

BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL, WESTERN ZONE BENCH, PUNE

ORIGINAL APPLICATION NO. 107/2022

Irba Mashnaji Konapure & AnrApplicant(s)

Versus

Union of India through Secretary MoEF&CC.....Respondent(s)

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

I, Sanjay Baliram Sandanshiv, age 57, am working as Under Secretary of the Environment and Climate Change Department, Government of Maharashtra having my office address at 15th Floor, New Administrative Building, Mantralaya, Mumbai- 400 032 do hereby beg to state on solemn affirmation as under:

(M)

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.

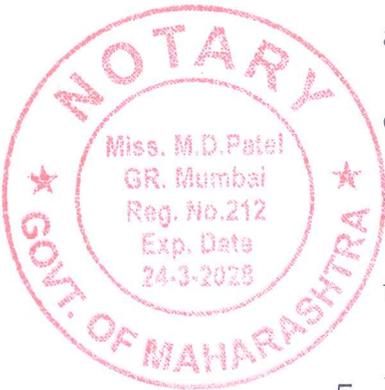
1. It is submitted that at the very outset this respondent denies each averment made in the present application which is contrary to and inconsistent with the averments made and the facts stated in the present reply. It is submitted that nothing stated in the application may be deemed to have been admitted by this respondent unless and until the same has been admitted by the respondent.
2. The present case alleges that, Respondent No. 11 M/s. EVERSMILE PROPERTIES PRIVATE LIMITED, having their residential & commercial project of "Srishti Namaah" situated at Sector-IIA, Old Survey Nos. 233 (P), 235(P), 256 (P), and, New Survey Nos. 66 (P), 68 (P), 69 (P) at Village Penkarpada, District Thane, within the jurisdiction of Mira-Bhayandar Municipal Corporation (MBMC), has not taken prior EC, CRZ Clearance and that there are other environmental violations.
3. Vide letter dated 7th June, 2019, MCZMA observed that construction of building is permissible in CRZ II areas



and on the landward side of the existing road or existing authorised structure subject to DCR existing as on 19-02-1991 in accordance with CRZ Notification, 2011. MCZMA decided to recommend the proposal to concerned planning authority from CRZ point of view under CRZ Notification, 2011. Copy of MCZMA letter dated 7th June, 2019 is marked as Annexure 1.

4. On 8th March, 2023 during the meeting of MCZMA, discussed the CRZ Status of the plot bearing S. No. 233 of the PP. The PP presented final CZMP under CRZ notification, 2011 of the Survey No. 233(P), New Survey No. 66(P) of village Penkarpada, which does not fall under CRZ area. PP submitted CRZ Map in 1:4000 scale and report dated November 2017 prepared by Institute of Remote Sensing (IRS), Chennai on which S. No, 233 is superimposed. From the said map also it is clear that the said survey number does not fall in CRZ area.

5. MCZMA observed the location of the Survey No. 233(new survey no. 66) on the approved CZMA under CRZ Notification, 2011 and noted that the said survey



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number is beyond CRZ area. Copy of MCZMA 165th MoM is marked as **Annexure 2.**

6. 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.

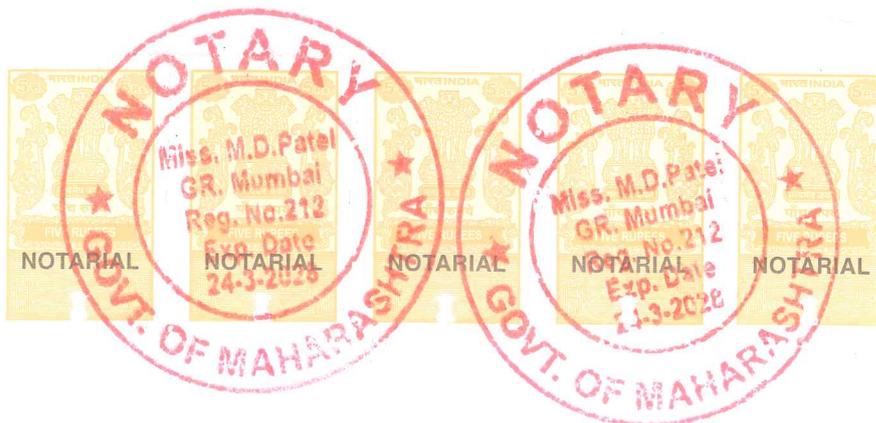
Whatever is stated above is true and correct to the best of my knowledge, ability and belief and I affirm it to be true.

(Sanjay Baliram Sandanshiv)

Under Secretary, Environment
&CC, Government of Maharashtra

Place: Mumbai


Date: April, 2023



VERIFICATION

I, Sanjay Baliram Sandanshiv, Age 57 years, Under Secretary, Environment and Climate Change Department 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 ^{28th} day of April, 2023 (A)



(Sanjay Baliram Sandanshiv)

Under Secretary, Environment&CC,

GoM

Identified by


(Joy Shrikant Thakur)
Under Secretary,

Env&CC Dept

BEFORE ME

M. D. Patel
28-4-2023
Sr. No. 254
Bk. No. 2

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



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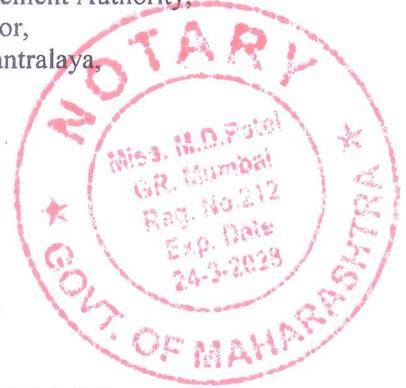


MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY

Tel. No. : 22029388
 E-mail : dir1.mcv-mh@nic.in
 Website: <https://mczma.gov.in/>

No. CRZ – 2018 / CR – 273 / TC - 4
 Office of the -
 Maharashtra Coastal Zone Management Authority,
 Environment Department, 15th floor,
 New Administrative Building, Mantralaya,
 Mumbai- 400 032.
 Date: 07th June 2019

To,
 M/s. Eversmile Properties Pvt. Ltd,
 75, Old Block Factory, Sector-I,
 Shrishti Housing Complex,
 Penkar pada, Mira Road (East),
 Thane – 401 104



Subject: Proposed development of residential building known as Srishti Sector II – A plot bearing S. No. 235(pt) & 256 (pt) (New S. No. 68 (pt) & 69 (pt), village Penkarpada, Mira Road (E), Dist. Thane by M/s Eversmile Properties Pvt. Ltd.

The proposal of development of residential building known as Srishti Sector II – A plot bearing S. No. 235(pt) & 256 (pt) (New S. No. 68 (pt) & 69 (pt), village Penkarpada, Mira Road (E), Dist. Thane by M/s Eversmile Properties Pvt. Ltd. was deliberated in the 132nd meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 24th April, 2019.

2. The Authority noted that, the Mira Bhayandar Municipal Corporation vide letter dated 03.09.2018 (received on 14.09.2018) forwarded the proposal for development of residential building known as Srishti Sector II – A plot bearing S. No. 235(pt) & 256 (pt) (New S. No. 68 (pt) & 69 (pt), village Penkarpada, Mira Road (E), Dist. Thane. The proposal is for construction of residential building with shop line consist of 2 basement for parking + ground floor for shops, parking + 1st to 20th Upper floor for residential purpose. The plot is vacant. Total area of plot: 4,730.48sqm, Built up area: 8,016.90sqm and Total Construction area: 16,522.87sqm

3. The PP presented that the plot under reference falls partially in CRZ II and partially in Non CRZ area and it is situated on the landward side of existing DP road prior to 1991. As per the Development Plan of MBMC, the site falls in residential zone. The PP has submitted the CRZ map in 1:4000 scale as per which, the plot under reference is partly in CRZ area and partly situated in Non CRZ area. The PP presented that FSI has been computed based on the FSI potential of the part of the plot in CRZ, as per DCR existing as on 19.2.1991. Current town & country planning regulations were considered for the FSI potential of the part of the plot which is Non CRZ. The Authority noted that the construction of the building is permissible in CRZ II areas and on landward side of the existing road or existing authorized structure subject to DCR existing as on 19.2.1991, in accordance with para 8.II. CRZ II of the CRZ Notification, 2011.

4. The Authority after discussion decided to recommend the proposal to concerned planning Authority from CRZ point of view under CRZ Notification, 2011 subject to compliance of following conditions:

Specific conditions:

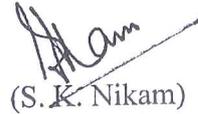
- i. The proposed reconstruction should be carried out strictly as per the provisions of CRZ Notification, 2011 (as amended from time to time) and guidelines/ clarifications given by MoEF from time to time.

- ii. Buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations including the 'existing' norms of Floor Space Index or Floor Area Ratio: Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road.
- iii. The concerned planning Authority should strictly ensure that the FSI of CRZ II portion of the plot should be restricted to permissible FSI as per DCR existing as on 19.2.1991.
- iv. All other required permission from different statutory authorities should be obtained prior to commencement of work.

General Conditions:

- i. The MCZMA reserves the right to revoke this recommendation, if the conditions stipulated are not complied with to the satisfaction of the MCZMA or Environment Department.
- ii. The MCZMA or any other competent authority, may stipulate any additional conditions subsequently, if deemed necessary, for environmental protection, which shall be complied with.
- iii. A copy of the recommendation letter shall be marked to the concerned local body/ local NGO, if any, from whom any suggestion/ representation has been received while processing the proposal.
- iv. The environmental safeguard measures should be implemented in letter and spirit.
- v. The recommendation from CRZ point of view is being issued without prejudice to the action initiated under EP Act or any court case pending in the court of law and it does not mean that project proponent has not violated any environmental laws in the past and whatever decision under EP Act or of the Hon'ble court will be binding on the project proponent. Hence this recommendation does not give immunity to the project proponent in the case filed against him, if any or action initiated under EP Act.

5. The agenda item and minutes are also available on the website of MCZMA i.e. <http://mczma.gov.in>.



(S. K. Nikam)
Director, Environment
& Member Secretary, MCZMA

Copy for information to:

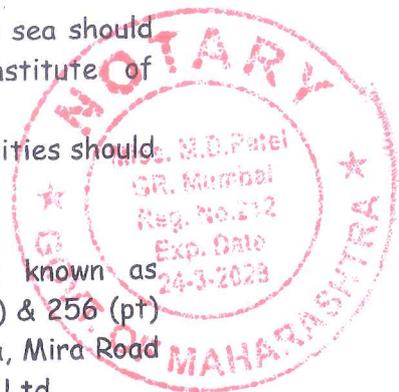
1. **Principal Secretary**, Environment & Chairman, MCZMA, Environment Dept, Room No. 217, Annexe Building, Mantralaya, Mumbai.
2. **Director (IA-III)**, Coastal Zone Regulation, Government of India, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi - 110 003.
3. **Member Secretary**, Maharashtra Pollution Control Board (MPCB), 3rd and 4th Floor, Kalpataru Point, Sion, Mumbai
4. **Municipal Commissioner**, Mira Bhayandar Municipal Corporation, Indira Gandhi Bhavan, Chhatrapati Shivaji Maharaj Marg, Bhaindar West, Mira Bhaindar, Thane - 401 101
5. **District Collector Thane**, Court Naka, Thane (West) - 400601
6. **Select File- TC 4**

Minutes of the 132nd meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held on 24th April, 2019

1. Proposed laying of the pipeline should be in accordance with provisions of CRZ Notification, 2011 (amended from time to time)
2. The PP to ensure that discharge point of the effluent in the sea should be as per the studies conducted by the National Institute of Oceanography.
3. All other required permission from different statutory authorities should be obtained.

Item No.16:

Proposed development of residential building known as Srishti Sector II - A plot bearing S. No. 235(pt) & 256 (pt) (New S. No. 68 (pt) & 69 (pt), village Penkarpada, Mira Road (E), Dist. Thane by M/s Eversmile Properties Pvt. Ltd.

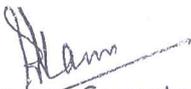


The Project proponent presented the proposal before the Authority. The Mira Bhayandar Municipal Corporation vide letter dated 03.09.2018 (received on 14.09.2018) forwarded the proposal for development of residential building known as Srishti Sector II - A plot bearing S. No. 235(pt) & 256 (pt) (New S. No. 68 (pt) & 69 (pt), village Penkarpada, Mira Road (E), Dist. Thane.

The proposal is for construction of residential building with shop line consist of 2 basement for parking + ground floor for shops, parking + 1st to 20th Upper floor for residential purpose. The plot is vacant. Total area of plot: 4,730.48sqm, Built up area: 8,016.90sqm and Total Construction area: 16,522.87sqm

The PP presented that the plot under reference falls partially in CRZ II and partially in Non CRZ area and it is situated on the landward side of existing DP road prior to 1991. As per the Development Plan of MBMC, the site falls in residential zone. The PP has submitted the CRZ map in 1:4000 scale as per which, the plot under reference is partly in CRZ area and partly situated in Non CRZ area. The PP presented that FSI has been computed based on the FSI potential of the part of the plot in CRZ, as per DCR existing as on 19.2.1991. Current town & country planning regulations were considered for the FSI potential of the part of the plot which is Non CRZ.

The Authority noted that the construction of the building is permissible in CRZ II areas and on landward side of the existing road or existing authorized


Member Secretary


Chairman

Minutes of the 132nd meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held on 24th April, 2019

structure subject to DCR existing as on 19.2.1991, in accordance with para 8.II. CRZ II of the CRZ Notification, 2011.

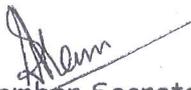
The Authority after discussion decided to recommend the proposal to concerned planning Authority from CRZ point of view under CRZ Notification, 2011 subject to compliance of following conditions:

1. The proposed reconstruction should be carried out strictly as per the provisions of CRZ Notification, 2011 (as amended from time to time) and guidelines/ clarifications given by MoEF from time to time.
2. Buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations including the 'existing' norms of Floor Space Index or Floor Area Ratio: Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road.
3. The concerned planning Authority should strictly ensure that the FSI of CRZ II portion of the plot should be restricted to permissible FSI as per DCR existing as on 19.2.1991.
4. All other required permission from different statutory authorities should be obtained prior to commencement of work.

Item No.17: Proposed redevelopment on plot bearing C.S. No. 7/699 of Malabar Hill Division, D ward, Mumbai by M/s B. R. Gandhi & Associates

The Project proponent presented the proposal before the Authority. The PP informed that there is earlier CRZ recommendation dated 27.2.2015 of the MCZMA for the redevelopment of the existing structure as per the DCR existing as on 19.2.1991 (DCR 1967). Now, the PP has submitted the proposal under para 8.v.c of the CRZ Notification, 2011 wherein prevailing DCR is applicable. There was an old "declared dilapidated" structure on the plot which had been declared dangerous dilapidated by Dy Ch.Eng on 29.4.2011.

Proposed building comprises of 2 basement one for parking and other for services + ground floor for kitchen and living room + 1st floor for bedroom + Mezzanine floor for bedroom + 2nd floor for bedrooms + Mezzanine floor for bedroom and plus staircase room and terrace for swimming pool for residential


Member Secretary


Chairman

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28/4/23

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Authority held on 8th March, 2023

Item No. 25: CRZ status for plot bearing S. no. 233 of village Penkarpada at Mira Raod, Dist. Thane by M/s Eversmile Properties Pvt. Ltd.

INTRODUCTION:

The Project proponent presented the proposal before the Authority. The PP is seeking CRZ status for plot bearing S. no. 233 of village Penkarpada at Mira Road, Dist. Thane.

DELIBERATIONS:

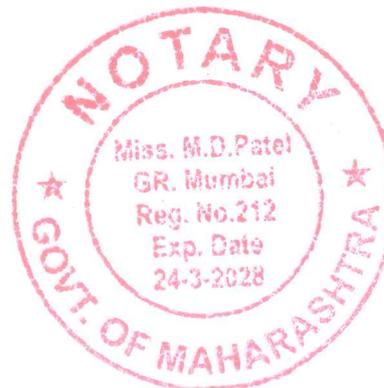
The PP during the meeting presented that the MCZMA vide letter dated 7th June, 2019 has granted the CRZ recommendation to proposed development of residential building known as Srishti Sector II- A plot bearing S. No. 235(pt) and 256(pt) (New S. No. 68(pt) & 69 (pt) village penkarpada, Mira Road (E), District Thane by M/s Evershine Properties Pvt Ltd.

Now, additional land comprised in S.N No. 233(pt), New S. No. 66(pt) of village Penkarda is attached to S. No. 235 (pt) & 256(pt) of village Penkarpada and development is proposed on entire land comprised in S. No. 233 (pt), 235 (pt) & 256 (pt) New S. No. 66 (pt), 68(pt) & 69(pt) respectively of village Penkarpada at Mira Road.

PP presented that at final CZMP under CRZ Notification, 2011, the land bearing S. No. 233 (pt), New S No. 66(pt) of village penkarpada does not fall under CRZ area. Further, the PP has submitted CRZ map in 1:4000 scale & report dated November, 2017 prepared by IRS Chennai, on which S. No, 233 is superimposed on the demarcated carried out by IRS, Chennai. From the said map also it is clear that the said survey no does not fall in CRZ area.

The Authority observed the location of the S. No. 233(new S. No. 66) on the approved CZMP under CRZ Notification, 2011 and noted that the said survey no is beyond CRZ area.


Member Secretary




Chairman

Minutes of 165th meeting of the Maharashtra Coastal Zone Management Authority held on 8th March, 2023

DECISION:

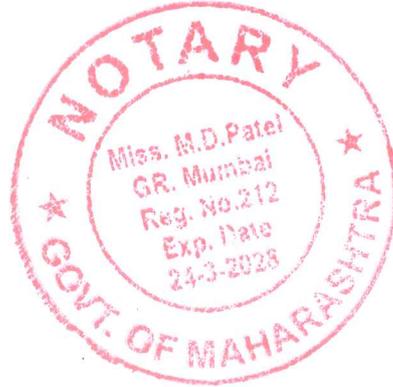
After deliberation, considering the CZMP in force and CRZ map of the IRS, Chennai, the Authority decided that the plot bearing S. no. 233 (New S. No. 66) of village Penkarpada at Mira Road, Dist. Thane is situated outside CRZ area as per approved CZMP under CRZ Notification, 2011.

-----Meeting ended with vote of thanks to chair-----

Annexure I

List of members/officials present in the online meeting:

1. Dr. Mahesh Shindikar, College of Engineering, Pune, Expert Member, MCZMA
2. Mr. Maruti Kudale, Ex Director, CWPRS, Expert Member, MCZM
3. Mr. Sunil Bhat, Dyche. MCGM, Member MCZMA
4. Mr. Abhay Pimparkar, Director, Environment & CC and Member Secretary, MCZMA




Member Secretary


Chairman