

**BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN
ZONE BENCH, PUNE**

APPEAL NO. 28/2025 WZ

IN THE MATTER OF:-

Mr. Dilip Mangesh Morje

....APPELLANT

V/s

The Goa Costal Zone Management Authority & Ors.

...RESPONDENTS

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Apnaik

RESPONDENT NO.5

FILED THROUGH

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25/02/2025

**BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN
ZONE BENCH, PUNE**

APPEAL NO. 28/2025 WZ

IN THE MATTER OF:-

Mr. Dilip Mangesh MorjeAPPELLANT

V/s

The Goa Costal Zone Management Authority & Ors.

...RESPONDENTS

**PRELIMINARY OBJECTIONS ON BEHALF OF THE
RESPONDENT NO.5 NAMELY MR. ANIL PRABHAKAR NAIK**

MOST RESPECTFULLY SHEWETH:-

The Applicant herein respectfully states and submits as under:

1. That Respondent has not approached this Hon'ble Tribunal with a clean hand, therein tried to mislead this Hon'ble Tribunal by making wrong allegations and manipulated facts with the mala-fide intention to harass Respondents and to illegally grab Respondent No. 5 property.
2. It is submitted that this Hon'ble Tribunal by order dated 12/02/2025

“directed the Respondents to submit their reply affidavits within four weeks through e-filing portal of NGT and also circulate the same to the appellant as also other respondents by available e-mail”.

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“Rejoinder, if any, is directed to be submitted within one week thereafter”.

3. The Respondent No. 5 would like to list out certain facts/developments, that the Applicant is the rightful owner of the property bearing survey No. 119/3.
4. Further, the Respondent No. 5 hereby denies each and every allegation, contention, and submission contained in the present under Appeal which is contrary to or inconsistent with the pleading that forms the part of the record hereunder. The answering Respondent No. 5 further reserves right to file further brief reply in the matter if the need arises. The answering Respondent No. 5 does not admit any of the allegations and contentions made by the Appellant in the present Appeal and denies everything that is stated therein so far as it is contrary to or inconsistent with anything that is stated by the answering Respondent hereinafter.
5. At the further outset, the answering Respondent opposes the present appeal against the answering Respondent as it is humbly submitted that disputed questions of facts and

incorrect facts stated in the appeal have to be determined and decided by the authorities examined on-site in the presence of the answering Respondent.

6. That the answering Respondent submits that the complaint is related to an illegal conversion of land use of the property bearing survey No. 119/3. That the Respondent has failed to bring on record the Permission issued by the appropriate authority.
7. That it is pertinent to mention here that the Writ Petition of *Mandamus Hon'ble High Court of Bombay at Goa* in **WP No. 2146/2024 (F)** after careful perusal of the case of the Applicant has passed the order to act on illegal construction in the survey No. 119/3, Morjim, Goa.
8. Though the Appellant is claiming that the house/structure is in the existence even prior to 1969 and he is a mundakar, however, till date he has not placed on record any supporting documents in his favour.
9. That there is an illegal use of land or illegal construction carried out by the Appellant in the suit Property, hence required to be removed in terms of provision of section 32(1) of the Land Revenue Code 1968. Admittedly there is no

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conversion Sanad produced on record by the Appellant. In fact, the suit property is owned by the answering Respondent and his family members. The Appellant has no right, title, or interest in the suit property. The Appellant is only claiming to be a Mundkar on conflicted and wrong facts, hence there is no question of whether he qualifies to claim the right of Mundkarship nor whether he was a Mundkar in the CRZ area. Hence the Appellant has approached this Hon'ble Tribunal with the most unclean hands.

10. That there was mud structure existing in the survey plan in Survey No. 119/3 and the Appellant has made a false claim of Mundkarship to the illegally constructed commercial structure and now claiming to be a Mundkar only to cover up his false and frivolous misdeed by illegal construction of structure which is in Survey No. 119/3.
11. The Respondent submits that he is the original complainant and the owner of the property of Survey No. 119/3, who has complained to the CRZ vide dated 25/04/2022 which was acknowledged by the authority

regarding illegal/ unlawful construction in the Survey No. 119/3 village Morjim, Goa.

12. The Respondent is the absolute co-owner and having inherited right in the concerned property from his Father Late Prabhakar Shambhoo Naik bearing survey No.119/3, Village Morjim, Goa.

13. Since the Appellant has violated the statutory provisions of law, the Show Cause Notice was issued to the Appellant, thereby calling upon him to furnish his explanation, directed by the Hon'ble High Court of Bombay at Goa in WP No. 2146/ 2024 (F) vide dated 27/09/2024,

“By instituting the proceedings of this Writ Petition, a direction has been sought for expeditious disposal of the complaint dated 25/04/2022 received in the office of Respondent No. 2 on 26/04/2022, regarding certain illegal constructions in violation of the CRZ Notification at properties bearing Survey Nos. 119/3 and 116/35 of Village Morjim, Pernem Taluka”

“Ld. Addl. Govt. Advocate, on instructions received from Respondent No. 2, has stated that by means of a notice of site inspection dated 26/09/2024, the date for site inspection

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has been fixed on 7th October, 2024. He further states that based on the site inspection, further action which may be warranted under law, shall be taken for removal of the constructions, if any, which are found to be illegal and unlawful”

“It is strange to note that a complaint made in April 2022 is being attended to after expiry of the period of more than 2 and half years i.e. in September, 2024. In the meantime, the constructions might have been carried out and no action to stop the constructions was taken. As a result, the possibility of such constructions having caused damage to the environment on account of violations of CRZ Notification, cannot be ruled out”.

“We, thus, call upon the Member Secretary of Respondent No. 2 to give explanation stating the reason as to why the complaint received in his office on 26/04/2022 has not been acted upon earlier i.e. before issuing the notice of site inspection on 26/09/2024. Such explanation shall be filed by Member Secretary of Respondent No. 2 by way of an affidavit by next date.”

“We also direct that in the meantime, the site inspection shall be completed and permissible legal proceedings for removal of the illegal constructions, if any, shall also be proceed with expedition.

The copy of Order vide dated 27/09/2024 in WP No. 2146/2024 (F) is marked and annexed as **EXHIBIT R-1.**

14. Subsequent upon receiving of the said show cause notice, the Appellant filed his reply wherein he has denied all the allegations leveled in the show cause notice.
15. That the Respondent submits that the old mud house that existed in the property bearing survey No. 119/3 was illegally demolished without the permission of the village panchayat of Morjim. That the said property bearing Survey No. 119/3 comes under CRZ, wherein the Appellant's mother Late Smt. Saraswati M Morje obtained the permission for proposed repair and renovation of the existing house in Survey No. 119/3 of Morjim, Village, Pernem Taluka vide ref No. GCZMA/N/1/07/42/3121, dated 27/09/2007, wherein the permission was misused by

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supporting fabricated plan pertaining Property bearing Survey No. 119/3 vide dated 16/04/1988.

16. That Respondent submits that the permission for repair and renovation was limited to property bearing Sy. No. 119/3, which was misused and misled by the Appellant for illegal construction in property bearing Sy No. 119/3-A which was not existed till 2008. That the property bearing Sy No. 119/3-A is belonging to M/s True Axiz Resort Pvt Ltd which was purchased from M/s R & R Resorts of West Bengal. It is very much evident from the facts and documents that survey no of property bearing Sy. No. 119/3-A came only in the year 2008 onwards.

17. It is submitted that the Appellant manipulated and forged the House Tax by taking permission for repair in the name of his mother Late Smt. Saraswati M Morje and house Tax is in the name of his father late Shri. Manguesh R Morje. That the Appellant misused the permission for repair and renovation and managed the village panchayat Morjim by forged document showing the year 1988 for the survey No. 119/3-A, which survey no 119/3-A never existed before 2008.

18. That the Appellant is not only the violator of CRZ rules carrying illegal commercial activities but he is also engaged in all sorts of other immoral activities such as illegal clubs, dance bar, drugs, and prostitution in the said illegal commercial structures.
19. It is submitted that the Appellant has forged the documents and placed on record the fabricated documents before this Hon'ble Tribunal, which is very much evident from the survey records that property bearing Sy. No. 119/3 is the subject matter of Hon'ble High Court of Bombay at Goa in **WP No. 2146 of 2024 (F)**, wherein the Appellant misled this Hon'ble Tribunal by placing on record documents of pertaining to survey no. 119/3-A which was never existing in the year 1988. This Hon'ble Tribunal should take cognizance of the conduct of Respondent herein and proceeding U/s 221 of BNSS should be initiated against the Appellant.
20. It is very much evident from the conduct of the Appellant that when CRZ officials went to seal the illegal commercial structure in property bearing Sy. No. 119/3, the Respondent was also present at the site, wherein the

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Appellant along with son namely Mr. Dhurva D Morje, his criminal aides restrained the public officials and Respondent from entering the 1st floor of the illegal commercial structure and taking advantage of the situation the Appellant with his son and criminal aides managed to escape the women from the back door entry. That Hon'ble High Court of Bombay at Goa **in WP No. 2146/2024 (F)** have made strong observation that

“9. The affidavit further states that the officials of Goa Coastal Zone Management Authority visited property bearing survey No. 119/3 situated at Village Morjim and it was noted by the said officials that the property was within 200-500 mts from High Tide Lane (HTL) and partly falls outside the Coastal Regulation Zone area. The Team of officials also observed during the site visit on 07/10/2024 that there were numerous structures within the said plot, however, further details could not be noted as violators objected and did not allow the officials to conduct the site inspection”.

“ 10. We again fail to understand as to why appropriate assistance is not been provided to the officials of the Goa Coastal Zone Management Authority when, specifically, duty has been cast upon the State Government under clause 6(C) of the Coastal Regulation Zone (CRZ) Notification which is the primary responsibility of the state Government for enforcing and monitoring the same.

“11. It is difficult for us to comprehend as to how the officials of the Goa Coastal Zone Management Authority were not allowed to conduct the site inspection especially when the Court in its order dated 27/09/2024 has specifically directed that the site inspection shall be completed and permissible legal proceedings for illegal constructions, if any, shall also be initiated”

“21. From the aforesaid facts what we notice is that it is not only that the order passed by this Court dated 24/07/2024 has not been complied with but also that the officials of the Goa Coastal Zone Management Authority have been prevented from

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discharging their official duty which is a criminal offence as defined under Section 221 of the Bharatiya Nyaya Samhita (BNS), according to which obstructing a public servant in discharge of his public functions is punishable with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two thousand and five hundred rupees, or with both”.

The copy of order dated 17/10/2024 in WP No. 2146/2024 (F) is annexed and marked as **Exhibit R-2**.

21. That the matter is still pending before Hon'ble High Court of Bombay at Goa in WP No. 2146/2024 vide order dated 28/01/2025 & 11/02/2025, “*Ld. Addl. Gov. Adv. placed on record a copy of the status report. Our attention is invited to Para 17 of the Status report. Ld. Additional Gov. Adv. submits that the authority has passed orders in all the remaining cases and is in the process of communicating the orders to the respective respondents/violators within two weeks from today. Mr. Rivankar, Senior Advocate appearing*

for the Petitioner seeks some time to go through the status report and respond”.

List the matter on 11/02/2025”

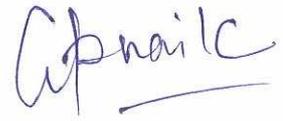
“At the request of Mr. Rivankar, Ld. Senior Advocate, who seeks some time to go through the report placed on record by the respondent No. 1 stand over to 03.03.2025.”

The copy of order vide dated 28/01/2025 & 11/02/2025 of High Court of Bombay at Goa in WP No. 2146/2024 (F) is annexed and marked as **EXHIBIT R-3 (COLLY)**

22. In the light of the above Preliminary Objection, the Respondent pray that strict action should be taken against the Appellant for misleading and constructing illegal structures in Survey No. 119/3.

Therefore, Kindly the matter should be adjourned or kept in abeyance as the matter is for hearing before Hon'ble High Court of Bombay at Goa on 03/03/2025 in *Mandamus* WP No. 2146/2024 (F).

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RESPONDENT NO.5

FILED THROUGH



(ANKUR KUMAR & ASSOCIATES)

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DATE:

25/02/2025



Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.2146/2024(F)

ANIL PRABHAKAR
SHAMBHOO NAIK PETITIONER.

Versus

STATE OF GOA, THR. THE
CHIEF SECRETARY AND 4
ORS RESPONDENTS.

Mr Rama Gajanan Rivankar, Advocate for the Petitioner.

Mr Geetesh R. Shetye, Addl. Govt. Advocate for Respondents No.1 to 4.

CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
BHARAT P. DESHPANDE, J,

DATED : 27th SEPTEMBER 2024

P.C. :

1. Issue notice, returnable on 17th October 2024. On behalf of Respondents No.1,2, 3 and 4 learned Addl. Govt. Advocate has put in appearance and waived service of notice.
2. By instituting the proceedings of this Writ Petition, a direction has been sought for expeditious disposal of the complaint dated 25/04/2022 received in the office of Respondent No.2 on 26/04/22, regarding certain illegal constructions in violation of the CRZ Notification at properties

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bearing Survey Nos. 119/3 and 116/35 of Village Morjim, Pernem Taluka.

3. Learned Addl. Govt. Advocate, on instructions received from Respondent No.2, has stated that by means of a notice of site inspection dated 26/09/2024, date for site inspection has been fixed on 7th October 2024. He further states that based on the site inspection, further action which may be warranted under law, shall be taken for removal of the constructions, if any, which are found to be illegal or unlawful.

4. It is strange to note that a complaint made in April 2022 is being attended to after expiry of the period of more than 2 and half years i.e. in September 2024. In the meantime, the constructions might have been carried out and no action to stop the constructions was taken. As a result, the possibility of such constructions having caused damage to the environment on account of violations of the CRZ Notification, cannot be ruled out.

5. We, thus, call upon the Member Secretary of Respondent No.2 to give explanation stating the reason as to why the complaint received in his office on 26/04/202 has not been acted upon earlier i.e. before issuing the notice of site inspection on 26/09/2024. Such explanation shall be filed by

the Member Secretary of Respondent No.2 by way of an affidavit by next date.

6. We also direct that in the meantime, the site inspection shall be completed and permissible legal proceedings for removal of the illegal constructions, if any, shall also proceed with expedition.

BHARAT P. DESHPANDE, J. THE CHIEF JUSTICE.

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IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 2146 OF 2024 (F)**

ANIL PRABHAKAR SHAMBHOO NAIK ... PETITIONER
VS
STATE OF GOA, THR. THE CHIEF
SECRETARY AND 4 ORS. ... RESPONDENTS

Mr. Rama G. Rivankar, Advocate for the Petitioner.

Mr. Geetesh Shetye, Additional Government Advocate for
Respondent Nos. 1 to 4.

**CORAM: DEVENDRA KUMAR UPADHYAYA, C.J. &
BHARAT P. DESHPANDE, J.**

DATED: 17th OCTOBER 2024

P.C:

1. Pursuant to our order dated 27/09/2024 an affidavit in reply on behalf of the Goa Coastal Zone Management Authority/Respondent No. 2 has been filed which is taken on record. In the affidavit, the only reason given for not attending to the complaint made by the Petitioner is that on receipt of the complaint the matter was referred to the District Level Committee, North Goa which conducted the spot inspection only on 07/10/2024.

2. From the said statement made in the affidavit in reply filed by Respondent No. 2, it is clear that for about two years,

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nothing on the complaint of the Petitioner was done. Such a situation cannot be appreciated for the reason that the matter relates to the protection of environment in the Coastal Regions/Zones.

3. The District Level Committee has been constituted under Clause 6(c) of the Coastal Regulation Zone (CRZ) Notification 2011, according to which, the State Government is primarily responsible for enforcing and monitoring the said notification and to assist in the task, the State Government is required to constitute a District Level Committee under the Chairmanship of District Magistrate concerned which will consist at least three representatives of local traditional coastal communities, specially from fisher-folk.

4. Thus, we direct that the District Level Committee constituted under Regulation 6(c) of the Coastal Regulation Zone (CRZ) Notification 2011, through the District Magistrate/Collector concerned be impleaded as party Respondent No.6.

5. Necessary amendment shall be incorporated during the course of the day.

6. Issue notice to the newly impleaded Respondent No.6 on whose behalf learned Additional Government Advocate has put in appearance and waives service of notice.

7. Let the copy of the affidavit in reply filed on behalf of the Goa Coastal Zone Management Authority be served upon the District Magistrate/Collector concerned through the learned Additional Government Advocate who shall file his reply giving the reason as to why the complaint made by the Petitioner was not attended to for a period of more than two years.

8. It has been stated further in the affidavit that in compliance of the order passed by the Court on 27/09/2024, the spot inspection has been conducted by the Goa Coastal Zone Management Authority on 07/10/2024 and when the officials visited the property bearing survey No. 116/35 situated at the Village Morjim, it was noted that various illegal constructions have been made in the said property.

9. The affidavit further states that the officials of Goa Coastal Zone Management Authority visited property bearing

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survey No. 119/3 situated at Village Morjim and it was noted by the said officials that the property was within 200-500 mts from High Tide line (HTL) and partly falls outside the Coastal Regulation Zone area. The team of officials also observed during the site visit on 07/10/2024 that there were numerous structures within the said plot, however, further details could not be noted as violators objected and did not allow the officials to conduct the site inspection.

10. We again fail to understand as to why appropriate assistance is not been provided to the officials of the Goa Coastal Zone Management Authority when, specifically, duty has been cast upon the State Government under Clause 6 (c) of the Coastal Regulation Zone (CRZ) Notification 2011 to implement the provisions contained in the said notification which is the primary responsibility of the State Government for enforcing and monitoring the same.

11. It is difficult for us to comprehend as to how the officials of the Goa Coastal Zone Management Authority were not allowed to conduct the site inspection especially when the Court in its order dated 27/09/2024 has specifically directed that the site inspection shall be completed and permissible

legal proceedings for illegal constructions, if any, shall also be initiated.

12. It is a matter of concern that appropriate and requisite steps were not taken by the authorities concerned for ensuring compliance of the order passed on 27/09/2024. We also notice that there is a failure on the part of the officials of the State in fulfilling their statutory responsibilities and duties as casted on them under Regulation 6 (c) of the Coastal Regulation Zone (CRZ) Notification 2011.

13. The affidavit filed by Respondent No.2 further states that the Show Cause Notice pursuant to the spot inspection has been issued to the alleged violators on 15/10/2024 whereupon the date of hearing has been fixed on 05/11/2024.

14. From the aforesaid facts what we notice is that it is not only that the order passed by this Court dated 27/09/2024 has not been complied with but also that the officials of the Goa Coastal Zone Management Authority have been prevented from discharging their official duty which is a criminal offence as defined under Section 221 of the Bharatiya Nyaya Samhita (BNS), according to which

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obstructing a public servant in discharge of his public functions is punishable with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two thousand and five hundred rupees, or with both.

15. Having regard to the aforesaid facts, we direct that the Chairman of the District Level Committee constituted under the Regulation 6 (c) of the Coastal Regulation Zone (CRZ) Notification 2011 i.e. the Collector concerned shall take stock of the situation and take appropriate action which may be warranted under law including initiation of criminal proceedings as noted above, against those who objected to spot inspection of plot no. 119/3 on 07/10/2024 by the officials and did not allow the said inspection. We further direct that the hearing initiated on the show cause notice shall be completed on the next date or within 10 days thereafter and an appropriate action which may be warranted under law, shall also be taken expeditiously. It is also directed that the site inspection of the property bearing survey No. 119/3 situated at Village Morjim shall be conducted by the officials forthwith and in case any assistance or co-operation from the District Administration or District Police Administration is

required, the same shall be ensured by the District Magistrate/Collector and the Superintendent of Police concerned.

16. We also notice that the site inspection report enclosed along with the affidavit in reply filed on behalf of Respondent No. 2 clearly states that there are certain structures in Survey No. 116/35 which are under construction. Accordingly, we direct that incase such under-construction structures are found to be lying in the Coastal Regulation Zone or prohibited area, appropriate steps for stopping the construction and sealing of such structures shall also be taken forthwith.

17. The chairman of the District Level Committee/Collector concerned shall file an affidavit giving details of steps which might be taken in the meantime to ensure compliance of this order, by the next date of listing.

18. Stand over to 11/11/2024.

BHARAT P. DESHPANDE, J. THE CHIEF JUSTICE



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IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.2146 OF 2024 (F)**

ANIL PRABHAKAR SHAMBHOO NAIK

... PETITIONER

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND 5 ORS

... RESPONDENTS

Mr S. R. Rivankar, Senior Counsel with Mr. Rama Rivankar,
Advocate for the petitioner.

Mr Geetesh Shetye, Addl. Govt. Advocate for respondent Nos.1 to 4.

Mr Vibhav Amonkar, Advocate for respondent No.5.

**CORAM:- M. S. KARNIK &
NIVEDITA P. MEHTA, JJ.**

DATED :- 28th January, 2025

P.C.

1. Learned Additional Government Advocate placed on record a copy of the status report. Our attention is invited to paragraph 17 of the status report. Learned Additional Government Advocate submits that the authority has passed orders in all the remaining cases and is in the process of communicating the orders to the respective respondents/violators within two weeks from today. Mr. Rivankar, Senior Advocate appearing for the Petitioner seeks some time to go through the status report and respond.

2. List the matter on 11/02/2025.

NIVEDITA P. MEHTA, J.**M. S. KARNIK, J.**



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.2146 OF 2024 (F)**

ANIL PRABHAKAR SHAMBHOO NAIK

... PETITIONER

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND 5 ORS

... RESPONDENTS

Mr S. R. Rivankar, Senior Counsel with Mr. Rama Rivankar,
Advocate for the petitioner.

Mr Geetesh Shetye, Addl. Govt. Advocate for respondent Nos.1 to 4.

Mr Vibhav Amonkar, Advocate for respondent No.5.

**CORAM:- M. S. KARNIK &
NIVEDITA P. MEHTA, JJ.**

DATED :- 11th February, 2025

P.C.

At the request of Mr. Rivankar, learned Senior Advocate, who seeks some time to go through the report placed on record by the respondent no.1, stand over to 03.03.2025.

NIVEDITA P. MEHTA, J.**M. S. KARNIK, J.**