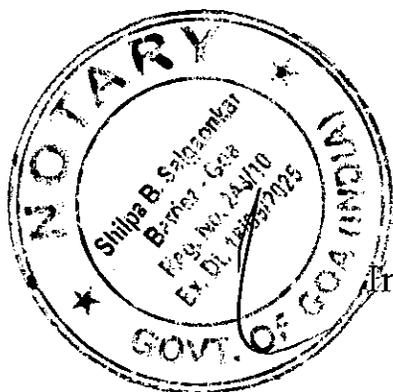


**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL (WESTERN ZONE BENCH) AT PUNE**

Appeal No. 46/2016 (WZ)



In the matter of:

Pedritto Misquitta & anr Appellant

V/s

**MS, Goa Coastal Zone
Management Authority 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: –

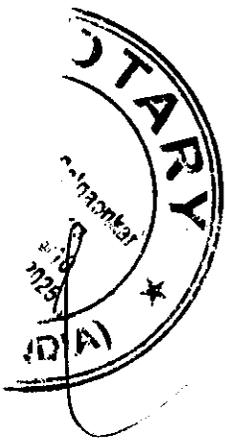
1. I say that I am presently the Member Secretary, Goa Coastal Zone Management Authority (GCZMA), the Respondent No. 1 herein. I say that I am authorized to file the present Affidavit.
2. I say that I have perused a copy of the captioned Appeal filed by the Appellant; and have read and understood the contents thereof.
3. I say that the present Appeal challenges the Order dated 21/07/2016 bearing Ref No. GCZMA/N/ILLE-COMPL/15-16/174/1106 directing the Appellants to demolish the NEW G+1 structure in property bearing No. 44/4 of Village Candolim, Bardez – Goa. (hereinafter referred to as the 'Impugned Order' for the sake of brevity). The Impugned Order forms a part and parcel of the Appeal Memo as Annexure A-1 at Page 32, and is therefore not being annexed to this reply.



4. Before dealing with the contents of the Appeal, I say although the Appeal is of the year 2016, a reply was not filed by the GCZMA till date in as much as in the year 2016, the relevant Bench of the National Green Tribunal (WZB) had directed in case of an Appeals, the Records and Proceedings from the GCZMA in the matter ought to be filed, and a reply was not necessitated. In this conspectus, the Records & Proceedings have been filed in this matter in the year 2016. Without prejudice, I say that the delay in filing the preset Reply is neither intentional nor deliberate but on account of the fact stated hereinbefore. The present Reply may therefore be taken on record.

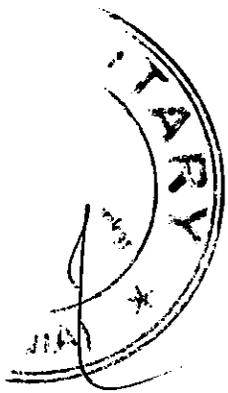
5. Contents of paragraphs 1 to 3 of the Appeal are general pertaining to addresses etc and merit no reply.

6. With respect to contents of paragraphs 4 and 5, the facts therein about the ownership of the 'impugned property' and it's status are a matter of record. It is however denied that the 'impugned structure' was constructed by the father Jose Misquitta and/or that the



structure existed prior to 19.02.1991. It is also denied that impugned structure was used for the purpose of godown for storage of coconuts.

7. With respect to contents of paragraphs 6, the same are a matter of record.
8. With respect to contents of paragraphs 7, the contents thereof are repeated from paragraphs 4 and 5. It is once again denied that the structure/property was constructed by the father Jose Misquitta and/or that the structure existed prior to 19.02.1991 or that it was used for the purpose of godown for storage of coconuts.
9. With respect to contents of paragraphs 8, I submit that the local Village Panchayat is not empowered under the law to grant any permissions for commercial activities in areas that are sensitive under the CRZ Notification.
10. With respect to contents of paragraphs 9, the conjectured proposition of the Appellant about the methodology adopted for House numbering by the local Panchayat is incorrect and ill founded. One cannot assume that



merely because houses are numbered in a particular fashion, the houses exist prior to the date of the Notification. No tax receipts prior to the year 1991 have been shown.

11. With respect to contents of paragraphs 10 to 15, the same pertain to various letters and information from local authorities that have no bearing on the issue at hand.

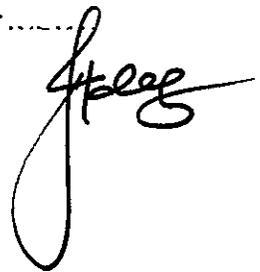
12. With respect to contents of paragraphs 16 to 19, the same pertain to proceedings in Writ Petition No. 422/1998 and Writ Petition No. 99/1999 and their ancillary proceedings. It is submitted that merely because the Village Panchayat of Candolim did not enlist the impugned structure in the list of 1000 odd illegal structure violative of the CRZ Notification, does not ipso facto mean that the impugned structure is legal. I say the exercise of identifying illegal structures is an ongoing exercise and the Hon'ble High Court is still seized of the matter in various cases pending before it. I say in other Writ Petition pending before it, the Appellant's structure was identified as a CRZ violation as stated in



paragraphs 20 and 21 of the Appeal memo, and which are dealt with hereinafter

13. With respect to contents of paragraphs 20 to 24 of the Appeal Memo, the facts pertaining to Suo Moto W.P. No. 2/2016 are a matter of record. It is also a matter of record that the Appellants were issued a Show Cause Notice in pursuance of directions in the said Suo Moto Petition. It is also submitted with respect to the claims in paragraph 24 that the mere fact that no final order has been passed by the Panchayat till date in pursuance of the Show Cause Notice, the impugned structure is legal is totally false and ill founded. I submit that mere absence of a final outcome does not mean that the structure is legal.

14. Contents of paragraphs 25 to 34 pertain to the complaint filed by Francis Misquitta against the impugned structure with the GCZMA and the subsequent Writ Petition before the Hon'ble High Court of Bombay at Goa that was followed by issuance of the Show Cause Notice dated 29-2-2016 (Annexure A25 to the Appeal) that culminated into passing of the Impugned Order.



OTARY

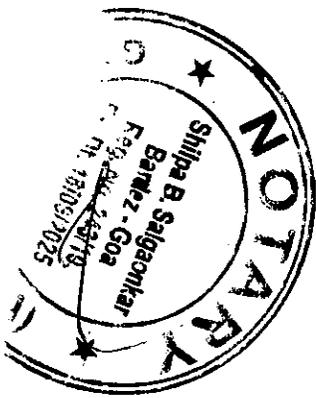
15. With respect to objections raised in paragraph 35, I submit that existence of the structure before 1991 is a key feature to decide the legality of a structure under the law.

16. With respect to objections raised in paragraph 36 and 37, the same are a matter of record.

17. With regards to the grounds – the same are denied and are ill founded. The appellant has not produced a single document to prove the legality of the new structure or to show that the structure has GCZMA permission, except for an Affidavit of one Thomazinho, an ex sarpanch . The Appellants were given ample opportunity of hearing.

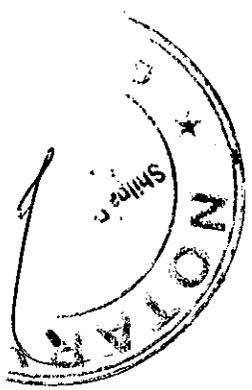
18. I reiterate the contents and findings in the Impugned order

19. 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.



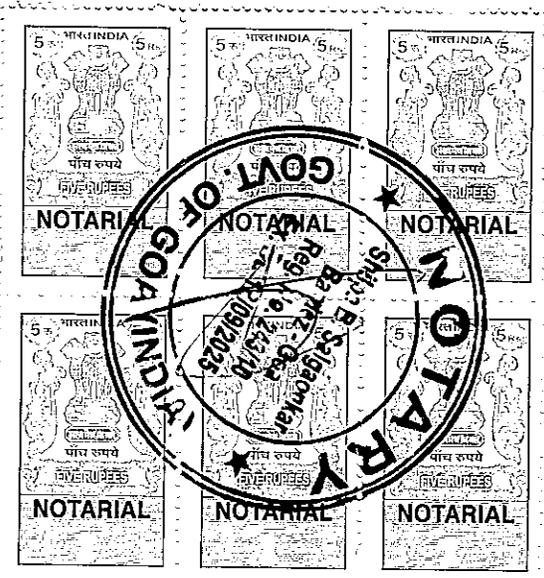
20. I state that whatever has been stated herein above is true to my own knowledge and based on the documents/records available with the office of this respondent to which I have access and the contents of the same which I believe to be true and correct.

Solemnly affirmed at Panaji - Goa
This 12th day of October 2020



[Handwritten Signature]
DEPONENT

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



Solemnly affirmed and verified
before me by Johnson Bely Fernandes
who is identified before me
by Pan card
REG. NO. 234/10 DATE: 12/10/20

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