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BEFORE THE NATIONAL GREEN TRIBUNAL WESTERN ZONE
BENCH PUNE

ORIGINAL APPLICATION NO. 15/2023(WZ)

ALCHEMITS ASSET RECONSTRUCTION

COMPANY PVT. LTD.

...APPLICANT

VS.

GCZMA AND ORS.

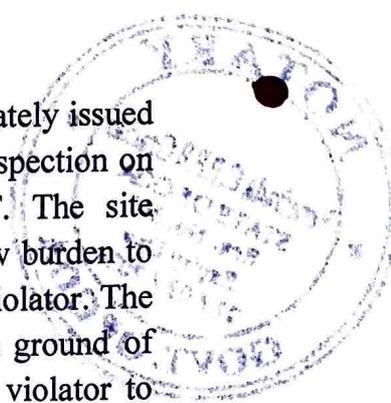
...RESPONDENTS.

REPLY AFFIDAVIT OF RESPONDENT NO. 1

I, Shri Levinson Martins, 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. I have gone through the records of the present matter and after going through the relevant office records I am filing the present Affidavit. However, I should not be deemed to admit anything which is contrary to or inconsistent with what is stated hereinafter in the absence of specific denial.
2. I Say that the GCZMA was in receipt of complaint dated 08/06/2022 from Alchemist ARC, A-270, 1st and 2nd Floor, Defence Colony, New Delhi against Shri. Selso Fernandes of Agonda Canacona, with regard to illegal construction of Tourist Resort "Dream Discovery" in property survey No.100/10 of village Agonda Canacona Taluka Goa. On receipt of complaint GCZMA decided to inspect site through its technical team and issued site inspection notice on 21/06/2022 and as there was direction from Hon'ble NGT to finalised the CZMP of 2011 for state of Goa pending for many years. The technical team was doing CZMP work and inspection was delayed. The CZMP for State of Goa was approved on 06/09/2022. Thereafter committee of GCZMA dissolved in 31/10/2023 and reconstituted on 27/12/2022. Meanwhile GCZMA received direction through email dated 24/02/2023 from Registrar of Hon'ble NGT western zone Bench whereby communicated the direction passed by Hon'ble NGT in its order dated 21/02/2023 issued in O.A. No.15/2023(WZ) wherein Hon'ble NGT (WZ) directed GCZMA to form a Joint Committee comprising one member of following (i).GCZMA,(ii).Goa State Pollution Control Board(GSPSB) (iii).The District Magistrate South Goa and to carry out site inspection of property survey No.100/10 of village Agonda and submission of report.

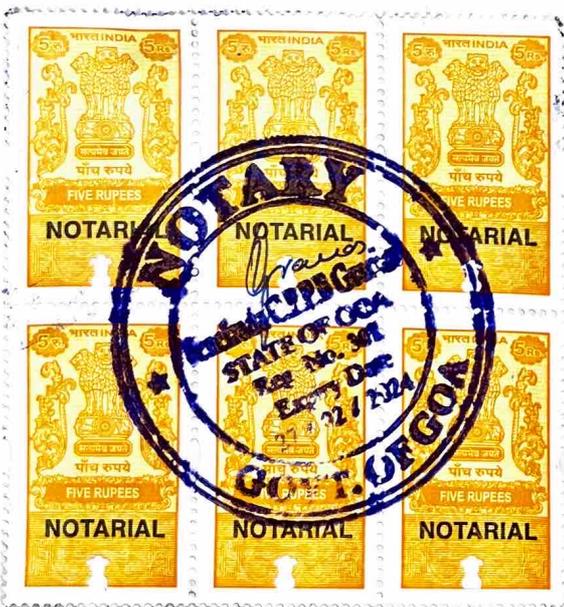
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3. Upon receipt of direction from Hon'ble NGT GCZMA immediately issued site inspection notice on 01/03/2023 and conducted joint site inspection on 14/03/2023 and submitted report before the Hon'ble NGT. The site inspection report GCZMA has shown all structures at loco now burden to prove the legality all structures shown in site inspection is on violator. The GCZMA can issue show cause notice to the Violator and on ground of principle of natural justice will grant personal hearing to the violator to justify the authorisation of his structures shown in site inspection. If violator failed to justify the legality of structures GCZMA will issue appropriate order after due inquiry.
4. It is pertinent to note that Respondent No. 3 filed two representations before the present Respondent dt. 22.06.2023 seeking deletion of Condition (iv) of the Approval dt. 04.04.2017. The present Respondent considered the same and after following due process of law; arrived at a conclusion that the same is irrelevant as said condition related to Clause 6 (d) of the CRZ Notification 2011, the said condition can be imposed in case of regularisation structures and whereas the present Respondent's approval is for repair and renovation of two existing authorized structures and Authority decided that there is no restriction on transfer or sell of authorize structure under CRZ norms and request pertain to commercial use of existing house applicant may first seek permission from TCP. The Minutes of 357th Meeting held on 29.08.2023 are annexed herewith and marked as "Annexure A". I say and submit that the reconstruction by the Respondent No. 3 falls within the permissible activity envisaged in CRZ Notification 2011.

Hence this Affidavit.

Solemnly affirmed on this the 04th day of october 2023 at Goa



[Signature]
Affiant

Solemnly affirmed before me
Levinson Martins
 is identified before me by

 At Panjim - Goa
 No. 178/10/2023
 Date. 04/10/2023

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

MINUTES OF THE 357th MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 29/08/2023 at 03.00 PM IN THE CONFERENCE HALL, FOURTH FLOOR, DEMPO TOWER, PATTO, PANAJI-GOA

The 357th Meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment) on 29/08/2023 (Tuesday) at 03.00 p.m. in the Conference hall, Fourth floor, Dempo Tower, Patto, Panaji - Goa.

The following members were present for the meeting on 29/08/2023:

1. Secretary, Environment & Climate Change/Chairman (GCZMA)
2. Principal Chief Engineer, Public Works Department, Panaji, Goa
3. Representative on behalf of Director, Department of Tourism, Panaji, Goa
4. Representative on behalf of Director, Directorate of Panchayat, Panaji, Goa
5. Representative on behalf of Director, Directorate of Fisheries, Panaji, Goa
6. Representative on behalf of Chief Engineer, Water Resources Department, Porvorim, Goa.
7. Mrs. Radha Rao, Expert Member (GCZMA)
8. Shri Ganesh B. Velip, Expert Member (GCZMA)
9. Director, Environment & Climate Change/Member Secretary (GCZMA)

At the outset, the Chairman (GCZMA) welcomed the Members of GCZMA present for the meeting thereafter the following agenda items were taken up for discussion and decision.

Item No.1

Case No 1.1

To decide on a complaint dated 21/12/2023 from Calangute Constituency Forum with regards to destruction of mangroves in the name of development by strengthening exiting bund from Nerul bridge to Caculo House at Candolim.

Background: The Office of the Goa Coastal Zone Management Authority is in receipt of the Complaint dated 21/12/2023 from Calangute Constituency Forum with regards to destruction of mangroves in the name of development by strengthening exiting bund from Nerul bridge to Caculo House at Candolim.

The Applicant has approached Hon'ble High Court and Hon'ble Court is pleased to disposed off the matter vide dated 25/04/2023 thereby directing this Authority, Biodiversity and WRD to have joint site inspection and was further directed Bio Diversity to make a report and further directing this Authority to decide the matter

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During 352nd GCZMA meeting held on 08/08/2023. Party filed Reply. Respondent appeared for the Hearing on 22/08/2023

Proceeding: advocate for Respondent present. Sought time to file additional reply.

Decision: The Authority adjourned the matter and further decided to communicate the next date.

33. Naresh Harmalkar 1346

Village / Taluka	Survey No.	CRZ Zone	Name of Premises	Details of Structures	Owner/ Occupier	GPS Reading	Remarks	Distance from HTL
Anjuna Bardez	127/20, 21	CRZ-III NDZ		2no masonry structure with manglore tile roofing, Masonry Compound wall on all sides, 1no masonry structure with sheet roofing.	Naresh Harmalkar, H.No. 800/3, Govekarwad a Anjuna.	15.577745N, 73.739488E	Operational	Within CRZ Limits

During 352nd GCZMA meeting held on 08/08/2023. Party filed Reply. Respondent appeared for the Hearing on 22/08/2023

Proceeding: advocate for Respondent present. Sought time to file additional reply.

Decision: The Authority adjourned the matter and further decided to communicate the next date.

Case No. 1.13

To decide on two Representations of Mr. Selso Fernandes, H.No.438, Val Aframento Agonda Canacona Goa received by GCZMA on 22/06/2023 seeking deletion of Condition (iv) of the Approval dated 04/04/2017 issued by Ld.GCZMA.

GCZMA granted approval to Mr. Selso Fernandes for re-construction of his two existing authorized structures in survey no.100/10 of village Agonda Canacona on 04/04/2017 wherein Authority makes mentioned on NOC at clause 4 condition that structure should not be used for commercial purpose and not to be sold and transferred to the Non-

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Additional community. The applicant prayed before Authority deletion of said condition no.4 from both NOC granted by the Authority to said Mr. Selso Fernandes as said condition no.4 inadvertently put on approval/NOC of applicant by GCZMA as same is not applicable for such approval of re-construction of existing authorized structures.

Decision: - The Authority observed that applicant Mr. Selso Fernandes in year 2017 applied before this Authority repair and renovation of his two existing authorized structures in survey No.100/10 of village Agonda Canacona Goa. The Authority after inspection and verifying all documents with regard to legality of structures of applicant, Authority decided to grant permission to applicant for repair and renovation of his two structures situated in property survey No.100/10 of village Agonda. Whereas with that context Authority issued two NOCs dated 04/04/2017 to the applicant Mr. Selso Fernandes for repair and renovation of his two authorized existing structures in property surveyed under survey No.100/10 of village Agonda, however at time of issue of said NOCs to the applicant Authority mentioned some conditions and condition at clause 4 is mentioned as "structure should not be used for commercial purpose and not to be sold and transferred to the Non-traditional community" hence present representation filed by applicant for deletion of said clause 4 (condition) mentioned on his two NOC issued by this Authority for repair and renovation of his two authorized structures.

Authority deliberation and discussion on representation of Mr. Selso Fernandes arrived under following conclusion.

Authority in opinion that condition mentioned at clause 4 of applicant Mr. Selso Fernandes NOCs is not applicable as NOCs were granted to applicant is for repair and renovation of his two existing authorized structures.

Condition mentioned at clause 4 of applicant NOCs is the provision provided in CRZ Notification 2011 which Authority has to consider at time of regularization of any structures in question before the Authority for regularization.

Provision of 6 (d) under CRZ Notification 2011 speak as follow: -

6(d) The dwelling units of the traditional coastal communities including fisherfolk, tribals as were permissible under the provisions of the CRZ notification, 1991, but which have not obtained formal approval from concerned authorities under the aforesaid notification shall be considered by the respective Union territory CZMAs and the dwelling units shall be regularized subject to the following condition, namely- (i) these are not used for any commercial activity (ii) these are not sold or transferred to non-traditional coastal community.

The Authority noted that if any question related to regularization of structures within CRZ area is concern then Authority has to consider that basic condition provided in provision 6(d) of CRZ Notification 2011 for regularization of any structure. The dwelling units of the traditional coastal communities including fisherfolk, tribals which have not obtained formal approval from concerned authorities under the notification that dwelling units shall be regularized considering the following condition, namely- (i) these are not used for any commercial activity (ii) these are not sold or transferred to non-traditional coastal community.

In view of above it clear that condition that is mentioned on applicant NOCs dated 04/04/2017 issued by Authority for repair and renovation of his two authorized existing structures in property surveyed under survey No.100/10 of village Agondais inadvertently mentioned and need to be corrected.

In Beach Carrying capacity report prepared by NCSCM which is accepted by Authority in said report at page 17 and 87 it is mentioned as under

“Structures existing prior to 19 February 1991 could be permitted to carry out regulated commercial activities such as homestays, guest houses and restaurants without any further increase in coverage or FAR/FSI as it would not occupy additional vacant land”

Similarly, Authority in its 215th meeting held on 22/10/2019 in deciding case of Roshan Mathias Authority was opinion that conversion of usage of any structure from residential to commercial is ispo-facto not banned under CRZ norms.

The Authority also in opinion that there is no restriction on transfer or sell of authorized structure to any person under CRZ norms. However since the present request pertains to commercials utilization of existing house, the GCZMA decided that the Applicant may first seek permission from TCP.

Case No. 1.14

To decide on application of Advocate Teja Prabhudessai filed on behalf of Nandlal Sharma on 28/07/2023

GCZMA in receipt of application dated 28/07/2023 from advocate Teja Prabhudessai filed on behalf her client Shri. Nandlal Sharma for revocation of approval license permission Mr. Kundan Ram Bhagat/Krishna Ashok Bhagat dated 31/12/2020 issued by GCZMA vide No.GCZMA/s/Shack-Hut-cott-Tent/19-20/76/1495 in property bearing survey No.117/13 of Nagarcem-palolem village of canacona as agreement of leave and licence by which land was granted by owner of property to the said Mr. Kundan Ram Bhagat/Krishna Ashok Bhagat expired on 31/05/2023 and same is not renewed by the land owner of survey No.117/13 of Nagarcem-palolem village of canacona in view of that as per clause 18 mentioned on said NOC/approval the NOC granted to the Mr. Kundan Ram Bhagat/Krishna Ashok Bhagat shall be revoked.

Decision: - The Authority after detail discussion and deliberation decided to issue the notices to the Mr. Kundan Ram Bhagat and Krishna Ashok Bhagat to whom GCZMA issued NOC vide No.GCZMA/s/Shack-Hut-cott-Tent/19-20/76/1495 in property bearing survey No.117/13 of Nagarcem-palolem village of canacona which is subject matter in present case.

Item No.2 (Correction/Rectification)

Case No.2.1

Shri Ankit Madgaonkar (Proposal for erection of temporary structures in Survey No. 154/1 of Siolim village Bardez Taluka.

Background: The proposal was discussed in the 339th GCZMA Meeting held on 11/04/2023. The Authority after detailed discussion and decided to approve the proposal for erection of temporary structures for a total built up area 866.27 sq.mtrs.