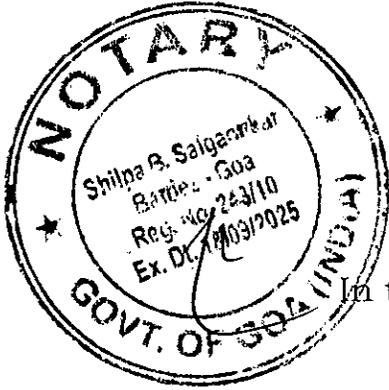


**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH) AT PUNE**

Appeal No. 103/2019 (WZ)



In the matter of:

Valentino Brito

.....Appellant

V/s

Goa Coastal Zone Management Authority

and Anr.

.....Respondents

**AFFIDAVIT- IN -REPLY ON BEHALF OF GOA
COASTAL ZONE MANAGEMENT AUTHORITY
(RESPONDENT NO. 1)**

MAY IT PLEASE YOUR LORDSHIPS:

I, Mr. Johnson Bedy Fernandes, Son of Germano Herculano Fernandes, aged about 44 years, Indian National, resident of Curchorem - South Goa, the Member Secretary, Goa Coastal Zone Management Authority (GCZMA), the Respondent No. 1 herein most respectfully state and submit as under: -

1. I say that I am presently the Member Secretary, Goa Coastal Zone Management Authority (GCZMA), the Respondent No. 1 herein. I say that I am authorized to file the present Affidavit.
2. I say that I have perused a copy of the captioned Appeal filed by the Appellant; and have read and understood the contents thereof.

Johnson Bedy Fernandes



3. I say that the present Appeal challenges the Order bearing No. GCZMA/N/NGTmatter/19-20/01/1114 dated 15/07/2019 directing demolition of permanent structures of Boomerang Resort, viz., 4 ground + 1 structures, 19 cottages and removal of 15 sunbeds and of music system in Village Mandrem, Bardez – North Goa. (hereinafter referred to as the '**Impugned Order**' for the sake of brevity).
4. I say that the Appeal is untenable on facts and in law. I say that the Appellant is misleading this Hon'ble Tribunal. I say that the Appellant has absolutely no permission to erect the structures directed to be demolished, which are, permanent structures of Boomerang Resort, viz., 4G + 1 structures, 19 cottages and 15 sunbeds (hereinafter referred to as the '**offending structures**').
5. Before dealing with the contents of the Appeal, the Respondent No. 1 places the following facts on record which are relevant for the purpose of deciding the present Appeal.
6. I say that vide a detailed Order dated 02.11.2017 in OA 23/2014 : Goa Paryavaran Sanvrakshan Sangharsh Samittee v State of Goa and ors., this Hon'ble Tribunal had directed demolition of all structures in violation of the CRZ Notification especially those located in and around turtle nesting sites in Morjim, Mandrem, Galgibaug, Agonda. I say that pursuant to the said Order and Order dated 25/2/2019 passed in Execution in OA 23/2014, the NGT appointed a three member committee which identified the offending structures of the Appellant, inter alia, as being in violation of the CRZ Notification.

7. Based on the Report of the Three Member Committee, the GCZMA issued Directions for Demolition on 02/05/2019, which were challenged before the Hon'ble High Court of Bombay at Goa. The Hon'ble High Court of Bombay at Goa vide Order dated 28-6-2019 set aside the Directions by directing the GCZMA to consider the representations of the Appellant amongst other aggrieved parties before passing any Directions for Demolition under Section 5.



8. I say that pursuant to the directions of the Hon'ble high court of Bombay at Goa the Appellant filed representation on 21/10/2019 and thereafter he was duly heard by the authority in the 217th meeting held on 04 /12/2019 & 05 /12/2019. *Copy of the Extract of 217th GCZMA meeting is annexed herein as (ANNEXURE A)*

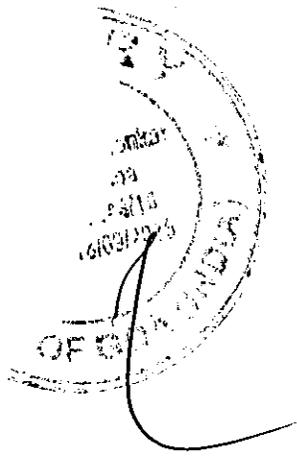
9. I say and submit that as per the GCZMA records and the documents and various hearings conducted in the matter, the Appellant has not been able to furnish any document to show approval/NOC from the GCZMA in respect of the offending structures. I seek to refer to and rely upon the contents of the Impugned Order for a better understanding of the present matter which deliberations expose to how and in what manner the Appellant is suppressing facts and misleading this court to say that the structures were pre 1991.

10. I say with respect to the paragraphs 1 to 3 of the Appeal the same are a matter of record.

11. With respect to the contents of paragraph 4 of the Memo of Appeal, it is denied that the structures have been in existence prior to 1991.
12. With respect to the contents of paragraph 5 of the Memo of Appeal, I say that the 3 member committee report was not considered precisely because of the reason that the same speaks only of 2 structures i.e. 382E and 382 D and for the purpose of reconstruction of the said structure permission was granted on 05/08/1989 and final occupancy was granted on 15/09/1989. i.e within 40 days a Ground + 1 structure was constructed which is highly impossible taking into consideration that during the late 80s there was no advance technology so as to construct a Ground +1 structure within 40 days . I further say that for the other structure which is purportedly assessed under No 382 D similar documents have been placed which are unrealistic and hence the report was not considered by the Authority.
13. With respect to the contents of paragraph 6 of the Memo of Appeal, I say and submit that the Demolition Order in question was issued pursuant to a Report submitted by the Three Member Committee appointed by this Hon'ble Tribunal to demolish structures that were in violation of the CRZ Notification.
14. The contents of paragraphs 7, 8 and 9 are a matter of record.
15. With respect to the contents of paragraph 10 of the Memo of Appeal, it is denied that there was any clutter and/or chaos on the date for hearing. I say and submit that the GCZMA is constituted of 13



members including the Member Secretary, and any decision of the GCZMA is a decision of all the members of the Authority. That the Member Secretary who has communicated the decision was very same when 217th meeting was held and thus the decision taken does not obliterate the proceedings and decision of the Authority.



16. With respect to the contents of paragraph 11, I say that no further hearing was warranted in the matter. Mere change of Member secretary did not warrant a fresh hearing. I deny that there was anything done in contravention of the Hon'ble High Court's Order dated 28/06/2019.
17. The allegations in paragraph 12 of the Appeal Memo that the Impugned Order is a reproduction in verbatim of all demolition Orders is denied.
18. With respect to the grounds raised by the Appellant, the same are denied. All the alleged permissions and documents referred to in the grounds have been taken into consideration before passing of the Impugned Order.
19. With respect to the contents of paragraph 14 of the Appeal Memo, it is denied that the Impugned Order is erroneous and/or based on misconstruction of material on record and the Regulations.
20. Paragraphs 15 to 19 are pleadings pertaining to jurisdiction, court fee and Limitation and warrant no comments.
21. I state that in view of whatever is stated hereinabove, no relief whatsoever can be granted in

favor of the Appellants and the matter may be dismissed.

22. I state that whatever has been stated herein above is true to my own knowledge and based on the documents/records available with the office of this respondent to which I have access and the contents of the same which I believe to be true and correct.

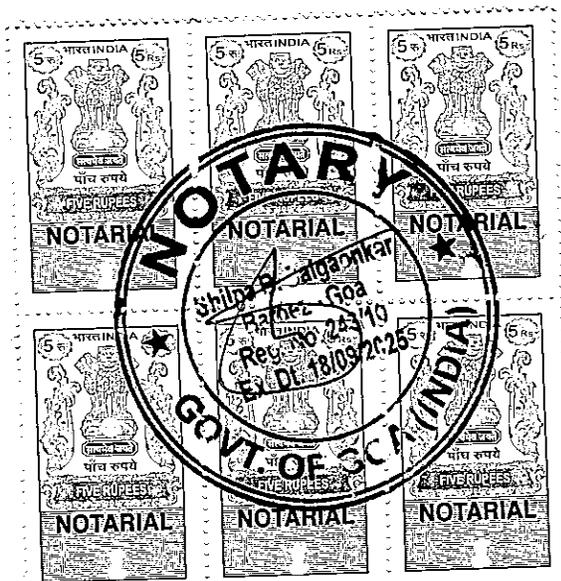


Solemnly affirmed at Panaji - Goa

This 13th day of October 2020

[Signature]
DEPONENT

Identified him by his Pan Card
Bearing No.AAJPF 3664 N



SOLEMNLY AFFIRMED AND VERIFIED
BEFORE/ME BY Johny Galy And
WHO IS IDENTIFIED BEFORE ME
BY Pan Card AAJPF 3664 N
13/10/20
SERIAL NO 2326 DATED 13/10/20

[Signature] 13/10/20
SHILPA B. SALGAONKAR
NOTARY AT BARDEZ - GOA
STATE OF GOA-INDIA
REG. NO. 243/10