

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

Appeal No. 32/2016 (WZ)

In the matter of:

Rosalina Mascarenhas

.....Appellant

V/s

Goa Coastal Zone Management Authority

.....Respondent

**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.
3. I say that the present Appeal challenges the Order bearing dated 6/05/2016 directing demolition of permanent structures mentioned therein. (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 (hereinafter referred to as the '**offending structures**').
5. The Appellant has set out facts leading up to filing of the present Appeal which the Respondent seeks to rely upon and are not being repeated here for the sake of brevity.
6. Contents of paragraphs 1 to 11 of the Appeal are a matter of record.
7. With respect to the contents of paragraph 12, I say that the Appellants were heard prior to passing of the Impugned Order before the final meeting where decision for demolition was taken, not only by the GCZMA when it took all material on record, but also by the Inquiry Committee which fact is recorded in the Inquiry Committee Report and the GCZMA minutes. I say that the Inquiry Committee formed pursuant to directions of this Hon'ble Tribunal aids and abets the GCZMA in making decisions, the GCZMA is not bound to share or



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solicit comments on Inquiry Committee reports from the aggrieved parties. I say that the Appellant has admitted to have submitted all relevant documents before the GCZMA which have been considered.

8. With respect to the contents of paragraph 13, I say and submit that the status of the Structure as a mundkarial structure does not have any bearing on it's illegality under the CRZ Notification.

9. With respect to the contents of paragraph 14, I say with respect to each ground -

I. It is denied that the Impugned Order is arbitrary and/or shows non application of mind;

II. It is denied that the Impugned Order has been passed in violation of the principles of Natural Justice;

III. It is denied that the Impugned Order the matter was not accessed independently by the GCZMA as alleged;

IV. It is denied that the GCZMA delegated any of its powers under the law as alleged to the Inquiry Committee. I say that Inquiry Committee formed pursuant to directions of this Hon'ble Tribunal aids and abets the GCZMA in making decisions. The GCZMA is not bound to concur with it's Report, but weighs and accepts decision based on material on record and after hearing the parties. It is denied that the Impugned Order is void ab initio.

V. It is denied that the GCZMA decision is in disregard to the NGT's orders. I say that the Appellants were given sufficient hearing under the law.



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VI. I say that the Application for regularization is untenable in law and on facts. I say that no such regularization is permissible under the CRZ Notification 2019, in that the Appellant neither belongs to the traditional fishing committee, moreover the structures are admittedly being used for commercial purpose which completely disqualifies any regularization under the Notification

VII. I say and submit that the status of the Structure as a mundkarial structure does not have any bearing on it's illegality under the CRZ Notification.

VIII. No permission has been sought for running a commercial structure and construction of a top floor;

IX. I say that running of commercial business in residential premises in the NDZ area is completely in contravention of the CRZ Notification;

X. It is denied that the Appellant undertook mere repairs, more so from the admission of the Appellant that she is running a guest house which should be commercially viable structure;

XI. The Village Panchayat Certificate has no bearing on the structure's illegality under the CRZ Notification.

10. Grounds I to XVI of the Appeal are baseless, frivolous and denied. I say that the reasons for ALL the constructions given are 'CONSTRAINTS ON ACCOUNT OF WATER SEPAGE'. I say that the reason is incredulous and defeats the very purpose of the enactment of the CRZ law.

11. I say that at paragraph 10 of the Appeal, the Appellant states that the Appellant has filed an



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Application for Regularization dated 22/04/2015 during the course of hearing before the GCZMA pertaining to the permissibility of the offending structures. I say that no such regularization is permissible under the CRZ Notification 2019, in that the Appellant neither belongs to the traditional fishing committee, moreover the structures are admittedly being used for commercial purpose which completely disqualifies any regularization under the Notification.

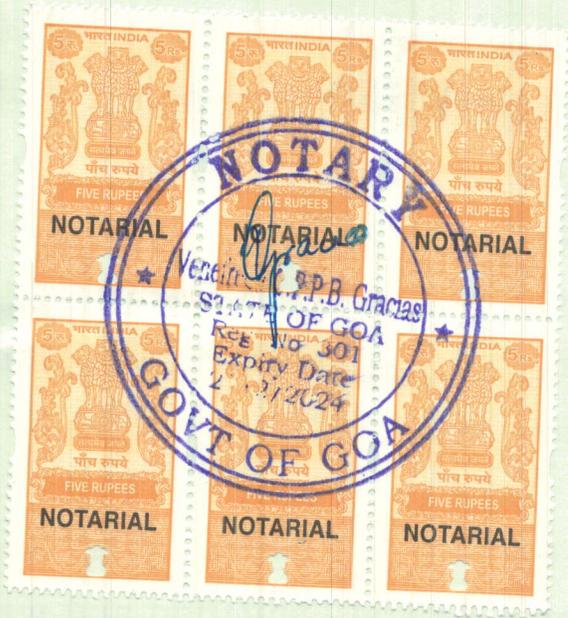
12. Paragraphs 15 and 16 are pleadings pertaining to jurisdiction , court fee and Limitation and warrant no comments.
13. I state that in view of whatever is stated hereinabove, no relief whatsoever can be granted in favor of the Appellants and the matter may be dismissed.
14. I state that whatever has 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 ^{8th} day of Oct 2020

PAN CARD NO
AAJPF3664N


DEPONENT



Solemnly affirmed before me
Johnson Bedy Fernandy
 Who is identified before me by
Pan Card AA JPF 3664N
 _____ At Calangute - Goa

Sr. No. 190/10/2020
 Date. 8/10/2020

C. Gracias
 Venefreda C.P.P.B. Gracias
 Advocate & Notary
 Bardez - Goa