

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 06 OF 2023



SAGARDEEP SIRSAIKAR

.... APPELLANT

VERSUS

GOA COASTAL ZONE MANAGEMENT AUTHORITY

AND ORS

.... RESPONDENTS

REPLY AFFIDAVIT TO THE APPEAL ON BEHALF OF RESPONDENT NO. 1-

I, Dr. Sneha Gitte, IAS, adult, being the Member Secretary of the Goa Coastal Zone Management Authority, having my office at 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. That I am the Member Secretary, Goa Coastal Zone Management Authority and being duly authorised and well conversant with the facts of the present case, am competent to depose by way of the present Affidavit on behalf of Respondent No. 1

2. I say and submit that at the outset, the contents, averments and statements made by the Appellant in the Appeal are denied by the present Respondent, except those that are specifically admitted herein. Respondent No.1 submits that the Appeal as framed and filed by the Appellant is not maintainable before this Hon'ble Tribunal and needs to be rejected at the outset with exemplary costs. The Appellant is seeking quashing of the impugned order dated 13/10/2022 to the limited extent which is mentioned in prayer (b).

3. I say and submit that an Original Application No. 47/2019 has been filed by the present Appellant before this Hon'ble Tribunal against the answering Respondent challenging illegal construction, destruction of Mangroves and land filling of creek in S.No. 224/1, 224/2, 224/48, 223, 125/31 at Camurlim Goa. which is pending before this Hon'ble Tribunal.

4. I say and submit that as per the order of this Hon'ble tribunal dated 23/07/2019 in the above referred matter, the present Respondent was directed to inspect the area in

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question and submit a report after verifying the facts and circumstances set out in the said application.

5.1 further say that the Answering Respondent deliberated upon the said order. Prior to the said order the GCZMA also deliberated on the complaint received from the Appellant, carried out inspection of the site in question through various authorities and agencies as mentioned from page 1 to 4 of the impugned order, extended personal hearing to both the Appellant as well as Respondent No. 2, minutely verified all the documents produced by both the parties, the reply and rejoinder filed by the parties and after hearing arguments of both the sides arrived at a conclusion and passed the impugned order dated 13/10/2022.

6.1 say and submit that the Authority i.e. the present Respondent has noted that the eastern part of the property falls outside the 100 mts. Line from HTL as per the NCSCM village map. The Authority has also noted that the farm house was constructed by the Respondent No.2, pursuant to the following approvals taken from the concerned authorities: (i) Permission No. VPC/Const./69/2006-07 dated 16/05/2006 issued by the Village Panchayat of Camurlim to Alba Sequeira, (ii) No Objection Certificate No. DB/20528/MAP/06/1679 dated 13/07/2006 issued by the Town and Country Planning Department, (iii) Approval No. PWD/SDIII/DV(B-N)/F5(A)/06-07/482 dated 25/07/2006 issued by the Public Works Department, (iv) No Objection Certificate No. PHCC/NOC/2006 - 07/240 dated 27/07/2006 issued by the Directorate of Health Services, (v) Permission No. VPC/Const/199/2006-07 dated 03/08/2006 issued by the Village Panchayat of Camurlim to Alba Sequeira, (vi) (Renewal) Permission no. VPC/Const/199/ 2006-07 dated 28/03/2010 issued by the Village Panchayat of Camurlim, (vii) Technical Clearance Order dated 10/05/2011 issued by the Senior Town Planner, Mapusa, (viii) (Renewal) Permission no. VPC/Const/199/ 2006-07 dated 17/08/2011 issued by the Village Panchayat of Camurlim.

7.1 further submit that the Authority has also noted that in the approved construction plan the Respondent produced on record has clearly indicated a line at 100 mts. from the property boundary which touches the river and the farm house is shown outside the said 100 mts. Line.

8.1 say and submit that the Authority has noted that as per the CZMP 2011 along the Chapora river areas shown with mangroves, classified as CRZ-I and other areas as CRZ-III. The Authority has noted from the NCSCM village map that there are thick mangroves in the property therefore, the area must be held to be classified as CRZ-I. The Authority held that Notified port limits are exempt from NDZ applicable only in CRZ- III areas and not in CRZ-I areas. Therefore, the Authority does not accept the submission of the present Respondent No.2 that NDZ is not applicable to the present subject matter property of the Respondent No.2.

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9. I say and submit that the answering Respondent observed that the concrete ramp going from the property into the river, paving tiles touching the ramp, the concrete benches near the paving tiles area, two plinths, the wooden watch tower and the shed near the ramp, are all close to the river bank and within 100 mts. From the HTL. Therefore, these structures which are within 100 mts. from HTL are found to be in violation of the CRZ Notification and hence are liable for demolition.

10. I say and submit that the GCZMA in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986, and read with power vested with the GCZMA vide Order S.O. 3975 dated 31/10/2019 issued by the Ministry of Environment & Forests, Government of India, directed Respondent No.2 to demolish all structures within 100 mts. from HTL near the river bank, viz. concrete ramp going from the property into the river, paving tiles touching the ramp, the concrete benches near the paving tiles area, two plinths, the wooden watch tower and the shed near the ramp, and restore the land to its original condition within 30 days and submit compliance Report failing which the concerned Deputy Collector & S.D.O. Bardez to demolish the said structures.

11. I say and submit that the Answering Respondent stands by its order dated 13/10/2022 i.e. the order under challenge in the present Appeal.

Solemnly affirmed at Panaji on 8th September 2023

For and on behalf of GCZMA



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Dr. Sneha Gitte, IAS

Solemnly affirmed before me

Dr Sneha Gitte IAS

Who is identified before me by

At Panjim - Goa

Sr. No. 162/09/2023

Date. 08/09/2023

Gracias
Venefrdo C.P.P.B Gracias
Advocate & Notary Goa State