did you take measurements to see whether they had tallied with the plans?", to which his answer is "No". To a Question i.e. Question No.26 viz. "Whether these plans tally with the last approved plans (Exhibit P-73 to Exhibit P-75)?", the witness has answered in the affirmative. A Question was put to the witness





i.e. Question No.38 viz. “Which area is closer to the road - the stilt area or the area below that?” The Answer given is that “The area below the stilt area. This area is shown as basement.” To a further question viz. Question No.41 viz. “Are you aware whether this building has got a CRZ clearance?” The answer is “I cannot remember”. The Plaintiff has submitted that through this witness it is clear that the plans approved in the year 1997 tally with the plans finally approved in the year 2001 and that the area shown as alleged basement is closest to the road and that there is no CRZ approval granted to the project.

13 The Plaintiff has submitted that upon closing of his evidence on 18.01.2018, the Defendant No.1 informed this Court on 31.01.2018 that it will lead evidence. However, on the next date i.e. on 12.03.2018 the Defendant No.1 informed the Court that it does not wish to lead evidence and accordingly the Suit was kept for final hearing.

14 The Plaintiff has relied upon various decisions of the Supreme Court as well as the other High Courts in support of his contentions. He has relied upon the judgment of the Supreme Court in *Iswar Bhai C. Patel alias Bachu Bhai Patel v. Harihar Behera and another*¹ to contend that the Defendant No.1 having abstained from the witness box and not making

¹ AIR 1999 SC 1341





statement on oath in support of its pleadings set out in the written statement, an inference is required to be drawn against Defendant No.1 that what is stated in the written statement is not correct and that the Court is fully justified in passing the decree in favour of the Plaintiff and against the Defendant No. 1. Insofar as the locus of the Plaintiff is concerned for filing the Suit, he has relied upon the decision of this Court in *Fatima Joao v. Village Panchayat of Mercedes and another*² which has held that the Suit at the instance of a neighbour for violation of plans or rules and bye-laws resulting in an invasion of their right to light, air, privacy or causing material injury, would furnish the Plaintiff a cause of action and it would be open to the Plaintiff to file a Suit to challenge the invasion of his rights causing material injury. He has relied upon the decision of the Supreme Court in *Badat and Co., Bombay v. East India Trading Co.*³ in support of his contention that under Order viii Rules 3, 4 and 5 of Code of Civil Procedure, the written statement must deal specifically with each allegation of fact in the plaint and in this case the Defendant has not specifically denied facts and his denial of facts is evasive, then the said facts shall be taken to be admitted. In such event, the admission itself being proof, no other proof is necessary.

15 He has relied upon the decision of the Supreme Court in

² Reported in AIR 2000 Bombay 444

³ AIR 1964 SC 538





*Vellore Citizens Welfare Forum v. Union Of India and Ors.*⁴ in support of his contention that the onus of proof is on Defendant No.1 to show that its action is environmentally benign on the polluter pay principle and once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. He has relied upon the judgment of this Court in *Felix Menino Jusus Serrao v. State of Goa and others*⁵ in support of his contention that no construction in such area can be carried out without prior approval of MoEF and that construction carried out without such permission are illegal and as such, liable to be demolished. He has further relied upon decision of the Supreme Court in *Piedade Filomena Gonsalves v. State of Goa and others*⁶ which holds that construction raised in violation of CRZ Notification cannot be lightly condoned. This decision has been referred to by the Supreme Court in a recent decision which was passed on 08.05.2019 and by which the Supreme Court has ordered that no development activity could have taken place in prohibited CR Zone and the permission granted by the Panchayat was illegal and void. This is the decision of the Supreme Court in *Kerala State Coastal Zone Management*

4 AIR 1996 SCC 2715
5 AIR 2001 Bombay 294
6 AIR 2004 SC 3112





*Authority v. State of Karala Maradu Municipality and others*⁷, by which the Supreme Court ordered demolition of number of apartment blocks in Kochi which were purchased by a few hundred home buyers on the ground that the development was in a prohibited CRZ.

16 He has further relied upon a decision of the Supreme Court in *Commissioner of Income Tax v. Panbari Tea Co. Ltd.*⁸ in support of his contention that the cost of acquisition of the suit plot should be taken into account as it is by way of deed of assignment by which the erstwhile lessee had assigned the perpetual lease of 999 of suit plot to Defendant No.1 for a premium of Rs.4 crores. The Supreme Court has held that when the interest of the lessor has been parted with for a price, the price paid is premium or salami but the periodical payments made for the continuous enjoyment of the benefits under the lease are in the nature of rent. He has also relied upon the decision of the Kerala High Court in *Manakunnam Village v. State of Kerala and others*⁹ and which holds that the valuation of land purchased which itself more is than Rs.5 crores, the Respondent Companies can be permitted to proceed with the project only subject to clearance by the Minister of Environment, Government of India, New Delhi.

17 He has further relied upon the decision of the Supreme Court

7 Civil Appeal Nos.4748-4785 of 2019

8 AIR 1965 SC 1871

9 Writ Petition No.18742 of 2007 judgment dated 16.12.2015





in *Municipal corporation of Greater Mumbai and others v. Kohinoor CTNL Infrastructure Company Pvt. Ltd. and another*¹⁰ which has held that leaving no space on ground floor will have a serious impact on the life not only of the residents but also of people in the adjoining areas. Further, the issue of safety of occupants of high - rise buildings, that of the residents in the neighbourhood and the firemen requires urgent consideration. He has submitted that in view of the various violations of the DCR's committed by Defendant No.1 in the construction carried out in the suit plot which has a serious impact on the right to life of the Plaintiff and his family members occupying the adjoining plot, the Suit filed by the Plaintiff be decreed with compensatory cost.

18 The learned Counsel appearing for Defendant No.1 has submitted that both the Plaintiff and Defendant No.1 are lessees of the respective plots which they have acquired on a 999 years lease from Defendant No.2. He has submitted that there is no relief claimed against or relatable to Defendant Nos.3, 4 and 5. He has submitted that the Suit was originally filed by the Plaintiff along with his mother Mrs. Snehlata Nevatia who died somewhere prior to the year 2014. Thereafter, the plaint was amended by only deleting the name of Mrs. Snehlata Nevatia, who was the original Plaintiff No.1. The legal heirs of original Plaintiff No.1 though

¹⁰ AIR 2014 SC (Supp) 1048





alive, were not brought on record by the Plaintiff. He has submitted that the plaint as originally filed i.e. prior to its substantial amendment on 09.05.1997, had sought for reliefs as prayed on the ground that Defendant No.1 was proceeding to construct a building with two floors of basement and for the same had started blasting operations by using explosives on its plot of land. It was submitted in the plaint as originally filed that the Worli Sea Face is a continuous rock structure and any disturbance on account of construction activities in one of the plots would be dangerous to the foundation of the surrounding buildings. The Plaintiff had challenged the legality, validity and propriety of the permissions granted by Defendant Nos.2 to 5 to construct multi-storied building with two storied basement on the suit plot and also the legality, validity and propriety of allowing Defendant No.1 to use dynamite for blasting rocks on the plot. The Plaintiff had claimed damages to the extent of Rs.10 crores by making averment in paragraph 19 of the Plaint that the construction activities of Defendant No.1, which included carrying on work after sunset, using loud machines, heavy compressors and rock drills have caused extreme distress to the family members of the Plaintiff. It is further alleged that Plaintiff No.1 was a patient of high blood pressure who has seriously affected by these activities. It is further alleged that the uncontrolled blasting activities carried out by Defendant No.1 was likely to affect the building foundation





of the Plaintiff very badly.

19 He has submitted that the Defendant No.1 changed the entire plan for the building and decided to construct one basement, one floor of stilt parking and 6 floors for residential accommodation for its executives, which plan was duly sanctioned by Defendant No.2. The plaint was accordingly amended to challenge the construction carried out as per the amended plans. However, in the amended Plaint, the original prayers were not amended and which had sought for cancellation of the original plan of multi – storied building with two storeyed basement. He has submitted that from the prayers it is apparent that there is no prayer for setting aside the sanctioned plans.

20 He has submitted that the construction of the building is as per the sanctioned plan. This is apparent from the evidence of the Plaintiff's witness No.10 Mr. Khillari, who was Assistant Engineer of Defendant No.2 at the relevant time of the construction carried out and who in answer to Question Nos.26 and 27 put to him by the Plaintiff, stated that the actual construction of the building was in accordance with the sanctioned plans. He has submitted that it is an admitted position that in order to obtain the building completion certificate, Defendant No.1 submitted to Defendant No.2 the "as built" drawings on the basis of which the construction was





checked and the building completion certificate was issued. He has submitted that the Plaintiff has merely relied upon the Report obtained by him from M/s. B.D. Sahasrabhojane & Associates, an Architects firm. He has submitted that the Architect neither visited the construction site nor examined the sanctioned plans issued by Defendant No.2. The said Architects' firm has made its Report only on the basis of observing the construction from the Plaintiff's plot and on the basis of some drawings which was supplied by the Plaintiff to the said firm. The drawings provided by the Plaintiff to the Architect, on the basis of which the Report was prepared have not been produced in the present trial and did not form a part of the records and proceedings of the Suit. The said Architect who prepared the Report or anyone else from the firm has not been examined in order to prove the Report. He has, thus, submitted that the Architect's Report which forms the foundation of all the allegations contained in the amended plaint is not brought before this Court. The Plaintiff has also not produced any expert evidence to prove that the building is in any manner illegal or constructed in violation of the provisions of law. He has submitted that although the Plaintiff chose to examine the Architect who completed the building project on behalf of Defendant No.1, he has not put his case to the Architect or to any of the Municipal Officers who have produced and proved the building plans that there existed any violation of

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DCR 1991 or any other law. The Plaintiff also does not claim to have any expertise or substantial knowledge about the requirements of building regulations. This is apparent from his answer to Questions (3) to (6) during the course of cross - examination of PW1. His oral testimony is nullified by the expert evidence of the Architect which has been produced by the Plaintiff himself. The plaint which was amended had been re-verified by the Plaintiff who had solemnly declared that the averments made therein is by way of information and believe. Thus, the Plaintiff has neither knowledge nor expertise on these issues.

He has submitted that the two issues which would first arise for determination are issue Nos. 5 and 6 which are as under :

5. Whether the plaintiff proves that defendant no. 1 has committed any illegal construction activity as alleged in the plaint or at all?
6. If the answer to issue no. 5 is in the affirmative, then whether the plaintiff proves that the plaintiff is entitled to make a claim for damages against defendant no. 1 to the tune of Rs.10 Crore or at all?

He has submitted that this Court would have to decide as to whether the Plaintiff has proved that Defendant No.1 had committed any illegal construction. The issue of illegal use of explosives is not an issue which has been framed. He has, however, submitted that the Plaintiff has been unable



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to prove that he is entitled to any relief on this ground. He has submitted that the blasting operation by use of dynamite for excavation are of no consequence anymore. The admitted position being that the excavation and use of dynamite was completed in the year 1994 itself. The Plaintiff's structure has not suffered any damage for the past 25 years and that this Court does not need to examine this issue with regard to the correctness of the blasting operations or likelihood of damage to the Plaintiff's property. He has further submitted that the Plaintiff had led no evidence whatsoever to prove that the blasting operations have caused any damage to the Plaintiff's property. He has submitted that the examination and cross-examination of PW2 who is an officer of the CMPD Institute with reference to the Report of the CMPD institute dated 20.02.1990, proves that the Report was merely a Preliminary Study Report and that the observations of the said Institute are not at all of a conclusive nature. This Report which has been relied upon by the Plaintiff is only a preliminary study based on the plans submitted by the Plaintiff. A letter was issued by the CPMD Institute dated 20th February, 1990 (Exhibit P58) with reference to the said Report and which states that about 1200 to 1,400 kg of explosives were used for blasting. However, the Plaintiff had failed to produce in evidence the said plan (s) which had been submitted to the said Institute. He has submitted that it is the case of the Plaintiff himself that apart from blasting,



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there was continuous use of rock drills for the purpose of excavation. The Plaintiff has claimed Rs.10 crores towards damages based on violations created by these drilling machines and accompanying compressors. He has submitted that without prejudice to the above submission if there was any violation of the licence, then at best this could be an offence under the provisions of the Explosives Act which is a complete code in itself for the purpose of determining the nature and quantum of punishment for violation or breach of the license conditions. This Court therefore, does not have the jurisdiction to try or entertain any action for the breach of the licence conditions or for the violation of the provisions of the Explosives Act.

21 He has submitted that the issue of the structure having a basement or not is required to be first decided before considering whether there is any violation of the DCR 1991 as claimed by the Plaintiff. He has submitted that the term “basement” has been defined in the DCR at Regulation 10 to mean the lower storey of a building below or partly below the ground level. Hence, any structure that is even partly below the ground level is also a basement. He has submitted that the ‘ground level’ is a term which is understood in the DCR 1991 at almost all relevant places, to mean and refer to the average surrounding ground level or the average

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ground level contiguous to the structure. This is borne out by Regulation 2(3)(11)(i) which defines a multi-storeyed building, and Regulation 2(3)(51) which defines the height of a building wherein the height is calculated taking into account 'the average surrounding ground level' and 'average level of the ground around and contiguous to the building', respectively. He has submitted that the term 'ground level' obviously refers to the topography of the land including the slope of the plot. He has submitted that for the purpose of measurement, the line of the ground level is to be considered as the average ground level. The average ground level in case where the ground is sloping, is computed by adding the highest point on the slope in the plot to the lowest point on the slope and then divide by two. This will give the average level of the ground around and contiguous to the building. He has submitted that Regulation 38(9)(i) of DCR 1991 clearly explains that the total area of any basement shall not exceed the area of the plot or twice the plinth area of the building whichever is less. It further allows a basement to be in one or two levels. Regulation 38(9)(ii) prescribes the minimum height to be 2.4 mtrs. Further, Regulation 38(9)(v) prescribes that the upper basement shall be atleast 0.9 mtrs. and not more than 1.2 mtrs. above the average surrounding ground level. He has submitted that Regulation 38(9)(v)(e) provides that vehicular ramps going to the basement shall meet the requirements of Regulation 38(18)(ii). This

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Regulation clarifies that atleast two ramps of adequate width and slope shall be provided at opposite ends which means the two ends of the face of the building on the front side. This regulation contains an enabling clause where such vehicular ramps, may be permitted in the side and rear marginal open spaces if sufficient space is left for movement of fire fighting vehicles.

22 He has placed reliance upon the photographs of the Defendant's plot when the construction of the building was in progress. He submits that the photograph at page 508 of the compilation of documents, clearly shows that the Defendant's plot is a slopping plot and the excavation was being carried out in the middle of the plot leaving the earth at the edge of the plot intact. This is further borne out from the photograph at page 509 of the compilation of documents which shows the excavation and existence of the slope towards the compound wall and that the entire periphery of the plot was left intact. He has further relied upon the photograph at page 510 of the compilation of documents in support of his contention that the central portion of the plot except for the margins on the side was excavated from a point towards the rear end of the plot upto the Worli Sea Face Road on the plot. This is further borne out from the photograph at Exhibit-P38 which also reveals that the slopping earth going

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up towards the rear of the plot while pillars forming the basement are clearly visible. The photographs at Exhibits P29 – 40 show that the excavation was carried out for the purpose of constructing the basement. The building was constructed with the ramp going down to the basement is clear from these photograph at Exhibit P39. He has submitted that for the purpose of constructing a basement, the slopping portion of the plot has to be excavated and the excavation will be substantially more where the height of the slope is maximum which in the present case is at the rear of the plot and will be lesser at the end where the slope is at its least which will be the Worli Sea Face side of the plot in the present case. He has submitted that the excavation was done for the purpose of leveling the earth and constructing the foundation and floor of the basement. He has submitted that the plinth area of the building is what is visible and accessible from the area above the ground. The two sides and the rear of the basement upto the plinth boundary of the stilt floor is covered under the earth.

23 He has submitted that the Plaintiff in his evidence i.e. answers to Question Nos.18 and 63 of his cross-examination has confirmed that the building has been constructed accordingly to the sanctioned building plans. The relevant building plans are at Exhibit-P48 (colly) which are the same

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as Exhibits P70 and P71 and thus Exhibit-P48 (colly) are the same as the as-built plans which are Exhibit-D1 and Exhibit-D3. Upon a reading of the plans, it becomes obvious that the height of the basement is not less than 2.4 mtrs., the area of the basement is not more than twice the plinth area of the building and that two vehicular ramps are provided in front of the building. The plans also show that in order to enter the basement, the ramp is used and that the ramp climbs down the height of 0.9 mtrs. from the beginning of the ramp. Once the floor of the basement is admittedly below, it answers the description of basement as defined in Regulation 2(3) (10), which mandates that any storey of a building even partly below the ground level is the basement. He has submitted that the floor of the basement is 3 ft. below the ground level. The plans show that there is a staircase from the stilt level to the floor of the basement and that the entire portion is below the earth at the rear end. He has submitted that it is obvious that one has to climb a ramp of 3 ft. to reach the ground level of the plot and then climb down from within the plot to reach the gate which is at the street level. He has submitted that it is accordingly exclusively proved and beyond doubt that the bottom floor in the building is the basement as it meets all criteria contained in Regulations 2(3)(10), 2(3) (41), 38(9) and 38(18) of the DC Regulations.

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24 He has submitted that once it has been established that the bottom floor is the basement, the total height of the building from the average ground level to the ceiling of the top floor i.e. the floor of the terrace is 21.76 mtrs. i.e. less than 22 mtrs. This is as per the sanctioned plan and correctness of the measurements has been admitted by the Plaintiff. Regulation 2(3)(11) defines a multi-storeyed building as a building of a height of 24 mtrs. from the average surrounding ground level. Further, Regulation 2(3)(51) determines that a height of a building shall be vertical distance measured from the average level of the ground around and contiguous to the building to the highest point of the building. Further, Regulation 31 mentions that appurtenant structure like roof tanks and their supports ventilation or air-conditioning shafts, lift rooms etc. shall not be included in reckoning the height of the building. Hence, the height of the building according to the sanction plan is less than 22 mtrs. He has accordingly submitted that it is conclusively proved that the structure in question is not a multi-storeyed building.

25 He has submitted that there is enough open space available for the fire engine to move around and the ramps which have been provided are in conformity with Regulation 38(18)(ii). He has submitted that since the building is not a multi-storeyed building, then the entire case





of the Plaintiff with regard to the inadequacy of open space fails. He has submitted that it is clear from the plans that the portion of the plot which has an open space of 4.66 and 4.8 mtrs. respectively, does not derive light and ventilation from an exterior open space and hence, under Regulation 29(i)(f), the open space is reduced to $1/5^{\text{th}}$ of the height of the building. As the height is less than 22.0 mtrs., a minimum open space of only 4.4 mtrs. is required. He has submitted that admittedly in the present case as per the plan, there is more than 7 mtrs. open space on all the three sides of the building except at the entry points of the building where the open space is 4.66 mtrs. and 4.8 mtrs. on the North and South sides respectively. However, since this is not the multi-storeyed building, it is not required to be shown as to whether there is adequate open space or not. In any event the requirements under the relevant Regulations of the DCR 1991 have been met.

26 He has submitted that the grievance of the Plaintiff is that the Defendant No.1 had utilized 192% FSI as against the maximum permissible of 133%. This calculation of FSI is not proved. It is premised on the basis that the basement is the ground floor, and therefore, the building is one of ground + 7 stories. Further, the Plaintiff has calculated the floor space of the basement and the stilt area as part of the FSI whereas the DCR clearly





states that the basement and stilt areas are excluded for the purpose of calculating FSI. He has submitted that the Plaintiff has claimed that a wall of 3.57 mtrs. has been built at the terrace level. This is to be added to the height of the building. However, the Plaintiff has not averred in the plaint that the wall at the terrace level is illegal, as contended in oral arguments. He has accordingly submitted that the arguments and contentions which are beyond the scope of the pleadings should not be entertained and that this Court should not enter any finding on allegations which are beyond the scope of the pleadings. Without prejudice to the above, it is submitted that the wall in question is merely a wall which covers the lift machine room, staircase room and water tanks. The admitted sanction plans clearly show the parapet wall above the structure. The Planning authorities have found this to be acceptable and that there is no roof constructed above the terrace. This does not constitute the construction of a floor. This has been confirmed by the PW10 at Q/A No.25 with regard to the height of the building.

27 He has submitted that there is no violation of the CRZ Notification dated 19.02.1991 published by the Ministry of Environment and Forest under Section 3 of the Environment (Protection) Act, 1986 and the Rules thereunder. There are no prohibited activities as suit plot is not





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influenced by tidal actions on the landward side. The construction is legal and valid including the dressing of the natural features. This is in fact permitted within the Notification itself. The Notification sets out that the suit plot falls under CRZ-II category which permits building on the landward side of the existing roads and makes them subject to existing Municipal laws. He has submitted that insofar as the Plaintiff's argument that the construction activity was at a cost of more than Rs.5 crores and hence, under paragraph 3 of the Notification, Central Government permission is required, cannot be accepted. The Plaintiff himself has brought on record the documents filed by Defendant No.1 with the Municipal Corporation showing that the cost of construction as Rs.2.5 crores. He has submitted that it is obvious from the reading of the relevant part of the Notification that the investment in the construction activity relates to the construction activity and not the cost of acquisition of land. He has submitted that the Act is not concerned with the transfer of ownership and that the obvious purpose of the clause in the Notification is to determine the scope and extent of the activity in the coastal area.

28 He has submitted that the Plaintiff has led no evidence whatsoever in support of damages of Rs.10 crores. He has submitted that in the examination-in-Chief, the Plaintiff proceeds to depose that the



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damages allegedly suffered by the Plaintiff is required to be quantified. He has submitted that there is no material to show that there was any mental agony to the Plaintiff or any injury or loss caused to the Plaintiff. He has referred to the cross-examination of the Plaintiff wherein he has stated that he maintains medical record of himself and his family members (Q/A 103 to 107 of cross-examination of PW1). However, the Plaintiff has not produced any documentary evidence to prove the alleged case of mental agony. The Plaintiff's claim is required to be dismissed.

29 He has submitted that the decisions relied upon by the Plaintiff are totally irrelevant and do not apply to the facts of the present case. He has submitted that the full bench of the Orissa High Court in *Krushna Kishore Bal v. Sankarsan Samal and others*¹¹ relying upon various judgments including judgment of the Privy Council reported in 1914 PC 45 had determined questions involved in the matter which are very much identical to the issues involved in the present matter. The Court had held that interference with light and air which is not substantial does not give a cause of action to a person entitled to such right even though there is a violation of Municipal Laws. This finding was arrived at by the interpreting Sections 28, 33 and 35 of the Indian Easements Act. He has submitted that in any event in the present matter, the Plaintiff has been unable to prove

¹¹ AIR 1974 Ori.89(FB) Orissa High Court





that there has been a violation of Municipal laws. Assuming without admitting that there is any such violation, still in view of a clear ratio laid down by the above judgment, the present Suit is liable to be dismissed with costs as the Plaintiff has failed to prove 'substantial damage' and/or 'obstruction creating nuisance' and/or 'material injury' as contemplated in the above judgment. He has thus, submitted that the present Suit is required to be dismissed.

REASONS :

30 Having considered the submissions, it would be necessary to refer to these relevant prayers in the plaint which are prayers (a) and (b) and which read as under :

(a) that this Hon'ble Court be pleased to pass a decree in favour of the Plaintiff and against the Defendant for a sum of Rs.10,00,00,000/- (Rupees Ten Crore only) with interest at the rate of 24% per annum from the date of filing of the suit till the date of decree and/or payment or realisation thereof as more particularly set out in the Particulars of Claim annexed as Exhibit 'K' hereto.

(b) that the Hon'ble Court be pleased to call for the records, papers and files pertaining to the issuance of permission granted by Defendant Nos.2 to 5 to the Defendants No.1 allowing them to construct a multi-storeyed building two





storeyed basements on the Plot No.5 of Worli Sea Face and/or allowing them to use a dynamite for blasting rocks and after going through the validity, legality and propriety thereof be pleased to set aside and cancel the said permission/orders;

From these prayers, it is apparent that the Plaintiff has sought damages in the sum of Rs.10 crores with interest @ 24% per annum from the date of filing of the suit till the date of decree and/or payment or realisation thereof. These damages are claimed to be on account of the tremendous mental agony and breach of peace suffered by the Plaintiff and his family members upto the date of filing of the Suit. It is an admitted position that upto the date of filing of the Suit, excavation work was being carried out at the suit plot by the alleged uncontrolled blasting activities which included blasting of continuous rock structure by use of explosives. The actual construction of the building commenced after the filing of the Suit. This is clear from the orders which have been passed by this Court in the Notice of Motion taken out by the Plaintiff in the above Suit viz. Order dated 23.12.1994 which had restrained Defendant No.1 from carrying out the blasting work activities and the order dated 18.01.1995 which had recorded the statement of Defendant No.1 that the blasting work was complete and no further blasting was being carried out since 21.12.1994. Thus, the prayer for damages cannot be extended to the damages which

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have been caused by virtue of the alleged illegal construction activity. In fact in the affidavit in lieu of examination-in-chief of the Plaintiff, the Plaintiff himself has stated that the further damages for the mental agony and breach of peace, deprivation of ingress and egress of air and light, suffered by the Plaintiff and his family members from the date of the filing of the suit to the date of demolition of the alleged illegal suit building of Defendant No.1, is to be quantified. It is not for this Court to order demolition of the building of Defendant No.1 or quantify such damages, if any. This is not even been prayed for in the suit inspite of the plaint having been amended.

31 Insofar as the second prayer viz. Prayer (b) is concerned, the Plaintiff has prayed for the setting aside of the permission/orders granted by Defendant Nos. 2 to 5 to the Defendant No. 1 allowing it to construct a multi-storeyed building having two storeyed basements on the suit Plot and/or allowing them to use dynamite for blasting rocks. This permission had been granted as per the original plan which had been submitted by the Plaintiff to the Defendant No. 2 in 1993 i.e. prior to the plans being amended. It is apparent that the plans which were sanctioned by Defendant No.2 and on the basis of which the construction of the building on the suit plot was carried out by Defendant No.1 has not been sought to be set aside



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and/or cancelled by the Plaintiff. This is despite the challenge being raised in the amended plaint that the construction violated the DCR 1991.

32 From the issues which have been framed by this Court, the two substantial issues which would have to first answered are Issue Nos.5 and 6. It is only upon these issues being answered in the affirmative upon the Plaintiff proving that the Defendant No. 1 has committed illegal construction activity and that the Plaintiff is entitled to claim for damages that the other issues would be required to be answered. The parties have also proceeded on the basis that these are the two issues which would require determination before any other issue. Although there were certain arguments on the issue Nos.3 and 4 viz. as to whether the Plaintiff proves that the suit is maintainable despite of non-service of statutory notice U/s. 80 of the Code of Civil Procedure and whether the plaintiff proves that the Suit is maintainable despite of non-service of statutory notice U/s. 527 of the Bombay Municipal Corporation Act, these issues would be academic if this Court answers Issue Nos.5 and 6 in the negative. Issue No.5 requires the Plaintiff to prove that Defendant No.1 has committed any illegal construction activity as alleged in the plaint and the burden will be on the Plaintiff to establish the same. Further, if the answer to issue No.5 is in the affirmative, then the Plaintiff would also have to prove that he has suffered





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damages in the sum of Rs.10 Crores. No issue has been raised as to whether the building on the suit plot is to be demolished as a result of the alleged illegal construction carried out by Defendant No.1 and the only sequitor to that is a claim for damages. I do not accept the submission of the Plaintiff that this Court is required to address the issue of demolition of the building on the suit plot if satisfied that there has been violations of DCR 1991. The decisions relied upon by the Plaintiff viz. *Kerala Coastal Zone* (supra) and the earlier decision of this Court in *Felix Menino Jusus Serrao* (supra) are not applicable in the facts and circumstances of the present case. These decisions have proceeded on the basis that construction carried out without the prior approval of the MOEF or in violation of the CRZ regulations which constructions were prohibited and hence, required to be demolished.

33 In the present case, construction of the building on the suit plot has been carried out by Defendant No.1 in accordance with sanctioned plans. This has also been deposed to by the Plaintiff's own witness viz. PW10 in his examination-in-chief at Q/A Nos.26 and 27 as well as in Q/A No.6 of the cross-examination of the same witness. It appears that the Planning Authority viz. Defendant No.2 had upon inspecting the construction site, had given certificate for construction of the plinth area,



construction of building above plinth area, a building completion certificate recording that building was constructed in accordance with the sanctioned plan and occupation certificate. In order to obtain the building completion certificate, the Defendant No.1 had submitted to Defendant No.2 the as-built drawings on the basis of which the construction was checked and the building completion certificate was issued. The Plaintiff has himself in examination-in-chief admitted that the building plans which were produced by the Plaintiff himself are the same as the as built plans. The Plaintiff has further in cross-examination in answer to Question No.21 states that there was no document on record to show that the actual FSI consumed was more than that shown in the plan at Exhibit-D-1 (as-built plan). It appears that the dimensions given in these plans produced by the Plaintiff are the same as the as-built plans. The height calculations on these plans were done on the basis of the average ground levels which are calculated and marked on the plans. It is clear from the plans that the height of the basement is not less than 2.4 mtrs., the area of the basement is more than twice the plinth area of the building and that two vehicular ramps are provided in front of the building. It appears from the plans that the floor of basement is admittedly below the ground and thus answer the description of basement provided under Regulation 2(3)(10) which mandates that any storey of the building which is even partly below the

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ground level is the basement. Once, this conclusion is arrived at viz. that there was a basement constructed in the said building, the contentions of the Plaintiff that there were violations with regard to height and open space will not arise as these violations have been alleged on the basis that the basement is nothing but the ground floor of the building.

34 The Plaintiff has merely relied upon a Report obtained by him from M/s. Sahasrabhojane & Associates, an Architect firm to contend that there are various violations of the DC Regulations. However, it is to be noted that the said Architect Firm had neither visited the construction site of Defendant No.1 nor examined the plans sanctioned by the Defendant No.2. The said Architect Firm has made his report only on the basis of observing the construction from the Plaintiff's plot and on the basis of some drawings which were supplied by the Plaintiff to the said Firm. The concerned Architect who had prepared the Report or anyone else from the said Architect Firm has not been examined to prove the Report. Thus, the Architect's Report which appears to form the foundation of the allegations contend in the amended plaint remains unproved. The Plaintiff has also not relied on any expert evidence in support of his allegations of the building on the suit plot in any manner being constructed in violation of the provisions of law. The Plaintiff has examined himself in support of his





allegations. However, the Plaintiff is admittedly not an expert on issues of construction and Development Control Regulations. This is clear from the re-verification of the amended plaint, wherein the Plaintiff has solemnly declared that the averments made by way of amendment were on basis of information and belief. The Plaintiff has also in his cross-examination been unable to prove that he was an expert on issues of construction and Development Control Regulations. He claims to have an education qualification of B.Sc. Degree from Bombay University in Chemistry and manages family properties. This is clear from his answer to Question Nos.3 and 4 of his cross-examination. Thus, the Plaintiff has been unable to prove through any expert that there has been any violation of DCR, 1991 other than himself claiming that the violations have been committed. In fact, in the evidence of the expert Architect who was present during the construction of the building on the suit plot and who was brought as witness of the Plaintiff has in fact established that there were no violations of the DCR, 1991. In answer to Question No.10 of his cross-examination, where he was asked, whether he agreed that all the terms and conditions mentioned in the IOD and completion certificates were complied with and therefore, the occupation certificate was granted by BMC, he has answered in the affirmative. The Plaintiff's other witness Mr. Khillare (PW10) has in his answer to Questions put to him in examination-in-chief by the Plaintiff

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has affirmed that the actual construction of the building was strictly in accordance with the plans at Exhibit-P-73 to Exhibit-P-75 (Q & A No.27). He has in fact supported the case of Defendant No.1 that the lowest floor of the building is the basement and the level which one entered the building is the road level and the area closer to the road is the area below the stilt level which area is the basement (Q & A Nos.35 and 38).

35 Thus, the Plaintiff has not been able to establish from his witnesses that there has been any violation of the DCR, 1991. I further find that there is no violation of the CRZ Notification dated 19.02.1991 published by the Ministry of Environment under Section 3 of the Environment (Protection) Act, 1986 and Rules thereunder. The suit plot is on the landward side of an existing road and hence, not influenced by tidal actions. I do not accept the contention of the Plaintiff that the cost of acquisition is to be taken into account and/or the construction activity was at the cost of more than Rs. 5 crores and a Central Government permission was required which has not been taken. A bare perusal of the Notification makes it clear that investment in construction activity relates only to construction activity and not the cost of acquisition of the land. Hence, there is no merit in the contention of the Plaintiff. In view thereof, Issue No.5 is answered against the Plaintiff and in the negative.



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36 In view of Issue No.5 having been answered in the negative, the question of damages will not arise and likewise issue No.6 is also answered against the Plaintiff. In any event, assuming that this issue would have to be gone into the Plaintiff has been unable to prove any damages. The Plaintiff has not brought on record any material to show mental agony, breach of peace or any loss caused to the Plaintiff by reason thereof. In fact in the cross-examination of the Plaintiff, he has stated that he maintains medical records of himself and his family members, (Q/A 103 to 107). However, he has not produced any medical record to establish a case of mental agony and hence the claim of damages is required to be dismissed. The other claim of damages which arises on account of tremendous mental agony, breach of peace, deprivation of ingress and egress of air and light suffered by the Plaintiff and his family members from the date of filing of the Suit to the date of demolition of the alleged illegal suit building of Defendant No.1, is not quantifiable. In view of the finding that the Defendant No. 1 has not committed any illegal construction activity there is no question of this Court ordering demolition of the suit building. There is also no such prayer or issue framed. In any event, it is not for this Court to quantify such alleged damages. Hence, the relief of damages which has not even been prayed for in the amended plaint deserves to be rejected.

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37 With regard to the decision of the full bench of the Orissa High Court relied upon by the Defendant No.1 in *Krushna Kishore Bal* (supra), this decision would apply to the facts of the present case. The Plaintiff as in that case has not been able to establish that there has been an inference with light and air which is either substantial or at all and hence, this cannot give a cause of action to the Plaintiff presuming that there is violation of Municipal laws.

38 Regarding the decisions relied upon by the Plaintiff, these decisions have been decided on the facts of those cases and are not applicable in the present case, particularly where the construction of Defendant No. 1 is in accordance with the sanctioned building plans. Further, the Plaintiff on whom the burden of proof was lying has failed to discharge that burden by proving that Defendant No. 1 has committed any illegal construction activity as alleged in the Plaint. Hence, it was not necessary for the Defendant No. 1 to have led evidence. Further, if one was to go only by the plaint by ignoring the written statement filed, the averments therein having not been established, issue Nos. 5 and 6 which are the material issues, are decided against the Plaintiff.

39 Insofar as the other issues are concerned, in view of the answering issue No.5 in the negative, issue Nos.1, 2, 3, 4, 7 and 8 have





really become academic. Issue Nos.3 and 4 are as under :

3. Whether the plaintiff proves that the suit is maintainable despite of non-service of statutory notice U/s. 80 of the Code of Civil Procedure?
4. Whether the plaintiff proves that the suit is maintainable despite of non-service of statutory notice U/s. 527 of the Bombay Municipal Corporation Act?

There were arguments of the Plaintiff in support of his contention that the Suit is maintainable despite of non-service of statutory notice U/s. 80 of the Code of Civil Procedure, reliance was placed upon the decisions of the Supreme Court in *State of Andra Pradesh and others v. Pioneer Builders*¹² and decision of Allahabad High Court reported in *Gaja and others v. Dasa Koeri and others*¹³ to contend that there had been a waiver of such statutory notice. This was countered by the learned A.G.P for the State, by relying upon the decision of *Bihari Chowdhary and another v. State of Bihar and others*¹⁴. It appears in the decision of the Supreme Court in *Bihari Chowdhary* (supra) that notice under Section 80 of C.P.C. is a mandatory provision and hence would be required to be complied with. It is thus apparent that in absence of such notice, the Suit itself is not maintainable on this ground. With regard to the notice under Section 527 of the Bombay Municipal Corporation Act is concerned, reliance has been

¹² AIR 2007 SC 113

¹³ AIR 1964 Allahabad 471

¹⁴ AIR 1984 SC 1043





placed by the Plaintiff on the decision of *Motilal Mahadev Sharma and others v. Municipal Corporation of Greater Bombay*¹⁵ to contend that when the Plaintiff seeks urgent orders of this Court by way of injunction, it is not necessary to issue statutory notice under Section 527 of the Act. It appears that this decision would give assistance to the Plaintiff in contending that an urgent ad-interim injunction order had been sought from this Court on account of the blasting work carried out on suit plot. It is appropriate to notice that the learned Counsel for the Municipal Corporation Defendant No.2 had in fact appeared when the ad-interim injunction order was passed. However, considering that the issue Nos.5 and 6 have been decided against the Plaintiff and that the Plaintiff having failed to make out any case for relief sought for, it would be an academic exercise to answer these issues, other than making the above observations.

40 Considering that the Suit is required to be dismissed in view of the above findings, Issue Nos.1 and 2 are not required to be answered and issue Nos.7 and 8 are answered against the Plaintiff.

41 Suit is accordingly dismissed with no order as to costs.

¹⁵ AIR 2005 Bombay 344

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(R.I. CHAGLA, J.)



OS.APPL/3/2020

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 49 OF 2020
IN

SUIT NO. 5111 OF 1994

Mr. Dileep Nevatia, of Bombay, Indian
Inhabitant, residing at Shashi Deep, 5-A,
Worli Sea Face, Mumbai 400 030

... **Appellant**
(Org. Plaintiff)

Versus

1. **Messrs. Arkay Holdings Ltd.**, a Company incorporated under the provisions of the Companies Act, 1956 and having its earlier registered office at Maker Chambers-IV, Nariman Point, Bombay 400 021 and presently having its registered office at Chennai House, 5th Floor, New No.7, Esplanade, Chennai 600 108
2. **Municipal Corporation of Greater Bombay**, a statutory corporation incorporated under the provisions of the Companies Act, 1956 and having its office at Mahanagar Palika Marg, Mumbai 400 001
3. **The Deputy Chief Controller of Explosives**, Explosives Department of Ministry of Industry, Industrial Insurance Building, Opposite. Churchgate Station, Mumbai 400 020
4. **The Senior Inspector**, Worli Police Station, Dr. Annie Beasant Road, Mumbai 400 018
5. **The Commissioner of Police**, Office of the Commissioner of Police, D. N. Road, Mumbai 400 001

... **Respondents**
(Org. Defendants)



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MEMO OF APPEAL

Being aggrieved by the Judgment and Order dated 5th December, 2019 passed by His Lordship the Hon'ble Mr. Justice R.I. Chagla dismissing the Plaintiff's Suit No. 5111 of 1994, hereinafter referred to as the *impugned judgment*, the Appellant begs to file this appeal on the following amongst other grounds which are set out without prejudice to one another. For the sake of convenience the Appellant and the Respondents are referred to as the Plaintiff and the Defendants respectively:-

- (1) The impugned judgment dismissing the Plaintiff's suit is bad in law and the facts of the case;
- (2) The Ld. Trial Judge erred in holding that a bare perusal of the Notification i.e. the Coastal Regulation Zone Notification dated 19th February, 1991 hereinafter referred to as the *CRZ Notification*, makes it clear that investment in construction activity relates only to construction activity and not the cost of acquisition of the land (at para 35 of judgment);
- (3) The Ld. Trial Judge failed to appreciate that Clause (3)(2)(v) of the CRZ Notification makes no mention whatsoever of exclusion of the cost of acquisition of the land from the investment;
- (4) The Ld. Trial Judge failed to appreciate that Clause (3)(2)(v) of the CRZ Notification states that "*All other activities with investment of five crore rupees or more*" does not exclude the cost of acquisition of the land;
- (5) The Ld. Trial Judge, after referring to the decision of the Division Bench of Hon'ble Kerala High Court in "*Manakunnam Village v.*

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State of Kerala and others" in respect of a construction project (at para 16 of judgment), which held "that the valuation of land purchased which itself more is than Rs.5 crores, the Respondent Companies can be permitted to proceed with the project only subject to clearance by the Minister of Environment, Government of India, New Delhi", erred in thereafter ignoring the said authority and erroneously proceeding to hold that investment does not relate to the cost of acquisition of the land;

- (6) The Ld. Trial Judge erred in ignoring the law laid down in the decision delivered by the Hon'ble Division Bench in the matter of "Manakunnam Village" (*supra*) and that it is binding on any subsequent Bench of lesser or coequal strength;
- (7) The Ld. Trial Judge erred in overruling the decision of the Hon'ble Division Bench in the matter of "Manakunnam Village" (*supra*) and proceeding to hold that the perusal of the CRZ Notification makes it clear that investment in construction activity relates only to construction activity and not the cost of acquisition of the land;
- (8) The Ld. Trial Judge erred in ignoring that by Deed of Assignment dated 10.7.1992 (at Exhibit "P4") the erstwhile lessee assigned the suit Plot/land to Defendant No.1 for a sum of Rs. Four Crores and another Rs. 40 Lacs were paid towards Stamp duty, making a total of Rs. Four Crores and Forty Lacs as the cost of acquisition of the land by the Defendant No.1;
- (9) The Ld. Trial Judge erred in ignoring that the Defendant No.1 had submitted to Defendant No.2 the estimated investment in the project of Rs. 2,13,13,181/- (at Exhibit "P32" to "P36"), also



including the land value of Rs. 5,20,831/- based on its annual lease rentals;

- (10) The Ld. Trial Judge, after referring to the decision of the Hon'ble Supreme Court in "Commissioner of Income Tax v. Panbari Tea Co. Ltd." (at para 16 of judgment), which held that "*when the interest of the lessor has been parted with for a price, the price paid is premium or salami but the periodical payments made for the continuous enjoyment of the benefits under the lease are in the nature of rent*", erred in rejecting the contention of the Plaintiff "*that the cost of acquisition of the suit plot should be taken into account as it is by way of deed of assignment by which the erstwhile lessee had assigned the perpetual lease of 999 of suit plot to Defendant No.1 for a premium of Rs.4 crores*";
- (11) The Ld. Trial Judge failed to appreciate that after adding the estimated investment in the project of over rupees two crores and odd (at Exhibit "P32" to "P36") to the cost of acquisition of the suit land of rupees four crores and forty lacs, the investment far exceeded rupees five crores and under the provision of clause (3)(2)(v) of the CRZ Notification, the Defendant No.1 could have proceeded with the project only after obtaining clearance from the Ministry of Environment and Forests, Government of India;
- (12) The Ld. Trial Judge erred in holding that "*there is no violation of the CRZ Notification dated 19.02.1991 published by the Ministry of Environment under Section 3 of the Environment (Protection) Act, 1986 and Rules thereunder*" (at para 35 of judgment);
- (13) The Ld. Trial Judge erred in holding that merely because the suit plot is on the landward side of an existing road and hence, not



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influenced by tidal actions, there is no violation of CRZ Notification, 1991 (at para 35 of judgment);

- (14) The Ld. Trial Judge failed to appreciate that the suit plot is situated within CRZ-II area and any violation therein of the CRZ Notification, 1991, irrespective of whether it is influenced or not, influenced by tidal action, is a violation that cannot be lightly condoned;
- (15) The Ld. Trial Judge erred in ignoring that the approved building plans at Exhibit P-48 clearly state that the suit plot is situated within CRZ-II area, namely "This property comes within 500 Mtrs. From Sea Water maximum High Tide";
- (16) The Ld. Trial Judge failed to appreciate that it is the case of the Defendant No.1 itself that CRZ Notification, 1991 is applicable to the suit property inasmuch as the Defendant No.1 in its written statement has claimed that it has carried out the construction in accordance with the provisions of the CRZ Notification dated 19.2.1991 issued under the Environment Protection Act, 1986 (at para 7 of judgment);
- (17) The Ld. Trial Judge erred in ignoring the undisputed evidence and the photographs produced by the Plaintiff that prove that the entire portion of the hill on the plot of Defendant No.1 is blasted and permanently flattened, which is in complete violation of sub-rule (xiii) of Rule (2) of the CRZ Notification, 1991;
- (18) The Ld. Trial Judge failed to appreciate that sub-rule (xiii) of Rule (2) of the CRZ Notification, 1991 completely prohibits



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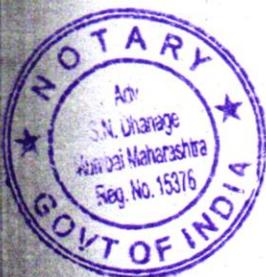
dressing or altering of sand dunes, hills, etc., without any threshold limit of investment;

- (19) The Ld. Trial Judge, after referring to the decision of the Division Bench of this Hon'ble Court in "Felix Menino Jusus Serrao v. State of Goa and others" as reported in AIR 2001 Bombay 2001, "*that no construction in such area (by excavating sand dunes in CRZ area) can be carried out without prior approval of MoEF and that construction carried out without such permission are illegal and as such, liable to be demolished*" erred in ignoring that the entire portion of the hill on the plot of Defendant No.1 is blasted and permanently flattened (at para 15 of judgment);
- (20) The Ld. Trial Judge failed to appreciate that the construction carried out by the Defendant No.1 was in violation of Rule (2)(xiii) and Rule (3)(2)(v) of the CRZ Notification, 1991;
- (21) The Ld. Trial Judge erred in ignoring that the entire portion of the hill on the plot of Defendant No.1 is permanently flattened towards which no prior approval is obtained from MoEF and as such the construction is illegal and liable to be demolished;
- (22) The Ld. Trial Judge failed to appreciate that the construction of Defendant No.1 has been done by dressing and/or altering the hill in the CRZ area and thereby declaring it totally illegal and ordering its demolition;
- (23) The Ld. Trial Judge erred in ignoring the law laid down in the decision delivered by the Division Bench of this Hon'ble Court in the matter of "Felix Menino" (*supra*) and that it is binding on any subsequent Bench of lesser or coequal strength;



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- (24) The Ld. Trial Judge after referring to the decision of the Hon'ble Supreme Court in "Piedade Filomena Gonsalves v. State of Goa and others" as reported in AIR 2004 SC 3112 (at para 15 of judgment), whereby the Hon'ble Supreme Court has upheld the decision of the Division Bench of this Hon'ble Court in "Felix Menino" (supra), has further erred in ignoring the law which is also reiterated and confirmed by the Hon'ble Supreme Court;
- (25) The Ld. Trial Judge erred in ignoring the law which is reiterated and confirmed by the Hon'ble Supreme Court in "Kerala State Coastal Management Authority v. State of Kerala Maradu Municipality Goa and others" in Civil Appeal Nos. 4785-4785 of 2019 (at para 15 of judgment), whereby relying on its earlier decision in "Piedade Filomena" (supra) and explaining the significance of CRZ notifications in the interest of protecting environment and ecology in the coastal area and the construction raised in violation of the regulations cannot be lightly condoned and therefore ordered demolition of all the structures forthwith within a period of one month;
- (26) The Ld. Trial Judge erred in simply brushing aside the decisions of the Hon'ble Supreme Court in "Kerala State Coastal Management Authority" (supra) and of the Division Bench of this Hon'ble Court in "Felix Menino" (supra) by merely holding that the said judgments are not applicable in the facts and circumstances of the present case as "*These decisions have proceeded on the basis that construction were carried out without the prior approval of the MOEF or in violation of the CRZ regulations which constructions were prohibited and hence, required to be demolished*" (at para 32 of judgment);



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- (27) The Ld. Trial Judge erred in holding that the aforesaid judgments are not applicable in the facts and circumstances of the present case, inasmuch as the construction carried out by Defendant No.1 was without the prior approval of the MOEF, was in violation of the CRZ regulations, the construction was prohibited and hence, requires to be demolished;
- (28) The Ld. Trial Judge failed to appreciate that in the Written Statement of Defendant No.1, there is no specific denial of most of the averments of facts stated in the Plaint;
- (29) The Ld. Trial Judge, after referring to the decision of the Hon'ble Supreme Court in "Badat and Co., Bombay v. East India Trading Co." that *"under Order viii Rules 3, 4 and 5 of Code of Civil Procedure, the written statement must deal specifically with each allegation of fact in the plaint and in this case the Defendant has not specifically denied facts and his denial of facts is evasive, then the said facts shall be taken to be admitted. In such event, the admission itself being proof, no other proof is necessary"* erred in thereafter ignoring the law laid down by the Hon'ble Supreme Court (at para 14 of judgment);
- (30) The Ld. Trial Judge erred in ignoring the statement of fact made by the Plaintiff in para 28(a) of the Plaint that the entire portion of the hillock in the suit plot has been dressed by digging upto a depth of approximately 25 feet at the rear end of the building and the entire plot thus levelled is more or less in level with the road in the front, is not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;



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- (31) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(a) of the Plaint that "the building under construction is being built on a levelled piece of land created by dressing the hill upto a level slightly above the approach road, Khan Abdul Gaffar Khan Road or Worli Sea Face road", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;
- (32) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(a) of the Plaint that "on the said plot of land, a structure consisting of the ground floor and additional 7 floors, viz. floor 1 to floor 7 have been constructed", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;
- (33) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(a) of the Plaint that "as the height of the building is thus estimated to be as high as 24.6 mtrs, as per the definition under DC Regulation 3 (11) (i) it is a multi-storied building or a high-rise building and therefore the minimum open space on all sides, except the front side of the building, shall be 7.0 mtrs", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;
- (34) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(a) of the Plaint that "this minimum open space requirement has been grossly violated on two sides of the building as follows (a) The open spaces on the



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two sides of the ground floor (North and South sides) is fully covered by the ramps going to the first floor and construction of other structures thereunder and (b) The minimum open space on the first floor of the building is 5.5 mtrs, which is much lower than the minimums required open space of 7.0 mtrs", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;

(35) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(a) of the Plaint that "Besides the fact that there is a non-confirming pair of ramps constructed on either side of the building, going from the ground floor to the first floor and is thus blocking the open space around the ground floor, the ramps have not been constructed to meet the safety requirements as per DC Regulation No. 38 (18) (i) (b) which says that 'A ramp shall have a slope of not more than 1 in 10", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;

(36) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(a) of the Plaint that "the ramps are unlikely to take a maximum fire engine weight of 18 tonnes, which again makes them unsafe in emergency", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;

(37) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(a) of the Plaint that "The



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Defendant No. 1 have constructed FSI @ 192% against a maximum permissible FSI of 133% which has come on account of violations of both height and open space requirements", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;

- (38) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(a) of the Plaint that "subsequent to the above report of M/s. B. D. Saharashojanee and Associates, the Defendant No. 1 has added one more floor, i.e. floor 8 and are making preparation to add yet another Floor 9, which will further increase the extent of violations of all the above mentioned DC Regulations of Greater Bombay, 1991 by the Defendant No. 1", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;
- (39) The Ld. Trial Judge erred in ignoring the further statement of fact made by the Plaintiff in para 28(b) of the Plaint that "by their letter dated 13th January, 1997, the Plaintiffs provided to the 2nd Defendant, that is the Municipal Corporation of Greater Bombay, a summary of the construction activities being carried out by the first defendant which were found to be in violation of the Development Control Regulations for Greater Bombay 1991, violation of environment (Protection) Act 1986 and the Rules thereunder", is also not specifically denied by the Defendant No.1 in its Written Statement and therefore the said facts ought to have been taken to be admitted;



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- (40) The Ld. Trial Judge, on perusing the decision of the Hon'ble Supreme Court in "Ishwar Bhai C. Patel alias Iswar Bhai C. Patel alias Bachu Bhai Patel v. Harihar Behera and another" (at para 14 of judgment) and the contention of the Plaintiff that the Defendant No.1 having abstained from the witness box and not making statement on oath in support of its pleadings set out in the written statement, an inference is required to be drawn against Defendant No.1 that what is stated in the written statement is not correct, erred in not passing the decree in favour of the Plaintiff and against the Defendant No.1;
- (41) The Ld. Trial Judge erred in ignoring that the building plans that were approved in the year 1997 (at Exhibit P-48) were itself approved by violating the provisions of the Development Control Regulations for Greater Bombay, 1991 (DCR, 1991) and the construction made in accordance to such plans is in blatant violation of DCR, 1991;
- (42) The Ld. Trial Judge after having observed that the actual construction of the building was strictly in accordance to the building plans that were sanctioned in the year 2001 (at Exhibit P-73 to P-75) and the said plans tally with the building plans that were approved in the year 1997, erred in ignoring that the construction made in accordance to such plans is also in blatant violation of DCR, 1991;
- (43) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48 and the building constructed accordingly, approved by showing an unexplained imaginary line drawn at 2.44 Meters above "0.00 LVL" i.e. the ground level, so as to falsely claim that the ground floor is an alleged "basement";



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- (44) The Ld. Trial Judge erred in ignoring that it is undisputed that the entire plot is levelled more or less in level with the road in the front and the building plans at Exhibit P-48 and the building constructed accordingly, have been approved by showing an unexplained imaginary line drawn at 2.44 Meters above "0.00 LVL" i.e. the ground level have been manipulated and approved by the Defendant No.2 so as to falsely show the ground floor as the alleged basement;
- (45) The Ld. Trial Judge erred in ignoring that the aforesaid extra height of 2.44 Meters is suppressed from height of the building by falsely claiming it to be only 21.76 Meters;
- (46) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48 and the building constructed accordingly, have been approved with a solid wall of 3.57 Meters height running along the entire length on the South and the North sides of the purported terrace of the building and this extra height of 3.57 Meters is further suppressed from the height of the building of 21.76 Meters;
- (47) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48, approved for a solid wall of 3.57 Meters height running along the entire length on the South and the North sides of the purported terrace of the building and the building constructed accordingly, is in utter violation of Regulation (31)(5) of DCR, 1991 which exempts only certain structures on the terrace from calculating the height of the building and certainly not a solid wall or a parapet wall exceeding 1.30 Meters in height above unfinished floor level;



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- (48) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48 and the building constructed accordingly, have suppressed the height of the building by ignoring the height below the unexplained imaginary line drawn at 2.44 Meters above the ground level and the solid wall of 3.57 Meters height running along the entire length on the South and the North sides of the purported terrace of the building;
- (49) The Ld. Trial Judge erred in ignoring that after adding the suppressed heights of 2.44 Meters and 3.57 Meters to the height of building of only 21.76 Meters shown in the building plans at Exhibit P-48, the actual height of the building constructed is 27.77 Meters and is therefore a "Tower-like structure";
- (50) The Ld. Trial Judge erred in ignoring that Regulation (29) of DCR, 1991 mandates that in case of "Tower-like structure" exceeds 24 Meters but does not exceed 37.5 Meters, the minimum open space at ground level shall be 9 Meters, which provisions have been blatantly flouted in the approved building plans at Exhibit P-48 and the building constructed accordingly;
- (51) The Ld. Trial Judge erred in ignoring that that the building plans at Exhibit P-48 were approved and the building constructed accordingly, by falsely showing the building height of only 21.76 Meters and without adding the suppressed heights of 2.44 Meters and 3.57 Meters to the height of building, was only for the purpose of overcoming the bar of height of 22 Meters specified in Regulation (59) of DCR, 1991;
- (52) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48 were approved and the building constructed



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accordingly, with the side open space of only 2.2 Meters at the ground level on the south side and 2.3 Meters at ground level on the north side, which is in utter violation of Regulation (30) of DCR, 1991 which mandates that the open spaces on all sides except the front side of a building shall be of a width not less than a third of the height of that building above the ground level;

- (53) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48 were approved and the building constructed accordingly, with the side open space of only 4.8 Meters and that too on the ramp going to the first floor level on the south side and 4.66 Meters on the ramp going to the first floor level on the north side, which is in utter violation of Regulation (30) of DCR, 1991 and also Regulation (38)(18)(ii) of DCR, 1991 which mandates that such ramps may be permitted in the side and rear marginal open spaces, only after leaving sufficient space for movement of fire-fighting vehicles subject to the provision of sub-regulation (6) of Regulation 43;
- (54) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48 have been approved and the building constructed accordingly, without the minimum open spaces on all sides upto 6 Meters width and their layout confirming to the requirements of the Chief Fire Officer and is therefore in utter violation of Regulation (43) of DCR, 1991 in respect of Fire Protection requirement;
- (55) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48 have been approved and the building constructed accordingly, without confirming that the open spaces on all sides are capable of taking the weight of a fire engine weighing upto 18



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tonnes and is therefore in further violation of Regulation (43) of DCR, 1991 in respect of Fire Protection requirement;

- (56) The Ld. Trial Judge erred in ignoring that the building plans at Exhibit P-48 have been approved and the building constructed accordingly, without confirming that the open spaces on all sides shall be free of any obstruction and shall be motorable and is therefore in further violation of Regulation (43) of DCR, 1991 in respect of Fire Protection requirement;
- (57) The Ld. Trial Judge failed to appreciate that as per Regulation (5)(5)(ii) of DCR, 1991, "The plans for all multi-storeyed, high rise and special buildings shall also be subject to the scrutiny of the Chief Fire Officer, and development permission shall be given by the Commissioner only after the clearance by the Chief Fire Officer" and that no such clearance was granted by the Chief Fire Officer when the development permission was given;
- (58) The Ld. Trial Judge failed to appreciate that as per Regulation (8)(2) of DCR, 1991, "For all multi-storeyed, high-rise and special buildings, the work shall also be subject to inspection by the Chief Fire Officer, and the Commissioner shall issue the occupancy certificate only after clearance by the said Chief Fire Officer" and that no such clearance was granted by the Chief Fire Officer when the occupancy certificate was given;
- (59) The Ld. Trial Judge, after referring to the decision of the Hon'ble Supreme Court in "Municipal Corporation of Greater Mumbai and others v. Kohinoor CTNL Infrastructure Company Pvt. Ltd. and another" (at para 17 of judgment), which has held that "leaving no space on ground floor will have a serious impact on



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the life not only of the residents but also of people in the adjoining areas and further, the issue of safety of occupants of high - rise buildings, that of the residents in the neighbourhood and the firemen requires urgent consideration" erred in ignoring the Fire Protection requirement and the safety of the neighbours and the firemen caused by the unauthorised construction of the suit building;

- (60) The Ld. Trial Judge failed to appreciate that the ground floor, described as an alleged basement, is neither fully below or partly below the ground level but it is the closest floor to the street and has a direct access to the street and hence as per Regulation (3)(10) of DCR, 1991, it cannot be termed as a Basement or a Cellar;
- (61) The Ld. Trial Judge failed to appreciate that alleged basement is the closest floor to Khan Abdul Gaffar Khan Road and has a direct entry from the said road and it is therefore the ground floor;
- (62) The Ld. Trial Judge erred in holding that *"It appears from the plans that the floor of basement is admittedly below the ground and thus answer the description of basement provided under Regulation 2(3)(10) which mandates that any storey of the building which is even partly below the ground level is the basement"* (at para 33 of judgment)
- (63) The Ld. Trial Judge, after quoting the questions and answers put to PW-10 Mr. Vilas Ganpat Khilare, who at the relevant time in 2001 was the MCGM Sub-Engineer who had visited the suit site and given approval to the final building plans i.e. Question No.



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38 viz. "Which area is closer to the road - the stilt area or the area below that?" and the answer given that "The area below the stilt area. This area is shown as basement." (at para 12 of judgment), failed to appreciate that the MCGM witness has confirmed that the area shown as an alleged basement is in fact closer to the road i.e. Khan Abdul Gaffar Khan Road and it is therefore the ground floor;

- (64) The Ld. Trial Judge erred in holding that "He (PW-10 Mr. Vilas Ganpat Khilare) has in fact supported the case of Defendant No.1 that the lowest floor of the building is the basement and the level which one entered the building is the road level and the area closer to the road is the area below the stilt level which area is the basement (Q & A Nos. 35 and 38)" (at para 34 of judgment) inasmuch as the said evidence does not support the case of the Defendant No.1 but supports the case of the Plaintiff that the alleged basement is in fact closer to the road i.e. Khan Abdul Gaffar Khan Road and it is therefore the ground floor;
- (65) The Ld. Trial Judge failed to appreciate that as per Regulation (38)(9) of DCR, 1991, the ceiling of an upper basement is required to be at least 0.9 Meters (3 feet) and not more than 1.2 Meters (4 feet) above the average surrounding ground level, whereas in the suit construction the alleged basement is 2.7 Meters (9 feet) above the average surrounding ground level;
- (66) The Ld. Trial Judge failed to appreciate that the alleged basement, had it been constructed as per Regulation (38)(9) of DCR, 1991 i.e. with the ceiling of an upper basement between 0.9 Meters (3 feet) and 1.2 Meters (4 feet) above the average surrounding ground level, could not have had any direct access



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to a street or open space, which is certainly not the case in the suit construction;

- (67) The Ld. Trial Judge failed to appreciate that the alleged basement having direct access to the open space and Khan Abdul Gaffar Khan Road, is neither approved nor constructed in accordance to Regulation (38)(9) of DCR, 1991;
- (68) The Ld. Trial Judge, erred in only relying upon the submissions made on behalf of the Defendant No.1 that "*which (Regulation (2)(3)(10) mandates that any storey of a building, even partly below the ground level is the basement*" (at para 23 of judgment) at the same time ignored further provisions of Regulation (38)(9) of DCR, 1991 that mandates that the ceiling of an upper basement is required to be at least 0.9 Meters (3 feet) and not more than 1.2 Meters (4 feet) above the average surrounding ground level);
- (69) The Ld. Trial Judge erred in only relying upon the submissions made on behalf of the Defendant No.1 that "*which (Regulation (2)(3)(10) mandates that any storey of a building, even partly below the ground level is the basement*" (at para 23 of judgment) and at the same time ignored that unless a basement satisfies all the Regulations of DCR, 1991 including Regulations (3)(41), (38)(9), (38)(18)(ii), etc. of DCR, 1991, it cannot be termed as a basement;
- (70) The Ld. Trial Judge erred in holding that merely because the ground floor is partly below the ground level it is the basement inasmuch as DCR, 1991 nowhere classifies a floor partly below the ground level to be a purported basement;

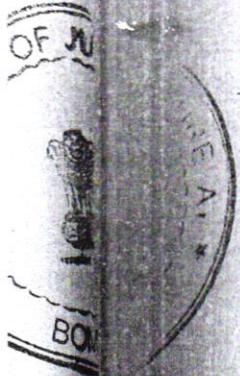


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- (71) The Ld. Trial Judge failed to appreciate that the building plans at Exhibit P-48 that is approved by showing an unexplained imaginary line drawn at 2.44 Meters above "0.00 LVL", so as to falsely show the ground floor, which is 2.7 Meters (9 feet) above the average surrounding ground level, to be an alleged basement;
- (72) The Ld. Trial Judge erred in ignoring that the ground floor is falsely described as an alleged basement so as to enable the Defendant No.1 to avail of free Floor Space Index (FSI) of 0.5 or 50% of the Plot area;
- (73) The Ld. Trial Judge erred in ignoring that the that the building plans at Exhibit P-48 and the building constructed accordingly, have been approved with a solid wall of 3.57 Meters height running along the entire length on the South and the North sides so as to enable the Defendant No.1 to construct extra eighth and ninth floors on the suit building and to avail of further free FSI, far beyond the permissible limit;
- (74) The Ld. Trial Judge erred in holding that the Plaintiff on whom the burden of proof was lying has failed to discharge that burden by proving that Defendant No. 1 has committed any illegal construction activity as alleged in the Plaint inasmuch as the Defendant No.1 in its written statement failed to specifically deal with each averment of fact in the plaint and therefore the said facts ought to be taken to be admitted and the admission itself being proof, no other proof was necessary;
- (75) The Ld. Trial Judge erred in relying only upon the authority of the Hon'ble Supreme Court in "*Bihari Chowdhary and another v.*

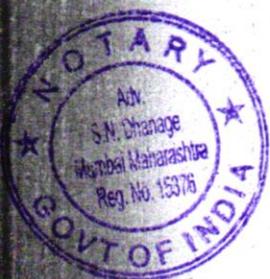


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State of Bihar and others" produced by the A.G.P. to hold that notice under Section 80 of C.P.C. is a mandatory provision and hence would be required to be complied with and is thus apparent that in absence of such notice, the Suit itself is not maintainable on this ground (at para 39 of judgment) inasmuch as that case under Section 80 C. P. C as it stood prior to its amendment, by Act 104 of 1976 and the State of Bihar was the main defendant in the suit, which is not the case in the present suit as the State is only a formal defendant;

- (76) The Ld. Trial Judge, failed to appreciate the authority relied by the Plaintiff in support of his contention that the Suit is maintainable despite of non-service of statutory notice U/s. 80 of the C.P.C., namely the decision of Hon'ble Supreme Court in "*State of Andhra Pradesh and others v. Pioneer Builders*" and to contend that there had been a waiver of such statutory notice (at para 39 of judgment) inasmuch as in the said ruling the Hon'ble Supreme Court has held that in conformity of the provisions of Section 80 C. P. C after its amendment, by Act 104 of 1976, that the State having not raised such a plea in the written statement filed in the suit, and therefore, deemed to have waived the objection;
- (77) The Ld. Trial Judge, erred in ignoring that the State had, not filed its written statement and has therefore deemed to have waived the objection to notice under Section 80 C. P. C., after its amendment in 1976;
- (78) The Ld. Trial Judge's judgment is contrary to justice, equity and good conscience and is liable to be set aside.



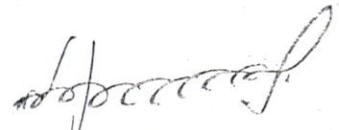
2. The Appellant craves leave to add to, amend, vary or alter any of the aforesaid grounds of appeal if and when necessary.

3. The Appellant, at the time of filing the suit in the year 1994, had paid the Court Fees of Rs. 15,000. Hence, the Appellant has also paid the Court Fees of Rs. 15,000/- with the present Appeal.

4. The present Appeal is being filed within thirty days from the date on which the impugned Order dated 5.12.2019 was passed by the Ld. Trial Judge. The Appeal is therefore filed within time.

5. The Appellant has not filed any other appeal, application, etc. relating to the impugned judgment and order dated 5.12.2019 in the Hon'ble Supreme Court or any other Court.

Dated this 3rd day of January, 2020

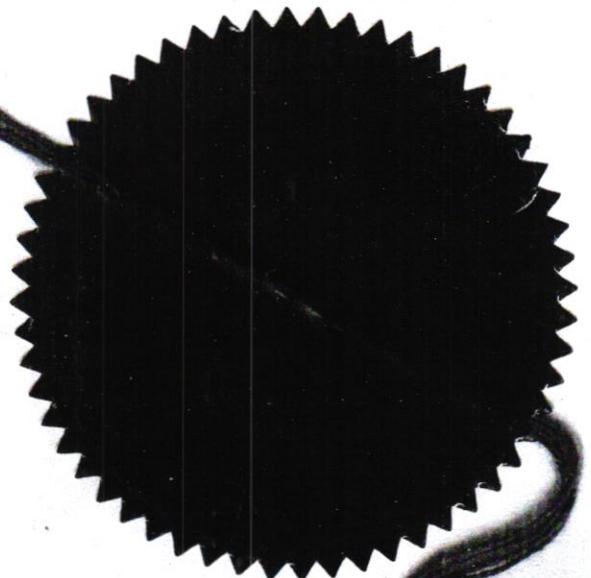


Dileep Nevatia
Appellant in Person

CERTIFIED TO BE A TRUE COPY
this 8th day of Sept 2020

Prawade
PRAVIN V. TAWADE
ASSOCIATE

For Registrar (O.S.) / Prothonotary
and Senior Master, High Court, Bombay





Date: 16/11/2021

To:
Dileep Nevatia
Shashi Deep
5-A, Worli Sea Face
Mumbai 400 030

Dear Sir,

This is in reference to the building known as Panhar constructed on Plot No. 5 of the Worli Estate of the Municipal Corporation of Greater Mumbai admeasuring 1,349.51 square meters bearing C.S. No. 730 of Worli Division ("**said Property**").

We have recently purchased the above property from its erstwhile owner, M/s Arkay Holdings Ltd. having its registered office at Chennai House, 5th Floor, New No.7, Esplanade, Chennai and this property will be used for residence of our company's Directors and their families.

We have been given to understand that you had filed a suit in the Bombay High Court in respect of the above said Property being Suit No. 5111 of 1994 "Dileep Nevatia versus Arkay Holdings Ltd. and others". After the suit was disposed off, you have filed an Appeal No. 49 of 2020 in Suit No. 5111 of 1994 ("**said Appeal**") and Interim Application No.2110 of 2020 in said Appeal ("**Interim Application**"). The said Appeal and Interim Application are pending in the High Court.

Our Managing Director, Shri Ghamshyambhai Dholakia personally met you and discussed the above pending matter and requested you that, in view of future relationship as good neighbours, you withdraw the said Appeal and Interim Application, as it concerns the property of which we have now become the owners. We have also agreed to pay to you as compensation/damage a sum of Rs. 1.25 crores (Rupees One Crore Twenty-Five Lacs only) in lieu of fully, finally and irrevocably resolving and settling the disputes pertaining to the said Property by withdrawing the above Appeal and Interim Application, which you have agreed.

Accordingly, we are enclosing alongwith our Banker's Cheque No. 830777 dated 16/11/2021 drawn on State Bank of India in your favour for an amount of Rs. Rs. 1,25,00,000/- (Rupees One Crore Twenty-Five Lacs only) as compensation/damage for withdrawing the said Appeal and Interim Application.

Hari Krishna Exports Pvt. Ltd.
B-100, The Capital, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051.
T: +91 22 4300 4300 | F: +91 22 4300 4201 | info@hk.co | CIN: U36912MH2012PTC227014

hk.co

SIGHTHOLDER
SIGHT HOLDER

AL-095A



Dominion
Diamond Mines



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FOREVERMARK

KISNA

We also request you to take necessary steps to withdraw the said Appeal and Interim Application and thereafter forward to us the copy of the Order withdrawing the said Appeal and Interim Application.

Thanking you.

FOR HARI KRISHNA EXPORTS PRIVATE LIMITED

H. Kumar
DIRECTOR

[Signature]
16/11/2021
(DEEPA NEVATI)



Hari Krishna Exports Pvt. Ltd.
B-101, The Capital, Bandra Kurla Complex, Bandra (East), Mumbai - 400 051.
T: +91 22 4300 4200 | F: +91 22 4300 4201 | info@hk.co | CIN: U36912MH2012PTC227014

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बैंकर्स चेक
BANKERS CHEQUE

Key: WEJGUN
Sr. No: 166235

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PAY DILEEP NEVATIA *****

को या उनके आदेश पर

OR ORDER

रुपये RUPEES One Crore Twenty Five Lakh Only

अदा करें ₹ 12500000.00

IOI 000520830777 Key: WEJGUN Sr. No: 166235
Name of Applicant HARI KRISHNA EXPORTS PVT

AMOUNT BELOW 12500001(0/8)

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For STATE BANK OF INDIA



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Sangeeta Shetty
AUTHORISED SIGNATORY
S22980

शाखा प्रबंधक
BRANCH MANAGER

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INSTRUMENTS FOR ₹ 1,50,000/- AND ABOVE ARE NOT VALID UNLESS SIGNED BY TWO OFFICERS



स. म. राईकर
S. M. Raikar
R-9464

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Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL JURISDICTION

APPEAL NO. 49 OF 2020

IN

SUIT NO. 5111 OF 1994

WITH

INTERIM APPLICATION NO. 2110 OF 2020

IN

APPEAL NO. 49 OF 2020

Dileep Nevatia

...Appellant

Versus

Arkay Holding Ltd & Ors

...Respondents

SHEPHALI
SANJAY
MORMARE

Digitally signed
by SHEPHALI
SANJAY
MORMARE
Date: 2022.06.10
17:12:25 +0530

Mr Dileep Nevatia, *Appellant present in person.*

Ms Anaisha Zachariah, *i/b Crawford Bayley & Co, for Respondent*

No.1.

Mr Hemant Haryan, *AGP, for the Respondent-State.*

CORAM G.S. Patel &
M.G. Sewlikar, JJ.
DATED: 10th June 2022

PC:-

1. Mr Nevatia appears online in person. He seeks leave to withdraw the Appeal. At his request, the Appeal is dismissed as



unconditionally withdrawn. The pending Interim Application No. 2110 of 2020 will not survive and is thus disposed of as infructuous.

(M.G. Sewlikar, J)

(G. S. Patel, J)



DILEEP NEVATIA
 5 A, Shashi Deep
 Worli Sea Face
 Mumbai 400 030
 Tel : 2493 8414

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 49 OF 2020

IN

SUIT NO. 5111 OF 1994

Dileep Nevatia

....

Appellant

Versus

Arkay Holdings Ltd. & others

....

Respondents

The Director
 Hari Krishna Exports Pvt. Ltd.
 B-1701, The Capital
 Bandra Kurla Complex, Bandra (East)
 Mumbai 400 051

Sir,

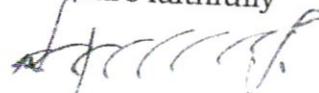
Sub: ***Our Arrangement/Agreement dated 16.11.2021 to withdraw High Court Appeal No. 49 of 2020 and the connected Interim Application***

With reference to the above, I am enclosing alongwith the copy of the Hon'ble Bombay High Court Order dated 10.6.2022 granting me the leave to withdraw the Appeal No. 49 of 2020 and also the connected Interim Application No. 2110 of 2020.

Kindly acknowledge receipt and oblige.

Dated this 13th day of June, 2022

Yours faithfully



Dileep Nevatia



MINISTRY OF ENVIRONMENT AND FORESTS
(Department of Environment, Forests and Wildlife)
COASTAL REGULATION ZONE NOTIFICATION
New Delhi, the 6th January, 2011

S.O.19(E).- WHEREAS a draft notification under sub-section (1) of section and clause (V) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 was issued inviting objections and suggestions for the declaration of coastal stretches as Coastal Regulation Zone and imposing restrictions on industries, operations and processes in the CRZ was published vide S.O.No.2291 (E), dated 15th September, 2010.;

AND WHEREAS, copies of the said Gazette were made available to the public on 15th September, 2010.;

AND WHEREAS, the suggestions and objections received from the public have been considered by the Central Government.;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government, with a view to ensure livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches, its unique environment and its marine area and to promote development through sustainable manner based on scientific principles taking into account the dangers of natural hazards in the coastal areas, sea level rise due to global warming, does hereby, declare the coastal stretches of the country and the water area upto its territorial water limit, excluding the islands of Andaman and Nicobar and Lakshadweep and the marine areas surrounding these islands upto its territorial limit, as Coastal Regulation Zone (hereinafter referred to as the CRZ) and restricts the setting up and expansion of any industry, operations or processes and manufacture or handling or storage or disposal of hazardous substances as specified in the Hazardous Substances (Handling, Management and Transboundary Movement) Rules, 2009 in the aforesaid CRZ.; and

In exercise of powers also conferred by clause (d) and sub rule (3) of rule 5 of Environment (Protection) Act, 1986 and in supersession of the notification of the Government of India in the Ministry of Environment and Forests, number S.O.114(E), dated the 19th February, 1991 except as respects things done or omitted to be done before such supersession, the Central Government hereby declares the following areas as CRZ and imposes with effect from the date of the notification the following restrictions on the setting up and expansion of industries, operations or processes and the like in the CRZ,-

- (i) the land area from High Tide Line (hereinafter referred to as the HTL) to 500mts on the landward side along the seafront.
- (ii) CRZ shall apply to the land area between HTL to 100 mts or width of the creek whichever is less on the landward side along the tidal influenced water bodies that are connected to the sea and the distance upto which development along such tidal influenced water bodies is to be regulated shall be governed by the distance upto which the tidal effects are experienced which shall be determined based on salinity concentration of 5 parts per thousand (ppt) measured during the driest period of the year and distance upto which tidal effects are experienced shall be clearly identified and demarcated accordingly in the Coastal Zone Management Plans (hereinafter



referred to as the CZMPs).

Explanation.- For the purposes of this sub-paragraph the expression tidal influenced water bodies means the water bodies influenced by tidal effects from sea, in the bays, estuaries, rivers, creeks, backwaters, lagoons, ponds connected to the sea or creeks and the like.

~~(iii) the land area falling between the hazard line and 500mts from HTL on the landward side, in case of seafront and between the hazard line and 100mts line in case of tidal influenced water body the word 'hazard line' denotes the line demarcated by Ministry of Environment and Forests (hereinafter referred to as the MoEF) through the Survey of India (hereinafter referred to as the SoI) taking into account tides, waves, sea level rise and shoreline changes.¹~~

(iii) land area between HTL and Low Tide Line (hereinafter referred to as the LTL) which will be termed as the intertidal zone.

(iv) the water and the bed area between the LTL to the territorial water limit (12 Nm) in case of sea and the water and the bed area between LTL at the bank to the LTL on the opposite side of the bank, of tidal influenced waterbodies.

2. For the purposes of this notification, the HTL means the line on the land upto which the highest water line reaches during the spring tide and shall be demarcated uniformly in all parts of the country by the demarcating authority(s) so authorized by the MoEF in accordance with the general guidelines issued at Annexure-I. HTL shall be demarcated within one year from the date of issue of this notification.

3. Prohibited activities within CRZ,- The following are declared as prohibited activities within the CRZ,-

(i) Setting up of new industries and expansion of existing industries except,-

(a) those directly related to waterfront or directly needing foreshore facilities;

Explanation: The expression "foreshore facilities" means those activities permissible under this notification and they require waterfront for their operations such as ports and harbours, jetties, quays, wharves, erosion control measures, breakwaters, pipelines, lighthouses, navigational safety facilities, coastal police stations and the like.;

(b) projects of Department of Atomic Energy;

(c) facilities for generating power by non-conventional energy sources and setting up of desalination plants in the areas not classified as CRZ-I(i) based on an impact assessment study including social impacts.;

(d) development of green field Airport already permitted only at Navi Mumbai;

(e) reconstruction, repair works of dwelling units of local communities including fishers in accordance with local town and country planning regulations.

¹Deleted vide Notification No. S.O. 3197(E) dated 2nd July, 2018

(ii) manufacture or handling oil storage or disposal of hazardous substance as specified in the notification of Ministry of Environment and Forests, No. S.O.594 (E), dated the 28th July 1989, S.O.No.966(E), dated the 27th November, 1989 and GSR 1037 (E), dated the 5th December, 1989 except,-

- (a) transfer of hazardous substances from ships to ports, terminals and refineries and vice versa;
- (b) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II appended to this notification and facilities for regasification of Liquefied Natural Gas (hereinafter referred to as the LNG) in the areas not classified as CRZ- I(i) subject to implementation of safety regulations including guidelines issued by the Oil Industry Safety Directorate in the Ministry of Petroleum and Natural Gas and guidelines issued by MoEF and subject to further terms and conditions for implementation of ameliorative and restorative measures in relation to environment as may be stipulated by in MoEF.

Provided that facilities for receipt and storage of fertilizers and raw materials required for manufacture of fertilizers like ammonia, phosphoric acid, sulphur, sulphuric acid, nitric acid and the like, shall be permitted within the said zone in the areas not classified as CRZ-I(i).

(iii) Setting up and expansion of fish processing units including warehousing except hatchery and natural fish drying in permitted areas:

(iv) Land reclamation, bunding or disturbing the natural course of seawater except those,-

- (a) required for setting up, construction or modernisation or expansion of foreshore facilities like ports, harbours, jetties, wharves, quays, slipways, bridges, sealink, road on stilts, [road on reclaimed surface]² and such as meant for defence and security purpose and for other facilities that are essential for activities permissible under the notification;

[Provided that such roads shall not be taken as authorised for permitting development on landward side of such roads till existing High Tide Line.

Provided further that the use of reclaimed land may be permitted for roads, mass rapid or multimodal transit system, construction and installation, on landward side of such roads, of all necessary associated public utilities and infrastructure to operate such transit or transport system including those for electrical or electronic signal system, transit stopover of permitted designs; except for any industrial operation, repair and maintenance.]³

- (b) measures for control of erosion, based on scientific including Environmental Impact Assessment (hereinafter referred to as the EIA) studies
- (c) maintenance or clearing of waterways, channels and ports, based on EIA studies;
- (d) measures to prevent sand bars, installation of tidal regulators, laying of storm water drains or for structures for prevention of salinity ingress and freshwater recharge based on



²Added vide Notification No. S.O.3552(E) dated 30th December, 2015

³Added vide Notification No. S.O.3552(E) dated 30th December, 2015

carried out by any agency to be specified by MoEF.

- (v) Setting up and expansion of units or mechanism for disposal of wastes and effluents except facilities required for,-
- (a) discharging treated effluents into the water course with approval under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (b) storm water drains and ancillary structures for pumping;
- (c) treatment of waste and effluents arising from hotels, beach resorts and human settlements located in CRZ areas other than CRZ-I and disposal of treated wastes and effluents;
- (vi) Discharge of untreated waste and effluents from industries, cities or towns and other human settlements. The concerned authorities shall implement schemes for phasing out existing discharge of this nature, if any, within a time period not exceeding two years from the date of issue of this notification.
- (vii) Dumping of city or town wastes including construction debris, industrial solid wastes, flyash for the purpose of land filling and the like and the concerned authority shall implement schemes for phasing out any existing practice, if any, shall be phased out within a period of one year from date of commencement of this notification.

Note:-The MoEF will issue a separate instruction to the State Governments and Union territory Administration in respect of preparation of Action Plans and their implementation as also monitoring including the time schedule thereof, in respect of paras (v), (vi) and (vii).

- (viii) Port and harbour projects in high eroding stretches of the coast, except those projects classified as strategic and defence related in terms of EIA notification, 2006 identified by MoEF based on scientific studies and in consultation with the State Government or the Union territory Administration.
- (ix) ~~Reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities.~~

[Reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities except for construction of memorials/monuments and allied facilities, only in CRZ-IV(A) areas, in exceptional cases, by the concerned State Government, on a case to case basis.]⁴

- (x) Mining of sand, rocks and other sub-strata materials except,-
- (a) ~~Those are rare minerals not available outside the CRZ area,~~
[(a) mining of Atomic Minerals notified under Part-B of the First Schedule of the Mining and Minerals (Development) Act, 1957 (67 of 1957) occurring as such or in association with one or other minerals]⁵
- (b) Exploration and exploitation of Oil and Natural Gas.

⁴Substituted *vide* Notification No S.O.556(E) dated 17th February, 2015

⁵Substituted *vide* Notification No G.S.R dated 6th October, 2017



(xi) Drawl of groundwater and construction related thereto, within 200mts of HTL; except the following:-

- (a) in the areas which are inhabited by the local communities and only for their use.
- (b) In the area between 200mts-500mts zone the drawl of groundwater shall be permitted only when done manually through ordinary wells for drinking, horticulture, agriculture and fisheries and where no other source of water is available.

Note:- Restrictions for such drawl may be imposed by the Authority designated by the State Government and Union territory Administration in the areas affected by sea water intrusion.

(xii) Construction activities in CRZ-I except those specified in para 8 of this notification.

~~(xiii) Dressing or altering the sand dunes, hills, natural features including landscape changes for beautification, recreation and other such purpose.~~

[(xiii) Dressing or altering the sand dunes, hills, natural features including landscape change for beautification, recreation and other such purpose except utilizing the rocks/hills/natural features, only in CRZ-IV(A) areas, for development of memorials/monuments and allied facilities, by the concerned State Government.]⁶

(xiv) Facilities required for patrolling and vigilance activities of marine/coastal police stations.

4. Regulation of permissible activities in CRZ area.- The following activities shall be regulated except those prohibited in para 3 above,-

- (i) (a) clearance shall be given for any activity within the CRZ only if it requires waterfront and foreshore facilities;
- (b) for those projects which are listed under this notification and also attract EIA notification, 2006 (S.O.1533 (E), dated the 14th September, 2006), for such projects clearance under EIA notification only shall be required subject to being recommended by the concerned State or Union territory Coastal Zone Management Authority (hereinafter referred to as the CZMA).
- (c) Housing schemes in CRZ as specified in paragraph 8 of this notification;
- (d) Construction involving more than 20,000sq mts built-up area in CRZ-II shall be considered **[for approval]**⁷ in accordance with EIA notification, 2006 and in case of projects less than 20,000sq mts built-up area shall be approved by the concerned State or Union territory Planning authorities in accordance with this notification after obtaining recommendations from the concerned CZMA and prior recommendations of the concern CZMA shall be essential for considering the grant of environmental clearance under EIA notification, 2006 or



⁶Substituted vide Notification No S.O.556(E) dated 17th February, 2015

⁷Inserted vide Notification No. S.O.3085(E) dated 28th November, 2014

grant of approval by the relevant planning authority.

- (e) MoEF may under a specific or general order specify projects which require prior public hearing of project affected people.
- (f) construction and operation for ports and harbours, jetties, wharves, quays, slipways, ship construction yards, breakwaters, groynes, erosion control measures [**and salt works**]⁸;
- (g) [**construction of road by way of reclamation in CRZ area shall be only in exceptional cases, to be recommended by the concerned Coastal Zone Management Authority and approved by the Ministry of Environment, Forest and Climate Change; and in case the construction of such road is passing through mangroves or likely to damage the mangroves, three times the number of mangroves destroyed or cut during the construction process shall be replanted**]⁹

(ii) the following activities shall require clearance from MoEF [**after being recommended by the concerned CZMA**]¹⁰, namely:-

(a) ~~those activities not listed in the EIA notification, 2006.~~

[(a) Those activities listed under the Category 'A' in the EIA Notification 2006 and permissible under the said Notification]¹¹

- (b) construction activities relating to projects of Department of Atomic Energy or Defence requirements for which foreshore facilities are essential such as, slipways, jetties, wharves, quays; except for classified operational component of defence projects. Residential buildings, office buildings, hospital complexes, workshops of strategic and defence projects in terms of EIA notification, 2006.;
- (c) construction, operation of lighthouses;
- (d) laying of pipelines, conveying systems, transmission line;
- (e) exploration and extraction of oil and natural gas and all associated activities and facilities thereto;
- (f) Foreshore requiring facilities for transport of raw materials, facilities for intake of cooling water and outfall for discharge of treated wastewater or cooling water from thermal power plants. MoEF may specify for category of projects such as at (f), (g) and (h) of para4;
- (g) ~~Mining of rare minerals as listed by the Department of Atomic Energy;~~
- [(g) mining of Atomic Minerals notified under Part-B of the First Schedule of the Mining and Minerals (Development) Act, 1957 occurring as such or in association with one or**

⁸Inserted *vide* Notification No. S.O.3085(E) dated 28th November, 2014

⁹Added *vide* Notification No. S.O.3552(E) dated 30th December, 2015

¹⁰Inserted *vide* Notification No. S.O.3085(E) dated 28th November, 2014

¹¹Substituted *vide* Notification No. S.O.3085(E) dated 28th November, 2014



other minerals]¹²

- (h) Facilities for generating power by non-conventional energy resources, desalination plants and weather radars;
- (i) Demolition and reconstruction of (a) buildings of archaeological and historical importance, (b) heritage buildings; and buildings under public use which means buildings such as for the purposes of worship, education, medical care and cultural activities;
- (j) **[Construction of memorials/monuments and allied facilities by the concerned State Government in CRZ-IV(A) areas, in exceptional cases, with adequate environmental safeguards, subject to following, namely:-**
- (A) The concerned State Government shall submit justification for locating the project in CRZ-IV(A) area along with details of alternate sites considered and weightage matrix on various parameters including environmental parameters, to State CZMA who will examine the project and make recommendation to the Central Government (MoEF) for grant of Terms of Reference (ToRs) for preparation of an environmental impact assessment report by the State Government;**
- (B) On grant of ToRs by the Central Government, the concerned State Government shall submit the draft Environmental Impact Assessment Report (EIA) with the Environmental Management Plan (EMP), draft Risk Assessment Report with Disaster Management Plan (DMP) including on-site and off-site emergency plan and evacuation plan during emergency, to the State Pollution Control Board for conduct of public hearing for the proposed project in accordance with the procedure laid down under the Environment Impact Assessment Notification;**
- (C) The concerned State Government shall, after addressing the relevant issues raised by the public during the public hearing referred to in sub-item (B), submit the final EIA, EMP, Risk Assessment and DMP, to the State CZMA for their examination and recommendation to the MoEF;**
- (D) The Central Government may, if it considers necessary to do so, dispense with the requirement of public hearing referred to in sub-item (B), if it is satisfied that the project will not involve rehabilitation and resettlement of the public or the project site is located away from human habitation.]**¹³

4.2 Procedure for clearance of permissible activities.- All projects attracting this notification shall

¹²Substituted *vide* Notification No. G.S.R.1227(E) dated 6th October, 2017

¹³Added *vide* Notification No. S.O. 556(E) dated 17th February, 2015



be considered for CRZ clearance as per the following procedure, namely:-

- (i) The project proponents shall apply with the following documents seeking prior clearance under CRZ notification to the concerned State or the Union territory Coastal Zone Management Authority,-
- (a) Form-1 (Annexure-IV of the notification);
 - (b) Rapid EIA Report including marine and terrestrial component except for construction projects listed under 4(c) and (d)
 - (c)) Comprehensive EIA with cumulative studies for projects in the stretches classified as low and medium eroding by MoEF based on scientific studies and in consultation with the State Governments and Union territory Administration;
 - (d) Disaster Management Report, Risk Assessment Report and Management Plan;
 - (e) CRZ map indicating HTL and LTL demarcated by one of the authorized agency (as indicated in para 2) in 1:4000 scale;
 - (f) Project layout superimposed on the above map indicated at (e) above;
 - (g) The CRZ map normally covering 7km radius around the project site.
 - (h) The CRZ map indicating the CRZ-I, II, III and IV areas including other notified ecologically sensitive areas;
 - (i) No Objection Certificate from the concerned State Pollution Control Boards or Union territory Pollution Control Committees for the projects involving discharge of effluents, solid wastes, sewage and the like.;
- (ii) The concerned CZMA shall examine the above documents in accordance with the approved CZMP and in compliance with CRZ notification and make recommendations within a period of sixty days from date of receipt of complete application,-
- (a) MoEF or State Environmental Impact Assessment Authority (hereinafter referred to as the SEIAA) as the case may be for the project attracting EIA notification,2006;
 - (b) MoEF for the projects not covered in the EIA notification, 2006 but attracting para 4(ii) of the CRZ notification;
 - (c) [SEIAA, for the projects specified under paragraph 4(i) (except with respect to item (d) thereof relating to building projects with less than 20,000 sq. mts. of built-up area) and for the projects not attracting EIA Notification, 2006]¹⁴
- (iii) ~~MoEF or SEIAA shall consider such projects for clearance based on the recommendations of the concerned CZMA within a period of sixty days.~~
- (iii) [MoEFCC or SEIAA shall consider such projects for clearance based on the

¹⁴Added vide Notification No. S.O.3085(E) dated 28th November, 2014



recommendations of the concerned CZMA within a period of sixty days.]¹⁵

~~(iv) The clearance accorded to the projects under the CRZ Notification shall be valid for the period of five years from the date of issue of the clearance for commencement of construction and operation.~~

[(iv) In case CZMAs are not in operation due to their reconstitution or any other reasons, then it shall be the responsibility of the Department of Environment in the State Government or Union Territory Administrations, who are the custodian of the Coastal Zone Management Plans of respective States or Union Territories to provide comments and recommend the proposals in terms of the provisions of the said Notification to the Ministry of Environment, Forest and Climate Change.]¹⁶

~~(v) For Post clearance monitoring—~~

~~(a) it shall be mandatory for the project proponent to submit half yearly compliance reports in respect of the stipulated terms and conditions of the environmental clearance in hard and soft copies to the regulatory authority(s) concerned, on 1st June and 31st December of each calendar year and all such compliance reports submitted by the project proponent shall be published in public domain and its copies shall be given to any person on application to the concerned CZMA.~~

~~(b) the compliance report shall also be displayed on the website of the concerned regulatory authority.~~

~~[The clearance accorded to the projects under the CRZ Notification shall be valid for the period of five years from the date of issue of the clearance for commencement of construction and operation.]¹⁷~~

[(v) The clearance accorded to the projects under this Notification shall be valid for a period of seven years from the date of issue of such clearance:

Provided that the construction activities shall commence within a period of five years from the date of the issue of clearance and the construction be completed and the operations be commenced within seven years from the date of issue of such a clearance:

Provided further that the period of validity may be extended for a maximum period of three years in case an application is made to the concerned authority by the applicant within the validity period, along with recommendation for extension of validity of the clearance by the concerned State/Union Territory Coastal Zone Management

¹⁵ Substituted *vide* Notification No. S.O.1393(E) dated 3rd May, 2017

¹⁶ Substituted *vide* Notification No. S.O.1393(E) dated 3rd May, 2017

¹⁷ Added *vide* Notification No. S.O.1393(E) dated 3rd May, 2017



Authority.]¹⁸

(vi) ~~To maintain transparency in the working of the CZMAs it shall be the responsibility of the CZMA to create a dedicated website and post the agenda, minutes, decisions taken, clearance letters, violations, action taken on the violations and court matters including the Orders of the Hon'ble Court as also the approved CZMPs of the respective State Government or Union territory.~~

[(vi) For Post clearance monitoring –

(a) It shall be mandatory for the project proponent to submit half-yearly compliance reports in respect of the stipulated terms and conditions of the environmental clearance in hard and soft copies to the regulatory authority(s) concerned, on 1st June and 31st December of each calendar year and all such compliance reports submitted by the project proponent shall be published in public domain and its copies shall be given to any person on application to the concerned CZMA.

(b) The compliance report shall also be displayed on the website of the concerned regulatory authority.]¹⁹

(vii) **[To maintain transparency in the working of the CZMAs it shall be the responsibility of the CZMA to create a dedicated website and post the agenda, minutes, decisions taken, clearance letters, violations, action taken on the violations and court matters including the Orders of the Hon'ble Court as also the approved CZMPs of the respective State Government or Union Territory.]²⁰**

4.3 [Post facto clearance for permissible activities-

- i All activities, which are otherwise permissible under the provisions of this notification, but have commenced construction without prior clearance, would be considered for regularization only in such cases wherein the project applied for regularization in the specified time and the projects which are in violation of CRZ norms would not be regularized;**
- ii The concerned Coastal Zone Management Authority shall give specific recommendations regarding regularization of such proposals and shall certify that there have been no violations of the CRZ regulations, while making such recommendations;**
- iii Such cases where the construction have been commenced before the date of this**

¹⁸ Substituted *vide* Notification No. S.O. 1002(E) dated 6th March, 2018

¹⁹ Substituted *vide* Notification No. S.O. 1392(E) dated 3rd May, 2017

²⁰ Substituted *vide* Notification No. S.O. 1392(E) dated 3rd May, 2017



notification without the requisite CRZ clearance, shall be considered only by the Ministry of Environment, Forest and Climate Change, provided that the request for such regularisation is received in the said Ministry by 30th June, 2018.]²¹

5. Preparation of Coastal Zone Management Plans.

- (i) The MoEF may obtain the CZMPs prepared through the respective State Government or Union territory;
- (ii) The CZMPs may be prepared by the coastal State Government or Union territory by engaging reputed and experienced scientific institution(s) or the agencies including the National Centre for Sustainable Coastal Management (hereinafter referred to as the NCSCM) of MoEF and in consultation with the concerned stakeholders;
- ~~(iii) The hazard line shall be mapped by MoEF through SoI all along the coastline of the country and the hazard line shall be demarcated taking into account, tide, waves, sea level rise and shoreline changes;~~
- ~~(iv) For the purpose of depicting the flooding due to tides, waves and sea level rise in the next fifty and hundred years, the contour mapping of the coastline shall be carried out at 0.5m interval normally upto 7km from HTL on the landward side, and the shoreline changes shall be demarcated based on historical data by comparing the previous satellite imageries with the recent satellite imageries;~~
- ~~(v) Mapping of the hazard line shall be carried out in 1:25,000 scale for macro level planning and 1:10,000 scale or cadastral scale for micro level mapping and the hazard line shall be taken into consideration while preparing the land use plan of the coastal areas;~~
- (iii) [A 'Hazard line' shall be demarcated by the Survey of India, taking into account the extent of the flooding on the land area due to water level fluctuations, sea level rise and shoreline changes (erosion/accretion) occurring over a period of time, and shared with the coastal State and Union Territories through the National Centre for Sustainable Coastal Management, Chennai;
- (iv) The Hazard line shall be used as a tool for disaster management plan for the coastal environment, including planning of adaptive and mitigation measures;
- (v) With a view to reduce the vulnerability of the coastal communities and ensuring sustainable livelihood, while drawing the Coastal Zone Management Plan (CZMPs), the land use planning for the area between the Hazard Line and HTL shall take into account such impacts of climate change and shoreline changes.]²²

²¹Inserted *vide* Notification No. S.O. 1002(E) dated 6th March, 2018

²²Substituted *vide* Notification No. S.O.3197(E) dated 2nd July, 2018



(vi) The coastal States and Union Territory will prepare within a period of twenty four months from the date of issue this notification, draft CZMPs in 1:25,000 scale map identifying and classifying the CRZ areas within the respective territories in accordance with the guidelines given in Annexure-I of the notification, which involve public consultation;

(vii) The draft CZMPs shall be submitted by the State Government or Union territory to the concerned CZMA for appraisal, including appropriate consultations, and recommendations in accordance with the procedure(s) laid down in the Environment (Protection) Act, 1986;

~~(viii) The State Government or Union territory CZMA shall submit the draft CZMPs to MoEF along with its recommendations on the CZMP within a period of six months after incorporating the suggestions and objections received from the stakeholders; The State Government or the Union Territory CZMA shall submit the draft CZMPs to MoEF along with its recommendations on the CZMP on or before the 30th September, 2013, after incorporating the suggestions and objections received from the stakeholders.²³ [The Coastal Zone Management Authority of the State Government or of the Union Territory shall submit the draft Coastal Zone] Management Plan along with its recommendation to the Ministry of Environment and Forests on or before 30th September, 2014 after incorporating the suggestions and objections received from the stakeholders.²⁴~~

[(viii) The Coastal Zone Management Authority of the State or of the Union Territory shall submit the draft Coastal Zone Management Plan along with its recommendations to the Ministry of Environment, Forests and Climate Change after incorporating the suggestions and objections received from the stakeholders.]²⁵

(ix) MoEF shall thereafter consider and approve the CZMPs within a period of four months from the date of receipt of the CZMPs complete in all respects;

(x) All developmental activities listed in this notification shall be regulated by the State Government, Union Territory Administration, the local authority or the concerned CZMA within the framework of such approved CZMPs as the case may be in accordance with provisions of this notification;

(xi) The CZMPs shall not normally be revised before a period of five years after which, the concerned State Government or the Union territory may consider undertaking revision of the maps following the above procedures;

~~(xii) The CZMPs already approved under CRZ notification, 1991 shall be valid for a period of twenty four months unless the aforesaid period is extended by MoEF by a specific notification subject to such terms and conditions as may be specified therein.~~

~~[The CZMPs already approved by the MoEF shall be used till 31st January, 2014.]²⁶~~

²³Substituted *vide* Notification No. S.O.2557 (E) dated 22nd August, 2013

²⁴Substituted *vide* Notification No. S.O.1244 (E) dated 30th April, 2014

²⁵Substituted *vide* Notification No. S.O. 938 (E) dated 31st March, 2015

²⁶Substituted *vide* Notification No. S.O. 2557 (E) dated 22nd August, 2013



~~{The Coastal Zone Management Plans which are already approved by the Ministry of Environment and Forests shall be used till 31st January, 2015}²⁷~~

~~{The Coastal Zone Management Plans as already approved by the Ministry of Environment and Forests shall be valid upto 31st day of January, 2016 [2017]²⁸, or till such time as the approval is given by the Ministry to the fresh Coastal Zone Management Plans made under the said notification, whichever is earlier.}²⁹~~

[(xii) The Coastal Zone Management Plans as already approved by the Ministry of Environment and Forests shall be valid up to the 31st day of July, [2017 2018]³⁰ or till such time as the approval is given by the Ministry to the fresh Coastal Zone Management Plans made under the said notification, whichever is earlier.]³¹

6. Enforcement of the CRZ, notification, 2011-

- (a) For the purpose of implementation and enforcement of the provisions this notification and compliance with conditions stipulated thereunder, the powers either original or delegated are available under Environment (Protection) Act, 1986 with the MoEF, State Government or the Union territory Administration NCZMA and SCZMA s;
- (b) The composition, tenure and mandate of NCZMA and State Government or the Union territory CZMA s have already been notified by MoEF in terms of Orders of Hon'ble Supreme Court in Writ Petition 664 of 1993;
- (c) the State Government or the Union territory CZMA s shall primarily be responsible for enforcing and monitoring of this notification and to assist in this task, the State Government and the Union territory shall constitute district level Committees under the Chairmanship of the District Magistrate concerned containing atleast three representatives of local traditional coastal communities including from fisherfolk;
- (d) The dwelling units of the traditional coastal communities including fisherfolk, tribals as were permissible under the provisions of the CRZ notification, 1991, but which have not obtained formal approval from concerned authorities under the aforesaid notification shall be considered by the respective Union territory CZMA s and the dwelling units shall be regularized subject to the following condition, namely-

²⁷ Substituted *vide* Notification No. S.O. 1244 (E) dated 30th April, 2014

²⁸ Substituted *vide* Notification No. S.O. 1212 (E) dated 22nd March, 2016

²⁹ Substituted *vide* Notification No. S.O. 938 (E) dated 31st March, 2015

³⁰ Substituted *vide* Notification No. S.O. 2444 (E) dated 31st July, 2017

³¹ Substituted *vide* Notification No. S.O. 622 (E) dated 23rd February, 2017



- (i) these are not used for any commercial activity
- (ii) these are not sold or transferred to non-traditional coastal community.

7. Classification of the CRZ – For the purpose of conserving and protecting the coastal areas and marine waters, the CRZ area shall be classified as follows, namely:-

(i) CRZ-I,-

A. The areas that are ecologically sensitive and the geomorphological features which play a role in the maintaining the integrity of the coast,-

- (a) Mangroves, in case mangrove area is more than 1000 sq mts, a buffer of 50meters along the mangroves shall be provided;
- (b) Corals and coral reefs and associated biodiversity;
- (c) Sand Dunes;
- (d) Mudflats which are biologically active;
- (e) National parks, marine parks, sanctuaries, reserve forests, wildlife habitats and other protected areas under the provisions of Wild Life (Protection) Act, 1972 (53 of 1972), the Forest (Conservation) Act, 1980 (69 of 1980) or Environment (Protection) Act, 1986 (29 of 1986); including Biosphere Reserves;
- (f) Salt Marshes;
- (g) Turtle nesting grounds;
- (h) Horse shoe crabs habitats;
- (i) Sea grass beds;
- (j) Nesting grounds of birds;
- (k) Areas or structures of archaeological importance and heritage sites.

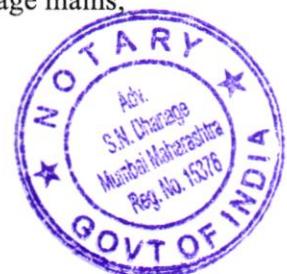
B. The area between Low Tide Line and High Tide Line;

(ii) CRZ-II,-

The areas that have been developed upto or close to the shoreline.

Explanation.- For the purposes of the expression “developed area” is referred to as that area within the existing municipal limits or in other existing legally designated urban areas which are substantially built-up and has been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains;

(iii) CRZ-III,-



Areas that are relatively undisturbed and those do not belong to either CRZ-I or II which include coastal zone in the rural areas (developed and undeveloped) and also areas within municipal limits or in other legally designated urban areas, which are not substantially built up.

(iv) CRZ-IV,-

- A. The water area from the Low Tide Line to twelve nautical miles on the seaward side;
- B. shall include the water area of the tidal influenced water body from the mouth of the water body at the sea upto the influence of tide which is measured as five parts per thousand during the driest season of the year.

(v) Areas requiring special consideration for the purpose of protecting the critical coastal environment and difficulties faced by local communities,-

- A. (i) CRZ area falling within municipal limits of Greater Mumbai;
- (ii) the CRZ areas of Kerala including the backwaters and backwater islands;
- (iii) CRZ areas of Goa.
- B. Critically Vulnerable Coastal Areas (CVCA) such as Sunderbans region of West Bengal and other ecologically sensitive areas identified as under Environment (Protection) Act, 1986 and managed with the involvement of coastal communities including fisherfolk.

8. Norms for regulation of activities permissible under this notification,-

- (i) The development or construction activities in different categories of CRZ shall be regulated by the concerned CZMA in accordance with the following norms, namely:-

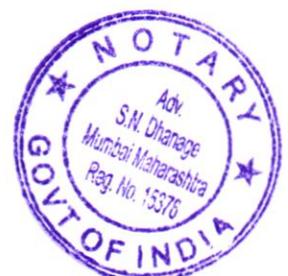
~~Note: The word existing use hereinafter in relation to existence of various features or existence of regularisation or norms shall mean existence of these features or regularisation or norms as on 19.2.1991 wherein CRZ notification, was notified^{32, 33}~~

I. CRZ-I,-

- (i) no new construction shall be permitted in CRZ-I except,-
 - (a) projects relating to Department of Atomic Energy;

³² Note added vide Corrigendum No. S.O. 651(E) dated 29th March, 2011

³³ Note deleted vide Notification No. S.O. 1599(E) dated 16th June, 2015



- (b) pipelines, conveying systems including transmission lines;
 - (c) facilities that are essential for activities permissible under CRZ-I;
 - (d) installation of weather radar for monitoring of cyclones movement and prediction by Indian Meteorological Department;
 - (e) construction of trans harbour sea link and without affecting the tidal flow of water, between LTL and HTL.
 - (f) Development of greenfield airport already approved at only Navi Mumbai;
 - (g) **[projects relating to Defence organisations which are of strategic requirement and national importance and cannot be located elsewhere, subject to strict environmental safeguards.]**³⁴
- (ii) Areas between LTL and HTL which are not ecologically sensitive, necessary safety measures will be incorporated while permitting the following, namely:-
- (a) exploration and extraction of natural gas;
 - (b) construction of dispensaries, schools, public rain shelter, community toilets, bridges, roads, jetties, **[erosion control measures]**³⁵, water supply, drainage, sewerage which are required for traditional inhabitants living within the biosphere reserves after obtaining approval from concerned CZMA.
 - (c) necessary safety measure shall be incorporated while permitting such developmental activities in the area falling in the hazard zone;
 - (d) salt harvesting by solar evaporation of seawater;
 - (e) desalination plants;
 - (f) storage of non-hazardous cargo such as edible oil, fertilizers and food grain within notified ports;
 - (g) construction of trans harbour sea links, roads on stilts or pillars without affecting the tidal flow of water.
 - (h) **[Manual mining of atomic mineral(s) notified under Part-B of First Schedule of Mining and Minerals (Development) Act, 1957 occurring as such or in association with one or other minerals – in the intertidal zone by such agencies as authorized by Department of Atomic Energy, as per mining plan approved by the Department of Atomic Energy:**

Provided that the manual mining operations are carried out by deploying persons using baskets and hand spades for collection of ore or mineral within the intertidal zone as per approved mining plan.

Explanation – For the purpose of this notification, manual mining shall



³⁴ Added *vide* Notification No. S.O. 3197(E) dated 2nd July, 2018

³⁵ Inserted *vide* Notification No. S.O. 3085(E) dated 28th November, 2014

mean the mining operations undertaken without deploying or using drilling and blasting or Heavy Earth Moving machinery in the intertidal zone.]³⁶

II. CRZ-II,-

- (i) buildings shall be permitted only on the landward side of the existing road, or on the landward side of existing authorized structures;
- ~~(ii) buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations including the 'existing' norms of Floor Space Index or Floor Area Ratio: Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road:~~

[(ii) buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations as modified from time to time, except the Floor Space Index or Floor Area Ratio, which shall be as per 1991 level:

Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road:

Provided further that the construction in CRZ-II area of Goa, Kerala and Mumbai shall be governed by the provisions of Clause V of paragraph 8.]³⁷

- (iii) reconstruction of authorized building to be permitted subject with the existing Floor Space Index or Floor Area Ratio Norms and without change in present use;
- (iv) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II appended to this notification and facilities for regasification of Liquefied Natural Gas subject to the conditions as mentioned in sub-paragraph (ii) of paragraph 3;
- (v) desalination plants and associated facilities;
- (vi) storage of non-hazardous cargo, such as edible oil, fertilizers and food grain in notified ports;
- (vii) facilities for generating power by non-conventional power sources and associated facilities;

III. CRZ-III,-

A. Area upto 200mts from HTL on the landward side in case of seafront and 100mts along tidal influenced water bodies or width of the creek whichever is less is to be earmarked

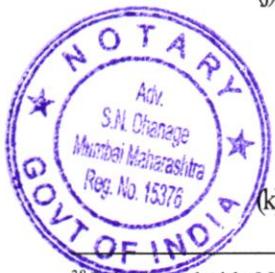
³⁶Inserted *vide* Notification No. G.S.R. No. 1227(E) dated 6th October, 2017

³⁷Substituted *vide* Notification No. S.O. 1599(E) dated 16th June, 2015



as “No Development Zone (NDZ)”,-

- (i) The NDZ shall not be applicable in such area falling within any notified port limits;
- (ii) No construction shall be permitted within NDZ except for repairs or reconstruction of existing authorized structure not exceeding existing Floor Space Index, existing plinth area and existing density and for permissible activities under the notification including facilities essential for activities; Construction/ reconstruction of dwelling units of traditional coastal communities including fisherfolk may be permitted between 100 and 200 metres from the HTL along the seafront in accordance with a comprehensive plan prepared by the State Government or the Union territory in consultation with the traditional coastal communities including fisherfolk and incorporating the necessary disaster management provision, sanitation and recommended by the concerned State or the Union territory CZMA to NCZMA for approval by MoEF;
- (iii) however, the following activities may be permitted in NDZ-
 - (a) agriculture, horticulture, gardens, pasture, parks, play field, and forestry;
 - (b) projects relating to Department of Atomic Energy;
 - ~~(c) mining of rare minerals;~~
 - [(c) Mining of Atomic Minerals notified under Part-B of the First Schedule of the Mining and Minerals (Development) Act, 1957 occurring as such or in association with one or other minerals.]³⁸**
 - (d) salt manufacture from seawater;
 - (e) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II;
 - (f) facilities for regasification of liquefied natural gas subject to conditions as mentioned in sub paragraph (ii) of paragraph 3;
 - (g) facilities for generating power by non-conventional energy sources;
 - (h) Foreshore facilities for desalination plants and associated facilities;
 - (i) Weather radars;
 - (j) construction of dispensaries, schools, public rain shelter, community toilets, bridges, roads, provision of facilities for water supply, drainage, sewerage, crematoria, cemeteries and electric sub-station which are required for the local inhabitants may be permitted on a case to case basis by CZMA;
 - (k) construction of units or auxiliary thereto for domestic sewage, treatment and



³⁸Substituted vide Notification No. G.S.R. 1227(E) dated 6th October, 2017

disposal with the prior approval of the concerned Pollution Control Board or Committee;

- (l) facilities required for local fishing communities such as fish drying yards, auction halls, net mending yards, traditional boat building yards, ice plant, ice crushing units, fish curing facilities and the like;
- (m) development of green field airport already permitted only at Navi Mumbai.

B. Area between 200 mts to 500 mts,-

The following activities shall be permissible in the above areas;

- (i) development of vacant plot in designated areas for construction of hotels or beach resorts for tourists or visitors subject to the conditions as specified in the guidelines at Annexure-III;
- (ii) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II;
- (iii) facilities for regasification of liquefied natural gas subject to conditions as mentioned in sub-paragraph (ii) of paragraph 3;
- (iv) storage of non-hazardous cargo such as, edible oil, fertilizers, food grain in notified ports;
- (v) foreshore facilities for desalination plants and associated facilities;
- (vi) facilities for generating power by non-conventional energy sources;
- (vii) construction or reconstruction of dwelling units so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and goathans. Building permission for such construction or reconstruction will be subject to local town and country planning rules with overall height of construction not exceeding 9mts with two floors (ground + one floor);
- (viii) Construction of public rain shelters, community toilets, water supply drainage, sewerage, roads and bridges by CZMA who may also permit construction of schools and dispensaries for local inhabitants of the area for those panchayats, the major part of which falls within CRZ if no other area is available for construction of such facilities;
- (ix) reconstruction or alteration of existing authorised building subject to sub-paragraph (vii),(viii);
- (x) development of green field airport already permitted only at Navi Mumbai.
- (xi) **[Mining of Atomic Minerals notified under Part-B of the First Schedule of Mining and Minerals (Development) Act, 1957 occurring as such or in association with one**



or other minerals.]³⁹

(IV) In CRZ-IV areas,-

The activities impugning on the sea and tidal influenced water bodies will be regulated except for traditional fishing and related activities undertaken by local communities as follows:-

- (a) No untreated sewage, effluents, ballast water, ship washes, fly ash or solid waste from all activities including from aquaculture operations shall be let off or dumped. A comprehensive plan for treatment of sewage generating from the coastal towns and cities shall be formulated within a period of one year in consultation with stakeholders including traditional coastal communities, traditional fisherfolk and implemented;
- (b) Pollution from oil and gas exploration and drilling, mining, boat house and shipping;
- (c) There shall be no restriction on the traditional fishing and allied activities undertaken by local communities.

V. Areas requiring special consideration,-

1. CRZ areas falling within municipal limits of the Greater Mumbai.

(i) Developmental activities in the CRZ area of the Greater Mumbai because of the environmental issues, relating to degradation of mangroves, pollution of creeks and coastal waters, due to discharge of untreated effluents and disposal of solid waste, the need to provide decent housing to the poor section of society and lack of suitable alternatives in the inter connected islands of Greater Mumbai shall be regulated as follows, namely:-

A. Construction of roads - In CRZ-I areas indicated at sub-paragraph (i) of paragraph 7 of the notification the following activities only can be taken up:-

(a) Construction of roads, approach roads and missing link roads approved in the Developmental Plan of Greater Mumbai on stilts ensuring that the free flow of tidal water is not affected, without any benefit of CRZ-II accruing on the landward side of such constructed roads or approach roads subject to the following conditions:-

- (i) All mangrove areas shall be mapped and notified as protected forest and necessary protection and conservation measures for the identified mangrove areas shall be initiated.
- (ii) Five times the number of mangroves destroyed/cut during the construction process shall be replanted.

B. Solid waste disposal sites shall be identified outside the CRZ area and thereafter within two years the existing conventional solid waste sites shall be relocated outside



³⁹Inserted vide Notification No. G.S.R. 1227(E) dated 6th October, 2017

the CRZ area.

- C. [The construction of sewage treatment plans in CRZ-I for the purpose of treating the sewage from the municipal area shall be taken only by the municipal authorities in exceptional circumstances, where no alternate site is available to set up such facilities, subject to recommendations of the concerned CZMA and approval by the Central Government. Three times the number of mangroves destroyed or cut during construction process shall be replanted.]⁴⁰

(iii) In CRZ-II areas-

- (a) The development or redevelopment shall continue to be undertaken in accordance with the norms laid down in the Town and Country Planning Regulations as they existed on the date of issue of the notification dated the 19th February, 1991, unless specified otherwise in this notification.

(b) SLUM REHABILITATION SCHEMES,-

1. In the Greater Mumbai area there are large slum clusters with lakhs of families residing therein and the living conditions in these slums are deplorable and the civic agencies are not able to provide basic infrastructure such as drinking water, electricity, roads, drainage and the like because the slums come up in an unplanned and congested manner and the slums in the coastal area are at great risk in the event of cyclones, storm surges or tsunamis, in view of the difficulties in providing rescue, relief and evacuation.
2. To provide a safe and decent dwelling to the slum dwellers, the State Government may implement slum redevelopment schemes as identified as on the date of issue of this notification directly or through its parastatal agencies like Maharashtra Housing and Area Development Authority (MHADA), Shivshahi Punarvasan Prakalp Limited (SPPL), Mumbai Metropolitan Region Development Authority (MMRDA) and the like.:

Provided that,-

- (i) such redevelopment schemes shall be undertaken directly or through joint ventures or through public private partnerships or other similar models ensuring that



⁴⁰Added vide Notification No. S.O. 1392(E) dated 3rd May, 2017

the stake of the State Government or its parastatal entities shall be not less than 51%;

- (ii) the Floor Space Index or Floor Area Ratio for such redevelopment schemes shall be in accordance with the Town and Country Planning Regulations prevailing as on the date on which the project is granted approval by the competent authority;
- (iii) it shall be the duty of the project proponent undertaking the redevelopment through conditions (i) (2) above along with the State Government to ensure that all legally regularized tenants are provided houses in situ or as per norms laid down by the State Government in this regard.

(c) REDEVELOPMENT OF DILAPIDATED, CESSSED AND UNSAFE BUILDINGS:

1. In the Greater Mumbai, there are, also a large number of old and dilapidated, cessed and unsafe buildings in the CRZ areas and due to their age these structures are extremely vulnerable and disaster prone and therefore there is an urgent need for the redevelopment or reconstruction of these identified buildings.
2. These projects shall be taken up subject to the following conditions and safeguards:
 - (i) such redevelopment or reconstruction projects as identified on the date of issue of this notification shall be allowed to be taken up involving the owners of these buildings either above or with private developers in accordance with the prevailing Regulation, directly or through joint ventures or through other similar models.
 - (ii) the Floor Space Index or Floor Area Ratio for such redevelopment schemes shall be in accordance with the Town and Country Planning Regulations prevailing as on the date on which the project is granted approval by the competent authority
 - (iii) suitable accommodation to the original tenants of the specified buildings shall be ensured during the course of redevelopment or reconstruction of the buildings by the project proponents, undertaking the redevelopment through condition 2(i) above.

(d) Notwithstanding anything contained in this notification, the developmental activities



for slums and for dilapidated, cessed and unsafe buildings as specified at paras (b) and (c) above shall be carried out in an accountable and transparent manner by the project proponents mentioned therein which shall include the following pre-condition measures, wherever applicable;-

1. (i) applicability of the Right to Information Act, 2005 to all redevelopment or reconstruction projects granted clearance by the Competent Authorities;
- (ii) MoEF shall issue an order constituting the CPIO and the first Appellate Authority of appropriate ranks in consultation with Government of Maharashtra;
- (iii) details of the Slum Rehabilitation Scheme, including the complete proposal and the names of the eligible slum dwellers will be declared suo-moto as a requirement of Section 4 of compliance of the Right to Information Act, 2005 by the appropriate authority in the Government of Maharashtra in one month before approving it;
- (iv) the implementing or executing agency at the State Government with regard to projects indicated at sub-item (b) and (c) of item (iii) of sub-paragraph V shall display on a large notice boards at the site and at the office of the implementing or executing agency the names of the eligible builders, total number of tenements being made, names of eligible slum dwellers who are to be provided the dwelling units and the extra area available for free sale.
- (v) Projects being developed under sub-items (b) and (c) of item (iii) of sub-paragraph V shall be given permission only if the project proponent agree to be covered under the Right to Information Act, 2005.
2. MoEF may appoint statutory auditors, who are empanelled by the Comptroller and auditor General (hereinafter referred to as the C&AG) to undertake performance and fiscal audit in respect of the projects relating to redevelopment of dilapidated, cessed and unsafe buildings and the projects relating to Slum Rehabilitation Scheme shall be audited by C&AG.
3. A High Level Oversight Committee may be set up by the Government of Maharashtra for periodic review of implementation of V(iii)(b) and (c) which shall include eminent representatives of various Stakeholders, like Architects, Urban Planner, Engineers, and Civil Society, besides the local urban bodies, the State Government and the Central Government.
4. The individual projects under V(iii)(b) and (c) shall be undertaken only after public consultation in which views of only the legally entitled slum dweller or the legally entitled tenent of the dilapidated or cessed buildings shall be obtained in accordance with



the procedures laid down in EIA notification,2006.

- (e) In order to protect and preserve the 'green lung' of the Greater Mumbai area, all open spaces, parks, gardens, playgrounds indicated in development plans within CRZ-II shall be categorized as CRZ-III, that is, 'no development zone'.
- (f) The Floor Space Index upto 15% shall be allowed only for construction of civic amenities, stadium and gymnasium meant for recreational or sports related activities and the residential or commercial use of such open spaces shall not be permissible.
- (g) Koliwada namely, fishing settlement areas as identified in the Development Plan of 1981 or relevant records of the Government of Maharashtra, shall be mapped and declared as CRZ-III so that any development, including construction and reconstruction of dwelling units within these settlements shall be undertaken in accordance with applicable as per local Town and Country Planning Regulations.
- (h) Reconstruction and repair works of the dwelling units, belonging to fisher communities and other local communities identified by the State Government, shall be considered and granted permission by the Competent Authorities on a priority basis, in accordance with the applicable Town and Country Planning Regulations.
- (i) **[Construction of Memorial in the honour of Bharat Ratna Dr. Babasaheb Ambedkar in Mumbai on India Mills land shall be allowed with change in land use from industrial to construction of Memorial in accordance with the applicable Town and Country Planning Regulations.]⁴¹**

2. CRZ for Kerala

In view of the unique coastal systems of backwater and backwater islands alongwith space limitation present in the coastal stretches of the State of Kerala, the following activities in CRZ shall be regulated as follows, namely:-

- (i) all the islands in the backwaters of Kerala shall be covered under the CRZ notification;
- (ii) the islands within the backwaters shall have 50mts width from the High Tide Line on the landward side as the CRZ area;
- (iii) within 50 mts from the HTL of these backwater islands existing dwelling units of local communities may be repaired or reconstructed however no new construction shall be permitted;
- (iv) beyond 50 mts from the HTL on the landward side of backwater islands, dwelling units of local communities may be constructed with the prior permission of the Gram panchayat;

⁴¹Inserted *vide* Notification No. S.O.4162 (E) dated 23rd December, 2016



- (v) foreshore facilities such as fishing jetty, fish drying yards, net mending yard, fishing processing by traditional methods, boat building yards, ice plant, boat repairs and the like, may be taken up within 50mts width from HTL of these backwater islands.

3. CRZ of Goa.-

In view of the peculiar circumstances of the State Goa including past history and other developments, the specific activities shall be regulated and various measures shall be undertaken as follows:-

- (i) the Government of Goa shall notify the fishing villages wherein all foreshore facilities required for fishing and fishery allied activities such as traditional fish processing yards, boat building or repair yards, net mending yards, ice plants, ice storage, auction hall, jetties may be permitted by Grama Panchayat in the CRZ area;
- (ii) reconstruction, repair works of the structures of local communities including fishermen community shall be permissible in CRZ;
- (iii) purely temporary and seasonal structures customarily put up between the months of September to May;
- [(iiia) such structures shall not be removed and dismantled during the month of June to August:**

Provided that the facilities available in these structures shall remain non-operational during the month of June to August]⁴²

- (iv) the eco sensitive low lying areas which are influenced by tidal action known as khazan lands shall be mapped;
- (v) the mangroves along such as khazan land shall be protected and a management plan for the khazan land prepared and no developmental activities shall be permitted in the khazan land;
- (vi) sand dunes, beach stretches along the bays and creeks shall be surveyed and mapped. No activity shall be permitted on such sand dune areas;
- (vii) the beaches such as Mandrem, Morjim, Galgiba and Agonda has been designated as turtle nesting sites and protected under the Wildlife Protection Act, 1972 and these areas shall be surveyed and management plan prepared for protection of these turtle nesting sites;
- (viii) no developmental activities shall be permitted in the turtle breeding areas referred to in sub-paragraph(vii).

⁴²Added *vide* Notification No. S.O. 1392(E) dated 3rd May, 2017



4. (a) Critical Vulnerable Coastal Areas (CVCA) which includes Sunderbans and other identified ecological sensitive areas which shall be managed with the involvement of the local coastal communities including the fisherfolk;-
- (b) the entire Sunderbans mangrove area and other identified ecologically important areas such as Gulf of Khambat and Gulf of Kutchchh in Gujarat, Malvan, Achra-Ratnagiri in Maharashtra, Karwar and Coondapur in Karnataka, Vembanad in Kerala, Gulf of Mannar in Tamil Nadu, Bhaitarkanika in Orissa, Coringa, East Godavari and Krishna in Andhra Pradesh shall be declared as Critical Vulnerable Coastal Areas (CVCA) through a process of consultation with local fisher and other communities inhabiting the area and depend on its resources for their livelihood with the objective of promoting conservation and sustainable use of coastal resources and habitats;
- (c) the process of identifying planning, notifying and implementing CVCA shall be detailed in the guideline which will be developed and notified by MoEF in consultations with the stakeholders like the State Government, local coastal communities and fisherfolk and the like inhabiting the area;
- (d) the Integrated Management Plans (IMPs) prepared for such CVCA shall inter alia keep in view the conservation and management of mangroves, needs of local communities such as, dispensaries, schools, public rain shelter, community toilets, bridges, roads, jetties, water supply, drainage, sewerage and the impact of sea level rise and other natural disasters and the IMPs will be prepared in line with the para 5 above for preparation of Coastal Zone Management Plans;
- (e) till such time the IMPs are approved and notified, construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants shall be permitted on a case to case basis, by the CZMA with due regards to the views of coastal communities including fisherfolk.

[F.No.11-83/2005-IA-III]

J. M. MAUSKAR, Addl. Secy.



ANNEXURE I**GUIDELINES FOR PREPARATION OF COASTAL ZONE MANAGEMENT PLANS****I. A. Demarcation of High TideLine**

1. Demarcation of High Tide Line (HTL) and Low Tide Line (LTL) shall be carried out by one of the agencies authorised by MoEF based on the recommendations of the National Centre for Sustainable Coastal Management (NCSCM).
2. Demarcation of the High Tide Line or LTL shall be made on the Coastal Zone Management (CZM) Maps of scale 1:25,000 prepared by the agencies identified by the MoEF.
3. Local level CZM Maps shall be prepared for use of officials of local bodies for determination of the CRZ.
4. The local level CZM Maps shall be prepared on a Cadastral scale in accordance with the CZM Maps approved by the Central Government.

B. Preparation of CZM Maps

5. Base Maps of 1:25,000 scale shall be acquired from the Survey of India (SOI) and wherever 1:25,000 maps are not available, 1:50,000 maps shall be enlarged to 1:25,000 for the purpose of base map preparation and these maps will be of the standard specification given below:

Unit	:	7.5 minutes X7.5minutes
Numbering	:	Survey of India Sheet Numbering System
Horizontal Datum	:	Everest or WGS84
Vertical Datum	:	Mean Sea Level (MSL)
Topography	:	Topography in the SOI maps will be updated using latest satellite imageries or aerial photographs

6. The High Water Level (HWL) and Low Water Level (LWL) marked on the Base maps will be transferred to the CZM maps.
7. Coastal geomorphological signatures in the field or satellite imageries or aerial photographs will be used for appropriate adjustment, in the HWL or LWL for demarcating HTL or LTL in accordance with the CRZ notification.
8. The following geomorphological features shall be considered while demarcating in HTL or LTL:



Landward (monsoonal) berm crest in the case of sandy beaches

Rocks, Headlands, Cliffs

Seawalls or revetments or embankments

9. 500 meter and 200 metre lines will be demarcated with respect of HTL.
10. HTL (as defined in the CRZ notification) and LTL shall also be demarcated in the CZM maps along the banks of tidal influenced inland water bodies with the help of the geomorphological signatures or features.
11. Classification of different coastal zones shall be done as per the CRZ notification
12. Standard national or international colour codes shall be used to highlight sub-classification of data.

C. Local level CZM Maps

Local level CZM Maps are for the use of local bodies and other agencies to facilitate implementation of the Coastal Zone Management Plans

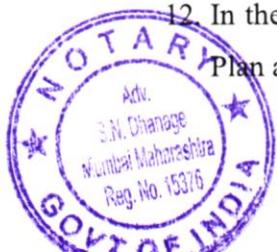
13. Cadastral (village) maps in 1:3960 or the nearest scale, shall be used as the base maps.
14. These maps are available with revenue Authorities and are prepared as per standard norms.
15. HTL (as defined in the CRZ notification) and LTL will be demarcated in the cadastral map based on detailed physical verification using coastal geomorphological signatures or features in accordance with the CZM Maps approved by the Central Government.
16. 500metre and 200metre lines shall be demarcated with respect to the HTL thus marked.
17. HTL (as defined in the CRZ notification, 1991) and LTL will also be demarcated along the banks of tidal influenced inland water bodies with the help of geomorphological signatures or features.
18. Classifications shall be transferred into local level CZM maps from the CZM Plans.
19. Symbols will be adopted from CZM Maps.
20. Colour codes as given in CZM Maps shall be used.
21. Demarcation of cadastral maps will be done by local agencies approved by the Central Government. The local agencies shall work under the guidance of the concerned State Government or Union Territory Coastal Zone Management Authorities.

D. Hazard mapping:-



II. Classification of CRZ areas

1. The CZM Maps shall be prepared in accordance with para 5 of the CRZ notification demarcating CRZ I, II, III, IV and V.
2. The CZM Maps shall clearly demarcate the land use plan of the area and lists out the CRZ-I areas. All the CRZ-I areas listed under para 7(I)A and B shall be clearly demarcated and colour codes given so that each of the CRZ-I areas can be clearly identified.
3. Buffer zone along mangrove areas of more than 1000sq mts shall be stipulated with a different colour distinguishing from the mangrove area.
4. The buffer zone shall also be classified as CRZ-I area.
5. The hazard line to be drawn up by MoEF shall be superimposed on the CZM maps in 1:25,000 scale and also on the cadastral scale maps.
6. The CRZ-II areas shall be those areas which have been substantially built-up with a ratio of built-up plots to that of total plots is more than 50%.
7. In the CRZ areas, the fishing villages, common properties of the fishermen communities, fishing jetties, ice plants, fish drying platforms or areas infrastructure facilities of fishing and local communities such as dispensaries, roads, schools, and the like, shall be indicated on the cadastral scale maps. States shall prepare detailed plans for long term housing needs of coastal fisher communities in view of expansion and other needs, provisions of basic services including sanitation, safety, and disaster preparedness.
8. No developmental activities other than those listed above shall be permitted in the areas between the hazard line and 500 mts or 100 mts or width of the creek on the landward side. The dwelling unit of the local communities including that of the fishers will not be relocated if the dwelling units are located on the seaward side of the hazard line. The State Government will provide necessary safeguards from natural disaster to such dwelling units of local communities.
9. The water areas of CRZ IV shall be demarcated and clearly demarcated if the water body is sea, lagoon, backwater, creek, bay, estuary and for such classification of the water bodies the terminology used by Naval Hydrographic Office shall be relied upon.
10. The fishing Zones in the water bodies and the fish breeding areas shall be clearly marked.
11. The water area shall be demarcated indicating the pollution levels as per Central Pollution Control Board standards on water quality.
12. In the CRZ V areas the land use maps shall be superimposed on the Coastal Zone Management Plan and clearly demarcating the CRZ I, II, III, IV.



13. The existing authorized developments on the sea ward side shall be clearly demarcated.
14. The features like cyclone shelters, rain shelters, helipads and other infrastructure including road network may be clearly indicated on the CZM Maps for the purpose of rescue and relief operations during cyclones, storms, tsunami and the like.

III. CZMPs approved by MoEF in accordance with CRZ notification, 1991

1. While preparing the CZMPs under CRZ notification, 2011, the CZMPs that have been approved under the CRZ Notification, 1991 shall be compared. A justification shall be provided by the concerned CZMA in case the CZMPs prepared under CRZ notification, 2011 varies with respect to the approved CZMP prepared under CRZ notification, 1991.

IV. Public Views on the CZMP.

- a) The draft CZMPs prepared shall be given wide publicity and suggestions and objections received in accordance with the Environment (Protection) Act, 1986. Public hearing on the draft CZMPs shall be held at district level by the concerned CZMAs.
- b) Based on the suggestions and objections received the CZMPs shall be revised and approval of MoEF shall be obtained.
- c) The approved CZMP shall be put up on the website of MoEF, concerned website of the State, Union Territory CZMA and hard copy made available in the panchayat office, District collector office and the like.

V. Revision of Coastal Zone Management Plans

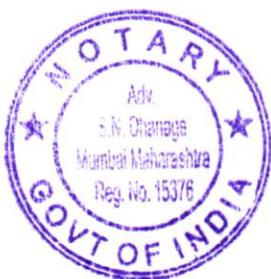
1. Whenever there is a doubt the concerned State or Union territory Coastal Zone Management Authority shall refer the matter to the National Centre for Sustainable Coastal Management who shall verify the CZMP based on latest satellite imagery and ground truthing.
2. The rectified map would be submitted to MoEF for its record.



ANNEXURE-II

List of petroleum and chemical products permitted for storage in [CRZ except CRZ-I(A)]

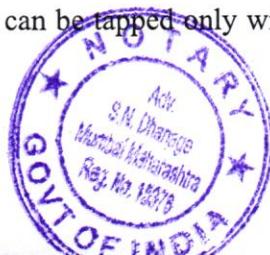
- (i) Crude oil;
- (ii) Liquefied Petroleum Gas;
- (iii) Motor spirit;
- (iv) Kerosene;
- (v) Aviation fuel;
- (vi) High speed diesel;
- (vii) Lubricating oil;
- (viii) Butane;
- (ix) Propane;
- (x) Compressed Natural Gas;
- (xi) Naphtha;
- (xii) Furnace oil;
- (xiii) Low Sulphur Heavy Stock;
- (xiv) Liquefied Natural Gas;
- (xv) Fertilizers and raw materials for manufacture of fertilizers.



ANNEXURE-III

Guidelines for development of beach resorts or hotels in the designated areas of CRZ-III and CRZ-II for occupation of tourist or visitors with prior approval of the Ministry of Environment and Forests

- I. Construction of beach resorts or hotels with prior approval of MoEF in designated areas of CRZ-II and III for occupation of tourist or visitors shall be subject to the following conditions, namely:-
- (a) The project proponent shall not undertake any construction within 200 metres in the landward side of High Tide Line and within the area between Low Tide Line and High Tide Line;
 - (b) The proposed constructions shall be beyond the hazard line or 200 mts from the High Tide Line whichever is more;
 - (c) live fencing and barbed wire fencing with vegetative cover may be allowed around private properties subject to the condition that such fencing shall in no way hamper public access to the beach;
 - (d) no flattening of sand dunes shall be carried out;
 - (e) no permanent structures for sports facilities shall be permitted except construction of goal posts, net posts and lamp posts;
 - (f) Construction of basement may be allowed subject to the condition that no objection certification is obtained from the State Ground Water Authority to the effect that such construction will not adversely affect the flow of groundwater in that area;
 - (g) the State Ground Water Authority shall take into consideration the guidelines issued by Central Government before granting such no objection certificate;
 - (h) though no construction is allowed in the no development zone for the purposes of calculation of Floor Space Index, the area of entire plot including the portion which falls within the no development zone shall be taken into account;
 - (i) the total plot size shall not be less than 0.4 hectares and the total covered area on all floors shall not exceed 33 percent of the plot size i.e., the Floor Space Index shall not exceed 0.33 and the open area shall be suitably landscaped with appropriate vegetative cover;
 - (j) the construction shall be consistent with the surrounding landscape and local architectural style;
 - (k) the overall height of construction upto the highest ridge of the roof, shall not exceed 9 metres and the construction shall not be more than two floors (ground floor plus one upper floor);
 - (l) groundwater shall not be tapped within 200 metre of the High Tide Line; within the 200 metre 500 metre zone it can be tapped only with the concurrence of the Central or State Ground Water Board;



- (m) extraction of sand, leveling or digging of sandy stretches except for structural foundation of building, swimming pool shall not be permitted within 500 metres of the High Tide Line;
- (n) the quality of treated effluents, solid wastes, emissions and noise levels and the like, from the project area must conform to the standards laid down by the competent authorities including the Central or State Pollution Control Board and under the Environment (Protection) Act, 1986;
- (o) necessary arrangements for the treatment of the effluents and solid wastes must be made and it must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent or solid waste shall be discharged on the beach;
- (p) to allow public access to the beach, atleast a gap of 20metres width shall be provided between any two hotels or beach resorts; and in no case shall gaps be less than 500metres apart; and
- (q) if the project involves diversion of forestland for non-forest purposes, clearance as required under the Forest (Conservation) Act, 1980 shall be obtained and the requirements of other Central and State laws as applicable to the project shall be met with; and
- (r) approval of the State or Union territory Tourism Department shall be obtained.
- (s)

II. In ecologically sensitive areas (such as marine parks, mangroves, coral reefs, breeding and spawning grounds of fish, wildlife habitats and such other area as may be notified by the Central or State Government Union territories) construction of beach resorts or hotels shall not be permitted

Note: For the development of beach resorts or hotels in the CRZ-II area, the guidelines at sub-items (c), (d), (e), (f), (g), (n), (o),(q), (r) of item I and at item II shall be applicable.⁴³



⁴³Inserted *vide* Notification No. S.O. 383 (E) dated 4th February, 2015

Form-I for seeking clearance for project attracting CRZ notification

Basic information:

Name of the Project:-

Location or site alternatives under consideration:-

Size of the project (in terms of total area) :-

CRZ classification of the area :-

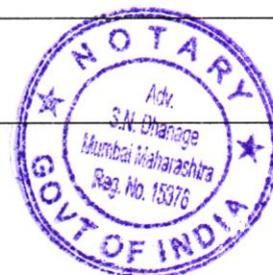
Expected cost of the project:-

Contact Information:-

(II) Activity

1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, and the like)

S. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)		
1.2	Details of CRZ classification as per the approved Coastal Zone Management Plan?		
1.3	Whether located in CRZ-I area?		
1.4	The distance from the CRZ-I areas.		
1.5	Whether located within the hazard zone as mapped by Ministry of Environment and Forests/National Disaster Management Authority?		
1.6	Whether the area is prone to cyclone, tsunami, tidal surge, subduction, earthquake etc.?		
1.7	Whether the area is prone for saltwater ingress?		



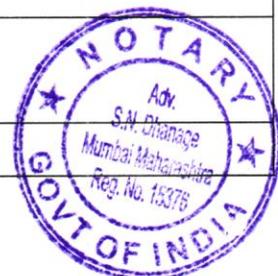
1.8	Clearance of existing land, vegetation and buildings?		
1.9	Creation of new land uses?		
1.10	Pre-construction investigations e.g. bore hole, soil testing?		
1.11	Construction works?		
1.12	Demolition works?		
1.13	Temporary sites used for construction works or housing of construction workers?		
1.14	Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations		
1.15	Underground Works including mining or tunneling?		
1.16	Reclamation works?		
1.17	Dredging/reclamation/land filling/disposal of dredged material etc.?		
1.18	Offshore structures?		
1.19	Production and manufacturing processes?		
1.20	Facilities for storage of goods or materials?		
1.21	Facilities for treatment or disposal of solid waste or liquid effluents?		
1.22	Facilities for long term housing of operational workers?		
1.23	New road, rail or sea traffic during construction or operation?		
1.24	New road, rail, air waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc?		
1.25	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?		
1.26	New or diverted transmission lines or pipelines?		



1.27	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?		
1.28	Stream and river crossings?		
1.29	Abstraction or transfers of water from ground or surface waters?		
1.30	Changes in water bodies or the land surface affecting drainage or run-off?		
1.31	Transport of personnel or materials for construction, operation or decommissioning?		
1.32	Long-term dismantling or decommissioning or restoration works?		
1.33	Ongoing activity during decommissioning which could have an impact on the environment?		
1.34	Influx of people to an area in either temporarily or permanently?		
1.35	Introduction of alien species?		
1.36	Loss of native species or genetic diversity?		
1.37	Any other actions?		

2. Use of Natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are non-renewable or in short supply):

S. No.	Information/checklist confirmation	Yes/No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)		
2.2	Water (expected source & competing users) unit: KLD		
2.3	Minerals (MT)		
2.4	Construction material – stone, aggregates, sand/soil (expected source – MT)		
2.5	Forests and timber (source – MT)		



2.6	Energy including electricity and fuels (source, competing users) Unit: fuel(MT), energy (MW)		
2.7	Any other natural resources (use appropriate standard units)		

3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health.

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and water supplies)		
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)		
3.3	Affect the welfare of people e.g. by changing living conditions?		
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,		
3.5	Any other causes, that would affect local communities, fisherfolk, their livelihood, dwelling units of traditional local communities Etc		



4. Production of solid wastes during construction or operation or decommissioning (MT/month)

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Spoil, overburden or mine wastes		
4.2	Municipal waste (domestic and or commercial wastes)		
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)		
4.4	Other industrial process wastes		
4.5	Surplus product		
4.6	Sewage sludge or other sludge from effluent Treatment		
4.7	Construction or demolition wastes		
4.8	Redundant machinery or equipment		
4.9	Contaminated soils or other materials		
4.10	Agricultural wastes		
4.11	Other solid wastes		

5. Release of pollutants or any hazardous, toxic or noxious substances to air(Kg/hr)

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources		
5.2	Emissions from production processes		
5.3	Emissions from materials handling including storage or transport		
5.4	Emissions from construction activities including plant and equipment		
5.5	Dust or odours from handling of materials including construction materials, sewage and waste		
5.6	Emissions from incineration of waste		



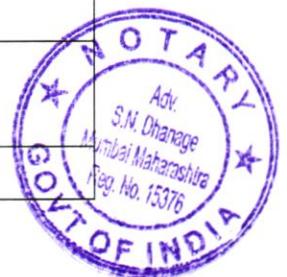
5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)		
5.8	Emissions from any other sources		

6. Generation of Noise and Vibration, and Emissions of Light and Heat:

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers		
6.2	From industrial or similar processes		
6.3	From construction or demolition		
6.4	From blasting or piling		
6.5	From construction or operational traffic		
6.6	From lighting or cooling systems		
6.7	From any other sources		

7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials		
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)		
7.3	By deposition of pollutants emitted to air into the land or into water		
7.4	From any other sources		



7.5	Is there a risk of long term build up of pollutants in the environment from these sources?		
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8. Risk of accidents during construction or operation of the Project, which could affect human health or the environment

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances		
8.2	From any other causes		
8.3	Could the project be affected by natural disasters causing environmental damage (e.g., floods, earthquakes, landslides, cloudburst etc)?		

9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	Lead to development of supporting facilities, ancillary development or development stimulated by the project which could have impact on the environment e.g.: Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.)		



	housing development extractive industries supply industries other		
9.2	Lead to after-use of the site, which could have an impact on the environment		
9.3	Set a precedent for later developments		
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects		

III. Environmental Sensitivity

S. No.	Areas	Name/ Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value		
2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests		
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration		
4	Inland, coastal, marine or underground waters		
5	State, National boundaries		
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas		
7	Defence installations		
8	Densely populated or built-up area		



9	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)		
10	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)		
11	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)		
12	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)		

Explanation:-For the purpose of the Notification, the word “existing” used in the Notification shall mean existence of the features or regularization or norms as on 19th February, 1991 wherein CRZ Notification, was notified.⁴⁴



⁴⁴Inserted *vide* Notification No. S.O. 3552 (E) dated 30th December, 2017

**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
NOTIFICATION**

New Delhi, the 18th January, 2019

G.S.R. 37(E).—Whereas by notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O.19 (E), dated the 6th January, 2011 (hereinafter referred to as the Coastal Regulation Zone Notification, 2011), the Central Government declared certain coastal stretches as Coastal Regulation Zone (hereinafter referred to as the CRZ) under section 3 of Environment (Protection) Act, 1986 (29 of 1986);

And Whereas, the Ministry of Environment, Forest and Climate Change has received representations from various coastal States and Union territories, besides other stakeholders, regarding certain provisions in the Coastal Regulation Zone Notification, 2011 related to management and conservation of marine and coastal ecosystems, development in coastal areas, eco-tourism, livelihood options and sustainable development of coastal communities etc.;

And Whereas, various State Governments and Union territory administrations and stakeholders have requested the Ministry of Environment, Forest and Climate Change to address the concerns related to coastal environment and sustainable development with respect to the Coastal Regulation Zone Notification, 2011;

And Whereas, the Ministry of Environment, Forest and Climate Change had constituted a Committee under the Chairmanship of Dr. Shailesh Nayak to examine various issues and concerns of coastal States and Union territories and various stakeholders, relating to the Coastal Regulation Zone Notification 2011 and to recommend appropriate changes in the said Notification;

And Whereas, the report submitted by Dr. Shailesh Nayak Committee has been examined in the Ministry and consultations have been held with various stakeholders in this regard;

And Whereas, a draft Coastal Regulation Zone Notification, 2018 was issued and hosted in the website of the Ministry of Environment, Forest and Climate Change on the 18th April, 2018 seeking comments and suggestions from all concerned;

And Whereas, objections and suggestions received in response to the above mentioned draft Coastal Regulation Zone Notification, 2018 have been duly considered by the Central Government;

Now, therefore in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) and in supersession of the Coastal Regulation Zone Notification 2011, number S.O. 19(E), dated the 6th January, 2011, except as respects things done or omitted to be done before such supersession, the Central Government, with a view to conserve and protect the unique environment of coastal stretches and marine areas, besides livelihood security to the fisher communities and other local communities in the coastal areas and to promote sustainable development based on scientific principles taking into account the dangers of natural hazards, sea level rise due to global warming, do hereby, declares the coastal stretches of the country and the water area up to its territorial water limit, excluding the islands of Andaman and Nicobar and Lakshadweep and the marine areas surrounding these islands, as Coastal Regulation Zone as under:-

- (i) The land area from High Tide Line (hereinafter referred to as the HTL) to 500 meters on the landward side along the sea front.

Explanation. - For the purposes of this notification, the HTL means the line on the land upto which the highest water line reaches during the spring tide, as demarcated by the National Centre for Sustainable Coastal Management (NCSCM) in accordance with the laid down procedures and made available to various coastal States and Union territories.

- (ii) CRZ shall apply to the land area between HTL to 50 meters or width of the creek, whichever is less on the landward side along the tidal influenced water bodies that are connected to the sea and the distance upto which development along such tidal influenced water bodies is to be regulated shall be governed by the distance upto which the tidal effects are experienced which shall be determined based on salinity concentration of five parts per thousand (ppt)



measured during the driest period of the year and distance up to which tidal effects are experienced shall be clearly identified and demarcated accordingly in the Coastal Zone Management Plan (hereinafter referred to as the CZMP):

Provided that the CRZ limit of 50 meters or width of the creek whichever is less, shall be subject to revision and final approval of the respective CZMPs as per this notification, framed with due consultative process, public hearing etc. and environmental safeguards enlisted therein, and till such time the CZMP to this notification is approved, the limit of 100 meters or width of the creek whichever is less, shall continue to apply.

Explanation.- For the purposes of this sub-paragraph the expression "tidal influenced water bodies" means the water bodies influenced by tidal effects from sea in the bays, estuaries, rivers, creeks, backwaters, lagoons, ponds that are connected to the sea.

- (iii) The "intertidal zone" means land area between the HTL and the Low Tide Line (hereinafter referred to as the LTL).
- (iv) The water and the bed area between the LTL to the territorial water limit (12 Nm) in case of sea and the water and the bed area between LTL at the bank to the LTL on the opposite side of the bank, of tidal influenced water bodies.

2.0 Classification of CRZ. – For the purpose of conserving and protecting the coastal areas and marine waters, the CRZ area shall be classified as follows, namely: -

2.1 CRZ-I areas are environmentally most critical and are further classified as under:

2.1.1 CRZ-I A:

- (a) CRZ-I A shall constitute the following ecologically sensitive areas (ESAs) and the geomorphological features which play a role in maintaining the integrity of the coast viz.:
 - (i) Mangroves (in case mangrove area is more than 1000 square meters, a buffer of 50 meters along the mangroves shall be provided and such area shall also constitute CRZ-I A);
 - (ii) Corals and coral reefs;
 - (iii) Sand dunes;
 - (iv) Biologically active mudflats;
 - (v) National parks, marine parks, sanctuaries, reserve forests, wildlife habitats and other protected areas under the provisions of Wild Life (Protection) Act, 1972 (53 of 1972), Forest (Conservation) Act, 1980 (69 of 1980) or Environment (Protection) Act, 1986 (29 of 1986), including Biosphere Reserves;
 - (vi) Salt marshes;
 - (vii) Turtle nesting grounds;
 - (viii) Horse shoe crabs' habitats;
 - (ix) Sea grass beds;
 - (x) Nesting grounds of birds;
 - (xi) Areas or structures of archaeological importance and heritage sites.
- (b) A detailed environment management plan shall be formulated by the states and Union territories for such ecologically sensitive areas in respective territories, as mapped out by the National Centre for Sustainable Coastal Management (NCSCM), Chennai based on guidelines as contained in **Annexure-I** to this notification and integrated with the CZMP.

2.1.2 CRZ-I B:

The intertidal zone i.e. the area between Low Tide Line and High Tide Line shall constitute the CRZ-I B.



2.2 CRZ-II:

CRZ-II shall constitute the developed land areas up to or close to the shoreline, within the existing municipal limits or in other existing legally designated urban areas, which are substantially built-up with a ratio of built-up plots to that of total plots being more than 50 per cent and have been provided with drainage and approach roads and other infrastructural facilities, such as water supply, sewerage mains, etc.

2.3 CRZ-III:

Land areas that are relatively undisturbed (viz. rural areas, etc.) and those which do not fall under CRZ-II, shall constitute CRZ-III, and CRZ-III shall be further classified into following categories: -

2.3.1 CRZ-III A:

Such densely populated CRZ-III areas, where the population density is more than 2161 per square kilometre as per 2011 census base, shall be designated as CRZ-III A and in CRZ-III A, area up to 50 meters from the HTL on the landward side shall be earmarked as the 'No Development Zone (NDZ)', provided the CZMP as per this notification, framed with due consultative process, have been approved, failing which, a NDZ of 200 meters shall continue to apply.

2.3.2 CRZ-III B:

All other CRZ-III areas with population density of less than 2161 per square kilometre, as per 2011 census base, shall be designated as CRZ-III B and in CRZ-III B, the area up to 200 meters from the HTL on the landward side shall be earmarked as the 'No Development Zone (NDZ)'.

2.3.3:

Land area up to 50 meters from the HTL, or width of the creek whichever is less, along the tidal influenced water bodies in the CRZ III, shall also be earmarked as the NDZ in CRZ III.

Note: The NDZ shall not be applicable in the areas falling within notified Port limits.

2.4 CRZ- IV:

The CRZ- IV shall constitute the water area and shall be further classified as under:-

2.4.1 CRZ- IVA:

The water area and the sea bed area between the Low Tide Line up to twelve nautical miles on the seaward side shall constitute CRZ-IV A.

2.4.2 CRZ- IVB:

CRZ-IV B areas shall include the water area and the bed area between LTL at the bank of the tidal influenced water body to the LTL on the opposite side of the bank, extending from the mouth of the water body at the sea up to the influence of tide, i.e., salinity of five parts per thousand (ppt) during the driest season of the year.

3.0 Areas requiring special consideration in the CRZ.- Following coastal areas shall be accorded special consideration for the purpose of protecting the critical coastal environment and difficulties faced by local communities: -

3.1 Critically Vulnerable Coastal Areas (CVCA):

Sundarban region of West Bengal and other ecologically sensitive areas identified as under Environment (Protection) Act, 1986 such as Gulf of Khambat and Gulf of Kutchh in Gujarat, Malvan, Achra-Ratnagiri in Maharashtra, Karwar and Coondapur in Karnataka, Vembanad in Kerala, Gulf of Mannar in Tamil Nadu, Bhitarkanika in Odisha, Coringa, East Godavari and Krishna in Andhra Pradesh shall be treated as Critical Vulnerable Coastal Areas (CVCA) and managed with the involvement of coastal communities including fisher folk who depend on coastal resources for their sustainable livelihood.

3.2 CRZ for inland Backwater islands and islands along the mainland coast.

3.3 CRZ falling within municipal limits of Greater Mumbai.



4. Prohibited activities within CRZ.- The following activities shall be prohibited, in general, within the entire CRZ and exceptions to these and other permissible and regulated activities in specific CRZ categories viz. CRZ-I, II, III and IV, shall be governed by the provisions of paragraph 5:-

- (i) Setting up of new industries and expansion of existing industries, operations or processes.
- (ii) Manufacture or handling of oil, storage or disposal of hazardous substances as specified in the notification of the Ministry of Environment, Forest and Climate Change number G.S.R.395 (E), dated the 4th April, 2016.
- (iii) Setting up of new fish processing units.
- (iv) Land reclamation, bunding or disturbing the natural course of seawater except for the activities permissible under this notification and executed with prior permission from the competent authority.
- (v) Discharge of untreated waste and effluents from industries, cities or towns and other human settlements.
- (vi) Dumping of city or town wastes including construction debris, industrial solid wastes, fly ash for the purpose of land filling.
- (vii) Port and harbour projects in high eroding stretches of the coast.
- (viii) Mining of sand, rocks and other sub-strata materials.
- (ix) Dressing or altering of active sand dunes.
- (x) In order to safeguard the aquatic system and marine life, disposal of plastic into the coastal waters shall be prohibited and adequate measures for management and disposal of plastic materials shall be undertaken in the CRZ.
- (xi) Drawal of ground water.

5. Regulation of permissible activities in CRZ:

5.1 CRZ-I:

5.1.1. CRZ-IA:

These areas are ecologically most sensitive and generally no activities shall be permitted to be carried out in the CRZ-I A area, with following exceptions:-

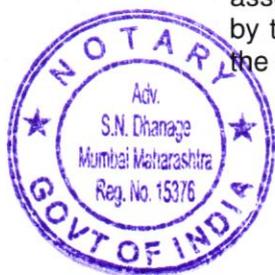
- (i) Eco-tourism activities such as mangrove walks, tree huts, nature trails, etc., in identified stretches areas subject to such eco-tourism plan featuring in the approved CZMP as per this notification, framed with due consultative process, public hearing, etc. and further subject to environmental safeguards and precautions related to the Ecologically Sensitive Areas, as enlisted in the CZMP.
- (ii) In the mangrove buffer, only such activities shall be permitted like laying of pipelines, transmission lines, conveyance systems or mechanisms and construction of road on stilts, etc. that are required for public utilities.
- (iii) Construction of roads and roads on stilts, by way of reclamation in CRZ-I areas, shall be permitted only in exceptional cases for defence, strategic purposes and public utilities, subject to a detailed marine or terrestrial or both environment impact assessment, to be recommended by the Coastal Zone Management Authority and approved by the Ministry of Environment, Forest and Climate Change; and in case construction of such roads passes through mangrove areas or is likely to damage the mangroves, a minimum three times the mangrove area affected or destroyed or cut during the construction process shall be taken up for compensatory plantation of mangroves.

5.1.2 CRZ-I B - The inter tidal areas:

Activities shall be regulated or permissible in the CRZ-I B areas as under:-

- (i) Land reclamation, bunding, etc. shall be permitted only for activities such as,-

- (a) foreshore facilities like ports, harbours, Jetties, wharves, quays, slipway, bridges, hover ports for coast guard, sea links, etc;
- (b) projects for defence, strategic and security purposes;
- (c) road on stilts, provided that such roads shall not be authorised for permitting development on the landward side of such roads, till the existing High Tide Line:
Provided that the use of reclaimed land may be permitted only for public utilities such as mass rapid or multimodal transit system, construction and installation of all necessary associated public utilities and infrastructure to operate such transit or transport system including those for electrical or electronic signaling system, transit stopover of permitted designs; except for any industrial operation, repair or maintenance;
- (d) measures for control of erosion;
- (e) maintenance and clearing of waterways, channels, ports and hover ports for coast guard;
- (f) measures to prevent sand bars, installation of tidal regulators, laying of storm water drains or for structure for prevention of salinity ingress and freshwater recharge.
- (ii) Activities related to waterfront or directly needing foreshore facilities such as ports and harbours, jetties, quays, wharves, erosion control measures, breakwaters, pipelines, lighthouses, navigational safety facilities, coastal police stations, Indian coast guard stations and the like.
- (iii) Power by non-conventional energy sources and associated facilities.
- (iv) Transfer of hazardous substances from ships to Ports, terminals and refineries and vice versa.
- (v) Facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II to this notification, subject to implementation of safety regulations including guidelines issued by the Oil Industry Safety Directorate in the Ministry of Petroleum and Natural Gas and guidelines issued by the Ministry of Environment, Forest and Climate Change, provided that such facilities are for receipt and storage of fertilizers and raw materials required for fertilizers, like ammonia, phosphoric acid, sulphur, sulphuric acid, nitric acid, etc.
- (vi) Storage of non-hazardous cargo i.e. edible oil, fertilizers and food grains in notified Ports.
- (vii) Hatchery and natural fish drying.
- (viii) Existing fish processing units may utilise 25% additional plinth area for modernisation purposes (only for additional equipment and pollution control measures) subject to the following:-
- (a) Floor Space Index of such reconstruction not exceeding the permissible Floor Space Index as per prevalent town and country planning regulations;
- (b) additional plinth area is constructed only to the landward side.
- (c) approval of the concerned State Pollution Control Board or Pollution Control Committee.
- (ix) Treatment facilities for waste and effluents and conveyance of treated effluents.
- (x) Storm water drains.
- (xi) Projects classified as strategic, defence related projects and projects of the Department of Atomic Energy, Government of India.
- (xii) Manual mining of atomic mineral(s) notified under Part-B of the First Schedule to the Mining and Minerals (Development and Regulation) Act, 1957(67 of 1957) occurring as such or in association with one or other minerals in the intertidal zone by such agencies as authorised by the Department of Atomic Energy, Government of India as per mining plan approved by the Atomic Mineral Directorate for Exploration and Research:



Provided that the manual mining operations shall be carried out only by deploying persons using baskets and hand spades for collection of ore or mineral within the intertidal zone and as per approved mining plan, without deploying or using drilling and blasting or Heavy Earth Moving Machinery in the intertidal zone.

- (xiii) Exploration and extraction of oil and natural gas and all associated activities and facilities thereto;
- (xiv) Foreshore requiring facilities for transport of raw materials, facilities for intake of cooling water, intake water for desalination plants, etc. and outfall for discharge of treated wastewater or cooling water from thermal power plants in conformity with the environmental standards notified by Ministry of Environment, Forest and Climate Change and relevant directions of Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB) or Pollution Control Committee (PCC), as the case may be.
- (xv) Pipelines, conveying systems including transmission lines.
- (xvi) Weather radar for monitoring of cyclones prediction, ocean observation platforms, movement and associated activities.
- (xvii) Salt harvesting and associated facilities.
- (xviii) Desalination plants and associated facilities.

5.2 CRZ-II:

- (i) Activities as permitted in CRZ-I B, shall also be permissible in CRZ-II, in so far as applicable.
- (ii) Construction of buildings for residential purposes, schools, hospitals, institutions, offices, public places, etc. shall be permitted only on the landward side of the existing road, or on the landward side of existing authorised fixed structures:

Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road.

- (iii) Buildings permitted as in (ii) above, shall be subject to the local town and country planning regulations as applicable from time to time, and the norms for the Floor Space Index (FSI) or Floor Area Ratio (FAR) prevailing as on the date of this Notification, and in the event that there is a need for amendment of the FSI after the date of publication of this notification in the official Gazette, the Urban Local Body or State Government or Union territory Administration shall approach the Ministry of Environment, Forest and Climate Change through the concerned State Coastal Zone Management Authority (SCZMA) or Union Territory Coastal Zone Management Authority, as the case may be and the SCZMA shall forward the proposal to the National Coastal Zone Management Authority (NCZMA) with its views in the matter, and the NCZMA shall thereafter examine various aspects like availability of public amenities, environmental protection measures, etc., and take a suitable decision on the proposal and it shall be the responsibility of the concerned Town Planning Authority to ensure that the Solid Wastes are handled as per respective Solid Waste Management Rules and no untreated sewage is discharged on to the coast or coastal waters.
- (iv) Reconstruction of authorised buildings shall be permitted, without change in present land use, subject to the local town and country planning regulations as applicable from time to time, and the norms for the Floor Space Index or Floor Area Ratio, prevailing as on the date of publication of this notification in the official Gazette and in the event that there is a need for amendment of the FSI after the said date of this notification, the Urban Local Body or State Government or Union territory Administration shall approach the Ministry of Environment, Forest and Climate Change through the concerned State Coastal Zone Management Authority (SCZMA) or Union Territory Coastal Zone Management Authority, as the case may be and the CZMA shall forward the proposal to the National Coastal Zone Management Authority (NCZMA) with its views in the matter, and the NCZMA shall thereafter examine various aspects like availability of public amenities, environmental protection measures etc., and take a suitable decision on the proposal and it shall be the responsibility of the concerned Town Planning Authority to ensure that the Solid Wastes are



handled as per respective Solid Waste Management Rules and no untreated sewage is discharged on to the coast or coastal waters.

- (v) Development of vacant plots in designated areas for construction of beach resorts or hotels or tourism development projects subject to the conditions or guidelines at **Annexure-III** to this notification.
- (vi) Temporary tourism facilities shall be permissible in the beaches which shall only include shacks, toilets or washrooms, change rooms, shower panels; walk ways constructed using interlocking paver blocks, etc, drinking water facilities, seating arrangements, etc. and such facilities shall however be permitted only subject to the tourism plan featuring in the approved CZMP as per this notification, framed with due consultative process or public hearing, etc. and further subject to environmental safeguards enlisted in the CZMP, however, a minimum distance of 10 meter from HTL shall be maintained for setting up of such facilities.

5.3 CRZ-III:

- (i) Activities as permitted in CRZ-I B, shall also be permissible in CRZ-III, in so far as applicable.
- (ii) **Regulation of activities in NDZ:**

Following shall be permissible and regulated in the NDZ:-

- (a) No construction shall be permitted within NDZ in CRZ III, except for repairs or reconstruction of existing authorised structure not exceeding existing Floor Space Index, existing plinth area and existing density and for permissible activities under this notification including facilities essential for activities and construction or reconstruction of dwelling units of traditional coastal communities including fisher folk, incorporating necessary disaster management provisions and proper sanitation arrangements.
- (b) Agriculture, horticulture, gardens, pastures, parks, playfields and forestry.
- (c) Construction of dispensaries, schools, public rain shelter, community toilets, bridges, roads, provision of facilities for water supply, drainage, sewerage, crematoria, cemeteries and electric sub-station which are required for the local inhabitants may be permitted on a case to case basis by Coastal Zone Management Authority (CZMA).
- (d) Construction of units or auxiliary thereto for domestic sewage, treatment and disposal with the prior approval of the concerned Pollution Control Board or Committee.
- (e) Facilities required for local fishing communities such as fish drying yards, auction halls, net mending yards, traditional boat building yards, ice plant, ice crushing units, fish curing facilities and the like.
- (f) Wherever there is a national or State highway passing through the NDZ of CRZ-III areas, temporary tourism facilities such as toilets, change rooms, drinking water facility and temporary shacks can be taken up on the seaward side of the road.

On landward side of such roads in the NDZ, resorts or hotels and associated tourism facilities shall be permitted and such facilities shall, however, be permitted only subject to the incorporation of tourism plan in the approved CZMP as per this notification and the conditions or guidelines at Annexure-III, to this notification as applicable.

- (g) Temporary tourism facilities shall be permissible in the NDZ and beaches in the CRZ-III areas and such temporary facilities shall only include shacks, toilets or washrooms, change rooms, shower panels, walk ways constructed using interlocking paver blocks, etc, drinking water facilities, seating arrangements etc., and such facilities shall, however, be permitted only subject to the tourism plan featuring in the approved CZMP as per this notification subject to maintaining a minimum distance of 10 meters from HTL for setting up of such facilities.
- (h) Mining of atomic minerals notified under Part-B of the First Schedule to Mining and



Minerals (Development and Regulation) Act, 1957 (67 of 1957) occurring as such or in association with one or other minerals by such agencies as authorised by the Department of Atomic Energy, Government of India, as per mining plan by the Atomic Mineral Directorate for Exploration and Research.

(iii) **Regulation of activities for CRZ-III areas beyond NDZ:**

- (a) Development of vacant plots in designated areas for construction of beach resorts or hotels or tourism development projects subject to the conditions or guidelines at Annexure-III to this notification.
- (b) Construction or reconstruction of dwelling units, so long it is within the ambit of traditional rights and customary uses such as existing fishing villages, etc. and building permission for such construction or reconstruction will be subject to local town and country planning rules, with an overall height of construction not exceeding 9 meters and with only two floors (ground + one floor).
- (c) The local communities including fishermen may be permitted to facilitate tourism through 'home stay' without changing the plinth area or design or facade of the existing houses.
- (d) Construction of public rain shelters, community toilets, water supply drainage, sewerage, roads, bridges, etc.
- (e) Limestone mining:
Selective mining of limestone minerals may be permitted in specific identified areas under the mining plans, which are adequately above the height of HTL, based on the recommendations of reputed National Institutes in the mining field such as Council of Scientific and Industrial Research (CSIR), Central Mining Research Institute etc., provided that the extraction of minerals shall be carried out not below a height of 1 meter above the HTL and an adequate barrier shall be created so as to safeguard against saline water incursion and subject to appropriate safeguards related to pollution of coastal waters and prevention of coastal erosion.
- (f) Mining of atomic minerals notified under Part-B of the First Schedule of Mining and Minerals (Development and Regulation) Act, 1957 (67 of 1957) occurring as such or in association with one or other minerals by such agencies as authorised by Department of Atomic Energy, Government of India, as per mining plan by the Atomic Mineral Directorate for Exploration and Research.

(iv) Drawing of groundwater and construction related thereto shall be prohibited within 200 meters of HTL except for the use of local communities in areas inhabited by them and in the areas between 200 to 500 meters of the HTL, groundwater withdrawal may be permitted only through manual means from ordinary wells for drinking, horticulture, agriculture and fisheries, etc. where no other source of water is available and restrictions for such drawal may be imposed by the designated Authority by State Government or Union territory Administration in the areas affected by sea water intrusion, however, for horticulture and agriculture purpose, micro irrigation promoted by Government welfare schemes shall be permitted.

(v) Development of airports in wastelands and non-arable lands in CRZ-III areas with adequate environmental safeguards.

5.4 CRZ-IV:

Activities shall be permitted and regulated in the CRZ IV areas as under:-

- (i) Traditional fishing and allied activities undertaken by local communities.
- (ii) Land reclamation, bunding, etc to be permitted only for activities such as.-
 - (a) foreshore facilities like ports, harbours, Jetties, wharves, quays, slipway, bridges, sea links and hover ports for coast guard ,etc;
 - (b) projects for defence, strategic and security purpose including coast guard;



- (c) measures for control of erosion;
- (d) maintenance and clearing of waterways, channels and ports;
- (e) measures to prevent sand bars, installation of tidal regulators, laying of storm water drains or for structure for prevention of salinity ingress and freshwater recharge.
- (iii) Activities related to waterfront or directly needing foreshore facilities, such as ports and harbours, jetties, quays, wharves, erosion control measures, breakwaters, pipelines, navigational safety facilities and the like.
- (iv) Power by non-conventional energy sources and associated facilities such as offshore wind, wave energy, ocean thermal energy conversion, etc.
- (v) Transfer of hazardous substances from ships to Ports.
- (vi) Storage of non-hazardous cargo like edible oil, fertilizers and food grains in notified Ports.
- (vii) Facilities for discharging treated effluents into the water course.
- (viii) Projects classified as strategic and defence related projects including coast guard coastal security network.
- (ix) Projects of department of Atomic Energy.
- (x) Exploration and extraction of oil and natural gas and all associated activities and facilities thereto.
- (xi) Exploration and mining of atomic minerals notified under Part-B of the First Schedule of the Mining and Minerals (Development and Regulation) Act, 1957 (67 of 1957), occurring as such or in association with other mineral(s) and of such associated mineral(s).
- (xii) Foreshore requiring facilities for transport of raw materials, facilities for intake of cooling water and outfall for discharge of treated wastewater or cooling water from thermal power plants, and foreshore requiring facilities for transport of raw materials, facilities for intake of cooling water and outfall for discharge of treated wastewater or cooling water from thermal power plants, in conformity with the environmental standards notified by Ministry of Environment, Forest and Climate Change and relevant directions of the Central Pollution Control Board or State Pollution Control Board or Pollution Control Committee.
- (xiii) Pipelines, conveying systems including transmission lines.
- (xiv) Weather radar for monitoring of cyclone prediction, ocean observation platforms, movement and associated activities.
- (xv) Construction of memorials or monuments and allied facilities by the concerned State Government in CRZ-IV (A) areas, in exceptional cases, with adequate environmental safeguards, subject to the following, namely: -
 - (a) the concerned State Government shall submit justification for locating the project in CRZ-IVA area along with details of alternate sites considered and weightage matrix on various parameters including environmental parameters, to State Coastal Zone Management Authority who will examine the project and make recommendation to the Central Government (Ministry of Environment, Forest and Climate Change) for grant of Terms of Reference (ToRs) for preparation of an environmental impact assessment report by the State Government;
 - (b) On grant of ToRs by the Central Government, the concerned State Government shall submit the draft Environmental Impact Assessment report (EIA) with Environmental Management Plan (EMP), draft Risk Assessment Report with Disaster Management Plan (DMP) including on-site and off-site emergency plan and evacuation plan during emergency, to the State Pollution Control Board for conduct of public hearing for the proposed project in accordance with the procedure laid down under the Environment Impact Assessment (EIA) notification number S.O. 1533(E), dated the 14th September, 2006;



- (c) The concerned State Government shall, after addressing the relevant issues raised by the public during the public hearing referred to in sub-item (b), submit the final EIA, EMP, Risk Assessment and DMP, to the State CZMA for their examination and recommendation to MoEF&CC;
- (d) The Central Government may, if it considers necessary so to do, dispense with the requirement of public hearing referred to in sub-clause (b), if it is satisfied that the project will not involve rehabilitation and resettlement of the public or the project site is located away from human habitation.

5.5 Requirement for Clearance from Department of Atomic Energy installations:

Prior to undertaking any developmental activity including construction of new structures, falling in the boundary limits specified by Atomic Energy Regulatory Board (AERB) guidelines, prior clearance shall be obtained from Department of Atomic Energy installations.

6. Coastal Zone Management Plan (CZMP)

- (i) All coastal States and Union territory administrations shall revise or update their respective coastal zone management plan (CZMP) framed under CRZ Notification, 2011 number S.O. 19(E), dated 6th January, 2011, as per provisions of this notification and submit to the Ministry of Environment, Forest and Climate Change for approval at the earliest and all the project activities attracting the provisions of this notification shall be required to be appraised as per the updated CZMP under this notification and until and unless the CZMPs is so revised or updated, provisions of this notification shall not apply and the CZMP as per provisions of CRZ Notification, 2011 shall continue to be followed for appraisal and CRZ clearance to such projects.
- (ii) The CZMP may be prepared or updated by the coastal State Government or Union territory by engaging reputed and experienced scientific institution(s) or the agencies including the National Centre for Sustainable Coastal Management (hereinafter referred to as the NCSCM) of Ministry of Environment, Forest and Climate Change and in consultation with the concerned stakeholders.
- (iii) The coastal States and Union territories shall prepare draft CZMP in 1:25,000 scale map identifying and classifying the CRZ areas within the respective territories in accordance with the guidelines given in **Annexure-IV** to this notification, which involve public consultation.
- All developmental activities listed in this notification shall be regulated by the State Government, Union territory administration, the local authority or the concerned Coastal Zone Management Authority within the framework of such approved CZMP, as the case may be, in accordance with provisions of this notification.
- (iv) The draft CZMP shall be submitted by the State Government or Union territory to the concerned Coastal Zone Management Authority for appraisal, including appropriate consultations, and recommendations in accordance with the procedure(s) laid down in the Environment (Protection) Act, 1986 (29 of 1986).
- (v) The Ministry of Environment, Forest and Climate Change shall thereafter consider and approve the respective CZMP of concerned State Governments or Union territory administrations.
- (vi) The CZMP shall not normally be revised before a period of five years after which, the concerned State Government or the Union territory may consider undertaking a revision.

7. CRZ clearance for permissible and regulated activities- Delegation:

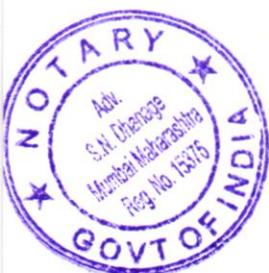
- (i) All permitted or regulated project activities attracting the provisions of this notification shall be required to obtain CRZ clearance prior to their commencement.
- (ii) All development activities or projects in CRZ-I and CRZ-IV areas, which are regulated or permissible as per this notification, shall be dealt with by Ministry of Environment, Forest and Climate Change for CRZ clearance, based on the recommendation of the concerned Coastal Zone Management Authority.



- (iii) For all other permissible and regulated activities as per this notification, which fall purely in CRZ-II and CRZ-III areas, the CRZ clearance shall be considered by the concerned Coastal Zone Management Authority and such projects in CRZ -II and III, which also happen to be traversing through CRZ-I or CRZ-IV areas or both, CRZ clearance shall, however be considered only by the Ministry of Environment, Forest and Climate Change, based on recommendations of the concerned Coastal Zone Management Authority.
- (iv) Projects or activities which attract the provisions of this notification as also the provisions of EIA notification, 2006 number S.O. 1533(E), dated the 14th September, 2006, shall be dealt with for a composite Environmental and CRZ clearance under EIA Notification, 2006 by the concerned approving Authority, based on recommendations of the concerned Coastal Zone Management Authority, as per delegations i.e., State Environmental Impact Assessment Authority (hereinafter referred to as the SEIAA) or the Ministry of Environment, Forest and Climate Change for category 'B' and category 'A' projects respectively.
- (v) In case of building or construction projects with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006 these shall be approved by the concerned local State or Union territory Planning Authorities in accordance with this notification, after obtaining recommendations of the concerned Coastal Zone Management Authority.
- (vi) Only for self-dwelling units up to a total built up area of 300 square meters, approval shall be accorded by the concerned local Authority, without the requirement of recommendations of concerned Coastal Zone Management Authority and such authorities shall, however, examine the proposal from the perspective of the Coastal Regulation Zone notification before according approval.

8. Procedure for CRZ clearance for permissible and regulated activities:

- (i) The project proponents shall apply with the following documents to the concerned State or the Union territory Coastal Zone Management Authority for seeking prior clearance under this notification:-
 - (a) Project summary details as per Annexure-V to this notification.
 - (b) Rapid Environment Impact Assessment (EIA) Report including marine and terrestrial component, as applicable, except for building construction projects or housing schemes.
 - (c) Comprehensive EIA with cumulative studies for projects, (except for building construction projects or housing schemes with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006 number S.O 1533(E), dated 14th September, 2006) if located in low and medium eroding stretches, as per the CZMP to this notification.
 - (d) Risk Assessment Report and Disaster Management Plan, except for building construction projects or housing schemes with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006 number S.O 1533(E), dated 14th September, 2006).
 - (e) CRZ map in 1:4000 scale, drawn up by any of the agencies identified by the Ministry of Environment, Forest and Climate Change vide its Office Order number J-17011/8/92-IA-III, dated the 14th March, 2014 using the demarcation of the HTL or LTL, as carried out by NCSCM.
 - (f) Project layout superimposed on the CRZ map duly indicating the project boundaries and the CRZ category of the project location as per the approved Coastal Zone Management Plan under this notification.
 - (g) The CRZ map normally covering 7 kilometre radius around the project site also indicating the CRZ-I, II, III and IV areas including other notified ecologically sensitive areas.
 - (h) "Consent to establish" or No Objection Certificate from the concerned State Pollution Control Board or Union territory Pollution Control Committee for the projects involving treated discharge of industrial effluents and sewage, and in case prior consent of



Pollution Control Board or Pollution Control Committee is not obtained, the same shall be ensured by the proponent before the start of the construction activity of the project, following the clearance under this notification.

- (ii) The concerned Coastal Zone Management Authority shall examine the documents in clause (i) above, in accordance with the approved Coastal Zone Management Plan and in compliance with this notification and make recommendations within a period of sixty days from date of receipt of complete application as under: -
- (a) For the projects or activities also attracting the EIA Notification, 2006 number S.O. 1533(E), dated 14th September, 2006, the Coastal Zone Management Authority shall forward its recommendations to Ministry of Environment, Forest and Climate Change or SEIAA for category 'A' and category 'B' projects respectively, to enable a composite clearance under the EIA Notification, 2006 number S.O. 1533(E), dated 14th September, 2006, however, even for such Category 'B' projects located in CRZ-I or CRZ-IV areas, final recommendation for CRZ clearance shall be made only by the Ministry of Environment, Forest and Climate Change to the concerned SEIAA to enable it to accord a composite Environmental Clearance and CRZ clearance to the proposal.
- (b) Coastal Zone Management Authority shall forward its recommendations to the Ministry of Environment, Forest and Climate Change for the projects or activities not covered in the EIA notification, 2006, but attracting this notification and located in CRZ-I or CRZ-IV areas.
- (c) Projects or activities not covered in the aforesaid EIA Notification, 2006, but attracting this notification and located in CRZ-II or CRZ-III areas shall be considered for clearance by the concerned Coastal Zone Management Authority within sixty days of the receipt of the complete proposal from the proponent.
- (d) In case of construction projects attracting this notification but with built-up area less than the threshold limit stipulated for attracting the provisions of the aforesaid EIA Notification 2006, Coastal Zone Management Authority shall forward their recommendations to the concerned State or Union territory planning authorities, to facilitate granting approval by such authorities.
- (iii) The Ministry of Environment, Forest and Climate Change shall consider complete project proposals for clearance under this notification, based on the recommendations of the Coastal Zone Management Authority, within a period of sixty days.
- (iv) In case the Coastal Zone Management Authorities are not in operation due to their reconstitution or any other reasons, then it shall be responsibility of the Department of Environment in the State Government or Union territory Administration, who are the custodian of the CZMP of respective States or Union territories, to provide comments and recommend the proposals in terms of the provisions of the said notification.
- (v) The clearance accorded to the projects under this notification shall be valid for a period of seven years, provided that the construction activities are completed and the operations commence within seven years from the date of issue of such clearance.
- The validity may be further extended for a maximum period of three years, provided an application is made to the concerned authority by the applicant within the validity period, along with recommendation for extension of validity of the clearance by the concerned State or Union territory Coastal Zone Management Authority.
- (vi) Post clearance monitoring:
- (a) It shall be mandatory for the project proponent to submit half-yearly compliance reports in respect of the stipulated terms and conditions of the environmental clearance in hard and soft copies to the regulatory authority(s) concerned, on the 1st June and 31st December of each calendar year and all such compliance reports submitted by the project proponent shall be published in public domain and its copies shall be given to any person on application to the concerned Coastal Zone Management Authority.



- (b) The compliance report shall also be displayed on the website of the concerned regulatory authority.
- (vii) To maintain transparency in the working of the Coastal Zone Management Authority, it shall be the responsibility of the Coastal Zone Management Authority to create a dedicated website and post the agenda, minutes, decisions taken, clearance letters, violations, action taken on the violations and court matters including the Orders of the Hon'ble Court as also the approved CZMP of the respective State Government or Union territory.

9. Enforcement of this notification:

- (i) For the purposes of implementation and enforcement of the provisions of this notification and compliance with conditions stipulated thereunder, the powers either original or delegated are available under Environment (Protection) Act, 1986 (29 of 1986) with the Ministry of Environment, Forest and Climate Change, State Government or the Union territory Administration, National Coastal Zone Management Authority and the State or Union territory Coastal Zone Management Authority;
- (ii) The composition, tenure and mandate of National Coastal Zone Management Authority and State Government or the Union territory Coastal Zone Management Authority have already been notified by the Ministry of Environment, Forest and Climate Change in terms of Orders of Hon'ble Supreme Court in Writ Petition 664 of 1993;
- (iii) The State Government or the Union territory Coastal Zone Management Authority shall primarily be responsible for enforcing and monitoring of this notification and to assist in this task, the State Government and the Union territory shall constitute district level Committees under the Chairmanship of the District Magistrate concerned comprising at least three representatives of local traditional coastal communities including from fishermen, and the State Government may consider the enforcement of this notification to the level of respective District Magistrates.
- (iv) The dwelling units of the traditional coastal communities including fishermen, tribals as were permissible under the provisions of the Coastal Regulation Zone notification, 2011 number S.O. 19(E), dated the 6th January, 2011, but which have not obtained formal approval from concerned authorities under the said Notification shall be considered by the respective Coastal Zone Management Authority and the dwelling units shall be regularised subject to the following condition, namely: -
- (a) these are not used for any commercial activity;
- (b) these are not sold or transferred to non-traditional coastal community.

10. Areas requiring special consideration:

10.1 Critically Vulnerable Coastal Areas (CVCAs):

- (i) For all the CVCAs mentioned in sub-paragraph 3.1, Integrated Management Plans (IMPs) shall be prepared, which shall, inter alia, keep in view the conservation and management of mangroves, needs of local communities, such as dispensaries, schools, public rain shelter, community toilets, bridges, roads, jetties, water supply, drainage, sewerage and the impact of sea level rise and other natural disasters and the IMPs will be prepared in line with the guidelines for preparation of Coastal Zone Management Plan.
- (ii) Till such time the IMPs are approved and notified, construction of dispensaries, schools, public rain/cyclone shelters, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants shall be permitted on a case to case basis, by the Coastal Zone Management Authority with due regards to the views of coastal communities including fisher folk.

10.2 CRZ for inland backwater islands and islands along mainland coast:

- (i) All the inland islands in the coastal backwaters and islands along the mainland coast shall also be covered under this notification.



- (ii) In view of the unique coastal systems of backwater islands and islands along the mainland coast, along with space limitations in such coastal stretches, CRZ of 20 meters from the HTL on the landward side shall uniformly apply to such islands and activities shall be regulated as under:-
- (a) existing dwelling units of local communities may be repaired or reconstructed within 20 meters from the HTL of these islands, however, no new construction shall be permitted in this zone.
- (b) foreshore facilities, such as fishing jetty, fish drying yards, net mending yard, fishing processing by traditional methods, boat building yards, ice plant, boat repairs and the like, may be taken up in CRZ limits subject to due environmental safeguards.
- (iii) Integrated Island Management Plans (IIMPs), as applicable to smaller islands in Lakshadweep and Andaman & Nicobar, as per Island Protection Zone Notification, 2011 number S.O. 20(E), dated the 6th January, 2011, shall be formulated by respective States or Union territory for all such islands and submitted to Ministry of Environment, Forest and Climate Change and till the IIMPs are framed, provisions of this notification shall not apply and the CZMP as per provisions of CRZ Notification 2011 number S.O. 19(E), dated the 6th January, 2011, shall continue to apply.

10.3 CRZ areas falling within municipal limits of Greater Mumbai:

- (i) In order to protect and preserve the 'green lung' of the Greater Mumbai area, all open spaces, parks, gardens, playgrounds indicated in development plans within CRZ-II shall be categorised as No Development Zone and a Floor Space Index up to 15% shall be allowed only for construction of civic amenities, stadium and gymnasium meant for recreational or sports related activities and the residential or commercial use of such open spaces shall not be permissible.
- (ii) Construction of sewage treatment plants in CRZ-I area for the purpose of treating the sewage from the municipal area shall be taken only by the municipal authorities in exceptional circumstances, where no alternate site is available to set up such facilities, subject to recommendations of the Coastal Zone Management Authority and approval by the Central Government and in case the construction of such plant is inevitable in a mangrove area, a minimum three times the mangrove area affected or destroyed or cut during the construction process shall be taken up for compensatory plantation of mangroves.

[F. No. 19-112/2013-IA-III]

RITESH KUMAR SINGH, Jt. Secy.

Annexure-I

CONSERVATION, PROTECTION AND MANAGEMENT FRAMEWORK FOR ECOLOGICALLY SENSITIVE AREAS

The coastal and marine Ecologically Sensitive Areas (ESAs) and the geo-morphological features play a vital role in maintaining the functions of the coast. Mangroves, beaches, coral reefs, etc., aid in controlling coastal erosion, shoreline change, saltwater intrusion and also serve as natural defence against coastal hazards such as storm surges, cyclones and tsunamis. The ESAs maintain the biological integrity of the coast by providing direct and indirect ecosystem services to the coastal livelihood. In addition, several invaluable archaeological and heritage sites are also located along the coast. Hence conservation and protection of the above areas, features and sites become necessary.

1. General measures

- (i) All ESAs shall be identified and boundary delineated by NCSCM using satellite data.
- (ii) The State Governments or Union territory Administrations through the authorised agencies shall prepare CZMP as per the guidelines contained in this notification highlighting the conservation and protection of the ESAs.

(iii) Those activities permissible under this notification shall be included in the CZMP.



Specific conditions shall be adopted for the conservation, protection and management of each of the ESAs as under: -

1.1 Mangroves:

- (i) Mangroves declared as forest under the Forest (Conservation) Act, 1980 (69 of 1980).

Notwithstanding anything contained in this notification, such mangroves declared by the concerned State Governments or Union territory Administrations or Central Government as forest land under the Forest (Conservation) Act, 1980 (69 of 1980) shall attract the provisions of the said Act.

- (ii) Mangroves not declared under Forest (Conservation) Act, 1980:

(a) Mangroves in Government land shall be protected based on a detailed plan to be prepared by the concerned State Governments or Union territory administrations, and in case the mangrove area is more than 1000 square meters, a buffer of 50 metre along the periphery of mangrove area shall be provided. This buffer zone of 50 metre may be utilised for public facilities for developing parks, research facilities related to mangrove biodiversity, facilities for conservation and the like.

(b) Mangroves in private land will not require a buffer zone.

1.2 Corals and coral reefs and associated biodiversity:

- (i) Destruction of coral and coral reefs and the surroundings is a prohibited activity.
- (ii) All coral and coral reefs shall be protected except for those small quantities required for research purposes.
- (iii) Coral and coral reefs transplantation activities shall be through recognised research institutions wherever required for regeneration after obtaining necessary approvals under Wildlife (Protection) Act 1972 (53 of 1972).
- (iv) The dead or destroyed or both coral areas shall be taken up for rejuvenation and rehabilitation. The conservation and protection of corals and coral reefs shall be taken up as follows:-
- (a) active and live coral and coral reefs identified and delineated shall be declared and notified as ESA under Environment (Protection) Act 1986 (29 of 1986);
- (b) it shall be ensured that no activities that are detrimental to the health of corals, coral reefs and its associated biodiversity, such as mining, effluent and sewage discharge, dredging, ballast water discharge, ship washings, fishing other than traditional non-destructive fisheries, construction activities and the like are taken up in and around the coral areas.

1.3 The National Parks, marine parks, Sanctuaries, reserve forests, wildlife habitats and other protected areas declared under the provisions of Wild Life (Protection) Act, 1972 (53 of 1972), the Forest (Conservation) Act 1980 (69 of 1980) or Environment (Protection) Act 1986 (29 of 1986); including Biosphere Reserves shall be conserved and protected as follows:-

- (i) Conservation and protection of the above mentioned areas shall be as per the provisions of the respective Acts, notifications or guidelines as the case may be.
- (ii) Efforts shall be made to increase the forest area in the coastal region in order to prevent loss of life and property from increased storms, tides and floods.
- (iii) The concerned State Governments or Union territory administrations shall provide for adequate funds for such measures to undertake shelter belt plantation or bio-shields with planting material suitable to the location.

1.4. Salt marshes:

The conservation and protection of salt marshes shall be as follows:-



- (i) The salt marsh areas shall be conserved and protected and efforts shall be made to promote the endemic biodiversity in the salt marshes.
- (ii) Only those activities required for overhead conveying or transmission of cables and underground laying of transmission line cables and so on, shall be permissible.
- (iii) Traditional fishing shall be permissible in salt marshes.
- (iv) Temporary tourism facilities around the salt marsh areas may be considered subject to adhering to norms laid down in the guidelines.
- (v) Certain salt marshes which have less biodiversity, identified by NCSCM and demarcated in Coastal Zone Management Plan can be considered for salt pan activities.

1.5 Turtle nesting grounds shall be protected and conserved as follows:-

- (i) Turtle nesting grounds identified by the concerned State Governments or Union territory administrations shall be protected as per Wildlife (Protection) Act of 1972.
- (ii) No activities shall be permitted in and around the turtle nesting ground including those causing light and sound pollution except for those required for conservation and protection of these sites.
- (iii) Strict management plans for protecting the turtle nesting grounds shall be undertaken and implemented by the concerned State or Union territory Authorities.

1.6 Horse shoe crabs habitats shall be protected and conserved as follows:-

- (i) The habitat identified shall be taken up for conservation and protection.
- (ii) No activities shall be taken up in and around these habitats which affect the horse shoe crab ecosystem.

1.7 Sea grass beds shall be protected and conserved as follows:-

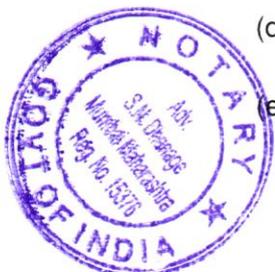
- (i) Identified sea grass beds shall be conserved and protected.
- (ii) No developmental activities that have adverse effect on the sea grass bed shall be undertaken.
- (iii) Efforts shall be made to propagate sea grass beds along the coastal waters where ever possible by States or Union territories as it acts as a carbon sink.

1.8 Nesting grounds of birds shall be protected and conserved as follows:-

- (i) The nesting ground of birds including their local migratory route shall be protected. No developmental activities which have adverse impact on the nesting grounds and the migratory routes shall be undertaken including construction of wind mills, transmission lines and the like in the locality.
- (ii) Efforts shall be made to increase the forest cover and mangrove cover including enriching the biodiversity of salt marsh and other coastal water bodies so as to provide for suitable habitat for the avifauna.

1.9 Geo-morphologically Important Zones shall be protected and managed as follows:

- (i) **Sand dunes** identified shall be conserved and protected as follows:
 - (a) sand dunes identified shall be notified under Environment (Protection) Act 1986;
 - (b) no developmental activities shall be permissible except for providing eco-friendly temporary tourism facilities on stilts such as walkways, tents and the like;
 - (c) mining of sand from sand dunes shall be prohibited activity except for the removal of atomic minerals with proper replenishment using the tailings or other suitable sand;
 - (d) no activities on the sand dunes shall be taken up that would lead to erosion/destruction of sand dunes;
 - (e) afforestation, if any, on the sand dunes shall be done only with native flora;



(f) the States or Union territory shall prepare management plans for the demarcated sand dunes.

(iii) **Sandy beaches:**

(a) Mining of beach sand is prohibited except for manual mining of atomic minerals with proper replenishment using the tailings or other suitable sand.

(b) When the permissible developmental activities are taken up on the beaches if loss of beach in the neighbourhood is predicted, necessary beach nourishment to compensate for the losses shall be undertaken by the project authorities and its long term maintenance shall be ensured by them.

(c) The States or Union Territory shall prepare management plans for the demarcated beaches.

(iv) **Biologically active mudflats:**

(a) Biologically active mudflats shall be identified by NCSCM in association with State Governments or Union territory administrations.

(b) The States or Union territories shall prepare management plans for such demarcated biologically active mudflats.

1.10 Areas or structures of archaeological importance and heritage value sites:

(i) State Archaeological agencies shall be responsible for conservation and protection of all archaeological structures and heritage sites identified by the Archaeological Survey of India, as per the provisions of the respective Acts, notifications or guidelines.

(ii) No activities that are detrimental to the identified areas or structures of archaeological and heritage value shall be permitted.

(iii) It shall be ensured that these structures or areas are preserved and activities undertaken without changing the façade/plinth of such structures. Such structures could be considered for use in accordance with the relevant norms after undertaking careful designing of the interiors without changing the exterior architectural design of the structure.

Annexure-II

LIST OF PETROLEUM AND CHEMICAL PRODUCTS PERMITTED FOR STORAGE IN CRZ, EXCEPT CRZ-I A

- (i) Crude oil;
- (ii) Liquefied Petroleum Gas;
- (iii) Motor spirit;
- (iv) Kerosene;
- (v) Aviation fuel;
- (vi) High speed diesel;
- (vii) Lubricating oil;
- (viii) Butane;
- (ix) Propane;
- (x) Compressed Natural Gas;
- (xi) Naphtha;
- (xii) Furnace oil;
- (xiii) Low Sulphur Heavy Stock;



- (xiv) Liquefied Natural Gas;
- (xv) Fertilizers and raw materials for manufacture of fertilizers;
- (xvi) Acetic acid;
- (xvii) Mono ethylene glycol;
- (xviii) Paraxylene;
- (xix) Ethane;
- (xx) Butadine;
- (xxi) Methanol;
- (xxii) Caustic;
- (xxiii) Bitumen.

Annexure-III**GUIDELINES FOR DEVELOPMENT OF BEACH RESORTS, HOTELS AND TOURISM DEVELOPMENT PROJECTS IN THE DESIGNATED CRZ AREAS****1. CRZ-II**

Construction of beach resorts or hotels in designated areas of CRZ-II for occupation of tourist or visitors shall be subject to the following conditions, namely: -

- (i) construction shall be permitted only to the landward side of an existing road or existing authorized fixed structures;
- (ii) live fencing and barbed wire fencing with vegetative cover may be allowed around private properties subject to the condition that such fencing shall in no way hamper public access to the beach;
- (iii) no flattening of sand dunes shall be carried out;
- (iv) no permanent structures for sports facilities shall be permitted except construction of goal posts, net posts and lamp posts;
- (v) construction of basement may be allowed subject to the condition that no objection certification is obtained from the State Ground Water Authority to the effect that such construction will not adversely affect the flow of groundwater in that area;
- (vi) the State Ground Water Authority shall take into consideration the guidelines issued by the Central Government before granting such no objection certificate;
- (vii) the quality of treated effluents, solid wastes, emissions and noise levels and the like, from the project area must conform to the standards laid down by the competent authorities including the Central or State Pollution Control Board and under the Environment (Protection) Act, 1986 (29 of 1986);
- (viii) necessary arrangements for the treatment of the effluents and solid wastes must be made and it must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent or solid waste shall be discharged on the beach;
- (ix) if the project involves diversion of forest land for non-forest purposes, clearance as required under the Forest (Conservation) Act, 1980 (69 of 1980) shall be obtained and the requirements of other Central and State laws as applicable to the project shall be met with and approval of the State or Union territory Tourism Department shall be obtained.

2. CRZ-III

Construction of beach resorts and hotels in designated areas of CRZ- III for occupation of tourists or visitors shall be subject to the following conditions, namely: -



- (i) live fencing and barbed wire fencing with vegetative cover may be allowed around private properties subject to the condition that such fencing shall in no way hamper public access to the beach;
- (ii) no flattening of sand dunes shall be carried out;
- (iii) no permanent structures for sports facilities shall be permitted except construction of goal posts, net posts and lamp posts;
- (iv) construction of basement may be allowed subject to the condition that no objection certification is obtained from the State Ground Water Authority to the effect that such construction will not adversely affect the flow of groundwater in that area;
- (v) the State Ground Water Authority shall take into consideration the guidelines issued by the Central Government before granting such no objection certificate;
- (vi) though no construction is allowed in the no development zone for the purposes of calculation of Floor Space Index, the area of entire plot including the portion which falls within the no development zone shall be taken into account;
- (vii) the total covered area on all floors shall not exceed 33 per cent of the plot size i.e., the Floor Space Index shall not exceed 0.33 and the open area shall be suitably landscaped with appropriate vegetative cover;
- (viii) the construction shall be consistent with the surrounding landscape and local architectural style;
- (ix) the overall height of construction up to the highest ridge of the roof, shall not exceed 9 metres and the construction shall not be more than two floors (ground floor plus one upper floor);
- (x) groundwater shall not be tapped within 200 metre of the High Tide Line; and within the 200 to 500 metre zone it can be tapped only with the concurrence of the Central or State Ground Water Board;
- (xi) extraction of sand, leveling or digging of sandy stretches, except for structural foundation of building or swimming pool, shall not be permitted within 500 metres of the High Tide Line;
- (xii) the quality of treated effluents, solid wastes, emissions and noise levels and the like, from the project area must conform to the standards laid down by the competent authorities including the Central or State Pollution Control Board and under the Environment (Protection) Act, 1986 (29 of 1986);
- (xiii) necessary arrangements for the treatment of the effluents and solid wastes must be made and it must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent or solid waste shall be discharged on the beach;
- (xiv) to allow public access to the beach, at least a gap of 20 metres width shall be provided between any two hotels or beach resorts; and in no case shall gaps be less than 500 metres apart; and
- (xv) If the project involves diversion of forestland for non-forest purposes, clearance as required under the Forest (Conservation) Act, 1980 (69 of 1980) shall be obtained and the requirements of other Central and State laws as applicable to the project shall be met with; and approval of the State or Union territory Tourism Department shall be obtained.

Note: Construction of beach resorts or hotels shall not be permitted in Ecologically sensitive areas (such as marine parks, mangroves, coral reefs, breeding and spawning grounds of fish, wildlife habitats and such other area as may be notified by the Central Government or State Government or Union territory administrations).



ANNEXURE -IV**GUIDELINES FOR PREPARATION OF COASTAL ZONE MANAGEMENT PLANS****1. Demarcation of High Tide Line and Low Tide Line:**

Demarcation of High Tide Line (HTL) and Low Tide Line (LTL) as carried out by NCSCM for the entire coastline of the country, has been made available to the Coastal States or Union territories and only such demarcation of HTL and LTL shall be applicable for all purposes of this notification.

2. Hazard Line:

A 'Hazard line' has been demarcated by the Survey of India (SOI) taking into account the extent of the flooding on the land area due to water level fluctuations, sea level rise and shoreline changes (erosion or accretion) occurring over a period of time. The hazard line mapped by SOI has been shared with the coastal States or Union territories through NCSCM. The hazard line shall be used as a tool for disaster management plan for the coastal environment, including planning of adaptive and mitigation measures. With a view to reduce the vulnerability of the coastal communities and ensuring sustainable livelihood, while drawing the CZMP, the land use planning for the area between the Hazard line and HTL shall take into account such impacts of climate change and shoreline changes.

3. Preparation of CZM Maps:

(i) Base Maps of 1:25,000 scale shall be acquired from the Survey of India (SOI) and wherever 1:25,000 maps are not available, 1:50,000 maps shall be enlarged to 1:25,000 for the purpose of base map preparation and these maps will be of the standard specification given below:-

Unit : 7.5 minutes X 7.5 minutes

Numbering : Survey of India Sheet Numbering System

Horizontal Datum : Everest or WGS 84

Vertical Datum : Mean Sea Level (MSL)

Topography : Topography in the SOI maps will be updated using latest satellite imageries or aerial photographs

(ii) Coastal Zone Management (CZM) Maps of scale 1:25,000 shall be got prepared by any of the agencies identified by the Ministry of Environment, Forest and Climate Change vide its Office Order number J-17011/8/92-IA-III dated the 14th March, 2014 using the demarcation of the High Tide Line or LTL, as carried out by NCSCM.

(iii) Various regulatory lines viz. at a distance of 20 metres, 50 metres, 200 metres and 500 metres from HTL respectively, as applicable in various CRZ categories, and the Hazard line shall be demarcated and transferred to the CZM maps.

(iv) HTL, LTL and CRZ boundaries, as applicable, shall also be demarcated in the CZM maps along the banks of tidal influenced inland water bodies.

(v) Classification of different coastal zones shall be done as per the CRZ notification and Standard national or international colour codes shall be used.

4. Local level CZM Maps:

(i) Local level CZM Maps are for the use of local bodies and other agencies to facilitate implementation of the Coastal Zone Management Plans.

(ii) Cadastral (village) maps in 1:3960 or the nearest scale, as available with revenue authorities shall be used as the base maps.

(iii) HTL, LTL, other CRZ regulatory lines and the Hazard line shall be demarcated in the cadastral maps and classifications shall be transferred into local level CZM maps.



5. Classification of CRZ areas:

- (i) The CZM Maps shall clearly demarcate the land use plan of the area and map out the Ecologically Sensitive Areas (ESAs) or the CRZ-IA areas as per mapping made available by NCSCM to coastal State or Union territories. All such ESAs shall be appropriately demarcated with colour codes.
- (ii) Buffer zone along mangrove areas of more than 1000 square metres shall be stipulated with a different colour distinguishing from the mangrove area. The buffer zone shall also be classified as CRZ-I area.
- (iii) In the CRZ areas, the fishing villages, common properties of the fishermen communities, fishing jetties, ice plants, fish drying platforms or areas infrastructure facilities of fishing and local communities such as dispensaries, roads, schools, and the like, shall be indicated on the cadastral scale maps. States and Union territories shall prepare detailed plans for long term housing needs of coastal fisher communities in view of expansion and other needs, provisions of basic services including sanitation, safety, and disaster preparedness.
- (iv) The water areas of CRZ-IV shall be demarcated and clearly demarcated if the water body is sea, lagoon, backwater, creek, bay, and estuary and for such classification of the water bodies the terminology used by Naval Hydrographic Office shall be relied upon.
- (v) The fishing Zones in the water bodies and the fish breeding areas shall be clearly marked.
- (vi) In CVCAs, the land use maps shall be superimposed on the Coastal Zone Management Plan clearly demarcating the CRZ-I, II, III, IV.
- (vii) The existing authorised developments on the seaward side shall be clearly demarcated.
- (viii) The features like cyclone shelters, rain shelters, helipads and other infrastructure including road network may be clearly indicated on the CZM Maps for the purpose of rescue and relief operations during cyclones, storms, tsunami and the like.
- (ix) Construction of buildings or other activities shall be permitted under the CZMP provided adequate arrangements are made for proper management and disposal of solid and liquid wastes in accordance with the environmental standards, rules and statutes, and under no circumstances, untreated effluents shall be disposed off in the coastal waters.

6. Public consultations on CZMP:

- (i) The draft CZMP prepared shall be given wide publicity and suggestions and objections received in accordance with the Environment (Protection) Act, 1986. Public hearing on the draft CZMP shall be held at district level by the concerned CZMA.
- (ii) Based on the suggestions and objections received the CZMPs shall be revised and approval of Ministry of Environment, Forest and Climate Change shall be obtained.
- (iii) The approved CZMP shall be put up on the website of Ministry of Environment, Forest and Climate Change, concerned website of the State or Union Territory Coastal Zone Management Authority and hard copy made available in the Panchayat Office and District Collector Office.

7. Revision of Coastal Zone Management Plans:

- (i) Whenever there is a doubt, the concerned State or Union territory Coastal Zone Management Authority shall refer the matter to the National Centre for Sustainable Coastal Management who shall verify the CZMP based on latest satellite imagery and ground truthing.
- (ii) If required, the rectified map shall be submitted to Ministry of Environment, Forest and Climate Change for consideration.



ANNEXURE-V**PROJECT INFORMATION DETAILS****1. PROJECT DETAILS**

- A. Project Name
- B. Survey No./ Village/ Co-ordinates
- C. District
- D. State
- E. Whether the proposal is for (Select relevant field)
- (i) Fresh Clearance under CRZ
 - (ii) Amendment to an already issued CRZ clearance
 - (iii) Extension of validity of an already issued CRZ clearance
- F. Name of the Applicant
- G. Address of the Applicant
- H. Contact details (Telephone nos. and e-mail address)
- I. Cost of the project (Rs in crores)

2. BENEFITS OF THE PROJECT

- A. Details of Project Benefits
- B. Employment Likely to be Generated (Yes/No)
- If Yes
- (i) Total Manpower Requirement
 - (ii) Permanent Employment (Numbers)
 - (iii) Temporary Employment (Numbers)
 - (iv) Temporary Employment- During Construction (Numbers)
 - (v) Temporary Employment- During Operation (Numbers)

3. DESCRIPTION OF THE PROJECT UNDER CONSIDERATION (Select the Category of the project):**A. Resort / Buildings / civic amenities**

- (i) Total area/Built-up area (in sqm.)
- (ii) Height of structure
- (iii) FSI ratio
- (iv) Name of concerned town planning authority/ Panchayat etc.
- (v) Details of provision of car parking area

B. Coastal Roads / Roads on Stilt

- (i) Area of land reclamation
- (ii) Estimated quantity of muck/earth for reclamation
- (iii) Traffic carrying capacity
- (iv) Dimensions of road

C. Pipelines from thermal power blow down

- (i) Length of pipeline
- (ii) Length traversing CRZ area



- (iii) Depth of excavation
- (iv) Width of excavation
- (v) Length of pipeline from seashore to deep sea
- (vi) Depth of outfall point from surface of sea water
- (vii) Temperature of effluent above ambient at disposal point

D. Marine Disposal of Treated Effluent through pipelines

- (i) Location of intake/ outfall
- (ii) Depth of outfall point
- (iii) Length of pipeline
- (iv) Length traversing CRZ area
- (v) Depth of excavation
- (vi) Width of excavation
- (vii) Length of pipeline from shore to deep sea/creek
- (viii) Depth of outfall point from surface of water
- (ix) Depth of water at disposal point
- (x) BOD, COD, TSS, oil and grease, heavy metals in the effluent

E. Facility for storage of goods/chemicals

- (i) Name of chemical
- (ii) End use of the chemical
- (iii) No. of tanks for storage
- (iv) Capacity of tanks

F. Offshore structures

- (i) Exploration or development
- (ii) Depth of sea bed
- (iii) No. of rigs
- (iv) No. of platform
- (v) Details of group gathering stations

G. Desalination Plant

- (i) Capacity of desalination
- (ii) Total brine generation
- (iii) Temperature of effluent above ambient at disposal point
- (iv) Ambient salinity
- (v) Disposal point

H. Mining of atomic minerals

- (i) Capacity of mining
- (ii) Type of mineral to be extracted
- (iii) End use of the mineral
- (iv) Government order for mining lease/exploration and approved mining plan details
- (v) Extent of mining lease area



I. Sewage Treatment Plants

- (i) Capacity
- (ii) Total area of construction
- (iii) Compliance of effluent parameters as laid down by cpcb/spcb/other authorised agency
- (iv) Whether discharge is in sea water/creek?
 - If yes
 - Distance of marine outfall point from shore/from the tidal river bank
 - Depth of outfall point from sea water/river water surface
 - Depth of seabed/riverbed at outfall point

J. Lighthouse

- (i) Total ground area of foundation/platform
- (ii) Height of the structure

K. Wind Mills

- (i) Capacity (MW)
- (ii) Height of the windmill
- (iii) Diameter of the windmill
- (iv) Length of blade
- (v) Speed of rotation
- (vi) Transmission lines (overhead or underground)

L. Others

- (i) Please specify with salient features
- (ii) Upload relevant Documents (upload PDF only)

4. PROJECT LOCATION AS PER CRZ CLASSIFICATION (If project site falls in different/multiple CRZ categories the same may also be elaborated)

5. CLAUSE OF CRZ NOTIFICATION UNDER WHICH PROJECT IS A PERMISSIBLE /REGULATED ACTIVITY

6. MANDATORY FIELDS FOR PROJECT ASSESSMENT

A. CRZ map in 1:4000 scale indicating HTL, LTL demarcation and distance of the nearest project boundary (in meters) from HTL to be stated

- (i) Upload Map (kml file)

B. Project layout superimposed on CRZ Map 1:4000 scale with classification of project location including other notified ESAs prepared

- (i) Upload Map (kml file)

C. CRZ map 1:25000 scale covering 7 km radius around Project site

- (i) Upload Map (kml file)

7. PROJECT LOCATED IN (Select Type)

- (i) Non eroding Coast
- (ii) Low and Medium eroding coast
- (iii) High eroding Coast



8. DETAILS OF FOREST/ MANGROVES LAND INVOLVED (YES/NO)**IF YES**

- (i) Detail of area diverted
- (ii) Forest clearance to be submitted (Upload document)
- (iii) No. of trees to be cut under the project
- (iv) Compensatory afforestation plan to be submitted (Upload document)

9. DISTANCE OF PROPOSED PROJECT FROM ESA/MARINE PARK/ WILD LIFE SANCTUARY

- (i) Within 10 kilometre radius from the project site (Yes/No)

If YES

- Permission from NBWL to be submitted (Upload document)

10. NOC OR CONSENT TO ESTABLISH FROM STATE/UT POLLUTION CONTROL BOARDS OBTAINED (YES/NO)**If YES**

- (i) Copy of NOC to be provided (Upload document)
- (ii) Conditions imposed to be stated (Upload document)

11. Environment Impact Assessment (EIA) studies (relevant fields to be filled)**A. Terrestrial studies:**

- (i) Summary details of EIA (Terrestrial) Studies
- (ii) Upload Recommendation made in EIAs (Upload document)
- (iii) State period of Study

B. Marine Studies

- (i) Summary details of EIA (Marine) Studies
- (ii) Upload Recommendation made in EIAs (Upload document)
- (iii) State period of Study

12. DISASTER MANAGEMENT PLAN / NATIONAL OIL SPILL DISASTER CONTINGENCY PLAN (if applicable)**13. PROJECT INVOLVING DISCHARGE OF LIQUID EFFLUENTS:**

- (i) Capacity of Sewage Treatment Plant
- (ii) Quantity of effluent generated
- (iii) Quantity of effluent treated
- (iv) Method of treatment and disposal

14. PROJECT INVOLVING DISCHARGE OF SOLID WASTE:

- (i) Type of solid waste
- (ii) Quantity of solid waste generated
- (iii) Method of disposal
- (iv) Mode of transport

15. WATER REQUIREMENT in kilo litres per day (KLD)

- (i) Quantity of water required
- (ii) Source of water



- (iii) Case Details
- (iv) Orders/Directions of the court, if any and its relevance with the proposed project
(Upload document)

24. ADDITIONAL INFORMATION, If any

UNDERTAKING: It is certified that the information given above are true to the best of my knowledge and belief and nothing contravening the provisions of CRZ Notification, 2011 has been concealed therefore.

Name and Signature of the applicant:

Date:

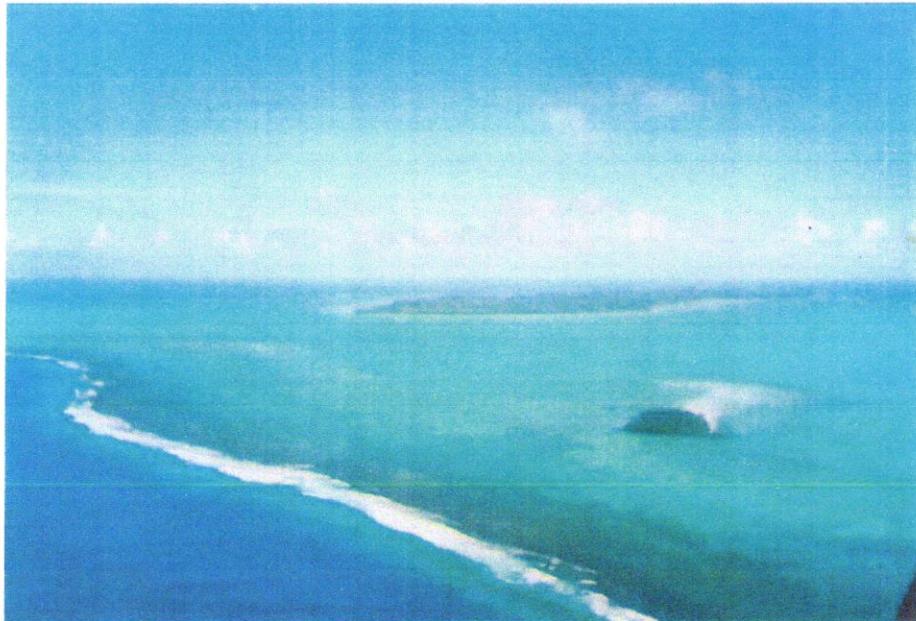


RESTRICTED DOCUMENT NO.AU/IRS/KSR/6517/16-2023, DT 19.04.2023

**Preparation of Local Level CRZ Map for the Land
Bearing C.S. No. 730 of Worli Division in G/S Ward,
Mumbai, Maharashtra by Superimposing on
Approved CZMP as per CRZ Notification 2019**

SPONSORED BY

**M/s. Hari Krishna Exports Pvt. Ltd.
The Capital Building, 1701, B Wing, 17th Floor
Plot No. C-70, Bandra Kurla Complex (BKC)
Bandra (East), Maharashtra - 400 051**



Prepared by

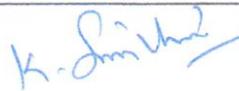


**INSTITUTE OF REMOTE SENSING
ANNA UNIVERSITY, CHENNAI-25**

April 2023



Project Data Sheet

Title	Preparation of Local Level CRZ Map for the Land Bearing C.S. No. 730 of Worli Division in G/S Ward, Mumbai, Maharashtra by Superimposing on Approved CZMP as per CRZ Notification 2019	
Project Ref No.	NO.AU/IRS/KSR/6517/16-2023, DT 19.04.2023	
Funded by	M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051	
Principal Consultant Co-Consultant	Dr. K.Srinivasa Raju, Professor Dr. D.Thirumalaivasan, Professor	
Field Survey & Mapping	Mr.S. Sathishkumar, IRS, AU Mr.P.Sukumar, IRS, AU Mr.J.Premkumar, IRS,AU	
Report Preparation	Dr. K.Srinivasa Raju, Professor	
Quality Assessment Team	Dr. C.Udhayakumar, Professor Dr. M.Shanmugam, Associate Professor Dr.K.Srinivasan, Assistant Professor	
<p>The Quality Assessment Committee for consultancy projects has scrutinized the local level CRZ map and corresponding text report of the above project on 13.04.2023. The principal consultant of the project has presented the approach adopted, findings of the study to the committee. The committee has evaluated the CRZ Map and the report for different parameters against the standards prescribed for the mapping. The positional accuracy, attribute accuracy, completeness, semantic accuracy of the output were assessed and found satisfactory. The committee recommends the approval of the map and associated report</p>		
<p> Dr. K.Srinivasa Raju (Principal Consultant)</p>		
<p>   Dr.C.Udhayakumar Dr.M.Shanmugam Dr.K.Srinivasan (QAC Member) (QAC Member) (QAC Member)</p>		
<p> DIRECTOR, IRS</p>		



Director
Institute of Remote Sensing
Anna University,
Chennai - 600 025.

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Executive Summary

Institute of Remote Sensing, Anna University, Chennai has taken up the task of preparing a local level Coastal Regulation Zone (CRZ) map in the vicinity of the plot bearing C.S. No. 730 of Worli Division in G/S Ward, Mumbai, Maharashtra by superimposing on approved CZMP as per CRZ Notification 2019 at the request of M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 through their consultants. The objective of the project is to superimpose the project site on plot bearing C.S. No. 730 of Worli Division in G/S Ward, Mumbai, Maharashtra on approved CZMP (Sheet No. MH 75) published by MCZMA for Mumbai suburban district. The satellite imagery of the project area was analysed for geomorphic characteristics in the vicinity of the project site. The project site is located in Worli division, Mumbai falls in the vicinity of Arabian Sea and Mahim Bay as per the details provided by the client and falls fully inside CRZ as per approved CZMP prepared by NCSCM, Chennai and published by MCZMA.

The client, M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 was requested to identify the project site in Worli division and to provide the details of the project site with drawings. The HTL, LTL, ecologically sensitive areas indicated in approved CZMP with setback lines as per CRZ Notification 2019 were superimposed onto the georeferenced cadastral map to prepare a local level CRZ map at 1:4,000 scale. The layout of the project site in Worli division, Mumbai as provided by the client was superimposed on the georeferenced ward map. Proposed project site on Plot Bearing C.S. No. 730 of Worli Division in G/S Ward, Mumbai, Maharashtra falls fully inside the 500m setback line from HTL for Arabian Sea as per approved CZMP. Hence, the aforementioned project site of M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 falls fully inside CRZ -II as per approved CZMP published vide CRZ Notification 2019.



1.0 INTRODUCTION

1.1 Coastal Regulation Zone

The coastal zone is the area of interaction between land and sea. The coastal zone of Maharashtra has a very high concentration of population along with ecologically sensitive areas like mudflats, mangroves. There is a spurt of developmental activities arising from huge residential colonies, new industries and tourism centres along the coast and in the coastal zone. There is a need to protect the coastal environment while ensuring continuing production and development. This zone is extremely vulnerable and has to be managed judiciously striking a balance between ecological and developmental needs.

The Ministry of Environment, Forests and Climate Change, Government of India with a view to conserve and protect the unique environment of coastal stretches and marine areas, besides livelihood security to the fisher communities and other local communities in the coastal areas and to promote sustainable development based on scientific principles taking into account the dangers of natural hazards, sea level rise due to global warming declared the coastal stretches of the country and the water area up to its territorial water limit, excluding the islands of Andaman and Nicobar and Lakshadweep and the marine areas surrounding these islands, as Coastal Regulation Zone (CRZ) vide CRZ Notification, 2019. The notification specifies CRZ as

(i) The land area from High Tide Line (HTL) to 500 meters on the landward side along the seafont.



(ii) CRZ shall apply to the land area between HTL to 50 meters or width of the creek, whichever is less on the landward side along the tidal influenced water bodies that are connected to the sea and the distance upto which development along such tidal influenced water bodies is to be regulated shall be governed by the distance upto which the tidal effects are experienced which shall be determined based on salinity concentration of five parts per thousand (ppt) measured during the driest period of the year and distance up to which tidal effects are experienced shall be clearly identified and demarcated accordingly in the Coastal Zone Management Plan (CZMP).

(iii) The "intertidal zone" means land area between the HTL and the Low Tide Line (LTL).

(iv) The water and the bed area between the LTL to the territorial water limit (12 Nm) in case of sea and the water and the bed area between LTL at the bank to the LTL on the opposite side of the bank, of tidal influenced water bodies.

The Notification has clearly defined HTL as the line on the land upto which the highest water line reaches during the spring tide, as demarcated by the National Centre for Sustainable Coastal Management (NCSCM) in accordance with the laid down procedures and made available to various coastal States and Union territories.

The Notification further classified CRZ area as CRZ – I, CRZ – II, CRZ – III and CRZ – IV for the purpose of conserving and protecting the coastal areas and marine waters. The CRZ – I include the areas that are ecologically sensitive and the geomorphological features which play a role in maintaining the integrity of the coast like (a) Mangroves(b) Corals and coral reefs (c) Sand



Dunes (d) biologically active Mudflats (e) National parks, marine parks, sanctuaries, reserve forests, wildlife habitats and other protected areas (f) Salt Marshes (g) Turtle nesting grounds (h) Horseshoe crabs habitats (i) Sea grass beds (j) Nesting grounds of birds (k) Areas or structures of archaeological importance and heritage sites being classified as CRZ-I A and the area between LTL and HTL being classified as CRZ-I B. The CRZ-II includes the developed land areas up to or close to the shoreline, within the existing municipal limits or in other existing legally designated urban areas, which are substantially built-up with a ratio of built-up plots to that of total plots being more than 50% and have been provided with drainage and approach roads and other infrastructural facilities, such as water supply, sewerage mains, etc. The Land areas that are relatively undisturbed (viz. rural areas, etc.) and those which do not fall under CRZ-II are designated as CRZ-III. The CRZ-III is further classified as CRZ-III A and CRZ-III B based on the population density with a threshold value of 2161 per sq.km. as per 2011 census. The CRZ-IV includes the water area and the sea bed area between the Low Tide Line up to twelve nautical miles on the seaward side (CRZ-IV A) and the water area and the bed area between LTL at the bank of the tidal influenced water body to the LTL on the opposite side of the bank, extending from the mouth of the water body at the sea up to the influence of tide (CRZ-IV B), i.e. salinity of five parts per thousand (ppt) during the driest season of the year.

In order to protect and preserve the 'green lung' of the Greater Mumbai area, all open spaces, parks, gardens, playgrounds indicated in development plans within CRZ-II shall be categorised as No Development Zone and a Floor Space Index up to 15% shall be allowed only for construction of civic



amenities, stadium and gymnasium meant for recreational or sports related activities and the residential or commercial use of such open spaces are not permissible as per notification. Construction of sewage treatment plants in CRZ-I area for the purpose of treating the sewage from the municipal area shall be taken only by the municipal authorities in exceptional circumstances, where no alternate site is available to set up such facilities, subject to recommendations of the Coastal Zone Management Authority and approval by the Central Government and in case the construction of such plant is inevitable in a mangrove area, a minimum three times the mangrove area affected or destroyed or cut during the construction process shall be taken up for compensatory plantation of mangroves.

As per the guidelines, Cadastral (village) maps in 1:3960 or the nearest scale shall be used as the base maps. HTL and LTL will be demarcated by NCSCM, Chennai is used for superimposition on the cadastral map based on physical verification using coastal geomorphological signatures or features in accordance with the CZMP Maps approved by the Central Government.

In order to facilitate the classification of Coastal Regulation Zones, the Government of India has approved a few agencies/institutions across the Country vide Lr. No. J17011/8/92-1A III, dated 10.05.1999 of the Ministry of Environment and Forests. Institute of Remote Sensing, Anna University being one of them, has been carrying out HTL and LTL mapping following the guidelines issued by the Ministry of Environment, Forests & Climate Change, Government of India.



1.2 Background

M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 through their consultant has requested Institute of Remote Sensing, Anna University to prepare local level CRZ Map by superimposing proposed project site in Worli division, Mumbai along with HTL, LTL for the Sea/Bay/tidal influenced water bodies and ecologically sensitive areas on 1:4,000 scale cadastral map. The project site of M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 in the vicinity of the Arabian Sea. It is in this context, the project site needs to be evaluated to assess whether it falls under regulations of CRZ Notification, 2019. Hence IRS has taken up the work of superimposing project site on approved CZMP prepared by NCSCM.

1.3 Objectives

The objective of the present study is to examine the project site of M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 with reference to CRZ Notification, 2019. Keeping in view of the requirements of notification, Institute of Remote Sensing, Anna University under took the project with following agreed scope of work:

- Transfer of HTL for Arabian Sea as indicated in approved CZMP (Map No. MH 75) in the vicinity of the project site by digitization from approved CZMP at 1:25,000 scale.



- Digitisation of ecologically sensitive entities such as Mangroves, Sand dunes, Turtle breeding grounds as indicated on approved CZMP in the vicinity of project site
- Superimposition of HTL, LTL, Ecologically Sensitive Areas along with the proposed project site and constructions as provided by the client on to the georeferenced cadastral map
- Preparation of local level CRZ map at 1:4000 scale for the proposed project site on cadastral map of Worli division in Mumbai suburban district, Maharashtra

1.4 Data Products

Approved CZMP prepared as per CRZ Notification 2019 and published by MCZMA, Mumbai for public consultation were collected from the client/authority and used as reference for transfer of HTL, LTL and ecologically sensitive areas in the vicinity of project site onto local level CRZ map. The data products used for the study and mapping include approved CZMP published by MCZMA (Map No. MH 75) in 2022 vide CRZ Notification 2019 and map of Worli division, Mumbai provided by Municipal Corporation of Greater Mumbai for preparation of approved CZMP.

1.5 Methodology

The cadastral map of the Worli division provided on approved CZMP has been used for the preparation of local level CRZ map. The geomorphic characteristics of the coastal zone have been analysed from the medium resolution satellite data. Coastal geomorphological features and the existence of permanent vegetation identified from the satellite imagery were used to



transfer the HTL demarcated by NCSCM on approved CZMP. The approved CZMP was georeferenced using graticules available on the maps.

The cadastral map of the Worli division, Mumbai suburban district was digitized to create a vector dataset of survey polygons in the vicinity of project locations. The same is superimposed on satellite imagery to identify the proposed project location. The HTL, LTL and ecologically sensitive areas in the vicinity of the project location are digitized from georeferenced approved CZMP. 500m setback line from HTL for Arabian Sea is generated using GIS buffering tool. The zones between LTL, HTL and setback lines are designated as corresponding CRZ as per CRZ Notification 2019.



2.0 STUDY AREA

2.1 Description of Study Area

The project site of M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 is located within Worli Division, Mumbai. The client has proposed to construct a building in the plot bearing C.S. No. 730 of Worli Division in G/S Ward, Mumbai, Maharashtra. The site falls adjacent to the Arabian Sea with an extent of 1349.51 sq.m as per details provided by the client.

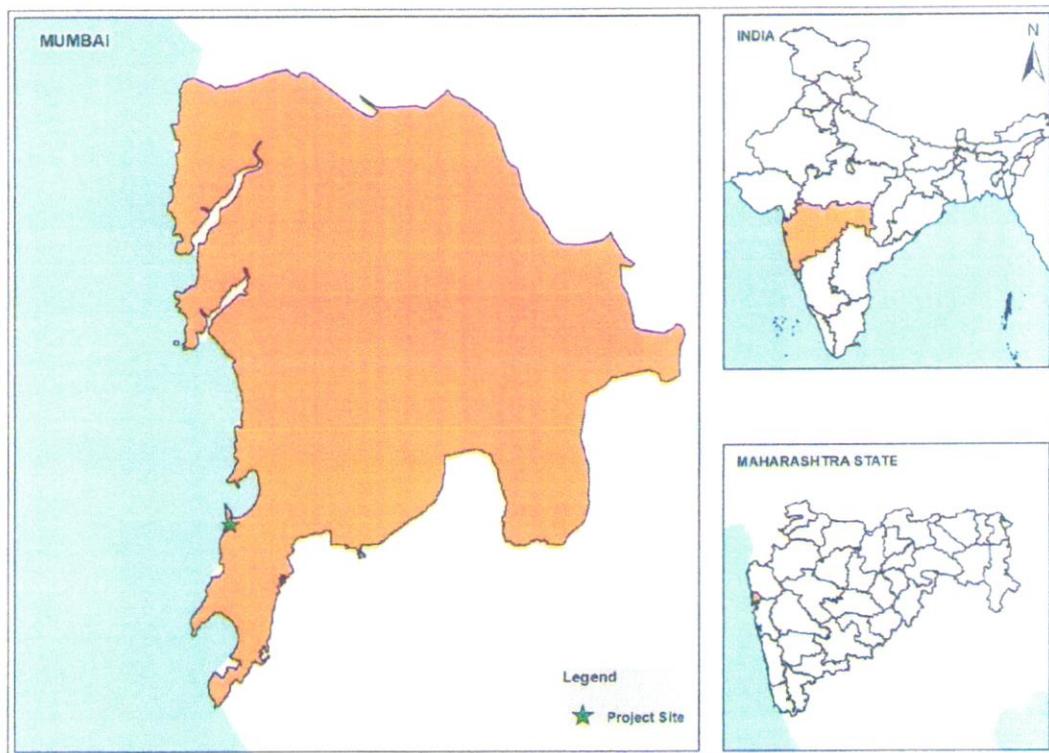


Fig. 1 Location Map of Project Area

The coordinates of significant points along the project site boundary as identified by the client during field observations using dual frequency GPS are presented in Table 1.



Table 1 Coordinates of the Project Site Boundary as per GPS survey

Label	Latitude	Longitude
A	19° 00' 48.588" N	72° 49' 01.270" E
B	19° 00' 48.601" N	72° 49' 03.182" E
C	19° 00' 47.790" N	72° 49' 03.224" E
D	19° 00' 47.872" N	72° 49' 01.249" E

2.2 Status as per Approved CZMP prepared by NCSCM, Chennai

The project site of M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 falls inside 500 m setback line from HTL for Arabian Sea as per approved CZMP (Map No. MH 75). Hence, the project site falls fully inside CRZ-II as per approved CZMP map prepared by NCSCM, Chennai vide CRZ Notification 2019.



3.0 RESULTS AND CONCLUSIONS

3.1 Results

The cadastral map of Worli division, Mumbai suburban district, Maharashtra were georeferenced using tic points available on approved CZMP of Mumbai suburban district, Maharashtra. The HTL and LTL for Arabian Sea as indicated in approved CZMP were superimposed onto the georeferenced cadastral map along with ecologically sensitive areas in the vicinity of the project site. Setback line for 500m from HTL for Arabian Sea as per approved CZMP was superimposed onto a georeferenced base map to prepare local level CRZ map at 1:4,000 scale (Annexure III). The satellite imagery of project site is presented in Annexure I. The coordinates of points on HTL line derived from approved CZMP are presented in Annexure II. The project site is superimposed onto approved CZMP published vide CRZ Notification 2019 at 1:25,000 scale as presented in Annexure IV.

3.2 Conclusions

- The project site of M/s. Hari Krishna Exports Pvt. Ltd., The Capital Building, 1701, B Wing, 17th Floor, Plot No. C-70, Bandra Kurla Complex (BKC), Bandra (East), Maharashtra - 400 051 on plot bearing C.S. No. 730 of Worli Division in G/S Ward, Mumbai, Maharashtra falls fully inside the 500m setback line from HTL of Arabian Sea as per approved CZMP (Map No.MH 75) published vide CRZ Notification 2019. Hence project site and proposed construction falls fully inside CRZ-II as per approved CZMP.


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- The shortest distance of the project site corners A and D from the HTL of Arabian Sea are 31.85 m 31.57 m as indicated in the enclosed local level CRZ map.
- Coastal Regulation Zone map of the site is prepared considering approved CZMP as per CRZ Notification 2019 of MoEFCC, Gol
- Superimposition of approved CZMP is subject to scale and generalisation error
- The DGPS Survey was carried out specific to the referred project site boundary only hence, validation of HTL and CRZ Boundary is limited to the clearance of the same.
- Institute of Remote Sensing do not carry responsibility for CRZ status of other plots or neighborhood.


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Preparation of Local Level CRZ Map for the Land Bearing C.S. No. 730 of Worli Division in G/S Ward, Mumbai, Maharashtra by Superimposing on Approved CZMP as per CRZ Notification 2019

NO.AU/IRS/KSR/6517/16-2023, DT 19.04.2023

ANNEXURE I

Satellite Imagery of project site



(courtesy: Google Earth)



ANNEXURE II**Coordinates of HTL Reference Points**

Point No	Latitude	Longitude
1	19° 1' 3.986" N	72° 48' 58.006" E
2	19° 0' 58.444" N	72° 48' 59.281" E
3	19° 0' 59.321" N	72° 49' 3.333" E
4	19° 0' 56.399" N	72° 48' 58.544" E
5	19° 0' 51.117" N	72° 48' 59.786" E
6	19° 0' 46.352" N	72° 49' 0.026" E
7	19° 0' 41.661" N	72° 48' 58.319" E
8	19° 0' 37.564" N	72° 48' 55.851" E
9	19° 0' 33.023" N	72° 48' 53.105" E

(Source: Approved CZMP – Map No. MH 75)



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Anna University,
Chennai - 600 025.



ANNEXURE IV

Project Site Superimposed on Approved CZMP



Source: Approved CZMP – Map No. MH 75



MUNICIPAL CORPORATION OF GREATER MUMBAI

G/S ward Office Bldg., N.M.Joshi Marg, Elphinstone, Mumbai-400 018

**NOTICE UNDER SECTION 53 (1) r/w SECTION 52 (1) (b) and (d) OF THE
MAHARASHTRA REGIONAL AND TOWN PLANNING ACT, 1966 (One Month
Notice)****S.A.C. No.: GS1103360150000****Notice No.:GS/DO1GS/196/53-1-MRTP ACT/GS56N01/24-05-2023 Date: 24/05/2023****Ref No.: 168015**

To,

Owner / Occupier,

✓ Shri. Ghanshyam Dholakia,

Aikyam Building (Formerly known as Panhar),

Plot no. 5,

Worli Sea Face,

Khan Abdul Gaffar Khan Road,

Worli Mumbai – 400 030

Sir/Madam,

Whereas the undersigned has been appointed as the Designated Officer under section 53(8) of Maharashtra Regional and Town Planning Act, 1966 (herein after for the brevity sake referred as the said Act) to exercise the powers of Planning Authority under Section 53,54,55 and 56 of the said Act.

AND whereas it has been reported to me that, you have commenced, undertaken or carried out development or instituted or changed the use of land/premises as described in schedule appended below:-

- 1.Which is not in accordance with the permission granted or in contravention of any condition subject to which such permission has been granted.
- 2.In contravention of the permission which was duly modified.

You are, therefore, hereby called upon:

To reinstate/restore/remove the unauthorized development/changes in the land/premises situated at Aikyam Building (Formerly known as Panhar), Plot no. 5, Worli Sea Face, Khan Abdul Gaffar Khan Road, Worli, Mumbai – 400 030 (C. S. No. 730 of Worli Division) as per the permission granted / sanctioned plan bearing no EEBPC/3294/GS/A DT: 27.09.2001 from Basement to Sixth Floor (i.e. Entire Building)

Apply under section 44 of M.R.T.P. Act for retention of the work before the Competent Authority i.e. Executive Engineer (Building Proposal) Department of M.C.G.M., within one month from receipt of this notice.



OR

Please note that on failure to comply with the aforesaid requisition, the unauthorized work mentioned in schedule below will be demolished by MCGM at your risk and cost and you will also be liable for prosecution under the said Act and the aforesaid requisition will be carried out at your risk and cost.

SCHEDULE

(Description of the unauthorized development together with the particular of land)

Site inspected on Dt: 08.05.2023 in consonance with Building Completion plans under Proposal no. EEBPC/3294/GS/A DT: 27.09.2001

Basement Floor.

1. RCC Staircase on North-East side of building is demolished and the space is created into a room.
2. Addition and alterations in Parking space no 9 & 10 & converted into a room adm 4.98m x 3.36m by constructing BM walls.
3. Addition and alterations in Parking space no 15 & 16 & converted into a room adm 5.9m x 2.9m, 2.35m x 2.7m, 3.0m x 2.35m by constructing BM walls.
4. Construction of room adm 4.60m x 4.0m & 4.2m x 2.59m (toilet block) with BM walls in the open space/ drive way between parking slot no 9/10 & 15/16.

Ground Floor.

1. RCC Staircase (From ground floor to basement) on North-East side of building is demolished and the space is created into a room.
2. Driveway to ground floor is closed by erecting glass panels on both entry and exit on north and south side of building.
3. Two ducts on left and right side of lifts are converted into store room by constructing BM walls and carrying out addition and alterations.
4. Parking slot no 5, 6 & 7 on the west side of building are converted into a hall.
5. Unauthorized construction of pantry adm 4m x 2m by constructing BM walls in place of servants toilet beside parking slot no 5 on south-west of building.
6. Demolition of existing oval shaped RCC structure of canopy, water body / paddle pool and garden on the front side (seaside) of the building and construction of a rectangular shaped regular RCC flat slab with no any water body/ paddle pool.
7. Service lift at ground floor beside staircase is extended upto basement.
8. Unauthorized encroachment into the parking slot no 8, by creation of door entry into the building by demolishing the peripheral wall of building.

First Floor

Addition and alteration in flat no 1 on west side of building and converted existing bedroom, living room it into a gymnasium. Construction of swimming pool admeasuring 7.75m x 4.7m in the existing bedroom and toilet area of flat no 1.



Third Floor

Addition, alterations in existing flat no 1 & 2 at third floor by demolishing all internal BM partition walls and constructing walls at new locations as per the sketch.

Fourth Floor

Addition, alterations in existing flat no 1 & 2 at fourth floor by demolishing all internal BM partition walls and constructing walls at new locations as per the sketch.

Fifth Floor

1. Demolition of existing RCC ceiling slab above flat no 1 on fifth floor and demolition of all existing internal BM partition walls and converting it into a single big hall with height of two floors.
2. Demolition of all existing internal BM partition walls in flat no 2 at east side and converting it into a Pooja room, kitchen and dining hall.

Sixth Floor

1. Demolition of all existing internal BM partition walls of flat no 3 & 4 at east side and converting it into one single room for play area & other room for indoor theatre.
2. Demolition of existing RCC floor slab & all existing internal BM partition walls of flat no 1 & 2 on sixth floor and converting it into a single big hall of double floor height including flat no 1 & 2 at fifth floor.

Terrace Floor

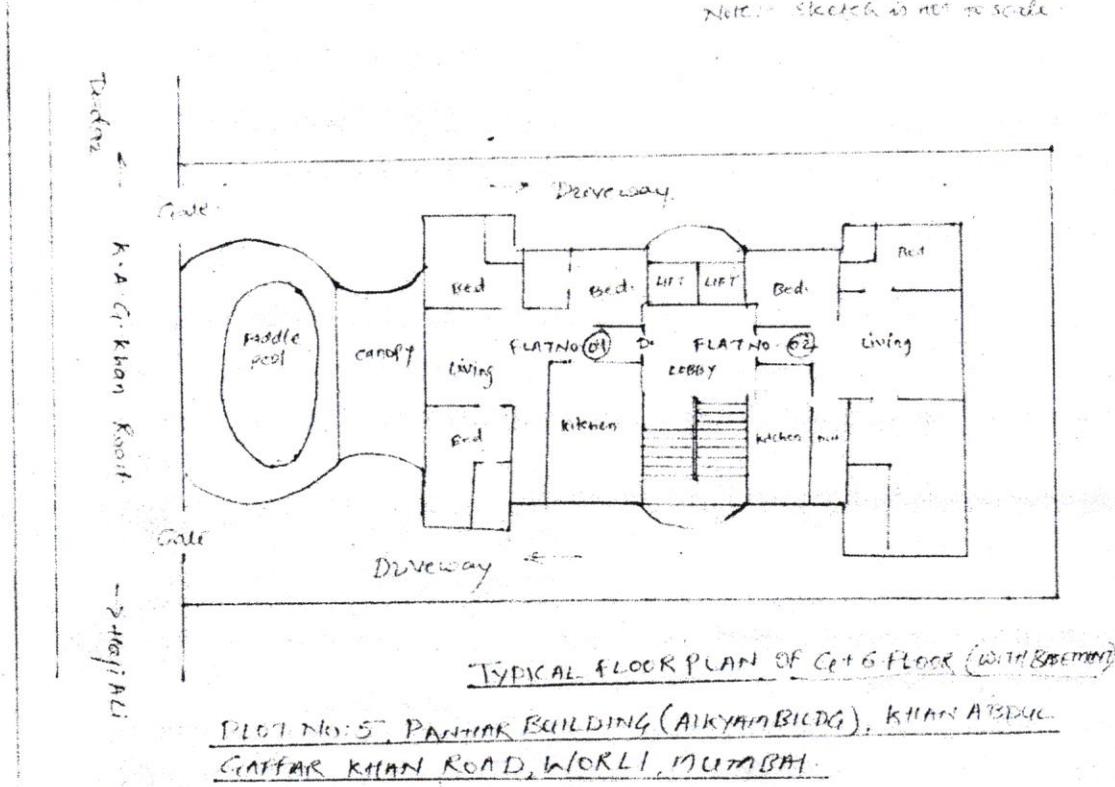
1. Construction of room (bedroom) admeasuring 8.9m x 5.25m, toilet adm 4.7m x 5.40m, room adm 3.8m x 3.99m, room adm 2.25m x 3.8m, room adm 1.90m x 5.36m on east side on open terrace above sixth floor.
2. Construction of room (lounge) admeasuring 6.39m x 11.0m, toilet adm 4.41m x 5.44m, shower room adm 3.95m x 1.76m, wardrobe room adm 5.51m x 3.9m on west side on open terrace above sixth floor.
3. Unauthorized casting of slab above Pergola beams on west side of terrace and creating a seating space.
4. Unauthorized construction of RCC slab for roofing on terrace above sixth floor and using the same as seventh floor.

General Observations

1. Unauthorized encroachment over the existing RCC chhajja on the periphery of the building on all floors from ground floor to sixth floor and merging it into the internal floor area/ carpet area of the building.
2. Unauthorized erection of glass façade on the periphery of the building from ground floor to existing terrace of the building.
3. The curved portion on the east and west side of the periphery of the building is made straight by erecting glass façade.

SKETCH

Note:- Sketch is not to scale



Date: 24/05/2023

Signature: *[Handwritten Signature]*
24/05/2023

Name : *Rajesh K. Chauhan*

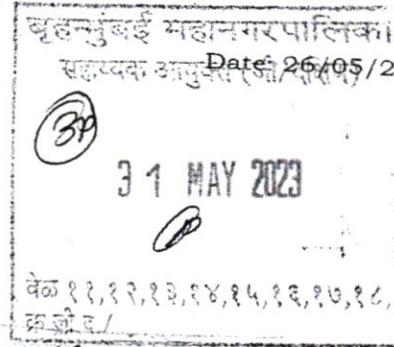
Designated Officer-Ward G/South



Received
25-05-2023
[Handwritten Signature]

3 Dimensional

CONSULTANTS LLP



1) To,
Asstt. Engineer (Building & Factory) G/S Ward,
 Municipal Office, N.M.Joshi Marg,
 Lower Parel, Mumbai 400013.

2) To,
EE(BP) City , G/S Ward,
 Bhagwan Walmiki Chowk,
 Vidyalankar Marg, Opp. Hanuman Temple,
 Wadala (East), Mumbai: 400 037.

Sub:- Proposed Addition & Alteration of existing building on Plot Bering CTS No. 730, Village Worli, Division at Khan Abdul Gaffar Khan Road, Worli Mumbai - 400 018. G/south Ward.

Ref: 1) Notice under 53(1) of MRTP act u/no:-GS/DO1GS/196/53-1-MRTP A/GS56N01/24-05-2023 dated 24/05/2023
 2) BMC File No. P-16330/2023/(730)/G/South/WORLI
 3) BMC payment Receipt No. : 18/4/2023/003335 dated. 18.04.2023.
 4) MCZMA letter u/no. OA 2023/CR 8/TC-4 dated 25.04.2023.

Sir,

This is with reference to the Notice received by the owner Shri Ghansyam Dholakiya Notice under 53(1) of MRTP act u/no:-GS/DO1GS/196/53-1-MRTP A/GS56N01/24- 05-2023 dated 24/05/2023.

We have been appointed as Licenced Surveyor by the Owner of the building Shri. Ghanshyambhai Dholakia Managing Director of M/s Hari Krishna Exports Pvt Ltd for regularization of the work carried out beyond approval on land bearing CS no 730 of Worli division who has appointed us to represent the case on their behalf to MCGM. Please find enclosed Copy of the appointment letter appointing us as Licenced Surveyor.

We have already started the process of regularization of the said work carried out beyond approval. The work so carried out is of approvable nature as per the regulations of DCPR 2034 by obtaining the approvals of the competent authorities.

We have submitted the proposal on behalf of the owners, online and have also paid the necessary mandatory scrutiny fees (copy of fee receipt is enclosed herewith for your reference).

Thus we hereby state that we have submitted the proposal as per the section 53(3) of MRTP act to regularize the work carried out beyond approval within 30 days from the receipt of the said notice.

You are hereby requested not to take any action, till the final outcome of the proposal submitted to the Building proposal department online under file no P-16330/2023/(730)/G/South/WORLI, who has been requested separately to obtain the necessary sanction of the competent authority in the said building file.

Thanking You,
 Yours Faithfully,
 M/s. 3 Dimensional Consultants LLP

Jinish
 Narendra Soni

Digitally signed by
 Jinish Narendra Soni
 Date: 2023.05.29
 16:38:40 +05'30'

Shri Jinish Soni
 Licenses Surveyor
 S/588/LS



Close 

Application Details

File No. : P-16330/2023/(730)/G/South/WORLI

SAC No. : NA,

Title/Subject : Proposed Addition & Alteration of existing Residential building on plot bearing CS No. 730 of Village Worli, Division at Khan Abdul Gaffar Khan Road, Worli (Mumbai), 400 018, G/South Ward.

Zone Name : City Ward Name : G/South

Plot No. : 730 CS No./ CTS No. : 730

Road/Street Name : Khan Abdul Guffar Khan Road TP Scheme : 0

Division / Village : 2045 Gut No. :

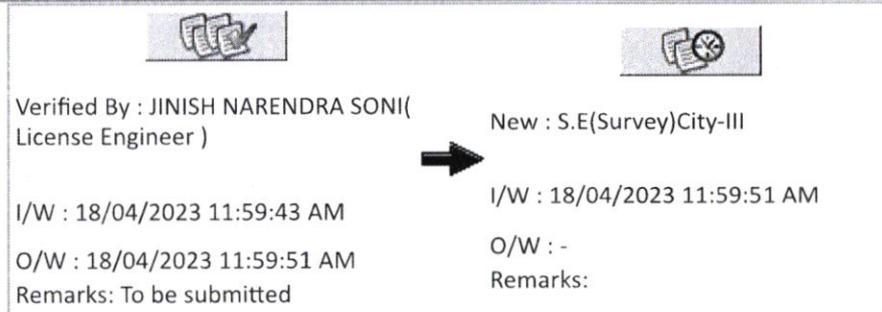
CTS No. : 730

Architect/LE/SE Name : JINISH NARENDRA SONI Inward Date : 7/4/2023

Notice Letter No. : 342/1172/23

Structural Engineer : Hiten R Mahimtura

Approval Flow





Transaction Status
Payment Received

Receipt Number : 18/4/2023/003335 Receipt Date : 18-Apr-23
Reference Number (Challan Number) : CHE/BP/108355/23 File Number : P-16330/2023/(730)/G/South/WORLI
Transaction Number : YHMP1846735890
Received From : Shri Ghanshyambhai Dholakia Managing Director of Architect / L.S. Name : JINISH NARENDRA SONI
M/s. Hari Krishna Exports Pvt. Ltd.
Received Address : Plot Bearing CS No. 730 of Village Worli, Khan Abdul Gaffar Khan Road, Worli Mumbai- 400018

Address : MCGM GST Number : 27AAALM0042L3Z4
State Name : MAHARASHTRA UIN Number : -----
State Code : 27 Place of Supply : Mumbai, Maharashtra
PAN Number : ----- Registered : No

Sr. No.	Activity	Description	Net Amount (INR)	CGST	SGST	IGST	Gross Value (INR)	Mode of payment	Transaction Details
1	CHE/BP/108355/23	Payment against challan generated	9,032.00	---	---	---	9,032.00	Online	Transaction No.- YHMP1846735890 Date - 18-04-2023 Bank -

Amount in Words : Rupees Nine Thousand Thirty Two Only

Note- This is System generated receipt ,does not require signature



p. n. bhobe & associates

architects and project consultants

223/a, ramesh ghar,
t. h. kataria marg,
mahim, mumbai 400 016.
tel. no. 2 4 3 7 8 6 9 5.

Date: 27th September 2023.

To,
The Executive Engineer (I),
Building Proposals (City),
M.C.G.M.,
Wadala, Mumbai- 400 037.



Sub: Proposed additions & alterations to existing residential building on plot bearing C.S. No. 730 of Worli Division situated at Khan Abdul Gaffar Khan Road, Worli (Mumbai), 400018 in G/South Ward of BMC.

Ref: File at E.E.(B.P.) City's office bearing no. P-16330/2023/(730)/G/South/WORLI/342/1/New

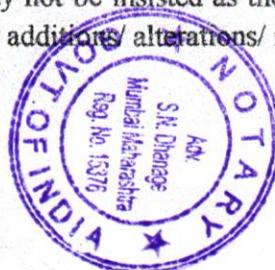
Dear Sir,

Our clients **M/s. Hari Krishna Exports Pvt. Ltd.**, have submitted the proposal in subject to your office on 18th April 2023 through their architect Mr. Jinish N. Soni of M/s. 3 Dimensional Consultants LLP. As per the BMC portal it is seen that the file is returned to the architect's console requesting therein to submit few compliances.

The architect on record Mr. Jinish N. Soni of M/s. 3 Dimensional Consultants LLP has tendered his resignation vide letter dated 18th July 2023 stating therein the current status. The owners have now appointed us as the new architects vide appointment letter dated 23rd September 2023 and we have accepted the assignment vide letter dated 25th September 2023. Copy of both the letters are attached herewith along with our valid registration certificate of Council of Architecture.

As stated herein above, approval flow & note sheet of S.E.(B.P.) X dated 9th June 2023 in BMC portal shows that the proposal of "Proposed additions & alterations to existing residential building on plot bearing C.S. No. 730 of Worli Division situated at Khan Abdul Gaffar Khan Road, Worli Mumbai 400018 in G/South Ward" has been rejected by your good offices on technical grounds.

The clients, now having appointed us, in response to the points of rejection, we have applied for NOC from the Estate Department on 26th September 2023 and the same will be submitted to you in due course, Tax Clearance Certificate dated 23rd September 2023 is submitted herewith, Stability Certificate from the Structural Engineer Mr. R. H. Mahimtura dated 25th May 2023 is submitted herewith. Naval NOC may not be insisted as there is no reconstruction/ redevelopment and the proposal is only for minor additions/ alterations/ repair/ retention.



[Signature]

Cont....2

Continuation Sheet

p. n bhobe & associates

....2....

There is no much change in the plinth dimensions. Only the existing structure with the same plinth is being refurbished. Hence, CRZ NOC may not be insisted.

In view of the above clarification, we request you to process the application in terms of the directions given by the Hon'ble High Court of Bombay in Writ Petition (L) No. 18045 of 2023.

Thanking You,

For P. N. Bhobe & Associates.



(P.N. Bhobe)

Reg. No.: CA/80/5997.



P. n. bhobe & associates

architects and project consultants

223/A, Ramesh Marg,

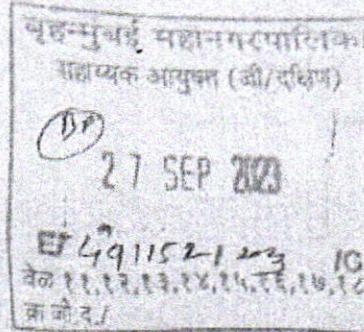
T. B. Kalaria Marg,

Mahim, Mumbai 400 016

Ph. no. 24378695

Date: 27th September 2023.

To,
The Assistant Engineer (B & F),
B.M.C., G/South Ward Office,
N.M.Joshi Marg, Parel,
Mumbai- 400 025.



Sub: Proposed additions & alterations to existing residential building on plot bearing C.S. No. 730 of Worli Division situated at Khan Abdul Gaffar Khan Road, Worli (Mumbai), 400018 in G/South Ward of BMC.

Ref: File at E.E.(B.P.) City's office bearing no. P-16330/2023/(730)/G/South/WORLI/342/1/New.

Dear Sir,

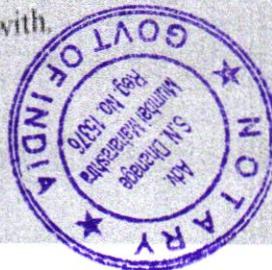
Our clients M/s. Hari Krishna Exports Pvt. Ltd., have submitted the proposal in subject to E.E.(B.P.) City's office on 18th April 2023 through their architect Mr. Jinish N. Soni of M/s. 3 Dimensional Consultants LLP. As per the BMC's portal it is seen that the file is returned to the architect's console requesting therein to submit few compliances.

The architect on record Mr. Jinish N. Soni of M/s. 3 Dimensional Consultants LLP has tendered his resignation vide letter dated 18th July 2023 stating therein the current status. The owners have now appointed us as the new architects vide appointment letter dated 23rd September 2023 and we have accepted the assignment vide letter dated 25th September 2023. Copy of both the letters are attached herewith for your reference.

As stated herein above, approval flow & note sheet of S.E.(B.P.) X dated 9th June 2023 in BMC portal shows that the proposal of "Proposed additions & alterations to existing residential building on plot bearing C.S. No. 730 of Worli Division situated at Khan Abdul Gaffar Khan Road, Worli Mumbai 400018 in G/South Ward" has been rejected by your good offices on technical grounds.

In response to the points of rejection, we are writing to E.E.(B.P.) City's office on compliances as follows :

- i) We have applied for NOC from the Estate Department on 26th September 2023, copy of letter is submitted herewith for your reference.
- ii) Tax Clearance Certificate dated 23rd September 2023 is submitted herewith.
- iii) Stability Certificate from the Structural Engineer Mr. R. H. Mahimtura dated 25th May 2023 is submitted herewith.



Cont....2

Continuation Sheet

p. n bhobe & associates

.....

- iv) There is no much change in the plinth dimensions. Only the existing structure with the same plinth is being refurbished. Hence, Naval NOC & CRZ NOC may not be insisted because there is no reconstruction/ redevelopment and the proposal is only for minor additions / alterations / repairs / retention.

For your information, we are in the process of complying all the points of rejection and are accordingly requesting E.E.(B.P.) City's office to process the application in terms of the directions given by the Hon'ble High Court of Bombay in Writ Petition (L) No. 18045 of 2023.

Thanking You,

For P. N. Bhobe & Associates.


(P.N. Bhobe)

Reg. No.: CA/80/5997.



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. ^{LL) 18045} OF 2023

In the matter of Articles 14, 19, 21, 226
of the Constitution of India;

And

In the matter of provisions of the
Maharashtra Regional and Town
Planning Act, 1966 ("MRTP Act");

And

In the matter of provisions of the
Mumbai Municipal Corporation Act,
1888 ("MMC Act");

And

In the matter of Impugned Notice dated
24th May 2023 bearing Notice No:
GS/DO1GS/196/53-1-MRTP ACT/
GS56N01/24-05-2023 (received on
25th May 2023) issued under Section
53(1) r/w Section 52(1)(b) and (d) of
the MRTP Act;

And



In the matter of the notice issued to demolish the dwelling house of the Petitioner in violation of their fundamental right to shelter.

1. **Hari Krishna Exports Private**

Limited, through its Director

Having office at Unit No. 1701,

“The Capital” 17th Floor, B Wing,

Plot No. C-70, Bandra East,

Mumbai 400 051.

2. **Ghanshyam Dholakia**, age 54,

Occ: Business, having residence at

Aikyam (Formerly known as Panhar),

Plot No. 5, Worli Sea Face, Mumbai 400 030.

... Petitioners

Versus

1. **Municipal Corporation of Greater Mumbai**

Through its Commissioner,

Annexe Building, Mahapalika Marg,



Mumbai – 400 001.

2. **Asstt. Engineer (Building & Factory),**

Municipal Corporation of Greater Mumbai,

G/S Ward, Municipal Office,

N. M. Joshi Marg, Mumbai – 400013.

3. **Designated Officer G/South Ward,**

Municipal Corporation of Greater Mumbai,

N. M. Joshi Marg, Elphinstone,

Mumbai – 400 018.

4. **Executive Engineer (BP), City,**

G/S Ward, Bhagwan Walmiki Chowk,

Vidyalankar Marg, Opp. Hanuman Temple,

Wadala (East), Mumbai 400 037.

5. **Maharashtra Coastal Zone Management**

Authority, Through the Additional Chief Secretary,

Environment Department, 2nd Floor, Room No. 217,

Annexe Building, Mantralaya, Mumbai- 32.



... Respondents

TO
THE HON'BLE THE CHIEF JUSTICE
AND OTHER PUISNE JUDGES OF
THE HON'BLE HIGH COURT

HUMBLE PETITION OF THE
PETITIONER ABOVE-
NAMED:

MOST RESPECTFULLY SHEWETH:

PARTIES:

1. The Petitioner No. 1 is a private limited company registered under the provisions of the Companies Act, 1956 having its office address specified in the cause title mentioned above and is engaged in the business of manufacturing and exporting of polish diamonds. Petitioner No. 1 is the owner of the property being Aikyam (Formerly known as Panhar), Plot No. 5, Worli Sea Face, Mumbai 400 030 ("subject property"). Petitioner No. 2 is a Director of Petitioner No. 1 and is presently residing at the subject property. The impugned notice has been issued to demolish the development/ changes carried out in the land/ premises of the subject property.
2. Respondent No. 1 is the Municipal Corporation of Greater Mumbai ("MCGM") through its Commissioner. Respondent No. 2 is the Asstt.



Engineer (Building & Factory), MCGM who exercises supervisory control over private buildings and factories and is responsible for their regulation and control. Respondent No. 3 is the Designated Officer – Ward G/South, MCGM appointed under Section 53 (8) of the MRTP Act, 1966 to exercise the powers of the Planning Authority. Respondent No. 4 is the Executive Engineer (BP), MCGM. The Municipal Corporation of Greater Mumbai is a public authority appointed as the Planning Authority under the MRTP Act, 1966 and is responsible for planning and regulating the development of the city of Mumbai. Respondent No. 5 is the Maharashtra Coastal Zone Management Authority (“MCZMA”) constituted under the CRZ Notification 1991 under the provisions of the Environment (Protection) Act, 1986 (“EPA”), responsible for regulation of activities in Coastal Regulation Zones (“CRZ”) and grant of CRZ clearances.

3. Respondent Nos. 1 to 4 are State or its instrumentalities within the meaning of Article 12 of the Constitution of India and as such, are amenable to the writ jurisdiction of this Hon’ble Court.



CAUSE OF ACTION

4. The Petitioners are constrained to approach this Hon’ble Court under its extraordinary jurisdiction as vested under Article 226 of the



Constitution of India thereby challenging the arbitrary, unreasonable and unjustified action of the Respondent Authority in issuing the Notice dated 24th May 2023 bearing Notice No: GS/DO1GS/196/53-1-MRTP ACT/ GS56N01/24-05-2023 (received on 25th May 2023) issued under Section 53(1) r/w Section 52(1)(b) and (d) of the MRTP Act (hereinafter referred to as the “**Impugned Notice**”) as the same is issued only upon the order being passed by the Hon’ble National Green Tribunal dated 3rd May 2023 in Original Application No. 25 of 2023 which is filed at the behest of one Mr. Dileep Nevatia who has in fact settled its litigation in respect of the subject property in the year 2021 and thus, the impugned notice is issued without any application of mind.

5. The Petitioners submit that by way of the impugned Notice, the Respondent MCGM has directed the Petitioners to demolish the development/ changes carried out in the subject property. It is pertinent to note that prior to the issuance of the Impugned Notice, the Petitioners have initiated the process of expansion/ repairs/ renovation of the development/ changes carried out in the subject property under Section 44 of the MRTP Act, 1966 and the same is currently under process. However, pending such application, the Respondent MCGM is taking steps prematurely to implement the impugned notice.



6. The Petitioners submit that the Impugned Notice makes no mention on what grounds the Impugned Notice has been issued. It merely states that it was reported to the Respondent No. 3 that development/ changes were carried out in the subject property without disclosing the source of the information. The Petitioners submit that it appears that the said Impugned Notice has been issued at the behest of certain persons with ulterior motives.
7. The Petitioners by way of the present Petition are seeking;
- Quashing and Setting aside Notice dated 24th May 2023 issued to the Petitioners by Respondent No. 3;
 - In the interregnum, stay the Notice dated 24th May 2023 issued by the Respondent Authority and to process the Petitioners' application for expansion/ repairs/ renovation of the subject property as per the applicable law.

BRIEF AND RELEVANT FACTS LEADING UPTO THE PRESENT PETITION:

8. In or around the year 1993, one M/s. Arkay Holdings Limited ("Original Owner") purchased the subject property and constructed a



structure for the purpose of residence after obtaining all the statutory permissions and approvals.

9. All permissions obtained by the erstwhile original owner for the subject property are reproduced herein below in a tabular form for ease of reference:

Sr. No.	Date	Particulars
1.	02.09.1993	IOD for the subject property.
2.	31.01.1994	Commencement Certificate granted by Bombay Municipal Corporation.
3.	12.08.1997	IOD Approved Plan sanctioned.
4.	01.03.2001	Full Occupation Certificate.

10. On 30th July 2021, the Petitioner purchased the subject property from the erstwhile original owner, M/s. Arkay Holdings Limited and the subject property is used for residential purposes.

11. Thereafter, the Petitioner No. 2 started staying in the subject property along with his family after making some repairs and renovations to the subject property.

Litigations qua the subject property



12. The Petitioners submit that the following facts as regards previous litigation surrounding the subject property are necessary to be enumerated for completeness of the facts and circumstances leading to the present Petition:

a) In the year 1994, a suit came to be filed against the original owner being Suit No. 5111 of 1994 before the Hon'ble Bombay High Court by the owner and occupant of the adjoining building to the subject property, one Mr. Dileep Nevatia, on the grounds that the construction of the subject property by the original owner was illegal and violative of Development Control Regulations for Greater Bombay, 1991 ("DCR 1991"), the Environment (Protection) Act, 1986, the Coastal Regulation Zone Notification ("CRZ Notification"), etc. and the Rules thereunder.

b) Vide a detailed Order and Judgment dated 5th December 2019, the Hon'ble Bombay High Court was pleased to dismiss the Suit No. 5111 of 1994 and held that the construction carried out by the original owner was in accordance with sanctioned building plans. Hereto annexed and marked as "Exhibit - A" is a copy of



Ex A

the Judgment dated 5th December 2019 passed in Suit No. 5111 of 1994.

- c) Aggrieved by the Order dated 5th December 2019; Mr. Dileep Nevatia, the Plaintiff therein, thereafter, filed an Appeal being Appeal No. 49 of 2020. The Petitioners crave leave to produce and rely on the papers and proceedings of the Suit No. 5111 of 1994 as well as Appeal No. 49 of 2020 as and when produced.
- d) Meanwhile, the Petitioner purchased the subject property from the erstwhile original owner, M/s. Arkay Holdings Limited. The Petitioner desirous of having future relationship as good neighbours approached Mr. Dileep Nevatia to settle all disputes as regards the subject property. Subsequently, the Petitioner and Mr. Nevatia came to an amicable settlement wherein it was agreed that Mr. Nevatia would unconditionally withdraw the Appeal No. 49 of 2020 filed with respect to the subject property and compensation/ damage of sum of Rs. 1,25,00,000/- (One Crore Twenty-Five Lakhs Rupees) was also paid by the Petitioner in lieu of fully, finally and irrevocably resolving and settling the disputes pertaining to the said Property.



e) On 16th November, 2021, the Petitioner addressed a letter to Mr. Dileep Nevatia bringing these facts on record alongwith a Banker's Cheque No. 830777 dated 16th November 2021 drawn in favour of Mr. Nevatia for a sum of Rs. 1,25,00,000/-. The said letter has been duly acknowledged by Mr. Dileep Nevatia. Hereto annexed and marked as "Exhibit - B" is a copy of the letter dated 16th November, 2021 alongwith Banker's Cheque No. 830777 dated 16th November, 2021.

Ex B

f) In pursuance to the settlement arrived at, vide Order dated 10th June 2022, Appeal No. 49 of 2020 came to be dismissed as withdrawn as per the request of Mr. Nevatia, the Appellant therein. Hence, the disputes raised by Mr. Nevatia as regards the subject property attained finality. Hereto annexed and marked as "Exhibit - C" is a copy of the Order dated 10th June 2022 passed in Appeal No. 49 of 2020.

Ex C

g) On 27th February 2023, in complete disregard for the settlement between them, Mr. Dileep Nevatia filed an Original Application being OA No. 25 of 2023 before the Hon'ble National Green Tribunal challenging the construction carried out in the subject property on identical grounds taken up by him in the Suit No.



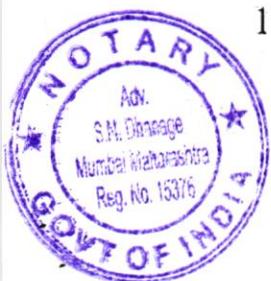
5111 of 1994 as well as Appeal No. 49 of 2020. Vide Order dated 3rd May 2023 in OA No. 25 of 2023, the Hon'ble Tribunal constituted a committee comprising of one member each of MCZMA, MCGM as well as the District Collector to make a site visit to assess if there is any violation as alleged and thereafter make a report. The matter has been kept for further consideration on 2nd August 2023. The Petitioner has filed an Application for dismissal of the Original Application on grounds of maintainability before the Hon'ble Tribunal which is pending for adjudication. Hereto annexed and marked as "Exhibit - D" is a copy of the OA No. 25 of 2023 without annexures, "Exhibit - E" is a copy of the Orders dated 14th March 2023 and 3rd May 2023 and "Exhibit - F" is a copy of the Interlocutory Application No. 139 of 2023 filed by the Petitioners in OA No. 25 of 2023 before the Hon'ble Tribunal without annexures.

Ex D

Ex E

Ex F

13. On 25th May 2023, the Petitioner No. 2 was served with the Impugned Notice dated 24th May 2023 bearing Notice No: GS/DO1GS/196/53-1-MRTP ACT/ GS56N01/24-05-2023 under Section 53(1) r/w Section 52(1)(b) and (d) of the MRTP Act. By the said Notice, the Petitioner was called upon to reinstate/ restore/ remove the unauthorised development/ changes in the land/ premises situated at the subject



property and to apply under Section 44 of MRTP Act within one month from the receipt of the impugned notice. Hereto annexed and marked as "Exhibit - G" is a copy of the Impugned Notice dated 24th May 2023.

Ex G

14. Promptly, on 26th May 2023, the Petitioner No. 2 through its Licenced Surveyor, M/s. 3 Dimensional Consultants LLP ("Licenced Surveyor") replied to the Impugned Notice dated 24th May 2023 apprising the Respondent Authorities that an application for expansion/ repairs/ renovation of the development/ changes to the subject property has already been submitted on 18th April 2023 in accordance with the provisions of the MRTP Act, 1966 and DCR 2034 and requested the Authorities to not take any action under the Impugned Notice till the final outcome of the proposal submitted to the Building Proposal Department under File No. P-16330/2023/(730)/G/South/ WORLI.

Ex H

Hereto annexed and marked as "Exhibit - H" is a copy of the Reply to Impugned Notice dated 26th May 2023 and "Exhibit - I" is a copy of the online Application Status for expansion/ repairs/ renovation along with the payment receipt.

Ex I



15. The present status of the subject property is evidenced through photographs herein and is annexed to the present Petition as "Exhibit - J" for reference.

55

16. GROUNDS

- A. That all the Respondents in the present Petition are statutory authorities exercising powers under various statutes and performing functions in furtherance of the same. The Respondents being State within the meaning of Article 12 of the Constitution of India are required to act in a fair and reasonable manner in all its dealings with the citizens of India which includes the present Petitioners. The impugned notice issued by the Respondent MCGM is clearly arbitrary, unreasonable, capricious and unlawful and violative of the Petitioner's right under Article 14 and on this ground alone the Impugned Notice should be quashed and set aside.
- B. That the Respondent MCGM issued the Impugned Notice against the Petitioners at the behest of persons with vested interest in the said proceedings and the Petitioners have not been apprised of any complaint or report based on which the Impugned Notice was issued.



- C. That the development/ changes made to the subject property are condonable under the DCR 2034 and the Petitioner has already made an application as per Section 44 of the MRTP Act and considering that the subject property is the dwelling house of the Petitioner, the application for condonation of the Petitioner should be considered.
- D. That the Respondent Authorities, by way of the impugned notice has directed the Petitioners to demolish the structure on the subject property, which is the Petitioner's dwelling house and hence, the Impugned Notice is infringing upon the Petitioner's right to shelter.
- E. That the right to shelter has been held to be an essential ingredient of the right to life, which is a fundamental right guaranteed under Article 21 of the Constitution. Presently, the Petitioner No. 2 along with 6 to 8 family members of the Petitioner reside in the subject property.
- F. That such right to shelter has clearly been held as a part of the right under Article 21 by the Hon'ble Supreme Court of India in the case of *Chameli Singh and Ors. Versus State of Uttar Pradesh and Anr.* reported in 1996 (2) SCC 549. wherein, the Hon'ble Supreme Court has categorically held that right to shelter when used as an essential requisite to the right to live, should be deemed to have been guaranteed



as a fundamental right. Thus, it is incumbent upon instrumentalities of the State to safeguard and ensure such right and any action or inaction which purports to or in effect, abrogates such right is unconstitutional.

17. The Petitioners are approaching this Hon'ble Court invoking its extraordinary jurisdiction under Article 226 of the Constitution of India as in the present circumstances.

18. The Petitioners state that its fundamental, constitutional and statutory rights are being deprived of and the Petitioners have demanded justice but the same has been denied.

19. The Petitioners state that the present petition is within the jurisdiction of this Hon'ble Court as the office of Respondent Authorities are within the jurisdiction of this Hon'ble Court and the entire cause of action has arisen within the jurisdiction of this Hon'ble Court. Therefore, this Hon'ble Court has jurisdiction to entertain and dispose of the present petition.

20. The Petitioners are approaching this Hon'ble Court without any delay or laches.



21. The Petitioners state that it has not filed any other Petition pertaining to the subject matter in this Hon'ble Court or any other Courts in India.

22. Mr. Ghanshyam Dholakia, the Petitioner No. 2 abovenamed on behalf of the Petitioners, who is well aware of the facts and circumstances of the subject matter of the present petition from the records available with the Petitioners as well as personal knowledge is executing the Petition.

23. The Petitioners will rely upon the documents a list whereof is annexed hereto.

24. The Petitioners have paid Court Fee of Rs. ...500/-.....

The Petitioners pray for;

- (a) this Hon'ble Court be pleased to issue a Writ of certiorari or a Writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India, thereby calling for the records and proceedings culminating into the Impugned Notice dated 24th May 2023 (received on 25th May 2023) issued by the Respondent No. 3 and after going through the legality and validity thereof, may be pleased to quash and set aside the same;



- (b) this Hon'ble Court be pleased to issue a Writ of mandamus or a Writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India, directing the Respondents not to take any coercive action in furtherance of the said Impugned Notice;
- (c) pending the hearing and final disposal of this Petition, this Hon'ble Court may be pleased to stay the effect and implementation of the Impugned Notice dated 24th May 2023 and process the Petitioner's application for expansion/ repairs/ renovation of the subject property as per the applicable law;
- (d) pending the hearing and final disposal of this Petition, this Hon'ble Court may be pleased to direct the Respondents to allow the Petitioner to continue the use and occupation of the subject property;
- (e) pending the hearing and final disposal of this Petition, this Hon'ble Court may be pleased to direct the Respondent No. 3 not to take any coercive steps against the Petitioners in pursuance of the Impugned Notice.

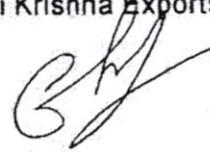


- (f) ad-interim relief in terms of prayer clause (c) to (e);
- (g) for costs of this petition;
- (h) for such other and further relief as the Petitioners may pray for in the nature and circumstances of the case.

Mumbai

For Hari Krishna Exports Pvt. Ltd.

Dated this 4th day of June 2023.



Director

Petitioner No. 1



Petitioner No. 2



Advocates for the Petitioners

Before Me



VERIFICATION

I, Ghanshyam Dholakia, an Adult, Indian Inhabitant, the Petitioner No. 2 abovenamed, having residence at Aikyam (Formerly known as Panhar), Plot No. 5, Worli Sea Face, Mumbai 400 030, do hereby solemnly declare that what is stated in Paragraphs 1 to 15 is true to my own knowledge, and that what is stated in the remaining paragraphs 16 to 24 are stated on information and belief, and I believe the same to be true.

Solemnly declared at Mumbai.)

this day of June 2023.)

(Ghanshyam Dholakia)
Petitioner No. 2



Advocates for the Petitioners

Before Me

BEFORE ME

Adv. Shivaji N. Dhanage
Notary Govt Of India
Regd. No. 15376 MUMBAI (MS)
404-405, 4th Floor, Davar House,
197/199, Near Central Camera Bldg,
D N Road, Fort, Mumbai - 400001.



NOTED & REGISTERED

Page No. 146 Sr.No. 1610

Date: 04 JUL 2023

04 JUL 2023



1076

2023:BHC-OS:6465-DB



Exhibit - 0

904-WPL 18045 of 2023.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) No. 18045 OF 2023

Hari Krishna Exports Private
Limited, thr. ITXS Director

...Petitioner

Vs.

Municipal Corporation of
Greater Mumbai
thr. Its Commissioner

...Respondent

Dr. Milind Sathe, Senior Counsel a/w. Mr. Saket Mone a/w. Anchita
Nair i/b. Vidhii Partners for Petitioner

CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ.

DATED : 11th JULY, 2023



PC.:

1. Heard learned counsel for the Petitioner , learned counsel for the Corporation and also learned counsel for Respondent No.5, who appear by giving notice on behalf of the respective respondents.
2. Rule. Rule is made returnable forthwith for final disposal by consent of parties.
3. In response to the impugned show cause notice, the Petitioner has already filed regularization application under Section 53(1) of the MRTP Act. This application is of the date of 31st May, 2023. So it

is quite clear that till the time the application is decided by the Corporation, Corporation is not expected to act upon the impugned show cause notice. It is also clear that an appropriate decision in accordance with law on the regularization application would have to be taken by the Corporation at the earliest.

4. That being so, we are of the view that purpose of this petition would stand served by issuing the following directions:

(i) Respondent No.4 is directed to decide the regularization application dated 26th May, 2023 filed by the Petitioner, which was received by the Commissioner on 31st May, 2023 at the earliest, in accordance with law by giving opportunity of hearing to the Petitioner.

(ii) We direct that, if felt necessary by the Petitioner, the Petitioner shall be permitted to file additional documents, if any.

(iii) We further direct that the final order that would be passed by Respondent No.4 in pursuance of these directions shall be communicated in writing to the Petitioner.

(iv) We further direct that till the time decision is taken on the regularization application of the petitioner, no coercive action shall be taken against the Petitioner in pursuance of the impugned show cause notice.

(v) We further direct that in case the final decision to be rendered

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by Respondent No.4 goes against the Petitioner, no coercive action shall be taken against the Petitioner for a further period of two weeks from the date of receipt of the communication of such an order by the Petitioner.

(vi) Writ petition is allowed accordingly. Rule is made absolute in the above terms.

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)





भारत सरकार
Government of India



भारतीय विशिष्ट ओळख प्राधिकरण
Unique Identification Authority of India

नोंदणी क्रमांक: / Enrolment No.: 1175/17907/08396

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आधार, माझा माळख

Issue Date: 15/05/2014



Government of India



माहिती / INFORMATION

- आधार हा ओळखीचा पुरावा आहे. नागरिकत्वाचा नाही.
- आधार अद्वितीय आणि सुरक्षित आहे.
- सुरक्षित QR कोड/ ऑफलाईन XML/ ऑनलाईन प्रमाणीकरण वापरून ओळख सत्यापित करा.
- आधार कार्ड, पीकीसी कार्ड्स, ईआधार आणि mAadhaar सारखे आधारचे सर्व प्रकार तिलकेश वैद्य आहेत. १२ अंकी आधार क्रमांकाच्या जागी क्वचुअल आधार ओळख (VID) देखील वापरली जाऊ शकते.
- 10 वर्षांतून एकदा तरी आधार अपडेट करा.
- आधार तुमला विविध सरकारी आणि गैर-सरकारी लाभ/सेवांचा लाभ घेण्यास मदत करते.
- आधारमधे तुमचा मोबाईल नंबर आणि ईमेल आयडी अपडेट ठेवा.
- आधार सेवांचा लाभ घेण्यासाठी स्मार्टफोनवर mAadhaar अॅप डाउनलोड करा.
- सुरक्षितता सुनिश्चित करण्यासाठी लॉक/अनलॉक बायोमेट्रिक्स/आधार या विशेषत्वांचा वापर करा.
- आधारची मागणी करणाऱ्या योग्य संमती सत्यानी शोध घेणे बंधनकारक आहे.
- Aadhaar is a proof of identity, not of citizenship.
- Aadhaar is unique and secure.
- Verify identity using secure QR code/offline XML/online Authentication.
- All forms of Aadhaar like Aadhaar letter, PVC Cards, eAadhaar and mAadhaar are equally valid. Virtual Aadhaar Identity (VID) can also be used in place of 12 digit Aadhaar number.
- Update Aadhaar at least once in 10 years.
- Aadhaar helps you avail various Government and Non-Government benefits/services.
- Keep your mobile number and email id updated in Aadhaar.
- Download mAadhaar app on smart phones to avail Aadhaar Services.
- Use the feature of lock/unlock Aadhaar/biometrics to ensure security.
- Entities seeking Aadhaar are obligated to seek due consent.