

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

**APPEAL NO. 33 OF 2023 (WZ)**

**IN THE MATTER OF:**

**MR. JOHN JUDE ADOLFO  
CRECENCIO LOBO**

**... APPELLANT**

**VERSUS**

**GOA COASTAL ZONE**

**MANAGEMENT AUTHORITY & ORS. ... RESPONDENTS**

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT  
NO. 1**

**GOA COASTAL ZONE MANAGEMENT AUTHORITY**

**PAPER BOOK**

**(KINDLY SEE INDEX INSIDE)**

**ABHAY ANIL ANTURKAR  
ADVOCATE FOR RESPONDENT NO. 1  
GOA COASTAL ZONE MANAGEMENT AUTHORITY**

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IN THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE

APPEAL NO. 33 OF 2023

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MR. JOHN JUDE ADOLFO

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...APPELLANT

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MANAGEMENT AUTHORITY

& OTHERS

COUNTER – AFFIDAVIT ON BEHALF OF THE

RESPONDENT NO. 1 GCZMA

I, MR JOHNSON BEDY FERNANDES, being the Member Secretary of the Respondent No. 1 Goa Coastal Zone Management Authority, having my office at: 4<sup>th</sup> Floor, Dempo Towers, Patto, Panaji, Goa do hereby solemnly affirm and state as under:

A handwritten signature in blue ink, appearing to be "Johnson Bedy Fernandes".

1. I am the Member Secretary of the Respondent No. 1 GCZMA and am as such authorised to affirm the present affidavit on its behalf. I have examined the records available in my office relating to the above-captioned Appeal and am affirming the present Counter-Affidavit based on the said records. Nothing in the present Counter-Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned appeal unless the same is specifically admitted herein. Nothing in the memorandum of the above-captioned appeal may be deemed to have been admitted for mere want of traverse seriatim or specific denial.

2. The answering Respondent received a complaint dated 22.11.2021 from Respondent No. 2 Rama Rani Arora concerning illegal construction of a metal stage on the beach, compound wall, and illegally placed stone pavers on the beach in the No Development Zone (NDZ) Area in the property bearing Survey No. 176/17, Calangute Village, Bardez, Goa, carried out by the Appellant John Jude Adolfo Crecencio Lobo and his wife Mrs L. Lobo.



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3. The answering Respondent conducted a site inspection through its Field Surveyor and Engineer on 07.12.2021. Consequent to the said site inspection, the answering Respondent issued a Show Cause Notice dated 13.12.2021 under Section 5 of the Environment (Protection) Act, 1986 read with Rule 4 of the Environment (Protection) Rules, 1986. By the said Show Cause Notice the answering Respondent pointed out that the Appellant had carried out illegal construction of a metal stage on the beach of approximately 80 sq. mts., illegally erected laterite masonry compound wall of height 0.9 mts and length 9 mts. along the eastern boundary of the plot, and illegally placed stone pavers as path way on the beach in the NDZ area of the beach in Survey No. 176/17 of Village Calangute.



4. The Appellant *vide* his response dated 27.12.2021 answered the aforesaid Show Cause Notice. In his response, the Appellant sought to contend that the metal stage on the beach does not belong to the Appellant. The Appellant alleged that the said metal stage belonged to some third party. By his reply dated 08.04.2022 the Appellant furnished the name of Mr Virendra Shirodkar from Reis Magos as the violator in respect of the said

metal stage. Accordingly, the answering Respondent issued a Show Cause Notice dated 16.05.2022 to Virendra Shirodkar. Mr Virendra Shirodkar submitted his reply dated 08.06.2022 to the answering Respondent's Show Cause Notice categorically stating that he has no connection to any illegal construction in Survey No. 176/17 of village Calangute and requested not to involve him in the matter.

5. The matter was placed in the 310<sup>th</sup> GCZMA meeting dated 16.06.2023. The answering Authority perused Form I & XIV and observed that the name of the Appellant John Lobo appears in the occupant's column of Survey No. 176/17. Since the Appellant was not claiming the illegalities carried out by him, the answering Respondent directed for demolition of the illegal construction of a metal stage on the beach, illegally erected laterite masonry compound wall, and removal of the illegally placed stone pavers as a pathway on the beach in the NDZ Area. Thus, a demolition order dated 30.06.2022 came to be issued against the Appellant.
6. The authority visited the site to implement the demolition order dated 30.06.2022. Upon visiting the site it was noticed that there



are various other illegal structures in property bearing Survey No. 176/17. Thus, the answering Respondent directed the Directorate of Settlement and Land Records (DSLRL) to conduct a site inspection/mapping of the property bearing Survey No. 176/17 and 176/16-B of Village Calangute. Notice dated 15.09.2022 was issued to the Appellant and Respondent No. 2 informing them about the site inspection scheduled on 16.09.2022.

7. A site inspection was conducted on 16.09.2022 by the answering Respondent through its Field Surveyor and the Field Surveyor of the DSLR in the presence of the Appellant and a representative of Respondent No. 2. Based on the Site Inspection Report dated 22.09.2022 drawn by the surveying team the various violations were noticed by the answering Respondent in Survey No. 176/17 of Village Calangute.

8. The answering Respondent issued a fresh Show Cause Notice directing the parties to remain present for the hearing on 27.10.2022. The Appellant filed his response to the complaint and the show cause notice and submitted documents in support.



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of his contention that the offending structures were authorized by the GSSCE.

9. In the 347<sup>th</sup> GCZMA Meeting held on 22.06.2023 the answering Respondent directed the Appellant to produce a copy of the GSCCE Approvals for verification regarding authentication of documents. The answering Respondent also directed the Appellant to superimpose the approved structure on the plan drawn by the DSLR dated 16.09.2022 which showed all the illegalities. The Appellant submitted the plan on 04.05.2023 along with the superimposed structures. However, at the time of drawing the order, there were certain discrepancies noticed by the answering Respondent. Thus, a fresh notice of hearing was issued to the Appellant to clarify the said issues.



10. The answering Respondent framed to issues to decide the Show Cause Notice –

- 10.1. Whether the Appellant tried to misguide the answering Respondent with regards to the illegalities carried out in Sy. No. 176/17 of Village Calangute?

*[Handwritten signature]*

10.2. Whether the Appellant proves that the structures erected in property bearing Survey No. 176/17 are legal structures?

11. With respect to the first issue, it is submitted that the Appellant has misled the answering Respondent by stating in para 4 of his reply that the metal stage erected on the beach does not belong to him but to a third party *viz.* Mr. Viren Shirodkar. Thus, the Appellant has misguided the answering Respondent to issue a Show Cause Notice to Mr. Viren Shirodkar. Furthermore, the Appellant *vide* his letter dated 08.06.2022 deceitfully furnished the details of Mr. Viren Shirodkar. Thus, a Show Cause Notice was issued to Mr. Viren Shirodkar and a personal hearing was conducted. At the hearing, Mr. Viren Shirodkar *vide* his reply dated 08.06.2023 categorically stated that he has no connection whatsoever with any structures in Survey No. 176/17 of Village Calangute, and that the answering Respondent may take appropriate steps without involving him any further. The answering Respondent examined Form I & XIV of Survey No. 176/17 and noted that the name of the Appellant is in the occupant's column. Thus, the orders of the



answering Respondent could not be executed promptly due to the identification process initiated based on the misrepresentations made by the Appellant.

12. Subsequently, the Appellant has again tried to misguide the answering Respondent by submitting a purported plan issued by the erstwhile GSCCE wherein it showed that the stage formed a part of the approved plan. The plan submitted by the Appellant does not form a part of the records maintained by the answering Respondent. Nevertheless, since the Appellant claimed that the stage was a part of the purported plan approved by the GSSCE in his favour, he indulged in making the aforementioned misrepresentations and involving a third party with the sole intention of delaying the proceedings. Thus, the answering Respondent held that the Appellant was guilty of misguiding the answering Respondent.

13. In so far as the legality of the structures erected in Survey No. 176/17 is concerned, the Appellant sought to contend that the said structures existed before 1991 and that he had applied for repairs and renovations of the existing structures. The answering Respondent considered the contention of the



Appellant that approval was issued in his favour relating to the offending structures by the predecessor of the answering respondent *viz.* GSCCE. However, the purported approval itself appears to be in contravention of the relevant legal provisions as the structures fall within the NDZ and inter-tidal area. Secondly, the purported approval dated 27.05.1994 never formed a part of the records of the GSCCE or the answering Respondent. In any event, upon examining the relevant documents, it is noted that the old structure shown in the purported approval/permission of the GSCCE and the offending structures do not exist/stand at loco in the same position. The purported approved plan does not tally with the offending structures plotted on site by the DSLR during the site inspection dated 16.09.2022. The approved plan submitted by the Appellant shows that approval is for the repairs and renovation of the existing structures. Since the structure falls within the NDZ, permission ought to have been given for the area of the house which existed then and is shown in the Survey Plan only.



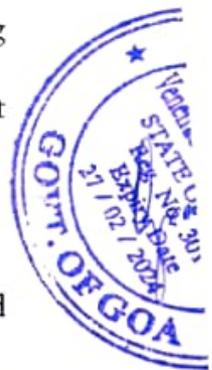
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14. The answering Respondent directed the Appellant to produce the Original Plan and Approval granted by the GSCCE. Upon perusing the Plan and Approval produced by the Appellant, it was noticed that the same was not the original, but a fresh notarized copy. It is reiterated that the said Plan and Approval do not form a part of the GSCCE or the answering Respondent. However, since the same was produced by the Appellant, and since the same was not set aside by any court/authority of competent jurisdiction, the answering Respondent considered the same and gave the benefit of doubt to the Appellant.

15. The answering Respondent submits that the DSLR has marked the offending structures *vide* the site plan dated 16.09.2022 submitted with the Report dated 22.09.2022.

16. Structure 'L':

16.1. As per the survey records there existed a structure as shown in a dotted line on the survey plan. However, the Appellant has encroached in the intertidal are by demolishing the old structure and erecting a new structure beyond the permissible limits. Since the structure 'L' is on



the Approved plan of GSCCE dated 27.05.1994, the structure "L" as plotted on the Site Inspection Report dated 22.09.2022 was discharged by the answering Respondent.

## 17. Structure 'M':

17.1. The Approval dated 27.05.1994 does not show the structure designated as 'M'

17.2. The Appellant failed to demonstrate or produce any documentary evidence to prove that the structure 'M' which is a Ground + 2 structure has been erected with approvals.

17.3. Thus, the answering Respondent has directed the demolition of the same.

## 18. Structure 'K':

18.1. The answering Respondent noted that the plinth of structure 'K' is not as per its original shape in the Survey Plan.

18.2. The Appellant sought to rely on the Gut Book maintained by the Talathi. It is a well settled position of law



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that the said Gut Book has no legal bearing and is only a referential book given to the office of the Talathi. It is only a sketch book given to the Talathi and does not have any legal bearing. It cannot be considered as a document to be relied upon to prove the legality of the structure.

18.3. Thus, the answering Respondent concluded that structure 'K' deserves to be demolished and the land be restored to its original position.

#### 19. Structures "N" and "O"

19.1. The Appellant has not produced any approvals in respect of structures "N" and "O". The aforesaid structures have been erected without any approvals whatsoever. Thus, they cannot be said to be legal.

19.2. The answering Respondent therefore concluded that structures "N" and "O" deserve to be demolished.

#### 20. Structure "P"

20.1. Structure "P" falls within the NDZ. The Appellant has not produced any evidence to show that the said structure is authorised/legal.



20.2. The answering Respondent has noted that no new structure albeit of a temporary nature be raised in the NDZ.

20.3. Thus, the answering Respondent concluded that structure "P" be demolished.

21. Structure "Q"

21.1. Structure "Q" is the paver block pathway. The pavers have been laid without any approval and in gross violation of the CRZ Notification.

21.2. The answering Respondent therefore concluded that structure "Q" be demolished.

22. Structures "I" and "J"

22.1. Structure "I" is the stage erected on government land. The Appellant admitted that the portion marked as "I" and "J" are in the inter-tidal area and that he has not taken any approval from any authority. Thus, the same ought to be demolished.



23. The Registration Certificate of Establishment, Tax Assessment Order issued under Section 17 of the Goa, Daman and Diu Sales Tax Act, 1964, the NoCs issued by the Calangute Gram Panchayat, and the House Tax Certificate issued by the Village Panchayat in no manner establish that the offending structures are lawful or authorised. Thus, the reliance of the Appellant on the aforesaid documents is entirely misdirected.

24. The permission for repairs and renovation issued by the Office of the Chief Town Planner Town and Country Planning Department dated 27.05.1994 is based on the decision of the GSCCE. As mentioned hereinabove, the answering Respondent has considered the contents of the sanctioned plan of the GSCCE. The offending structures do not form a part of the sanctioned plan of the GSCCE. In so far as structures which form a part of the sanctioned plan are concerned, the answering Respondent has discharged the Appellant.

25. The answering Respondent therefore submits that order date 13.11.2023 is a well-reasoned order passed after hearing the parties concerned and taking into consideration the



documentary evidence produced by the Appellant and warrants no interference by this Hon'ble Tribunal.

26. The contents of this Counter-Affidavit are true and correct to the best of my knowledge and belief. Nothing false has been stated hereinabove.



*[Signature]*  
DEPONENT

VERIFICATION

I, the Deponent above-named to hereby solemnly affirm and state that the contents of the Affidavit are true to the best of my knowledge and belief. Nothing false has been stated herein. No material facts have been suppressed from this Hon'ble Tribunal.



*[Signature]*  
DEPONENT

Executed before me  
At Panjim Tiswadi - Goa  
Reg. No. 41/03/2024  
Dated: 12/3/2024

*[Signature]*  
Venefrada C.P.P.B Gracias  
Advocate & Notary Goa State