

**BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, WESTERN ZONE, PUNE**

APPEAL NO. 32/2022

Mr. Suvarn Rajaram Bandekar ... Appellant
Versus
Goa Coastal Zone Management
Authority & Others ... Respondents

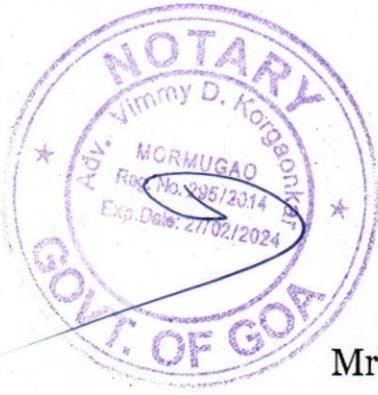
**SAY AFFIDAVIT OF THE
APPELLANT TO THE REPLY
AFFIDAVIT DATED 06.05.2023
FILED BY RESPONDENT NO. 1**

MAY IT PLEASE YOUR HONOUR:

I, Mr. Suvarn R. Bandekar, son of Late Shri Rajaram N.S. Bandekar, Age 70 years, R/o. Raj Tara, F.L. Gomes Road, Vasco Da-Gama, Goa, the Appellant, do hereby on solemn affirmation beg to state and submit as under:

1. I have read and understood the contents of the Reply Affidavit dated 06.05.2023 filed by the Respondent No. 1 and I have been advised to file the present Say Affidavit to deal with averments contained therein which are incorrect apart from being inconsistent and/or contrary to the records and I am filing the present Say Affidavit to deal with the same and clarify the contents.

S. R. Bandekar



2. I say that I deny all the contents of the reply which are false and contrary to the record and Appeal Memo and state that the contents of the Reply Affidavit filed by the Respondent No. 1 which are not specifically denied and/ or dealt with and/ or which may have escaped specific denial may be taken as denied.
3. I say that with reference to the contents of the Reply Affidavit as far as paras 2, 3 and 4, the same are not disputed in so far as they relate to facts.
4. I say that with reference to the contents of the Reply Affidavit as far as para 5, it is stated that the Order passed by the Tribunal dated 13.12.2018 is self-explanatory and clearly permits redressal before an appropriate forum on account of the usage of the word "Consequently".
5. I say that with reference to the contents of the Reply Affidavit as far as para 6, the same is not disputed.
6. I say that with reference to the contents of the Reply Affidavit as far as paras 7 and 8, it is stated that in so far as the averment that the Appellant's OA was never specifically remanded back, it is stated that the Order

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dated 13.12.2018 as explained above is a self-explanatory Order, pursuant to which the proceedings were instituted before the Respondent No. 1.

7. I say that with reference to the contents of the Reply Affidavit as far as paras 9, 10, 11 and 12, the same are not disputed in so far as the contents of the reports have been filed during the proceedings, however, the Appellant states that the said reports/ findings would have to be read and understood harmoniously pursuant to the Order dated 29.08.2022 and on account of the report of the National Centre for Sustainable Coastal Management (NCSCM) filed before this Hon'ble Tribunal vide Exhibit C in the Say Affidavit dated 11.03.2023 pursuant to the Order dated 29.08.2022, whereby a Committee was constituted in order to submit a factual and action taken report, so as to advance the cause of Environment and ensure that the Polluters who cause Environmental damage are properly penalized.
8. I say that with reference to the contents of the Reply Affidavit as far as para 13, the same is not disputed.



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9. I say that with reference to the contents of the Reply Affidavit as far as para 14, it is submitted that there has been no restoration of the sand dunes as it originally existed and the same is very evident from the fact that the debris and remnants that were used in the construction of the illegal road continue to exist on site along with the fact that the plants seen in the said area are foreign and would not naturally occur on the sand dune as stated in the report filed before this Hon'ble Tribunal vide Exhibit C in the Say Affidavit dated 11.03.2023. I say that infact the Respondents 2 to 9 ought to be directed to restitute/ restore the damaged sand dune as well as make the said Respondents liable to pay as per the formula established/ quantified for compensation and recovery of damages, by this Hon'ble Tribunal.
10. I say that except for making the Illegal Road of 10mtrs width, 80mtrs length and 0.75mtrs thick inoperable which was illegally constructed by dumping foreign material such as huge boulders and laterite mud and which was removed after almost 2 years of its



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construction by excavation and deep trenching using heavy earth moving machinery and dumper and side casting the excavated foreign road material, thereby further damaging the property and leaving behind a huge trench as if the area is devastated. But, nothing has been done to either restore the severely damaged land or even compensate the Owner of the land for this severe irreversible damage or even the Polluter penalized under the Principle of Polluter Pays. I say that although the Principle of Polluter Pays has been implemented in many other cases after a formula for damages has been formulated by this Respondent No. 1 pursuant to Orders from this Hon'ble Tribunal. I say that this is a serious case of intentional Colossal and Irreversible damage to the Environment for profiting and for which the Polluter should be penalized even under the Laws applying to criminal activity. I say that for refreshing, annexed hereto as **Annexure A Colly** are photographs of the said illegal Road after construction and after removal. I say that the said

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photographs are infact already on record before this Hon'ble Tribunal in these proceedings.

11. I say that the contents of the Affidavit of the Respondent No. 5 clearly admit the existence of the "Demolished Road" and so also the damage to the property and also consequently the Environment as it is claimed by the Respondent No. 5 that "the site where the demolished road existed has been restored over the years". I say that it is necessary that the damagers/ culprits who constructed the said Illegal Road without obtaining any permission from any of the Authorities taking the law into their hands and causing Irreversible damage to the Environment have to be punished and penalized. I say that if such an action is not taken and the damagers/ culprits are allowed to go scot-free, then it will set a bad precedent. I say that infact the same parties hereto are habitual violators as evidenced by the construction of so many large structures in the adjacent property 16/7 and which have been ordered to be demolished time and again and the matters have even reached the Hon'ble



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Supreme Court wherein orders passed have been confirmed and reference to which has been made by this Respondent No. 1 hereto in its Reply Affidavit dated 06.05.2023.

12. I say that therefore, the moot question is whether the habitual violator in this case who has been identified is getting punished or not and whether justice is being done to the Appellant whose property has been severely damaged and who has been running Pillar to Post in this case for last 10 years. I say that it may be pertinent to note herein that the Respondents are trying to take advantage considering the time that has lapsed in these proceedings by claiming natural healing of the damage to the Environment they had caused and should not be permitted to succeed by taking advantage of the said delay.

13. I say that even otherwise in terms of the National Green Tribunal Act, this Hon'ble Tribunal has complete jurisdiction to hear and decide matters wherein restoration/restitution has to be done in respect of an area which has been subject to



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environmental destruction under Section 15 of the
National Green Tribunal Act, 2010.

Solemnly affirmed on this 17th day of October 2023 at
Vasco-Da-Gama, Goa.

Date: 16/10/2023

Place:

Sil Borda
(Appellant)

I have sworn/solemnly affirmed before me
by Suvarn R. Borda
who is known to me / identified
by

Vimmy D. Korgaonkar
Adv. VIMMY D. KORGAONKAR
NOTARY
1st. Floor, Laxmi Narayan Niwas,
Balabaim, Vasco-da-Gama, Goa

Reg. No. 1695/2023







