

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 50 OF 2022**

IN THE MATTER OF:

Domingos Crasto

... Appellant

Versus

Goa Coastal Zone Management Authority & Ors

... Respondents

NDOH: 01.03.2023

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FILED ON: 18.01.2023

FILED BY



[SHIRIN KHAJURIA]

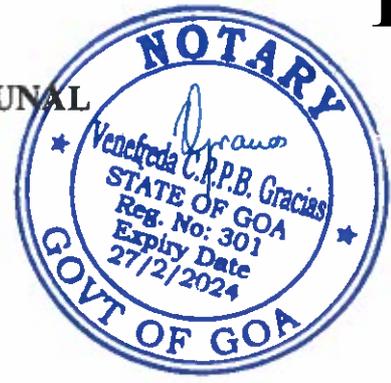
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IN THE MATTER OF:

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... Appellant

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... Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT
NO.1 TO THE APPEAL

I, Dr. Geeta S Nagvenkar, major of age, Member Secretary, Goa Coastal Zone Management Authority, having office at 4th Floor, Dempo Towers, Patto, Panaji, Goa, Respondent No.1, do hereby solemnly affirm and declare as under:

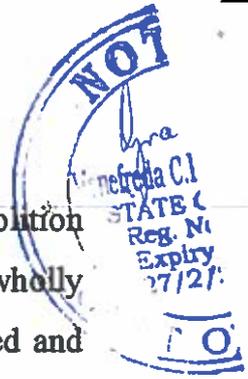
- A. That in my official capacity as stated above, I am well conversant with the facts and circumstances of this case and hence, competent and authorised to swear the present affidavit on behalf of the Respondent No.1, Goa Coastal Zone Management Authority.
- B. The each and every averment and submissions, allegations and contentions raised in the Appeal is denied, being false, incorrect and/or without substance, save and except those which are specifically admitted hereinafter.

A handwritten signature in blue ink, appearing to be 'G. S. Nagvenkar', written in a cursive style.

PRELIMINARY SUBMISIONS AND OBJECTIONS:

1. At the outset it is submitted that the Impugned order of demolition dated 13.11.2022 passed by the Answering Respondent is wholly in accordance with law, based upon the documents produced and the records available. It is submitted that the Appellant has failed to provide sufficient proof that the construction is legal and that the disputed structures existed prior to 1991 in the No Development Zone (NDZ). Hence, there is violation of the CR Notification and the present Appeal is devoid of merits and liable to be dismissed.

2. The contention of the Appellant that the impugned order of demolition dated 13.11.2022 passed by the Answering Respondent is a 'review' of its order dated 31.12.2008 holding the structures in Survey No. 12/1 of the Appellant existed prior to 1991, is denied being false and misconceived. It is submitted that the impugned order dated 13.11.2022 of demolition is a result of reconsideration which was necessitated in view of the various Orders of the Hon'ble High Court passed in SMWP No. 2/2006 and subsequent cases directing the Respondent to re-examine the legality of the structures in the No-Development-Zone (NDZ) of Colva Panchayat area, where the disputed structure stands. This order was passed consequent to the intervention application filed by Colva Civic and Consumer Forum/Respondent No.3 herein, before the Hon'ble High Court in SMWP No. 2/2006 alleging illegal structures in Colva area. In compliance with the Orders of the Hon'ble High Court, the Answering Respondent issued a notice of personal hearing dated 24.07.2018 to the Appellant and after giving an opportunity to present its case, the Answering

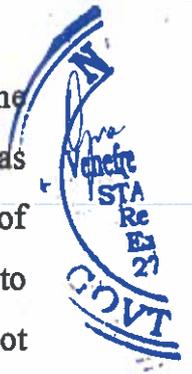


Respondent issued the said impugned order dated 13.11.2022 for demolition of the illegal structure of the Appellant.

3. The brief facts of the case are that an enquiry was initiated by the Answering Respondent-GCZMA in 2007-2008 on a complaint received from Mr. Agostino Godinho and Order passed in WP No. 362/2007 initiated by Mr. Godinho. The Respondent vide its order of 31.12.2008 stated that the structure of the Appellant, in Sernabatim village, existed prior to 1991, when the CRZ was notified, based upon two documents submitted by the Respondent.
4. It may be noted that the Hon'ble High Court vide its order dated 08.08.2006 in SMWP No. 2/2006 directed the Answering Respondent and other Authorities to state the number of illegal constructions detected and action taken against them in the NDZ area i.e area which is within 200 mts of the High Tide Line (HTL). Subsequently, the Respondent No.3 herein, the Colva Civic and Consumer Forum, filed an intervention application dated 13.07.2012 bearing M.A No. 635 of 2012 in SMWP No. 02/2006, submitting that she was unaware of previous order of 2008 passed by the Respondents in the case of the appellant, and that there are 19 illegal structures in area of Colva Panchayat, one of which was the Appellant's structure, where no action has been taken by the Authorities. Her intervention application was allowed vide Order dated 31.07.2012. Copy of Orders of High Court dated 08.08.2006 and 31.7.2012 are annexed herewith as ANNEXURE CA-1/1 'colly'.
5. Accordingly, the Hon'ble High Court vide its order dated 12.01.2015 in SMWP No. 02/2006 directed the village Panchayat of Colva to examine the legality of the 19 structures which were



referred to in the application for intervention filed by the Respondent No.3 herein/Petitioner therein. Hence, the matter was re-opened. The Counsel appearing for the Village Panchayat of Colva stated before the Court that there was material on record to suggest that certain structures, out of the total of 19, were not illegal. Considering the same, the Hon'ble High Court directed the Village Panchayat to furnish the said material before the Respondent No.1/GCZMA and further directed the Respondent No.1/GCZMA to examine the said records after hearing the parties. Order dated 12.01.2015 is annexed herewith as ANNEXURE CA-1/2.



6. The matter of illegal structures was taken up in the 115th Meeting of the Respondent no. 1 on 04.05.2015, wherein it was decided that the cases, including of the Appellant's illegal commercial structures, named 'Crasto Guest House' in Sernabatim Village, under Colva Panchayat be referred to its Internal Committee appointed by the Answering Respondent/GCZMA to examine the matter and submit a report. Copy of the Minutes of the Meeting of GCZMA dated 04.05.2015 is annexed herewith as Annexure CA-1/3. The said Internal Committee after hearing the parties submitted its report on 24.12.2015 wherein they observed that the GCZMA/Respondent No.1 had dropped show cause notice in respect of the structure existing in Survey No.12/1 of Sernabatim village vide order dated 31.12.2008 and hence, the committee did not reconsider the issue. It is pertinent to mention that this report is only recommendatory, and the Answering Respondent/GCZMA is the ultimate authority to adjudicate upon the matter.
7. Thereafter, the Hon'ble High Court vide its final judgment and order dated 21.06.2016 in SMWP No. 2 of 2006 (@ page 153 of



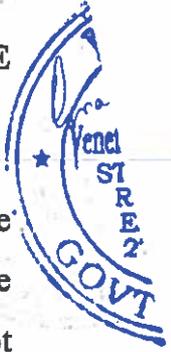
Appeal paperback) held in para 7 and 12 that a doubt has been raised regarding averments in the affidavit of the Panchayat of Colva about action taken and it appears that the inspection as directed has not been completed and accordingly, it directed in para 14 that as far as Colva is concerned, the authorities would need to take action in respect of illegal structures in NDZ area. It passed a direction that *“Besides the above directions, the Anjuna as well as the Colva Panchayats namely Respondent No.9 and 19 and the GCZMA are directed to take necessary action with regard to the structures identified in the report of the GCZMA and proceed to take necessary action in accordance with law within three months from today and file a compliance report within that regard”.*[Re: Page 149 of the Appeal @ page 159 & 163]It is pertinent to mention that Village Panchayat Colva covers three villages, Colva Village, Sernabatim Village and Vanelim Village.

8. Consequently, a notice of personal hearing dated 24.07.2018 was given to the Appellant and the Appellant was given an opportunity to place on record all documents in his favour regarding the legality of his structures. Copy of the Notice of personal hearing dated 24.07.2018 is annexed herewith as Annexure CA-1/4.
9. Subsequent to the above-mentioned orders of the Hon'ble High Court in SMWP No. 02 of 2006, the Respondent No.3 had filed a PIL Writ Petition No. 10 of 2020 seeking action against the illegal structures in the Village Panchayat of Colva, further to the Orders of the High Court in SMWP 2/2006. The Hon'ble High Court vide orders dated 16.12.2021, 22.12.2021 and 10.10.2022, directed the GCZMA and other authorities to map the structures and take the necessary legal action against the illegal structures. Copy of the Orders dated 16.12.2021, 22.12.2021 and 10.10.2022 in PIL Writ

Petition No. 10 of 2020 are annexed herewith as ANNEXURE CA-1/5 'Colly'.

10. During the reconsideration of the Appellant's structure, as per the directions of the Hon'ble High Court, it was observed that the Appellant's three structures, were illegally constructed and did not exist prior to 1991. Consequently the impugned order dated 13.11.2022 for demolition was passed by the Answering Respondent for the reasons stated therein.

11. The Answering Respondent states that it was after perusing the sale deed of the year 2004, which did not mention any structure existing thereon, the records submitted by the Village Panchayat of Colva, and after duly hearing the parties, that the Respondent No.1 came to a conclusion that the previous proceedings against the Appellant was erroneously dropped on the basis of the alleged construction license issued by the Camara Municipal de Salcete dated 11.05.1948 and the reconstruction certificate dated 31.03.1979 issued by the Village Panchayat of Sernabatim, Vanelim and Colva. While reconsidering the legality of the structures of the Appellant, as per directions of the Hon'ble High Court, it was found that these two documents cannot be relied upon for the reason that though the Appellant claims that he has the construction license for the structure of the year 1948, but no structure is shown in any Survey plan and the document of 1948 is in not in English, and nor is it legible. Further, the permission for the construction of the alleged structure was for Colva Village, whereas the alleged structure illegally built and disputed is in Sernabatim Village. It is also pertinent to note here that the reconstruction certificate of 1979 merely mentions repair of an 'old existing house', whereas, in the present case, there are three



structures of the Appellant of which two are commercial structures. It may be clarified that Colva panchayat includes Sernabatim village and two other villages, otherwise these are three independent villages for revenue purposes.



12. The fact that the three structures of the Appellant did not exist prior to 1991 was also clarified by the erstwhile owner of the property, Ms Maria Eufrezita, who in her reply dated 18.08.2008 to the Show Cause Notice issued by the Answering Respondent states that there were no structures constructed by her on the Survey No. 12/1 as sold to the Appellant. Copy of the Reply dated 14.08.2008 of the erstwhile owner Ms Maria Eufrezita is annexed herewith as ANNEXURE CA-1/6.
13. It is extremely important to note that the fact the structure is illegally set up in the NDZ subsequent to 1991 is also apparent from the fact that no permissions/licenses or construction plans or survey plans have been produced by the Appellant from TCP or Occupancy certificate or village panchayat or conversion *sanad* under the Land Revenue Code, as stated by the Complainant.
14. Under these circumstances, the Appellant has failed to prove that the structures existed prior to 1991 as it exists today and hence, it violates the CRZ notification.
15. Accordingly, based upon the above-mentioned facts and circumstances, the Answering Respondent states that it has rightly passed the impugned order dated 13.10.2022 directing demolition of three illegal structures of the Appellant in Survey No.12/1 Sernabatim, Salcete-Goa, which were found in violation of CRZ Notifications.

A handwritten signature in blue ink, consisting of a stylized 'f' followed by a horizontal line.

16. In addition to the above, it is pertinent to note that the Appellant is forum shopping by filing multiple petitions with various courts. It is submitted that prior to filing the present Appeal before this Hon'ble Tribunal, the Appellant filed a Writ Petition (filing no. 2431 of 2022) on 16.11.2022 and when he was unable to get a Stay and his Petition was referred from the Single Judge Bench to the Division Judge Bench, he chose to come here on 17.11.2022, before withdrawing the High Court Petition from the Division Bench on 23.11.2022.

17. Accordingly, the Respondent No.1 urges that the present Appeal is without substance and may be dismissed, with a direction to the Appellant to restore the land to its original condition.

PARA WISE REPLY

18. Contents of para 1 are matter of record and warrants no reply.

19. Contents of para 2 are a matter of record inasmuch as the Answering Respondent has passed the impugned order dated 13.10.2022 for demolition of the illegal structure of the Appellant. It is however, reiterated here that the impugned order has been rightly passed by the Answering Respondent, considering the documents provided by the Appellant, or rather, the lack of them.

20. Contents of para 3 are denied being without substance and the contents of para 11 are reiterated. It is denied that the structures were built by the ancestors of the appellant and no proof for the same has been shown. It is also stated that the Appellant has wrongly claimed that their structure was constructed in the year 1948 and thereafter repaired in the year 1979 by their ancestors,





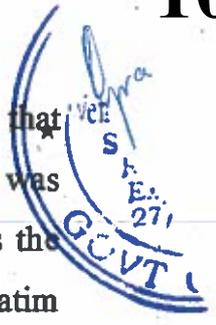
since there was no such alleged structure shown in the Government Survey Plans. It is vehemently denied that the alleged structure was purchased by the Appellant vide Deed of Sale dated 21.07.2004 since the said sale deed does not mention any structure existing on the aforesaid land. Not only this, as stated above in para 12, the erstwhile owner of the land, Ms. Mara Eufrezita has also stated in her reply dated 14.08.2008 to the Answering Respondent that there were no structures constructed by her prior to sale in year 2004.

21. Contents of para 4 which describe the respondents are matter of record and warrant no reply.

22. Contents of para 5 being a introductory para warrants no reply.

23. Contents of para 6 are without substance. It is stated that the Appellant has failed to provide any document to show that their ancestors owned the land and structures, or to provide sufficient documents to show the disputed structures existed prior to 1991. It is asserted that the Appellant is wrongly stating that the alleged structure was constructed in 1948 and repaired in 1979 by his ancestors. The Answering Respondent relies on para 11 of the above-mentioned preliminary objections and submissions and hence, it is reiterated that the alleged structure never existed and also cannot be seen in the old Government Survey Plans. The sale deed dated 21.07.2004, as mentioned by the Appellant, does not mention any structure existing on the survey no. 12/1 which is allegedly purchased by the Appellant, which is normal in case of sale of land with buildings thereon. This has also been affirmed by erstwhile owner of the land who in her reply dated 14.08.2008 to the Answering Respondent stated that she had not constructed any

structure on the said land. It is also pertinent to mention here that the permission for the construction of the alleged structure was obtained for the structure existing in Colva Village, whereas the alleged structure illegal built and disputed is in Sernabatim Village. Hence, it is submitted that the Appellant is attempting to mislead this Hon'ble Tribunal by making false submissions.



24. Contents of para 7 to 9 as far as it mentions the show cause notice dated 23.09.2007 issued by the Answering Respondent, reply dated 12.11.2007 filed by the Appellant before the Answering Respondent followed by the order dated 31.12.2008 are admitted to the extent they are a matter of record but the contents of the reply are not admitted. It is submitted that while re-considering the legality of the structures of the Appellant, as per directions of the Hon'ble High Court, it was found that the two documents relied upon by the appellant in 2008 cannot be relied upon for the reason that though the Respondent claims it has construction license for the structure of the year 1948, no structure is shown in the Government Survey plans and neither is this document in English nor is it legible. Further, the permission for the construction of the alleged structure was for Colva Village, whereas the structure illegally built and disputed is in Sernabatim Village. Further, no reliable document is produced by the appellant to show three structures prior to 1991.

25. Contents of para 10 are a matter of record. However it is clarified that the order dated 12.01.2015 passed by the Hon'ble High Court pursuant to the intervention application filed by the Respondent No.3 herein/intervenor wherein the Respondent No.3 had pointed out 19 illegal structures existing in the Village Colva, one of

which was the Appellant's structure, against which action was sought from the Authorities.

26. With respect to contents of para 11, it is denied that the Internal Committee in its report dated 24.12.2015 has held the structure of the Appellant is legal. It in fact did not look into the merits of the case and has merely dropped the proceedings against the Appellant in view of the previous order dated 31.12.2008 passed by the Answering Respondent. The answering respondent not being satisfied with the reports of the inquiry committee decided to conduct its own enquiry. Moreover, the report of the Internal inquiry Committee is only recommendatory and the GCZMA/Answering Respondent is the sole independent Authority who ultimately takes the decision. Accordingly, the Answering Respondent proceeded to reconsider the matter in pursuance to the order dated 21.06.2016 of the Hon'ble High Court which observed in paras 7 and 14 that there were doubts about the averments of the village panchayat about action taken and hence, the answering respondent was directed to take action.

27. In reply to para 12, it is admitted that pursuant to the directions dated 21.06.2016 of the Hon'ble high Court in SMWP No. 02 of 2006 and on complaint of the Respondent No.3 issued a show cause notice to the Appellant. Thereafter, considering the documents provided by the Appellant, it was observed that the Answering Respondent had erroneously dropped the complaint against the Appellant vide its order dated 31.12.2008 and there were sufficient documents to show that no structure existed prior to 1991 and hence, there was a violation of CRZ notification. The Answering Respondent reiterates the contents of para 11 above which are not repeated herein for the sake of brevity.



28. The contents of Para 13 are wrong, denied and misleading. There is a misrepresentation regarding the contents of the impugned order of demolition dated 13.10.2022 in this para. It is rightly said in the impugned order that the construction license of 1948 pertains to structure in Colva village while subject matter is in Sernabatim village; there is no issue raised in the impugned order of demolition regarding village panchayat in the 1948 document since admittedly the Village Panchayats were established only in 1963-64. It is also held that no structure is shown by the Appellant to be depicted in the government survey plans of Sernabatim village, where the structure of the appellant exists. It is denied that there is only one structure and not three.

29. In reply to paras 14 and 15, it is denied that the impugned order dated 13.10.2022 is a review of order dated 31.12.2008 passed by the Answering Respondent. As already stated above, the impugned order dated 13.10.2022 is a result of reconsideration by the Respondent which was necessitated in view of the intervention application filed by the Respondent No.3 in SMWP No. 2/2006 and various Order of the High Court in SMWP No. 2/2006 and subsequent PILs directing the Respondent to re-examine the legality of the structures in the No-Development-Zone (NDZ) of Colva Village. Also, there is fresh evidence brought on record by the intervenor in SMWP No. 2/2006 by way of (i) sale deed of 2004 which did not mention any structure, (ii) survey plans which did not show any structure and also (iii) affidavit of the previous owner that no structure was built by them. Accordingly, it is submitted that the case of *Kashinath Jairam Shetye v GCZMA* relied upon by the Appellant is ill-found and not applicable in the present case.





30. The contents of para 16 are denied being without substance. It is vehemently denied that the Answering Respondent is barred by the principle of Res-judicata in passing the impugned order of demolition. As stated above, the impugned order dated 13.10.2022 is not a review of the order dated 31.12.2008. It is reiterated that the proceedings against the illegal structure of the Appellant was initiated in compliance of the various orders passed by the Hon'ble High Court and the intervention application filed by the Respondent No.3, and based upon fresh materials placed on record.

31. In reply to para 17 and 18 w.r.t review application filed by the Appellant before GCZMA it is stated that there is no specific provision for review by the answering respondent. Besides, there is no question of 'procedural review' as show cause notice was duly issued and all opportunity given to the appellant to be heard and principles of natural justice followed.

32. In reply to para 19 it is stated that there is no provision for review and the appellant has moved the Court at the last minute. It is further stated that the Appellant is forum shopping by filing multiple petitions before the Hon'ble High Court and also this Hon'ble Tribunal, when it failed to get an Order of Stay from the High Court. The Answering Respondent relies on the contents of para 16 above.

33. In reply to para 20, the Answering Respondent states that the impugned order dated 13.10.2022 for demolition of the illegal structure of the Appellant has been rightly passed by the Respondent No.1, in accordance with law, based upon documents

produced. The Respondent submits that the present Appeal filed by the Appellant is merely an attempt to delay the demolition. The Respondent urges that this Hon'ble Tribunal may uphold the impugned order and dismiss the present Appeal.

34.REPLY TO GROUNDS

- A. In reply to ground-A, it is denied that the impugned order dated 13.10.2022 for demolition of the structure of the Appellant being contrary to the CRZ Notification is unjust, arbitrary, erroneous, illegal, perverse or contrary to law and the records before it. It has been rightly passed by the Answering Respondent considering the facts and circumstances of the case and the relevant documents filed before the Answering Respondent.
- B. In reply to ground-B, it is denied that the impugned order is contrary to the judgment of the High Court. The contents of the preceding paras may be read as a part of reply to this para. It is reiterated that the order dated 13.11.2022 is not a review of the order dated 31.12.2008 but reconsideration in compliance of the various orders passed by the Hon'ble High Court and in view of fresh evidence adduced before the answering respondent.
- C. In reply to ground-C, it is submitted that the appellant does not have a right to review and there is no 'procedural review' required in the present case since all principles of natural justice were complied with prior to passing the impugned order.



- D. In reply to ground-D, it is submitted that there is no violation of principle of Res-judicata by the impugned order of demolition. It is submitted that the Answering Respondent was directed to initiate proceedings against the 19 structures alleged to be illegally constructed as stated by the intervenor/Respondent no.3 in her intervention application before the Hon'ble High Court. Since the structure of the Appellant was one of the said 19 illegal structures, the Answering Respondent was bound to reconsider the legality of the structure.
- E. The contents of ground-E are denied being without substance. It is reiterated here that the Answering Respondent has rightly passed the impugned order dated 13.11.2022 for demolition of the structure of the Appellant considering the facts and circumstances of the case. It is further submitted that no commercial structure can be constructed in the No development zone, as sought by the appellant.
- F. The submissions in ground-F that the answering respondent has failed to act judiciously or acted in defiance of its duty, are denied being without substance. The Answering Respondent relies upon its contentions and submissions in the preliminary submissions and objections which are not repeated herein for the sake of brevity.
- G. In reply to submissions in ground-G, the Answering Respondent relies upon the submissions made in para 6. It is submitted that the report submitted by the Inquiry Committee is only recommendatory and the Answering Respondent is the sole body to finally decide the matter on merits.





- H. In reply to ground-H and I, the Answering Respondent relies upon and reiterates the submissions made in para 11. It is submitted that the construction license of 1948 and permission for reconstruction issued by Village Panchayat in the year 1979 submitted by the Appellant before the Answering Respondent could not be considered since, as rightly stated, the structures as alleged by the Appellant to have been constructed by the ancestors of the Appellant in the year 1948 was not depicted in any Government Survey Plans. Besides, they are not shown in the sale deed which is as recent as of 2004.
- I. In reply to ground-J, the Answering Respondent relies upon and reiterates the submissions made in para 11. It is stated that the permission for the construction of the alleged structure was for Colva Village, whereas the alleged structure illegally built and disputed is in Sernabatim Village and no documents have been produced to show the three structures existed prior to 1991.
- J. In reply to ground-K, the Answering Respondent relies on the contents of para 11 and the same are not repeated here for the sake of brevity. It is reiterated that the Order of 2008 of GCZMA was reconsidered in view of Orders of the High Court and basis fresh material placed on record, it was found that the structure of the appellant was contrary to the CRZ Notification which does not permit any construction in the NDZ after 1991.
- K. In reply to ground-L, it is submitted that the Appellant has failed to show that their structure existed prior to 1991 and infact, the documents produced subsequently including the sale



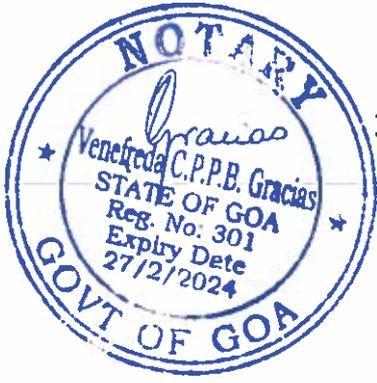
deed and the affidavit of the previous owner show that there was no structure till 2004. Furthermore, upon inspecting the site wherein the alleged structures existed, it was observed that the Appellant have built three illegal structures which were not shown in the Government Survey Plans.

L. In reply to grounds M and N, the Answering Respondent submits that the Appellant is only attempting to delay the demolition of his illegal structures by filing various petitions before different courts and Tribunal. That no permission ought to be granted to the appellant to raise additional grounds, and this petition be dismissed as being without substance.

35. In reply to para 21 of the Appeal, the Answering Respondent states that the Appellant has failed to make out any prima facie case or substantiate their contentions raised in the present Appeal. It is further submitted that grave and irreparable loss and harm will be caused to the society and public at large if the Order of demolition is stayed. The Answering Respondent most humbly urges that this Hon'ble Tribunal may dismiss the Appeal, upholding the impugned order dated 13.10.2022 of demolition, and direct the Appellant to restore the ecologically sensitive land to its original status, in accordance with law.

36. The contents of para 22 stating the jurisdiction of this Hon'ble Court against orders of GCZMA being a matter of record is not denied.

37. In reply to para 23 stating that there is only a delay of 1 day, it is submitted that this Hon'ble Court vide its order dated 24.11.2022 has observed that there is a delay of 6 days.



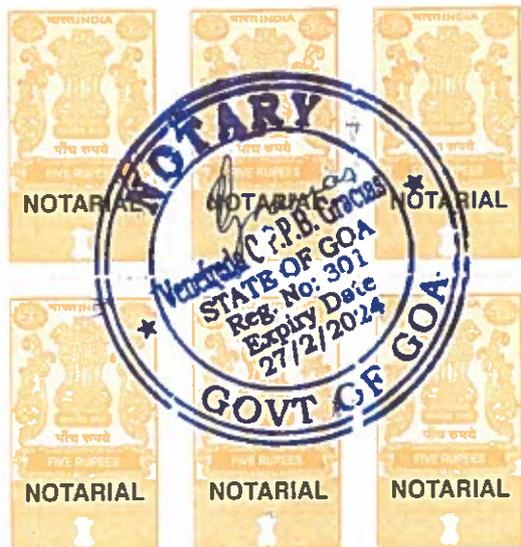
38. In reply to para 24, it is submitted that the Writ Petition No. 2431 of 2022(F) was filed before the Hon'ble High Court just one day before filing of the present Appeal before the Hon'ble Tribunal. The matter was taken up by the Single Judge Bench on 16.11.2022 and the matter was transferred to the Division Bench of the Hon'ble High Court which was thereafter withdrawn by the Appellant after not being able to obtain a stay order from the Hon'ble High Court.

39. In reply to the prayer clause it is submitted since the petition is without substance and devoid of merits, the Appeal ought to be dismissed, with costs.

[Signature]
10/01/2023
DEPONENT

VERIFICATION:

Verified at Panaji, Goa on this 10th day of January, 2023 that the contents of this Affidavit in reply are true and correct to the best of my knowledge and belief, based on information derived from the official records and also on the basis of the information received and believed to be correct. No part of it is false and nothing material has been concealed or suppressed therefrom.



[Signature]
10/01/2023
DEPONENT

Solemnly Affirmed Before Me by
Dr Geeta S. Nagvenkar
Who is identified before me by

_____ at Calangute - Goa
Sr No. 005/01/2023/P
Date: 10/1/2023

[Signature]
Venefreda C.P.P.B. Gracias
Advocate & Notary
Bardez-Goa

IN THE HIGH COURT OF BOMBAY AT GOA

SUO MOTO WRIT PETITION NO. 2 OF 2006

Versus

UNION OF INDIA THROUGH ITS
SECRETARY AND 2 ORS.,

...Respondents

Mrs. Norma Alvares, Amicus Curiae.

Mr. S. S. Kantak, AG with Ms. Chodankar, AGA for the Respondents.

Coram:- V.C. DAGA &
N. A. BRITTO, JJ.Date:- 8th August, 2006

P.C.

Mrs. Norma Alvares, learned Amicus Curiae, during the course of hearing, brought to our notice the decision of this Court rendered in Writ Petition filed by the Goa Foundation, reported in 2000(2) Goa Law Times 280, to which one of us (Daga, J.) is a party. In that decision, this Court had framed guidelines to detect illegal construction and provided Scheme built with procedure for removal of such illegal constructions.

2. The Chief Secretary, Government of Goa, has issued more than two Circulars pursuant to the abovesaid Judgment of this Court directing the various authorities of the State to implement the said Scheme in its true letter and spirit, since the guidelines framed by this Court were followed in breach.

3. One more Order of this Court passed in the case of Laxmikant R. Dessai & Ors. v. The Cancona Municipal Council & Ors. in WP 150/98, (unreported) was brought to our notice, wherein directions were issued to

the Chief Secretary, State of Goa, to prepare Survey plans indicating all structures standing within 200 metres of High Tide Line, existing before 1991 and the constructions after 1991. According to Mrs. Alvares, to the best of her knowledge, no report is available on record showing compliance of the said directions.

4. Mrs. Alvares also brought to our notice, that the various steps taken by The Goa Coastal Zone Management Authority, to prevent illegal constructions have been stalled because of the frequent interventions of the Civil Courts though directions are issued by this Court in the above Order dated 16.07.03, to the Courts not to exercise jurisdiction in respect of structures put up pursuant to the guidelines framed by this Court.

5. Mrs. Alvares also submitted that no adequate machinery has been placed at the disposal of the Goa Coastal Zone Management Authority by the State for carrying out the demolition of the illegal structures brought to their notice with the result, the directions of this Court, are not being implemented. Mrs. Alvares also made serious complaint about erection of illegal shacks and non-removal thereof.

6. Having heard Mrs. Alvares, it has become necessary to issue following directions to the State Government.

(a) The Chief Secretary State of Goa and the Goa Coastal Zone Management Authority, is directed to indicate on oath as to how many cases of illegal construction were detected in last three years, in how many cases the steps were taken to remove them and how many of them were actually removed.

(b) The State of Goa is directed to disclose on oath as to what facilities are placed at the door of the Goa Coastal Zone Management Authority, so as to enable them to discharge their duties effectively, amongst others leading to removal of illegal construction.

(c) The Goa Coastal Zone Management Authority is directed to disclose on oath with complete details and particulars as to in how many cases as on date, the interim injunctions and/or the stay orders granted by the Civil Courts are operating against them.

(d) The State Government and the Goa Coastal Zone Management Authorities are directed to disclose details with particulars as to how many shacks were put up pursuant to the permission granted by them, how many of them were removed and how many of them are yet to be removed. They are also expected to disclose as to whether or not those shacks, which are still in existence, would interfere with the sand dunes and whether their existence is necessary to prevent erosion of sand dunes.

7. Both the authorities referred to herein above are directed to file their respective affidavit within three weeks from today. In the meanwhile, Registry is directed to forward copy of the Order of this Court dated 16.07.2003, referred to in Para 3 (supra), to all the sub-ordinate Courts so as to bring to their notice Para (v) of the said order.

S.O. after three weeks.

V.C. DAGA, J.

N. A. BRITTO, J.

arp/*

IN THE HIGH COURT OF BOMBAY AT GOAMISC.CIVIL APPLICATION NO. 635 OF 2012INSUO MOTU WRIT PETITION NO. 2 OF 2006THE COLVA CIVIC AND CONSUMER FORUM
THROUGH ITS SECRETARY MRS. JUDITH

A. B. ALMEIDA

... Applicant

Versus

-

... Respondent

Mr. Nigel Da Costa Frias, Advocate for the applicant.
 Mr. C. A. Ferreira, Asst. Solicitor General for respondent No.1.
 Mr. A. N. S. Nadkarni, Advocate General with Mr. M. Salkar,
 Government Advocate for respondents No.2 and 3.
 Mr. V. Parsekar, Advocate for respondent No.4.

Coram:- A. P. LAVANDE &
U. V. BAKRE, JJ.

Date:- 31st July, 2012

P.C.:-

Heard Mr. Costa Frias, Counsel for the applicant.

2. Though this application is filed seeking intervention, learned Counsel for the applicant submits that the applicant be permitted to be joined as party respondent. We find merit in the submission inasmuch as it is the case of the applicant that inspite of several illegal constructions having come up within the jurisdiction of Colva Village Panchayat, no action is being taken by the Panchayat. Hence, the applicant is permitted to be joined as party respondent.

3. Since this is a suo motu petition, the Registry to carry out amendment to the cause tile.

Application stands disposed of.

A. P. LAVANDE, J.

U. V. BAKRE, J.

ssm.

Annexure CA-1/2
IN THE HIGH COURT OF BOMBAY AT GOA

SUO MOTU WRIT PETITION NO. 2 OF 2006

- ... Petitioner
 Versus
 UNION OF INDIA THROUGH ITS
 SECRETARY AND 28 ORS., ... Respondents

Ms. N. Alvares, Amicus Curiae.
 Mr. A. D. Bhoje, Advocate for respondent no.9.
 Mr. D. Shirodkar, Advocate for respondent no.11.
 Mr. J. Godinho, Advocate for the respondent no.15.
 Mr. M. Salkar, Government Advocate for respondent no.16.
 Mr. S. Redkar, Advocate for the respondent nos.26 and 27.
 Mr. V. Parsekar, Advocate for respondent no.19.
 Mr. O. Gaonkar, Advocate for respondent nos. 14, 18, 20, 21 and 22.
 Mr. Nigel Da Costa Frias, Advocate for the intervenor.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 12th January, 2015

P.C.

Ms. N. Alvares, learned Amicus Curiae has produced a list of pending structures which according to her no action has been taken. The structures are essentially concerning the respondent no.9 Anjuna Village Panchayat; the respondent no.10 Calangute Village Panchayat; the respondent no.17 Majorda Village Panchayat; and the respondent no.18 Betalbatim Village Panchayat.

2. The respondent nos. 9, 10, 17 and 18 are accordingly directed to file an additional affidavit disclosing the action taken in respect of such structures referred to in the said list which is marked 'X' for identification.

3. With regard to the respondent no.19, Village Panchayat of Colva, it is the contention of the learned Amicus Curiae that GCZMA has directed the local village panchayat to examine the legality of 19 structures which were referred to in the application for intervention filed by the intervenor. The learned counsel appearing for the local village panchayat has pointed out that there is material on record to suggest that the structures are not illegal.

4. Hence, the respondent no.19/village panchayat of Colva is called upon to furnish such material before the GCZMA and such Authorities/the respondent no.16 shall examine such material after hearing the parties in accordance with law.

5. Mr. Salkar, learned Government Advocate states that such exercise shall be completed within six weeks from the receipt of such material from the respondent no.19 who shall produce the material within one week from today before the GCZMA.

6. With the above directions, place the matter for further consideration after eight weeks.

K. L. WADANE, J.

F. M. REIS, J.

at*

Annexure CA-1/3

Minutes of the 115th Meeting of the Goa Coastal Zone Management Authority (GCZMA) held on 04/05/2015 (Monday) at 3:00 p.m. in the Conference Hall of Principal Secretary (Environment), 2nd floor, Secretariat, Porvorim – Goa.

The 115th meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Principal Secretary (Environment), on 04/05/2015 (Monday) at 3:00 p.m. in the Conference Hall of Principal Secretary (Forests & Environment), 2nd Floor, Secretariat, Porvorim - Goa.

The following members were present during the meeting:

1. Principal Secretary (Environment) / Chairman(GCZMA)
2. Principal Chief Conservator of Forests, Department of Forests
3. Representative on behalf of Chief Engineer, W.R.D
4. Functional Manager, represented by the Director, Directorate of Industries, Trade & Commerce
5. Chief Engineer, P.W.D.
6. Dr. Antonio Arsenio Mascarenhas
7. Dr. Savita Kerkar
8. Dr. Nitin Sawant
9. Member Secretary (GCZMA)

At the outset, the Chairman (GCZMA) welcomed the Members of GCZMA present for the meeting. Thereafter, following agenda items which were deferred during the 114th Meeting of the GCZMA held on 16/04/2015 were taken up for discussion and decision.

Item No.1: To confirm the minutes of the 114th Meeting of the GCZMA held on 16/04/2015

The minutes of the 114th Meeting of the GCZMA held on 16/04/2015 at 3:00 p.m. were circulated among all the members for their comments and suggestions. However, no comments were received as such the minutes were confirmed.

Item No. 2 : (Approval for the community Projects)

Case No. 2.1

NOC/Permission for “Construction, Operation and maintainance of balance works for 4 laning of the stretch of NH – 17B from Varunpuri to Sada Juction from 13.100 Km to 18.3 Km and elevated road cum flyover cum ROB from Ravindra Bhavan Junction to gate No.

such, it is also illegal. Copy of the objections raised by Betty Alvares were enclosed with the Agenda Item as '**Annexure XII**'.

- h. In the light of the above, the matter along with the objections was placed before the GCZMA so as to decide whether to accept the report of the Inquiry Committee and to dispose of the Complaint accordingly.

Decision: The Authority after detailed discussion and due deliberations and on considering the application filed by Betty Alvares, decided to refer the matter back to the Inquiry Committee to consider the application filed by the complainant and submit the report within 30 days.

Case No. 3.10:

To comply with order dated 12/01/2015 passed by the Hon'ble High Court of Bombay at Goa in the matter of Suo Moto W.P. 2/2006

Background

The matter is Suo Moto cognizance of Hon'ble High Court of Bombay at Goa, Panaji about the illegalities/constructions in CRZ area. The Hon'ble High Court of Bombay at Goa vide Order dated 26/09/2007 passed in the matter of Suo Moto Writ petition no.02/2006 had directed all Panchayats /Municipalities to submit action taken report with regard to constructions in NDZ/CRZ area as per terms mentioned therein along with an affidavit.

The GCZMA has also filed necessary compliance reports from time to time in view of various orders passed by the Hon'ble High Court of Bombay at Goa in the matter.

The above matter came up for hearing on 12/01/2015 before the Hon'ble High Court of Bombay at Goa and the Ms. N. Alvares, learned Amicus Curiae produced a list of pending structures which according to her no action has been taken. The structures are essentially concerning the respondent no.9 Anjuna Village Panchayat; the respondent no.10 Calangute Village Panchayat; the respondent no.17 Majorda Village Panchayat; and the respondent no.18 Betalbatim Village Panchayat. Further the respondent nos. 9, 10, 17 and 18 in the said matter were directed by the Hon'ble High Court of Bombay at Goa to file an additional affidavit disclosing the action taken in respect of such structures referred to in the said list which is marked 'X' for identification.

With regard to the respondent no.19, Village Panchayat of Colva, it was the contention of the learned Amicus Curiae that GCZMA has directed the local village panchayat to examine the legality of 19 structures which were referred to in the application for intervention filed by the intervenor. The learned counsel appearing for the local village panchayat has pointed out that there is material on record to suggest that the structures are not illegal.

The Hon'ble High Court called upon the respondent no.19/village panchayat of Colva to furnish such material before the GCZMA and such Authorities/the respondent no.16 shall examine such material after hearing the parties in accordance with law.

Mr. Manish Salkar, learned Government Advocate (Appearing on behalf of GCZMA) before the Hon'ble High Court of Bombay at Goa stated that such exercise shall be completed within six weeks from the receipt of such material from the respondent no.19 village panchayat Colva who shall produce the material within one week from today before the GCZMA.

Accordingly the said village panchayat of Sernabatim, Vanelim, Colva & Gandaulim has produced its action taken report along with all the material record of relevant replies of the parties etc to the office of GCZMA vide letter dated 19/1/2015 bearing ref no.VP/SVCG/1928/14-15.

Earlier pursuant to directions issued by the Hon'ble High Court of Bombay at Goa in *Suo Moto W.P. 2/2006*, as well as directions under section 5 of the Environment Protection Act, 1986 issued by GCZMA the Village Panchayat, Colva had issued Show Cause Notices to various parties/alleged violators.

The action taken report was filed by the Village Panchayat, Colva to the Hon'ble High Court of Bombay at Goa in the said matter with two Additional Affidavits dated 03/10/2012 and 23/06/2014 respectively annexing all the documents with regard to structures pointed by the intervener (Colva Civic & Consumer Forum) in its intervention application dated 13/07/2012 bearing MCA No.635/2012.

The action taken report can be briefly in the table given below:-

ACTION TAKEN REPORT OF THE VILLAGE PANCHYAT COLVA

Sr. No.	Alleged violator/owner of the property	Nature of construction in CRZ Area	Action taken by the Village Panchayat
1.	Soul Vacation (Colmar Condominium)	Construction of a residential complex in sy.no 40/4 Colva village	S.C.N was issued dated 21/08/2010, Reply dated 25/08/2010 filed, Demolition order passed
2.	Goa Tourism Development Corporation	Construction of three structures in Sy. No 37/1 adm. 25 sqmts. 37/1 adm. 1200 sqmts. And structures survey No. 37/3, 4 and 5 admeasuring 17000 sqmts Village Colva	Three SCN Notices issued 23/08/2010, Reply dated 31/10/2011 filed, SCN dropped by V.P Colva

3.	Mr.Ventura Fernandes “ lucky star”/Hafisabad Real Estate Pvt ltd	Construction of a Dwelling unit/commercial	S.C.N issued dated 10/4/2008 Reply dated 04/02/2009 Demolished two structures of Mr. Ventura Fernandes Later fresh show cause notices issued to new buyer, reply dated 12/12/2013 filed, demolition notice dated 19/04/2014 given, matter pending before Adl.Directorate of Panchayat-I,Margao
4.	Department of Tourism	Construction of Three structures /stalls in Sy.no. 37/5, 37/6 admeasuring 345 Sqmts. & 200 sqmts. in Sy.no. 23/7 Village Colva	Three S.C.N dated 23/08/2010 issued Reply dated 21/04/2008 S.C.N withdrawn
5.	Shamiraj Hotels Pvt Ltd	Alleged illegal construction of structure, Village Colva	S.C.N issued dated 25/07/2009 Reply dated 19/08/2010 filed, Demolition notice dated 14/9/2010 Demolition carried out.
6.	Boomerang Hotel	Alleged illegal construction of structure, Village Colva	S.C.N issued dated 10/04/2008 reply dated 21/04/2008 filed S.C.N withdrawn
7.	Hotel Silver Sand	Alleged illegal construction of structure, Village Colva	S.C.N issued dated 24/08/2010 reply dated 16/9/2010 filed S.C.N withdrawn
8.	Longuinhos Beach Resort	Alleged illegal construction of structure, Village Colva	S.C.N issued reply dated 20/05/2009 filed S.C.N withdrawn
9.	Colmar Beach Resort	Alleged illegal construction of structure, Village Colva	S.C.N issued, On considering the reply filed, S.C.N withdrawn
10.	Captain J.P.Dias	Alleged illegal construction of	S.C.N dated 28/1/2009 issued

		residential house, Village Colva	reply dated 10/05/2009 filed S.C.N withdrawn
11.	Mr.Ashok Vikhe Patil	Alleged illegal construction of residential house in syno.53/1,Village Colva	S.C.N dated 19/08/2010 issued reply dated 30/08/2010 filed S.C.N withdrawn
12.	Mr. Ashok Kumar Vaid	Alleged illegal construction of residential house in syno.53 /2,Village Colva	S.C.N dated 19/8/2010 issued, On considering the reply dated 30/08/2010filed, S.C.N withdrawn
13.	M/s Brahma Corporation Hotels through Mrs.Natalina Rodrigues	Alleged illegal Structure admeasuring 93 sqmts in Syno.39/3 Village Colva	S.C.N dated 10/04/2008 issued, On considering the reply dated 19/04/2008filed, S.C.N withdrawn
14.	Mickey's Restuarant	Construction of Commercial structure,village Betatbatim	No action taken, Structure falls within jurisdiction of village panchyat Betatbatim
15.	Hotel Baywatch	Construction of Commercial structure,village Sernabatim	S.C.N dated 10/04/2008 issued, On considering the reply dated 22/04/2008filed, S.C.N withdrawn
16.	Quisan Cottages through Remedios Goes	Construction of Commercial structure,village Colva	S.C.N dated 10/04/2008 issued, Demolition notice dated 31/52014 issued
17.	Furtado Rest House	Construction of Commercial structure,village Sernabatim	S.C.N dated 10/04/2008 issued, Reply dated 17/5/2008 filed <u>It may be noted GCZMA has taken decision in the matter and an appeal/application filed by the Maria Furtado and Ranbindra Dias is pending before the Hon'ble NGT,Pune</u>
18.	J.B Rest House through Mrs.Isabel Fernandes	Construction of Residential structure in syno.12/3of village Sernabatim	S.C.N dated 24/08/2010 issued, Reply dated 31/08/2010 filed,

			S.C.N withdrawn
19.	Maria Furtado	Construction of Structure in Syno.12/4 of village Sernabatim	S.C.N dated 10/04/2008 issued, Reply dated 17/5/2008 filed, <u>It may be noted GCZMA has taken decision in the matter and an appeal/application filed by the Maria Furtado and Ranbindra Dias is pending before the Hon'ble NGT,Pune</u>
20.	Crasto Guest house through Domingos Crasto	Construction of Commercial structure in village Sernabatim	S.C.N dated 30/08/2012 issued, Produced order 31/02/2008 of GCZMA that same existing prior to 1991 Notification
21.	M/s Tonia Estates and Resorts Pvt Ltd	Construction of Commercial structure in Village Colva	S.C.N issued by the village Panchayat

In the light of the above, the issue before the Authority was to examine the correctness of the action taken/order passed/Decision taken passed by the said Village Panchayat regarding withdrawal/revocation of Show Cause Notice and decision in the matter and communicate the same to the Hon'ble High Court.

In this connection, the relevant Copies of said affidavits along with replies, documents relied by alleged violators, orders, etc forwarded by Village Panchayat Colva in a chronological order are placed before the Authority for perusal of the members for decision. All the files and material records pertaining to said matter were placed before the authority for reference and perusal (**Annexure 'XIII'**).

Decision: The Authority after detailed discussion and due deliberations, decided to refer the matter to the Inquiry Committee to examine all the documents on record and hear the parties if required and submit the detailed report to the GCZMA within 30 days. The Authority also decided to seek additional time of 3 months from the Hon'ble High Court of Bombay at Goa to place a detailed report of the GCZMA.

Annexure CA-1/4

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology and Environment (Govt. of Goa)

1st floor, Pt. DeendayalUpadhyayBhavan, Pundalik Nagar, Alto,

Porvorim, Bardez- Goa-403 521

Phone: (0832) 2438511

email:dir-ste.goa@nic.in, goacoastalzone@gmail.com

Ref. No. GCZMA/SMWP/02/06/636**Date 24/07 /2018****NOTICE OF PERSONAL HEARING****Sub: Personal hearing before the Authority.****Ref. :(1) Suo Moto Writ Petition no.02/2006.****(2) Order dated 12/01/2015 passed by the Hon'ble High Court of Bombay at Goa in the matter of Suo Moto Writ Petition no.02/2006.****(3) Minutes of 115th GCZMA meeting held on 04/05/2015.****(4) Letter dated 15/05/2015 issued to the Inquiry Committee of GCZMA.****(5) Report dated 24/12/2015 Submitted by the Inquiry Committee of GCZMA.****(6) Order dated 21/06/2017 passed by the Hon'ble High Court of Bombay at Goa in the matter of Suo Moto Writ Petition no.02/2006.**

WHEREAS, the present matter is interalia Suo Moto cognizance of Hon'ble High Court of Bombay at Goa, Panaji about the illegalities/constructions in CRZ area. The Hon'ble High Court of Bombay at Goa vide Order dated 26/09/2007 passed in the matter of Suo Moto Writ petition no.02/2006 had directed all Panchayats /Municipalities to submit action taken report with regard to constructions in NDZ/CRZ area as per terms mentioned therein along with an affidavit.

AND WHEREAS, the Hon'ble High Court of Bombay at Goa, Panaji vide its order dated 12/01/2015 passed in the matter of Suo Moto Writ Petition no.02/2006 had interalia directed the respondent no,19 village panchayat of Colva to furnish the material

on record to suggest the structures are not illegal before the GCZMA and such authorities shall examine such material after hearing the parties in accordance with law.

AND WHEREAS, the said Village Panchayat of Sernabatim, Vanelim, Colva and Gandaulim produced its action taken report along with all material record of relevant copies of the parties etc to the office of GCZMA vide letter dated 19/01/2015 The Action taken report was filed by the Village Panchayat of Sernabatim, Vanelim, Colva before the Hon'ble High Court of Bombay at Goa with two additional affidavits annexing all the documents of the structures pointed out by the intervenor (Colva Civic Forum) in its intervention application dated 13/07/2012 bearing MCA no.635/2012.

AND WHEREAS, the matter was placed in the 115th GCZMA meeting held on 04/04/2015 wherein the authority after detailed discussion and due deliberations, decided to refer the matter to the Inquiry Committee of GCZMA to examine all the documents on record and hear the parties if required and submit the detailed report to the GCZMA within 30 days.

AND WHEREAS, the concerned file was forwarded to the Inquiry Committee of GCZMA for necessary action vide letter dated 15/05/2015 as referred to above at Sr.no.4. In this regard the Inquiry Committee of GCZMA completed its inquiry and submitted its report dated 24/12/2015.

AND WHEREAS, the matter came up for hearing before the Hon'ble High Court of Bombay at Goa on 21/06/2016 and was pleased to dispose off the matter interalia with a direction which can be seen as follows:- "*Besides the above directions, the Anjuna as well as the Colva Panchayats namely respondent no.9 and 19 and the GCZMA are directed to take necessary action with regard to the structures identified in the report of the GCZMA and proceed to take necessary action in accordance with law within three months from today and file a compliance report with that regard.*"

AND WHEREAS, in the while the term of GCZMA expire and the matter was placed before the Committee to decide on CRZ matters as per Notification

no.GCZMA/CONST/05/STE/98 dated 03/08/2016. The matter was placed for personal hearing on 08/09/2016 before the said Committee, the meeting was adjourned.

AND WHEREAS, in this regard, the GCZMA has now decided to call the parties for personal hearing on 31 /07 /2018 at 3.30 p.m. onwards.

NOW THEREFORE, you are hereby required to remain present for the personal hearing or depute your duly authorized representative with all the documents, approved site plans and other related documents if any in support of your case/ structure before the Authority, 2nd floor, Conference Hall, Secretariat, Porvorim-Goa on the scheduled date, failing which the Authority shall proceed exparte in the matter.

TAKE NOTE THAT, incase of failure on your part to attend the said personal hearing it will be presumed that you have nothing to say in the matter and the authority will proceed further with future course of action as per law. It may also be noted since this is High Court direction matter no adjournment will be granted to the parties for personal hearing.



(Ravi Jha IAS)

Member Secretary (GCZMA)

o/c

To,

1. M/s Carasto Guest House , C/o Domigos Crasto, Sernabatim Salcete-Goa.
2. Colva Civic & Consumer Forum, C/o Mrs Judith Almeida, Hno.257/1, ward 3, Bagdem, Colva, Salcete-Goa.

Copy to:-

1. The Secretary, Village Panchayat of Sernabatim, Vanelim, Colva and Gandaulim... who is required to attend the personal hearing or depute a authorised representative along with relevant records in the matter.

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. 10 OF 2020

COLVA CIVIC AND CONSUMER FORUM ,
 THR. ITS AUT. REP., JUDITH A. B.
 ALMEIDA.,

... Petitioner

Versus

GOA COASTAL ZONE MANAGEMENT
 AUTHORITY, THR. ITS MEMBER
 SECRETARY AND 3 ORS.

... Respondents

Ms. Anamika Gode, Advocate for the petitioner.

Mr. D. Pangam, Advocate General with Mr. P. Arolkar, Additional
 Government Advocate for the respondent Nos. 1, 3 and 4.

Mr. S. Keny, Advocate for the respondent No.2.

**CORAM: REVATI MOHITE DERE &
 M. S. JAWALKAR, JJ**

DATE : 16th December 2021

P.C.

1. Heard the learned counsel for the petitioner.

2. Learned counsel for the petitioner submits that despite several directions issued by this Court, till date the said directions have not been complied with, by the village panchayat of Colva. She relied on the order passed by this Court dated 26.09.2007 in *Suo Motu Writ Petition No.2 of 2006*. She submits that vide the said order, all the village panchayats including the village

panchayat of Colva were directed to take action against the illegal structures existing post-1991.

3. Ms. Gode submits that the present petition is restricted only to the non implementation and mushrooming of the illegal structures in the village Colva. She submits that out of 19 structures which were identified when the Suo Motu Writ Petition No.2 of 2006 was being considered, only some of the structures have been demolished and some are yet to be demolished. She submits that not only the village panchayat of Colva but even the GCZMA has been dragging their feet in implementing the order passed by this Court. She submits that some of the proceedings are pending before the GCZMA since 2014 and that the matters keep being heard, adjourned, reheard and again adjourned and as such, no final orders have been passed by the said authority i.e. GCZMA till date, with respect to the 10 illegal structures in the area of village panchayat of Colva.

4. Learned counsel further submits that the GCZMA had carried out site inspection on 14.05.2013 and 16.05.2013. She submits that in the said site inspection report dated 14.05.2013 (typed copy of the inspection report at pages 72A to 72C), the signatory of the inspection has stated that "*in the 2006 Map are still intact only a few have been demolished. The Secretary did*

not have any documents to show that those structures still standing have valid permissions. Surprisingly many new structures and extensions to earlier structures have cropped up. It was felt that in order to get a clear picture the DSLR is requested to do a fresh survey of the area so that the recent changes are brought out. The DSLR should be given sufficient time and facilities including security. Therefore the CZMA must fix the period of survey, (2) send notices to all the concerned with sufficient time, say at least a week (3) issue a public notice asking concerned parties to be present with relevant documents to prove the legality of the structures". She submits that even the report of the site inspection which was conducted on 16.05.2013 shows that the remaining sites were inspected on 16.05.2013 and that changes were noted for further detailed survey by the DSLR. It is further stated in the said inspection report dated 16.05.2013 that only a few of the dubious structures have been demolished but many additional ones have cropped up. Also there are extensions to the earlier existing structures and that the correct picture will emerge from the proposed survey.

5. Learned counsel for the petitioner submits that the Secretary of the village panchayat of Colva has not taken any steps to monitor the mushrooming of the illegal structures in the said panchayat area. She further submitted that no mapping has been

done even by the DSLR having regard to the observations made in the site inspection report dated 14.05.2013 and 16.05.2013.

6. Having heard the learned counsel for the petitioner and having perused the papers, it is *prima facie* apparent that the respondent No.2 has not taken any steps, as ought to have been taken pursuant to the orders passed by the Court nor steps are taken with respect to the new illegal structures cropping up. Considering the aforesaid, it would be appropriate to direct the Secretary of the village panchayat of Colva to remain present tomorrow.

7. Learned Advocate General also seeks time to take instructions as to the time within which the DSLR will carry out the mapping of the structures existing within NDZ and CRZ area of Colva-Sernabatim village. He also seeks time to take instructions the time frame within which, the GCZMA will decide all pending applications of the owners of the offending structures.

8. Stand over to 17th December 2021.

M. S. JAWALKAR, J

REVATI MOHITE DERE, J.

Assumpta

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.10 OF 2020

COLVA CIVIC AND CONSUMER
FORUM, THR. ITS AUT. REP., JUDITH A.
B. ALMEIDA., ... Petitioner.

Versus

GOA COASTAL ZONE MANAGEMENT
AUTHORITY, THR. ITS MEMBER
SECRETARY AND 3 ORS., ... Respondents.

Ms. Anamika Gode, Advocate for the Petitioner.

Mr. D. Pangam, Advocate General with Mr. Prashil Arolkar, Additional
Government Advocate for the Respondents no.1, 3 and 4.

Mr. Pavithran A. V., Advocate for the Respondents no.2.

**CORAM : SMT. SADHANA S. JADHAV &
REVATI MOHITE DERE, JJ**

Date: 22nd December, 2021.

P.C.:

1. The Learned Counsel for the respondent no.2 has filed an additional Affidavit on behalf of the Village Panchayat of Colva. It is submitted that the respondent would form a special Committee for the purpose of identifying the illegal structures/constructions existing and the Committee shall identify such exercise within 3 months from today.

2. It is also stated that they would initiate appropriate proceedings in accordance with law to demolish such illegal structures/constructions in time bound manner and in any event within 4 months from today. The Additional Affidavit is taken on record.
3. The Learned Advocate General submits that the CRZ authorities would complete the process within three months from today. The identification of the structures/constructions and so far as the DSLR proceedings of 10 structures are concerned the mapping of structures would be completed by the end of May, 2022.
4. The additional Affidavit alongwith the original Affidavit is taken on record.
5. Stand over to 15th June, 2022.

REVATI MOHITE DERE, J.

SMT. SADHANA S. JADHAV

Jose

IN THE HIGH COURT OF BOMBAY AT GOA

P.I.L. WRIT PETITION NO.10 OF 2020

COLVA CIVIC AND CONSUMER
FORUM , THR. ITS AUT. REP.,
JUDITH A. B. ALMEIDA

... Petitioner

Versus

GOA COASTAL ZONE MANAGEMENT
AUTHORITY, THR. ITS MEMBER
SECRETARY AND 3 ORS.

... Respondents

Mr. Om D'Costa, Advocate *for the Petitioner.*

Mr. Devidas Pangam, Advocate General with Mr. Prashil Arolkar,
Additional Government Advocate *for Respondent Nos.1, 3 and 4.*

Mr. Byron Rodrigues, Advocate *for Respondent No.2.*

**CORAM: M.S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 10th October, 2022

P.C.:

1. Heard Mr. Om D'Costa for the Petitioner, learned Advocate General who appears along with Mr. Prashil Arolkar, Additional Government Advocate for Respondent Nos.1, 3 and 4 and Mr. Byron Rodrigues, learned Counsel for Respondent No.2.

2. On 23.08.2022, we made the following order:-

“The learned Advocate General states that the Goa Coastal Zone Management Authority was required to report compliance on the following two issues:-

- a) *Preparation of a report about mapping of the structures existing within the NDZ of the CRZ areas of Colva village;*
- b) *Disposal of 10 show-cause notices issued to alleged violators in Colva.*

2. *The learned Advocate General states that the report of mapping has already been prepared and the same was even filed in this Court on 15.06.2022. Insofar as disposal of show-cause notices is concerned, the learned Advocate General admits that there has been a delay and even the time granted by this Court has since expired. He further states that Goa Coastal Zone Management Authority will now expeditiously dispose of the 10 show-cause notices within 2 months from today.*

3. *Accordingly, we accept the above statement made by the learned Advocate General and direct the Goa Coastal Zone Management Authority to dispose of the 10 show-cause notices in accord with law as expeditiously as possible and, in any case, within 2 months from today without fail. The Member Secretary of the Goa Coastal Zone Management Authority will have to file an affidavit of compliance on the next date.*

4. *Mr. Rodrigues, learned counsel appearing on behalf of the Village Panchayat of Colva states that the Panchayat has already started the process of identifying the illegal structures based upon mapping provided by the Goa Coastal Zone Management Authority. He submits that this work will be completed within maximum period of 2 months from today. After that, the show-cause notices will be issued to the alleged violators and even such show-cause notices will be disposed of expeditiously.*

5. *Accordingly, we post this matter for further consideration on 10.10.2022. Before said date, both, the Goa Coastal Zone Management Authority as well as the Secretary, Colva Village Panchayat, should file the compliance report.*

6. *Mr. Om D'Costa, learned counsel for the petitioners submits that the petitioners have some issues with the mapping. Accordingly, the petitioners are granted leave to file an additional affidavit or otherwise file their objections to the*

mapping within 4 weeks from today. A copy of such affidavit/objections should be furnished to the learned counsel for the respondents so that the objections can be considered on the next date.

7. *Stand over to 10.10.2022.”*

3. The learned Advocate General now states that the report about mapping of structures existing within the NDZ of CRZ areas of Colva village is already prepared and filed before this Court. Mr. Om D'Costa states that the Petitioners have certain objections to the mapping exercise carried out. He states that these objections have been set out in the affidavit which he craves leave to file in this petition.

4. Although we grant leave to file such affidavit, we do not propose to go into such objections. This is because we think that such objections can be appropriately raised by the Petitioners before the Directorate of Settlement and Land Records (DSLRL), which is the authority that has prepared the report. The DSLRL and the GCZMA should consider the objections and dispose of the Petitioners' representation in this regard as expeditiously as possible and in any case, within four months from the date of receipt. The decisions should be communicated to the Petitioners.

5. Learned Advocate General states that decisions have already been taken by the GCZMA in 9 out of 10 show-cause notices. He states that the formal orders will be issued within ten days from today. This statement is accepted and the GCZMA is directed to act accordingly.

6. Learned Advocate General states that the show-cause notices which remain to be disposed of will also be appropriately disposed of

within two months from today. Even this statement is accepted and the GCZMA is directed to act accordingly.

7. Mr. Rodrigues, learned Counsel for the Panchayat has also made a statement that the Panchayat has started the process of identifying the illegal structures based on the mapping provided by the DSLR and the GCZMA. He reiterates that this process of identification will be completed within the timeline indicated in our order dated 23.08.2022. He states that after that show-cause notices will be issued to the alleged violators and even such show-cause notices will be disposed of expeditiously.

8. According to us, Panchayat must endeavour to dispose of the show-cause notices within three months from the date of their issue.

9. The petition is disposed of by issuing the above directions and liberties.

10. There shall be no order for costs.

BHARAT P. DESHPANDE, J.

M.S. SONAK, J.

INFORMATION ISSUED UNDER RTI ACT, 2005

Annexure CA-1/6

Member Secretary

G.C.Z.M.A.

Inward No. 1162/L

Date 12/08/08

From:

Maria Eufrezita Paulina Lydia Fernandes

H.No.57/1, Copelwaddo, Sernabatim

Colva - Salcete - Goa

12th August, 2008

To,
The Member Secretary
Goa Coastal Zone Management Authority
C/o Department of Science
Technology & Environment
Opp.Saligao Seminary
Bardez-Goa 403511

Sub: *Personal hearing before GCZMA on 12/08/08 at 4 00 p.m. in the conference hall of the office of the Chief Secretary, Secretariat, Alto-Parvorim Goa.*

With reference to your notice no. GCZMA/SAL/SENA/07/25/490 dated 8/08/2008, which I received on 11th August, 2008, I would like to inform you that it is not possible for me to attend personally for the above hearing.

Kindly refer to your notice bearing reference no.GCZMA/SAI/SENA/07/25/490 dated 8-08-08, pertaining to the subject captioned here above and also to your show cause notice under Section-5 of the Environment (Protection) Act, 1986 thereby informing me that illegal structures and extension for the same to an extent of 100+50 sq.mts. has been undertaken by me in the property Survey No.12/1 of Sernabatim Village in Salcete Taluka which construction is situated within 200 mtrs from high tide line. I am to submit that I have no structure and/or any structure has been undertaken by me in that said property till date and 3 structures which are situated therein have been constructed by Mrs. Maria Filomena Furtado, Mr. Domingos Crasto and Mr. Judas Maurisio Fernandes who have purchased portion of land from me by executing three different sale deeds and the fourth person namely Mr. Joao Fernandes who have purchased from me a portion of the land from the said property bearing Survey No. 12/1 of Sernabatim Village has not undertaken any construction therein.

In this regard, and in support of my contention, I am annexing hereto a Xerox copy of Form No.I & XIV of the property bearing Survey No.12/1 of Sernabatim Village to show that the aforesaid 4 persons have purchased from portions of the said property. I am also annexing hereto Xerox copies of the notices in Form X pertaining to mutation Serial Nos.10173, 17505, 17826 and 29112 which notices clearly show that the details of the 4 sale deeds which have been executed by me in their favour along with the details of sale deeds.

Certified copy of the document available in office

Public Information Officer
(GCZMA/DST)

LAI
file
copy in file
put up to me
HTS

In this regard, I am also enclosing hereto a Xerox copy of Survey Plan bearing Survey No.12/1 of Sernabatim village.

In view of the above position, I am to submit that I do not have any structure in the said property bearing Survey No.12/1 of Sernabatim village either old or new construction as on date and that all the 3 aforesaid structures have been constructed by the aforesaid 3 persons and in the circumstance the submission made therein in your said show cause notice dated 23-10-2007 that I have constructed illegal structure to an extent of 100+50 sq. mtrs within 200 mtrs. from high tide is totally untrue and incorrect and as such I am to request you to kindly drop me from the said inquiry and/or from the said proceedings initiated by you.

Thanking you,

Yours faithfully,

E. Fernandes
12.08.08

(Maria Eufrezita Paulina Lydia Fernandes)

Certified copy of the document
available in office records

Encl : as above

Braganza
Public Information Officer
(GGZMA / STE)



Service- Counter Affidavit on behalf of Respodent No.1, GCZMA in Domingos Crasto V GCZMA & Ors- Appeal No. 50 of 2022 before NGT, Pune

1 message

shirinkhajuriaoffice <gopal.officeofshirinkhajuria@gmail.com>

Wed, Jan 18, 2023 at 4:18 PM

To: Pradoshdangui@gmail.com, ngt-pune@gov.in

Cc: Shirin Khajuria <shirinkhajuria@gmail.com>, Nayan Gupta <nayan.chambersofshirinkhajuria@gmail.com>

Dear Sir/Madam

In the above-captioned matter, please find attached herewith a copy of Counter Affidavit on behalf of Respondent No.1, in Domingos Crasto V GCZMA & Ors- Appeal No. 50 of 2022 before NGT, Pune.

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Thanks & Best Regards

Gopal Kohli

Office of Advocate Mrs. Shirin Khajuria

S- 254 LGF Greater kailash Part-II

New Delhi- 110048

E-Mail ID- gopal.officeofshirinkhajuria@gmail.com



Counter Domingo vs. GCZMA Appeal No 50 of 2022.pdf

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