



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

APPEAL NO. 148 OF 2024 (WZ)

IN THE MATTER OF:

MS SWETA SAVIA PEREIRA ...APPELLANT

VERSUS

**MR. WALTER JOSEF EGLE &
OTHERS ...RESPONDENTS**

COUNTER-AFFIDAVIT ON BEHALF OF THE

RESPONDENT NO. 2

GOA COASTAL ZONE MANAGEMENT AUTHORITY

I, Johnson Bedy Fernandes, Member Secretary of the Respondent No. 1 GCZMA, having my office at: Goa Coastal Zone Management Authority, 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I am the Member Secretary of the Respondent No. 2 Goa Coastal Zone Management Authority. I am authorized to file the present Affidavit. I have examined the records pertaining to the captioned matter as available in my office, and I am affirming this Affidavit on the basis of these records.

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2. I am filing the present Affidavit. However, nothing should be deemed of being admitted any averment which has not been specifically denied.
3. I say the Appellant is aggrieved by demolition order dated 29/05/2024 passed by this Authority in respect of property bearing Survey No. 54/1 of village Cavelossim.
4. I say that complaint dated 05/02/2014 was filed by the present Appellant against present Respondent No. 1. The Authority after holding detailed inquiry vide order dated 24/03/2017 was pleased to issue order to demolish/remove the structure in property bearing Survey No. 54/1 of village Cavelossim.
5. I say that the Respondent No.1 had filed an Appeal bearing No. 16/2017 before the Hon'ble Tribunal, Pune. The said appeal was dismissed by the Hon'ble Tribunal vide order dated 14/12/2018 in the said Appeal. I say that since the order dated 24/03/2017 attained finality the same was executed through the demolition squad.
6. I say that subsequently the answering Respondent was in receipt of representation/complaint dated 10/05/2022 from the present Appellant interalia stating that Respondent No. 1 has indulged into fresh construction in property bearing Survey No. 54/1 of village Cavelossim.
7. I say that a site inspection was done by the Answering Respondent through officials on 30/05/2022 which revealed a construction of



temporary structure at loco. The copy of the said site inspection report is already placed on record by Appellant at page 57.

8. I say that pursuant the said site inspection a Show Cause Notice bearing No. GCZMA/APPEAL No.16 /2017/M.A. No.117/2017/WZ/NGT/17/824 dated 20/07/2022 was issued by the answering respondent against the violators. The said show cause notice was duly replied by the Respondent violator along with document. The copy of the said Show Cause Notice dated 20/07/2022 is already placed on record by Appellant at page 58.

9. Furthermore, the present Appellant filed another representation / complaint dated 01/02/2022 interalia stating that Respondent No.1 has indulged into fresh construction in property bearing Survey No. 54/1 of village Cavelossim.

10. I say that a site inspection was done by the Answering Respondent through officials on 10/02/2023 which revealed a construction of cement structure with GI sheet roofing at loco having same dimensions as identified in previous inspection. The copy of the said site inspection report is already placed on record by Appellant at page 65.

11. I say that Answering respondent has heard the contentions raised by the present Appellant (Original Complainant) and the Respondent Violator at length in various meetings viz 318 GCZMA meeting held on 18/08/2022, 343rd GCZMA meeting held on 11/05/2023, 348th GCZMA held on 06/07/2022, 355th GCZMA meeting held on 17/08/2023, 361st GCZMA meeting held on 14/09/2023, 375th GCZMA meeting held on 30/11/2023, 377th



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GCZMA meeting held on 14/12/2023, 384th GCZMA meeting held on 01/02/2024. The matter was finally decided in the 388th GCZMA meeting held on 29/09/2024. The decision taken in the 388th GCZMA meeting held on 29/09/2024 culminated in issuance of Direction under Section 5 of Environment Protection Act, 1986 bearing No. GCZMA/APPEAL No.16 /2017/M.A. No.117/2017/WZ/NGT/17/740 dated 29/05/2024.

12. I say that the Answering Respondent has passed detailed order dated 29/05/2024 after considering all the rival contentions. The answering Respondent has issued a demolition order in respect of the structure which is subject matter of the show cause notice dated 20/07/2022 thereby confirming the same.

13. I deny that the order dated 29/05/2024 is in contravention of order dated 14/12/2018 passed by the Hon'ble Tribunal in the said Appeal bearing No. 16/2017. I deny that impugned liberty is contrary to all judicial norms, judicial indiscipline, against the hierarchy of court, illegal, and/or suffers from patent jurisdictional impropriety. I deny that the answering Respondent has reviewed its previous order dated 24/03/2017 and/or orders passed by any court of law.

14. I say that at this juncture it is important to consider the scheme of the CRZ notification pertaining to dwelling unit belonging to traditional coastal community. I say that intent and object of CRZ Notification 2011 which can be seen as under:- *"Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government, with a view to*

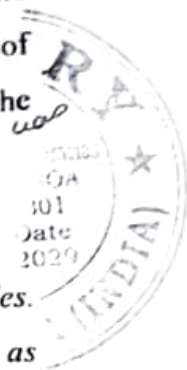


ensure livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches, its unique environment and its marine area and to promote development through sustainable manner based on scientific principles taking into account the dangers of natural hazards in the coastal areas, sea level rise due to global warming."

15. I say that that livelihood security to the fisher communities and other local communities, living in the coastal areas is thus of paramount importance whilst deciding the matters before the answering Respondent.

16. Furthermore Clause "3 of the CRZ Notification 2011 provides. *Prohibited activities within CRZ,- The following are declared as prohibited activities within the CRZ,-.....(e) reconstruction, repair works of dwelling units of local communities including fishers in accordance with local town and country planning regulations."*

17. The Notification furthermore provides representation of coastal communities in district level committee which can be seen as below:- "6. *Enforcement of the CRZ, notification, 2011-.....(c) the State Government or the Union territory CZMAs shall primarily be responsible for enforcing and monitoring of this notification and to assist in this task, the State Government and the Union territory shall constitute district level Committees under the Chairmanship of the District Magistrate concerned containing atleast three representatives of local traditional coastal communities including from fisherfolk; (d) The dwelling units of the traditional coastal communities including fisherfolk, tribals as were permissible under*



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the provisions of the CRZ notification, 1991, but which have not obtained formal approval from concerned authorities under the aforesaid notification shall be considered by the respective Union territory CZMAs and the dwelling units shall be regularized subject to the following condition, namely- (i) these are not used for any commercial activity (ii) these are not sold or transferred to non-traditional coastal community."

18. Furthermore " III. CRZ-III,- A. Area upto 200mts from HTL on the landward side in case of seafront and 100mts along tidal influenced water bodies or width of the creek whichever is less is to be earmarked as "No Development Zone (NDZ)" ;- (i) the NDZ shall not be applicable in such area falling within any notified port limits; (ii) No construction shall be permitted within NDZ except for repairs or reconstruction of existing authorized structure not exceeding existing Floor Space Index, existing plinth area and existing density and for permissible activities under the notification including facilities essential for activities; Construction/reconstruction of dwelling units of traditional coastal communities including fisherfolk may be permitted between 100 and 200 metres from the HTL along the seafront in accordance with a comprehensive plan prepared by the State Government or the Union territory in consultation with the traditional coastal communities including fisherfolk and incorporating the necessary disaster management provision, sanitation and recommended by the concerned State or the Union territory CZMA to NCZMA for approval by MoEF; " "B. Area between 200mts to 500mts,- The following activities shall be permissible in the above areas; (i) development of vacant plot in designated areas for construction of hotels or beach resorts for tourists or visitors subject to the



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conditions as specified in the guidelines at Annexure-III ; (ii) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II; (iii) facilities for regasification of liquefied natural gas subject to conditions as mentioned in sub-paragraph (ii) of paragraph 3; (iv) storage of non-hazardous cargo such as, edible oil, fertilizers, food grain in notified ports; (v) foreshore facilities for desalination plants and associated facilities; (vi) facilities for generating power by non-conventional energy sources; (vii) construction or reconstruction of dwelling units so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and goathans. Building permission for such construction or reconstruction will be subject to local town and country planning rules with overall height of construction not exceeding 9mts with two floors (ground + one floor);”

19. I say that there is Goa specific special provision in the CRZ Notification 2011 which can be seen as under:- “3. CRZ of Goa.- *In view of the peculiar circumstances of the State Goa including past history and other developments, the specific activities shall be regulated and various measures shall be undertaken as follows:- (i) the Government of Goa shall notify the fishing villages wherein all foreshore facilities required for fishing and fishery allied activities such as traditional fish processing yards, boat building or repair yards, net mending yards, ice plants, ice storage, auction hall, jetties may be permitted by Grama Panchayat in the CRZ area; (ii) reconstruction, repair works of the structures of local communities including fishermen community shall be permissible in CRZ; (iii) purely temporary and seasonal structures customarily put up between the months of September to May;..”*




20. I say that from the above cited provisions therefore provide adequate protection to dwelling unit of traditional coastal communities and provisions for construction / reconstruction / repairs of the dwelling unit of traditional coastal communities. I say that Authority is thus duty bound to protect a structure irrespective of ownership/dispute/claim of party when there is reasonable belief and/or prima facie case that the structure existed prior to 1991.
21. I say the Authority considering the above provision had granted the liberty to the Respondent. I say that the liberty doesn't confer any final rights upon the party respondent. I say that if the answering Respondent exercises the liberty given, it will consider the application made by party Respondent on its own merits. I say that such decision either accept or reject such application are appealable under provisions of law.
22. I say that grounds raised by the Appellant are premature and cannot be considered by this Hon'ble Tribunal. I say that Appellant is misleading the Hon'ble Tribunal by contending that this answering Respondent has reviewed its own order or order passed by the higher court. I say that the Appellant is not entitled to raise the grounds raised therein.
23. I say that as far as directions to demolish the structure is concerned, the same has been complied with. I say that violation done at site has been demolished by the demolition squad. I say that the same has been identified and verified by officials of GCZMA. A copy of the Panchanama dated 04/09/2024. I say that the demolition order



dated 29/05/2024 stands complied. A copy of the said Panchanama is 04/09/2024 is annexed hereto and marked as Annexure "A".

- 24. I say that considering the violation at site has been factually removed nothing more survives in the matter.
- 25. The answering Respondent submits that the present Appeal be dismissed with cost.

[Signature]
 DEPONENT



VERIFICATION

I, the above-named Deponent, do hereby state on solemn oath and affirmation that the facts stated hereinabove in this Additional Affidavit are true and correct to the best of my knowledge, information and belief, and nothing has been concealed.

Verified at Panaji, Goa on the 16th day of October, 2024.



[Signature]
 DEPONENT

Solemnly affirmed before me
Johnson Bedy Fernandes
 Who is identified before me by

 _____ At Panjim - Goa
 Sr. No. 144/10/2024
 Date. 16/10/2024



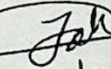
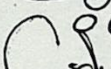
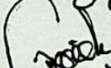
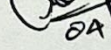
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Advocate & Notary Goa State

DEMOLITION PANCHANAMA

04/09/2024

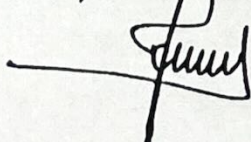
Ref: SDO/SAL/DEMO/2024/87, dated 20/08/2024

with reference to the above referred demolition order pertaining to the demolition of offending structure in property bearing Sy. No. 54/11 Cavlossim. The following officials were present for the demolition:-

- 1) ~~Pratamesh~~
PS, Pratamesh Mahale, Colva PS.
- 2) Krishna Uchip AIC 
- 3) Jayesh Naik IE (PWD water supply) 
- 4) John Colaco V.P. Factory 
- 5) Vignesh Naik F.O.S. GCZMA 



The structure was identified by the GCZMA representative present. The demolition process began at 11-30 am and ended at 12.00 noon on 04/09/2024.

In presence of.



MAMLATDAR OF SALCETE
MARGAO