

**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

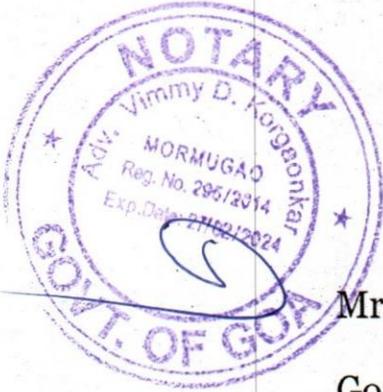
**SAY AFFIDAVIT OF THE
APPELLANT TO THE REPLY
AFFIDAVIT DATED 02.08.2023
AND ADDITIONAL AFFIDAVIT
IN REPLY DATED 03.08.2023
FILED BY RESPONDENT NO. 5**

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 02.08.2023 filed by Respondent No. 5 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

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present Say Affidavit to deal with the same and clarify the matter.

2. I say that I deny all the contents of the Reply Affidavit 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. 5 which are not specifically denied and/ or dealt with and/ or which may have escaped specific denial shall be taken as denied.
3. I say that with reference to the contents of the Reply Affidavit as far as paras 1, 2, 3 and 4, the same are not disputed in so far as they relate to the facts stated therein.
4. I say that with reference to the contents of the Reply Affidavit as far as paras 5, 6, 7, 8, 9, 10, 11, 12 and 13 the same are not disputed in so far as they relate to the facts stated therein and the rest of the contents are denied as false. I say that infact the replying Respondent has categorically admitted that there was an Original Application bearing No. 23 of 2013 (re-

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numbered as 480/2018) wherein this Appellant sought for restitution of damaged Sand Dunes after removal of the Road. I say that after the construction of the illegal road was noticed in September of 2010, complaints were filed with the concerned Authorities in respect of the illegality and seeking immediate redressal of the same. I say that after continuous follow-ups and representations being made by the Appellant, the illegal road came to be removed in June 2012, however, the remnants of the debris and material used for the construction of the road remain on site and the same is clearly visible on the photographs filed in the present appeal. I say that this Hon'ble Tribunal having jurisdiction over Goa came to be established and functioning in August 2013 and prior to that the forum available in such matters was the Respondent No. 1 and thereafter the Hon'ble High Court of Bombay at Goa. I say that the removal of the illegal road was vehemently resisted by Mr. Armando Cardozo before the Hon'ble High Court of Bombay at



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Goa by filing proceedings challenging the Orders that were passed by the Respondent No. 1. I say that the OA No. 23/2013 was filed in September 2013 and a copy of the Order of the Hon'ble Tribunal in the said matter dated 08.10.2013 is annexed hereto as **ANNEXURE A**. I say that the two Orders dated 24.08.2011 and 24.05.2012 of the Respondent No. 1 clearly point to the fact that the illegal road was constructed by Mr. Armando Cardozo and it is for that reason that the removal of the said Illegal Road was contested by him before the Respondent N/o. 1 as well as in the Hon'ble High Court of Bombay at Goa prior to the said Road being made in-operable in June 2012. I say that the Orders of the Respondent No. 1 dated 24.08.2011 and 24.05.2012 clearly require the restoration of the sand dunes which were damaged on account of the illegal road constructed by Mr. Armando Cardozo, the predecessor of the Respondent No. 5.

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5. I say that with reference to the contents of the Reply Affidavit as far as paras 14, 15, 16, 17, 18, 19, 20 and 21 are denied as false. I say that the Impugned Order dated 01.07.2022 of the Respondent No. 1 does not disclose any reasoning as to why the restoration ought not to be done or compensation/ penalty levied for the gross environmental damaged caused by the construction of the Illegal Road and which has been at large before this Hon'ble Tribunal especially in view of the fact that there is a clear methodology in such instances for compensation being awarded for environmental damage. I further say that this Hon'ble Tribunal would have jurisdiction under Section 15 of the Act to take cognizance of the facts and report placed before it along with the precedents set in such matters and ensure that compensation and recovery of damages is complied with and fulfilled so as to act both as a deterrent to any future such actions and also to restore the damaged sand dune in the area which

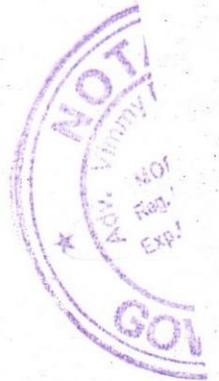
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presently continues to house foreign material and debris used for construction of the illegal road.

6. I say that with reference to the contents of the Reply Affidavit as far as paras 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 are denied as false. I say that the report prepared by National Centre for Sustainable Coastal Management pursuant to the Order dated 29.08.2022 is on record of this Hon'ble Tribunal, along with the other material/ documents/ photographs etc. which clearly point to the construction of the illegal mud road on a sand dune. I say that it is nobody's case in the present matter that the foreign material that was used in construction of the illegal mud road and which can be clearly seen in the photographs produced, has ever been removed and consequently the environment continues to suffer on account of its continuity in the area and the photographs produced depict a vegetation which is foreign and does not exist on a sand dune.
7. I have read and understood the contents of the Additional Affidavit in Reply dated 03.08.2023

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filed by Respondent No. 5 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 matter.

8. I say that I deny all the contents of the Additional Affidavit in Reply dated 03.08.2023 which are false and contrary to the record and Appeal Memo and state that the contents of the Additional Affidavit in Reply filed by the Respondent No. 5 which are not specifically denied and/ or dealt with and/ or which may have escaped specific denial may be taken as denied.
9. I say that with reference to the contents of the Additional Affidavit in Reply as far as paras 1, 2, 3, 4, 5 and 6, are denied as false in lieu of what is stated herein above.
10. I say that except for making the Illegal Road of 10mtrs width, 80mtrs length and 0.75mtrs thick inoperable



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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 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. I say that however, 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 the Respondent No. 1. 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 as it causes such Colossal damage



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intentionally tantamounting to criminal activity. I say that for refreshing, annexed hereto as **Annexure B Colly** are photographs of the said illegal Road after construction and after removal. I say that the said photographs are infact already on record before this Hon'ble Tribunal in these proceedings.

11. I say that the contents of the Reply Affidavit 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 competent Authorities taking the law into their hands and causing Irreversible damage to the Environment have to be punished and penalized seriously. 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



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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 Supreme Court where in orders passed have been confirmed and reference to which has been made by the 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.

S. N. D. order



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

APPLICATION NO.23/2013 (WZ)

Shri. Survan Rajaram Bandekar Vs State of Goa

**CORAM: HON'BLE MR JUSTICE V.R. KINGAONKAR, JUDICIAL MEMBER
HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER**

**Present: Applicant/ Appellant :T.A.Godhale Adv
Respondent : None Appeared**

Date and Remarks	Orders of the Tribunal
<p>Item No.1 October 08, 2013 Order No.1</p>	<p>The Learned Counsel for the Applicant is present. This is transferred Application from the Hon'ble High Court Bench at Goa. Issue Notices, without process, to the parties to appear before the Tribunal on 11th November, 2013.</p> <p align="center">Stand over to 11th November, 2013.</p> <p align="right">....., JM (V. R. Kingaonkar)</p> <p align="right">....., EM (Dr.Ajay A. Deshpande)</p>





