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BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN
ZONE AT PUNE

Appeal No.6/2024

Mr. Regan Rodrigues

...Appellant

v/s

Goa Coastal Zone Management & ors.

...Respondents

FINAL WRITTEN ARGUMENTS OF THE
APPELLANT.

MAY IT PLEASE THIS HON'BLE TRIBUNAL,

On behalf of the Petitioner above named it is stated and
submitted as under:-

1. The Appellant states that, the present appeal has been filed against the Impugned Order dated 27.11.2023 passed by the Respondent No.1, by virtue of which the Respondent No. 1 has dropped the proceedings against the Respondent No. 2 and has discharged the show cause notice against him.

2. It is the case of the Appellant, that the Respondent No. 1 has passed the Impugned Order based on two findings. The first finding of the Respondent No. 1 is at page No. 51 of the compilation. It is the observation of the Respondent No. 1 that the two reports produced by the Respondent No. 2 (at page Nos. 145-160 and 172 to 211 specify that there existed a sluice gate and due to destruction/non-functional of the sluice gate there is ingress of tidally influence water upto the Respondent's property, therefore CRZ jurisdiction not applicable to the Respondent's property. Based on these two reports produced by the Respondent No.2, the Respondent No. 1 formed an opinion that, as per the S.O.1422(E) dated 01.05.2020, which states that in case

there existed a bundh or a sluice gate constructed in the past, prior to date of notification issued vide S.O. 114(E) dated 19.02.1991, the HTL shall be restricted to the line along the bundh or the sluice gate. The Respondent No. 1 relied upon the report produced by the Respondent No. 2 and came to the conclusion that due the breach of a sluice gate there is ingress of water and therefore the amendment dated 01.05.2020 in C.R.Z Notification is applicable and consequently C.R.Z jurisdiction is not applicable to the Respondent.

3. The second finding of the Respondent No. 1 is at page 51 of the compilation, wherein the Respondent No. 1 has relied upon a licence dated 11.12.1951 issued by the Camara Municipal De Salcete, to contend that the structures were existing prior to 1991.
4. It is stated that both the above findings of the Respondent No.1, are completely erroneous and against the evidence on record. The Appellant states that he shall first deal with

the first finding of the Respondent No. 1 that there existed a sluice gate at the mouth of River Sal which was breached due to non-maintenance and therefore the H.T.L line should be restricted along the mouth of the said distributary.

In this regard, the Appellant would like to draw this Court's attention to the Survey records maintained by the Inspector of Land and Survey Records which is at page No.222. The opening of this distributary (leading to the property of the Respondent No. 2) is at the extreme right side of the plan denoted in blue colour. It is the contention of the Respondent No. 2 that at the mouth opening of this distributary the Western bank of River Sal was breached due to non-maintenance which led to the ingress of tidally influence water upto the property belonging to the Respondent No. 2 and therefore it is his contention that such an elongated water body though having influence of tides, cannot be considered a true part of river. However,

as a matter of fact, if one peruses the Final C.Z.M.P Plan for Goa 2011 prepared by the NCSCM in concurrence with various Government Departments such as Water Resources Department, Biodiversity board, surveyors of DSLR, Soil Conservation Engineers of the Agriculture Department and the Forest Officials, it can be confirmed that there is no and never was a sluice gate existing at the mouth of the said distributary. There never existed a sluice gate at the mouth of this distributary because if such a sluice gate was existing in the past then the same would have been noted down or declared by the ground truthing Committee who prepared the Ground Truthing Report to ascertain and determine the marginal bundhs, sluice gates and the defended khazan lands in the State of Goa. On perusal of the Ground Truthing Plan produced at **page No. 220**, there is a clear certified note by various Departments which is as under:-

“the ground truthing of the marginal bunds, sluice gates and the defended khazan lands was carried out by the

Water Resources Department along with the Members of the Biodiversity, Surveyors of the DSLR, Soil Conservation Engineers of the Agricultural Department, Forest Officials. It is further certified that the ground truthing is carried out by details enumerated on the toposheets published by the survey of India in the year 1964, cadastral village maps published by the Land Survey Department in the year 1972-1976. The khazan land, bundhs, sluice gates mapped by the village panchayat were also used utilised for identification and ground truthing”

“Thus, the bundhs/sluice gates and kkhazan lands shown in this map are verified and it is certified that the bundhs and sluice gates shown in this map exists now and were constructed in the past prior to the date of notification issued vide S.O.114(E) dated 19.02.1991 to the best of our knowledge and ability”.

Based on this ground truthing report, the Final CZMP Plan has been notified and sanctioned by the NCSCM as can be seen from the plan produced at **page No 218**.

It is stated that upon perusal of this CZMP plan, the distributary of river Sal which flows in the proximity of the property of the Respondent No. 2 is clearly mapped. Just adjoining the mouth of this distributary, there is a sluice gate which is already mapped and marked by the N.C.S.C.M.

Now it is the contention of the Respondent No. 2 that barely meters away from this existing sluice gate on the Western bank of river Sal, there was breach of the Western bank and because of this breach there was inlet of water which resulted in the formation of the said distributary/water channel.

The Respondent No.2 submitted a report of a private agency along with a ground truthing report to establish that

there existed a sluice gate at the opening of the distributary/water channel which was breached and because of this breach there was inlet of riverine water which led to the formation of the distributary/water channel.

It is stated that the report of ground truthing prepared by the author Mr. Nandakumar Sawant and Mr. Deepak Kumbhar, is of no evidentiary value and the findings therein cannot be considered to be binding or true, as firstly this report is contrary to the claim of the Respondent No.2 in his reply at page 115 filed before the Respondent No.1. It was never the case of the Respondent No.2 that there was violation of any sluice gate or a bandh due to which the said distributary was formed. On the contrary it was the case of the Respondent No.2 that there was violation of the Western bank which led to the formation of the distributary.

Secondly, the authors of this report had no legal authority to overrule the findings of the ground truthing Committee or add to the findings of the Ground Truthing Committee who prepared the Ground Truthing report based on which the CZMP plan has been notified. For the sake of preparing this ground truthing report the private agency, has referred to data contained in Goa's last living Khazan (Goya), Khazan system Management Plan by WRD, [https://www.sahapedia.org/khazans-Goa-Socio-Cultural-perspective, Khazans in troubled waters \(2005\) The energy and resources Institute \(TERI\), Teri press, IHC complex, Lodhi Road, New Delhi and A geographic Economic study of sluice gate fishing at select islands of river Mandovi Goa, India Tansactions Vol. 40, No. 2, 2018.](https://www.sahapedia.org/khazans-Goa-Socio-Cultural-perspective, Khazans in troubled waters (2005) The energy and resources Institute (TERI), Teri press, IHC complex, Lodhi Road, New Delhi and A geographic Economic study of sluice gate fishing at select islands of river Mandovi Goa, India Tansactions Vol. 40, No. 2, 2018.) Upon perusal of the observations at page 146 of these report, it has been observed by them that the property belonging to Respondent No. 2 i.e. Survey No. 50/1 and others, of village Cavelosim, are flanked on its Northern side with an inlet located on the Western bank of Sal River which has given rise to a long water channel bringing in river water

during high tide thereby making it a tide dominated water body. It is the contention of the author of this ground truthing report that the distributary of River Sal which touches the property of Respondent No. 2 is not a distributary but a poiem (which means a water body). At page 146 Clause 2(3) of the said report, it is the contention of the author that this distributary is an elongated water body called poiem which collects water from the khazan fields in the North and South and drains it into the Sal River. However, at page 147, Clause 2(7), the author goes ahead to state that all the poiems are provided with a sluice gate at their mouth. This itself is an admission on the part of the author of this report. To explain better, it is stated that this fresh water bodies called poiem exist in the khazan lands which are towards the North and South of the distributary of the River Sal. The water from these khazan lands/poiem, is drained through three sluice gates (which are existing right opposite the property of the Respondent No. 2) into the distributary (under dispute) abutting the property of the Respondent No. 2. Attention of this Court

is drawn to the finding at Clause 2(7) of this private report wherein the author contends that there should have existed a sluice gate in the past for regulating the water in the channel. However, the author himself is not sure of the existence of such sluice gate in the past, nor is there any reference to any data to confirm the existence of this alleged sluice gate at the opening of the distributary. This distributary cannot be termed to be a poiem, as the same has a tidal influence which is proved right from the year 1972-1976 when the cadastral village maps were prepared. This Maps have been relied upon by the Ground Truthing Committee. This map is the same map produced by the Appellant at page No.(222). Therefore, the existence of this distributary and its tidal influence is undoubtedly and undisputedly confirmed from the year 1972 at least.

Therefore, the ground truthing report prepared by these two authors is smack of malafides and manipulated only to support the illegal structure of the Respondent No. 2. There is absolutely no identification of the exact location

of this alleged sluice gate in the ground truthing report of this private author. Only a bold negligent statement has been made there might have existed a sluice gate in the surrounding area of the property of the Respondent No. 2. The conclusions drawn by the private authors in this report are based on a figment of their imagination. These authors fail to realise that in the event, there existed a sluice gate at the opening of the said distributary on the Western bank of River Sal, then the other three sluice gates which are along the distributary and opposite the property of the Respondent No.2 could not have existed and shown by the NCSCM in their CZMP plan. It is very important to note that there is no other source or distributary of river Sal connecting these sluice gates existing opposite the property of Respondent No. 2 as shown in the CZMP plan.

Therefore, the ground truthing report submitted by the Respondent No.2 is a false and fabricated report which cannot be termed to have any evidentiary value and therefore this report has to be rejected.

The second report submitted by the Respondent No. 2 is a report prepared by Sadekar Enviro Engineer Pvt. Ltd. This report contains data that is cut, copied and pasted from the internet sources. It is stated that, yet again in this report, there is absolutely no identification of the exact location of the alleged sluice gate. There is no data in the form of toposheets, cadastral village maps, the khazan lands, bundhs and sluice gate maps prepared by the Village Panchayats etc. that have been referred to confirm the existence of the alleged sluice gate at the opening of the distributary. This report too confirms at page 190 that there is tidal influence to this distributary which is running from west to East direction and joins the Western bank of Sal River. It also confirms that this distributary is a tide dominated water body. However, this report erroneously concludes, without any evidence, that there existed a sluice gate at the opening of the said distributary.

Based on such erroneous finding, this report claims that this distributary of river Sal is a poiem or just an elongated water channel. Such a finding is completely absurd and in fact deliberately manipulated. The conclusion arrived at by this private agency, is in conflict with the findings of the ground truthing committee formed by the NCSCM which confirms that the distributary abutting the property of Respondent No. 2 is a distributary and not merely a water channel as contended by the Respondent No. 2. Therefore, with these set of facts, it is not open to the Respondent No. 2 to dispute the contents of the CZMP plan when the same has been duly notified by the NCSCM.

It is for the above stated reasons that the Respondent No. 1 committed a grave error in relying on the two private reports produced by the Respondent No. 2 and ignoring

their very own public record i.e. the CZMP plan which confirms the distributary of river Sal abutting the property of the Respondent No. 2.

To further corroborate the case of the Appellant, the Appellant draws the attention of this Tribunal to the evidence contained in the documents produced on record by the Appellant which are discussed herein below:

1. **DEED OF SALE DATED 16.08.1993 (Page 54-67)**

By virtue of this Deed, the mother of the Respondent No.2 i.e. Mrs. Maria Passanha who is shown to be Purchaser No.4, purchased various properties along with other co-owners which includes the subject property bearing Survey No. 50/1 which is the subject matter of the present appeal. Pursuant to this Deed, there was a Deed of Partition dated 19.01.2002 executed between the mother of the Respondent No. 2

and the other co-owners which is discussed herein below.

2. DEED OF PARTITION DATED 19.01.2002 (Page 66)

In this Deed, the mother of the Respondent No. 2 has been shown as the First party. At **page 82**, it has been recorded that the mother of the Respondent No. 2 Mrs. Maria Passanha was allotted plots D, F and M as described in Schedule-I at **page 86**. If one peruses the description of the property in Schedule-I, the Northern boundary of the said property is clearly shown to be a **river itoi**. Itoi means distributary. Yet again, at **page 87**, if one peruses Schedule-II it contains the description of plot A forming part of Survey No. 50/1. The Northern boundary of this plot is clearly mentioned as **river itoi**. Again, if one peruses the description of the property of Schedule-III at **page 89**, plot C of Survey No. 50/1 is shown to be bounded on the North by **river itoi**. Again, on perusal of Schedule-IV at **page**

91, the Northern boundary of the said plot B is shown to be **river itoi**. Further, the plan attached to this partition deed, clearly and unequivocally confirms the existence of **river itoi (tributary of River Sal)** abutting the property bearing Survey No. 50/1.

3. **LETTER DATED 18.07.2009 (Page 99)**

This letter was filed by the mother of Respondent No. 2 to the village panchayat of Cavelossim. In this letter, the mother of Respondent No. 2 clearly contends that there exists a structure in said property bearing 50/1 admeasuring an area of 60 sq.mts. She also requests the Panchayat to assess this structure for taxation purposes. This document exposes the false claim of the Respondent No. 2 that the restaurant/ structure now admeasuring an area of almost 640 sq.mts. was existing prior to 1991. The claim of the mother of the Respondent No. 2 that the area of the structure admeasures 60 sq.mts. is also in conflict and sharp

contradiction to the licence dated 27.12.1951 issued by the Margao Municipal Council which is **page No. 124**. This is so because, the area as provided in this licence if calculated, the area works out to (49 sqmts + 49sq.mts -98 sq.mts). This conflict is because the so called 1951 license produced by the Respondent No. 2 does not pertain to any structure situated in survey No. 50/1, but pertains to the residential house of one Mr. Vidiciano Fernandes alias Evidiyan Fernandes. The structure constructed by the Respondent No. 2 is a commercial structure which is a restaurant. Moreover, this license does not provide any identification/description of the property wherein the residential house was constructed. The illegal subject structure constructed by the Respondent No. 2 in property bearing Survey No. 50/1 admeasures an area of more almost 640 sq.mts. which is apparent from the plan submitted by the Respondent No.2 to the excise department which is at **page 101**. However, in the report of the District Level Committee at **page 108** the area of the structure is shown to be

about 240 sq. mts. The D.L.C has not taken into consideration the dining areas as declared by the Respondent No.2 in the sketch submitted by him to the Excise Department. In any case the Appellant does not want to dispute the report of the D.L.C as the records speak for itself.

Therefore, it is but obvious that the structure constructed by the Respondent No. 2 never existed in Survey No. 50/1 nor the license dated 27/12/1951 pertains to the subject structure in 50/1 as neither the areas tally, nor the description tallies.

4. Site Plan issued by the excise inspector of the excise department (PAGE 100).

This plan issued by the Excise Inspector, Excise Department, Salcete Goa, shows the existence of the restaurant belonging to the Respondent No. 2 as well

the **river Sal** on the Northern side of the said restaurant. The following plan at page 101 depicts the entire restaurant existing at loco. This record of the Excise Department also confirms the existence of the distributary of river Sal abutting the property of Respondent No. 2.

5. Complaint dated 20.10.2017 (PAGE 103)

By virtue of this complaint, the Appellant herein invoked the jurisdiction of Respondent No. 1 to initiate action against the illegal structure constructed by the Respondent No. 2 in the subject property. This complaint was filed way back in the year 2017. However, the Respondent No.1 dragged their feet and did not take any action despite of repeated reminders. It is only in the year 2020 that the Respondent No.1 directed the District Level Committee to conduct the site inspection of the subject structure.

6. **Notice dated 9.12.2020. (page 107)**

By virtue of this notice the Respondent No.1 directed the District Level committee to conduct the inspection of the subject structure and submit the report of the same.

7. **Report of the DLC dated 29.4.2022. (page 108)**

On perusal of this report at **page 109** the District Level Committee has clearly identified the structure of the Respondent No.2 under the title “**Salcete Taluka SDO-I**”. The DLC Committee has observed that there is a permanent structure of laterite masonry with R.C.C m Aluminium sheet having area of 156.70 sq.mts. and height of 3.45 metres. The DLC has also observed that there is a structure of metal roof which shed admeasuring an area of 70 sq. mts. which has a height of 5 metres. It has been also observed that there is a structure which is an open stage with metal roofing

shed having an area of 14 sq.mts and height of 2.5 metres. The survey numbers also have been identified in the said report.

8. **Show-cause notice dated 24.5.2022 issued by the Respondent No.1. (page 112).**

By virtue of this show cause notice the Respondent No.1 took cognizance of the report submitted by the DLC and observed that there is gross violation of CRZ notification of 2011 and accordingly called upon the Respondent No.2 to show cause as to why a direction to demolish the structures and to restore the land to its original condition should not be issued.

9. **Reply dated 25.5.2022 of the Respondent No.2. (page 115).**

In this reply, at page 115, last para. the Respondent No.2 claims that there is a licence dated in the year

1951 from Camara Municipal de Salcete by virtue of which his late father constructed a room in Survey No.50/1 **for net mending and keeping other fishing gears and material**. On the following page i.e. **page 116** at para. a(iv) it is the contention of the Respondent No.2 that, after the death of his father in the year 1969 the room was lying idle for a long time. In the following paragraph at **para a(v)** it is the claim of the Respondent No.2 that since there was no source of income, his mother repaired the existing room and decided to use it as a restaurant. It is stated that in **para (vi)** of his reply, the Respondent No.2 claims that the structures observed by the DLC to be in violation of the CRZ notification were constructed way back by his late father in the year 1951 by obtaining licence from Camara Municipal de Salcete. However, if one peruses the licence which is at **page No. 124** it clearly reveals that the same does not pertain to the subject structure in survey No. 50/1. This is so because the license produced by the Respondent No.2 is for a residential

house, which is completely contrary to the claim of Respondent No.2 at para. **a(iii)** of his reply at **page 115**, wherein the Respondent No.2 claims that the room was constructed for net mending and keeping other fishing gears material.

Moreover, the license dated 27.12.1951 that has been produced by the Respondent No.2 does not permit the construction of any restaurant, nor the same discloses the identity/description of the property wherein the said residential house was supposed to be constructed. Further in this reply at **page 117 para a(xiii)** it the contention of the Respondent No.2 that due to the breach of the West bank of the river towards the Northern side of the existing sluice gate, the river water has entered and has given rise to the formation of a new water body as the river bank has remained non maintained for ages. By this very categorical statement, the Respondent No.2 admits that the distributary abutting his property was formed ages

back. This statement of the Respondent No.2 has to be compared with the cadastral map prepared by the Survey Department in the year 1972 which clearly shows the existence of the distributary. The Respondent No.2 categorically states that there is breach of the **western bank of the river** and on this premise the Respondent No.2 seeks to take benefit of the S.O.1442(E) dated 1.5.2020 of the MOEF to contend that the CRZ law does not apply to his structure.

However, on a proper reading of this S.O.1442(E) dated 1.5.2020, this S.O. was introduced by the MOEF as they received representation from various stake holders including the State Governments regarding the need for restricting the demarcation of HTL in Khazan Land to the Bund/Sluice gate and delineation of HTL and CRZ categories in the Sundarbans biosphere reserve under the provisions of the CRZ Notification 2011. The said S.O was introduced specifically for the

reason to restrict the demarcation of the HTL in Khazan land to the bund/slruise gate and to protect the area under Mangroves arising due to saline water ingress beyond the bund or sluice gate, the said S.O.1422(E) dated 1/5/20 was introduced. In this S.O the area under mangroves beyond the bund or the sluice gate was classified as CRZ-IA. This S.O pertains to khazans or low-lying areas which are influenced by tidal action. As a matter of fact, the area occupied by the distributary (under dispute) was never a khazan land nor a low lying are at any given point of time and it was always a distributary/integral part/entity of River Sal as can be verified from the Cadastral Village Map (at page 295) prepared by the Survey Department. The khazan lands having influence of tidal action are shown on either side of this distributary.

Without prejudice it is stated that assuming without admitting that the said S.O is applicable to other cases as well, then in such a case it is stated that this

S.O is applicable only if there existed a bundh or a sluice gate constructed in the past prior to the date of CRZ Notification of 1991. In this particular case it is not the case of the Respondent No.2 that there was a bundh or sluice gate that was breached which led to the inlet of water and the formation of the distributary. But it is the specific case of the Respondent No.2 that this distributary was formed due to a breach of the **WESTERN BANK** . Therefore the S.O.1442(E) dated 1/5/2020 has absolutely no application to the facts of the present case.

10.License for construction No.156 page 124.

By virtue of this license the Respondent No.2 is attempting to prove that the construction of the subject structure was done by his late father in this property way back in the year 1951. However, it is pertinent to note that this license produced by the Respondent No.2

has absolutely no relevance to the subject structure in question. Upon reading of this license it is apparent that the same was granted for the residential house and that too for an area of 98 sq.mts.(two rooms). This license is contrary to the claim of the Respondent No.2. In his reply at **page 115 and 116** the Respondent No.2 contends that his father had obtained the above license for the construction of one room for the purpose of net mending and keeping other fishing gears and material. This license pertains to two rooms and specifically for residential purpose, not for mending and keeping other fishing gears and material. Moreover, at **page 99** the Appellant has clearly pointed out the letter filed by the mother of Respondent No.2 to the Panchayat wherein she claims that there exists a structure of 60 sq.mts. Considering all these conflicting statements and contradictions, no credibility can be given to the false claim of the Respondent No.2 that the subject structure was constructed by obtaining the said license of the year 1951, moreover, when the subject structure

admeasures an area of about 240 sq.mts. as of date, as observed by the DLC committee and not disputed by the Respondent No.2. The plan issued by the Excise Department at **page 101** clearly depicts the area of the subject structure as under:-

Dinning area = $26 \times 16 = 416$ sq.mts.

Dinning area = $10 \times 10 = 100$ sq.mts.

Area of structure =

- a) Utility Store $3.58 \times 1.92 = 6.8$ sq.mts.
- b) Toilet = $1.58 \times 1.50 = 2.37$ sq.mts.
- c) Nursing = $3.58 \times 2.0 = 7.16$ sq.mts.
- d) Freezer = $4.17 \times 2.08 = 8.7$ sq.mts
- e) Bar store = $4.17 \times 3.44 = 14.34$ sq/mts.
- f) Kitchen = $6.45 \times 5.5 = 35.47$ sq.mts.
- g) Store = $2.1 \times 2.5 = 5.25$ sq.mts.
- h) Bar counter = $8.8 \times 2.1 = 18.48$ sq.mts.
- i) Gents toilet = $2.75 \times 2.9 = 7.97$ sq.mts.
- j) Ladies toilet = $5.0 \times 3.66 = 18.3$ sq.mts.

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Total area 640.84 sq.mts. approx..

A crucial fact to be noted is that the Respondent No.2, in the original proceedings before the Respondent No.1 never disputed the plans issued by the Excise Department which are **page No.100, 101 & 102** of this compilation. Moreover, in the affidavit-in-reply filed by the Respondent No.1 in the present appeal, the Respondent No.2 has not denied these plans/sketch submitted by the RespondentNo.2 to the Excise Department and issued by the Excise Department under RTI Act to the Appellant. Therefore, the area of the subject structure as shown in the plans submitted by the Respondent No.2 to the Excise Department, clearly proves that the area of the subject structure to be 640.84 sq.mts. Yet again there is no document or licence produced by the Respondent No.2 to prove that this structure admeasuring 640.84 sq. mts. either existed prior to the 1991 or the same was constructed by obtaining a valid license.

11. Deed of Gift with acceptance dated 11.3.2013 (page 247).

This is the Gift Deed executed by mother of the Respondent No.2 in favour of the Respondent No.2 in respect of Plot D forming part of Survey No.50/1, 59/3, 59/5 & 59/9. On perusal of this Gift Deed, especially page Nos.255 & 256 the Northern boundary of the subject property is clearly mentioned as **River Itoi(distributary of River Sal)**. Moreover, the plan annexed to this Gift Deed at **page 263** clearly depicts the existence of the river on the Northern side of the subject property i.e. 50/1.

A crucial fact to be taken into consideration is that on perusal of the Deed of Sale at **page 54**, the Deed of Partition at **page 68** and the Deed of Gift at **page 247** there is absolutely no mention of any existing structure in the subject property bearing Survey No.50/1. Moreover, the plans annexed to the above deeds also do not depict any structure in the said property. It is stated that if one has to believe the claim of the Respondent No.2 that the

structure is an existing structure that the same should have been reflected in the Deed of Gift with Acceptance at **page 247**.

12.Letter dated 27.4.2023 produced by IA No.8/24(wz)
allowed by order dated 30.1.2024 (page 246).

This is the letter issued by the Respondent No.1 to the Appellant in reply to the application dated 19.4.2023 filed by the office colleague of the Appellant i.e. Christine De Souza under the RTI Act. By virtue of this letter the Respondent No.1 informed the Appellant that all the rivers and creeks situated in the village of Cavelossim, Salcete, Goa are shown in Map No. GA04 uploaded on the website <https://czma.goa.gov.in>. On perusal of this map GA04 the existence of the distributary of River Sal abutting the property of the Respondent No.2 is clearly depicted.

13.Letter dated 18.12.2017 addressed by the Excise
Inspector to the Commissioner of excise (page 341-

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342) produced by I.A. No. 60/2024 disposed by this
Hon'ble Tribunal vide order dated 5.9.2024.

**The Appellant states that he seeks leave of this Hon'ble
Tribunal to rely upon the above document for the purpose of
this Appeal.**

In this report submitted by the Excise Inspector, last paragraph,
the Excise Inspector confirms the existence of the river Sal
within the proximity of the license premises of the Respondent
No.2.

**14.Order passed by the Commissioner of Excise at page
346 produced by I.A.No. 60/2024 disposed by this
Hon'ble Tribunal vide order dated 5.9.2024.**

The Appellant states that he seeks leave of this Hon'ble Tribunal to rely upon the above document for the purpose of this Appeal.

By virtue of this order the Commissioner of Excise took cognizance of the violation committed by the Respondent No.2 by shifting the licence premises from Survey Nos.44/26 & 44/7 of Cavlossim village to the subject property bearing Survey No.50/1 of Cavlossim village. It is stated that the Respondent No.2 obtained excise license for sale of liquor in House bearing No.340/B which pertains to his restaurant in Survey No.44/26 & 44/27. The Respondent No.2 had also submitted a form E-28 to apply for liquor license for retail sale of liquor in the restaurant premises bearing H.No.340/B in survey No.44/26 & 44/27. However, in violation of this license, the Respondent No.2 shifted the restaurant in Survey No.50/1 and taking note of this fact, the Commissioner of Excise at para 30 clearly held that it is beyond doubt that the Respondent No.2 through misrepresentation of facts obtained the afore mentioned liquor

licenses in House bearing 340/B survey No.44/26 & 44/47 whereas actual license premises lies in survey No.50/1 as is clear from the report dated 11.12.2017 submitted by the ISLR. It was also noted that the report EI dated 18.12.2017 mentioned various other irregularities and possible violations of CRZ regulations. For this reason, the Commissioner of Excise cancelled the license issued in favour of the Respondent No.2.

15.Letter dated 28.6.2024 of the Respondent No.1 along with the delineation plan produced by I.A.No. 218/2024. (page 395 and 396) rejected by order dated 5/9/24 of this Tribunal.

The Appellant seeks leave of this Hon'ble Tribunal to rely upon the above document for the purpose of this appeal.

The Appellant states that this is a plan issued by the Respondent No.1 to the office colleague of the Appellant, Mr. Lawrence

Rosario Miranda. The Appellant deliberately filed an application in the name of his office colleague, Lawrence Miranda (so as to prevent the Respondent No.1 from being alerted) seeking the delineation of the CRZ line in property bearing Survey No.51/1 which is barely meters away from the subject property, as can be seen in the survey plan. The endeavour of the Appellant in obtaining the delineation plan was to get necessary evidence from the mouth of the Respondent No.1 itself, that the distributary abutting the property of the Respondent No.2 is an integral part and an entity of River Sal. In this delineation plan the Respondent No.1 themselves demarcated the C.R.Z line showing the extent of the property affected by C.R.Z. On perusal of their letter **at page 395** the Respondent No.1 confirms that the plot under Survey No.51/1 is partly covered with mangrove buffer(CRZ IA)part of the plot falls within CRZ III (NDZ for river/creek) and part of the plot falls outside C.R.Z. With this clear admission and affirmation of the Respondent No.1, the false and erroneous findings adopted by the Respondent No.1 in the Impugned Order, to the effect that

the said distributary is not affected by C.R.Z due to application of S.O. No.1422(E) dated 1.5.2020 stands falsified.

The Appellant states that this document is a crucial document which destroys the false claim of the Respondent No.2 and exposes the Respondent No.1 of its perjurious statements made in their affidavit-in-reply filed in the present appeal. This document exposes the conduct and the corrupt practice adopted by the Respondent No.1 in misusing their powers of supporting the violators so as to shield the illegal activities committed by these violators. It is stated that, the CZMP Plan 2011 which is a public record was fully within the knowledge of the Respondent No.1. The Respondent No.1 had full knowledge that the structure of the Respondent No.2 falls within the No Development Zone and has been constructed in violation of the C.R.Z Notification. The distributary abutting the property of the Respondent No.2 is clearly depicted in the CZMP Plan. This CZMP Plan 2011 is effectively used and followed by the Respondent No.1 while issuing permissions or while dealing with

applications for development in properties affected by CRZ. In spite of this fact, the Respondent No.1, in complete misuse of their powers and disregard to the CZMP Plan relied upon the two reports of the Private Agencies to contend that the distributary of River Sal abutting the property of the Respondent No.2 does not fall within the C.R.Z Notification.

Therefore, the Appellant states that, with the above evidence on record through the various documents produced by the Appellant showing the existence of the distributary of the River Sal abutting the property of the Respondent No.2 it was completely unlawful, arbitrary and shameful for the Respondent No.1 to contend that the structure of the Respondent No.2 is not affected by the C.R.Z Notification 1991.

For the above stated reasons, the Appellant states that the Impugned Order passed by the Respondent being completely

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perverse, unlawful and untenable the same needs to be quashed and set aside and the Respondent No.2 needs to be directed to demolish the entire structure constructed in survey No.50/1 of Cavelossim village.

It is therefore prayed that the present appeal filed by the Appellant be allowed and the Impugned Order passed by the Respondent No.1 be quashed and set aside in the interests of justice.

Place : Margao

Date : 26.4.2025.



P.O.A for the Appellant