



BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN
ZONE BENCH AT PUNE

APPEAL NO. 97 OF 2017

IN THE MATTER OF:

MADAN NARAYAN SAWANT

...APPELLANT

VERSUS

GCZMA & Others

...RESPONDENTS

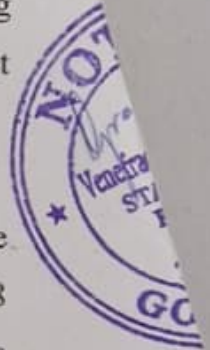
**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1, GOA
COASTAL ZONE MANAGEMENT AUTHORITY**

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 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 26/09/2017 passed by the answering Respondent and challenged before this Hon'ble Tribunal in the above-captioned Appeal and I 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 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 and 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



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Shetye informing him that no action was warranted in the matter and as such could not proceed ahead with the complaint filed by him.

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.

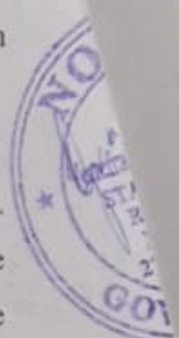
7. I say that accordingly site inspection was conducted by the expert members and the findings are mentioned in the impugned directions dated 26/09/2017. The said matter was placed in the 133rd GCZMA meeting held on 20/07/2016 wherein the Authority after detailed discussion and due deliberation came 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 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



[Signature]

Appellant's structure. The observations and recommendations made by the expert members are given in the impugned 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 DSLRL 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.

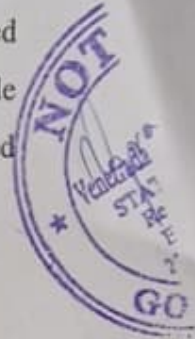
12. I say that the site inspection report of NGPDA, dated 12/06/2017 indicates that the Appellant has converted the stilt parking into 5 rooms of which 3 rooms have independent entry and exit from outside, whereas 2 rooms are having entry and exit from inside, which is attached to the dwelling unit. 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



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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 impugned directions.



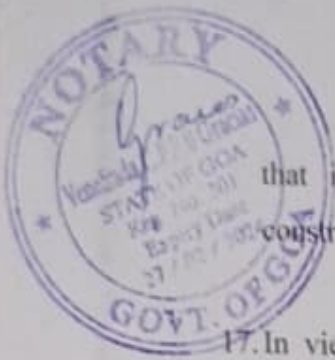
14. I say that the Answering Respondent noted that the permission granted by the GCZMA to appellant was as per the local building bye laws and accordingly, the construction of the bungalow was carried out as per the plans approved by the local authorities. The Authority had granted permission for construction. 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 in terms 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) where 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 at Annexure A, under the caption "Other Matters" regarding regularisation and alteration, it mandated the Applicants to approach the concerned Town and Country Planning / Planning Authority for revision of plans, without approaching the Authority afresh. I say and submit that the Applicant has converted stilt parking into room and thus it resulted to form a construction of a G+2 structure from the approved G+1 structure. I say and submit



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that in the present Appeal, the Appellant has already done construction as per the revised plans.

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.

[Signature]
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.

[Signature]
DEPONENT



Executed before me
At Panjim Tiswadi - Goa
Reg. No. 26/02/2024
Dated: 22/02/2024

[Signature]
Venefrada C.P.P.B Gracias
Advocate & Notary Goa State