

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
APPEAL NO. 20 OF 2025 (WZ)**

Sadanand Gangaram Kadam ...Appellant

Versus

Union of India & Ors. ...Respondents

COMMON REJOINDER AFFIDAVIT OF THE

APPELLANT:

I, **Sadanand Gangaram Kadam**, the Appellant in the captioned matter having my address at A/103, Gokul Nagri, Thakur Village, Kandivali (East), Mumbai – 400 101, do hereby solemnly declare and state as under:-

1. I am the Appellant having my address as mentioned hereinabove. I have gone through the Affidavit in Reply of Respondent No. 1-MoEF&CC dated 14th July 2025, Affidavit in Reply of Respondent No. 2-MCZMA dated 4th July 2025, Affidavit in Reply of Respondent No. 3-MPCB dated 3rd April 2025 and Affidavit in Reply of Respondent No. 4-Kirti Somaiya dated 6th September 2025 (“**said Replies**”) and the documents filed along with the said Replies. I am familiar with



the facts of the case and I am competent to depose to the facts in this Affidavit in Rejoinder ("**Common Rejoinder**"). I say that I am filing the present Common Rejoinder Affidavit for the purpose of rejoining the replies of all the Respondent Nos. 1 to 4. I repeat and reiterate the contents of the captioned Appeal.

2. I vehemently deny all the averments, contentions and allegations made in the said Reply which are contrary to and/or inconsistent with what is stated herein and nothing stated therein shall be deemed to have been admitted due to want of specific traverse or a specific denial. I crave leave of this Hon'ble Tribunal to file a further affidavit/s along with documents in support thereof, if the circumstance so warrants.
3. I say that the present Appeal has been filed *inter alia* challenging the illegal and untenable Show Cause Notice dated 17th December 2021 ("**Impugned SCN**") issued by Respondent No. 1-MoEF&CC (*Ann. A/Pg. 29 of Appeal memo*), Office Memorandum dated 31st January 2022 issued by Respondent No. 1-MoEF&CC ("**Impugned OM**") (*Ann.*



B/Pg. 53 of Appeal memo) and Letter dated 22nd August 2022 issued by Respondent No. 1-MoEF&CC to Respondent No. 2-MCZMA and Respondent No. 3-MCZMA (“**Impugned Letter**”) (Ann. C/Pg. 56 of Appeal memo) in relation to demolition of subject structure on land situated at Gat No. 446, Murud, Tehsil Dapoli, District Ratnagiri, Maharashtra (“**subject Land**”) for alleged violation of Coastal Regulation Zone Notification 2011 (“**CRZ Notification 2011**”).

4. Rejoinder to Affidavit in Reply of Respondent No. 1-MoEF&CC dated 14th July 2025:-

No hearing of Impugned SCN, Impugned OM and Impugned Letter:

4.1 I say that it is the contention of Respondent No. 1-MoEF&CC that the Impugned SCN was served through email as well as speed post to the Appellant. On a bare perusal of the copy of the email, it is evident that the Appellant is not marked on the email (at Pg. 489 of R1's reply) and the same relates to the structure known as “Sea Conch Resort” which has no causal connection with the Appellant or the present matter. On a bare perusal of the



purported tracking report of the speed post service, it is evident that the service was not completed nor was it handed over to the Appellant (*at Pg. 490 of R1's reply*). There is no averment made by Respondent No. 1-MoEF&CC with respect to the service of Impugned OM and the Impugned Letter.

4.2 I say and submit that the Impugned SCN and Impugned OM was surreptitiously pasted/ left on the wall of the subject structure and was issued without affording any opportunity of personal/physical hearing to the Appellant. Therefore, the Appellant did not have any opportunity to effectively respond to the same.

Conclusions drawn without any concrete basis:

4.3 I say that Respondent No. 1-MoEF&CC issued the Impugned SCN, Impugned OM and the Impugned Letter purportedly on the basis of several complaints regarding illegal construction of resort and road in CRZ areas at seashore of Murud, Dapoli and has annexed some complaints. On perusal of these complaints, it is evident



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that the complaints are vague, and in fact, the complaints are from politicians and are evidently politically driven.

4.4 Respondent No. 1 has also relied on a case note from National Centre for Sustainable Coastal Management (“NCSCM”) and Inspection Report of Integrated Regional office (“IRO”) which has relied on analysis of Google/satellite images to conclude that the said Subject Land is in No Development Zone (NDZ) in CRZ-III. It is submitted that satellite images are not completely reliable, and need to be backed and corroborated by other evidences as these images may not reveal the true picture. I say that none of the reports or materials relied upon by the Respondents provide any substantive or verifiable evidence to justify the issuance of the Impugned SCN and Impugned OM clearly indicating the arbitrary and unsustainable nature of the actions initiated by Respondent No.1-MoEF&CC.

4.5 I say and submit that there existed a plinth and structure on the subject Land since the year 1905 which was prior to



the introduction of the CRZ Notification 1991 as well as CRZ Notification 2011. It is well settled that a law cannot be retrospective in nature unless specifically provided. Therefore, it is trite that CRZ Notification 1991 and 2011 can only apply prospectively, and thus, cannot affect and/or be made applicable to lands whereon a structure or building existed prior to the same coming into force. In any event, the CRZ Notification 1991, *inter alia*, specifically permits repairs and renovation of an existing structure or building, as also, reconstruction or alteration of an existing structure or building. Therefore, otherwise also, there is no illegality in relation to the subject structure on the subject Land. I say that the Impugned SCN, Impugned OM and Impugned Letter have been issued by entirely failing to record or consider the aforesaid as the Appellant never had to the opportunity to bring the aforesaid facts and circumstances along with the supporting documentary evidence on record and present the same before the Respondent Authorities.



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Untenable levy of environmental compensation:

4.6 I say and submit that Respondent No. 1-MoEF&CC has issued Impugned Letter directing Respondent No. 3-MPCB to recover an amount of Rs. 25,27,500/- from the Appellant as environmental compensation without any basis or authority in law. It is submitted that the authority under Water (Prevention and Control of Pollution) Act, 1974 ("**Water Act**") and Air (Prevention and Control of Pollution) Act, 1981 ("**Air Act**") does not give any power to the Respondent Authorities to levy environmental compensation, and the said power has been vested only with this Hon'ble Tribunal, if at all.

4.7 It is also to be noted that the Impugned Letter was issued in furtherance of the Impugned OM without giving any particulars as to the provision of law under which the direction was given to MPCB to recover the said environmental compensation from the Appellant. No opportunity of hearing was afforded to the Appellant before levying the environmental compensation on the Appellant. It is trite that environmental regulators, like



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on the subject Land constructed in accordance with Order dated 12th September 2017 of Sub-Divisional Officer, Dapoli under Section 18 of the MRTP Act, 1966 and Section 44 of MLRC, 1966 granting permission to construct the subject structure. The same has also been corroborated by Respondent No. 1-MoEF&CC in their Reply dated 14th July 2025.

6. Rejoinder to Affidavit in reply of Respondent No. 3-MPCB dated 3rd April 2025:-

6.1 I say that Respondent No. 3-MPCB has erroneously stated in its Affidavit in Reply that vide Letter dated 28th September 2022, the Appellant was directed to deposit an amount of Rs. 2,52,75,000/- purportedly as revised environmental compensation. It is submitted that the said Letter dated 28th September 2022 of Respondent No. 3-MPCB was in furtherance of MoEF&CC Impugned Letter dated 22nd August 2022 and *vide* the Impugned Letter dated 22nd August 2022, Respondent No. 1-MoEF&CC has arrived at a figure of Rs. 25,27,500/- (Rupees Twenty Five Lakh Twenty Seven Thousand Five Hundred Only)



as being payable towards purported environmental compensation, however, Respondent No. 3-MPCB has incorrectly stated that the amount recoverable as environmental compensation is Rs. 2,52,75,000/- (Rupees Two Crores Fifty Two Lakhs Seventy Five Thousand Only). Therefore, the calculation arrived at by Respondent No. 3-MPCB is erroneous. The said fact was brought to the notice of Respondent No. 3-MPCB vide Letter dated 2nd December 2022 addressed by the Appellant through his Advocates.

6.2 It is also pertinent to note that the said Letter dated 28th September 2022 was issued after the Appellant had filed Writ Petition No. 11125 of 2022 before the Hon'ble Bombay High Court *inter alia* challenging the Impugned Letter dated 22nd August 2022. Respondent No. 3-MPCB was a party to the writ proceedings before the Hon'ble Bombay High Court and deliberately chose to ignore the fact that the matter was *sub judice*. I say and submit that the contention of Respondent No. 3-MPCB is erroneous and lacks any substance.



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7. Rejoinder to Affidavit in Reply of Respondent No. 4 dated 6th September 2025:-

7.1 I say that the sum and substance of the allegations made by Respondent No. 4 are as follows:

- a) Present Appeal filed beyond limitation.
- b) Suppression of facts by the Appellant.
- c) Purported CRZ violation by the Appellant.

Allegations as regards limitation:

7.2 Respondent No. 4 has contended that the present Appeal is barred by limitation. I say and submit that the Appellant has specifically averred in the memo of appeal that although the present Appeal is filed beyond the period of limitation prescribed under Section 16 of the NGT Act, the Hon'ble Bombay High Court took cognizance of the issue of limitation in Order dated 21st November 2024 passed in Writ Petition No. 11125 of 2022. The Hon'ble High Court after due deliberation recorded that the said Writ Petition No. 11125 of 2022 had been pending before the Hon'ble High Court since August 2022 and thereafter, permitted





the Appellant to withdraw the said Writ Petition and granted liberty to the Appellant to file the present Appeal before this Hon'ble Tribunal and further specifically directed that the present Appeal be decided by this Hon'ble Tribunal on merits. It is pertinent to note that Respondent No. 4 was a party to the aforesaid Writ Petition No. 11125 of 2022 and was duly represented by counsel at the time of passing of Order dated 21st November 2024 in Writ Petition No. 11125 of 2022. It is also to be noted that after filing of the present Appeal, this Hon'ble Tribunal has also taken cognizance of the issue and accordingly, admitted the present Appeal on 6th February 2025. Therefore, in the aforesaid circumstances, the objection of Respondent No. 4 as regards issue of limitation ought to be disregarded *in toto*.

Allegations as regards suppression of facts by the Appellant:

7.3 I say that Respondent No. 4 has contended that the present Appeal has been filed by suppressing facts/instances of purported forgery, cheating and dishonest inducement for

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illegal conversion of land use, criminal use by public servant and concomitant construction of commercial resort in No Development Zone. Evidently, Respondent No. 4 has not produced any documents or evidence to substantiate these claims. In fact, the majority of the grievance of Respondent No. 4 as enumerated in its Reply is directed towards the erstwhile owner, Mr. Anil Dattatray Parab, and the said allegations have no causal connection with the Appellant who has been unnecessarily implicated.

7.4 It is also pertinent to note that allegations as regards illegal conversion of land use, criminal conspiracy, criminal use by public servant, etc. are not under the purview of this Hon'ble Tribunal. It is well settled principle of law that this Hon'ble Tribunal being a creation of the NGT Act, is bound by the parent Act. The NGT Act, more particularly, Schedule-I of the NGT Act, lists out the acts with respect to which this Hon'ble Tribunal has jurisdiction. Therefore, on this ground as well, the objections raised by Respondent No. 4 ought to be dismissed.



Allegations as regards violation of CRZ norms:

7.5 I say that Respondent No. 4 has contended that there are purported violations of CRZ Notification 2011 by the present Appellant. The Appellant is reiterating that there existed a plinth and structure on the subject Land since the year 1905 which was prior to the introduction of the CRZ Notification 1991 as well as CRZ Notification 2011 and therefore, would not be applicable to the present case. Even otherwise, CRZ Notification 1991, *inter alia*, specifically permits repairs and renovation of an existing structure or building, as also, reconstruction or alteration of an existing structure or building and therefore, there is no illegality in relation to the subject structure on the subject Land. It is submitted that Respondent No. 1-MoEF&CC did not take cognizance of the aforesaid while issuing the Impugned SCN, Impugned OM and Impugned Letter and the Appellant was not given an opportunity of hearing to bring these crucial facts on record.

7.6 It is pertinent to note that Respondent No. 4 had previously filed Original Application No. 58 of 2021 before this



Hon'ble Tribunal seeking demolition of construction on subject Land wherein similar objections were raised and on 2nd May 2023, the said OA No. 58 of 2021 was dismissed as withdrawn. Therefore, Respondent No. 4 is attempting to agitate the same issues in the present Appeal with clear intention of causing delay in the effective adjudication of the captioned appeal.

8. I say and submit that the Appellant has all the requisite permissions from the concerned authorities for the subject Land which has been obtained in accordance with law and there is no infirmity with respect to the same. It is also apposite to mention that presently there is no construction being carried out on the subject Land.
9. I say and submit that I will not be dealing with the said Replies of all the Respondent Nos. 1 to 4 in seriatim more particularly since the entire bogey of allegations and contentions raised by the Respondent Nos. 1 to 4 have been dealt with and answered in terms of the aforesaid. However, the present Appellant expressly craves leave to file an additional affidavit(s) dealing

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with the Affidavit in Replies of Respondent Nos. 1 to 4 in a paragraph-wise manner, if the circumstances so warrant. I say that the allegations and contentions of all the Respondent Nos. 1 to 4 stand fully answered in terms of all that is stated hereinabove and as Respondent Nos. 1 to 4 have failed to make out a cogent case as against the Appellant, the said Replies of Respondent Nos. 1 to 4 in so far as the same is against the present Appellant ought to be dismissed.



10. In these facts and circumstances, I say that this Hon'ble Tribunal be pleased to allow the captioned Appeal in favour of the Appellant.

Dated this 31st day of October 2025.

[Handwritten signature]

Sadanand Gangaram Kadam
(Appellant)

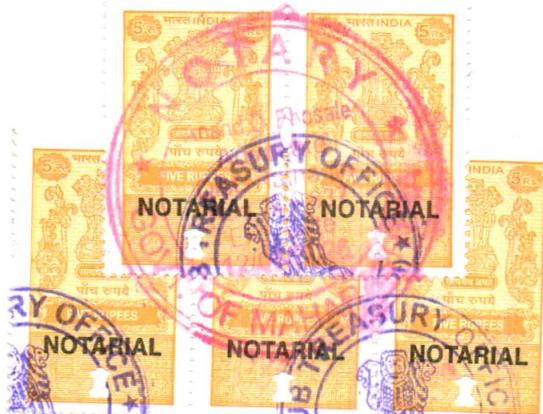
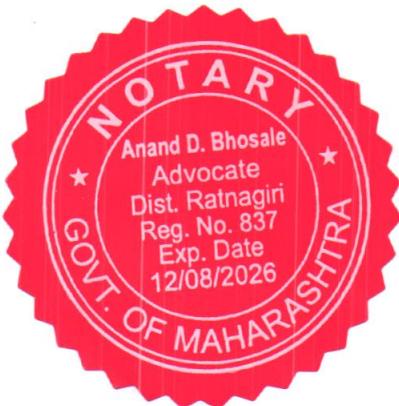
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Advocates for the Appellant

Solemnly affirmed before me
by Mr./Mrs. Sadanand G. Kadam
Who is identified to me by Kadam
Mr./Mrs. Prexana Ganeshi
to whom I know personally

[Handwritten signature]

ANAND D. BHOSALE
Reg. No. 837 B.A.L.L.B
NOTARY & ADVOCATE
MEERA BANGLA
NEAR POLICE STATION
KHED DISTRICT RATNAGIRI
MAHARASHTRA



Noted and Registered
Page No. 102 Sr. No. 2567
Date 31/10/2025

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**COMMON REJOINDER OF THE
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Dated this 31st day of October, 2025.

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