

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

**APPEAL No: 12/2024**

**IN THE MATTER OF:**

**MR. RAMESH LAXIMONRAO**

**CHOWGULE**

**... APPELLANT**

**VERSUS**

**GOA COASTAL ZONE**

**MANAGEMENT AUTHORITY...**

**RESPONDENT**

**APPELLANT'S REJOINDER TO THE  
REPLY OF RESPONDENT DATED 20<sup>th</sup>  
JANUARY 2025.**

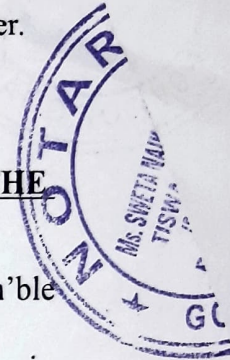
The appellant states and submits as under:

1. The respondent in its reply dated 25<sup>th</sup> January 2025, admitted the facts as set out in the memo of appeal and the documents annexed thereto, except what is explicitly stated in the said

reply. This short rejoinder is thus being filed to rebut the said statements, with para-wise comments as set out herein after.

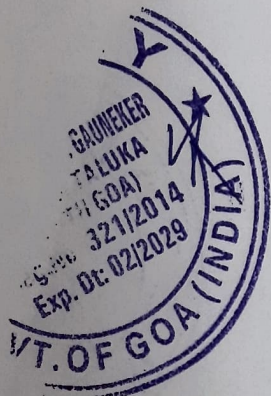
**WITH REFERENCE TO PARAGRAPHS 1 AND 5 OF THE  
REPLY**

2. It is denied that the appellant is trying to mislead this Hon'ble Tribunal by stating that the structure in question was in existence prior to the year 1991 as no document has been placed by him showing that the construction was having the stamp of approvals of various statutory authorities.
3. It is stated that the construction in question falls within the Panchayat jurisdiction and therefore, the question as to whether the said construction satisfies the building regulations or not and therefore it is illegal or not, would not be within the scope of the jurisdiction of the respondent but within the scope of the jurisdiction of the concerned Panchayat. The respondent can only decide as to whether a particular construction was erected prior to the 1991 CRZ Notification or not and if it is erected after the said notification, whether it violates the CRZ Notification or not. This limited scope of



jurisdiction of the respondent is irrespective of the fact as to whether the same construction is in breach of the Goa Village Panchayats Regulation, 1962 (as was in force at the relevant time) or the Goa Panchayat Raj Act, 1994.

4. This position is also made clear by the Hon'ble High Court of Bombay at Goa in its order dated 26<sup>th</sup> April 2023, passed in Writ Petition No: 2148/2022(F), in pursuance of which these proceedings were started by the respondent; and the relevant portion of which order is reproduced by the respondent in its show cause notice as also in its order of demolition, impugned in this appeal.
5. The respondent, while passing the impugned order was thus not authorized to go beyond the CRZ Notification or to see as to whether the concerned construction is authorized or not, in terms of the building laws and regulations.
6. As a matter of fact, there is ample evidence and material on record as set out in the judgment and order dated 29<sup>th</sup> May 2023, passed by the Additional Director of Panchayat in Panchayat Appeal No: 1/2023, that not only the structure was

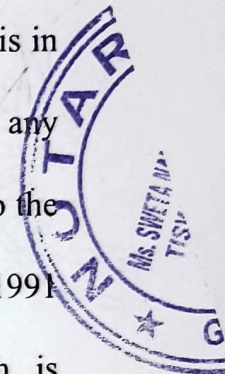


erected before the year 1991, but also that it was constructed after duly obtaining the permission from the Panchayat.

7. Assuming but not admitting that the structure in question is in violation of the Building Regulations or erected without any permission of the Panchayat, that by itself does not lead to the conclusion that the same was not erected prior to the 1991 CRZ Notification. Even otherwise a structure which is although erected without the permission of the Panchayat but erected not in violation of Building Regulations, is liable to be regularized under Rule 3(6) of the Goa Village Panchayat (Regulation of Buildings) Rules, 1971, which are still in force. The structure in question does not violate any of the said Building Regulations, 1971 as applicable.

**WITH REFERENCE TO PARAGRAPHS 2 AND 3 OF THE  
REPLY**

8. The respondent in paragraphs 2 and 3 of its reply has made certain statements of fact, without any basis, which are verified on oath to be within its knowledge. From the perusal of the nature of the said statements of fact, it is clear that the



same could not have been within the knowledge of the respondent or its officer who have verified the same, unless they were based on the records available with the respondent. The respondent therefore has in paragraph 7 of its reply has stated that the said facts are based on the records available with it. However, the respondent has not produced any record in support of those statements of fact.

9. It is denied that the government had granted the exgratia payment for damages sustained due to vagaries of nature in the year 1994. The masonry house was damaged not in the year 1994 but due to a cyclone in the month of May / June of 1993, before the said property was purchased by the appellant on 19<sup>th</sup> November 1993. As a result, the said Smt. Sumati Palyenkar had applied for the help / assistance from the Government Authorities, immediately thereafter and much before the purchase made by the appellant. And therefore, the exgratia payment was made in her name. Besides, although the appellant had purchased the house on 19<sup>th</sup> November 1993, the same house continued to have been registered in the house tax register, in the name of Smt. Sumati Palyekar and

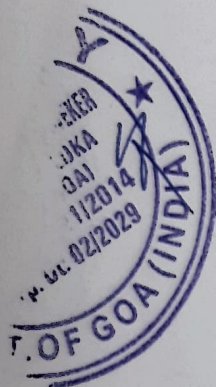
the house tax was being paid in her name till the year 2000 when the said house was transferred and registered in the appellant's name in the house tax register as can be seen from the Panchayat certificate dated 17<sup>th</sup> February 2009.

10. It is denied that the appellant is trying to use the exgratia payment to the offending structure which the respondent had directed to be demolished or that the said exgratia payment is not at all related to the said structure. The respondent has although in paragraph 7 of its reply, stated that the said statements are based on record available with it, still it has not produced any such record in support of the same fact. An adverse inference under Section 114 of the Evidence Act is therefore liable to be drawn against the respondent in that regard. If the said exgratia payment according to the respondent was not relatable or related to the structure in question, then to which other structure was it related to, has not been stated by the appellant.

11. It is stated that it is not the case of the appellant that the loan obtained by the predecessor in title of the appellant by mortgaging the property on 05<sup>th</sup> June 1989, was for repairs of



the structure in question. As stated above, the house was registered in the house tax register in the name of Smt. Sumati Shambhu Palyenkar till the year 2000. The certificate dated 11<sup>th</sup> March 1994 was therefore obtained in her name for the purpose of the repairs. The contents of paragraphs 2 and 3 of the reply are thus denied in view of what is stated hereinabove.

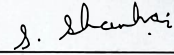


**WITH REFERENCE TO PARAGRAPH 4 OF THE REPLY**

12. It is denied that the appellant failed to file his reply to the show cause notice (in spite of time having been granted by the respondent), at the time of the meeting conducted by the respondent. The respondent has made a false statement on Oath, in that regard, and against the record, as can be seen from the records. The impugned order was thus passed without considering the appellant's reply and without giving him any hearing.
13. For all the aforesaid reasons, the appeal is liable to be allowed.

APPELLANT

THROUGH



ADV. SHIVSHANKAR SWAMINATHAN

ADVOCATE FOR THE APPELLANT

Filed on: **19.03.2025**Place: **Pune****AFFIDAVIT**

I, Mr. Ramesh Laximonrao Chowgule, son of Late Laximonrao Chowgule, aged 81 years, Indian National, Businessman, residing at Residing at House No: 678, La Citadel Colony, Dona Paula, Goa, Pin. 403-004, the Appellant herein above, do hereby on solemn affirmation state that:



- (i) The contents of the Rejoinder at paragraphs 1, 2, 6, 8 to 12 are true and correct to my knowledge.
- (ii) The contents of the Rejoinder at paragraphs 3, 4, 5, 7 and 13 are my legal submissions.

Solemnly affirmed at Panaji, Goa

On this 6<sup>th</sup> day of March, 2025.

*[Handwritten Signature]*

Deponent



Identified by:

*[Handwritten Signature]*  
**SWETA NAIK GAUNEKER**  
**ADVOCATE & NOTARY**  
**PANAJI GOA**

Solemnly affirmed before me by  
Sri Ramesh Chawgule  
 who is identified to me by  
 \_\_\_\_\_  
 whom I personally know,

*[Handwritten Signature]*  
**SWETA NAIK GAUNEKER**  
**NOTARY**  
**TISWADI TALUKA NORTH GOA**

Place Panaji Goa Date 10/3/2025  
 Reg. No. 7850

*[Handwritten Signature]*  
**SWETA NAIK GAUNEKER**  
**ADVOCATE & NOTARY**  
**PANAJI GOA**

