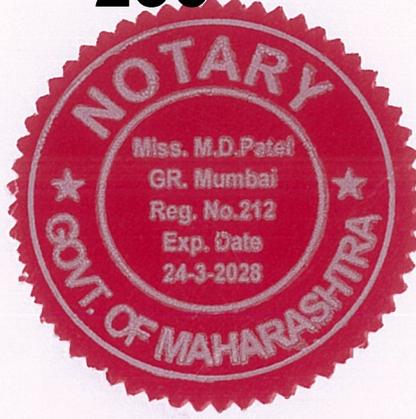


236



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
EXECUTION APPLICATION NO.16 OF 2017 (WZ)
IN
ORIGINAL APPLICATION NO.54 OF 2016 (WZ)**

Mr. Gaurav Nevatia & Anr. ... Applicants

V/s

Madhuli CHS Ltd. & Ors. ... Respondents

**REPLY AFFIDAVIT BY RESPONDENT NO. 4,
MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY**

I, Vishal Vishvas Madane, Under Secretary and Scientist II, Environment and Climate Change Department, Government of Maharashtra do hereby state on solemn affirmation as under –

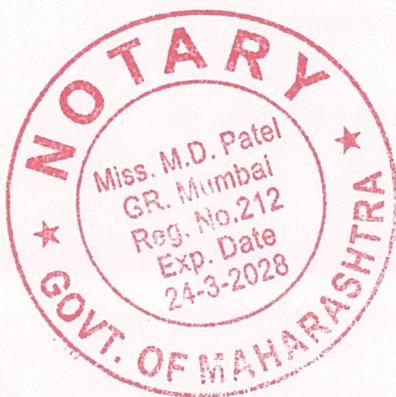
I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office. The

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[Handwritten Signature]

present affidavit is being filed in pursuance to order dated 3.3.2023 & 24.5.2023 passed by this Hon'ble Tribunal.

1. The present application pertains to the alleged CRZ violation at Madhuli Co-op Housing Ltd & Ors. located at C.S. no. 1C/2 and C.S. No. 996 of Worli Division, Dr. Annie Besant Road, Worli, Mumbai – 400 018.
2. A joint meeting was held on 15th March, 2023 at 2.15 pm under the Chairmanship of Principal Secretary (PS), Environment and Climate Change at Environment &CC Department, Dalamal House, Nariman Point. The officials of the MCGM and District Collector, Mumbai City were present for the meeting.
3. The background of the matter such was earlier order dated 28th October, 2016 of the Hon'ble NGT and affidavits filed by MCZMA were noted in the meeting.
4. The MCGM officials informed that the site of the Madhuli Co-op Housing Ltd is situated in CRZ II area. Residential building Madhuli Co-op Housing Ltd is constructed before 1991. The Occupation certificate was issued by the MCGM in the year 1988 i.e. prior to CRZ Notification, 1991. It was further informed that certain addition/ alternations were

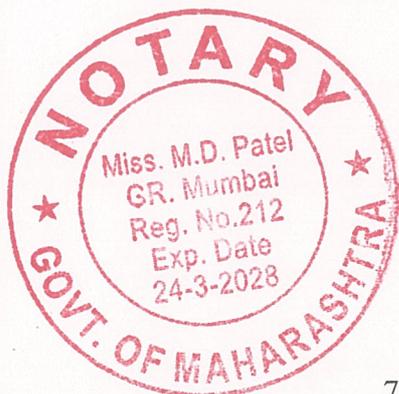


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carried out in certain premises, for which notices were issued by the MCGM under MRTP Act, 1966.

5. District Collector officials stated that Government foreshore land was allotted to the Society on lease with a condition that, the entire land shall be kept open and maintained as 'Garden'. He further stated that as per earlier report submitted by the District Collector office, certain action has been initiated for violating the conditions of the lease.
6. Principal Secretary, Environment & CC, considering the Hon'ble NGT order & complaint of applicant, inquired MCGM and District Collector, Mumbai City apart from MRPT violations, is there unauthorized additional constructions carried out post 1991 /2002 in violation of CRZ norms. MCGM and District Collector, Mumbai City officials requested time to provide detail report in the matter. PS, Env&CC directed officials to submit the report immediately without delay, considering the Hon'ble NGT order.
7. At the end, after deliberation, unanimously it was decided that MCGM to peruse the above stated order dated 3.3.2023 of Hon'ble NGT & complaint of Applicant and provide details of unauthorized additional constructions carried out post 1991 /2002 in violation of CRZ norms, if



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any. If violations are observed, MCGM should take necessary action.

Report of District Collector, Mumbai City was sought

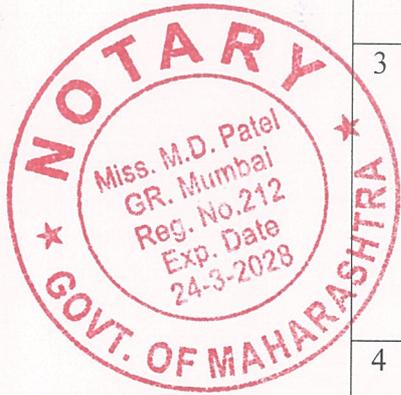
8. A second (2nd) joint meeting was held on 21st July, 2023 at Dalamal House, Environment & CC Department at 3.00 pm regarding the orders passed by Hon'ble NGT, in the present case Concern officials from MCGM and District Collector, Mumbai City were present for the meeting. The PS, Env&CC informed MCGM officials about the circular dated 27.4.2017 issued by the Environment Dept, GoM. As per the said circular, proposals of alternations / minor repairs to authorized structures within existing FSI in CRZ area requires to be dealt at planning Authority level based on the Hon'ble High Court order dated July 11, 2011 in WP No. 1274/2006.
9. During the meeting, PS, Env&CC asked MCGM officials whether the addition / alteration carried out in the said building has resulted in increase in FSI and thus resulted in CRZ violation? MCGM officials submitted that a specific report would be submitted in the matter at the earliest. PS, Env&CC instructed MCGM officials to submit the said report immediately so that affidavit could be submitted before Hon'ble NGT.
10. The MCGM vide letter dated 19.12.2023 (received at MCZMA on 26.12.2023) submitted its reply, as per which:



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[Handwritten Signature]

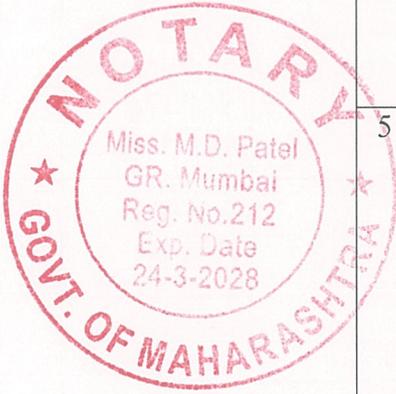
S r. N o.	Unauthor ized Structure / Owner / Occupier	Action taken by MCGM	F.S.I. Violat ion Yes / No	Existence of Notice Work	Orders obtained from various courts / tribunals
1	Flat No. 63	MCGM has issued notice under section 351 of MMC Act under no.DO3/AEBF/GS Ward/D-4078/351/0009/JE-192 dt. 14/08/2015 for Additional / Alterations, Shifting of Kitchen, Enclosing of Balcony in Flat No. 63 of Madhuli CHS Ltd.,	No	After 18/10/2007 (As per this office affidavit dt. 25/11/2017	The Owner / Occupier against the rejection passed by Urban Department order approached Hon'ble
2	Flat No. 64	MCGM has issued notice under section 351 of MMC Act under no.DO3/AEBF/GS Ward/D-4078/351/0010/JE-192 dt. 14/08/2015 for unauthorized Additional / Alterations, Shifting of Kitchen, Enclosing of Balcony in Flat No. 64 of Madhuli CHS Ltd.,	No	After 10/07/2012 (As per this office affidavit dt. 25/11/2017	Bombay High Court by filing the W.P.No. 12371 of 2017, wherein Hon'ble High Court has granted "Status Quo
3	Flat No. 74 & 75	MCGM has issued notice under section 351 of MMC Act under no.DO3/AEBF/GS Ward/D-3029/351/0003/JE-192 dt. 27/12/2014 for Additional / Alterations, at Flat No. 74 & 75 of Madhuli CHS Ltd.,	No	After 15/03/2003 office affidavit dt. 25/11/2017	and the regularization on proposal rejected by UDD has been remanded back to their
4	Flat No. 83	MCGM has issued notice under section 351 of MMC Act under no.DO3/AEBF/GS Ward/D-4080/351/0011/JE-192 dt. 14/08/2015 for Additional / Alterations, Shifting of Kitchen, Enclosing of Balcony in Flat No. 83 of Madhuli CHS Ltd.,	No	After 16/02/2007 (As per this office affidavit dt. 25/11/2017	office for taking a fresh decision and directed parties to appear before the state Government . Directed MCGM that



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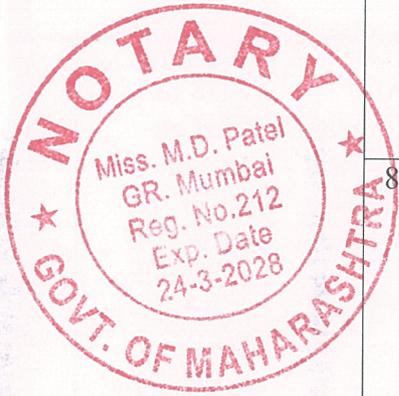
					alleged illegal construction wall remain protected till the appeal is decided by the state government . This office has made correspondence with UDD vide letter dt. 23/03/2023 however till date no any reply received.
5	Flat No. 84	MCGM has issued notice under section 351 of MMC Act under no.DO3/AEBF/GS Ward/D-4081/351/0012/JE-192 dt. 14/08/2015 for unauthorized Additional / Alterations, Shifting of Kitchen by M/s. Patodia Sintex Pvt. Ltd	No	In year 1991 (Information provided by Society vide letter dt. 04/12/2023)	Against the said notice the owner approached Hon'ble City Civil Court, wherein Hon'ble City Civil Court has granted add- interim in L.C. Suit No. 2431 of 2016.
6	Penthouse 13 th & 14 th Floor	MCGM has issued notice under section 351 of MMC Act under no.DO3/AEBF/GS Ward/D-4084/351/0015/JE-192 dt. 14/08/2015 for unauthorized Additional / Alterations removal of Kitchen on 13 th Floor, erection of shed on open terrace at 14 th Floor to	No	In year 1991 (Information provided by Society vide letter dt. 04/12/2023)	Against the said notice the owner approached Hon'ble City Civil Court, wherein Hon'ble City Civil Court has



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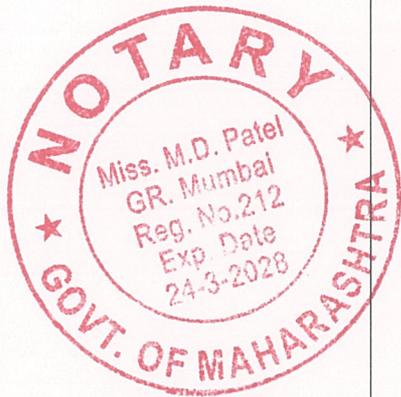
		the owner Shri. Kalparaj Dharamshi			granted add- interim in L.C. Suit No. 2422 of 2016.
7	Bungalow No. 3	MCGM has issued notice under section 351 of MMC Act under no.ACGS/BF/ JE-192/351/3007 /14-15 dt. 27/11/2014 for unauthorized construction of basement by M/s. Amma Lines Pvt. Ltd	105 Sq.mt s. Basement area	In year 1989 (Information provided by Society vide letter dt. 04/12/2023)	Against the said notice the owner approached Hon'ble City Civil Court, wherein Hon'ble City Civil Court has granted add- interim in L.C. Suit No. 2160 of 2016.
8	Bungalow No. 4	MCGM has issued notice under section 351 of MMC Act ACGS/BF/ JE-192/351/3008/ 14-15 dt. 27/11/2014 for unauthorized construction of roof on open terrace construction of Kitchen to Shri. Ricky Lamba and unauthorized construction of opla.	70 Sq.mt s. Terrace & 105 Sq.mt s. Basement Total 175 Sq. mts.	In year 1990 (Information provided by Society vide letter dt. 04/12/2023)	Against the said notice the owner approached Hon'ble City Civil Court, wherein Hon'ble City Civil Court has restrained MCGM from taking action in pursuance of the impugned notice L.C. Suit No. 102397 of 2015.
9	Ground Floor Stilt Portion / Art & Soul	MCGM has issued letter under no. AEBF/GS/842/SR dt. 22/10/2016 Proposal submitted to Building Proposal (City) under no.	No	In year 1989 (Information provided by Society	The crest Hotel Ltd has approached to UDD of



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Q. S.

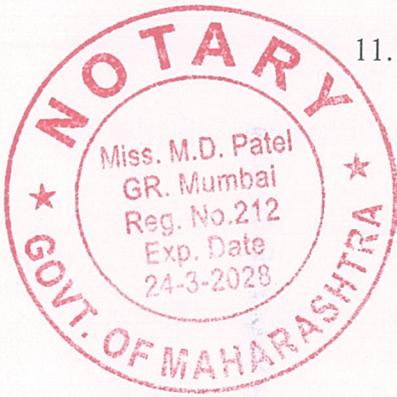
	cancer foundation (Dispensary)	EEBP/7261/GS dt. 28/07/2014 is rejected on 18/10/2016.		vide letter dt. 04/12/2023)	State Government by filling an appeal under section 47 of MRTP Act. Against order dt. 18/10/2016, wherein the UDD of State Government has granted stay to said order.
10	a. Society Hall b. Yoga Room c. Gymnasium d. Glass Partition e. Enclosure of stilt portion	MCGM has issued show cause notice under section 351 of MMC Act under no. GS/DO3GS/192/351 MMC ACT/GS70N01/24/03/2017 dt. 24/03/2017 and 29/09/2017 and also issued final speaking order on 03/04/2017 for A. Unauthorized enclosing the parking space & converting the same into society hall ; yoga room by constructing walls around the open stilt portion adm. 80' X 37'. B. Unauthorized extension of the society office into the open stilt portion & amp; using the same as gymnasium by construction walls adm. 401' X 14'.	338 Sq.mts.	In year 1990 (Information provided by Society vide letter dt. 04/12/2023)	Madhuli CHS has filed an appeal under section 47 of MRTP Act 1966 in Urban Development Department vide letter dt. 06/09/2017 regarding all the matters pending in their office. This office has made correspondence with Urban Development Department vide letter dt.



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Dev.

		<p>C. Unauthorized construction of society hall by erection of full height glass partition adm.20' X 6'</p> <p>D. Unauthorized construction of stilt portion by using B.M. walls and rolling shutter adm. 80' X 62' and height 12'.</p>			23/03/2023 however till date no any reply received.
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11. The MCGM in its reply has mentioned that: "However, relying upon the records available with this department it cannot be confirmed whether the unauthorized work are carried out prior to 1991 or not".

Hence, the information regarding existence of the notice structures are on the basis of information provided by Society. The necessary action against pending notices will be initiated in due course of time by following due process of law.

Copy of reply of MCGM is annexed as **Annexure I.**

12. I say and submit that considering the reply of the MCGM, there is no evidence on record of any construction, addition/ alterations done in violation of FSI after 1991 /2002. Hence, conclusion can't be arrived with respect to violation of CRZ norms in addition/ alternation carried

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out in said building. However, it it informed that MCGM has initiated action in the matter under MRTP act.

13. Considering the CRZ norms and observations made by the Hon'ble Bombay High Court vide their order dated July 11, 2006 in WP No. 1274/2006 (Harakchand Gada & Ors. v. State of Maharashtra), the Environment Department, Government of Maharashtra has issued a circular dated 27-04-2017, wherein it has been stated that, proposals of alterations / minor repairs to existing authorised structures within existing FSI in CRZ area, requires to be dealt at local Planning Authority Level. Accordingly MCGM at their end can take action regarding the violation, if any, in the present case. Copy of Environment Department circular dated 27-04-2017 alongwith Hon'ble High Court's dated July 11, 2006 is annexed as Annexure II.

14. MCGM being the concerned local planning authority is competent to determine if there is any FSI violation. Considering the Environment Department circular dated 27-04-2017, it will be appropriate from MCGM to examine the FSI violation, if any, and take action at their level accordingly.



15. In light of the above averments, this respondent craves leave to file any additional reply as and when required. It is respectfully prayed that Environment Department shall abide by any orders and directions issued by the Hon'ble Tribunal.

Whatever is stated above is true and correct to the best of my knowledge, ability and belief and I affirm it to be true.

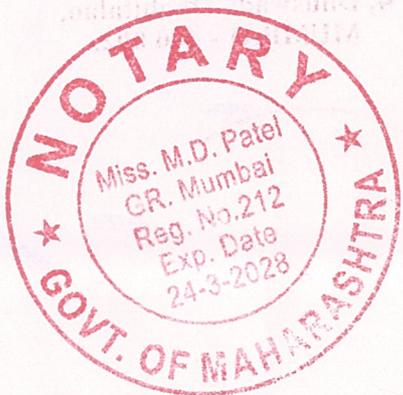


Place: Mumbai

(Vishal Vishvas Madane)
Deponent

Under Secretary & Sci II , Env&CC
Department, GoM

Date: 30/1/2024



VERIFICATION

I, Vishal Vishvas Madane, Age- Adult, Under Secretary, Environment and Climate Change, Government of Maharashtra, having my office address at 15th Floor, New Administrative Building, Mantralaya Mumbai, do hereby verify & declare that statements made in the aforesaid Paras are true and correct to the best of my knowledge and information and I believe the same to be true and that nothing material has been concealed therefrom.

Verified at Mumbai on this 30th day of January, 2024

(M)

Des.

Vishal Vishvas Madane

(Vishal Vishvas Madane)
Under Secretary & Sci II,
Environment &CC Dept, GoM
Deponent

Joy S. Thakur
(Joy S. Thakur)
Deputy Secretary & Sec-I [Addl.]
Env & CC Dept, GoM
Identified by

BEFORE ME

M. D. Patel

30-1-2023

Sr. No. 23

Bk No. 1

**MISS M. D. PATEL
ADVOCATE & NOTARY
Kohiar House,
4, Dhuswadi, Dhobitalao,
MUMBAI - 400 002.**



30/1/24

लि.सं/तां.क.:-- नो.शा-2579-20-12-2023
पर्यावरण व वातावरणीय बदल विभाग
अंत्रालय, मुंबई ४०० ०३३

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BRIHANMUMBAI MUNICIPAL CORPORATION

Office of the Assistant Commissioner, 'G/South' Ward, Municipal Office,
N. M. Joshi Marg, Lower Parel, Mumbai - 400 013.
Tel No. - 022-24305031 Extn. 600 Fax No. 022-24306033
email - ac.gs@mcgm.gov.in

TC-4

ACGS/ 1266 /SR/BF
Dt. 14/12/23

Sub:- Before Hon'ble National Green Tribunal, Pune Execution Application No. 16/2017(WZ) in M. A. No. 77/2018 in original application no. 54/206.

(Shri. Gaurav Nevatia & Anr, V/s. Madhuli CHS & Ors.

Ref:- (1) This office report under no. ACGS/983/SR/BF dt. 04/08/2023 (Pg. C-47 to C-50).

(2) LO/LCT/08150/ALO/DRT dt. 21/08/2023 (Pg. C-51).

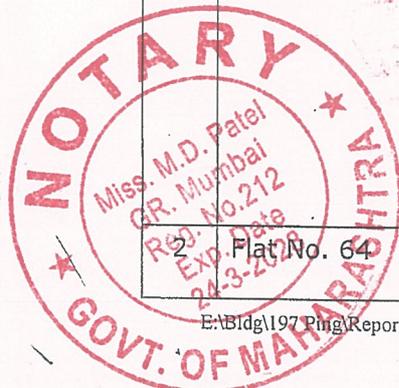
(3) OA 2023/CR-5/TC-4 dt. 28/07/2023 (Pg. C-53).

Reference is requested to your letter dt. 28/07/2023 at Sr. No. 3 may please be seen. Wherein it is requested to provide specific report regarding increase in the F.S.I. due to additions / alterations carried out in the building under reference.

The building under reference was used as star category hotel in the name of Crest Hotel Pvt. Ltd. vide plan approval dt. 24/12/1973 and thereafter same was converted into residential building as per the Occupation Certificate granted by the B.M.C. under no. EB/5678/GS/A dt. 03/10/1987.

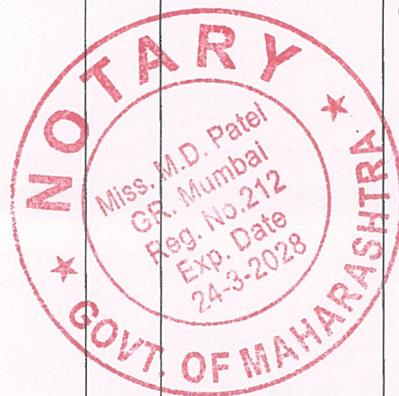
This office has already submitted report to your office vide above referred no. 1. Further detailed notice wise report regarding the F.S.I. violation due to addition / alteration carried out is in the building is as below:-

Sr. No.	Unauthorized Structure / Owner / Occupier	Action taken by MCGM	F. S. I. Violation Yes / No	Existence of Notice Work	Orders obtained from various courts / tribunals
1	Flat No. 63	MCGM has issued notice under section 351 of MMC Act under no. DO3/AEBF/GS Ward/D-4078/351/0009/JE-192 dt. 14/08/2015 for Additional / Alterations, Shifting of Kitchen, Enclosing of Balcony in Flat No. 63 of Madhuli CHS Ltd.,	No	After 18/10/2007 (As per this office affidavit dt. 25/11/2017 (Pg. C-7).	The Owner / Occupier against the rejection passed by Urban Department order approached Hon'ble Bombay High Court by filing the W. P. No. 12371 of 2017, wherein
2	Flat No. 64	MCGM has issued notice under section 351 of MMC	No	After 10/07/2012	



		Act under no. DO3/AEBF/GS Ward/D-4079/351/0010/JE-192 dt. 14/08/2015 for unauthorized Additional / Alterations, Shifting of Kitchen, Enclosing of Balcony in Flat No. 64 of Madhuli CHS Ltd.,		(As per this office affidavit dt. 25/11/2017 (Pg. <u>C-9</u>).	Hon'ble High Court has granted "Status Quo and the regularization proposal rejected by Urban Development department has been remanded back to their office for taking a fresh decision and directed parties to appear before the state Government. Directed MCGM that alleged illegal construction wall remain protected till the appeal is decided by the state government. This office has made correspondence with Urban Development Department vide letter dt. 23/03/2023 however till date no any reply received (Pg. <u>C-41</u>).
3	Flat No. 74 & 75	MCGM has issued notice under section 351 of MMC Act under no. DO3/AEBF/GS Ward/D-3029/351/0003/JE-192 dt. 27/12/2014 for Additional / Alterations, at Flat No. 74 & 75 of Madhuli CHS Ltd.,	No	After 15/03/2003 office affidavit dt. 25/11/2017 (Pg. <u>C-7</u>)	
4	Flat No. 83	MCGM has issued notice under section 351 of MMC Act under no. DO3/AEBF/GS Ward/D-4080/351/0011/JE-192 dt. 14/08/2015 for Additional / Alterations, Shifting of Kitchen, Enclosing of Balcony in Flat No. 83 of Madhuli CHS Ltd.,	No	After 16/02/2007 (As per this office affidavit dt. 25/11/2017 (Pg. <u>C-9</u>).	
5	Flat No. 84	MCGM has issued notice under section 351 of MMC Act under no. DO3/AEBF/GS Ward/D-4081/351/0012/JE-192 dt. 14/08/2015 for unauthorized Additional / Alterations, Shifting of Kitchen by M/s. Patodia Sintex Pvt. Ltd.	No	In year 1991 (Information provided by Society vide letter dt. 04/12/2023) (Pg. <u>C-63</u>)	Against the said notice the owner approached Hon'ble City Civil Court, wherein Hon'ble City Civil Court has granted add-interim in L. C. Suit No. 2431 of 2016.
6	Penthouse 13 th & 14 th Floor	MCGM has issued notice under section 351 of MMC Act under no. DO3/AEBF/GS Ward/D-4084/351/0015/JE-192 dt. 14/08/2015 for unauthorized Additional / Alterations removal of	153 Sq.mts.	In year 1991 (Information provided by Society vide letter dt. 04/12/2023) (Pg. <u>C-63</u>)	Against the said notice the owner approached Hon'ble City Civil Court, wherein Hon'ble City Civil Court has granted ad-

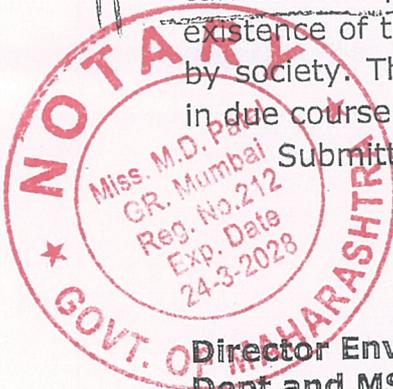
		kitchen on 13 th Floor, erection of shed on open terrace at 14 th Floor to the owner Shri. Kalparaj Dharamshi			interim in L. C. Suit No. 2422 of 2016 (Pg. <u>C-73</u>).
7	Bungalow No. 3	MCGM has issued notice under section 351 of MMC Act under no. ACGS/BF/JE-192/351/3007/14-15 dt. 27/11/2014 for unauthorized construction of basement by M/s. Amma Lines Pvt. Ltd.	105 Sq.mts. Basement area	In year 1989 (Information provided by Society vide letter dt. 04/12/2023) (Pg. <u>C-63</u>)	Against the said notice the owner approached Hon'ble City Civil Court, wherein Hon'ble City Civil Court has granted add-interim in L. C. Suit No. 2160 of 2016 (Pg. <u>C-71</u>).
8	Bungalow No. 4	MCGM has issued notice under section 351 of MMC Act ACGS/BF/JE-192/351/3008/ 14-15 dt. 27/11/2014 for unauthorized construction of roof on open terrace, construction of Kitchen to Shri. Ricky Lamba and unauthorized construction of otla.	70 Sq.mts. Terrace & 105 Sq.mts. Basement Total 175 Sq.mts.	In year 1990 (Information provided by Society vide letter dt. 04/12/2023) (Pg. <u>C-63</u>)	Against the said notice the owner approached Hon'ble City Civil Court, wherein Hon'ble City Civil Court has restrained MCGM from taking action in pursuance of the impugned notice. L. C. Suit No. 102397 of 2015 (Pg. <u>C-75</u>).
9	Ground Floor Stilt Portion / Art & soul cancer foundation (Dispensary)	MCGM has issued letter under no. AEBF/GS/842/SR dt. 22/10/2016 (Pg. ____). Proposal submitted to Building Proposal (City) under no. EEBP/7261/GS dt. 28/07/2014 is rejected on 18/10/2016.	No	In year 1989 (Information provided by Society vide letter dt. 04/12/2023) (Pg. <u>C-63</u>)	The crest Hotel Ltd has approached to Urban Development Department of State Government by filing an appeal under section 47 of MRTP Act against order dt. 18/10/2016, wherein the Urban Development Department of State Government has granted stay to said order. (Pg. <u>C-65</u>).
10	a. Society Hall b. Yoga Room c. Gymnasium	MCGM has issued show cause notice under section 351 of MMC Act under no. GS/DO3GS/192/351 MMC	338 Sq.mts.	In year 1990 (Information provided by Society vide letter dt.	Madhuli CHS has filed an appeal under section 47 of MRTP Act 1966 in Urban



d. Glass partition e. Enclosure of stilt portion	<p>ACT/GS70N01/24/03/2017 dt. 24/03/2017 and 29/09/2017 and also issued final speaking order on 03/04/2017 for</p> <p>a. Unauthorized enclosing the parking space & amp; converting the same into society hall & amp; yoga room by constructing walls around the open stilt portion adm. 80' X 37'.</p> <p>b. Unauthorized extension of the society office into the open stilt portion & amp; using the same as gymnasium by construction walls adm. 40' X 14'.</p> <p>c. Unauthorized construction of society hall by erection of full height glass partition adm. 20' X 6'.</p> <p>d. Unauthorized construction of stilt portion by using B. M. Walls and rolling shutter adm. 80' X 62' and height 12'.</p>	04/12/2023) (Pg.C-63)	<p>Development Department vide letter dt. 06/09/2017 regarding all the matters pending in their office. This office has made correspondence with Urban Development Department vide letter dt. 23/03/2023 however till date no any reply received (Pg.C-41 to 43).</p>
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This office has made various correspondence to Urban Development Department vide above reference no. ACGS/42547/BF dt. 01/03/2016 & ACGS/708/SR/BF dt. 23/03/2023, however till date no any response was received from them. This office has filed the affidavit in reply time to time by considering orders of Hon. National Green Tribunal & Complaint of the applicant. "However, relying upon the records available with this department it cannot be confirmed whether the unauthorized work are carried out prior to 1991 or not". Hence, the information regarding existence of the notice structures are on the basis of information provided by society. The necessary action against pending notices will be initiated in due course of time by following due process of law.

Submitted for information please.



**Director Env. & C. C.
Dept and MS MCZMA**

Sir,

[Signature]
19/12/2023
Ex. Engr. / D. O. (B. & F.)
'G/South' Ward

MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY

Tel. No: 2285 2696

E-mail: mahamczma@gmail.comWebsite: <http://mczma.maharashtra.gov.in>

No. MCZMA 2017/ CR 28 / TC 4

Office of -

The Maharashtra Coastal Zone Management Authority,
Environment Department, Room No.217, Mantralaya,
Mumbai - 400 032Date: 27th April, 2017**CIRCULAR**

SUB: Regarding proposals of alteration / minor repairs to authorized structures within existing FSI in CRZ areas.

Ref: 1) Provisions of the CRZ Notification, 2011 published by the Ministry of Environment, Forest and Climate Change, New Delhi

2) High Court order dated July 11, 2011 in WP No. 1274/2006 (Harakchand Gada & 3 others Versus The State of Maharashtra and 2 other

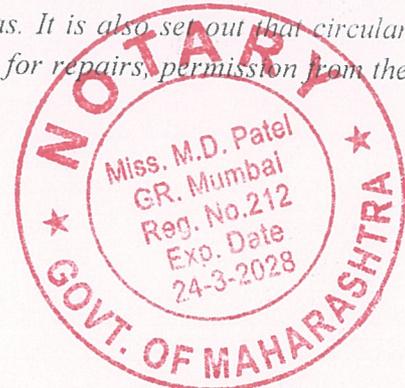
3) Minutes of the 77th meeting of the MCZMA held on 9th October, 2012.

As per the provisions of the CRZ Notification, 2011, the new construction and reconstruction/redevelopment of existing authorized structure requires prior CRZ clearance. The construction of new building is permissible in CRZ II / landward side of the existing road as on 19.2.1991 or existing authorized structure as on 19.2.1991. Further reconstruction of existing authorized structure is permissible in CRZ II area, without change in use.

2. However, CRZ Notification, 2011 does not stipulate the requirement of CRZ permission for proposals of alteration / repairs of existing authorized structure in CRZ area. However, MCMZA is receiving the proposals for the same.

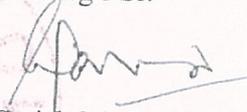
3. The High Court order dated July 11, 2011 in WP No. 1274/2006 (Harakchand Gada & 3 others Versus The State of Maharashtra and 2 others). The said court order States

"for the purpose of repairs only, it is not necessary for BMC to now refer the cases to the Urban Development Department for clearance. The BMC can do the same at their own level as per rules and regulations applicable to CRZ areas. It is also set out that circular will be issued immediately. In other words, it is clear that for repairs, permission from the



*CRZ regulation authority is no longer required and that can be done by Respondent No. 2”
ie concern planning authority.*

4. In view of the foregoing, it is therefore ordered that all local planning authorities and concerned district authorities should take note of the order passed by the High Court cited supra and take necessary action. It is to be noted that the ratio of the order applies only to repairs to existing authorised structures and limited to the existing FSI.

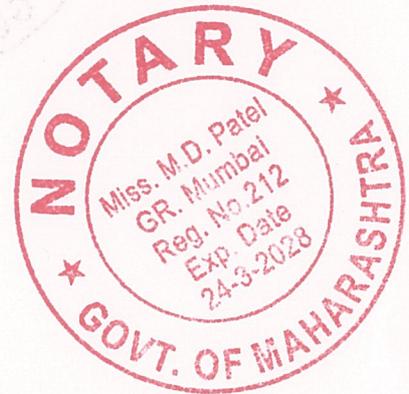


Satish M. Gavai

Additional Chief Secretary (Environment)
and Chairman, MCZMA

Copy to:

1. All Coastal Municipal Corporations and Councils
2. All Coastal District Collectors





IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1274 OF 2006

Harakchand Gada & 3 Ors. ...Petitioners.
Versus
The State of Maharashtra
and 2 Ors. ...Respondents.

.....
Mr.Y.S.Jahagirdhar, Sr.Counsel with Mr.Z.
Jariwala i/b Thakore Jariwalla & Asso. for the
Petitioners.
Ms.Geeta Shastri, AGP, for Respondent No.1.
.....

CORAM : F.I.REBELLO AND
SMT.V.K.TAHILRAMANI, JJ.

DATED : JULY 11, 2006.

P.C.:

1. The only issue left pending is the question of granting permission for repairs as sought for by the petitioners. Respondent Corporation had taken a stand that they cannot grant permission in view of the circular issued by Respondent No.1. On behalf of Respondent No.1 pursuant to directions of this Court, Sudhakar Baburao Nangnure, Deputy Secretary, has filed an affidavit. In para-4 of the said affidavit, it is set out as under :

"In view of the above, I say that for the



purpose of repairs only, it is not necessary for BMC to now refer the cases to the Urban Development Department for clearance. The BMC can do the same at their own level as per rules and regulations applicable to CRZ areas."

2. It is also set out that circular will be issued immediately. In other words, it is clear that for repairs, permission from the CRZ regulation authority is no longer required and that can be done by Respondent No.2. Issuance of circular is only a formality. In the light of that we direct Respondent Nos.2 & 3 to consider the application of the petitioners for permission to carry out repairs and to dispose of the same at any rate not later than 10 days from today.

3. With the above observation, Petition stands disposed of.

[F. I. REBELLO, J.]

[SMT. V. K. TAHILRAMANI, J.]

