

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

Appeal No. 02/2024

Calangute Constituency Forum

...APPLICANT

VERSUS

THE STATE OF GOA & ORS.

...RESPONDENTS

**AFFIDAVIT IN REPLY ON BEHALF
OF RESPONDENT NO. 9**

I, Mr. Ashok Khupchand Kothari son of Khupchand Chunilal Kothari , aged 65 years, Indian National, R/a -A/801, Oxford Classic, Wanwadi, Pune 40, the authorized representative of the Respondent No.9, do hereby on solemn affirmation state and submit as under:

1. At the outset, I say that the above application is not tenable against this Respondent. This Respondent is not in anyway connected with

the subject matter of the above appeal. The challenge in the above appeal is to the work of strengthening of bund from Nerul bridge to Caculo house, which is subject matter of tender issued by the Govt. of Goa through Executive Engineer I. This Respondent is neither the Contractor/Tenderer in respect of the said works nor is this Respondent a beneficiary of the works being undertaken in terms of the said tender. Even otherwise, this Respondent was not a party to the proceedings before the GCZMA leading to passing of the Order dated 30/11/2023 and therefore, this Respondent is neither a necessary or a proper party to the present proceedings. On this count itself, this Respondent is liable to be deleted and the above appeal is liable to be dismissed as against this Respondent.

Without prejudice to whatever is stated hereinabove, I state as under:-



2) The above appeal is misconceived. Considering the nature and scope of Section 16 of NGT Act, the said Order dated 30/11/2023 is not appealable under the said provision. The Appeal is therefore misconceived in law and liable to be dismissed.

3) By way of the above appeal, challenge is raised to the Order dated 30/11/2023 passed by Respondent No.3, discharging the show-cause notice cum stop-work order issued against the Chief Engineer, Water Resources Department. In the said Order, the Respondent No.3 has considered all the submissions and grievances raised by the Appellant and has observed as under:-

i) That the project is being undertaken with the permissions from all the authorities including Respondent No.3 and the same is carried out for beautification.

- ii) That the bund was breached at some places resulting in inundation of saline water in khazan lands and that the bund has to be protected and/or restored in such a manner as was otherwise traditionally done by means of use of clay, hay, rubble, stone, etc.
- iii) That additional conditions as mentioned in the said Order shall be complied with including condition in relation to replantation of mangroves, maintenance of sluice gates, installation of street lights and use of pavers.
- 4) The Respondent No.3 has passed a reasoned order after considering all the objections raised by the parties, which does not call for any interference. The works sought to be undertaken are in public interest and the necessary safeguards have been adopted for the said works, as is clear from the various



conditions imposed by the authorities including the conditions imposed in the Order dated 30/11/2023.

- 5) This Respondent is made a party in the above Appeal clearly on the basis of unsubstantiated allegations made by the Appellant that the said works are being undertaken for the benefit of this Respondent, merely because this Respondent is the owner of an adjoining property bearing Survey No.12 of Village Candolim (hereinafter referred to as 'the said property').
- 6) I deny that the said property is landlocked and/or that the subject works are being undertaken to provide access to the said property and/or the development to be undertaken in the said property. The said property has access points and the approvals obtained in respect of the said property do not

reflect any access from the subject works. This Respondent is impleaded on an erroneous premise and based on notions of the Appellant. The allegations are fallacious and lack any foundation. I deny that the work is being undertaken at the behest of this Respondent. The said works may eventually have the effect of serving as an access to some properties. However the same by itself does not indicate that the works are being undertaken at the instance of such property owners or for their benefit. The works are undertaken after following a tender process and are done on behalf of Govt. agencies. Considering the nature of the works, it is clear that the same is in public interest.

- 7) This Respondent is now privy to any of the proceedings/inspections referred to in the said appeal. This Respondent is not a party to any of the proceedings before any authority or



Court. This Respondent is not in a position to offer any comments in respect to the same.

- 8) However, this Respondent shall rely on the true and correct interpretation of the various Orders, permissions and inspection reports referred to in the said Appeal. Suffice it to say that having had an opportunity to peruse the records of this Appeal, I say that the Order dated 30/11/2023 is a reasoned order and is passed after taking into consideration all the submissions and factors relevant to the grant of permission and undertaking of the subject works.
- 9) I deny that the Order dated 30/11/2023 is liable to quashed and set aside.
- 10) I say that the contents of para Nos... 1 to 9 are true to my knowledge, contents of para

Nos. _____ are based on legal submissions
which I believe to be true.

I therefore pray that the appeal be dismissed.

Solemnly affirmed at Panaji - Goa

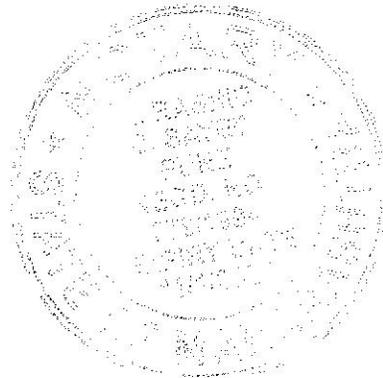
On this 28th day of February, 2024

[Handwritten signature]

DEPONENT

S. Shankar

Identified by me:-



RECORDED
[Handwritten signature]

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