

**BEFORE THE NATIONAL GREEN TRIBUNAL (WESTERN ZONE) AT
PUNE**

ORIGINAL APPLICATION NO. 171 OF 2024

(PREVIOUSLY ORIGINAL APPLICATION NO. 27(THC)/2013)

IN THE MATTER OF:

DLF Homes Goa Pvt. Ltd. & Ors.

...Applicant

(Earlier known as M/s Sarawati Builders & Construction Pvt. Ltd.)

Versus

Union of India & Ors.

...Respondent

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FILED BY:

Abhishek

**FOR KARANJAWALA & CO.
ADVOCATES FOR RESPONDENT NO.1
4 FACTORY ROAD
NEAR SAFDARJUNG HOSPITAL
NEW DELHI 110029**

DATED: 01.02.2025

PLACE: NEW DELHI

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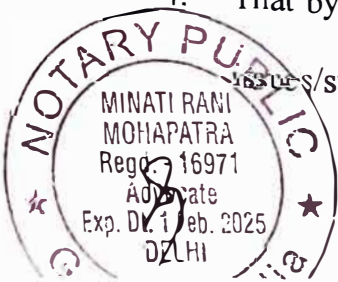
Union of India & Ors.

...Respondent

**AFFIDAVIT ON BEHALF OF APPLICANT IN REJOINDER TO THE
AFFIDAVIT OF GOA FOUNDATION DATED 13.11.2024**

I, Sudhanshu Arya, S/o Sh. Arun Kumar Arya, aged about 34 years, Authorized Representative of the Applicant Company having office at DLF Centre, Sansad Marg, New Delhi-110001 do hereby solemnly affirm and state on oath as under:

1. That I am the Authorized Signatory of the Applicant Company (M/s DLF Homes Goa Pvt. Ltd.) and as such I am well acquainted with the facts of the present case as per the records available and I am authorized and competent to affirm the present Affidavit.
2. That I have read and understood the contents of the above Original Application No. 171 of 2024 (hereinafter referred as 'OA').
3. The present affidavit is being filed in rejoinder to the Affidavit filed by the Goa Foundation (Respondent No. 3) dated 13.11.2024.
4. That by way of the present affidavit the Applicant is traversing with the issues/submissions made out by the Respondent No. 3 in its Affidavit. That



no part of the Affidavit filed by the Respondent may be deemed to be admitted until and unless specifically done in the present affidavit. The contents of the said Rejoinder Affidavit may be treated as specifically disputed and denied.

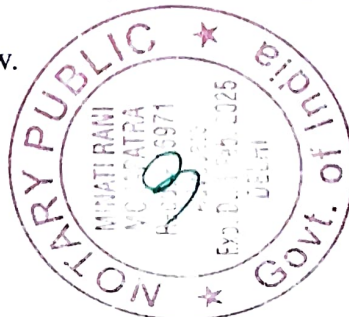
I. Issues involved in OA/170/2024 and OA/171/2024

5. That the Hon'ble High Court of Bombay *vide* a common order dated 17.10.2013 passed in WP/13/2010 and WP/395/2011, wherein both the aforesaid Writ Petitions were transferred to this Hon'ble Tribunal in view of the judgment of the Hon'ble Supreme Court in *Bhopal Gas Peedith Mahila Udyog Sangathan v. Union of India, 2012 (8) SCC 326*.

The said order records that the Respondent No. 3 herein had given up its claim with respect to the steep hill slope out of the two issues that have been raised. The relevant extract of the Order dated 17.10.2013 is set out hereunder:

“(1) The violation of provisions of the Forest (Conservation) Act 1980; and (2) the construction being carried out on a steep hill slope.”

Therefore, the issue of hill slope having been given up by the Respondent No. 3, cannot be permitted to be reagitated on basis of a specious and untenable plea that while the issue of slope was given up in the Respondent No. 3's own petition, it can continue to agitate the said issue in the Applicant's Petition. Suchy attempt by the Respondent No. 3 constitutes abuse of the process of law.



6. Even otherwise, the issues in both the Writ Petitions were completely interlinked. In this regard, it may be noted that the letter of MoEF dated 15.04.2010 putting the EC in abeyance, which was challenged by the Applicant by way of Writ Petition No. 395 of 2011, was entirely based on the issues raised by the Respondent No. 3 in their Writ Petition No. 13 of 2010. The Ministry of Environment and Forest (MoEF) in its communication dated 15.04.2010 issued to the Applicant, recorded that it has received the copy of Writ Petition No. 13 of 2010 filed by the Respondent No. 3. The said communication further records the issues raised in the Writ Petition and proceeded as under:

*"In the Writ Petition, the petitioner has raised the following issues:
(i) Whether the entire project area is a private forest land.
(ii) Whether the cutting of hill slopes on such a gradient more than 25% is not permissible as per town and country planning rules.
(iii) Whether for the implementation of the projects requires cutting of large no. of trees on steeply sloping terrain is ecologically sensitive area as per the Committee identifying parameters for designing ecological sensitive in India.*

The above issues are important and require detailed re-examination of the project. In the meantime, you are directed not to proceed for the construction of group housing in the aforesaid plot, till a detailed examination of all the issues raised in the Writ Petition are re-examined by the Expert Appraisal Committee / Ministry.

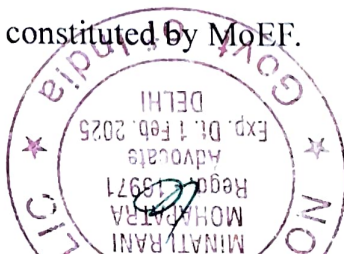
I have been directed to inform you therefore that the Environmental Clearance issued on 11.01.2010 shall be kept in abeyance till the final decision in the matter is taken by the Ministry."

7. With regards to the 1st issue referred to in the abeyance letter dated 15.04.2010 i.e., whether the project land has the characteristics of a 'private

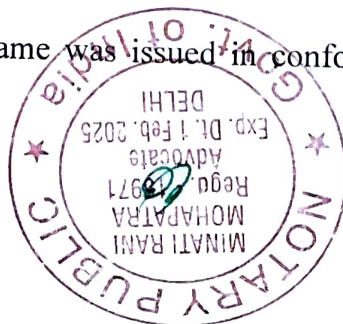


forest'; the same has already been determined by the findings of the RC-II and upheld by this Hon'ble Tribunal. With respect to the 2nd issue i.e., the hill gradient, the Respondent No. 3 has given up its claims regarding construction carried on steep hill slope. In relation to the 2nd issue, it is important to note that in WP 13 of 2010, the Chief Town Planner (CTP) had filed three affidavits dated 01.02.2010, 15.03.2010 and 27.04.2010, by which CTP had clarified the position regarding the hill gradient/slope. It was only after filing these affidavits that the Respondent No. 3 had agreed to give up its objection on the issue of hill gradient/slope as recorded in the common order dated 17.10.2013. It is therefore not open to the Respondent No. 3 to now raise the issue with regard to the information provided by the CTP and seek to re-agitate an objection already given up. Thus, nothing survives for the Communication dated 15.04.2010 issued by MoEF which has put the Environment Clearance in abeyance. In fact, the Environment Clearance would not have been kept in abeyance if it wasn't for the issues raised in the Writ Petition No. 13 of 2010 filed by the Respondent No. 3. A copy of Affidavits dated 01.02.2010, 15.03.2010 and 27.04.2010 are annexed herewith and marked as **Annexure-A1**(Colly).

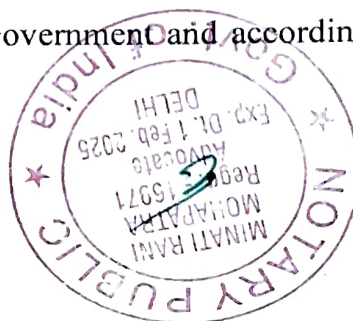
8. In the letter dated 15.04.2010, by which the Environmental Clearance was kept in abeyance, it was specifically noted that issues on basis of which the abeyance order was passed would be considered by an Expert Appraisal Committee (EAC) constituted by MoEF.



9. Thereafter, the EAC held its sitting initially from 21st to 23rd of July 2010. The Applicant as well as the representatives of the Goa Foundation (Respondent No. 3) and others in Writ Petition No.13/2010 were given an opportunity to present their submissions before the EAC. The relevant extracts of the Minutes of the Meeting of the EAC held on 21-23.07.2010 are annexed herewith and marked as **ANNEXURE-A2**.
10. Subsequently, the EAC met and deliberated on the issues on basis of which the abeyance was passed in a meeting held on 9th and 10th November 2010. The Minutes of the Meeting held on 9th and 10th November 2010 record that the project was revised and after thorough examination and scrutiny the Ministry granted Revised Environmental Clearance to the project on 11.01.2010. The Minutes further recorded that the issues raised relate to the clearances from the local bodies as per the Local laws and the site inspections were conducted twice by the Government Department during site inspections the representatives of the Respondent No.3 herein i.e., Goa Foundation were also present.
11. The Applicant states that based upon the aforesaid minutes of the EAC, the Respondent No.1 issued a communication bearing No.21-192/2010-IA.III dated 04.01.2011 to the Assistant Solicitor General of India, wherein it was clearly stated that the EAC in its meeting held on 9th & 10th of November, 2010, had found that there was no infirmity in the Environmental Clearance dated 11.01.2010 and the same was issued in conformity with the EIA



- Notification of 2006. The communication further recorded that the Ministry accepts the recommendations made by EAC and thereafter decide on lifting of the abeyance of the Environmental Clearance subject to the decision of the Hon'ble High Court. The MoEF filed an affidavit dated 24.01.2011 before the Hon'ble High Court placing on record the events in this regard. Copy of Minutes of Meeting of EAC held on 09/10.11.2020 is annexed herewith and marked as ANNEXURE-A3. Copy of the communication of Respondent No. 1 sent to Assistant Solicitor General of India dated 04.01.2011 is annexed herewith and marked as ANNEXURE-A4. Copy of Affidavit dated 24.01.2011 filed by the MoEF before the Hon'ble High Court is annexed herewith and marked as ANNEXURE-A5.
12. It is undisputed fact that EAC had arrived at a categorical conclusion that the Environmental Clearance dated 11.01.2010 had been issued under the EIA Notification of 2006 and there was no infirmity found in the clearance, and the abeyance was continued only on the account of the pendency of WP No. 13 of 2010 filed by the Respondent No. 3.
13. Now both the issues raised by the Respondent No. 3 in WP 13 of 2010, have become infructuous/ redundant. It is a matter of record that the Review Committee-II appointed by the State Government of Goa has *inter alia* reviewed the project land of the Applicant and found the same to be not meeting the criteria of '*private forest*' in its 2nd Part Final Report, which was duly accepted by the State Government and accordingly notified in

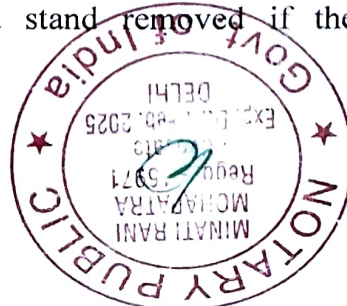


official Gazette No. RNP/GOA/32/2021-2023 dated 10.08.2023. Therefore, the 1st issue of whether the project land falls under the category of 'private forest' has been finally settled, while the 2nd issue of *hill slope* was a given up by the Respondent No. 3 duly recorded in common order dated 17.10.2013 in Writ Petition 13 of 2010.

14. Hence, the basis due to which the Environmental Clearance dated 11.01.2010 was kept in abeyance have become infructuous. Admittedly, the only condition on which the Respondent No. 1 kept the Environmental Clearance on abeyance, if at all subsisting, is the pendency of the OA No. 170 of 2024 earlier WP/13/2010 filed by the Respondent No. 3. That the Applicant being a law-abiding entity has diligently pursued the said litigation whilst it suffered huge losses, both monetary and manpower, solely on account of the baseless issues raised by the Respondent No. 3 over the span of almost 15 years.

II. Validity of OA/171/2024

15. It is the contention of the Respondent No. 3 that the Environment Clearance which was granted on 11.01.2010 had since expired and consequently the present OA No. 171 of 2024 which challenges the communication of MoEF which ordered the Environment Clearance to be kept in abeyance has now become infructuous. This objection is completely misconceived, as the Environmental Clearance was only kept in abeyance. This abeyance would stand removed if the present



application is allowed. The further consequences of lifting the abeyance are not subject matter of the *lis* before this Hon'ble Tribunal in the present matters

III. Outline Development Plan 2011, 2026 & 2030

16. The Respondent No. 3 has annexed Outline Development Plan 2011 claiming that contours are not shown in the same. That a perusal of Outline Development Plan 2026 and further finally notified Outline Development Plan 2031 would reveal that Survey No. 43 consists of Residential areas and parks/playgrounds/open space etc. which is consistent in all the three outline development plans of 2011, 2026, 2031. Further the purported map stated to be "Contour plan from Survey of India topo sheets" (Annexure R-15 @Pg. 129 in Compilation-II) are incomplete and cannot be relied by this Hon'ble Tribunal. It is reiterated that the RC-II, duly appointed by the State Government has held that the project land does not qualify as '*private forest*' and the Respondent No. 3 by relying on frivolous contentions is trying to mislead this Hon'ble Tribunal and dissuade from arriving at a final conclusion of the present case.
17. In view of the above, this Hon'ble Tribunal shall allow the present Original Application and direct the Respondent No. 1 to lift the abeyance order dated 15.04.2010.




DEPONENT

VERIFICATION:

31 JAN 2025

I, the deponent above named, do hereby verify that the contents of foregoing Affidavit are true and correct to my knowledge and as per the records available. No part of it is false and nothing material has been concealed therefrom.

Verified at _____ on this ____ day of ____, 2025


DEPONENT

IDENTIFIED



31 JAN 2025

ATTESTED


MINATI RANI MOHAPATRA
NOTARY DELHI-R-16971
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND NEW DELHI
REGISTER Pg./Sl. No. 


MINATI RANI MOHAPATRA
ADVOCATE (NOTARY)
Mob. No.: 8130128457

ANNEXURE-A1(COLLY)

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 13/2010

Goa Foundation & Anr

Petitioner

V/s

Saravati Builders and Constructions
Pvt. Ltd. and Ors.

Respondents

AFFIDAVIT

I, Shri Morad Ahmed, major of age, Chief Town Planner, Town and Country Planning Department, having office at Panaji Goa, do hereby on solemn affirmation state and submit as under: -

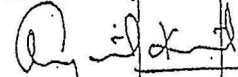
1. By Order dated 12/01/2010, this Hon'ble Court had directed that a site inspection report will be prepared and the same will be made available to this Hon'ble Court by the next date. This Hon'ble Court also directed that the State shall hear the petitioners and the representative of respondent no.1, before finalizing the site inspection report. I am filing this affidavit for the limited purpose of placing on record the inspection report prepared by the Department in pursuance of the directions of this Hon'ble Court. I say that I am not dealing with any of the averments in the petition at this stage and I crave leave to file a detailed affidavit to deal with the Petition:

2. I say that in order to conduct the site inspection I constituted a team of officers of the Town and Country Planning Department to carry out the necessary site inspection by my order dated 19/01/2010.
3. I say that letters were issued to the Petitioner and the Respondent No. 1 informing them about the schedule of the site inspection and they were directed to remain present for the same.
4. I say that accordingly a joint site inspection was conducted on 21/01/2010, by me along with the Petitioner, representatives of the Respondent No.1 and officers of the Department.
Annexed hereto as Exhibit R-1 Colly is a copy of the said site inspection report along with all annexures to the report including photographs of the site taken during the inspection.
5. I say that whatever is stated above in paragraphs 1 to 4 is true to my knowledge.

Solemnly affirmed at Panaji
On this 1st day of February, 2010

Deponent

Identified by:



(Adv. Abhijeet A. Kamat)

REPORT

In pursuance to the order of Hon'ble High Court dated 12/01/2010 in Writ Petition No. 13/2010, a joint site inspection of Sy.No. 43/1-A, Dabolim village, Mormugao Taluka was conducted by the Chief Town Planner accompanied by the officers/officials of the Department as per Order No. 17-A/TCP/GEN/2010/194 dtd. 19/1/2010 hereto annexed as Annexure 'A' along with Petitioner/Representative of petitioner and Respondent No. 1. Letters were issued to both the petitioners and Respondent No. 1 informing the date and time for inspection (Annexed hereto is a copy of the letter as Annexure 'A1').


Site inspection of Sy.No. 43/1-A, Dabolim Village, Mormugao Taluka was held on 21/01/2010 at 11.30 a.m. and it was observed that by visiting three spots of the plot i.e. 1) At the entrance on the Airport road 2) At the North-West boundary of the plot and 3) Along the Northern side points along the subdivision road.

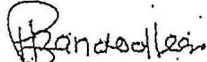
Photographs of the site from different angles were taken, which are annexed hereto as Annexure 'B'.

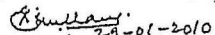
Since the area is large with undergrowth and trees it was difficult to ascertain the boundaries. List of attendees for the site inspection along with the points observed during site inspection are annexed hereto as Annexure 'C'. Next round of inspection for visual assessment will be done after the Respondent No. 1 marks all the points and report to Town & Country Planning Department. Final report will be submitted thereafter.


If verification of spot levels/contours are required a third party expert agency may be appointed. The permission granted u/s 17A of the Goa Town & Country Planning Act, 1974 will be examined and also the foot prints of the building will be examined to see if it is within the permissible gradient.


Explanatory Memorandum along with the methodology followed in the present case is hereto annexed as Annexure 'D': explains the provision of section 17A of the Town & Country Planning Act, 1974 and how slope analysis of land is worked out for a given area.


Overseer (HQ)


Dy. Town Planner
(Quepem)


Dy. Town Planner (HQ)


Senior Town Planner (HQ)


Chief Town Planner


Ref. No.: 17-A/TCP/Gen/2010/194
 Town & Country Planning Dept.
 Floor: 2nd Floor,
 Panaji, Goa.
 Date: 19/01/2010

ORDER

In pursuance to the order of Hon'ble High Court on 12/01/2010 in W.P. No. 13 of 2010.

A team of the officers/officials of the Town & Country Planning Dept. mentioned below are hereby constituted and directed to carryout the necessary inspection on 21/01/2010 at 11.30 a.m thereafter and a report is to be prepared for submission to the Hon'ble High Court urgently. Copy of the Hon'ble High Court order and letter bearing No. 17-A/TCP/Gen/2010/191 dtd. 19/01/2010, is enclosed for details.

1. Shri S.T. Puttaraju, Sr. Town Planner, Margao
2. M.K.C. Srikanth, Dy. Town Planner, Panaji.
3. Shri Prakash Bandodkar, Dy. Town Planner, Quepem.
4. Shri Rajesh Tirodkar, Overseer, Panaji.


 (Morad Ahmad)
 Chief Town Planner
 19-01-2010

To,

1. All Individuals
2. O/C
3. G/F

Recd 17.1.2010 (Gen/2010) 191
 To: Planning Dept.
 From: ...
 Date: 17/1/2010

To,

1. Dr. Claude Álvares,
Secretary,
Goa Foundation,
Room 7, Above Mapusa Clinic,
Mapusa - Goa.
2. Edwin Mascarenhas,
58B, Near Chicalim Park,
Chicalim - Goa.
3. M/S Saravati Builders & Construction Pvt. Ltd.,
F2, Landscape Excelsior (1st floor),
Opp. Kala Academy,
D.B. Road,
Campal, Panaji - Goa.

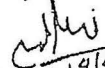
**Sub: Site Inspection of Sy.No. 43/1A of Dabolim village,
Mormugao Taluka**

Sir,

In pursuance to the order of Hon'ble High Court on 12/01/2010 in W.P. No. 13 of 2010 inspection of the site under reference is scheduled to be held on 21/01/2010 at 11:30 a.m. by the officers/officials of this Department

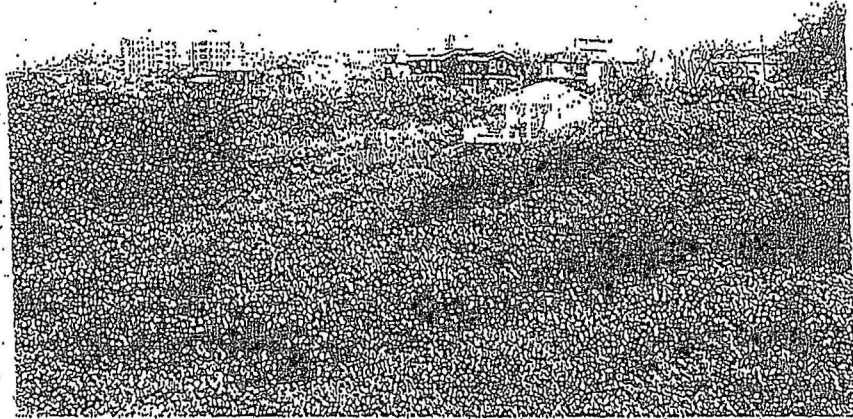
You are required to be present on the said date and time in person or through authorized representative alongwith original and certified copies of necessary documents, if any, for submission.

Yours faithfully,


 (Morad Ahmad)
 Chief Town Planner

14/01/2010
 19-01-2010

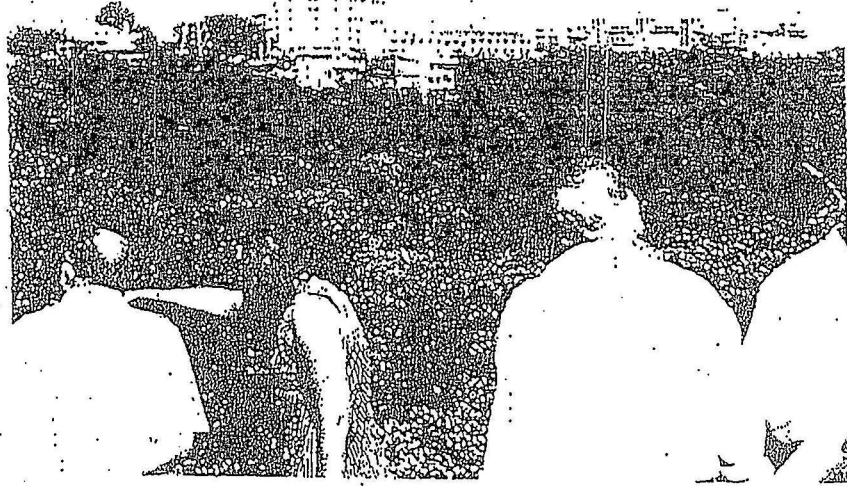
ANNEXURE D



Looking towards the South direction of the property



Looking towards the South-West direction of the property



Looking towards North-East direction of the property



Chief Town Planner, Petitioner & Respondent Discussing

JOINT SITE INSPECTION

In pursuance to Order of hon. High Court dated 12/1/2010 in Writ Petition No. 13/2010; a joint site inspection is conducted by the Chief Town Planner on 21/1/2010 at 11.30 a.m., along with his team constituted vide Order No. 17-A/TCP/Gen/2010/194 dated 19/1/2010.

The following were present during the site inspection:

1. Shri. Morad Admad, Chief Town Planner
2. Shri. S.T. Puttaraju, Senior Town Planner (HQ) *[Signature]* 21/01/2010
3. Shri. M.K.C. Srikanth, Dy. Town Planner (HQ) *[Signature]* 21-01-2010
4. Shri. Prakash Bhandodkar, Dy. Town Planner (Gen) *[Signature]* 21/01/10
5. Shri. Rajesh Tirodkar, Overseer, TCP Dept. Panaji *[Signature]* 21/01/2010
6. Colonel. Ravi Rajan, NP Ops (Respondent 1 & 2) *[Signature]*
7. Edwin Marcarinho *[Signature]*
8. RITU PRAKASH (Rep. of Mr. Claude Alvares) *[Signature]*
9. _____
10. _____

The following points were observed during the site inspection:

1. The team indicated above inspected the site by visiting three spots of Plot, one at the Entrance on the airport road, second point at NW boundary of Plot at the third on the Northern points along the subdivision road.
2. The team decided that since the area is large it was difficult to ascertain different Plot boundaries as well as total Plot boundaries on view of under growth and trees hence it was decided that the points indicated in the enclosed Plan A, B, C, D shall be fixed on the ground with appropriate colour flags so that the entire property i.e. Plot 1, Plot 2, Plot 3, Plot 4 and Annexes Plot and open spaces could be clearly seen. In order to visually assess the morphology / Topography of the plots.

JOINT SITE INSPECTION

In pursuance to Order of hon. High Court dated 12/1/2010 in Writ Petition No.13/2010, a joint site inspection is conducted by the Chief Town Planner on 21/1/2010 at 11.30 a.m. along with his team constituted vide Order No.17A/TCP/Gen/2010/194 dated 19/1/2010.

The following were present during the site inspection:

1. Shri Morad Ahmad, Chief Town Planner.
2. Shri S. T. Putturaju, Senior Town Planning (HQ).
3. Shri M.K.C. Srikanth, Dy. Town Planner (HQ).
4. Shri Prakash Bandodkar, Dy. Town Planner (Quepem).
5. Shri Rajesh Tirodkar, Overseer, TCP Dept. Panaji.
6. Colonel Ravi Rajan.
7. Edwin Mascarenhas.
8. RATU PRASAD.
9. -----

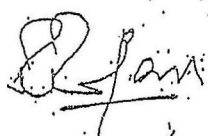
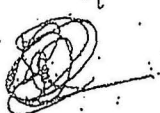
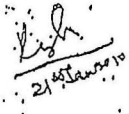
The following posts were observed during the site inspection:

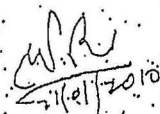

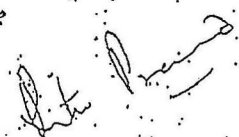
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2. The team decided that since the area is large it was difficult to ascertain different plot boundaries as well as total plot boundaries in view of under growth and trees hence it was decided that the points indicated in the enclosed Plan A, B, C, D shall be fixed on the ground with appropriate colour Flags so that the entire property i.e. Plot 1, Plot 2, Plot 3, Plot 4 and amenities Plot and other spaces could be clearly seen in

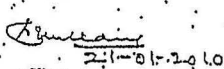
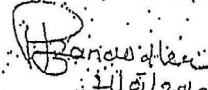
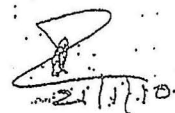
3. The team requested the representatives of the Developers who were present during the inspection to do the needful and report the matter to the Town & Country Planning Dept, so that further action can be initiated.

4. The team also advised to use specific colour flags as below:

- All 'A' Points in white flags
- All 'B' Points in Red flags
- All 'C' Points in yellow flags
- All 'D' Points in light blue/Blue flags.

 21/01/2010



 21-01-2010
 21/01/2010
 21/1/10



order to visually access the morphology/topography of the Plot.

3. The team requested the representatives of the Developers who were present during the inspection to do the needful and report the matter to the Town & Country Planning Dept., so that further action can be initiated.
4. The team also advised to use specific colour fklags as below:-
 - All 'A' Points in White Flags.
 - All 'B' Points in Red Flags.
 - All 'C' Points in Yellow Flags.
 - All 'D' Points in right blue/Blue Flags.

Sd/- Sd/-21/10/2010

ANNEXURE DExplanatory Memorandum on section 17-A of the Town & Country Planning Act, 1974

Section 17A deals with prohibition on cutting of hilly land and filling up of low lying land etc. which reads as follows:

"No occupier of any hilly or sloppy land or any low lying land shall, by himself or through his servants or agents or any other persons, undertake the work for cutting of any hilly or sloppy land, or filling up of any low lying land, in, over or upon any hilly or sloppy land, as the case may be, without obtaining the prior written permission from the Chief Town Planner".

Explanation - For the purpose of section 17A,

- (i) "low lying land" means and includes any land below 50 cms. or more than from the adjoining ground level;
- (ii) "hilly land or sloppy land" means and includes any land having a gradient of 1:10 or more.

As far as the applicability of section 17A of the Town & Country Planning Act is concerned the same is given under explanation provided under section 17A of the Act which reads as follows:

For purposes of applicability of this section

"hilly land or sloppy land" means and includes any land having a gradient of 1:10 or more i.e. 10% or more. Thus permission for cutting of hilly land or sloppy land is to be seen in this context and accordingly, the same would be applicable to land having a gradient of 1:10 or more which is equivalent to 10% or more.

Slope Analysis

In order to examine and understand the topography of the area, slope analysis is resorted to.

The slope analysis of a hill is based on the contour data (i.e. which is obtained from the maps prepared by the Survey of India. These maps are restricted maps used by this Department. The slope of an area is worked out based on the ratio of difference between the highest and lowest altitude point of the place (i.e. rise in linear measurement) to the horizontal distance measured between the highest and lowest altitude points (i.e. run in linear measurement). The larger rise and the shorter run, the steeper is the slope. Generally, slope is represented in terms of gradient percentage (%) or in terms of the angle of slope from the horizontal.

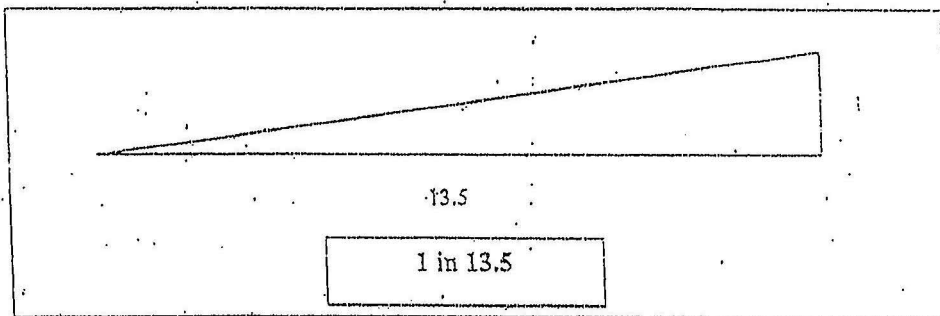
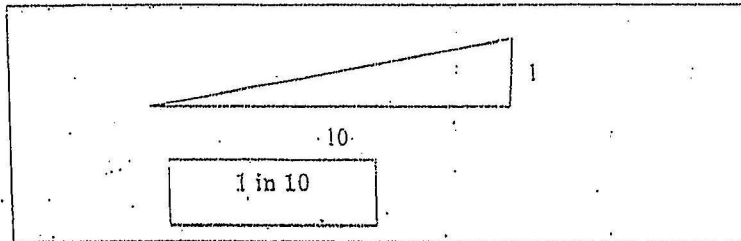
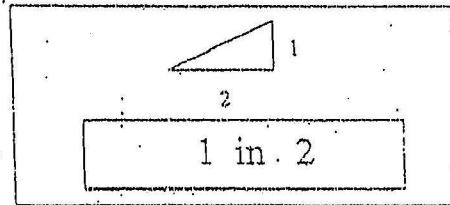
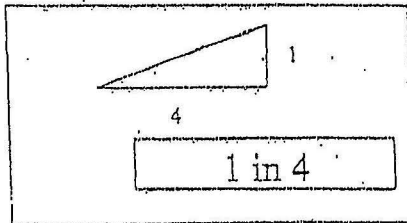
Table '1' shows examples of slopes in terms of gradient percentage and slope angles.

Table 1

Slopes expressed as Gradients, Percentages and Angle from horizontal

Gradients	Percentages	Angle from horizontal	Remarks
1 in 13	7.69%	4.40° or 4°13'	Not considered hill as defined under section 17A of the Goa TCP Act, 1974
1 in 10	10 %	5.7° or 5°42'	Gradient wherein development is permitted and NOC for cutting of hill is required.
1 in 4	25 %	14.0° or 14°	
1 in 2	50 %	26.6° or 26°36'	No development is permitted

Sketch showing the gradients



Methodology

The methodology followed by the office at the time of issue of permission.

The Survey of India Topographical sheet referred was 48E/15/NW, first edition, surveyed in 1990-91, published in 1993, a Restricted document and the copy rights are held by Government of India.


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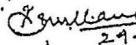
As per the Survey of India (SOI) Topographical sheet the overall slope varies from about 19% to 24%.


The slope is calculated by taking into consideration the contours at different locations/sections and the permissions are granted accordingly for the areas within permissible slope of 25%.

The slope analysis is totally based on the SOI Topographical sheet which is an authenticated document of the Government of India and no physical survey was carried out to verify the spot levels/contours.

The same methodology is used for all the cases received for cutting of sloppy land before issue of permission under section 17A by referring the relevant Survey of India Topographical Sheet.


Overseer (HQ)


29-01-2010
Dy. Town Planner (HQ)


29-01-2010
Chief Town Planner

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 13/2010

Goa Foundation & Anr Petitioner

V/s

Saravati Builders and Constructions
Pvt. Ltd. and Ors. RespondentsADDITIONAL AFFIDAVIT

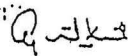
I, Shri Morad Ahmed, major of age, Chief Town Planner, Town and Country Planning Department, having office at Panaji Goa, do hereby on solemn affirmation state and submit as under: -

1. I say that I had filed an affidavit dated 01/02/2010 placing on record the preliminary site inspection report.
2. I say that thereafter this Department has prepared a detailed site inspection report. The same is being annexed hereto as Exhibit R-1 Colly.

I say that whatever is stated in the above paragraphs is true to my knowledge.

Solemnly affirmed at Panaji
On this 15th day of March, 2010

Deponent

Identified by: 
(Adv. Abhijeet A. Kamat)

Report on site inspection – Survey No. 43/1A, Dabolim village,
Mormugao Taluka

In pursuance to the Order of Hon'ble High Court dated 12/01/2010 in Writ Petition No. 13/2010, a joint site inspection of Sy.No. 43/1-A, Dabolim village, Mormugao Taluka was conducted on 21/01/2010 by the Chief Town Planner accompanied by the officers/officials, of the Department as per the Committee constituted vide Order No. 17-A/TCP/Gen/2010/194 dated 19/01/2010 along with Petitioner/Representative of Petitioner and Respondent No. 1.

During the site inspection on 21/01/2010, it was observed that the area is large with undergrowth and trees so it was difficult to ascertain the boundaries. It was decided that the next round of inspection for visual assessment will be done after the Respondent No. 1 marks all the points along the boundaries/sub-division plots and report to Town & Country Planning Department.

The site inspection was started on 16/02/2010 at 11.45hrs after the Respondents, Petitioners and their Representatives and the Chief Town Planner with his Committee members arrived on site. The details of the participants during the site inspection are indicated in the attendance sheet signed by the respective participant (Annexed hereto is a copy of attendance sheet as Annexure 'B').

Photographs of the site from different angles were taken, which are annexed hereto as Annexure 'C'.

The team started the observations of the site from Plot No. 1. Initially there was a little confusion regarding the identification and layout of the flags marking the sub-divisions, but it was resolved. The team took references approximately from the marked points and continued the inspection. Based on the site boundaries and the sub-divided plot boundaries marked by different coloured flags, the different topographical conditions on the site were identified.

There was a lapse found in the marking of one red flag right on the edge of the site along the northern boundary, which then became a point of contention for the Petitioners. The position of sub-division plots were assessed in the context of total area. However, Petitioners and the Respondent No. 1 were asked to submit their observations to the Town & Country Planning Department. The submission made are annexed hereto as Annexure 'D' and Annexure 'E' respectively.

Site Visit Conclusion:


In keeping with the Hon'ble High Court's orders dated 12/01/2010, the site inspection has been carried out on two occasions dated 21/01/2010 and 16/02/2010 and all have been made familiar with the relief of the area (topography) of the site. An approximate correlation has also been made between the permission granted under section 17A of Town & Country Planning Act vis-à-vis the layout on the ground.

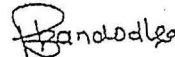
Hill Cutting Permission as per section 17A of Town & Country Planning Act, 1974

The detailed calculations carried out and the methodology used to carry out the slope analysis for the site at Sy.No. 43/1-A, and to issue necessary permissions in accordance with section 17A of Town & Country Planning Act, 1974 have been detailed as an Explanatory Memorandum at Annexure 'D' of the Affidavit submitted on 01st February, 2010. It is again attached as Annexure 'F' for ready reference.


It is stated that:-


1. The Government of India (GOI) Topographical Sheets referred to for the calculations are the only one being so utilized in Goa.
2. The methodology used by the Town & Country Planning Department to carry out the slope analysis is the same as applied to all such cases.
3. The slope analysis carried out as per the laid down methodology and using the concerned Government of India topographical sheets indicate the slopes are less than 25 percent which is within the laid down parameters wherever the permission under section 17A is granted in the said property.


Overseer(HQ)


Dy. Town Planner
(Quepem)


Dy. Town Planner (HQ)


Senior Town Planner(HQ)


Chief Town Planner

Ref. No: 17-A/TCP/Gen/2010/488.
 Town & Country Planning Dept.
 Dempo Tower 2nd Floor,
 Fatico Plaza, Panaji-Goa.
 Date: 16/2/2010

To,

1. Dr. Claude Alvares,
 Secretary,
 Goa Foundation,
 Room 7, Above Mapusa Clinic,
 Mapusa - Goa.
2. Edwin Mascarenhas,
 58B, Near Chicallim Park,
 Chicallim - Goa.
3. M/S Saravati Builders & Construction Pvt. Ltd.
 F2, Landscape Excelstor (1st floor),
 Opp. Kala Academy,
 D.B. Road,
 Campal, Panaji - Goa.

Sub: Site inspection of Sy.No. 43/1A of Dabolim village,
 Mormugao Taluka

Sir,

In pursuance to the order of Hon'ble High Court on 12/01/2010 in WLP. No. 13 of 2010 inspection of the site under reference was inspected on 21/01/2010 and the Respondent No. 1 was instructed on site to put the flags for boundaries/plots demarcation. The Respondent No. 1 has informed by letter No. 30492/River-Valley/Site Insp/2010 dated 09/02/2010 that he has complied with the instructions given on 21/01/2010.

Therefore a site inspection is scheduled to be held on 16/02/2010 at 11.30 a.m. by the officers/officials of this Department. You are requested to be present on the said date and time in person or through authorized representative alongwith original and certified copies of necessary documents, if any, for submission.

Yours faithfully,

Morad Ahmad
 (Morad Ahmad)
 Chief Town Planner

Copy to:-

All the members of the Committee constituted vide Order No. 17-A/TCP/Gen/2010/194 dated 19/01/2010

10-02-2010

JOINT SITE INSPECTION
ATTENDANCE SHEET

In pursuance to Order of Hon'ble High Court dated 12/1/2010 in Writ Petition No. 13/2010, a joint site inspection was conducted by Chief Town Planner on 21/1/2010 at 11.30 a.m. alongwith his team constituted vide Order No. 17-A/TCP/Gen/2010/194 dated 19/01/2010. During the site inspection on 21/01/2010, the Respondent No. 1 was instructed to put flags along the boundaries/sub-division of plots and Inform the Town & Country Planning Dept.

The Respondent No. 1 vide letter No. 30492/River Valley/Site Insp/2010 dated 9/02/2010 has informed that he has complied with the instructions given during site inspection on 21/01/2010.

In view of the above, another inspection is conducted on 16/02/2010 at 11.30 a.m. alongwith team constituted vide said order dated 19/01/2010.

The following are present during the site inspection:

1. Shri Morad Ahmad, Chief Town Planner *Morad*
2. Shri S.T. Puttaraju, Senior Town Planner(HQ) *S.T. Puttaraju*
3. Shri M.K.C. Srikanth, Dy. Town Planner(HQ) *M.K.C. Srikanth*
4. Shri Prakash Bandodkar, Dy. Town Planner (Quepem) *Prakash Bandodkar*
5. Shri Rajesh Tirodkar, Overseer, TCP Dept., Panaji *Rajesh Tirodkar*
6. Claude Alvarez, GOA FOUNDATION *Claude Alvarez*
7. Ritu Prasad, GOA FOUNDATION *Ritu Prasad*
8. Edwin Mascarenhas, PEI, NO. 2 *Edwin Mascarenhas*
9. RAVI RAJAN - RESP NO. 1 *Ravi Rajan*
10. _____

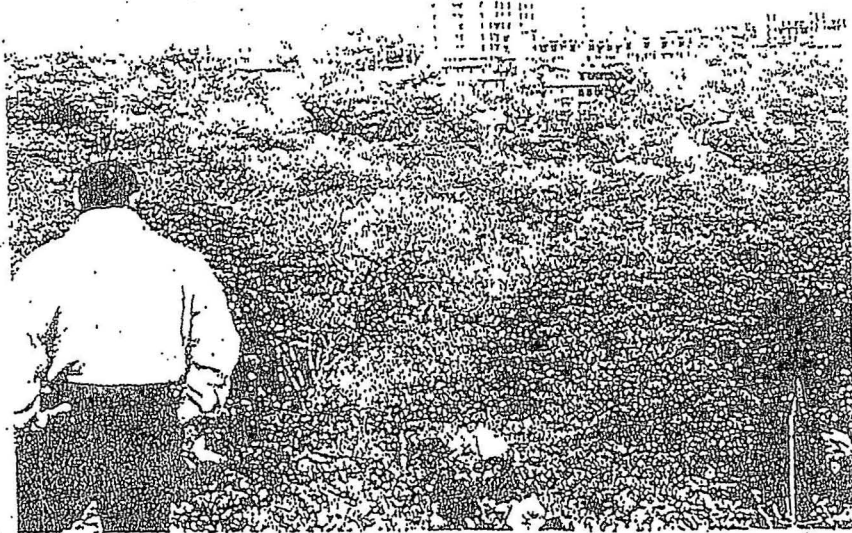
The following points were observed during the site inspection:



Augustine's Respondents in the field at the site.



View towards the North East.



Photograph showing the Red flag at one of the plots.



Photograph showing the passing Submarine along the beach.

The Chief Town Planner,
Town and Country Planning Dept.,
Dempo Tower,
Panaji, Goa.
Date: 18/02/2010

Handwritten notes:
19-02-2010
18/02/2010
19-02-2010
19-02-2010
19-02-2010

Stamp:
Office of the
Chief Town Planner
TOWN & COUNTRY
PLANNING DEPARTMENT
PANAJI, GOA
18/2/2010

Sir,

Sub: Our Observations, Comments and Suggestions on the visual inspection of Survey No. 43/1- A Dabolim carried out as per your Letter No. 17/A/TCP/GEN/2010/488 dt. 10/02/2010.

In pursuance of your above letter and the site inspection carried out on 16/02/2010 we hereby submit our observation, comments and suggestions, as directed by you:

As decided by the team, during the earlier site inspection held on 21/01/2010, the Respondent No. 1 was requested to put up flags as indicated in the sketch site plan so as to enable the CTP and the team to make a initial visual assessment of the property and the plots there in since the boundaries of the plots were not directly visible due to vegetation.

On 16th February 2010 a site inspection was carried out pursuant to this and as only the white 'A' flags and some of the Red 'B' flags were visible from the top entry portion of the site, these were relied upon to do a visual assessment of the topography of the property.

Starting from 'A 1' and moving to 'A 5' we used the red 'B' flags whose location did not seem to correspond exactly with the position of these flags indicated on the sketch map and we tried to approximately assess the topography.

It was seen that from the top edge of the property ('A 1' to 'A 5') there visually seemed to be slope within permissible gradient (below 25%) for approximately 30 to 50 meters depth along the property edge demarcated from 'A 1' to 'A 5'.

Beyond this there seemed a steep slope (above 25%) which would constitute a NDZ (No Development Zone).

It was also discussed with the TCP officials during this exercise that an actual physical survey needs to be undertaken to ascertain the extent of the area of the property within permissible gradient.

On reaching the edge of the property demarcated by the White 'A 5' flag on the top edge, it was noticed by us that visually the distance between the White 'A 5' flag and the Red 'B 5' flag seemed to be less than that what had been indicated on the site map (i.e., 70 meters). As this edge was demarcated by a barbed wire fencing, the TCP official present asked his man to use a tape measure to check the distance. It was

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70

Handwritten mark: //

found to be only about 45 meters on site, indicating a discrepancy of 25 meters, which was quite shocking.

Up till now we had presumed in good faith that all the flags had been positioned at the correct places. Now this huge difference observed in the positioning of the flag at the boundary gave a very wrong idea and was wholly misleading for a visual assessment of the topography as the flags were used visually by the team to assess the proportionate areas under permissible gradient and NDZ (No Development Zone). Hence this wrong placement would give a misleading and wrong proportionate assessment.

In this scenario we decided to question the authenticity of the entire exercise and would like to place on record that as the placement of the flags is now definitely in doubt, this would have to be corrected before a visual assessment exercise is carried out. Further, since our faith in the Respondent doing the exercise has been shaken, we would insist that a survey team from Land Survey Department, Government of Goa, may be requisitioned to carry out the physical survey under direct supervision of the High Court, with participation of our representatives.

FOR AND ON BEHALF OF
PETITIONER NO. 1
GOA FOUNDATION

PETITIONER NO. 2
EDWIN MASCARENHAS

30492 / River Valley / Site Insp II / 2010

17th February 2010

To,
Chief Town Planner
Town & Country Planning Dept.
Dempo Towers, 2nd Floor
Patto Plaza,
Panaji-Goa

Subject: Site Inspection of Saravati Builders & Constructions Private Limited
Project on Survey No. 43/1A of Dabolim Village, Morrugao Taluka,
(under Village Panchayat Chicalim) on 16 February 2010

Dear Sir,

Please refer to:-

1. Town & Country Planning letter No. 17- A / TCP/ Gen / 2010 / 191 dated 19 January 2010
2. Our letter 30492/ River Valley / Site Insp / 2010 dated 28 January 2010
3. Your letter 17- A / TCP/ Gen./ 2010 / 488 dated 10 February 2010
4. The site inspection carried out on 16 February 2010.

With respect to the site inspections carried out, we would like to make the following observations:-

1. The site inspections were not a forum for finalizing on the contours or the slopes or the gradient of the site. It was a requirement as instructed by the Hon'ble High Court on 12 January 2010.
2. The petitioners demands during the site inspection on 16 February 2010 for a contour survey, etc, is not acceptable as data already exists in the form of Government of India (GOI) survey maps and topographical sheets which form the basis for any such references all over India

2
1/02/2010
Dy. T.O.
19-02-2010

DLF Homes Goa Private Limited

Regd. Office: 1E, Jhandewalan Extn., Naaz Cinema Complex, New Delhi - 110055
Goa Office: F-2, Landscape Excalibur (1st Floor), Opp. Kala Academy, D. B. Road
Campal, Panjim, Goa - 403 002
Phone :- 0832-2422660/1, Fax:- 0832-2422662

the Planner
1002
18/2/2010

The aim of the site inspection on 16 February 2010, was to identify the layout of the four plots and the amenities block on the site and accordingly:-

1. This was carried out as accurately as was feasible under the circumstances.
2. The site inspection was not aimed at arriving at a conclusion whether the gradient is within prescribed limits or not. //?
3. The site inspection accomplished the aim of all concerned visiting the site and understanding the topography of the same.
4. The Town & Country Planning Department has already concluded, after repeated internal checks, that the correct methodology was applied to determine that the slope of the site is between 19 and 24 percent. An affidavit towards this end has already been filed with the Hon'ble High Court.

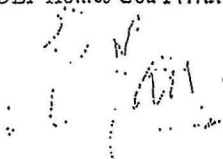
It is re-iterated that the site inspection was in no way a method for concluding whether the gradient is within the prescribed limits or not. It was also not meant to serve as a pre-cursor for any resurvey of the site. //?

Further, we seriously object to the petitioner being accompanied by Ms Ritu Prasad and we were not notified of her status in the said organization of the Petitioner(s). An objection to this effect was raised by the authorized representative of Respondent No. 1 at the start of the site inspection.

Our observations above are for your information and necessary action as required.

Thanking you.

Yours Sincerely,
For DLF Homes Goa Private Limited


Authorised Signatory

DLF Homes Goa Private Limited

Regd. Office: 1E, Jhandewalan Extn., Naaz Cinema Complex, New Delhi - 110055
Goa Office: F-2, Landscape Excelsior (1st Floor), Opp. Kala Academy, D. B. Road
Campal, Panjim, Goa - 403 002
Phone :: 0832-2422680/1, Fax:- 0832-2422662

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Explanation - For the purpose of section 17A.

- (i) "low lying land" means and includes any land below 50 cms. or more than from the adjoining ground level;
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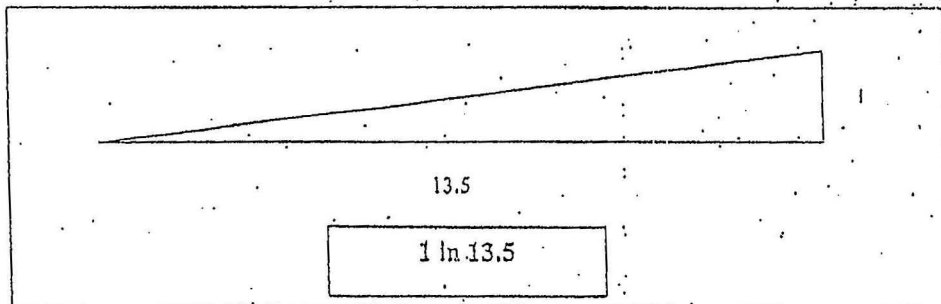
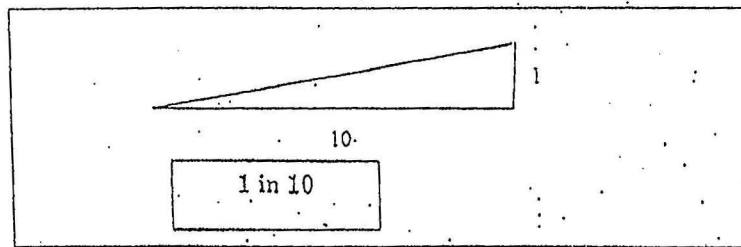
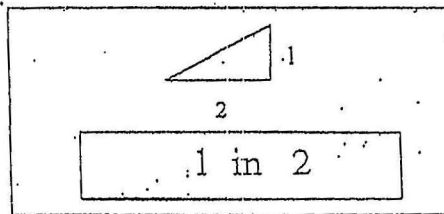
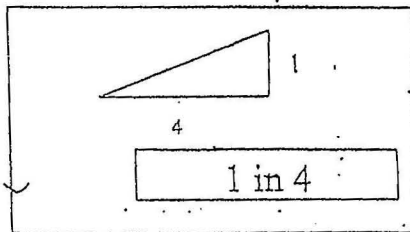
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Sketch showing the gradients



Methodology

The methodology followed by the office at the time of issue of permission.

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The slope analysis of the land in question was carried out based on the Survey of India (SOI) Topographical sheet in scale 1:25000 with contour intervals at 5 metres.

As per the Survey of India (SOI) Topographical sheet the overall slope varies from about 19% to 24%.

The slope is calculated by taking into consideration the contours at different locations/sections and the permissions are granted accordingly for the areas within permissible slope of 25%.

The slope analysis is totally based on the SOI Topographical sheet which is an authenticated document of the Government of India and no physical survey was carried out to verify the spot levels/contours.

The same methodology is used for all the cases received for cutting of sloppy land before issue of permission under section 17A by referring the relevant Survey of India Topographical Sheet.

Overseer(HQ)

27-01-2010

Dy. Town Planner (HQ)

Chief Town Planner



IN THE HIGH COURT OF BOMBAY AT GOA.

Writ Petition No. 13/2010

Goa Foundation & Anr.

.....Petitioner

V/s.

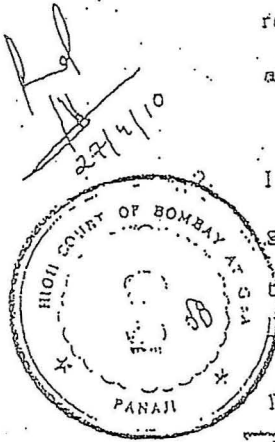
Saravati Builders and Constructions
Pvt. Ltd. and Ors.

.....Respondents

ADDITIONAL AFFIDAVIT

I, Shri Morad Ahmad, major of age, Chief Town Planner, Town and Country Planning Department, having office at Panaji Goa, do hereby on solemn affirmation state and submit as under: -

1. I have filed a report by my affidavit 01/02/2010 and further report vide my affidavit 15/3/2010 in view of the counter affidavit of Petitioner, I am filing this additional affidavit.



I say that under the law, no development permission can be granted if a property has a gradient of more than 25%. I say that the permission under Section 17A of Town & Country Planning Act is granted to Respondent No.1 is in respect of parts of the property where the gradient does not exceed 25%. In my report I have stated that the slope analysis of land in question is carried out of Survey of India topographical sheet and that as per the records the slopes varies from 19% to 24%.

The Survey of India topographical sheet is an authenticated document of Government of India and urged in all cases

wherever permission are sought for cutting of sloppy lands.
Same procedure has been followed in present case.

3. It is true that I had appointed a three members Committee by order dated 19/12/2010 to conduct a site inspection and survey the property.
4. I say that the Surveyor Shri Prakash Gudekar was appointed by Petitioner and he was required to survey the property in presence of other committee members. Shri Prakash Gudekar, carried out the survey work on 11/12/2009 and 14/12/2009. The Surveyor was informed by letter dated 20/1/2010 to submit the spot levels taken by members duly signed by him but Surveyor never responded. In the meantime the letter was received from Save Our Slopes enclosing the said report dated 15/12/2009. In this report, the Surveyor records of spot levels taken along various boundaries whenever possible and states that along the northern boundary where intermediate levels could be taken the gradient is 34%. It is therefore the Surveyor was sought to be called along with levels and chainage taken but he did not respond.
5. Therefore, a fresh site inspection Committee was consulted to submit a report to this Hon'ble Court and accordingly 2 reports have been filed.
7. As regards to the lapse of marking of red flags, the fact already finds a mention in my report.



8. I say that in the Outline Development Plan notification by Marmagao Planning Development Authority, the property has been shown as being in settlement zone. In fact the Petitioner have also challenged the Outline Development Plan notified by Marmagao Planning Development Authority.

9. I deny that the gradients are being determined as per subjective assessment. I once again submit that of Survey of India topographical sheet prepared by expert are been utilized to determine gradients.

I say that whatever is stated above in paragraphs 1 to 8 is true to my knowledge, based on records available in the office of this Respondent and the contents of the remaining paras are my submissions.



Solemnly affirmed at Panaji
On this 27th day of April, 2010

[Signature]
Deponent

Identified by:-

[Signature]
Advocate
(Abhijeet A. Kamat)

Solemnly affirmed before me by *Sr. /*
Mrs. A. A. Kamat who is
identified before me by *Adv. Abhijeet*
Kamat whom I personally
know.

Dated this *27th* day
of *April*, 2010.

[Signature]
Section Officer
High Court of Bombay at Goa
Panaji (Goa)

ANNEXURE-A2

MINUTES

Annexure-I

The Minutes of the 89th Meeting of the Expert Appraisal Committee for Building Construction, Coastal Regulation Zone, Infrastructure Development and Miscellaneous projects held on 21st-23rd July, 2010 at Fazal Chambers, SCOPE Complex, Lodhi Road, New Delhi.

4.31 Construction of Dabolim Apartments and Club House at Plot No. 1, 2, 3, 4, Survey No.43/1, village Dabolim, Mormugao Taluka, South Goa by M/s. Saravati Builders and Constructions Pvt. Ltd. (No.21-192/2008-IA.III)

Ministry has issued an Environmental Clearance for the construction of apartments in Dabolim Goa on 11th January 2010. A Writ Petition No. 13/2010 was filed in the Hon'ble High Court of Bombay at Goa by The Goa Foundation in which Ministry was also one of the respondents. The issues raised in the petition were regarding cutting of trees, the entire project area is a private forest and project site is having a gradient more than 25% where the construction is not permissible as per Town and Country planning rules. Ministry has put the Environmental Clearance issued on 11th January 2010 in abeyance on 15th April 2010.

The Hon'ble High Court has taken note of Ministry's action of keeping the clearance in abeyance and further examination of the matter by the Ministry.

The proposal was put up for examination of issues raised by The Goa Foundation in the Expert Appraisal Committee meeting held on 22nd-24th July 2010 in which the representative of The Goa Foundation and M/s Saravati Builders and Constructions Pvt. Ltd. were also called. During discussions The Goa Foundation represented by Dr. Claude Alvares informed that:

- (a) The area is a forest and therefore prior permission under the Forest Conservation Act requires to be obtained. This aspect was not put up before the Expert Appraisal Committee earlier.
- (b) That the area is a steep slope and hence the law prevailing in Goa banning development/ construction on steep slopes prohibits construction of the project in the said area.
- (c) It was also informed that there is severe water shortage in the vicinity of the proposal. Further, many illegal bore wells were made. The River juari is about 500 m from the site and the proposed extraction of ground water may lead to sea water intrusion.

In respect of the above issues he presented photographs of the area indicating the extent of natural vegetation of the plot. He further informed that three permissions were obtained for cutting of trees and a total of 200 trees were cut in the last three years.

The representatives of M/s. Saravati Builders and Constructions Pvt. Ltd. informed that

- (a) As per the records of Goa Government, the site is not declared as Forest and this was confirmed by the Government of Goa in their affidavit filed in the Hon'ble High Court.
- (b) Only 92 trees were felled with required permission. A Committee constituted by Town Planning Department including the petitioner has visited and surveyed and based on the survey, an affidavit has been filed which states that the slope is within norms.

They further informed that the Local body has given permission for supply of 314 KLD of water from Public supply, 95 KLD will be met from the two Nos. bore wells. The site is about 1000 feet above the river level; hence the possibility of sea water intrusion is remote.

The EAC after deliberation sought the following information:

- (i) Submit the details of trees cut down with their permissions, certifying that no other trees will be cut.
- (ii) Submit a copy of the contour map superimposing the layout plan of the site with clear spot levels authenticated by the Local Town Planning Department.
- (iii) Submit a copy of the permissions for cutting of the trees and a certificate form DFO that the area is not declared as forest under Forest Conservation Act.

The committee deferred the project and shall reconsider after the submission of above information.

ANNEXURE-A3

MINUTES

The Minutes of the 93rd Meeting of the Expert Appraisal Committee for Construction Projects / Township and Area Development Projects, Coastal Zone, Infrastructure Development and Miscellaneous projects held on 09.08.2010 at Conference Hall, Van Vigyan Bhawan, ICFRE, Sector-5, R.K. Puram, New Delhi.

5.2 W. P. No. 13/2010 (Goa Foundation V/s M/s. Saravathi Builders & Construction Pvt. Ltd)-reg.

Member Secretary informed that this case pertains to construction of Dabolim Apartment & Club House at Plot No. 1, 2, 3, 4 Survey No. 43/1, Village Dabolim, Marmugao Taluka, South Goa submitted by M/s. Saravathi Builders & Constructions Pvt. Ltd, New Delhi. The Ministry issued Environmental Clearance on 2.2.2009 as per the provisions of Environmental Impact Assessment Notification, 2006. Thereafter, project was revised & after thorough examination and scrutiny, the Ministry granted revised environmental clearance to the project on 11.1.2010.

As per the Hon'ble High Court order dated 27.4.2010, the project was placed before the EAC during its meeting held on 22-24 July, 2010 at New Delhi. The EAC sought some information. The project proponent submitted the requisite information and the same were again placed before the EAC on 18-20 August, 2010. The committee decided to send copy of the survey map/layout plans to the Town Planning Department, Goa for examination at site & verification and authentication. These were sent by MoEF to Chief Town Planner (CTP) on 27.8.2010. With reference to this letter, the Chief Town Planner, Town & Country Planning Dept., Goa has sent the attested copies of the layout maps back to the Ministry.

In his letter, the photocopies have been verified/checked/attested from the original records available at their office vide letter no. 47-A/MOR/257/TCP-09/3142 dated 2.9.2009. Therefore, the Ministry once again requested the CTP, Goa on 8.10.2010 to examine and verify at site and confirm the slopes and permissibility of construction. The Chief Town Planner has sent a letter mentioning that only after due diligence carried-out using Survey of India Topographical sheets and correlated data available in the office, in accordance with guidelines and the procedures used for all such cases in Goa, a site visit is part of the due diligence carried-out before issue of permission. The site visit was carried-out by the CTP and his team along-with the representatives of the petitioner on 21.1.2010 & 16.2.2010.

Now, the project proponent has submitted a letter to Ministry mentioning that all the issues raised have been attended and requested the Ministry to withdraw the abeyance order. The details along with the maps were presented to the Committee.

The Committee after discussions suggested that Ministry may inform the Government Counsel/ ASG that the site inspections were conducted twice by Government Departments viz. Town Planning Department & Forests Department of Goa on 21.1.2010 and 16.2.2010. During the site visit, Petitioners i.e. M/s Goa Foundation was also present. The site visit report and the maps may also be forwarded to the Counsel informing that the issue is related to the local laws and Environmental Clearance has been issued only under EIA Notification, 2006. The project proponent has to obtain prior clearance from the Local body as per the local laws incorporating all the Environmental parameters as suggested by the Expert Appraisal Committee. Further action on the above issue should be taken only after the Hon'ble High Court orders about revocation of abeyance order.

ANNEXURE-A4

No. 21-192/2010-IA.III
 Ministry of Environment & Forests
 Government of India
 (IA.III Division)

Paryavara Bhavan
 CGO Complex, Lodi Road
 New Delhi - 110 003

Dated 4.1.2011

To

Sh. Carlos Alvares Ferreira
 Asst. Solicitor General of India
 1st Floor, Camilla Building
 D. Joao Crasto Road
 Opp. Kehl's Petrol Pump
 Panaji - 403 001 (Goa)

Subject: W.P. No. 13/2010 (Goa Foundation V/s M/s. Saravathi Builders & Construction Pvt. Ltd) -regarding.

Sir,

This is in continuation to our earlier communication dated 26.11.2010 on the above mentioned petition.

2. It may be mentioned that the Expert Appraisal Committee (EAC) at its meeting held on 9-10th November, 2010 had found that environmental clearance dated 11.1.2010 has been issued under EIA Notification, 2006, i.e. there is no infirmity found in the clearance.

3. As regards the local clearances, the EAC has rightly mentioned that it concerns the local bodies.

4. Therefore, the Ministry accepts the recommendations made by the EAC. Ministry will abide by the decision of Hon'ble High Court in the matter and accordingly decide on lifting the abeyance order thereafter.

You are requested to inform the court accordingly.

Yours faithfully,

(E. Thirunavukkarasu)
 Deputy Director (IA.III)

000 25527124

cyto:

1. Dr. S. K. Susarla, Director, Regional Office, Ministry of Environment & Forests (SZ), Kendriya Sadan, IV Floor, E&F Wings, 17th Main Road, Koramangala-II Block, Bangalore - 560 034.
2. M/s. Saravati Builders & Constructions Pvt. Ltd, G-1A Dhawandeeep Building, 6-Jantar Mantar Road, New Delhi - 110 001

(E. Thirunavukkarasu)
Deputy Director (IA.III)

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ANNEXURE-A5

IN THE BOMBAY HIGH COURT AT GOA.

Writ Petition No. 13/2010

Goa Foundation

.....Petitioner

V/s

M/s. Sarawati Builders & Construction
Pvt. Ltd. & Ors

..... Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 9

I, Dr. S.K. Susarla daughter of Shri. S.S. Sastry, major of age, Indian National, Director, Ministry of Environment and Forests, Regional office, Southern Zone, Bangalore -560 034 do hereby solemnly state on oath and affirm as under:

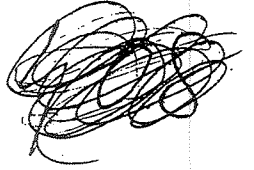
1. I am filing the present affidavit to place on record subsequent developments which have taken place pursuant to the communication no. 21-192/2008-IA-III dated 15.04.2010 incorporated in the Order of this Hon'ble Court dated 27.04.2010.
2. I say that hearings were conducted by Expert Appraisal Committee (EAC) initially on 21st to 23rd July, 2010 in connection with this matter. The respective parties viz. the Petitioner and the Respondent No. 1 were given an opportunity to present their submissions in this regard, which has been recorded by the EAC. The relevant extract of the minutes of this meeting of EAC is at Annexure R-1 hereto.

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3. Pursuant to the recommendation of EAC, vide letter no. 21/192/2008-IA-III dated 27.08.2010, communication was addressed to the Chief Town Planner, Town and Country Planning Department of the Government of Goa seeking information as contained therein, copy whereof is annexed hereto and marked as Annexure R-2.
4. Subsequently vide letter no. 21-192-2008/-IA-III dated 27.09.2010, the Chief Town Planner, Town and Country Planning Department of Government of Goa was also requested to examine at site and inform the slopes and permissibility of construction, copy whereof is annexed hereto and marked as Annexure R-3.
5. On receipt of the response from Chief Town Planner, Town and Country Planning Department of Government of Goa, the matter was placed before EAC in its meeting held on 9th and 10th November, 2010. EAC made its recommendation in the matter which extract of the relevant minutes is annexed hereto and marked as Annexure R-4.
6. I say that the recommendation of the EAC made in its meeting held on 9th/10th November, 2010 in this regard, has been considered by the Ministry and the same has been accepted by the Ministry.

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7. I say that the Ministry shall abide by the decision of this Hon'ble Court in the matter and accordingly decide lifting of the abeyance Order thereafter.
8. I say that the Annexures hereto are true copies of the originals.
9. I say that the factual contents of the foregoing paragraphs are derived from the official records to which I have access and I believe the same to be true.

Solemnly affirmed on this ...⁴¹24..... day of January, 2011 at GOA

Identified by:


DEPONENT

डॉ. एस. के. सुसारा
Dr. (SMT.) S. K. SUSARLA
निदेशक (गै)
Director (G)

भारत सरकार / Government of India
पर्यावरण एवं वन विभाग
Ministry of Environment & Forest
क्षेत्रीय कार्यालय, कोयंबटूर
Regional Office, Coimbatore
बैंगलूर / Bangalore - 54



Abhishek S <abhisheksn96@gmail.com>

OA/170/2024 & OA/171/2024 before NGT Pune - Next Listed on 11.02.2025

1 message

Abhishek S <abhisheksn96@gmail.com>

Sun, Feb 2, 2025 at 2:09 PM

To: Claude Alvares <goafoundation@gmail.com>, Om Dcosta <dcostaom@gmail.com>, mefcc@gov.in, cs-go@nic.in

Cc: aniruddha1488@gmail.com

Dear All,

Kindly find attached herein copies of the following documents being filed in the captioned matters:

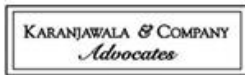
1. OA/170/2024 : Affidavit in surrejoinder on behalf of Respondent No. 1, DLF Homes Goa Pvt. Ltd.
2. OA/171/2024- Affidavit on behalf of Applicant in rejoinder to Affidavit of Goa Foundation dated 13.11.2024.

Please note that Goa Foundation and its counsel, State of Goa and Ministry of Environment and Forest are served by way of this email. Kindly treat this as advance service.

Regards

Abhishek S | Associate Advocate

Mob: 9811190464

Email : abhisheksn96@gmail.comabhishek.swaminathan@karanjawala.in

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**Surrejoinder 170.pdf**

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