

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

APPEAL NO. 37 OF 2020

MADAN NARAYAN SAWANT

...APPELLANT

VERSUS

GCZMA & Ors

...RESPONDENTS

**REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1,
GOA COASTAL ZONE MANAGEMENT AUTHORITY**

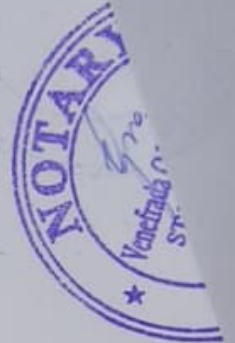
I, Shri. Johnson Bedy Fernandes, being the Member Secretary of the Respondent No. 1, Goa Coastal Zone Management Authority, having my office on 4th Floor, Dempo Towers, Patto, Panaji Goa, do hereby solemnly affirm and state as under:

1. I say that I am the Member Secretary of Respondent No. 1 GCZMA and I am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the directions dated 31/05/2019 passed by the answering Respondent and challenged before this Hon'ble Tribunal in the above-captioned Appeal and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned Appeal. Nothing in the memorandum of the above-captioned

Johnson Bedy Fernandes

Appeal may be deemed to have been admitted for mere want of specific denial.

2. I say that a complaint letter dated 09/11/2015 was received from one Mr. Kashinath Shetye & Dr. Ketan Govekar regarding alleged illegal construction carried out by the Appellant by cutting mangroves in the property bearing Chalta No. 10 & 11 of PT sheet No. 12 at Ribandar, Tiswadi - Goa.
3. I say that upon receipt of the said complaint letter, a Show Cause Notice bearing no. GCZMA/N/ILLE-COMPL/15-16/116/1908 dated 12/11/2015 was issued to present Appellant which was replied to accordingly by him vide his reply dated 25/11/2015 alongwith the relevant documents in support of his case.
4. I further say that the site under reference was also inspected by the Technical Officer of GCZMA alongwith the Junior Scientific Assistant of GCZMA. Based on the reply filed by the Appellant as well as the site inspection report it was noted that the construction of the bungalow had been done after obtaining requisite permissions from the concerned authorities and that there was no violation of the permission issued by the GCZMA. Also there was no evidence of cutting of mangroves seen at the site. In view of the above, a letter bearing no. GCZMA/n/ille-compl/15-16/116/2148 dated 15/12/2015 was issued to the complainant Mr. Kashinath Shetye informing him that no action was warranted in the matter and as such could not proceed ahead with the complaint filed by him.



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5. I say that the said Order/letter of the Answering Respondent dated 15/12/2015 was challenged before the Hon'ble NGT, Pune vide Appeal bearing No. 06/2016 by Mr. Kashinath Shetye & Ors. It was disposed of by the Hon'ble NGT vide Order dated 18/03/2016 thereby quashing and setting aside the Order dated 15/12/2015 issued by the GCZMA and remanded the matter back to the GCZMA with a direction to hear the concerned parties and take decision in the matter in accordance with law within a period of four months.
6. I say that in the 132nd GCZMA meeting held on 06/07/2016 upon due deliberation it was decided to conduct re-inspection of the site under reference through the Expert Member of the GCZMA.
7. I say that accordingly site inspection was conducted by the expert members and the findings are mentioned in the impugned order dated 31/05/2019. The said matter was placed in the 133rd GCZMA meeting held on 20/07/2016 wherein the Authority after detailed discussion and due deliberation came to a conclusion that there were alleged discrepancies in the categorization of the CRZ areas and as such the Authority decided to grant the concerned parties an opportunity of personal hearing to arrive at a decision.
8. I say and submit that the said matter was then taken up for hearing in the 2nd Meeting of the Committee to decide on CRZ matters which was held on 23/08/2016 wherein both the parties were heard at length and rival contentions considered and the Committee observed that the permission was granted by the GCZMA to Mr. Madan Sawant however, the plans had not been approved by the GCZMA and it was



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not known whether adequate setback as required under the CRZ Notification and other applicable laws had been left by the project proponent i.e. the Appellant and it was also required to be verified whether the NGPDA approval was in violation of CRZ or not.

9. I further say that a Miscellaneous Application bearing No. 427/2016 in Appeal No. 6/2016 was filed by Mr. Kashinath Shetye seeking implementation of the Original directions issued by the Hon'ble NGT in Appeal No. 6/2016 and the said M.A. was disposed of by the Hon'ble NGT vide Order dated 01/02/2017 with direction to the answering Respondent to hear the parties concerned on 15/02/2017 and to dispose of the matter within a period of two weeks thereafter and further directed this respondent to file compliance report on 08/03/2017.

10. I say and submit that the said matter was thereafter placed in the 140th GCZMA meeting held on 15/02/2017 for personal hearing in the matter wherein after detailed discussion and due deliberation as well as considering the written and oral submissions made by the parties, the Authority decided to re-inspect the site to verify whether there was an authorised structure existing in line of the Appellant's structure. The observations and recommendations made by the expert members are given in the directions dated 26/09/2017. Hereto annexed and marked Annexure A is the direction dated 26/09/2017.

11. I say and submit that in view of the above , the Authority decided to direct the Directorate Settlement and Land records (DSLRL) to conduct a survey of the said site to ascertain whether there exists an authorized



structure beyond the structure of Mr. Madan Sawant and upon receipt of a plan from the DSLR depicting the location of the structure of Mr. Madan Sawant it was decided to seek a detailed report from the Chief Town Planner, Town & Country Planning Department with respect to the structure and a letter dated 25/05/2017 was issued to the Chief Town Planner accordingly which was replied by the TCP informing that the said matter comes under the jurisdiction of the NGPDA. Therefore a letter was issued to the NGPDA to verify whether the construction had been carried out as per the plans approved by the GCZMA or otherwise.



12. I say that the site inspection report of NGPDA, dt. 12/06/2017 indicates that the Appellant has converted the stilt parking into 5 rooms of which 3 rooms have independent entry and exit from outside, whereas 2 rooms are having entry and exit from inside, which is attached to the dwelling unit. However the stilt parking was converted into room and thus it resulted to form a G+2 structure from the approved G+1 structure. He has submitted a revised plan to the NGPDA showing built addition and alteration carried out in the building for development permission which was under process.
13. I say that thereafter it was decided to re-inspect the site in order to verify the imaginary line drawing from an existing authorised structure prior to 1991 parallel to the HTL. The observations made during the site inspection are mentioned in the order dated 26/09/2017.
14. I say that the Answering Respondent noted that the permission granted by the GCZMA to appellant was as per the local building bye

laws and accordingly, the construction of the bungalow was carried out as per the plans approved by the local authorities. The Authority had granted permission for construction. No plan at the time of granting permission was approved by the Authority. Shri. Madan Sawant therefore, constructed the residential premises as per local building bye laws of CRZ-II then in force. I say that the structure of the Appellant is a residential structure and interms of CZMP 2011 the said property is still classified as CRZ-II area.

15. I say that the Authority after detailed discussion and due deliberation decided to seek legal opinion in the matter as to whether revised permission / approval is required to be granted by the GCZMA as per the plans approved by the local authorities and the file was accordingly sent to the Law Department to seek legal opinion in the matter.

16. I say and submit that subsequently the draft minutes were sent for approval to the Principal Secretary / Chairman (GCZMA) when the Chairman, GCZMA made necessary changes in the decision taken by the Authority stating to issue demolition orders in respect of the structures/floors constructed in violation of the building plan submitted by the Respondent at the time of seeking GCZMA permission for construction of residence. Therefore, 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. 3324 E dated 26/10/2016 issued by the Ministry of Environment & Forests, Government of India, the GCZMA directed the Appellant to remove all the structures / floors



constructed in violation of the building plan submitted by the Respondent at the time of seeking GCZMA permission for construction of residence located in the property bearing P. T Sheet No. 12 of Chalta No. 10 and 11 at Ribandar, Tiswadi-Goa and the answering Respondent stands by its decision. I say and submit that in the 30th meeting of the GCZMA held on 13/03/2007, which is Annexure G Colly under the caption "Other Matters" (at page No. 67 of the Appeal) regarding regularisation and alteration, it mandated the Applicants to approach the concerned Town and Country Planning / Planning Authority for revision of plans. I say and submit that the Applicant has converted stilt parking into room and thus it resulted to form a G+2 structure from the approved G+1 structure. I say and submit that in the present Appeal, the Appellant has already done construction as per the revised plans and has approached GCZMA for regularisation of the construction already done. Therefore, the Authority resolved to reject the application dated 11/10/2017 for regularisation of extension carried out by the Appellant.

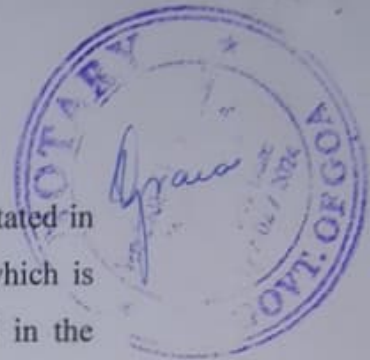


17. In view of the aforesaid, it is most humbly submitted that the above-captioned Appeal filed by the Appellant above-named deserves to be dismissed.


DEPONENT

VERIFICATION

I, the deponent above-named do solemnly affirm that all that is stated in this Affidavit is true to the best of my knowledge and belief, which is based on the records available in respect of the issue involved in the above-captioned Appeal. Nothing false has been stated herein.



Solemnly affirmed this 21st day of February 2024

at Panaji, Goa.

Stacey
DEPONENT



Executed before me
At Panjim Tiswadi - Goa
Reg. No. 25/02/2024
Dated: 22/02/2024

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

**DIRECTIONS UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION)
ACT, 1986, READ WITH RULE 4 OF THE ENVIRONMENT (PROTECTION)
RULES, 1986.**

**Sub: Directions to demolish illegal construction of the structures / floors
constructed in violation of the building plan submitted at the time of
seeking permission from GCZMA for construction of residence located
in the property bearing Chalta No. 10 and 11 of P.T.Sheet No. 12 at
Ribandar, Tiswadi – Goa carried out by Mr. Madan sawant.**

- Ref:** (1) Complaint letter dated 09/11/2015 filed by Mr. Kashinath Shetye & ors.
(2) Show Cause Notice bearing no. GCZMA/N/ILLE-COMPL/15-16/116/1908 dated 12/11/2015 issued by the GCZMA.
(3) Letter bearing no. GCZMA/n/ille-compl/15-16/116/2148 dated 15/12/2015.
(4) Order dated 18/03/2016 passed by the Hon'ble NGT, Pune in Appeal No.06/2016.
(5) Extract of the minutes of the 132nd GCZMA meeting held on 06/07/2016
(6) Extract of the minutes of the 133rd GCZMA meeting held on 20/07/2016
(7) Extract of the minutes of the 2nd Meeting of the Committee to decide on CRZ matters held on 23/08/2016.
(8) M.A. No. 427/2016 was disposed of by the Hon'ble NGT vide Order dated 01/02/2017.
(9) Extract of the minutes of the 140th GCZMA meeting held on 15/02/2017.
(10) Extract of the minutes of the 143rd meeting of the GCZMA held on 07/03/2017.
(11) Extract of the minutes of the 150th GCZMA meeting held on 23/05/2017.
(12) Extract of the minutes of the 151st meeting held on 15/06/2017.
(13) Extract of the minutes of the 153rd meeting of the GCZMA held on 18/07/2017.

WHEREAS, a complaint letter dated 09/11/2015 was received from Mr. Kashinath Shetye & Dr. Ketan Govekar with regard to the alleged illegal construction of a structure / Bungalow / commercial establishment by cutting

AND WHEREAS, upon receipt of the said complaint letter, a Show Cause Notice bearing no. GCZMA/N/ILLE-COMPL/15-16/116/1908 dated 12/11/2015 was issued to Mr. Madan Narayan Sawant which was replied to accordingly by Mr. Madan Sawant vide his reply dated 25/11/2015 alongwith the relevant documents in support of his case.

AND WHEREAS, the site under reference was also inspected by the Technical Officer of GCZMA alongwith the Junior Scientific Assistant of GCZMA.

AND WHEREAS, based on the reply as well as the site inspection report it was noted that the construction of bungalow has been done after obtaining requisite permissions from the concerned authorities and that there is no violation of the permission issued by the GCZMA and that there is no evidence of cutting of mangroves seen at the site.

AND WHEREAS, in view of the above, a letter bearing no. GCZMA/n/ille-compl/15-16/116/2148 dated 15/12/2015 was issued to Mr. Kashinath Shetye informing that no action is warranted in the matter and as such cannot proceed ahead with the complaint filed by him.

AND WHEREAS, the said Order / letter dated 15/12/2015 was challenged before the Hon'ble NGT, Pune vide Appeal bearing No. 06/2016 by Mr. Kashinath Shetye & Ors. which was disposed of by the Hon'ble NGT at Pune vide Order dated 18/03/2016 thereby quashing and setting aside the Order dated 15/12/2015 issued by the GCZMA and remanded the matter back to the GCZMA with a direction to hear the concerned parties and take decision in the matter in accordance with law within a period of four months.

AND WHEREAS, the matter was placed in the 132nd GCZMA meeting held on 06/07/2016 wherein the Authority after detailed discussion and due deliberation decided to conduct re-inspection of the site under reference through its Expert Member of the GCZMA.

A copy of the extract of the minutes of the 132nd GCZMA meeting held on 06/07/2016 is enclosed herewith as **Annexure 'I'**.

ANNEXURE A

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AND WHEREAS, site inspection was conducted by Shri. Kashinath Dhume and Dr. Antonio Mascarenhas on 15/07/2016. The site inspection report submitted by Dr. Antonio Mascarenhas is as follows:

- The property belongs to M Sawant who has built a G+1 residential house in the plot.
- The property is located on the bank of Chimbel tidal creek, on the river side of the existing road; the house lies about 10-12 metres from the bank (HTL).
- The creek bank is marked by a concrete retaining wall apparently built by WRD some years ago; the need for such a thick and high concrete wall is not known; some scattered mangroves are noticed.
- The owner has obtained approvals from the erstwhile GCZMA based on which the house has been constructed. However, the area is classified by GCZMA as CRZ II whereas the CZMP 1996 for Goa has classified this area (Ribandar) as CRZ III.

AND WHEREAS, the said matter was placed in the 133rd GCZMA meeting held on 20/07/2016 wherein the Authority after detailed discussion and due deliberation and upon considering the site inspection report dated 15/07/2016 and also on considering the aforementioned observations wherein there are alleged discrepancies in the categorization of the CRZ areas and as such the Authority decided to grant the concerned parties an opportunity to personal hearing on the issues before the Authority in its next meeting and only then to arrive at a decision.

A copy of the extract of the minutes of the 133rd GCZMA meeting held on 20/07/2016 is enclosed herewith as **Annexure 'II'**.

AND WHEREAS, the said matter was then taken up for hearing in the 2nd Meeting of the Committee to decide on CRZ matters which was held on 23/08/2016. The proceedings recorded during the said personal hearing is indicated hereinbelow:

“Mr. Kashinath Jairam Shetye was present in person. Mr. Madan Sawant was present alongwith his Advocate Jitendra Supekar.

Mr. Kashinath Jairam Shetye filed his written submissions.

Mr. Kashinath J. Shetye denied the contents of the reply filed by the Respondent. He stated that the NOC issued by the GCZMA was conditional with directions to the NGPDA wherein the project was approved from CRZ angle with a recommendation that the project proponent should maintain maximum setback and

this should be ensured while approving the plan. However, the structure is not ensured nor the plan was approved by the GCZMA and based on this fact the NOC should be withdrawn and the setback should be maintained forthwith. He further stated that permissible coverage is 251.20 sq.m total built up area is 207.29 sq. m but in actual coverage is 334.54 sq.m Stilt parking is covered for rooms to stay. The walls of the Stilt parking are built without obtaining necessary approvals and are used for residential as well as commercial purpose as carpentry workshop.

He further stated that amalgamation of plot of Chalta No. 10 and 11 in P.T.S. No. 12 is illegal as per the Judgment of Suresh estates all the boundaries are freezed as per CRZ Notification, 19/02/1991. The Building / Bungalow has been built after the amalgamation on the Seaward side and there is no road between the building and the creek and no set back is left and the bungalow is in setback area of River Mandovi and no setback has been shown on the plan. The Google images of 2004 and 2015 shows there is existence of the mangroves in that area and the building is in NDZ Setback area. He also stated that the mangroves have been cut.

He further stated that based on the CZMP 1996 Ribandar area falls under CRZ – III zone and incase of existence of mangroves it falls under CRZ – I Zone and as per the letter issued by the MoEF dated 03/12/2001 to the Chief Secretary, Govt. of Goa with regard to proposal for reclassification of CRZ stretches of Goa wherein it was proposed for reclassification of the entire stretch of land at Ribandar (within Panjim Municipality limits along the Mandovi River) – Map No. 4 and 5. He further relied on the Judgment passed in the matter of Carlos Noronha in W.P. No. 519 of 2007 with M.C.A. No. 617/09 with Writ Petitions No. 420 & 474 of 2007. He also pointed out the Page No. 54 of the RSI Report on identification and delineation of structures / dwelling units along rivers, creeks and estuaries upto the tidal point experienced towards land which reveals that at prior to 1991, there existed 29 structures in that area i.e. Chimbél Village and after 1991, 15 new structures were observed.

Adv. Jitendra Supekar stated that as far as the letter dated 03/12/2001 issued by the MoEF to the Chief Secretary, Govt. of Goa regarding reclassification of CRZ stretches of Goa wherein it was proposed for reclassification of the entire stretch of land at Ribandar (within Panjim Municipality limits along the Mandovi River) – Map No. 4 and 5 is concerned there was another letter issued by the MoEF dated 05/01/2012 wherein modifications to the Order dated 03/12/2001 were issued in which the areas to be reclassified as CRZ –III are included and there is no mention of the stretch of land at Ribandar (within Panjim Municipality limits along the



Mandovi River) – Map No. 4 and 5 and as such the contention of Applicant that Ribandar is being classified as CRZ – III cannot be taken in to consideration. **ANNEXURE A**

Further, as far as the cutting of mangroves is concerned, there is no mangrove cutting carried out by the Respondent and the same was also in question with respect to the retaining wall build by the WRD.

Shri. Ragnath Dhume who inspected the said site in question stated that it is not known at which point of time the mangroves are being cut and who exactly has carried out such activity.

The Committee heard the parties at length.

The Committee noted that the permission has been granted by the GCZMA to Mr. Madan Sawant however, the plans have not been approved by the GCZMA and it is not known that whether the adequate setback as required under the CRZ Notification and other applicable laws has been left by the project proponent. Also, it is to be verified whether the NGPDA approval is in violation of CRZ or not”.

AND WHEREAS, the Committee after detailed discussion and due deliberation and on considering the oral as well the written submissions made by both the parties decided:

- 1) To direct an Expert Member to examine the plan as approved by the NGPDA in the instant matter in the light of provisions of CRZ Notification as applicable at the time of approval of plan.
- 2) Further, the in site condition should be checked in the light of the above.
- 3) The Respondent is directed to provide a copy of approved plan alongwith original for matching the same.
- 4) The representative from NGPDA with said approved plan should also be called for inspection in presence of both the parties.
- 5) The Committee further granted 4 weeks time to Mr. Madan Sawant to provide all the necessary details / information which includes the plan approved by the NGPDA in light of CRZ Notification and to hear the parties thereafter.

A copy of the extract of the minutes of the 2nd Meeting of the Committee to decide on CRZ matters held on 23/08/2016 is enclosed herewith as **Annexure ‘III’**.

AND WHEREAS, a Miscellaneous Application bearing No. 427/2016 in Appeal No. 6/2016 was filed Mr. Kashinath Shetye seeking implementation of the Original directions issued by the Hon’ble NGT in Appeal No. 6/2016.

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ANNEXURE A

AND WHEREAS, the said matter No. 427/2016 was placed before Hon'ble NGT vide Order dated 01/02/2017 with direction to the GCZMA to hear the parties concerned on 15/02/2017 and to dispose of the matter within a period of two weeks thereafter and further directed GCZMA to file compliance report on 08/03/2017.

AND WHEREAS, the said matter was thereafter placed in the 140th GCZMA meeting held on 15/02/2017 for personal hearing in the matter wherein after detailed discussion and due deliberation and on considering the written as well as oral submissions made by the parties, the Authority decided to re-inspect the site in view of the submissions made by Adv. Jitendra Supekar on behalf of the Respondent so as to verify whether there is a authorised structure existing in line of his structure.

A copy of the extract of the minutes of the 140th GCZMA meeting held on 15/02/2017 is enclosed herewith as **Annexure 'IV'**.

AND WHEREAS, the Expert Members of the GCZMA visited the aforementioned site for the purpose of verification. The observations submitted by the Expert Members are as follows:

- i) Existing new concrete retaining wall on the bank of the waterbody reportedly constructed by WRD, Govt. of Goa.
- ii) Distance between the retaining wall and the building is measured to be 12.8 m.
- iii) One coconut tree, approx. 40 years old is present in the set back area about 1 m from the retaining wall.
- iv) No mangrove plants are observed opposite the retaining wall of the plot, though adjacent plots have mangroves.
- v) Width of the back water basin is about 34 m, based on DSLR map.
- vi) There is no authorized structure between the water body and the building.
- vii) Google map of 2003 shows no building in the plot.

Conclusions & recommendations:

- i) There may have been an earlier laterite retaining wall similar to that seen in the neighbourhood plot.
- ii) Since there is no authorized structure in the NDZ between the building and the water body, the GCZMA Authority may have to seek 'reference-

- iii) Such authorised structures need to be identified and verified.

AND WHEREAS, the said matter was further placed in the 143rd meeting of the GCZMA held on 07/03/2017 wherein the Authority after detailed discussion and due deliberation and in view of the above, decided to direct the Directorate of Settlement and Land records (DSLRL) to conduct a survey of the said site in order to ascertain whether there exists a authorized structure beyond the structure / house of Mr. Madan Sawant.

A copy of the extract of the minutes of the 143rd meeting of the GCZMA held on 07/03/2017 is enclosed herewith as **Annexure 'V'**.

AND WHEREAS, the Authority upon receipt of a plan from the DSLR depicting the location of the structure of Mr. Madan Sawant the matter was placed in the 150th GCZMA meeting held on 23/05/2017 wherein the Authority after detailed discussion and due deliberation and upon perusal of the DSLR Plan decided to seek a detailed report from the Chief Town Planner, Town & Country Planning Department with respect to the structure / bungalow / commercial establishment carried out by Mr. Madan Sawant in the property bearing Chalta No. 10 and 11 of P.T.Sheet No. 12 at Ribandar, Tiswadi – Goa.

A copy of the extract of the minutes of the 150th GCZMA meeting held on 23/05/2017 is enclosed herewith as **Annexure 'VI'**.

AND WHEREAS, a letter dated 25/05/2017 was issued to the Chief Town Planner requesting to submit a detailed report in the matter and the same was replied by the TCP informing that the said matter comes under the jurisdiction of the NGPDA.

AND WHEREAS, a letter was issued to the NGPDA requesting to verify whether the said construction is done as per the plan approved by the GCZMA or otherwise.

AND WHEREAS, a report was received from the NGPDA wherein the findings given are indicated hereinbelow:

1. Shri. Madan Sawant has carried out alteration in the building approved by this Authority after obtaining part completion certificate from the NGPDA and part occupancy certificate form the CCP of Panjim. Shri. Madan Sawant has converted stilt floor (Parking) by way of construction of rooms (total 5 numbers) in stilt floor, out of which 3 rooms is having independent entry and exit from outside and 2 rooms is having entry and exit attached to the dwelling unit anad also as well from outside thus carried out change of use of stilt floor approved from parking to residential use. No commercial activity is found running in the premises converted from stilt floor to rooms.
2. The compound wall and the three numbers of gate towards main roadside constructed is illegal and without prior permission from the Authority.
3. Kitchen Balcony on first floor and bed room balcony on second floor is found constructed with additional floor area approximately 0.70 m^2 and 2.00 m^2 respectively and covered the same with sliding window panels. As also the Balcony (1.45 m^2 of drawing room on second floor is constructed with additional floor area which admeasure total $2.70 \times 2 = 4.20 \text{ m}^2$) and converted the same into open terrace.
4. Shri. Madan Sawant has submitted this Authority a revised plan showing built addition and alteration carried out in the building for development permission which is under process.

AND WHEREAS, the said matter was placed in the 151st meeting held on 15/06/2017 wherein the Authority after detailed discussion and due deliberation and on considering the submissions made by the parties decided to re-inspect the site inorder to verify the imaginary line drawn from an existing authorized structure prior to 1991 parallel to HTL.

A copy of the extract of the minutes of the 151st meeting held on 15/06/2017 is enclosed herewith as **Annexure 'VII'**.

AND WHEREAS, the re-inspection was carried out by the Expert members alongwith DSLR on 27/06/2017. The observations recorded during the site inspection are as follows:

- i) The house of Mr. Madan Sawant is along the bank of tidally influenced Chimbil Creek at Ribandar.
- ii) The house is within 13 m (12.7m) from the bank of the Creek and in CRZ II area.
- iii) Mr. Madan Sawant has constructed the house after the NOC was issued by GCZMA (No. GCZMA/N/1/07/13/2675, dated 6/7/2007).

iv) As seen from the records, the plan put up by Madan Sawant to GCZMA for approval was a G+1 structure, whereas the construction presently existing at site is a G+2 structure, which is in contravention to the approval accorded by GCZMA.

v) So, the DSLR representative was requested to measure the plinth area of the house to verify the excess built-up area, which he will be calculating and submitting to GCZMA.

vi) In the abutting/adjoining plot on the southern side of the house there is a structure - Shaurya Hotel, whereas towards the northern side, abutting/adjoining the house there is a public tar road passing through the adjoining plot. Beyond the road is one old house which is in the other plot. This is also clearly evident in the DSLR PT Sheet No. 12/CH No.10, 11 of Panaji City, dated 17/3/2017.

Conclusion & Recommendation

- i) As per the CRZ Notification, for drawing an imaginary line, the building to be constructed will be restricted to the single plot (plot boundary as on 19/2/1991) immediately abutting/adjoining the existing authorized structures (buildings of permanent nature existing prior to 1991 and constructed as per building regulations and byelaws) between which the imaginary line is drawn.
- ii) Site inspection showed that there are no authorized structures existing prior to 1991 in either of the abutting/adjoining plots with reference to the plot in which Mr. Madan Sawant's house has been constructed.
- iii) In the abutting/adjoining plot towards south of Madan Sawant's house is the Shourya Hotel but the construction is not prior to 1991.
- iv) Similarly in the abutting/adjoining plot towards north, there is a road and by the side of the road in the next plot there is a house, but this house cannot be considered as an authorized structure for drawing an imaginary line as per the CRZ Notification as it is not in the abutting/adjoining plot.
- v) Under the circumstances, it is not possible to draw an imaginary line as both the plots abutting/adjoining Mr. Madan Sawant's plot/house do not have a pre-1991 authorized structure.
- vi) Moreover, the site inspection report of NGPDA, dt. 12/6/2017 indicates that Mr. Madan Sawant has converted the stilt parking into 5 rooms of which 3 rooms have independent entry and exit from outside, whereas 2 rooms are having entry and exit from inside, which is attached to the dwelling unit. Thus, he has carried out a change of use in CRZ area making it a G+2 structure from the approved G+1 structure.

vii) The conversion of the approved G+1 structure to G+2 structure may be seen as a CRZ violation.

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ANNEXURE A

viii) The Authority may deliberate for a decision in the matter before disposing the case.

AND WHEREAS, the matter was then placed for discussion and decision in the matter in the 153rd meeting of the GCZMA held on 18/07/2017.

AND WHEREAS, the Authority noted that the permission granted by the GCZMA to Mr. Madan Sawant was as per the local building bye laws and accordingly, the construction of the bungalow was carried out as per the plans approved by the local authorities. The Authority had granted permission for construction. No plan at the time of granting permission was approved by the Authority. Shri. Madan Sawant therefore, constructed the residential premises as per local building bye laws of CRZ-II then in force.

AND WHEREAS, the Authority after detailed discussion and due deliberation and in view of the above decided to seek legal opinion in the matter as to whether revised permission / approval is required to be granted by the GCZMA as per the plans approved by the local authorities.

AND WHEREAS, the file was accordingly moved to the Law Department in order to seek legal opinion in the matter.

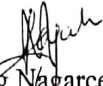
AND WHEREAS, subsequently the draft minutes were sent for approval to the Principal Secretary / Chairman (GCZMA) during which time the Chairman, GCZMA made necessary changes in the decision taken by the Authority stating to issue demolition orders in respect of the structures / floors constructed in violation of the building plan submitted by the Respondent at the time of seeking GCZMA permission for construction of residence. Further, the Deputy Collector of Tiswadi to verify compliance and report by 30/09/2017.

A copy of the extract of the minutes of the 153rd meeting of the GCZMA held on 18/07/2017 is enclosed herewith as **Annexure 'VIII'**.

NOW THEREFORE, 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. 3324 (E)

dated 26/10/2016 issued by the Ministry of Environment & Forests, Government of India, the GCZMA hereby directs **Mr. Madan Sawant, R/o 2/198/B, Rambhuvan Waddo, Ribandar, Tiswadi-Goa** to demolish / remove all the structures / floors constructed in violation of the building plan (copy enclosed) submitted by the Respondent at the time of seeking GCZMA permission for construction of residence located in the property bearing P. T Sheet No. 12 of Chalta No. 10 and 11 at Ribandar, Tiswadi-Goa as decided by the Authority in its 153rd meeting held on 18/07/2017 and restore the land to its original condition by 29/09/2017 failing which the Dy. Collector & S.D.O of Tiswadi, to verify if the structures / floors constructed in violation of the building plan submitted by the Respondent at the time of seeking GCZMA permission for construction of residence located in the property bearing P. T Sheet No. 12 of Chalta No. 10 and 11 at Ribandar, Tiswadi-Goa is removed / demolished and in the event it is not removed as per these directives, then the Deputy Collector & S.D.O of Tiswadi shall remove structures / floors constructed in violation of the building plan submitted by the Respondent at the time of seeking GCZMA permission for construction of residence located in the property bearing P. T Sheet No. 12 of Chalta No. 10 and 11 at Ribandar, Tiswadi-Goa and recover the expenses incurred from **Mr. Madan Sawant, R/o 2/198/B, Rambhuvan Waddo, Ribandar, Tiswadi-Goa**, as the arrears of land revenue. The Deputy Collector & S.D.O of Tiswadi should report compliance of the aforesaid directions to the GCZMA by 30/09/2017.

For and on behalf of the
Goa Coastal Zone Management Authority


(Parag Nagarcenkar)
Member Secretary (GCZMA)

Encl: As above.

To:-

Mr. Madan Sawant, R/o 2/198/B, Rambhuvan Waddo, Ribandar, Tiswadi-Goa.

Copy for information to:-

1. P.A to Secretary (Environment) & Chairman (GCZMA), Secretariat, Porvorim.....for kind information of Pr. Secretary (Environment).
2. The Collector & District Magistrate (North), Office of the Collector (North), Collectorate Building, Panaji-Goa.... for information.

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3. The Deputy Collector & S.D.O of Tiswadi, Panaji - Goa, for information
and necessary action.

4. The Commissioner, Corporation of the City of Panaji, Panaji-Goa.....for
information.

5. Mr. Kashinath Shetye, R/o 102, Raj Excellency, Patto, Ribandar-
Goa.....for information.

6. Dr. Ketan Govekar, R/o 3rd floor, Wadji Building, Near St. Inez Church,
St. Inez, Panaji-Goa.....for information.