

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

I.A. NO. 179 OF 2022

IN

APPEAL NO. 50 OF 2022

IN THE MATTER OF:

Domingos Crasto

... Appellant

Versus

Goa Coastal Zone Management Authority & Ors

... Respondents

NDOH: 09.01.2023

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FILED ON: 06.12.2022

FILED BY

[SHIRIN KHAJURIA]

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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IN THE MATTER OF:

Domingos Crasto

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Goa Coastal Zone Management Authority & Ors

... Respondents

REPLY ON BEHALF OF RESPONDENT NO.1 TO
APPLICATION SEEKING STAY OF THE IMPUGNED
ORDER DATED 13.10.2022

RESPONDENT MOST RESPECTFULLY SHEWETH:

PRELIMINARY SUBMISSIONS AND OBJECTIONS:

1. At the outset, each and every averment, submission, allegation and contention raised in the Stay Application filed by the Appellant is denied being false, incorrect, contrary to law and an attempt to mislead this Hon'ble Tribunal.
2. At the outset it is submitted that Impugned Order of demolition is wholly in accordance with law, based upon the documents produced and lack of sufficient proof of existence of the structures prior to 1991 in the No development Zone (NDZ). Hence, the present Application for stay of demolition filed by

the Appellant is devoid of merits and the Respondent No.1 humbly submits that the Stay Application may be dismissed.

3. It is also denied that the Respondent is seeking to 'review' its Order dated 31.12.2008, whereby it had held that there was no illegal structure in Survey No. 12/1 of the Appellant, by the Impugned Order of demolition dated 13.10.22. It is submitted that the Impugned Order dated 13.10.2022 of demolition is a result of reconsideration by the Respondent which was necessitated in view of various Orders of the High Court in SMWP No. 2/2006 etc. directing the Respondent to re-examine the legality of the structures in the No-Development-Zone (NDZ) of Colva Village. These orders were passed consequent to Complaints filed before the High Court by Colva Civic and Consumer Forum, and after issuing a notice of personal hearing dated 24.07.2018 to the Appellant and giving the appellant opportunity to place on record his case.
4. The fact of the case is that in SMWP No. 2 of 2006, vide Order dated 08.08.2006, the Hon'ble High Court had directed the Respondent and other Authorities to state the number of illegal constructions detected and action taken against them in the NDZ area which is within 200 mts of the High Tide Line (HTL). The Respondent vide its order of 31.12.2008 held that the structure of the Appellant existed prior to 1991, when the CRZ was notified. Copy of Order of High Court dated 08.08.2006 is annexed herewith as **ANNEXURE R1/1**.
5. Subsequently, the Respondent No.3 herein, the Colva Civic and Consumer Forum, had filed an intervention application dated 13.07.2012 bearing M.A No. 635 of 2012 in SMWP No.



02/2006, submitting that she was unaware of previous orders passed by the Respondents of 2008, and that there are 19 illegal structures in the Colva Village, one of which was the Appellant's structure, where no action has been taken by the Authorities.

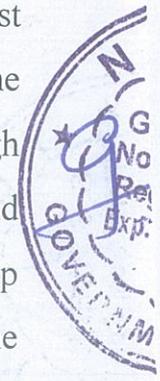
6. Accordingly, the Hon'ble High Court vide its order dated 12.01.2015 in SMWP No. 2 of 2006 directed the village Panchayat of Colva to examine the legality of the 19 structures which were referred to in the application for intervention filed by the Respondent No.3 herein/Petitioner therein. The Ld. Counsel appearing on behalf of the Panchayat stated that there was material on record to suggest that certain structures, out of the total of 19, were not illegal. The Hon'ble High Court considering the same, directed the Village Panchayat to furnish the said material before the Respondent No.1/GCZMA and further directed the Respondent No.1/GCZMA to examine the said records after hearing the parties. Order dated 12.01.2015 is annexed herewith as **ANNEXURE R1/2**.
7. The Internal Committee appointed by the GCZMA/Respondent No.1 after hearing the parties submitted its report on 24.12.2015 wherein they observed that the GCZMA/Respondent No.1 had dropped show cause notice in respect of the structure existing in Survey No.12/1 of Sernabatim vide order dated 31.12.2008 and hence, the committee did not reconsider the issue. It is pertinent to mention that this report is only recommendatory, and the Authority has to take its own decision.
8. That thereafter, Hon'ble High Court vide its final judgment and order dated 21.06.2016 in SMWP No. 2 of 2006 held in para 7



and 12 that a doubt has been raised regarding averments in the affidavit of the Panchayat of Colva about action taken and it appears that the inspection as directed has not been completed and accordingly, it directed in para 14 that as far as Colva is concerned, the authorities would need to take action in respect of illegal structures in NDZ area. It passed a direction that *“Besides the above directions, the Anjuna as well as the Colva Panchayats namely Respondent No.9 and 19 and the GCZMA are directed to take necessary action with regard to the structures identified in the report of the GCZMA and proceed to take necessary action in accordance with law within three months from today and file a compliance report within that regard”*. [Re: Page 149 of Appeal @ page 159 & 163]

9. Consequently a notice of personal hearing dated 24.07.2018 was given to the Appellant and the appellant given an opportunity to place on record all documents in his favour. Copy of the Notice of personal hearing dated 24.07.2018 is annexed herewith as **Annexure R-1/3**.

10. That subsequent to the above-mentioned orders of the Hon'ble High Court in SMWP No. 02 of 2006, the Respondent No.3 had filed a PIL Writ Petition No. 10 of 2020 seeking action against the illegal structures in the Village of Colva, further to the Orders of the High Court in SMWP 2/2006. The Hon'ble High Court vide orders dated 16.12.2021, 22.12.2021 and 10.10.2022, directed the GCZMA and other authorities to map the structures and take the necessary legal action against the illegal structures. Copy of the Orders dated 16.12.2021, 22.12.2021 and 10.10.2022 are annexed herewith as **ANNEXURE R1/4 'Colly'**.



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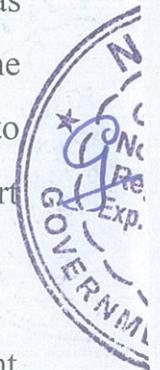
11. On re-consideration, the Appellant's structure was identified as an illegal structure that did not exist as of 1991 and the impugned order of demolition dated 13.10.2022 passed by the answering respondent for reasons stated therein. It was after perusing the sale deed of the year 2004, which did not mention any structure existing thereon, the records submitted by the Village Panchayat of Colva, and after duly hearing the parties, that the Respondent No.1 came to a conclusion that the previous proceedings against the Appellant was erroneously dropped on the basis of the construction license issued by the Camara Municipal de Salcete dated 11.05.1948 and the reconstruction certificate dated 31.03.1979 issued by the Village Panchayat of Sernabatim, Vanelim and Colva. While reconsidering the legality of the structures of the Appellant, as per directions of the Hon'ble High Court, it was found that these two documents cannot be relied upon for the reason that though the respondent claims it has construction license for the structure of the year 1948, no structure is shown in the Government Survey plan of the year 1972. Further, the permission of 1979 for the construction of the alleged structure was for Colva Village, whereas the alleged structure illegally built and disputed is in Sernabatim Village.



It has been found that the three structures did not exist prior to 1991 inter-alia, on the ground that the reply dated 14.08.2008 to the Show Cause Notice of the erstwhile owner of the property, Ms Maria Eufrezita states that there were no structures constructed by her. Copy of the Reply dated 14.08.2008 of the

erstwhile owner Ms Maria Eufrezita is annexed herewith as ANNEXURE R1/5.

13. The fact that the structure is illegally set up in the NDZ subsequent to 1991 is also apparent from the fact that no permissions/licenses have been produced from TCP or Occupancy certificate or village panchayat or conversion *sanad* under the Land Revenue Code, as submitted by the Complainant.
14. Under these circumstances, the Appellant has failed to prove that the structure existed prior to 1991 as it exists today.
15. Accordingly, the Respondent No.1 rightly passed the impugned order dated 13.10.2022 directing demolition of three illegal structures of the Appellant in Survey No.12/1 Sernabatim, Salcete-Goa which were found in violation of CRZ Notifications.
16. In addition to the above, it is pertinent to note that the Appellant is forum shopping by filing multiple petitions with various courts. It is submitted that prior to filing the present Appeal before this Hon'ble Tribunal, the Appellant filed a Writ Petition (filingno.) 2431 of 2022 and on 16.11.2022 and when he was unable to get a Stay and his Petition was referred from the Single Judge Bench to the Division Judge Bench, he chose to come here on 17.11.2022, before withdrawing the High Court Petition from the Division Bench on 23.11.2022.
17. Accordingly, the Respondent No.1 urges that the present application for Stay is without substance and may be dismissed.



D

PARA WISE REPLY:

18. The Contents of para 1 are a matter of record inasmuch as the Respondent has passed the Impugned Order for demolition of the three illegal structures and sought for restoration of the ecologically sensitive land to its original structure, in accordance with law.

19. It is stated in reply to para 2 and 3 that the Appeal is devoid of merits. The Order of demolition is a well-reasoned order, passed pursuant to directions of the Hon'ble High Court. The Appellant has failed to prove that the alleged structure existed prior to 1991. The Respondent No.1 reiterates the contents of its preliminary submissions and objections to this application.

20. The Contents of para 4 are denied being without substance and that of para 11 above reiterated. It was found that these two documents of 1948 and 1979 cannot be relied upon for the reason that though the respondent claims it has construction license for the structure in the year 1948, no structure is shown in the Government Survey plan of the year 1972 and stated in the order of demolition. Further, the permission of 1979 for the construction of the alleged structure was for Colva Village, whereas the alleged structure illegally built and disputed is in Sernabatim Village and cannot be relied upon. No other documents have been produced to show the structures existed in the NDZ prior to 1991.

21. The Contents of para 5 are without substance. It is denied that the Order of demolition is arbitrary or unsustainable. The Appellant have failed to show that their structure existed prior



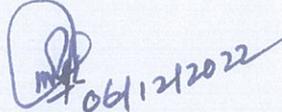
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to 1991 as it exists today. The Respondent no.1 submits that the present application seeking stay is devoid of merits and may be dismissed by this Hon'ble Tribunal.

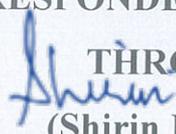
22. In reply to para 6 it is submitted that in view of the preliminary submissions and objections, the Application for Stay ought to be dismissed.

23. The prayer clause in para 7 is vehemently denied for being misleading and devoid of merits.

It is submitted that the Appellant has failed to show even prima facie cause for the present Application for Stay. It is further submitted that the Appeal and the present application is only an attempt to delay the demolition of the three illegal structures of the Appellant in the No-Development-Zone(NDZ) in the ecologically sensitive coastal region zone and hence, ought to be dismissed outright.


RESPONDENT NO.1

THROUGH


(Shirin Khajuria)

Advocate for the Respondent No.1-GCZMA
S-254, Lower Ground Floor
Greater Kailash Part-II
New Delhi-110048

VERIFICATION

I, Dasharath M. Redkar, aged 56 years, Member Secretary, Goa Coastal Zone Management Authority, 4th Floor, Dempo Towers, Patto, Panaji, Goa, Respondent No.2 do hereby solemnly affirm and verify that the contents of Paras 1 to 23 of this Reply are true and correct to

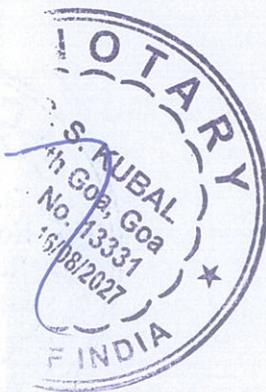


the best of my knowledge, based upon official records and believed to be true. That no material fact has been concealed therefrom.

Verified at Panaji on this 6th day of December 2022.


06/12/2022
(Deponent)

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA



MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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IN THE MATTER OF:

DomingosCrasto

... Appellant

Versus

Goa Coastal Zone Management Authority & Ors... Respondents

AFFIDAVIT

I, Dasharath M. Redkar, aged 56 years, Member Secretary, Goa Coastal Zone Management Authority, 4th Floor, Dempo Towers, Patto, Panaji, Goa, Respondent No.2, do hereby solemnly affirm and state on oath as under:

1. That in my official capacity as stated above I am well conversant with the facts and circumstances of the case, as derived from official records and competent to depose on behalf of the Respondent No.1 by way of the present affidavit.
2. The contents of the accompanying Reply to the Application for Stay are true and correct to the best of my knowledge and belief, and that no part of it is false and nothing material has been concealed therefrom.
3. The Annexures filed with the present Reply to the Application are true and correct copies of their respective originals.

Solemnly affirmed before me by

Dasharath M. Redkar

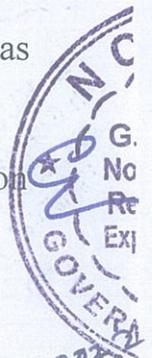
Reg. No: 04/4750 Date: 6.12.2022

known / Identified to me by

G. S. KUBAL
G. S. KUBAL
Notary (Govt. of India)

DEPONENT

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA



VERIFICATION

I, the above-named deponent, do hereby verify that the contents of Paras 1 to 3 of this affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed.

Verified at Panaji this 6th day of December, 2022.

[Handwritten Signature]
06/12/2022

DEPONENT

MEMBER SECRETARY
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI - GOA

Solemnly affirmed before me by
Dashernath M. Padker

Reg. No: *04/47 ST* Date: *6.12.2022*
known / Identified to me by.

[Handwritten Signature]
G. S. KUBAL
Notary (Govt. of India)
Panaji-Goa, India



237Annexure R1/1
IN THE HIGH COURT OF BOMBAY AT GOA

12

SUO MOTO WRIT PETITION NO. 2 OF 2006

Versus

UNION OF INDIA THROUGH ITS
SECRETARY AND 2 ORS.,

...Respondents

Mrs. Norma Alvares, Amicus Curiae.

Mr. S. S. Kantak, AG with Ms. Chodankar, AGA for the Respondents.

Coram:- V.C. DAGA &
N. A. BRITTO, JJ.

Date:- 8th August, 2006

P.C.

Mrs. Norma Alvares, learned Amicus Curiae, during the course of hearing, brought to our notice the decision of this Court rendered in Writ Petition filed by the Goa Foundation, reported in 2000(2) Goa Law Times 280, to which one of us (Daga, J.) is a party. In that decision, this Court had framed guidelines to detect illegal construction and provided Scheme built with procedure for removal of such illegal constructions.

2. The Chief Secretary, Government of Goa, has issued more than two Circulars pursuant to the abovesaid Judgment of this Court directing the various authorities of the State to implement the said Scheme in its true letter and spirit, since the guidelines framed by this Court were followed in breach.

3. One more Order of this Court passed in the case of Laxmikant R. Dessai & Ors. v. The Cancona Municipal Council & Ors. in WP 150/98, (unreported) was brought to our notice, wherein directions were issued to

the Chief Secretary, State of Goa, to prepare Survey plans indicating all structures standing within 200 metres of High Tide Line, existing before 1991 and the constructions after 1991. According to Mrs. Alvares, to the best of her knowledge, no report is available on record showing compliance of the said directions.

4. Mrs. Alvares also brought to our notice, that the various steps taken by The Goa Coastal Zone Management Authority, to prevent illegal constructions have been stalled because of the frequent interventions of the Civil Courts though directions are issued by this Court in the above Order dated 16.07.03, to the Courts not to exercise jurisdiction in respect of structures put up pursuant to the guidelines framed by this Court.

5. Mrs. Alvares also submitted that no adequate machinery has been placed at the disposal of the Goa Coastal Zone Management Authority by the State for carrying out the demolition of the illegal structures brought to their notice with the result, the directions of this Court, are not being implemented. Mrs. Alvares also made serious complaint about erection of illegal shacks and non-removal thereof.

6. Having heard Mrs. Alvares, it has become necessary to issue following directions to the State Government.

(a) The Chief Secretary State of Goa and the Goa Coastal Zone Management Authority, is directed to indicate on oath as to how many cases of illegal construction were detected in last three years, in how many cases the steps were taken to remove them and how many of them were actually removed.

(b) The State of Goa is directed to disclose on oath as to what facilities are placed at the door of the Goa Coastal Zone Management Authority, so as to enable them to discharge their duties effectively, amongst others leading to removal of illegal construction.

(c) The Goa Coastal Zone Management Authority is directed to disclose on oath with complete details and particulars as to in how many cases as on date, the interim injunctions and/or the stay orders granted by the Civil Courts are operating against them.

(d) The State Government and the Goa Coastal Zone Management Authorities are directed to disclose details with particulars as to how many shacks were put up pursuant to the permission granted by them, how many of them were removed and how many of them are yet to be removed. They are also expected to disclose as to whether or not those shacks, which are still in existence, would interfere with the sand dunes and whether their existence is necessary to prevent erosion of sand dunes.

7. Both the authorities referred to herein above are directed to file their respective affidavit within three weeks from today. In the meanwhile, Registry is directed to forward copy of the Order of this Court dated 16.07.2003, referred to in Para 3 (supra), to all the sub-ordinate Courts so as to bring to their notice Para (v) of the said order.

S.O. after three weeks.

V.C. DAGA, J.

N. A. BRITTO, J.

arp/*

Annexure R1/2

IN THE HIGH COURT OF BOMBAY AT GOA

SUO MOTU WRIT PETITION NO. 2 OF 2006

- ... Petitioner
 Versus
 UNION OF INDIA THROUGH ITS
 SECRETARY AND 28 ORS., ... Respondents

Ms. N. Alvares, Amicus Curiae.
 Mr. A. D. Bhoje, Advocate for respondent no.9.
 Mr. D. Shirodkar, Advocate for respondent no.11.
 Mr. J. Godinho, Advocate for the respondent no.15.
 Mr. M. Salkar, Government Advocate for respondent no.16.
 Mr. S. Redkar, Advocate for the respondent nos.26 and 27.
 Mr. V. Parsekar, Advocate for respondent no.19.
 Mr. O. Gaonkar, Advocate for respondent nos. 14, 18, 20, 21 and 22.
 Mr. Nigel Da Costa Frias, Advocate for the intervenor.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 12th January, 2015

P.C.

Ms. N. Alvares, learned Amicus Curiae has produced a list of pending structures which according to her no action has been taken. The structures are essentially concerning the respondent no.9 Anjuna Village Panchayat; the respondent no.10 Calangute Village Panchayat; the respondent no.17 Majorda Village Panchayat; and the respondent no.18 Betalbatim Village Panchayat.

2. The respondent nos. 9, 10, 17 and 18 are accordingly directed to file an additional affidavit disclosing the action taken in respect of such structures referred to in the said list which is marked 'X' for identification.

3. With regard to the respondent no.19, Village Panchayat of Colva, it is the contention of the learned Amicus Curiae that GCZMA has directed the local village panchayat to examine the legality of 19 structures which were referred to in the application for intervention filed by the intervenor. The learned counsel appearing for the local village panchayat has pointed out that there is material on record to suggest that the structures are not illegal.

4. Hence, the respondent no.19/village panchayat of Colva is called upon to furnish such material before the GCZMA and such Authorities/the respondent no.16 shall examine such material after hearing the parties in accordance with law.

5. Mr. Salkar, learned Government Advocate states that such exercise shall be completed within six weeks from the receipt of such material from the respondent no.19 who shall produce the material within one week from today before the GCZMA.

6. With the above directions, place the matter for further consideration after eight weeks.

K. L. WADANE, J.

F. M. REIS, J.

at*

Annexure R1/3

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology and Environment (Govt. of Goa)

1st floor, Pt. DeendayalUpadhyayBhavan, Pundalik Nagar, Alto,

Porvorim, Bardez- Goa-403 521

Phone: (0832) 2438511

email:dir-ste.goa@nic.in, goacoastalzone@gmail.com

Ref. No. GCZMA/SMWP/02/06/636

Date 24/07 /2018

NOTICE OF PERSONAL HEARING

Sub: Personal hearing before the Authority.

Ref. :(1) Suo Moto Writ Petition no.02/2006.

(2) Order dated 12/01/2015 passed by the Hon'ble High Court of Bombay at Goa in the matter of Suo Moto Writ Petition no.02/2006.

(3) Minutes of 115th GCZMA meeting held on 04/05/2015.

(4) Letter dated 15/05/2015 issued to the Inquiry Committee of GCZMA.

(5) Report dated 24/12/2015 Submitted by the Inquiry Committee of GCZMA.

(6) Order dated 21/06/2017 passed by the Hon'ble High Court of Bombay at Goa in the matter of Suo Moto Writ Petition no.02/2006.

WHEREAS, the present matter is interalia Suo Moto cognizance of Hon'ble High Court of Bombay at Goa, Panaji about the illegalities/constructions in CRZ area. The Hon'ble High Court of Bombay at Goa vide Order dated 26/09/2007 passed in the matter of Suo Moto Writ petition no.02/2006 had directed all Panchayats /Municipalities to submit action taken report with regard to constructions in NDZ/CRZ area as per terms mentioned therein along with an affidavit.

AND WHEREAS, the Hon'ble High Court of Bombay at Goa, Panaji vide its order dated 12/01/2015 passed in the matter of Suo Moto Writ Petition no.02/2006 had interalia directed the respondent no,19 village panchayat of Colva to furnish the material

on record to suggest the structures are not illegal before the GCZMA and such authorities shall examine such material after hearing the parties in accordance with law.

AND WHEREAS, the said Village Panchayat of Sernabatim, Vanelim, Colva and Gandaulim produced its action taken report along with all material record of relevant copies of the parties etc to the office of GCZMA vide letter dated 19/01/2015 The Action taken report was filed by the Village Panchayat of Sernabatim, Vanelim, Colva before the Hon'ble High Court of Bombay at Goa with two additional affidavits annexing all the documents of the structures pointed out by the intervenor (Colva Civic Forum) in its intervention application dated 13/07/2012 bearing MCA no.635/2012.

AND WHEREAS, the matter was placed in the 115th GCZMA meeting held on 04/04/2015 wherein the authority after detailed discussion and due deliberations, decided to refer the matter to the Inquiry Committee of GCZMA to examine all the documents on record and hear the parties if required and submit the detailed report to the GCZMA within 30 days.

AND WHEREAS, the concerned file was forwarded to the Inquiry Committee of GCZMA for necessary action vide letter dated 15/05/2015 as referred to above at Sr.no.4. In this regard the Inquiry Committee of GCZMA completed its inquiry and submitted its report dated 24/12/2015.

AND WHEREAS, the matter came up for hearing before the Hon'ble High Court of Bombay at Goa on 21/06/2016 and was pleased to dispose off the matter interalia with a direction which can be seen as follows:- "*Besides the above directions, the Anjuna as well as the Colva Panchayats namely respondent no.9 and 19 and the GCZMA are directed to take necessary action with regard to the structures identified in the report of the GCZMA and proceed to take necessary action in accordance with law within three months from today and file a compliance report with that regard.*"

AND WHEREAS, in the while the term of GCZMA expire and the matter was placed before the Committee to decide on CRZ matters as per Notification

no.GCZMA/CONST/05/STE/98 dated 03/08/2016. The matter was placed for personal hearing on 08/09/2016 before the said Committee, the meeting was adjourned.

AND WHEREAS, in this regard, the GCZMA has now decided to call the parties for personal hearing on 31 /07 /2018 at 3.30 p.m. onwards.

NOW THEREFORE, you are hereby required to remain present for the personal hearing or depute your duly authorized representative with all the documents, approved site plans and other related documents if any in support of your case/ structure before the Authority, 2nd floor, Conference Hall, Secretariat, Porvorim-Goa on the scheduled date, failing which the Authority shall proceed exparte in the matter.

TAKE NOTE THAT, incase of failure on your part to attend the said personal hearing it will be presumed that you have nothing to say in the matter and the authority will proceed further with future course of action as per law. It may also be noted since this is High Court direction matter no adjournment will be granted to the parties for personal hearing.



(Ravi Jha IAS)

Member Secretary (GCZMA)

o/c

To,

1. M/s Carasto Guest House , C/o Domigos Crasto, Sernabatim Salcete-Goa.
2. Colva Civic & Consumer Forum, C/o Mrs Judith Almeida, Hno.257/1, ward 3, Bagdem, Colva, Salcete-Goa.

Copy to:-

1. The Secretary, Village Panchayat of Sernabatim, Vanelim, Colva and Gandaulim... who is required to attend the personal hearing or depute a authorised representative along with relevant records in the matter.

Amrut

Annexure R1/4 “Colly”
IN THE HIGH COURT OF BOMBAY AT GOA
PIL WRIT PETITION NO. 10 OF 2020

COLVA CIVIC AND CONSUMER FORUM ,
THR. ITS AUT. REP., JUDITH A. B.
ALMEIDA.,

... Petitioner

Versus

GOA COASTAL ZONE MANAGEMENT
AUTHORITY, THR. ITS MEMBER
SECRETARY AND 3 ORS.

... Respondents

Ms. Anamika Gode, Advocate for the petitioner.

Mr. D. Pangam, Advocate General with Mr. P. Arolkar, Additional
Government Advocate for the respondent Nos. 1, 3 and 4.

Mr. S. Keny, Advocate for the respondent No.2.

**CORAM: REVATI MOHITE DERE &
M. S. JAWALKAR, JJ**

DATE : 16th December 2021

P.C.

1. Heard the learned counsel for the petitioner.

2. Learned counsel for the petitioner submits that despite several directions issued by this Court, till date the said directions have not been complied with, by the village panchayat of Colva. She relied on the order passed by this Court dated 26.09.2007 in *Suo Motu Writ Petition No.2 of 2006*. She submits that vide the said order, all the village panchayats including the village

panchayat of Colva were directed to take action against the illegal structures existing post-1991.

3. Ms. Gode submits that the present petition is restricted only to the non implementation and mushrooming of the illegal structures in the village Colva. She submits that out of 19 structures which were identified when the Suo Motu Writ Petition No.2 of 2006 was being considered, only some of the structures have been demolished and some are yet to be demolished. She submits that not only the village panchayat of Colva but even the GCZMA has been dragging their feet in implementing the order passed by this Court. She submits that some of the proceedings are pending before the GCZMA since 2014 and that the matters keep being heard, adjourned, reheard and again adjourned and as such, no final orders have been passed by the said authority i.e. GCZMA till date, with respect to the 10 illegal structures in the area of village panchayat of Colva.

4. Learned counsel further submits that the GCZMA had carried out site inspection on 14.05.2013 and 16.05.2013. She submits that in the said site inspection report dated 14.05.2013 (typed copy of the inspection report at pages 72A to 72C), the signatory of the inspection has stated that "*in the 2006 Map are still intact only a few have been demolished. The Secretary did*

not have any documents to show that those structures still standing have valid permissions. Surprisingly many new structures and extensions to earlier structures have cropped up. It was felt that in order to get a clear picture the DSLR is requested to do a fresh survey of the area so that the recent changes are brought out. The DSLR should be given sufficient time and facilities including security. Therefore the CZMA must fix the period of survey, (2) send notices to all the concerned with sufficient time, say at least a week (3) issue a public notice asking concerned parties to be present with relevant documents to prove the legality of the structures". She submits that even the report of the site inspection which was conducted on 16.05.2013 shows that the remaining sites were inspected on 16.05.2013 and that changes were noted for further detailed survey by the DSLR. It is further stated in the said inspection report dated 16.05.2013 that only a few of the dubious structures have been demolished but many additional ones have cropped up. Also there are extensions to the earlier existing structures and that the correct picture will emerge from the proposed survey.

5. Learned counsel for the petitioner submits that the Secretary of the village panchayat of Colva has not taken any steps to monitor the mushrooming of the illegal structures in the said panchayat area. She further submitted that no mapping has been

done even by the DSLR having regard to the observations made in the site inspection report dated 14.05.2013 and 16.05.2013.

6. Having heard the learned counsel for the petitioner and having perused the papers, it is *prima facie* apparent that the respondent No.2 has not taken any steps, as ought to have been taken pursuant to the orders passed by the Court nor steps are taken with respect to the new illegal structures cropping up. Considering the aforesaid, it would be appropriate to direct the Secretary of the village panchayat of Colva to remain present tomorrow.

7. Learned Advocate General also seeks time to take instructions as to the time within which the DSLR will carry out the mapping of the structures existing within NDZ and CRZ area of Colva-Sernabatim village. He also seeks time to take instructions the time frame within which, the GCZMA will decide all pending applications of the owners of the offending structures.

8. Stand over to 17th December 2021.

M. S. JAWALKAR, J

REVATI MOHITE DERE, J.

Assumpta

IN THE HIGH COURT OF BOMBAY AT GOA**PIL WRIT PETITION NO.10 OF 2020**

COLVA CIVIC AND CONSUMER
FORUM, THR. ITS AUT. REP., JUDITH A.
B. ALMEIDA., ... Petitioner.

Versus

GOA COASTAL ZONE MANAGEMENT
AUTHORITY, THR. ITS MEMBER
SECRETARY AND 3 ORS., ... Respondents.

Ms. Anamika Gode, Advocate for the Petitioner.

Mr. D. Pangam, Advocate General with Mr. Prashil Arolkar, Additional
Government Advocate for the Respondents no.1, 3 and 4.

Mr. Pavithran A. V., Advocate for the Respondents no.2.

**CORAM : SMT. SADHANA S. JADHAV &
REVATI MOHITE DERE, JJ**

Date: 22nd December, 2021.

P.C.:

1. The Learned Counsel for the respondent no.2 has filed an additional Affidavit on behalf of the Village Panchayat of Colva. It is submitted that the respondent would form a special Committee for the purpose of identifying the illegal structures/constructions existing and the Committee shall identify such exercise within 3 months from today.

2. It is also stated that they would initiate appropriate proceedings in accordance with law to demolish such illegal structures/constructions in time bound manner and in any event within 4 months from today. The Additional Affidavit is taken on record.
3. The Learned Advocate General submits that the CRZ authorities would complete the process within three months from today. The identification of the structures/constructions and so far as the DSLR proceedings of 10 structures are concerned the mapping of structures would be completed by the end of May, 2022.
4. The additional Affidavit alongwith the original Affidavit is taken on record.
5. Stand over to 15th June, 2022.

REVATI MOHITE DERE, J.

SMT. SADHANA S. JADHAV

Jose

IN THE HIGH COURT OF BOMBAY AT GOA

P.I.L. WRIT PETITION NO.10 OF 2020

COLVA CIVIC AND CONSUMER
FORUM , THR. ITS AUT. REP.,
JUDITH A. B. ALMEIDA

... Petitioner

Versus

GOA COASTAL ZONE MANAGEMENT
AUTHORITY, THR. ITS MEMBER
SECRETARY AND 3 ORS.

... Respondents

Mr. Om D'Costa, Advocate *for the Petitioner.*

Mr. Devidas Pangam, Advocate General with Mr. Prashil Arolkar,
Additional Government Advocate *for Respondent Nos.1, 3 and 4.*

Mr. Byron Rodrigues, Advocate *for Respondent No.2.*

**CORAM: M.S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 10th October, 2022

P.C.:

1. Heard Mr. Om D'Costa for the Petitioner, learned Advocate General who appears along with Mr. Prashil Arolkar, Additional Government Advocate for Respondent Nos.1, 3 and 4 and Mr. Byron Rodrigues, learned Counsel for Respondent No.2.

2. On 23.08.2022, we made the following order:-

“The learned Advocate General states that the Goa Coastal Zone Management Authority was required to report compliance on the following two issues:-

- a) *Preparation of a report about mapping of the structures existing within the NDZ of the CRZ areas of Colva village;*
- b) *Disposal of 10 show-cause notices issued to alleged violators in Colva.*

2. *The learned Advocate General states that the report of mapping has already been prepared and the same was even filed in this Court on 15.06.2022. Insofar as disposal of show-cause notices is concerned, the learned Advocate General admits that there has been a delay and even the time granted by this Court has since expired. He further states that Goa Coastal Zone Management Authority will now expeditiously dispose of the 10 show-cause notices within 2 months from today.*

3. *Accordingly, we accept the above statement made by the learned Advocate General and direct the Goa Coastal Zone Management Authority to dispose of the 10 show-cause notices in accord with law as expeditiously as possible and, in any case, within 2 months from today without fail. The Member Secretary of the Goa Coastal Zone Management Authority will have to file an affidavit of compliance on the next date.*

4. *Mr. Rodrigues, learned counsel appearing on behalf of the Village Panchayat of Colva states that the Panchayat has already started the process of identifying the illegal structures based upon mapping provided by the Goa Coastal Zone Management Authority. He submits that this work will be completed within maximum period of 2 months from today. After that, the show-cause notices will be issued to the alleged violators and even such show-cause notices will be disposed of expeditiously.*

5. *Accordingly, we post this matter for further consideration on 10.10.2022. Before said date, both, the Goa Coastal Zone Management Authority as well as the Secretary, Colva Village Panchayat, should file the compliance report.*

6. *Mr. Om D'Costa, learned counsel for the petitioners submits that the petitioners have some issues with the mapping. Accordingly, the petitioners are granted leave to file an additional affidavit or otherwise file their objections to the*

mapping within 4 weeks from today. A copy of such affidavit/objections should be furnished to the learned counsel for the respondents so that the objections can be considered on the next date.

7. *Stand over to 10.10.2022.”*

3. The learned Advocate General now states that the report about mapping of structures existing within the NDZ of CRZ areas of Colva village is already prepared and filed before this Court. Mr. Om D'Costa states that the Petitioners have certain objections to the mapping exercise carried out. He states that these objections have been set out in the affidavit which he craves leave to file in this petition.

4. Although we grant leave to file such affidavit, we do not propose to go into such objections. This is because we think that such objections can be appropriately raised by the Petitioners before the Directorate of Settlement and Land Records (DSLRL), which is the authority that has prepared the report. The DSLRL and the GCZMA should consider the objections and dispose of the Petitioners' representation in this regard as expeditiously as possible and in any case, within four months from the date of receipt. The decisions should be communicated to the Petitioners.

5. Learned Advocate General states that decisions have already been taken by the GCZMA in 9 out of 10 show-cause notices. He states that the formal orders will be issued within ten days from today. This statement is accepted and the GCZMA is directed to act accordingly.

6. Learned Advocate General states that the show-cause notices which remain to be disposed of will also be appropriately disposed of

within two months from today. Even this statement is accepted and the GCZMA is directed to act accordingly.

7. Mr. Rodrigues, learned Counsel for the Panchayat has also made a statement that the Panchayat has started the process of identifying the illegal structures based on the mapping provided by the DSLR and the GCZMA. He reiterates that this process of identification will be completed within the timeline indicated in our order dated 23.08.2022. He states that after that show-cause notices will be issued to the alleged violators and even such show-cause notices will be disposed of expeditiously.

8. According to us, Panchayat must endeavour to dispose of the show-cause notices within three months from the date of their issue.

9. The petition is disposed of by issuing the above directions and liberties.

10. There shall be no order for costs.

BHARAT P. DESHPANDE, J.

M.S. SONAK, J.

INFORMATION ISSUED UNDER RTI ACT, 2005

Member Secretary

G.C.Z.M.A.

Inward No. 1162/L

Date 12/08/08

From:

Maria Eufrezita Paulina Lydia Fernandes

H.No.57/1, Copelwaddo, Sernabatim

Colva - Salcete - Goa

12th August, 2008

To,
The Member Secretary
Goa Coastal Zone Management Authority
C/o Department of Science
Technology & Environment
Opp. Saligao Seminary
Bardez-Goa 403511

Sub: *Personal hearing before GCZMA on 12/08/08 at 4 00 p.m. in the conference hall of the office of the Chief Secretary, Secretariat, Alto-Parvorim Goa.*

With reference to your notice no. GCZMA/SAL/SENA/07/25/490 dated 8/08/2008, which I received on 11th August, 2008, I would like to inform you that it is not possible for me to attend personally for the above hearing.

Kindly refer to your notice bearing reference no. GCZMA/SAI/SENA/07/25/490 dated 8-08-08, pertaining to the subject captioned here above and also to your show cause notice under Section-5 of the Environment (Protection) Act, 1986 thereby informing me that illegal structures and extension for the same to an extent of 100+50 sq.mts. has been undertaken by me in the property Survey No.12/1 of Sernabatim Village in Salcete Taluka which construction is situated within 200 mtrs from high tide line. I am to submit that I have no structure and/or any structure has been undertaken by me in that said property till date and 3 structures which are situated therein have been constructed by Mrs. Maria Filomena Furtado, Mr. Domingos Crasto and Mr. Judas Maurisio Fernandes who have purchased portion of land from me by executing three different sale deeds and the fourth person namely Mr. Joao Fernandes who have purchased from me a portion of the land from the said property bearing Survey No. 12/1 of Sernabatim Village has not undertaken any construction therein.

In this regard, and in support of my contention, I am annexing hereto a Xerox copy of Form No.I & XIV of the property bearing Survey No.12/1 of Sernabatim Village to show that the aforesaid 4 persons have purchased from portions of the said property. I am also annexing hereto Xerox copies of the notices in Form X pertaining to mutation Serial Nos.10173, 17505, 17826 and 29112 which notices clearly show that the details of the 4 sale deeds which have been executed by me in their favour along with the details of sale deeds.

Certified copy of the document available in office

Public Information Officer
(GCZMA/DST)

LAI
file
copy in file
put up to me
HTS

In this regard, I am also enclosing hereto a Xerox copy of Survey Plan bearing Survey No.12/1 of Sernabatim village.

In view of the above position, I am to submit that I do not have any structure in the said property bearing Survey No.12/1 of Sernabatim village either old or new construction as on date and that all the 3 aforesaid structures have been constructed by the aforesaid 3 persons and in the circumstance the submission made therein in your said show cause notice dated 23-10-2007 that I have constructed illegal structure to an extent of 100+50 sq. mtrs within 200 mtrs. from high tide is totally untrue and incorrect and as such I am to request you to kindly drop me from the said inquiry and/or from the said proceedings initiated by you.

Thanking you,

Yours faithfully,

E. Fernandes
12.08.08

(Maria Eufrezita Paulina Lydia Fernandes)

Certified copy of the document
available in office records

Encl : as above

Braganza
Public Information Officer
(GGZMA / STE)



Service- Reply on behalf of Respodent No.1, GCZMA to Stay Application I.A No. 179/2022 in Domingos Crasto V GCZMA & Ors- Appeal No. 50 of 2022 before NGT, Pune

1 message

shirinkhajuriaoffice <gopal.officeofshirinkhajuria@gmail.com>

Tue, Dec 6, 2022 at 6:56 PM

To: "Pradoshdangui@gmail.com" <Pradoshdangui@gmail.com>, ngt-pune@gov.in

Cc: Shirin Khajuria <shirinkhajuria@gmail.com>, nayan.chambersofshirinkhajuria@gmail.com

Dear Sir/Madam

In the above-captioned matter, please find attached herewith a copy of Reply on behalf of Respondent No.1, GCZMA to Stay Application bearing I.A. No. 179 of 2022.

--

Thanks & Best Regards

Gopal Kohli

Office of Advocate Mrs. Shirin Khajuria

S- 254 LGF Greater kailash Part-II

New Delhi- 110048

E-Mail ID- gopal.officeofshirinkhajuria@gmail.com



Domingos Crasto vs. GCZMA Reply R-1.pdf

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