

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE**

Interlocutory Application No. 162/2025 (WZ)

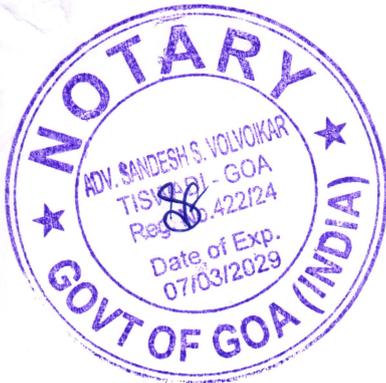
In

Appeal No. 139/2025 (WZ)

**ALCHEMIST ASSET
RECONSTRUCTION CO. LTD. ...Applicant**

V/s.

**GOA COASTAL ZONE
MANAGEMENT AUTHORITY & Anr. ...Respondents**



**REPLY ON BEHALF OF RESPONDENT NO. 2
TO THE APPLICATION FOR CONDONATION
OF DELAY DATED 05.07.2025 FILED IN
SUPPORT OF THE APPEAL UNDER SECTION
16(G) R/W SECTION 14 OF THE NATIONAL
GREEN TRIBUNAL ACT, 2010.**

MAY IT PLEASE THIS HON'BLE TRIBUNAL:

The Respondent No. 2 herein, most respectfully, state and submit as follows:

1. At the very outset, Respondent No. 2 most respectfully submits that he has been served with a copy of the Appeal

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Memo and the accompanying application dated 05.07.2025 filed by the Applicant seeking condonation of delay in preferring the present Appeal impugning the Extension of Permission / Approval dated 26.07.2024 (**Impugned Approval**) issued by the Respondent No. 1 (Goa Coastal Zone Management Authority).

2. Respondent No. 2 herein has been served with a copy of the application seeking condonation of delay for a limited period of four days. The application presently under reply is sworn after the hearing on 30.06.2025. Accordingly, the present Reply is confined strictly to the averments made in the subsequent application dated 05.07.2025 and is filed without prejudice to the rights and contentions of this Respondent to file an additional or supplementary reply, if required, advertent to the contents of the earlier application or to deal with the merits of the present Appeal at an appropriate stage. This Respondent denies and disputes each and every averment made by the Applicant in the



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present Appeal and the application for condonation presently under reply, except to the extent specifically admitted herein.

3. Records reveal that on 30.06.2025, Appeal No. 139 of 2025 was taken up for hearing along with I.A. No. 162 of 2025 (WZ). As per the online case status, I.A. No. 162 of 2025 was filed under Filing No. **270413700385/2025** on 24.04.2025, along with Appeal No. 139 of 2025, which is under Filing No. **270413700384/2025**. However, the application presently under reply is sworn on 05.07.2025, i.e., after the date of the first hearing, i.e., 30.06.2025. Hence, it is apparent that the Applicant herein, for reasons best known to them, has not effected service of I.A. No. 162 of 2025 till date. It appears from the records, and particularly from the Order dated 30.06.2025, that there was an application for condonation of delay, and thereafter, a subsequent application seeking the same relief was filed and sworn on 05.07.2025. Therefore, it is incumbent upon the



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Applicant herein to serve a copy of I.A. No. 162 of 2025 in order to enable this Respondent to defend its interest in the present proceedings.

4. This Respondent states that it is impermissible for the Applicant to have two applications seeking condonation of delay on record. Nevertheless, the Applicant insists on hearing the applications without serving the earlier application seeking condonation of delay upon this Respondent. This conduct itself is bereft of any bona fides.
5. The application seeking condonation of delay is essentially misconceived, inasmuch as it is filed on the fundamentally flawed basis that an approval for extension of the timeline/validity of the permission granted in the year 2018 partakes the character of a new permission. The material on record in the present Appeal demonstrates that the impugned communication is merely an approval by the authority to extend the timeline on the same conditions as envisaged in the permission granted in the year 2018.



6. The application under reply indirectly seeks condonation of delay to assail the permissions granted in 2018, whilst creating a camouflage. Even otherwise, the delay sought to be condoned is far beyond the extendable period under the National Green Tribunal Act. On this ground alone, the application deserves to be rejected.
7. At the outset, this Respondent most respectfully submits that the present application seeking condonation of delay in filing the Appeal is wholly misconceived, untenable in law, and deserves outright rejection.
8. The Applicant, being a large corporate entity engaged in sophisticated financial and legal dealings, cannot plead ignorance or lack of knowledge to overcome the bar of limitation, particularly when its own prior correspondence and actions show continuous awareness of the permissions and activities forming the subject matter of the present Appeal. The application seeking condonation is



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misconceived and not maintainable to say that least. The records reveal that this Respondent was initially granted permission for erection of temporary shacks on 12.11.2018. The permission dated 12.11.2018, was granted pursuant to the decision taken by Respondent No. 1 in its 184th GCZMA Meeting held on 05.09.2018. Decision to grant principal approval to this Respondent was in public domain for last several years and the Appellant had not taken any steps to challenge/assail such decision.

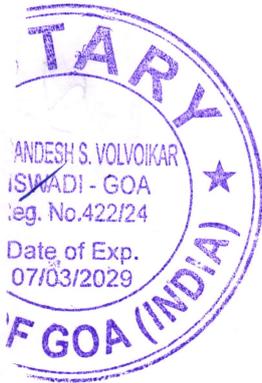
9. Undisputedly, the minutes of the said meeting have been in the public domain for the last several years. The Applicant before this Tribunal has consciously suppressed such minutes of the meeting, which are germane to the decision of the controversy at hand.
10. The impugned permission dated 26.07.2024 is merely an extension of the original permission granted in the 184th Meeting held on 05.09.2018.



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11. The Applicant's claim that it became aware of the Impugned Permission/Approval dated 26.07.2024 only upon perusing this Respondent's reply dated 20.03.2025 to the Show Cause Notice is demonstrably false and contrary to record. The Applicant was, at all material times, fully conscious of the ongoing activities and permissions pertaining to the subject site.

12. The following documents, emanating from the Applicant's own correspondence, establish that the Applicant was continuously seized of the matter and had every opportunity and indeed, the obligation to ascertain details of any permission granted:



- a. Complaint dated 07.02.2024 filed before the GCZMA, wherein the Applicant specifically sought inspection and action against alleged unauthorized structures being commercially run at the site.
- b. Series of communications ranging between 2019 to 2021, addressed by the Applicant or Resolution



Professional during the CIRP of DPDCL, wherein the GCZMA was repeatedly cautioned not to issue licenses or NOCs for the same land, asserting that the property was custodia legis. These include letters dated 12.07.2019, 20.11.2019, 03.09.2020, 19.07.2021, and 06.09.2021.

- c. Subsequent applications dated 14.08.2024, barely 18 days after the Impugned Permission was issued, where the Applicant specifically named Respondent No. 2 and sought revocation of permissions allegedly granted to him for structures situated in Survey Nos. 102/1 and 102/3.

These letters are self-evident proof that the Applicant was aware of both the site activity and the existence of permissions.

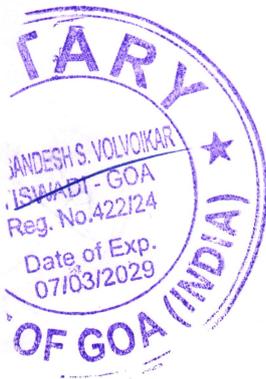
13. The Applicant has been filing complaints at least since last several years, raising the very same issues before the National Green Tribunal as well as the Coastal Regulation



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Zone authorities. The Applicant, therefore, cannot now claim ignorance of the facts or proceedings in relation to the permissions granted. This clearly demonstrates complete cognizance and awareness on the part of the Applicant.

14. Further, pursuant to the Applicant's own complaint dated 07.02.2024, the GCZMA conducted a 13-day inspection between 07.10.2024 and 24.10.2024, followed by issuance of 63 Show Cause Notices on 17.01.2025, including against Respondent No. 2. The Applicant participated in the subsequent hearings before the GCZMA. Having triggered and participated in the process, the Applicant cannot now claim ignorance of the permissions which formed the very basis of that inspection.



15. The Applicant's conduct, therefore, betrays a pattern of active engagement and selective disclosure, designed to circumvent limitation. The plea of "first knowledge on 20.03.2025" is a clear afterthought, bereft of bona fides. The Respondent states that impugned communication is merely

an extension of the timeline and validity of the original approval which was in public domain for past several years.

16. Even otherwise, the Applicant has failed to establish any sufficient cause or demonstrate any bona fide justification for the inordinate, unexplained, and self-contradictory delay in preferring the present Appeal.
17. On the contrary, the averments made and the overall conduct of the Applicant, viewed cumulatively, disclose a clear pattern of abuse of process of law, coupled with an attempt at forum shopping in order to set aside permissions lawfully granted in favour of this Respondent by the competent authority.
18. Without prejudice to the foregoing, and before adverting to the merits (or rather, the demerits) of the contentions advanced by the Applicant, this Respondent respectfully craves leave of this Hon'ble Tribunal to first raise certain preliminary objections qua the very maintainability of the



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present Appeal. The same are raised without prejudice to one another and are being urged in the alternative.

19. The application under reply is misconceived, inasmuch as the same seeks to indirectly assail the original decision of Respondent No. 1 passed in 2018 after several years, on the pretext of a mere extension of time/validity. Such an approach or assail is impermissible under the overall scheme of the NGT Act read with the CRZ Regulations. The decisions to grant permission are taken in Meetings of Respondent No. 1, and the Minutes of such Meetings are published in the public domain and are available on the website of Respondent No. 1. Essentially, an extension and/or renewal of an existing permission on the same terms cannot partake the character of a fresh permission or decision.



20. Even otherwise, the delay sought to be condoned is beyond the purview of what is statutorily permissible under the NGT Act.

21. At the very outset, this Respondent submits that a bare perusal of the Appeal Memo makes it apparent that the Applicant has sought to invoke the jurisdiction of this Hon'ble Tribunal purportedly under Section 16(g) read with Section 14 of the National Green Tribunal Act, 2010 (**NGT Act**).
22. It is respectfully submitted that such invocation is fundamentally misconceived and legally untenable. The jurisdiction exercised under Section 16 (Appellate jurisdiction) and that under Section 14 (Original jurisdiction) are distinct, independent, and mutually exclusive.
23. The Applicant, in the present case, has sought to blend and overlap these two jurisdictions by styling the proceeding as an "appeal" while simultaneously canvassing issues in the nature of an original environmental dispute. Such attempt at combining the two jurisdictions is impermissible in law and



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renders the present appeal incompetent and non-maintainable.

24. Furthermore, the nature of the Impugned Approval is purely in the form of an extension of timeline or validity of an earlier approval / permission, a measure that merely continues the extension of timeline of a prior approval / permission without introducing any new environmental consequence or substantive determination. An extension of timeline of an earlier approval cannot in the environmental jurisdiction constitute a new cause of action and/or cannot partake character of a fresh permission and on this count alone, the application seeking condonation of delay is bound to fail.



25. This Respondent respectfully submits that jurisdiction vested unto this Hon'ble Tribunal under Section 16(g) of the NGT Act cannot be stretched or misused.

26. Without prejudice to the foregoing preliminary objections, it is submitted that the Applicant lacks the requisite locus standi to invoke the jurisdiction of this Hon'ble Tribunal.
27. The Applicant, being a commercial assignee of a debt, has not demonstrated any direct, personal, or substantive interest in the permission or approval under challenge, nor has any environmental damage and/or harm has been shown to have been caused by this Respondent pursuant to the Impugned Approval.
28. Pertinently, the Applicant is not an "aggrieved person" as contemplated under the National Green Tribunal Act, 2010, and its interest is purely financial. Environmental jurisdiction cannot be invoked to advance private or commercial motives.
29. Without prejudice to the Respondent's contentions and assuming, arguendo, the case of the Applicant, it is clear that the Applicant is, in essence, a third-party Asset



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Reconstruction Company which has allegedly acquired certain mortgage interests in the subject land. Such commercial or contractual interests do not confer locus standi in an environmental appeal.

30. The concept of an “aggrieved person” under the NGT Act must be interpreted cannot be extended to accommodate alleged creditors, assignees, or other commercial stakeholders. Locus standi must be proximate, direct, and legally cognizable.



31. Significantly, the Applicant has also instituted, inter alia, a civil suit against this Respondent bearing Special Civil Suit No. 62/2024, pending adjudication before the Ld. Civil Judge, Senior Division at Margao, Goa. This demonstrates that the real object of the Applicant in approaching this Hon'ble Tribunal is to gain leverage. Such conduct constitutes a manifest abuse of the process of law for private commercial advantage. The replies filed in the said suit proceedings. Obviously, the present appeal is a collateral

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attempt to litigate a private dispute in an environmental forum.

32. The Applicant has approached this Hon'ble Tribunal with most unclean hands. Despite being aware of permissions, its effects and development carried out, the Applicant deliberately withheld relevant documents to manufacture a false claim of ignorance and revive a stale grievance.

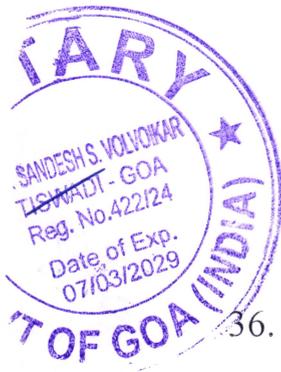
33. It is a settled principle that a party who fails to act diligently cannot claim equitable relief. Delay cannot be condoned on vague or self-serving pleas of ignorance, particularly by institutional litigants. The Appellant's plea does not satisfy even the minimal threshold of "sufficient cause."

34. Without prejudice to the foregoing submissions, it is respectfully submitted that even the application under reply itself is fundamentally misconceived and legally untenable. The records further reveal that the present application under reply dated 05.07.2025 is a subsequent application for



condonation of delay filed only after the present Appeal was taken up for hearing on 30.06.2025.

35. This Respondent respectfully submits that there cannot be two separate applications for the same purpose filed in the same proceeding. Further, the present application under reply does not indicate under which provision or enabling section of law it is filed.



36. Disconcertingly, the Applicant claims, without any supporting material, that this second application presently under reply was filed pursuant to directions of this Hon'ble Tribunal. Such a claim is factually incorrect and cannot be substantiated inasmuch as no such direction has been communicated to this Respondent, nor does the Order dated 30.06.2025 make any mention of such a direction.

37. Without prejudice to the above, it is further submitted that even if the application under reply were to be treated as maintainable, then, even in the second application, the

Applicant has once again sought condonation of only four 4 days' delay, which is factually and legally erroneous.

38. The delay cannot be restricted solely from the date as claimed and portrayed by the Applicant as the Impugned Approval is merely an extension of the original permission/ approval granted on 12.11.2018, which has been in the public domain since that date. Therefore, the period of limitation and consequential delay must necessarily be considered throughout the entire period from the original permission and not be artificially truncated to suit the Applicant's convenience.

39. Without prejudice to the foregoing submissions, it is respectfully submitted that even if the application under reply were to be considered on its own merits, the delay in filing the present Appeal is nevertheless grossly inordinate, wholly unexplained, and entirely unjustifiable.



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40. This Respondent submits that the statutory period of limitation for filing appeals, as prescribed under Section 16 of the NGT Act, is required to be construed strictly and rigorously. The right to appeal under Section 16 is a statutory right, and not a mere equitable privilege. Consequently, once the period of limitation has expired, the right to file an appeal ceases to exist.



41. While the Applicant, through the present Appeal, purports to challenge the Impugned Approval dated 26.07.2024, in substance the Impugned Approval is nothing more than an extension or continuation of a prior permission granted on 12.11.2018. Where a present order is derivative of, or merely extends the effect of an earlier order, the cause of action and any grievance must necessarily be regarded as arising at the earlier date. The Applicant cannot be allowed to manufacture a fresh cause of action in an attempt to introduce a new limitation period.

42. Without prejudice, this Respondent submits that the Applicant's claim that the period of limitation should commence from the date of communication of the Impugned Approval is wholly untenable.
43. Significantly, communication such as the one under challenge placed in the public domain as part of standard departmental practice. As such, the application under reply is clearly barred by law.
44. The material on record clearly demonstrates that the Impugned Order and the original permission/approval were circulated among public departments and were otherwise accessible in the public domain.
45. Consequently, the duty of diligence lies squarely upon the Applicant, who claims to be aggrieved. This duty is particularly heightened in the present case, as the Applicant has been actively pursuing matters against this Respondent before various forums, including instituting a civil suit. In



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such circumstances, the Applicant cannot claim ignorance or assert that limitation should be counted only from the date of alleged communication.

46. Without prejudice, it is respectfully submitted that even if the Applicant's argument regarding limitation commencing from the date of communication is taken at its face value, the same exposes its untenably contrived nature.



47. The Applicant has offered no cogent explanation for its failure to approach this Tribunal at earlier point of time and/or failure to exercise due diligence in the matter. After filing the complaint before Respondent No. 1, a site inspection was conducted based on the complaint, yet the Applicant has failed to demonstrate any bona fide conduct or diligence in pursuing its alleged grievance.

48. The Applicant cannot be permitted to reap the benefits of its own inaction or indolence, particularly where rights have already been crystallized and made public. The law requires

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the Applicant to show active and timely due diligence, which is wholly absent in the present case.

49. The reliance placed by the Applicant upon Regulation 4.2(vi) of the CRZ Notification is wholly misplaced and misconceived particularly in the facts and circumstances of the present case.

50. It is denied that the Applicant is an affected party as alleged and the Applicant is put to strict proof thereof. It is denied that the Applicant had no notice of the proceedings or the order passed by the Respondent No. 1 as alleged. It is denied that the delay in filing the present Appeal is bona fide as alleged. It is denied that the delay is 4 days as alleged. It is denied that delay was occasioned on the ground of time taken in scrutinizing the voluminous documents and thereafter, to file various appeals as alleged.

51. It is denied that during the hearing on 30.06.2025, this Hon'ble Tribunal directed the Applicant to move an



application seeking condonation of delay commencing from the date of Impugned Permission (26.07.2024) as alleged and the Applicant is put to strict proof thereof.

52. It is denied that the present Appeal falls well within the outer limit of 60 days prescribed under the proviso appended to Section 16(g) of the NGT Act as alleged. It is denied that the Applicant became aware of the Impugned Approval on 20.03.2025, during the course of proceedings before Respondent No. 1 as alleged.



53. It is denied that the Applicant is entitled to file the present Appeal as alleged and the Applicant is put to strict proof thereof. It is denied that the Applicant is a “person aggrieved” as alleged and the Applicant is put to strict proof thereof.

54. It is denied that the Impugned Permission was never put in public domain as alleged and the Applicant is put to strict proof thereof. It is denied that the Applicant had no prior occasion to gain knowledge of / about the Impugned

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Permission before 20.03.2025 as alleged and the Applicant is put to strict proof thereof. It is denied that the limitation period for filing an Appeal began to run only from 20.03.2025 as alleged and the Applicant is put to strict proof thereof. This Respondent shall rely on the true and correct interpretation of the relevant provisions of the laws.

55. It is denied that the period of limitation is to be calculated from the date of communication of the order under challenge and not from the date of the original order itself as alleged and the Applicant is put to strict proof thereof.

56. It is denied that the Impugned Permission was neither served upon, nor published as alleged by the Applicant and the Applicant is put to strict proof thereof.

57. It is denied that there is any default on the part of the Respondent No. 1 in complying with the statutory requirement as alleged and the Applicant is put to strict proof thereof. It is denied that there is any bar from raising



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the defense of limitation as alleged and the Applicant is put to strict proof thereof.

58. The reliance sought to be placed by the Applicant on the judgments are completely misplaced and erroneous interpretation of the ratio of said judgements.



59. It is denied that there are any CRZ/NDZ violations carried out by this Respondent as alleged by the Applicant and the Applicant is put to strict proof thereof. It is denied that any illegal and unlawful commercial constructions have been carried out by this Respondent in the CRZ area of Village Agonda as alleged and the Applicant is put to strict proof thereof. The reliance sought to be placed by the Applicant on the Complaint dated 07.02.2024 and the Application dated 21.06.2024 is denied and disputed. This Respondent shall rely on the true and correct interpretation thereof.

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60. It is denied that Respondent No. 1 could not have granted permission after 03.01.2017 as alleged and the Applicant is put to strict proof thereof.
61. It is denied that at no point was the order uploaded on any official website, published, or otherwise made accessible to the Applicant or members of the public at large as alleged and the Applicant is put to strict proof thereof. It is denied that the Applicant has any locus as alleged and the Applicant is put to strict proof thereof. It is denied that the Applicant is a secured creditor / decree holder / mortgagee of the subject property as alleged and the Applicant is put to strict proof thereof.
62. It is denied that the delay cannot be attributed to any lapse or negligence on the part of the Applicant as alleged and the Applicant is put to strict proof thereof. It is denied that any lapse or negligence is squarely due to the statutory authority's failure discharge its obligations as alleged and the Applicant is put to strict proof thereof. It is denied that



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there exists any justification for computing the limitation from the date of actual knowledge as alleged and the Applicant is put to strict proof thereof. It is denied that the present Appeal falls well within the extendable period of limitation set out in proviso to section 16(g) of the NGT Act, from the date of communication as alleged and the Applicant is put to strict proof thereof.



63. In the light of the above, this Respondent submits that entertaining the present Appeal or condoning the delay would cause irreparable prejudice to this Respondent. The Respondent has acted in good faith, in accordance with law, and relied upon the validity of the Impugned Order and prior approvals in exercising its rights and obligations.

64. The delay sought to be condoned is neither minimal nor innocuous. permissions, once issued and acted upon, equity lies in favour of this Respondent.

65. This Respondent submits that permitting such a belated and procedurally defective application would be tantamount to an abuse of process of law. Obviously, the present Appeal is, in substance, an attempt to gain leverage in civil proceedings and to disrupt settled rights of the Respondent. Such conduct is malafide, vexatious, and contrary to the purpose of the NGT Act.
66. Without prejudice, this Respondent states that entertaining the present Appeal would also prejudice other stakeholders and public authorities, as it would open the floodgates for collateral challenges.
67. Therefore, in the light of the above, it is respectfully prayed that this Hon'ble Tribunal may be pleased to reject the application for condonation of delay with costs and consequently dismiss the Appeal.

Date: 07.11.2025

Place: Panaji, Goa


Respondent No. 2





AFFIDAVIT

I, **MR. VIJAY KOMARPANT**, son of Mr. Komarpant, major in age, resident of Omkar Building, Chaudi, Canacona, Goa, 403702, the Respondent No. 2 herein, do hereby on solemn affirmation state and submit as follows:

1. I say that I have filed the above reply before this Hon'ble Tribunal opposing the application for condonation of delay dated 05.07.2025.



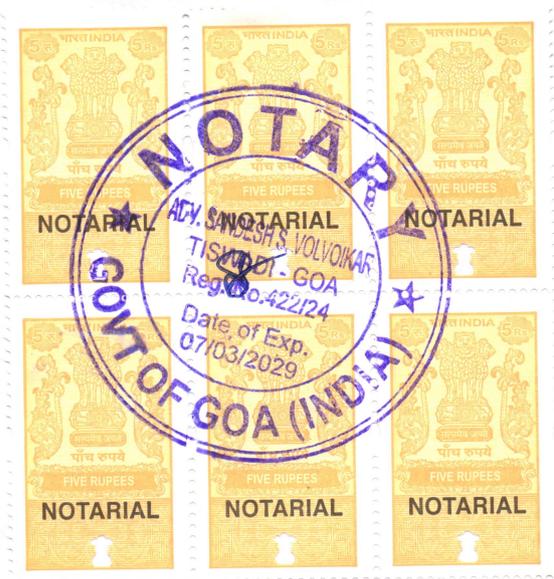
2. I say that the contents of the above reply at paragraph nos. 1, 2, 3pt, 4pt, 5pt, 6pt, 7pt, 8pt, 9, 10, 11, 12, 13, 14, 15pt, 16pt, 17pt, 18pt, 19pt, 20, 21pt, 22pt, 23pt, 24pt, 25pt, 26pt, 27pt, 28pt, 29pt, 30pt, 31pt, 32pt, 33pt, 34pt, 35pt, 36pt, 37pt, 38pt, 39pt, 40pt, 41pt, 42pt, 43pt, 44, 45pt, 46pt, 47, 48pt, 49pt, 50, 51, 52pt, 53pt, 54pt, 55, 56, 57pt, 58, 59, 60, 61, 62pt, 63, 64, 65pt, 66 and 67 are true and correct to my personal knowledge and belief and/or based on information derived from the records and/or inferences.

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3. I say that the contents of the above reply at paragraph nos. 3pt, 4pt, 5pt, 6pt, 7pt, 8pt, 15pt, 16pt, 17pt, 18pt, 19pt, 21pt, 22pt, 23pt, 24pt, 25pt, 26pt, 27pt, 28pt, 29pt, 30pt, 31pt, 32pt, 33pt, 34pt, 35pt, 36pt, 37pt, 38pt, 39pt, 40pt, 41pt, 42pt, 43pt, 45pt, 46pt, 48pt, 49pt, 52pt, 53pt, 54pt, 57pt, 62pt and 65pt are in the nature of legal submissions which I believe to be true and correct.
4. I say that the contents of the present Affidavit at paragraph nos. 1, 2 and 3 above are true and correct to my personal knowledge and belief.

Solemnly affirmed at Panaji, Goa,
On this 7th day of November, 2025.


DEPONENT



SOLEMNLY AFFIRMED AND VERIFIED
BEFORE / ME BY Mr. Vijay Komarpant
WHO IS IDENTIFIED BEFORE/ME
BY EPIC No. YDX0434613
WHOM I KNOW
SERIAL NO. 2412 DATED 07/11/2025


SANDESH S. VOLVOIKAR
ADOCATE & NOTARY AT TISWADI TALUKA
AT PANAJI
STATE OF GOA (INDIA)

**MINUTES OF THE 184th MEETING OF THE GOA COASTAL ZONE
MANAGEMENT AUTHORITY (GCZMA) HELD ON 05/09/2018
(WEDNESDAY) AT 3:30 P.M. IN THE CONFERENCE HALL, 2ND FLOOR,
SECRETARIAT, PORVORIM – GOA.**

The 184th meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Secretary (Environment), on 05/09/2018 (Wednesday) at 3:30 p.m. in the conference hall, 2nd floor, Secretariat, Porvorim . Goa.

The following members were present for the meeting:

1. Principal Secretary (Environment) / Chairman (GCZMA).
2. Representative on behalf of Director, Directorate of Settlement & Land Records, Panaji, Goa.
3. Representative on behalf of Director, Department of Tourism, Panaji, Goa.
4. Representative on behalf of Chief Engineer, Water Resources Department (WRD), Government of Goa.
5. Shri. Audhut J. Bhounsule, Expert Member (GCZMA).
6. Shri. Suhas Godse, Expert Member (GCZMA)
7. Shri. Srirang Jambhale, Expert Member (GCZMA)
8. Dr. Prabhakar Shirodkar Expert Member (GCZMA)
9. Member Secretary (GCZMA).

Item No. 1

Case NO. 1.1

To discuss and decide on the PIL writ Petition challenged by Goa Foundation and anr against GCZMA before Hon'ble High Court of Bombay at Goa regarding illegal construction of cottages in plot bearing S.Y. No. 354/2, 355,356/7A, of village Anjuna, Bardez..

Background: This office was in receipt of application dated 23/10/2017 for erection of wooden Chalets in plot bearing S.Y. No. 354/2, 355,356/7A, of village Anjuna, Bardez, Goa by Mr. Krishna Parab. Accordingly the site inspection was carried by Expert members (GCZMA) alongwith official from Goa State Pollution Control Board on 24/10/2017. Accordingly said matter was discussed and deliberated during 161st GCZMA meeting held on 24/10/2017 wherein the authority decided that approval to be granted.

Further the said proposal was examine as per the beach carrying capacity report. Further this office is in receipt of a complaint dated 11/01/2018 from Welcome house Chapora to revoke permission granted to Mr. Krishna Parab.

Proceeding: The Respondent Mr Krishna Parab was present in person along with 2 other persons. The Respondent files the copy of the Leave and Licence Agreement. The Respondent further submitted that he is a Goan and had an opportunity to erect shacks in the property belonging to Ms Diana Buildwell Pvt Ltd. The Respondent further contended that he is entitled to erect shacks in the leased property. The Respondent stated that he is in possession of the property and he is paying license fee as per the Agreement. The Authority asked about the ownership of land for which an application was made to that the Respondent states that ownership is not the only criteria, Leave and Licence Agreement is also relevant documents. The Respondent further contended that there is no malafide intention on the part of the Respondent. The Respondent further contended that he will be paying Ms Diana Buildwell the rent for the use of the place as prescribed in the Leave and Licence Agreement. He further stated that the present case is not in violating the Beach Carrying Capacity Report. The Respondent has pointed out to page 7 of the PIL Writ Petition filed by Goa Foundation wherein it has clearly been admitted that incase there is CRZ Clearance than it is not violative of Beach Carrying Capacity Report in that area+.

Decision: The Authority noted the oral submissions and the Leave and Licence Agreement presented by the Respondent. Authority also noted that a similar application asking for 15 wooden chalets, in the same survey number 354/2, 355, 356/7A of Anjuna Village, was made by M/s Diana Buildwell Ltd on 07/07/2017. The proposal of M/s Diana Buildwell Ltd was rejected by the Authority on the ground that the existing hotel establishment cannot be allowed to erect huts and cottages. As per the Beach Carrying Capacity Report in Chapter 6 at Clause 6.3 (6) of the Specific Recommendations for shacks and other Temporary Structures in Private Land reads as under:

As shacks, huts cottages and tents are primarily meant for the livelihood of the local inhabitants who are not in position to construct

hotels/restaurants, the hotels in these beach belts should not be permitted to erect more than one shack within their private area. Hotels could be permitted to provide deck . beds within the private areas/on beach, in the area available, after due approval from GCZMA and registration with Tourism Department+

Application in the instant case was filed by Mr KrishnaParab as a New Application for erection of 16 wooden chalets in plot bearing survey nos 354/2, 355 356/7A Anjuna Village along with an MOU signed between M/s Diana Buildwell Ltd and Mr Krishna Parab. The MOU states that the property is of M/s Diana Buildwell Ltd and Mr Krishna Parab is allowed to erect huts and shacks in designated location in the property of the Hotel. The Leave and Licence agreement has only allowed Mr Parab to erect 16 huts at specific designated places in the Hotel area which has been represented as a new application.

As such Mr Krishna Parab has misrepresented the facts before the Authority in order to take NOC for huts and shacks in the hotel property which was otherwise not permissible

The spirit of beach carrying capacity report is to permit local inhabitants to earn livelihood by erecting shacks/huts/cottages in their private property. It has explicit provisions not permitting hotel to erect more than one shack in their property. This in fact has been reduced to Hotels entering into an MOU and Leave and Licence agreement with a Local inhabitant to get permission for Shacks/huts/cottages in the hotel area. This is not permissible.

The Authority has also observed that the NOC granted is conditional, subject to the conditions therein and is liable to be revoked, if it is found, at any stage, that the application contained false information / wrong plans / calculations / documents / misleading or false information, etc. The Authority has also noted that the land which is licensed out by Ms Diana Buildwell forms a part of the land whose FAR has already been used for the purpose of construction of the Hotel project belonging to Ms Diana Buildwell Pvt Ltd.

Therefore the Authority after due deliberation and discussion concluded that the permission earlier granted vide letter no

GCZMA/N/Shack-Hut-cott-Tent/17-18/32/211 dated 11/05/2018; wherein the structures are marked as A,B,C,D,E,F,G,H,I,J,K,L,M,N,O and P+ in the plan, to be revoked as the Beach Carrying Capacity allows only one shack for a Hotel Establishments.

Authority also resolved that any huts and shacks erected as per the NOC granted bearing No. GCZMA/N/Shack-Hut-Cott-Tent/17-18/32/211 dated 11/05/2018 in survey no. 354/2, 355, 356/7A of Anjuna Village Bardez Taluka for 16 wooden chalets which are marked as A,B,C,D,E,F,G,H,I,J,K,L,M,N,O and P+ in the plan, are to be demolished and the land to be restored to its original condition.

Further, Authority decided to check the previous records if there are any approvals granted for Shacks/huts/cottages in an approved hotel project, wherein such misrepresentation of facts have been made by the Applicant.

Case No. 1.2

Gross Violation of CRZ Regulation due to Excessive Sand Extraction at 3 Different Places viz. Ghano-Savoi Verem, Mest Wada and Vaghurme in vere-Vaghurme Village of Ponda Taluka, Goa.

Background

Shri. Dataram Desai, Chairman of BMC at vere-Vaghurme complained to GCZMA vide letter dated 08/05/2018 alleging gross violation of CRZ Regulation by excessive extraction of sand from the riverine areas at 3 different locations, namely Ghano-Savoi, Mestwada and vere-Vaghurme in Ponda Taluka. So, a site inspection was fixed to see the site, verify the CRZ zoning area and the permissions/documents.

The said matter was deliberated during 182nd GCZMA meeting held on 31/08/2018 wherein the Authority after perusing the site inspection report from the expert member (GCZMA) noted that there is sand mining and illegal huts erection in the area. The matter has to be ascertained in consultation with District Administration and Mines Department. As such, Authority decided to call Collector North, Collector South and Director

Mines and Geology, Government of Goa in its meeting on 05/09/2018. Collector North, Collector South and Assistant Director Directorate of Mines and Geology remained present for the meeting.

Decision: Detailed discussion on the issue of illegal sand mining in general and with regard to the complaint in particular was held. District Collectors and DMG were appraised about the need for a proper monitoring and regulatory mechanism. DMG informed that district wise patrolling squad along with helpline number has already been formed and site wise inspection schedule would be chalked out. Authority laid emphasis on the monitoring of the transport of the illegally mined sand. The expert members also raised the question of illegal hutments in the NDZ area along the river in Ponda taluka. The authority requested Collector South to undertake a verification exercise through Additional Collector, Ponda for the residents of the hutment in the NDZ area. The expert members would accompany the district administration inspection team as per the schedule fixed by Collector, South.

Case NO. 1.3

To discuss and decide on the Complaint dated 06/06/2017 received from Commander K.S. Mathews with regard to the alleged illegal construction of residential house and compound wall in the property bearing Sy.No. 63/29, 28 of Village Siolim, Bardez, Goa being carried out by Smt. Anjali Thakran.

Background:

1. A Complaint was received by the Office of GCZMA dated 06/06/2016 received from Commander K.S. Mathews referring to a report dated 17/02/2016 submitted by the Deputy Collector & SDO of Bardez pertaining to the alleged illegal construction carried out by Smt. Anjali Thakran in the property bearing Sy. No. 63/29, 28 of Village Siolim. Bardez, Goa.
2. The report submitted by the Dy.Collector& SDO of Bardez in brief states that the respondent Mrs. Anjali Thakran has carried out illegal construction of residential house for an area admeasuring 342 sq.mts and a Compound wall admeasuring 102.70 sq.mts within 200 mts

from HTL in the property bearing Sy.No. 63/29, 28 of Village Siolim, Bardez, Goa.

Decision: The Authority after pursuing the complaint and report submitted by the Deputy Collector & S.D.O of Bardez bearing no.CRZ/BAR/COMP/6/2015/2083 dated 17/02/2016 decided to issue a show cause notice to Smt. Anjali Thakran.

Item No. 2

Case No. 2.1

To decide on a NOC for work construction of Ganapati visarjan platform with shed at parashte in Pernem Municipal Council Pernem by PWD , Pernem, Goa.

Background: This office is in receipt of application dated 03/09/2018 from Assistant Engineer, PWD Pernem for NOC of construction of ganapati visarjan platform with shed at Paraste in Pernem municipal council Pernem , Goa enclosing NOC from land owner, Form I and XIV , survey plan and plan.

Decision: The authority after detailed discussion and deliberation resolved to approve the said construction work of Ganapati visarjan platform with shed at parashte in Pernem Municipal Council Pernem by PWD, Pernem, Goa.

Case No. 2.2

To discuss and decide on the applications received for erection of Temporary seasonal structures such as Shacks/Huts/Tents/ structures in CRZ area in the Private Properties.

Background: The CRZ Notification 2011 provides for clause 8(V) 3 (iii) (Goa specific provision) for erection of purely temporary and seasonal structures customarily put up between the months of September to May. The GCZMA is the competent authority to grant permissions to such structures as envisaged in the Notification. An application bearing no. 03/2014 filed by Aleixo Pereira before the Hon'ble NGT, Pune (WZ) interalia sought to challenge the legality and propriety of the Tourism policy for erection of temporary seasonal structures, beach, shacks, huts 2013-

2016 (shack policy) more specifically the Para C Terms and conditions for erection of temporary structures in private properties. The application was disposed off by Hon'ble NGT vide order dated 17/12/2014 with a direction to GCZMA to study and assess the carrying capacity of different beaches in the state of Goa. Accordingly, Beach Carrying Capacity Report was prepared and submitted by National Centre for Sustainable Coastal Management (NCSCM) in respect of the beaches of Goa pertaining to erection of Temporary Seasonal structures in the CRZ area.

Now, GCZMA is in receipt of proposals for erection of temporary seasonal structures such as Shacks / Huts / Tents during the year 2017-18 from various project proponents / Applicants in the private properties at various locations in the State of Goa. All these applications were discussed in 160th, 161st, 162nd, 163rd, 167th, 168th GCZMA meeting respectively. The Authority in its 168th GCZMA meeting held on 24/01/2018 decided not to consider applications of applicants who have already built or were in the process of building Shacks / Huts / Tents during the inspections by the expert member of GCZMA. Further, the authority decided to direct such applicants who have already built or were in the process of erecting such Shacks / Huts / Tents to remove/dismantle the structures and submit compliance for further consideration. In case such applicants who had already built or were in the process of building such Shacks / Huts / Tents during inspection by this Authority failed to remove/dismantle such structures and report compliance. The concerned Deputy Collector/S.D.O to be directed to remove/ dismantle such structures by 15th March 2018 and recover the cost incurred from such applicants as land revenue and submit a compliance report to this Authority. Further, the authority had granted personal hearing to the applicants in its 171st GCZMA meeting held on 10/04/2018, wherein the Authority after hearing the applicants directed them to dismantle the structures and submit a compliance report. Accordingly, the applicants have dismantled the structures like Shacks / Huts / Tents and submitted the compliance report to the authority. The compliance reports were taken into consideration and all the applications were scrutinised and examined as per Beach Carrying capacity Report. The same is placed before the Authority for decision.

The said matter was deliberated during 179th GCZMA meeting held on 19/07/2018. Accordingly site inspections are conducted by Expert member (GCZMA) along with DSLR officials and submitted detailed reports which were placed before the Authority for deliberation and decision.

Application for erection of temporary seasonal structures in North Goa and South Goa is provided in the table annexed below as **(Annexure I and II)** respectively.

Decision: The Authority perused the list of proposals recommended by the expert members for grant of permission for erection of temporary seasonal structures in (Anjuna, Calangute, Candolim, Paliem, Querim) beach stretches in North Goa and (Benaulim, Cavelossim/Mobor, Cola, Nagarcem-Palolem, Varca, Velsao) beach stretches in South Goa including the areas recommended for respective applications based on the decision of the Authority in its 179th GCZMA meeting held on 19/07/2018. After detailed discussion and due deliberations, the Authority decided to grant provisional permissions for erection of temporary seasonal structures in North Goa and South Goa is provided in the table annexed below as (Annexure I and II) respectively for the period of 5 years or the lease period whichever is less subject to compliance of the CRZ Notification 2011 by imposing the following general and specific conditions:

1. The provisions of the CRZ Notification 2011, (as amended), should be strictly adhered to by you. No activity in contravention to the provisions of the CRZ Notifications shall be carried out.
2. The applicant shall take all requisite environmental safeguard to ensure that there would not be any environmental degradation in this area.
3. The traditional access, right of way, easement shall not be blocked by the applicant.
4. The proposed temporary seasonal structure should be made of wooden material and as per the recommendation of Beach Carrying Capacity report. No cement / concrete should be used for flooring. No structure of permanent nature shall be erected/constructed.
5. In the event of any change in the project profile, a fresh reference shall be made to the GCZMA.

6. The GCZMA may stipulate any additional conditions subsequently if deemed necessary, for environmental protection which shall be complied with.
7. The office of the GCZMA reserves the right to revoke this recommendation / clearance without prior intimation of non compliance of any one or more of the aforestated conditions.
8. You are required to obtain all the requisite permissions / licences / NOC etc from the competent Authorities before actual operation of the said temporary structure/ enabling activities. This NOC is issued without prejudice to any other permission as required under the law including that of ownership of the property, property dispute, easement rights, court case etc. As such, prior to the erection and operation of the aforementioned temporary seasonal structures, it will be incumbent upon the applicant to obtain all the requisite permission / NOC / licences etc from the Authorities / Departments for any other authority as required under the law including from the local authority, Goa State Pollution Control Board, Revenue Authority, Department of Tourism, etc.
9. Regular site inspections shall be carried by the team comprises of the Expert Members of the GCZMA and or other Authorities / Departments to ensure compliance of aforestated condition. In case of any non compliance of the terms and conditions stipulated above, the action as deemed fit including that of demolition of structure, disconnection of Power / Water supply will be taken.
10. The said structures should be one meter above the ground on stilts of wooden poles wherever possible. However the ground clearance should not be more than 1.5 m.
11. The applicant will not transfer by any mode his premises to any other person.
12. This permission stands automatically revoked in case of any illegal/unlawful/immoral acts done by the applicant/proponent and or agent, lawful power of attorney holder, authorized person, any person acting for on behalf of the applicant/proponent in the said structures.
13. Further this approval also shall stand automatically revoked in case of any standing order of court of law/tribunal, arbitrator, quasi-Judicial

authority etc. in force and suppressed by the applicant/proponent or otherwise.

14. All temporary structures shall maintain a standard buffer of a minimum of 3 m from adjacent huts/tents/cottages.
15. Appropriate use of renewable energy such as solar and wind energy to be used wherever possible.
16. Potable water requirement for domestic and tourist population has to be made available. The quality of water to be supplied should meet the national standard. Measures like rain water harvesting should also be encouraged to have access to clean and potable water.
17. Separate bins for different types of solid wastes (source segregation of solid wastes biodegradable and non bio-degradable) shall be provided by the operator. It will be the responsibility of the plot owner to dispose the waste generated from their plots to the respective bins. The Municipality/Village Panchayat or the contractor appointed by the Department of Tourism, as the case may be, shall collect waste from time to time and hand over the non- biodegradable waste to the Goa Waste Management Corporation. Solid waste to be transported to the solid Waste Management Facility at Calangute by the Village Panchayats in North Goa whereas in South Goa it will be responsibility of the owner/authorized representative to dispose the same by composting/biogas plant or to transport to the piggeries for the biodegradable waste.
18. In case the property on which these structures are permitted to be erected has several title holders any dispute/objection to this permission by any such title holder/holders, this permission shall stand revoked. This permission would be withdrawn in case an objection from owners regarding lease is filed before GCZMA. No hearing in the matter shall be allowed.
19. The validity of this permission is for 5 years from the date of issue or period of lease whichever is earlier. This permission should abide by the Notification dated 3rd May 2017 S.O 1393(E) issued by Ministry of Environment, Forests and Climate Change.
20. The applicant has to pay annual fee of Rs. 10000/- for shack and Rs. 10000/- for huts to GCZMA at the beginning of the tourist season

month of October every year during the validity of this NOC. The fee may be revised by GCZMA.

21. All the structures shall be of ground floor in nature.
22. For private plots abutting the beach, a minimum set back of 3 mts from the survey boundary shall be kept by the applicant.
23. You should not barricade the proposed site.
24. In case of lease, the permission is conditional on the period of lease only and on the consent of the land owner.
25. All the other conditions as mentioned in Beach Carrying Capacity report w.r.t. FAR, construction material, spacing between huts, consent to establish from SPCB etc. shall have to be followed by the applicant.
26. This permission is liable to be revoked, if it is found, at any stage, that the application contained false information / wrong plans / calculations / documents / misleading or false information, etc. or documents not submitted as called for in this application.
27. The applicant shall submit a revised plan for an area not exceeding the approved built up area within 3 weeks from the date of permission to the Authority.

The meeting ended with a vote of thanks to the chair.

Sd/-

(Ravi Jha, IAS)

Member Secretary, GCZMA

North GoaANNEXURE I

Taluka :- Bardez				Village: - Anjuna			
Sr.No.	Name of the Applicant	Sy. No.	Sub. Div No.	Applied for		Permissible area	Remarks
				Huts	Shacks		
1	Kedia Projects Pvt.Ltd.	133	1	15	1	900.00	Recommended
2	M/s Brothers Reality	213	15	16	1	512.58	Not Recommended as applicant has to submit contour map & specify exact no. of structures required.

Taluka :- Bardez				Village: -Calangute			
Sr.No	Name of the Applicant	Sy. No.	Sub. Div No.	Applied for		PERMISSIBLE AREA	Remarks
				Huts	Shack		
1	Rishi Dandona	160	1	10	0	316.67	Recommended

ANNEXURE –II SOUTH GOA

Taluka:-Salcete				Village:-Utorda/Majorda			
Sr.No.	Name of the Applicant	Sy. No.	Sub. Div No.	Applied For		PERMISSIBLE AREA	Remarks
				Hut	Shacks		
1	TriferdJ.Fernandes	54	3	0	1	26.45	Recommended
2	Rohan Menezes Braganca	48 & 47	1,2,4 & 7	2	1		NOC cannot be issued unless the NOC/Approval is submitted from the two managing Trustees
3	Manish Panchariya	65	1	11	1	337.94	Recommended
4	Cosmos Premises Pvt. Ltd.	49	1	0	1	58.14	Recommended

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Taluka Canacona				Village-Nagarcem-Palolem				
Sr.No	Name of the Applicant	Sy. No.	Sub. Div No.	Applied for			PERMISSIBLE AREA	Remarks
				Huts	Shacks	Tents		
1	Ramnath Yeshwant Komarpant	104	3	10	0	0	182.77	Recommended

TALUKA :- CANACONA				VILLAGE :- LOLIEM/POLEM				
Sr.No.	Name of the Applicant	Sy. No.	Sub. Div No.	Applied for		PERMISSIBLE AREA	Remarks	
				Huts	Shacks			
1	Laximan Raikar	306	3	5	1	333.33	Not Recommended (Complaint received from villagers)	
2	Laxman B. Raikar	312	1	5	1	416.67	Not Recommended (Complaint received from villagers)	

Taluka:-Salcete				Village:Colva/Sernabatim			
Sr.No	Name of the Applicant	Sy. No.	Sub. Div No.	Applied for		PERMISSIBLE AREA	Remarks
				Huts	Shacks		
1	Ligorina Fernandes	51	1	0	1	-----	Not Recommended (Complaint received from owner)
2	Patrick Fernandes	23	1	0	1	120.00	Recommended
3	Joao Antonio Fernandes	69	1	0	1	120.00	Recommended
4	Conceicas Piedade Vase Rodrigues	43	1A	0	1	120.00	Recommended
5	Ajmina D'Silva	69	1	0	1	-----	Not Recommended (Complaint received from owner)

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Taluka:-Canacona				Village:-Cola				
Sr.No	Name of the Applicant	Sy. No.	Sub. Div No.	Applied for			PERMISSIBLE AREA	Remarks
				Huts	Shacks	Tents		
1	Savio Messias	134	1	15	1	0	374.17	Recommended

Taluka :- Salcete				Village :- Betalbatim /Gonsua				
Sr.No.	Name of the Applicant	Sy. No.	Sub. Div No.	Applied for		PERMISSIBLE AREA	Remarks	
				Huts	Shacks			
1	Plaz Antonio Periará	8	11	0	1	120.00	Recommended	
2	Mario Pereira	8	6	0	1	124.17	Recommended	

Taluka:-Canacona				Village:-Agonda				
Sr.No.	Name of the Applicant	Sy. No.	Sub. Div No.	Total No. Of			PERMISSIBLE AREA	Remarks
				Huts	Shacks	Tents		
1	4	5	6	10				
				a	b	c		
1	Sulaksha Harmalkar	101	17	18	0	0	200.93	Recommended
2	Inacino Fernandes	102	1	14	1	---	-----	Recommended
3	Rima Sagar Bandekar	102	4	8	1	8	119.64	Recommended
4	Huzaiifa Morviwala	102	9	18	1	0	323.57	Recommended
5	Dattaraj Sawant	101	1 & 3	7	1	0	-----	Not Recommended structures present on date of inspection demolition order to

								be issued.
6	Ramesh Kumar Thapa	101	4	0	1	0	38.76	Recommended
7	Badal Naik Gaunkar	102	5	15	0	0	195.35	Recommended
8	Shoumirsh Parth C. Naik Dessai	101	4	12	0	0	111.63	Recommended
9	Narendranath Naik Gaunkar	101	20	12	1	0	207.60	Recommended
10	Rama Resort	101	1 & 3	22	2	0	314.34	Recommended
11	Pravesh Kankonkar	124	25, 26	10	1	0	-----	Not Recommended structures present on date of inspection demolition order to be issued.
12	Gaurav Bhagat	123	6	16	1	0	211.24	Recommended
13	Karan Grover	101	1-A & 3-A	8	2	0	87.21	Recommended

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14	Nilesh Gokuldas Pagi	118	8-A	10	0	0	113.69	Recommended
15	Kuldeep Narayan Devidas	101	21	18	1	0	247.44	Recommended
16	Aneesh Damodar Panikar	101	1 & 3	14	1	0	75.97	Recommended
17	Aneesh Damodar Panikar	123	16-A	12	1	0	68.99	Recommended
18	Dattajeet Gaunkar	124	1	10	1	0	-----	Not Recommended as site falls within HTL.
19	Netra Ashok Pagi	121	6	8	1	0	63.95	Recommended
20	Manveer Singh	123	24	2	1	0	70.05	Recommended
21	M/s White Sand	121	10	2	1	0	16.67	Recommended
22	M/s White Sand	120	4, 5 & 7	7	0	0	-----	Not Recommended as site is directly facing turtle nesting site. Objection from

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								Forest Department.
23	M/s White Sand	120	9	6	1	0	55.04	Recommended
24	Tanvi Vishwas Pagi	118	8-A	4	1	0	37.60	Recommended
25	Nilesh Gokuldas Pagi	118	8-E	30	1	0	373.64	Recommended
26	Sarvanand Kankonkar	123	3 & 4	16	1	0	159.69	Recommended
27	Cruz D 'costa	123	19	6	0	0	43.53	Recommended
28	Franky fernandes	118	8	11	1	0	93.30	Recommended
29	Pradeep Engineers	101	5	12	0	0	100.47	Recommended
30	Jojolapa Agonda	101	3	16	1			Not Recommended structures present on date of inspection

								demolition order to be issued.
31	Udhay Sudakar Dessai	118	8	5	1	0	141.09	Recommended
32	Sanjay Naik Gaonkar	121	13	5	1	0	48.06	Recommended
33	Sanjay Naik Gaonkar	121	2	2	0	0	31.01	Recommended
34	Dattajeet Naik Gaonkar	125	3 & 4	21	1	0	309.69	Recommended
35	Vijay Komarpant	102	1-A	6	1	0	55.13	Recommended
36	Remy Fernandes	118	23	5	2	0	155.04	Recommended
37	Rasiket S. Naik Gaonkar	118	23	5	1	0	116.28	Recommended
38	Gregorio Afonso	102	1	14	1	0	174.42	Recommended
39	Remy Fernandes	101	5	20	1	0	188.84	Recommended
40	Nilesh G. Pagi	121	15	4	1	0	42.25	Recommended
41	Mr. Shivkumar Raju Naik	124	8	8	1	0	128.51	Recommended

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42	Abul Kayad Shaikh	124	2	11	0	0	133.61	Recommended
43	Sunny Ramesh Bandekar	102	13	0	1	0	13.57	Recommended
44	Nitesh Gokuldas Pagi	100	8	8	0	0	55.81	Recommended
45	Prashant Kankonkar	120	26	11	0	0	116.28	Recommended
46	Uday Kashinath Pagui	120	3	8	0	0	65.12	Recommended
47	Uday S. Dessai	101	6	12	1	0	184.30	Recommended
48	Molin Fernandes	124	15	5	1	0	77.60	Recommended

IN THE COURT OF THE HON'BLE CIVIL JUDGE,

SENIOR DIVISION AT MARGAO-GOA

SPECIAL CIVIL SUIT NO. 62 OF 2024

Alchemist Asset Reconstruction Company Ltd. ...Plaintiff

Versus

Selso Fernandes & Ors. ...Defendants

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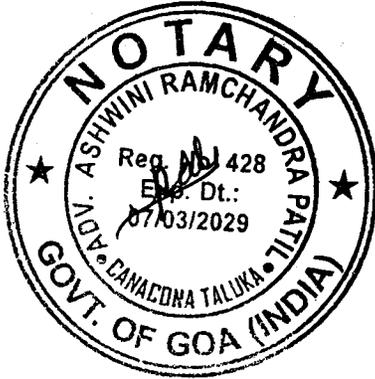
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Place: Margao, Goa

Date: 10.10.2024

Advocate for the Plaintiff

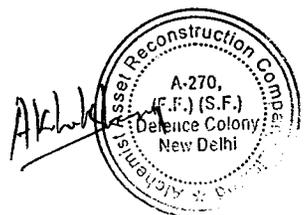


**IN THE COURT OF THE HON'BLE CIVIL JUDGE,
SENIOR DIVISION AT MARGAO-GOA**

SPECIAL CIVIL SUIT NO. _____ OF 2024

Alchemist Asset Reconstruction Company Ltd.

Being the sole trustee of Alchemist XVI & XXIX Trust



2

Having its Registered Office at A-270, Ist and IInd Floor,
Defence Colony, New Delhi – 110 024

Represented herein by its Authorised Officer

Mr. Akshat Sharma

Aged about 36 years

....Plaintiff

Versus

1. Selso Fernandes

S/o Late Mr. Pedro A. Fernandes

Aged about 60 years,

R/o House No. 439, Val Aframento Agonda,

Taluka Canacona, Goa - 403702

E-Mail: not known

2. Concecao Fernandes

W/o Mr. Selso Fernandes

Aged about 53 years,

R/o House No. 439, Val Aframento Agonda,

Taluka Canacona, Goa - 403702

E-Mail: not known



3. Dream Discovery Sea View Resort & Beach Café

Through Mr. Vijay Gokuldas Komarpant
aged about 50 years
At: 438 & 439, South End of the beach,

Val, Agonda, Goa – 403 702

E-Mail: not known

...Defendants

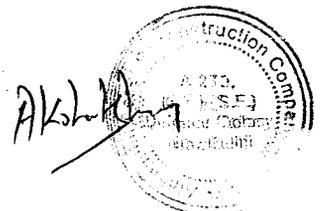


**SUIT FOR DECLARATORY RELIEFS
AND PERMANENT & MANDATORY
INJUNCTION UNDER SECTIONS 34, 38
& 39 OF THE SPECIFIC RELIEF ACT
1963 READ WITH SECTION 9 OF THE
CODE OF CIVIL PROCEDURE, 1908**

MAY IT PLEASE YOUR HONOUR:

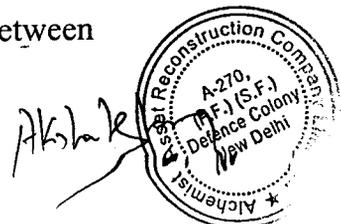
The Plaintiff above named most respectfully states and submits
as under:

1. The Plaintiff is filing the present suit *inter-alia* for a
decree of declaration that the Defendant Nos. 1 and 2 are



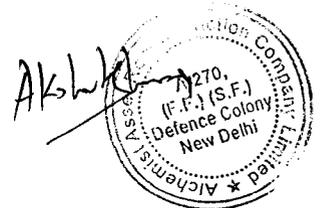
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not entitled to an area of land exceeding 50 sq. mtrs. in Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa. The Plaintiff is also filing the present suit seeking permanent and mandatory injunction to *inter-alia* restrain the Defendants, their legal representatives/ assignees/ successors-in-interest/ legal heirs/ servants/ agents/ staff/ employees and /or any other person acting for and on their behalf from further encroaching and/ or in any manner interfering with the Suit Property, including but not limited to erecting structures thereon, creating third party rights/ interests and also from carrying business therefrom. The Plaintiff is further seeking a declaration from this Hon'ble Court to declare that (i) the lease deed dated 12.09.2016; (not available with the Plaintiff) (ii) lease deed dated 23.09.2020 registered in Book-1 under No. CAN-1-118-2022 in the office of Sub-Registrar, Canacona, Goa, executed between Defendant Nos. 1 & 2 on one hand and Defendant No.3 on the other, and, (iii) the rectification of lease deed dated 23.09.2020 registered in Book-1 under No. CAN-1-119-2022 in the office of Sub-Registrar, Canacona, Goa, executed between



Defendant Nos. 1, 2 and 3, be all declared null and void and the originals of the same be directed to be delivered on to the Plaintiff to be forwarded to the office of the Sub-registrar of Canacona, Goa, for the relevant endorsement of nullity/ cancellation to be recorded against the said instrument registered in his books.

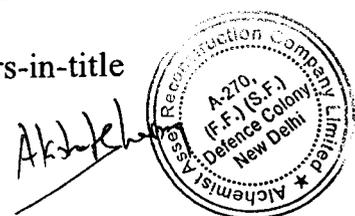
2. The Plaintiff submits that on the face of the documents pertaining to the present case, there is an evident conspiracy, collusion and fraud conducted between the Defendants whereby, by collusion, they have attempted to grab the land, which does not belong to them but is mortgaged to the Plaintiff, by going to the extent of creating questionable/fraudulent documents and, based thereon, creating third party rights in collusion and conspiracy with each other.
3. The Plaintiff submits that facts of the present case (as detailed in subsequent paras) would unequivocally reveal that, historically, one Ms. Maria Fernandes was entitled to an area not exceeding 50 sq. mtrs in Survey No. 100/10 in Village Agonda, Canacona, Goa being a part of Toddy



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tapper community. However, over the course of time, with great degree of manipulation and illegalities, the said area of 50 sq. mtrs. has been increased in different records of Panchayat and Goa Coastal Zona Management Authority (GCZMA) to an area of approx. 1160 sq. mtrs. by way of encroachment (on with about 3200 sq. mtrs. building has been constructed) with the *malafide* intent to grab and usurp land forming part of Survey No. 100/10 in Village Agonda. The Plaintiff submits that the said act has been done with clear motive of depriving the Plaintiff institution from recovering its dues and the Plaintiff reserves its rights to file appropriate complaint / First Information Report for such criminal actions and conduct.

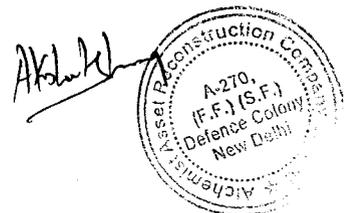
4. The Plaintiff is filing the present suit to protect its rights, title and interest over land admeasuring 5300 sq. mtrs. in Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa (hereinafter referred to as the "Suit Property"), being a part of the larger property defined in Para 5 hereinbelow, which rights, title and interest were confirmed in favour of the Plaintiff's predecessors-in-title





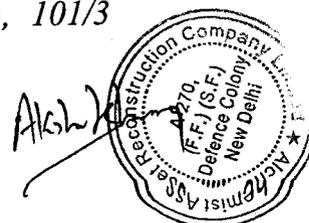
by order dated 06.05.2011 passed by DRT-II, Mumbai in OA No. 224 of 2002 and OA No. 33 of 2011 originally filed as CS No. 2654 of 1990 filed before the Hon'ble Bombay High Court, which has attained finality upon disposal of the DRAT Appeal Nos. 23/12 and 68/13, and which are now vested in favour of the Plaintiff herein in pursuance of registered deeds of assignment dated 13.10.2014, 26.02.2016 & 24.03.2017. It is pertinent to mention that a Court Receiver was appointed in Civil Suit No. 2654/ 1990 before the Hon'ble High Court of Bombay *vide* orders 08.07.1991 and 24.07.1991, who was directed to take physical possession of the mortgaged property and accordingly, the Court Receiver took over physical possession of the entire larger property on 09.08.1991. As such the larger property including, the Suit Property, became "*custodia legis*" in the year 1991.

5. The Plaintiff states that, by virtue of the said deeds of assignment, it is the exclusive charge holder and the sole assignee of the mortgage rights over the entire assets, moveable as well as immovable, of 'Dugal Projects



Development Company Private Limited' (DPDCL) (earlier known as 'Elbee Dugal Engineering Company Private Limited' / 'EDECPL') including the property comprising 70 survey numbers (including survey no. 100/10) situated at Village Agonda, Canacona, Goa (hereinafter referred to as "the larger property") admeasuring 3,58,814 sq. mtrs. (approx. 90 acres of land), the details whereof are as under:

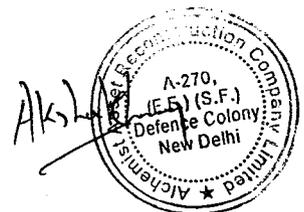
*All pieces and parcels of land admeasuring about 3,58,814 sq. metres. situated at Village Agonda, Taluq Canacona, Goa, having 70 survey nos. viz. 93/1 (part), 93/2 (part), 94/1, 95/3, 95/8 (part), 95/10, 95/13, 95/16, 96/3, 96/4, 96/5, 96/6, 96/7 (part), 96/8, 96/12, 96/14, 96/15, 96/16, 96/17, 96/18, 96/19, 96/20, 96/21, 96/22, 97/7 (part), 97/8, 98/1, 98/2, 98/3, 98/4, 98/6, 98/7, 99/4, 99/5, 100/1, 100/3, 100/5, 100/6, 100/8, 100/9, **100/10 (part)**, 100/11, 100/12, 100/13, 100/14, 100/15, 100/16, 100/17, 101/1 (part), 101/3*



(part), 101/6, 101/7, 101/8, 101/9, 101/14,
 101/15, 101/16, 101/17, 101/18, 101/19,
 101/20, 101/21, 101/22, 101/23, 101/24, 102/1
 (part), 102/3 (part), 102/6, 102/7 & 105/4
 (part)



6. The Plaintiff states that it is the sole assignee of the consortium of banks which held mortgage rights over the larger property comprising various survey numbers, including land measuring 5300 sq. mtrs. under Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa. The present suit concerns only that portion of Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa, measuring 5300 sq. mtrs., which area is owned by EDECPL (now known as DPDCL) and mortgaged exclusively with the Plaintiff, a part of which area has been illegally and unlawfully occupied / usurped by the Defendants by way of collusion between the parties. None of the other survey numbers mentioned in Para 5 above are relevant to the reliefs sought in the present suit.



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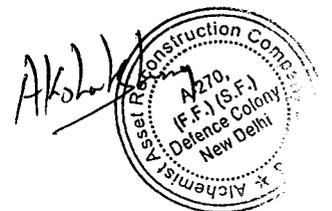
7. The Plaintiff states that the suit property concerning the present suit is the property admeasuring 5300 sq. mtrs., out of the total land admeasuring 5350 sq. mtrs., surveyed under Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa, which has been acquired by EDECPL (now known as DPDCL) *vide* registered Sale Deed No. 142/82 dated 28.06.1982 and stands mortgaged exclusively to the Plaintiff. The total area of the Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa, has been clearly mentioned in the relevant Form I & XIV pertaining to the said survey number as 5350 sq. mtrs. and the said survey number is neither demarcated nor partitioned till date.
8. The Plaintiff submits that the Defendant No. 1 claims to be a son of Late Ms. Maria Fernandes, whose name appears in the other rights column on the concerned Form I & XIV relating to the suit property herein. The Defendant No. 2 is the wife of the Defendant No. 1. The Defendant No. 3 is the purported Lessee of the Defendant Nos. 1 and 2 who is illegally running and operating a full-fledged commercial resort on the suit property in the name



and style of "Dream Discovery Sea View Resort & Beach Café".



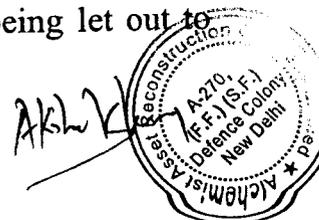
9. The Plaintiff asserts that the Defendant Nos. 1 & 2 have inherited rights to only upto 50 sq. mtrs. belonging to Ms. Maria Fernandes (mother of Defendant No. 1) in Survey No. 100/10 in Village Agonda, Canacona, Goa, as would be evident from a perusal of Form I & XIV of the said Survey No. 100/10. The area of the house belonging to Defendant No. 1's mother could not have been more than 50 sq. mtrs. since an area admeasuring 5300 sq. mtrs. out of the total area of 5350 sq. mtrs. comprising Survey No. 100/10 was sold by the owners of this land namely Janaki Devappa Dessai, Mohan Kashinath Raut Dessai, Kalpana Mohan Raut Dessai, Kum. Vismaya Vassantrai Aigal & Shri Vinodkumar Vassantrai Aigal to EDECPL (now known as DPDCL) in the year 1982 by way of a registered Sale Deed No. 142/82 dated 28.06.1982, which sale deed has remained unchallenged till date. The area of the said house has been sought to be enlarged, over a period of time despite the suit property having become



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custodia legis and more particularly since 2016, by the said Defendant Nos. 1 and 2 by entering into lease deeds dated 2016 and 2020 with the Defendant No. 3, i.e. the purported lessee of the Defendant Nos. 1 and 2, in a conspiratorial connivance with each other, in the form of continual land grabbing, with the *malafide* intention to usurp the Suit Property, details whereof have been elaborated in the paragraphs below.

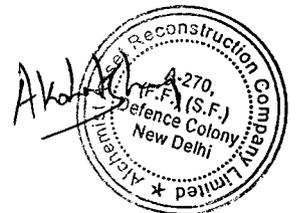
10. The Plaintiff states that the Defendant No. 3 is a purported lessee of the Defendant Nos. 1 and 2 and has erected illegal structures on the suit property and is conducting business of a hotel & resort in the name and style of '*Dream Discovery Sea View Resort & Beach Café*'.
11. The Plaintiff states that it was for the first time in the month of June, 2022, that the Plaintiff noticed a huge structure on the beachfront side on the suit property. The beach front structure houses a full-fledged Bar and Restaurant, in the name and style of "*Dream Discovery Beach Café*" with multiple levels and alongside the said structure was open area with beach beds being let out to





tourists. Behind the said beachfront structure were additional structures, which at the first instance were not clearly visible from the beach side. The said structures are all permanent structures constructed using RCC slabs and cement base. The said illegal structures have also encroached portion of the beach by construction of permanent cemented and tiled platform and steps. The structures were enclosed by construction of permanent compound wall using RCC and laterite stones, on the periphery of the suit property.

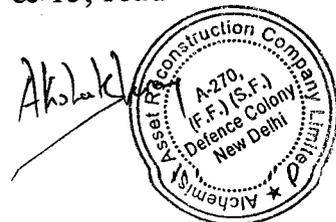
12. The Plaintiff states that upon making enquires, it came to the knowledge of the Plaintiff that the Defendant No. 1 was issued a letter dated 04.04.2017 bearing Ref No. GCZMA/S/16-17/69/34 by the Goa Coastal Zone Management Authority (GCZMA) conveying permission for reconstruction of House bearing No. 439, located in the Suit property, not exceeding the existing plinth area, the existing FAR and the existing density. A similar letter also dated 04.04.2017 bearing Ref. No. GCZMA/S/16-17/70/35 was issued for yet another house bearing No.



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438, located in the Suit property. These permissions were given on the basis of the decisions taken by the GCZMA in its 144th Meeting held on 21.03.2017. Upon a perusal of the minutes of the said meeting of the GCZMA, it was found that the existing plinth area of House No. 439 was shown as 193.48 sq. mtrs. and that of House No. 438, as 217.60 sq. mtrs.

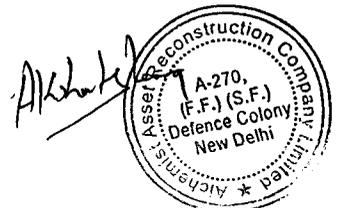
13. The Plaintiff submits that it immediately complained to the GCZMA *vide* letter dated 08.06.2022 informing the said office about the illegal and unauthorized construction carried out in the suit property. However, the GCZMA took no action in the matter and failed to issue any “*stop work order*” or any show cause notice to any of the Defendants. The same clearly spelt out complete abdication of responsibility on the part of GCZMA, besides collusion, and/ or complicity, between the GCZMA and the Defendant No. 3 herein.
14. The Plaintiff states that thereafter, it filed before the Hon'ble NGT, Western Bench at Pune, an Original Application No. 15 of 2023 under Sections 14 & 15, read





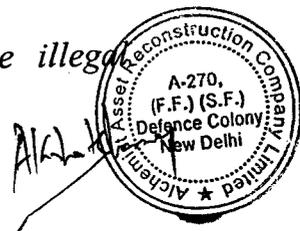
with Section 18 of the National Green Tribunal Act, 2016 raising various serious environmental issues breached by the Defendants herein (who were Respondent Nos. 2, 3 & 4 respectively in the said Original Application before the NGT) seeking *inter-alia* the following reliefs:

- a. *For an order setting aside the permissions granted by the Respondent No. 1 in favour of the Respondent No. 2 with respect to the demised property i.e. property bearing Survey No. 100/10 situated in Village Agonda, Canacona Taluka, Goa;*
- b. *For an order or direction directing the Respondent No. 1 to forthwith take appropriate action to demolish all the illegal constructions /development of the Resort, Bar and Restaurant/resort and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café" in the survey No. 100/10 of Agonda Village, Goa, undertaken by the Respondent No. 2 and to have the said area*



restored to its original condition.

- c. *For an order or direction, directing the Respondent No. 1 to forthwith take steps to stop commercial operation of the illegal Bar and Restaurant/resort and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café", in the said property bearing survey No. 100/10 of Agonda Village, Goa undertaken by the Respondent No. 2.*
- d. *For an order or direction directing the Respondent Nos. 2, 3 and 4 to stop all/any commercial operation of the illegal Resort, cum Bar and Restaurant/resort and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café", in the said property bearing survey No. 100/10 of Agonda Village, Goa.*
- e. *For an order or direction of levy of penalty on the Respondent No. 2 for illegally deriving income from the commercial operation of the illegal*

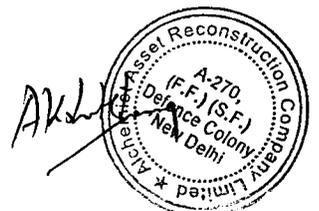




Resort, Bar and Restaurant/ and beach beds operating under the name and style of "Dream Discovery Sea View Resort & Beach Café", in the said property bearing survey No. 100/10 of Agonda Village, Goa, by cutting sand dunes, natural vegetation and levelling and ground filling of the said area and constructing permanent structure using RCC, Concrete base, pre-fabricated steel structures.

15. The Plaintiff states that in the said matter, noticing the fact that there existed a substantial question relating to environment, the Hon'ble NGT *vide* order dated 21.02.2023 admitted the said application and *inter-alia* directed to call for a report on the matter in issue from a Joint Committee comprising one member each of:-

- (i) The Goa Coastal Zone Management Authority (GCZMA),
- (ii) The Goa State Pollution Control Board (GSPCB) &





unambiguously demonstrate the extent of encroachment caused by the Defendants.

The Plaintiff submits that without prejudice to the above, the Joint Site Inspection Report prepared under the directions of the Hon'ble NGT unequivocally confirms that the Defendants are presently in occupation of a much larger built-up area (about 1160 sq. mtrs. as would be shown in subsequent paragraphs), under the garb of two permanent houses and some temporary structures, which is a blatant act of land grabbing and encroachment.

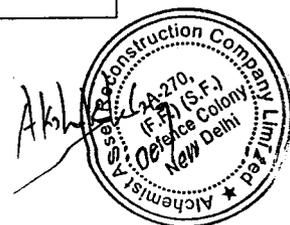
20. The Plaintiff submits that the Joint Inspection Report has relied *inter alia* upon the following documents:

- i) No Objection Certificate dated 09.05.1984 issued by the Village Panchayat, Agonda for repair and renovation of House No. 438 showing its existing plinth area as 338 sq. mtrs.; (which document has surfaced in the year 2023 when it was produced before the Joint Inspection Committee formed by GCZMA and seems to be forged)



- ii) No Objection Certificate dated 30.03.1985 issued by the Village Panchayat, Agonda for repair and renovation of House No. 439 showing its plinth area as 465 sq. mtrs. and a wooden structure measuring 250 sq. mtrs.; (which document has surfaced in the year 2023 when it was produced before the Joint Inspection Committee formed by GCZMA and seems to be forged)
- iii) GCZMA approval bearing Ref. No. GCZMA/S/16-17/70/35 dated 04.04.2017 for reconstruction of existing H. No. 438 in Survey No. 100/10 as per the existing plinth area and FAR;
- iv) GCZMA approval bearing Ref. No. GCZMA/S/16-17/69/24 dated 04.04.2017 for reconstruction of existing H. No. 439 in Survey No. 100/10 as per the existing plinth area and FAR;
- v) A site plan prepared by the Inspector of Survey and Land Records, Canacona, Goa (ISLR) showing the structures on the said Survey No. 100/10 as follows:

Area of Structure 'A' as per	:	47.00 sq.
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Survey Plan		mtrs.
Area of Structure 'B' as per Survey Plan	:	32.00 sq. mtrs.
Area of RCC Structure 'A' (House No. 438 as per Joint Site Inspection Report)	:	338 sq. mtrs.
Area of RCC Structure 'B' (House No. 439 as per Joint Site Inspection Report)	:	462 sq. mtrs.
GI Tube / Pipe Shed	:	108 sq. mtrs.
Wooden Shed	:	252 sq. mtrs.

Thus, as per Survey Plan, the total area of structures 'A' & 'B' should have been 79 sq. mts. whereas, on ground the total area of the said structures was found to be 800 sq. mts. In addition, two sheds measuring 360 sq. mts were also found on the ground.

21. The Plaintiff, further submits that while Defendant Nos. 1 & 2 have inherited right to occupy an area of not more than 50 sq. mtrs. of land in Survey No. 100/10 by way of a

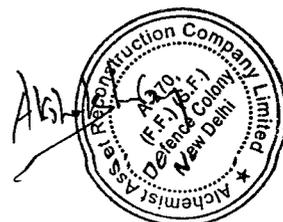


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house, the Survey Plan shows two houses viz. H. No. 438 measuring 47 sq. mtrs. and H. No. 439 measuring 32 sq. mtrs. The site plan further shows that the actual area under the occupation of the Defendants is 1160 sq. mtrs. (338+462+108+252 sq. mtrs.).



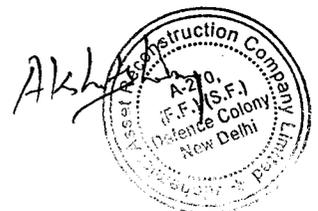
22. A perusal of the said documents reveals a pattern of illegal occupation of land under Survey No. 100/10 by the Defendant No. 1 and 2 over the years, its fraudulent legitimization through the NoCs issued by the office of Village Panchayat and the approvals issued by the GCZMA, and the follow up act of leasing the said usurped land to Defendant No. 3. Pertinent to add that neither the Village Panchayat nor the GCZMA have any authority to determine the legality of occupation of land by the Defendants, yet certificates and permissions issued by them are being misused by the Defendants to claim ownership over a portion of the Suit Property.
23. For the ready and kind perusal of this Hon'ble Court, a chart showing the evolution of occupation of the Defendants in Survey No. 100/10, being manifestly more



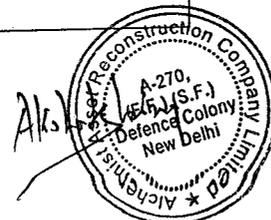
than both the legally permissible area as well as the sanctioned plinth area as per GCZMA approvals (though the Defendant Nos. 1 & 2 had no right and title to occupy the said plinth areas), is given below:

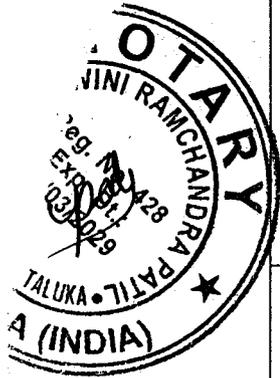


S. NO.	PARTICULAR S	AREA IN SQ. MTRS.	REMARK S
1.	Area of inherited land legally available to the Defendant Nos. 1 and 2 in Sy. No. 100/10	50	House as per Form I & XIV.
2.	Area shown in the ISLR Survey Plan	Structure A – 47.00 Structure B – 32.00 ----- Total – 79.00	Two Structures as per ISLR Site Plan enclosed with the Joint Site Inspection

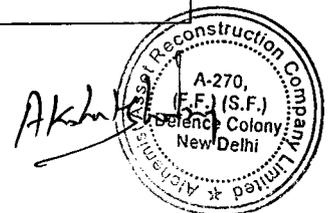


			Report dated 10.04.2023.
3.	Area of land for which NoCs are stated to have been issued by the Office of Village Panchayat, Agonda, in the year 1984 & 1985 (which document has surfaced in the year 2023 when it was produced before the Joint Inspection Committee	<ul style="list-style-type: none"> • H. No. 438 (Structure 'A' as per Joint Site Inspection Report) - 338 • H. No. 439 (Structure 'B' as per Joint Site Inspection Report) - 465 • Wooden structure in H No. 439 - 250 <hr/> <p style="text-align: center;">Total - 1053</p>	Survey Number not mentioned in the NOCs.





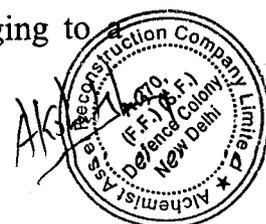
	formed by GCZMA and seems to be forged)		
4. (a)	Plinth area of houses as per Site Inspection Report of Expert Member of	• H. No. 438 – 217.60 (existing plinth – 217.60)	As per the Minutes of the 144 th GCZMA meeting
4. (b)	GCZMA. Area of land for which permission was granted to Defendant No 1 by the Office of GCZMA in the year 2017	• H. No. 439 – 193.48 (existing plinth – 193.48) ----- -- Total – 411.08	held on 21.03.2017.
5.	Area of land	• Structure A – 338	



<p>actually constructed upon by Defendants (as evident from Joint Site Inspection Report dated 14.03.2023)</p>	<ul style="list-style-type: none"> • Structure B – 462 • Structure C – 108 • Wooden Shed – 252 <p>=====</p> <p>=</p> <p>TOTAL - 1160</p>	
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24. That, during the pendency of the OA/15/2023 before the Hon'ble National Green Tribunal, the Plaintiff had also applied for and sought information from the office of GCZMA under the Right to Information Act relating to the permissions granted in Sy. No. 100/10 of Village Agonda, Canacona, Goa, *vide* application dated 23.05.2023. The GCZMA thereafter responded to the said request of the Plaintiff with providing information as available in their records *vide* their response dated 13.06.2023. On a perusal of the said records, it is apposite to note that the permission was applied for by the Defendant No. 1 on the strength of him belonging to



toddy tapper community and the areas for which the permission was granted by the GCZMA *vide* their permissions dated 04.04.2017 (now set aside) were for the following areas:



Area as per GCZMA permissions dated 04.04.2017:	
(i) Plinth area found on ground by the Expert Member of GCZMA during site inspection and the plinth area sanctioned by GCZMA <i>vide</i> permission dated 04.04.2017 for H. No. 438;	217.60 sq. mtrs. of plinth area
(ii) Plinth area found on ground by the Expert Member of GCZMA during site inspection and the plinth area sanctioned by GCZMA <i>vide</i> permission dated 04.04.2017	193.48 sq. mtrs. of plinth area

	Total: 411.08 Sq. mts.



for H. No. 439	
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25. The Plaintiff submits that it had also filed before the Hon'ble NGT images as obtained/ downloaded by it from the website of Google Earth specifically evidencing the extent of illegal construction/ over-occupation of the land under Sy. No. 100/10 of Village Agonda, Canacona, Goa from the year 2002 onwards.
26. The Plaintiff submits that the abovementioned OA/15/2023 came to be adjudicated by the Hon'ble NGT *vide* final order/ judgment dated 03.01.2024 wherein the Hon'ble NGT *inter-alia* held as under:

"67.we are of the view that the permission which has been granted on 04.04.2017 needs to be set aside and respondent No.1 needs to be directed to consider all these aspects afresh and if it comes to the conclusion that there is any illegal structure in the light of the provisions cited above, the same would be ordered to be demolished by it. We direct that this exercise shall be completed by



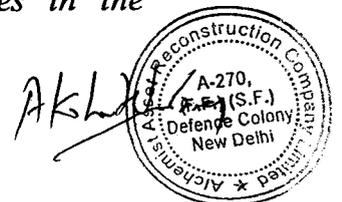


respondent No.1 – GCZMA within a period of three months from the date of uploading of this order. We decide Issue Nos. (iii) and (iv) accordingly.

68. In the result, this Original Application is partly allowed. The impugned permission dated 04.04.2017 is set aside, with the above direction to respondent No.1 - GCZMA.”

27. Thereafter, it is an admitted fact that Defendant Nos. 1 and 2 herein have challenged the judgment dated 03.01.2024 passed by the Hon’ble NGT in OA/15/2023(W) before the Hon’ble Supreme Court by way of a Civil Appeal No. 553 of 2024 titled “*Selso Fernandes Vs. Alchemist Asset Reconstruction Company Ltd. & Ors.*” wherein *vide* order dated 22.01.2024 the Hon’ble Supreme Court *inter-alia* passed the following directions:

“Till the next date of hearing, there will be stay of demolition of the property in question. However, the appellants and their assignees/purchasers will not carry out any commercial activities in the

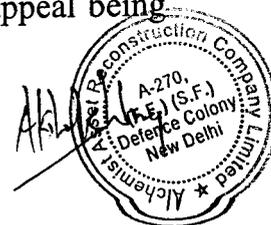


property in question. The said direction, if not adhered to/complied, may result in vacation of the interim order passed today.

The directions with regard to remand have not been stayed. The order passed would be placed on record."



28. The Plaintiff submits that while the above-mentioned civil appeal is pending adjudication before the Hon'ble Supreme Court, in terms of the directions passed, the GCZMA passed an order dated 13.05.2024 *inter-alia* ordering for a part demolition of the structures erected by Defendant Nos. 1 and 2 in the suit property. Pertinent to add that while ordering for part demolition of structures the GCZMA did not identify/specify portions of structures to be demolished.
29. The Plaintiff submits that in order to independently safeguard its legal rights and contentions, the Plaintiff herein has filed before the Hon'ble NGT an appeal being



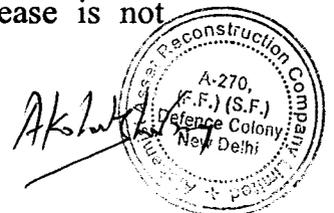
Appeal No. 144 of 2024 (WZ) challenging the said order dated 13.05.2024, which is pending adjudication as on date.



30. In view of the above, the present suit is being filed without prejudice to the grounds on which the Civil Appeal No. 553 of 2024 will be defended by the Plaintiff herein before the Hon'ble Supreme Court, and/ or without prejudice to the grounds on which the Appeal No. 144 of 2024 (WZ) will be pressed by the Plaintiff before the Hon'ble NGT.

31. The Plaintiff submits that it will rely, before this Hon'ble Court, upon the records and proceedings of the OA/15/2023, Appeal No. 144 of 2024 (WZ) before the Hon'ble NGT, and, Civil Appeal No. 553 of 2024 before the Hon'ble Supreme Court at appropriate stage, and, as and when relevant.

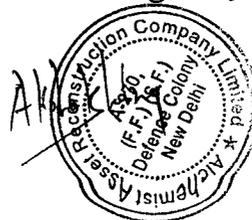
32. The Plaintiff submits that records of the present case reveal that the Defendant Nos. 1 and 2 in the capacity of being lessors executed a lease deed dated 12.09.2016 in favour of the Defendant No. 3. The said lease is not

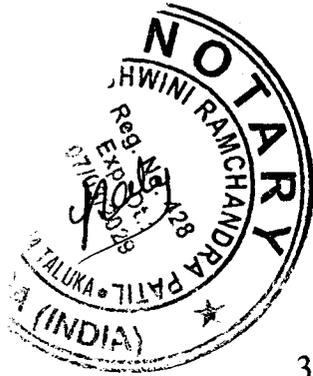


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available with the Plaintiff, however, the Plaintiff has in its possession a copy of the registered lease deed dated 23.09.2020, and the rectification deed dated 23.09.2020, executed between the Defendants. The Plaintiff submits that in the lease deed dated 23.09.2020, the area of House Nos. 438 and 439 have been mentioned as 193 sq. mtrs. each, alongwith a well between the two houses of 100 sq. mtrs. (Total: 486 sq. mtrs.). The Plaintiff submits that since the Defendant Nos. 1 and 2 are legally entitled to only 50 sq. mtrs. in Survey No. 100/10, and without admitting, not more than 79 sq. mtrs. in any case (as per ISLR map), the lease of any area in excess of the same in Survey No. 100/10 is not only fraudulent, but is also mischievous, *malafide* and illegal. Moreover, the illegal occupation of Defendants on the beachfront side of the property is also specifically disputed as the said survey is neither divisioned nor partitioned till date.

33. The Plaintiff submits that the Defendants have been interfering with the Suit property and encroached upon an area much greater than the area they are/ were originally



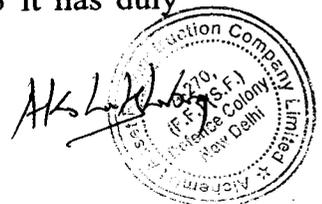


entitled to. Moreover, the Defendant Nos. 1, 2 & 3 have entered into fraudulent unscrupulous lease deeds dated 12.09.2016 and 23.09.2020 and the said deeds are being used to create further encumbrances and encroachments on the suit property.

34. The Plaintiff states that, before proceeding further, the relevant background, material facts and circumstances which impel the Plaintiff to approach this Hon'ble Court are set out herein below.

BACKGROUND OF THE CASE AND THE *LOCUS STANDI* OF THE PLAINTIFF:-

35. The Plaintiff states that the Plaintiff herein is a financial institution, more specifically an asset reconstruction company in terms of Section 3 of the SARFAESI Act, 2002. The Plaintiff is filing the present suit being an asset reconstruction company and also as a Sole Trustee of the 'Alchemist – XVI & XXIX Trusts', *inter-alia* created for the purpose of securitization of the assets, portions of which are subject matter of the present suit. The Plaintiff states that by its resolution dated 06.12.2023 it has duly



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authorized Mr. Akshat Sharma to file the present suit and to sign and verify the pleadings for and on its behalf.

36. The Plaintiff states that the Plaintiff Company was incorporated on 19.09.2002 under the name and style of '*Dhir & Dhir Asset Reconstruction & Securitization Company Limited*'. On 15.03.2007 a certification of registration was issued in favour of the Plaintiff by the Reserve Bank of India under Section 3 of the SARFAESI Act, 2002. Thereafter, the name of Plaintiff Company stood changed from '*Dhir & Dhir Asset Reconstruction & Securitization Company Limited*' to '*Alchemist Asset Reconstruction Company Limited*' on 25.08.2009, and consequently, on 16.12.2009 a certification of registration was issued in favour of the Plaintiff (in its new name) by the Reserve Bank of India under Section 3 of The SARFAESI Act, 2002.

37. The Plaintiff states that the '*Alchemist - XVI & XXIX Trust*' is the exclusive charge holder and the sole mortgagee over the entire assets, moveable as well as immovable, of EDECPL (now known as DPDCL)

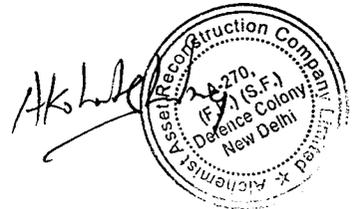




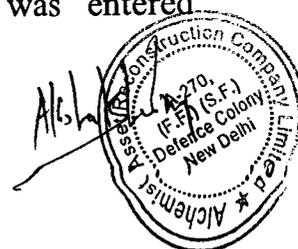
including the larger property comprising 70 survey numbers situated at Village Agonda, Canacona, Goa (hereinafter referred to as "the larger property") admeasuring 3,58,814 sq. mtrs. (approx. 90 acres of land). The details of the said immovable property with reference to the Survey numbers, which are owned by DPDCL, the original title documents whereof are now in the possession of the Plaintiff, and the physical possession whereof is with the Resolution Professional, are already given in para 5 above.

38. The Plaintiff states that the relevant background facts, which are borne out from the official records, show and establish as under:

- a. That, the larger property described above was purchased by various deeds of sale by a company namely 'Elbee Duggal Engineering Company Pvt. Ltd., which was subsequently renamed as 'Dugal Projects Development Company Pvt. Ltd.' (DPDCL).



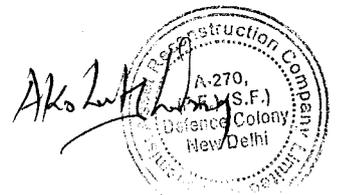
- b. The Plaintiff states that DPDCL as the owner of the larger property executed a lease deed dated 25.11.1987 with one SIMA Hotels Private limited (SHRL) for a period of 98 years, whereby SHRL was put in possession of the larger property.
- c. The Plaintiff states that the records show that SHRL had proposed to construct a five-star hotel on the larger property and had applied for financial assistance from a Consortium of Banks namely IFCI, IDBI and ICICI (predecessors in title of the Plaintiff) and DPDCL was a Corporate Guarantor for the said loans.
- d. The Plaintiff states that the records show that one of the several terms on which financial assistance was agreed to be given to SHRL was that all present and future moveable and immovable properties of DPDCL and SHRL would stand mortgaged to the Financial Institutions (Original Lenders).
- e. The Plaintiff states that the records also show that a loan agreement dated 04.11.1987 was entered





between the above-mentioned Original Lenders and SHRL as the Principal Borrower. In the said agreement, 'Dugal Projects Development Company Private Limited' (DPDCL) was arrayed as a Corporate Guarantor, guaranteeing the loans.

- f. The records show that on 30.06.1988 original title deeds of the aforementioned larger property (*inter-alia* including the Suit Property) were deposited with the Original Lenders by DPDCL creating an equitable mortgage by deposit of title deeds.
- g. The Plaintiff states that the records show that due to default in the repayment of the loan as agreed, the Original Lenders (*viz.* IDBI, IFCI & ICICI) aforementioned, filed a joint suit for recovery of Rs. 6,04,77,858.50 along with interest before the Hon'ble High Court of Bombay (Principal Seat) being Civil Suit No.2654 of 1990 against the Principal Borrower (SHRL), Corporate Guarantor (DPDCL) as well as personal Guarantors.

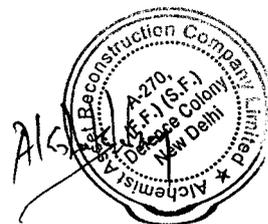


- h. The Original Lenders/ Plaintiff in Civil Suit No. 2654/1990 had *inter-alia* sought for appointment of a Court receiver in respect of the larger property. The relevant prayer in Civil Suit No. 2654/1990 is quoted herein under:

“h) that pending the hearing and final disposal of the suit, the Court Receiver, High Court, Bombay or some other fit and proper person be appointed receiver of:-

i) the said moveable properties mentioned in Exhibit ‘I’ hereto, and

ii) the said immovable properties mentioned in Exhibit ‘M’ hereto with all powers under Order 40 Rule 1 of Code of Civil Procedure, 1908, with power to take possession thereof and to sell by public auction and/or by private treaty and/or realise and appropriate the net sale proceeds thereof in or towards repayment of the Plaintiff claim in suit;”





- i. The Plaintiff states that the records show that *vide* order dated 08.07.1991 the Hon'ble High Court, appointed a Court Receiver directing as follows:

"3. Receiver to make an inventory and take symbolic possession of the assets forthwith.

4. Receiver not to take physical possession of the assets if the defendants or any of them deposit in Court a sum of Rs. 50 lacs on or before 30th September 1991 and a sum of Rs. 25 lacs every quarter thereafter, the first of such deposit on or before 30th December 1991 and the subsequent deposits on or before the 30th of each succeeding quarter. In the event of the defendants committing a single default, the Court Receiver to take physical possession of the assets.

5. The defendant no. 6 is also restrained from taking any steps in respect of the



leasehold land mortgaged to the Plaintiff so as to deprive the security of the Plaintiff without leave of the Court.”

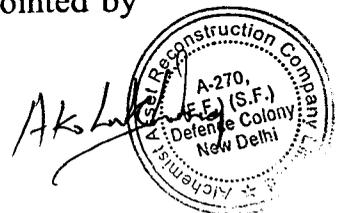


- j. The Plaintiff states that the records show that by further order dated 24.07.1991 passed by the Hon'ble High Court, the Court Receiver was directed to take physical possession of the mortgaged properties and accordingly the Court Receiver took over physical possession of the entire larger property, (which includes the undivided and un-partitioned portion of Survey No. 100/10 (part), from DPDCL and SHRL on 09.08.1991). The said order came to be passed in the background that the security guards formerly employed by the Duggal group were not willing to look after the assets, and the said position was not controverted by the any of the Defendants to the said Civil Suit No. 2654/1990.





- k. The Plaintiff states that on and from the date of the appointment of the Court Receiver, the entire larger property including the Suit Property became *custodia legis*.
- l. The Plaintiff states that during the pendency of the said CS No. 2654 of 1990, the Recovery of Debts Due to Banks and Financial Institution Act, 1993 (RDDBFI Act), having come into force, the said Civil Suit bearing CS No. 2654 of 1990 came to be transferred to the DRT in the year 2002 and was re-numbered as OA No.224 of 2002.
- m. In the meanwhile, Asset Reconstruction Company of India Limited (ARCIL) took over the debt of ICICI by way of Assignment of Debt on 30.06.2004 under Section 5 of SARFAESI Act and thereafter, being an assignee of ICICI filed its separate OA No. 33/2011 before the DRT.
- n. The Plaintiff states that the records show that even after the transfer of the said Suit No. 2654/1990 to the DRT, the Official Court Receiver appointed by



the Hon'ble High Court continued as the receiver of the larger property including the suit property.

- o. The Plaintiff states that by a common judgement and decree dated 06.05.2011, passed by DRT-II, Mumbai, the OA No. 224/2002 (earlier CS No. 2654 of 1990) as well as OA No. 33/2011 came to be decided in favour of the original lenders. The DRAT Appeals bearing Nos. 164/11 and 166/11, and the Appeal No. 68/2013 filed by the Corporate Guarantor i.e. 'Dugal Projects Development Co. Pvt. Ltd.' (DPDCL) were dismissed by the Hon'ble Debts Recovery Appellate Tribunal at Mumbai (Hon'ble DRAT) on 28.10.2015, and the other Appeal No. 23/13 filed by DPDCL was dismissed by the Hon'ble DRAT on 04.02.2017. Thus, the Judgment and Decree dated 06.05.2011 passed by the DRT attained finality *inter se* the original lenders and the Principal Borrower and the Corporate Guarantor.





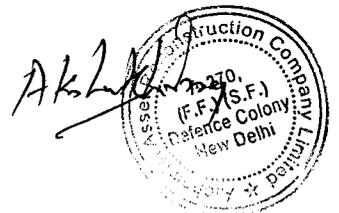
p. The Plaintiff states that thereafter Recovery Certificates No. 187/2011 and 14/2013 were issued in favour of the Original Lenders/ predecessors of the Plaintiff herein, which are pending and the dues of the Plaintiff have not been satisfied as on date.

q. The Plaintiff states that all the rights of the original lenders were assigned in favour of the Plaintiff herein by virtue of the following agreements of assignments;

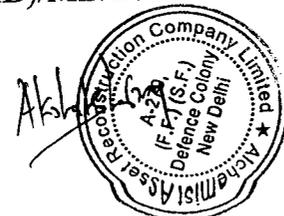
i) By assignment agreement dated 13.10.2014, IFCI assigned all its rights, title and interest to the Plaintiff.

ii) By assignment agreement dated 30.06.2004, ICICI assigned its rights to ARCIL. Thereafter, ARCIL by an assignment agreement dated 26.02.2016 assigned all its rights, title and interest to the Plaintiff.

iii) By assignment agreement dated 24.03.2017, IDBI assigned all its rights, title and interest to the Plaintiff.



- r. The Plaintiff states that by virtue of the aforesaid Agreements of Assignment dated 13.10.2014, 26.02.2016 & 24.03.2017, the rights of the Original Lenders came to be assigned in favour of the Plaintiff and the Plaintiff became the sole and exclusive charge holder/ mortgagee of the entire assets owned by DPDCL. The Plaintiff states that consequent to the said assignment, the Plaintiff stepped into the shoes of the Original Lenders for all legal effects.
- s. The Plaintiff states that in due course, the Plaintiff filed before the Hon'ble NCLT, Mumbai, an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the Principal Borrower i.e. SHRL bearing No. C.P.(IB)-2528(IB)/MB/2018, and against the Corporate Guarantor i.e. DPDCL bearing No. C.P.(IB)-2527(IB)/MB/2018. The said Insolvency Proceedings bearing C.P.(IB)-2528(IB)/MB/2018





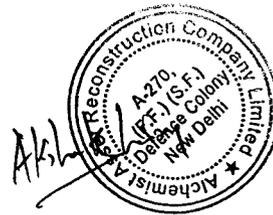
filed against the Principal Borrower were dismissed on technical grounds. However, in so far as the Corporate Guarantor i.e. DPDCL, the C.P.(IB)-2527(IB)/MB/2018 was admitted by the Hon'ble NCLT *vide* order dated 08.05.2019. By way of the said order, an Interim Resolution Professional (IRP) namely Shri Arunava Sikdar was appointed to carry out the functions as prescribed under the IBC, 2016. The said IRP was later confirmed as a Resolution Professional (RP) by the Committee of Creditors of DPDCL in their meeting held on 07.06.2019.

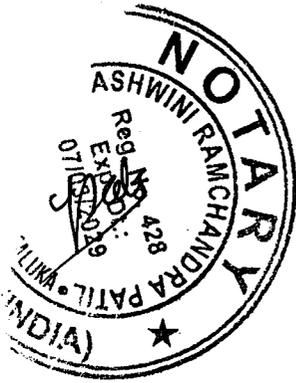
- t. The Plaintiff states that pursuant to the appointment, the said RP issued public announcement in The Free Press Journal (Mumbai Edition) in English language, in Navshakti newspaper in Marathi language, in Times of India (Goa Edition) in English language, and in Goa Doot newspaper in Konkani language, all dated 11.05.2019, which was also uploaded on the official



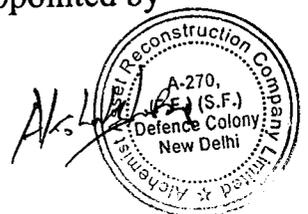
website of the Insolvency and Bankruptcy Board of India (IBBI).

- u. The Plaintiff states that in furtherance of the order dated 08.05.2019 appointing the RP and in due discharge of his duties more particularly under Section 18(f) of IBC 2016, the RP issued various communications including letter to (i) SHO, Canacona Police Station, dated 12.06.2019 (ii) Village Panchayat, Canacona, Goa, dated 18.06.2019 (iii) Sarpanch, Canacona, Goa, dated 12.06.2019 and (iv) Deputy Collector, Goa, dated 12.07.2019 seeking necessary assistance from the said authorities for revoking the licenses/ permissions/ approvals etc., granted to encroachers on the area of land owned by DPDCL, alongwith seeking that no further licenses/ permissions/ approvals etc. be issued to the encroachers on the area of land owned by DPDCL, without their express consent/ approval.





- v. The Plaintiff states that pursuant to the appointment of the RP by the aforesaid order dated 08.05.2019 passed by the Hon'ble NCLT, the possession of the larger property including the Suit Property was handed over to the RP by the Court Receiver attached to the Hon'ble High Court on 23.07.2019 in terms of the order dated 10.07.2019 passed by the Hon'ble High Court on the Court Receiver's Report No. 121 of 2019 in Civil Suit No. 2654 of 1990.
- w. The Plaintiff states that in pursuance of the above directions of the Hon'ble High Court in its order dated 10.07.2019, the Court Receiver handed over physical possession of the larger property including the Suit Property to the IRP on 23.07.2019 on "*as is where is basis*" and "*as is what is basis*".
- x. The Plaintiff states that the record shows that the RP inspected the larger property including the Suit Property and found that while the property was *custodia legis* with the Court Receiver appointed by



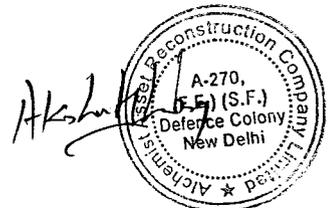
the Hon'ble High Court, several unauthorized structures had come up on the larger property. The Plaintiff states that the records show that the RP approached the Hon'ble NCLT by way of an application bearing MA No. 3257 of 2019 seeking appropriate directions. By order dated 10.10.2019 the Hon'ble NCLT, *inter-alia* directed as follows:

"In view of the circumstances stated above, we hereby allow MA 3257/2019 and direct the local district administration/ police authorities, SHO Canacona, Malmadar Canacona, Panchayat Agonda and SP South Goa to extend assistance to the Applicant in removal of the illegal encroachment upon the land of the Corporate Debtor, situated at village Agonda, Taluka Canacona, Goa."





- y. The Plaintiff states that the orders of the NCLT dated 10.10.2019 were brought to the notice of the various authorities including the GCZMA.
- z. The Plaintiff states that in the meanwhile the Insolvency proceedings under the IBC have been dismissed by the Hon'ble National Company Law Appellate Tribunal, New Delhi (Hon'ble NCLAT) by order dated 07.03.2022 on the limited ground of limitation as applicable to the said legislation. The Plaintiff has filed an appeal bearing Civil Appeal No. 2786 of 2022 (*Alchemist Asset Reconstruction Company Ltd. Vs. Sh. Raju Chappakal Pappu & Ors.*) before the Hon'ble Supreme Court wherein the Hon'ble Supreme Court has been pleased to grant an order of *status quo* as regards the possession of the larger property which includes the suit property herein, by its order dated 18.04.2022. The said civil appeal is pending as on date.
- aa. The Plaintiff states that although by the judgment dated 07.03.2022 passed by the Hon'ble NCLAT in



Company Appeal (AT) (Insolvency) No. 681 of 2019, titled *Sh. Raju Chappakal Pappu & Anr. Vs. Sh. Arunava Sikdar, Resolution Professional of Dugal Projects Development Company Private Ltd. & Anr.*, the order dated 08.05.2019 passed by the Hon'ble NCLT has been set aside, the physical possession of the larger property continues to be held by the RP and the application dated 04.04.2022 filed by him seeking directions for handover of the larger property including the Suit Property is pending adjudication before the NCLT, Mumbai. While the said application was pending adjudication, the Hon'ble Supreme Court *vide* the aforesaid order dated 18.04.2022 directed *status quo* to be maintained.

39. Reverting to the present case, the Plaintiff submits that the records reveal that by Sale Deed No. 142/82 dated 28.06.1982, one Mrs. Janaki Devappa Dessai, and 4 other persons collectively sold their one third shares in several properties bearing Matriz No. 82, 84, 85, 87 and 89 of the





Taluka Revenue Office Canacona Taluka, which correspond to survey No. 100/14 and 100/10, together admeasuring 7200 sq. mtrs. to 'Elbee Dugal Engineering Co. Pvt. Ltd.' (later name changed to 'Dugal Projects Development Company Pvt. Ltd.'). The original of the said sale deed was deposited by DPDCL with the Original Lenders by way of an equitable mortgage, regarding their following share:

"One third of the property denominated Valla, situate at Agonda, Village Panchayat of Agonda, Taluka and Sub-District of Canacona, District of Goa, not described in the land Registration Office at Salcete and enrolled in the Taluka Revenue Office Canacona under matriz no. 82 and bounded on:

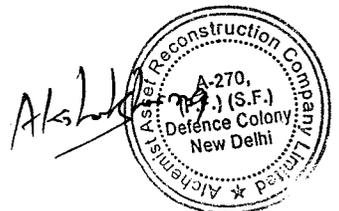
the EAST :- Valla of Lximona Paico Naique

the WEST:- Valla of Loximona Paico Naique

the NORTH:- Valla of Loximona Paico Naique

the SOUTH:- Rio que separa Valla de Xencor

Loximona e outros, e Purso



Govind Naique e outros

ONE THIRD of the property denominated valla situate at Agonda, Village Panchayat of Agonda, Taluka and Sub-District of Canacona, District of Goa, not described in the land Registration Office at Salcete and enrolled in the Taluka Revenue Office Canacona under matriz no. 84 and bounded on:



the EAST : - Valla of Loximona Paico Naique

the WEST:- Esquina que separa Valla de

Devappa Putu Naique e outros

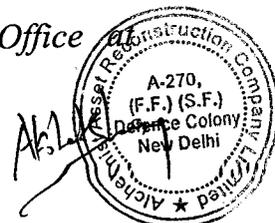
the NORTH:- Valla de Loximona Naique digo

Loximona Paioo Naiquo

the SOUTH:- Valla of Devapa Naique and

Loximona Paioo Naique

ONE THIRD of the property denominated Valla Palmar situate at Agonda, Village Panchayat Agonda, Taluka and Sub-District of Canacona, District of Goa, not described in the Land Registration Office



*Salcete and enrolled in the Taluka Revenue Office
Canacona under matriz no. 85 and bounded on:*

*the EAST : - Esquina que separa Valla de Devopa
Putu Naique e Loximona Paico
Naique*

the WEST:- Praias,

the NORTH:- Valla of Loximona Paico Naique

*the SOUTH:- Valla of Loximona Paico Naique and
Devapa Putu Naique*

*ONE THIRD of the property denominated Valla
Palmar situate at Agonda, Village Panchayat Agonda,
Taluka and Sub-District of Canacona, District of Goa,
not described in the Land Registration Office at
Salcete and enrolled in the Taluka Revenue Office
Canacona under matriz no. 87 and bounded on:*

*the EAST :- Valla of Loximona Paico Naique and
rio que separa Valla of Shiva Naraina
e outros,*



the WEST:- Valla of Loximona Paico Naique,
 the NORTH:- Valla of Devopa Naique e outros,
 the SOUTH:- Rio que separa Valla de Shiva Naraina
 Naique e outros e Valla de Balsu,
 vitoba Naique.



ONE THIRD of the property denominated Palmar situate at Agonda, Village Panchayat Agonda, Taluka and Sub-District of Canacona, District of Goa, not described in the Land Registration Office at Salcete and enrolled in the Taluka Revenue Office Canacona under matriz no. 89 and bounded on:

the EAST : - Valla de Loximona Paico Naique
 the WEST:- Praias
 the NORTH:- Valla de Devapa Putu Naique e outros,
 the SOUTH:- Rio que separa valla de Purso
 Govindo Naiqu.

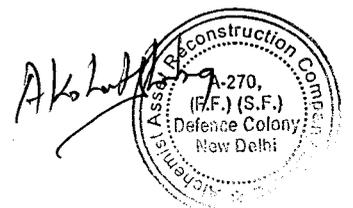
THE ONE THIRD share all the above properties having an area of 7200 sq. meters of beach land is commonly



surveyed under survey nos. 100 sub-division 14, 100 sub-division 10, of Agonda Village of Canacona Taluka."



40. The Plaintiff states that the above-mentioned original sale deed is presently in the possession of the Plaintiff in the capacity of being the sole secured mortgagee of assets of DPDCL, and as per the knowledge of the Plaintiff, the said registered sale deed has not been challenged till date.
41. The Plaintiff further states that presently, the name of Smt. Janaki Devappa Dessai appears on the Form I & XIV relating to Sy. No. 100/10, and that the names of (i) Shashikala Vasant Aigal *alias* Kalpana Mohan Dessai; (2) Vinodkumar Vasant Aigal, and, (3) Vismaya Vasant Aigal *alias* Reshma Ramesh Naik appear on the Form I & XIV relating to Sy. No. 100/14.
42. The Plaintiff states that at the time of execution of the sale deed in favour of Elbee Dugal Engineering Company Pvt. Ltd. / DPDCL, the property surveyed under Survey No. 100/10 admeasured 5350 sq. mtrs. and the property surveyed under Survey No. 100/14 admeasured 1900 sq.

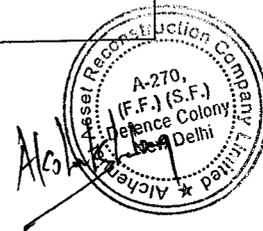


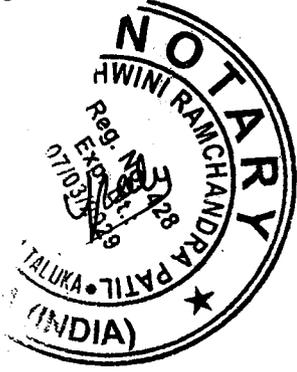
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mtrs., the total area under the two survey numbers being 7250 sq. mts.

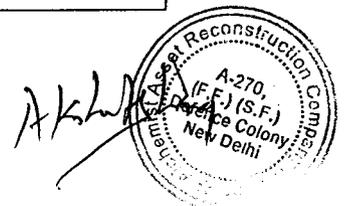
43. The Plaintiff states that since the entire area admeasuring 1900 sq. mts. in Sy. No. 100/14 was sold to DPDCL, therefore, an area admeasuring 5300 sq. mts. was sold to DPDCL in Sy. No. 100/10 under the Sale Deed dated 28.06.1982 thereby leaving, by necessary implication, an area of 50 sq. mts. only in favour of 'Ms. Maria Fernandes' (which corresponds to the residential house belonging to Ms. Maria Fernandes, as recorded in the relevant Form I & XIV.)
44. For the sake of convenience of this Hon'ble Court, a tabulation of areas of the two Survey Nos. i.e. 100/10 & 100/14, as sold under the aforesaid Sale Deed No. 142/82 dated 28.06.1982, are as under:

S.NO.	PARTICULARS	AREA (IN SQ. MTS.) OF	REMARKS

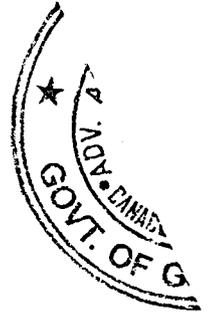




		LAND AS PER FORM I & XIV	
1.	Total Land under Sy. No. 100/10	5350	In the other rights column, there is a mention of Ms. Maria Fernandes having a house.
2.	Total Land under Sy. No. 100/14	1900 (A)	Nil
3.	Total land under Survey Nos. 100/10 & 100/14	7250	Nil
4.	Land under Sy. No. 100/10 & 100/14 sold to Elbee Dugal Engineering Company	7200 (B)	



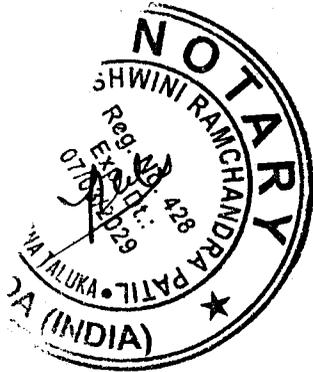
	Private Limited (Now 'DPDCL') <i>vide</i> common registered Sale Deed No. 142/82 dated 28.06.1982		
Land sold/ available to Elbee Dugal Engineering Company Private Limited (Now 'DPDCL') under Sy. No. 100/10 (B - A)	5300		



45. The Plaintiff states that based on the aforementioned, the following picture emerges as regards the ownership structure of DPDCL *vis-a-vis* Survey No. 100/10 of Village Agonda, Canacona, Goa: -

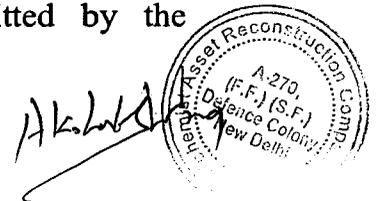
S.NO.	PARTICULARS OF LAND OWNERS	LAND UNDER SURVEY NO. 100/10 (SQ. MTRS.)	REMARKS





1.	Area as per Form I & XIV	5350	
2.	Original sole owner – Ms. Janaki Devappa Dessai	5300	Sold to DPDCL <i>vide</i> registered Sale Deed dated 28.06.1982
3.	A residential house in the name and occupation of Ms. Maria Fernandes	50	

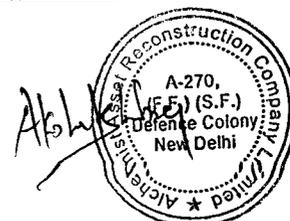
46. The Plaintiff submits that the areas, calculated and tabulated above for convenience, demonstrate that the balance land available under Survey No. 100/10 by implication is only 50 sq. mtrs. which has been inherited by Defendant Nos. 1 and 2 (being the successors of Late Ms. Maria Fernandes). However, the Plaintiff will demonstrate below the illegalities committed by the



Defendants in having apportioned to themselves an area much in excess of 50 sq. mtrs. in Survey No. 100/10.

47. The Plaintiff states that there are apparent discrepancies in the plinth areas shown in Panchayat NoCs, GCZMA site reports/ minutes and the lease deeds executed by Defendants No. 1 & 2 with Defendant No. 3. For the ready and kind perusal of this Hon'ble Court, a comparative chart showing the discrepancies in the area as per the sale deed and in the plinth area as per Panchayat NoCs, the GCZMA site reports/ minutes and the lease deeds signed by Defendant Nos. 1 and 2 with Defendant No. 3, etc., are as under:

S. No.	Particulars	Remarks
1.	Area available to Ms. Maria Fernandes in Sy. No. 100/10	50 sq. mtrs. (house)
2.	Area as per Panchayat NoCs: (i) Area for which Panchayat NoC dated 09.05.1984 was	338 sq. mtrs. of

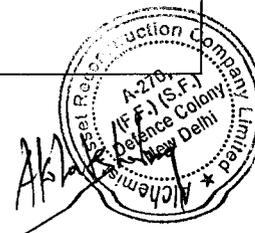




<p>purportedly issued for House No. 438 in favour of Defendant No. 2 (It seems to be fraudulent back dated document created in 2023).</p>	<p>plinth area</p>
<p>(ii) Area for which Panchayat NoC dated 30.03.1985 was purportedly issued for House No. 439 in favour of Late Smt. Maria Fernandes (mother of Defendant No. 1)</p>	<p>465 sq. mtrs. of plinth area</p> <p>250 sq. mtrs.</p>
<p>(iii) Area for which Panchayat NoC dated 30.03.1985 was purportedly issued for wooden structure of House No. 439 in favour of Late Smt. Maria Fernandes (mother of Defendant No.</p>	<p>-----</p> <p>Total: 1053</p> <p>Sq. Mts.</p>

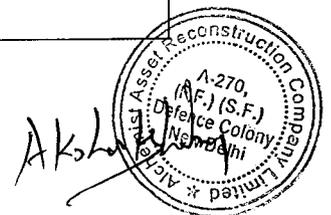


	1)	
3.	<p>Area as per GCZMA permissions:</p> <p>(iii) Plinth area found on ground by the Expert Member of GCZMA during site inspection and the plinth area sanctioned by GCZMA <i>vide</i> permission dated 04.04.2017 for H. No. 438;</p> <p>(iv) Plinth area found on ground by the Expert Member of GCZMA during site inspection and the plinth area sanctioned by GCZMA <i>vide</i> permission dated 04.04.2017 for H. No. 439</p>	<p>217.60 sq. mtrs. of plinth area</p> <p>193.48 sq. mtrs. of plinth area</p> <hr/> <p>Total: 411.08</p> <p>Sq. mts.</p>
4.	Area as per lease deed dated 23.09.2020:	





	(i) House No. 438 as mentioned in the lease deed dated 23.09.2020	193
	(ii) House No. 439 as mentioned in the lease deed dated 23.09.2020	193
	(alongwith a well between the two houses)	100
	(iii) Shade	Total: 486
		Sq. mts.
5.	Actual constructed area actually in occupation as per Joint Site Inspection Report dated 14.03.2023:	
	(i) RCC Structure 'A'	338
	(ii) RCC Structure 'B'	462
	(iii) GI Tube/ Pipe Shed area	108
	(iv) Wooden Shed area	252

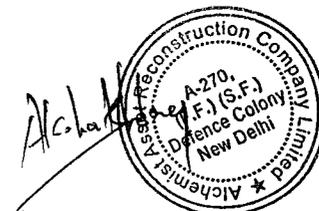


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		<hr style="border-top: 1px dashed black;"/> Total: 1160 Sq. mts.
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48. The Plaintiff submits that it is apparent from the above that the said NOCs dated 09.05.1984 and 30.03.1985 from the Panchayat are manipulated, back dated forged and fabricated documents issued/ obtained which have surfaced for the first time in 2024 to subserve the malicious design and motive of the Defendants to grab and usurp the land over which they have no right or title. Without admitting, and, without prejudice to the rights of the Plaintiff to challenge the veracity of the said documents, it is submitted that neither the Village Panchayat nor the GCZMA have any authority to determine the legality of occupation of land by the Defendants, yet certificates and permissions issued by them are being misused by the Defendants to claim ownership over a portion of the Suit Property.





49. The Plaintiff further submits that ready acceptance of the aforesaid Panchayat NOCs by GCZMA which were produced for the first time in the course of Joint Site Inspection ordered by Hon'ble NGT, shows total non-application of mind and abdication of responsibility.
50. The Plaintiff submits that the act of issuance by Panchayat and acceptance by GCZMA of the said manipulated, concocted, forged and fabricated NoCs and permissions shows their complicity and collusion with the Defendants. The said collusion is further apparent from a perusal of the Joint Site Inspection Report dated 10.04.2023 where a representative of GCZMA was present at the time of site inspection, however, the said representative failed to point out/ highlight the area discrepancies between the Panchayat NoCs and the GCZMA permissions.
51. Further, evidently, there has been a manipulation on the part of the Defendants, with or without connivance of officials of Panchayat/ GCZMA, in blatantly usurping of land and operating a full-fledged commercial resort without any valid permission/ authority whatsoever.

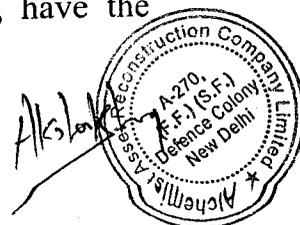


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52. The Plaintiff states that as detailed above, the Defendant Nos. 1 and 2 (through the mother of Defendant No. 1 - Late Ms. Maria Fernandes) are entitled to only a house structure measuring maximum 50 sq. mtrs. in Sy. No. 100/10. Further, without admitting, even if we go by the Site Plan prepared by the Inspector of Survey & Land Records, there were two structures measuring 47 sq. mtrs. and 32 sq. mtrs. respectively, aggregating to 79 sq. mtrs. Thus, by any stretch, without prejudice, any occupation of land in Survey No. 100/10 by the Defendant Nos. 1 and 2 over and above 79 sq. mtrs. is illegal and ought to be enjoined by this Hon'ble Court.

53. The Plaintiff further states that the purported Panchayat NoCs and the GCZMA permissions/ minutes do not confer any title to the Defendants in any manner and the question of title has not even been gone into while issuing the said NoCs/ Permissions etc.

54. The Plaintiff states that the actions of the Defendants in constructing and operating illegal commercial structures on the mortgaged land i.e. the suit property, have the





effect of diminishing and prejudicially affecting the mortgagee rights of the Plaintiff thereby giving rise to a cause of action in favour of the Plaintiff. The Plaintiff being the sole secured mortgagee of the assets of DPDCL has an inherent and exclusive right to protect its interest in the suit property against any kind of external threat of alienation, wastage, damage or diminution in value.

55. The Plaintiff states that the said lease deeds dated 12.09.2016 and 23.09.2020, and the rectification deed dated 23.09.2020, are being used against the Plaintiff herein and are creating obstacles in the way of the Plaintiff realising its security interests.

56. The Plaintiff states that the lease deeds dated 12.09.2016 and 23.09.2020, and the rectification deed dated 23.09.2020, are void and unenforceable against the Plaintiff and the conduct of the Defendants clearly demonstrates that the said lease(s), if allowed to subsist, would cause serious and irreparable injury preventing the Plaintiff from realising its security interest. Hence, the Plaintiff would be entitled to an order from this Hon'ble



Court declaring that the lease deed dated 12.09.2016 and lease deed dated 23.09.2020 registered in Book-1 under No. CAN-1-119-2022 in the office of Sub-Registrar, Canacona, Goa, and the rectification deed dated 23.09.2020 registered in Book-1 under No. CAN-1-118-2022 in the office of Sub-Registrar, Canacona, Goa, is null and void.

57. The Plaintiff respectfully submits that in the event the submissions of the Plaintiff finds favour with this Hon'ble Court, that the said lease deed is a void document, the Plaintiff would be entitled to a declaration/ direction from this Hon'ble Court ordering the Defendant No. 3 to have the original of the same delivered up to the Plaintiff and to have the same cancelled.
58. The Plaintiff states that the preservation and protection of the suit property by way of a permanent injunction and restraining the Defendants from interfering with the suit property in any manner whatsoever, is necessary for protection of the Plaintiff's rights and interests as the sole and exclusive mortgagee.

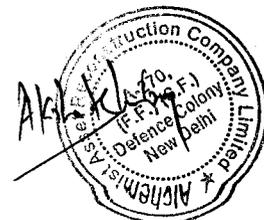




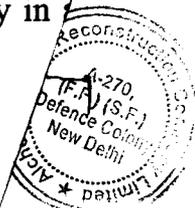
59. The Plaintiff respectfully states that if the unauthorized structures are permitted to be illegally (commercially) utilized on the suit property, the value of the larger property will be irreparably diminished. The said larger property which includes undivided & un-demarcated portion of Survey No. 100/10 has been in the possession of the Court receiver and subsequently in the control and possession of the RP and the Defendants have no right to enter upon the said property. The Plaintiff states that once such permanent constructions are permitted to be illegally operated, it will also lead to environmental degradation and it will be impossible to restore the beach to its pristine original condition thereby ruining the ecologically sensitive area, being a designated turtle nesting site and falling under No Development Zone (NDZ) category as per the prevailing CRZ Regulations. The Plaintiff states that if the illegal commercial operations of the said structures are not enjoined by this Hon'ble Court, the Plaintiff will be unable to recover the amounts due to it under the aforementioned decree dated 06.05.2011.



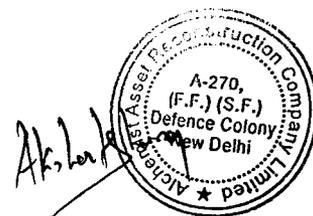
60. The Plaintiff states that the cause of action for the purpose of filing the present suit arose for the first time in the month of June, 2022, when the officials of the Plaintiff noticed erecting of huge structures on suit property under the name of 'Dream Discovery Sea View Resort & Beach Café'. Cause of action also arose on 23.12.2022 when the Plaintiff received the DGPS aerial survey report and received information regarding the extent of illegal occupation of the Suit Property by the Defendants. Cause of action also arose when the Plaintiff found out through Google search that the Defendants have commenced operations in full swing and are running a full-fledged beach resort. Cause of action also arose when the Joint Site Inspection Report dated 10.04.2023 was made available to the Plaintiff which report unequivocally confirms the extent of illegal occupation of the Suit Property by the Defendants. The cause of action is a continuing cause of action as the Defendants are continuing their attempts to interfere with the suit property. The cause of action is still continuing and subsisting as on date.



61. The Plaintiff states that the Court Receiver and thereafter the Resolution Professional would be entitled to all profits made by the Defendants through such illegal activities, upon the lands which were *custodia legis* and now in possession of the RP.
62. The Plaintiff states that the Defendants would be liable to restore all profits unlawfully earned as well as *mesne* profits for the wrongful use of the property which was *custodia legis*.
63. The Plaintiff, in the capacity of being the sole secured creditor of the DPDCL having exclusive charge / mortgage over the entire assets of DPDCL, including the suit property, is filing the present suit seeking a decree of permanent and mandatory injunction to restrain the Defendants, their legal representatives, assignees successors-in-interest and/or any other restructuring amalgamated or de-merged entities and/ or any institution or designated authority acting for and on behalf from interfering with the suit property in whatsoever.



64. The Plaintiff respectfully submits that it is entitled to be protected and its rights and interest safeguarded by grant of permanent as also temporary injunction, as prayed for.
65. The Plaintiff submits that the present suit is being filed to protect its rights, title and interest acquired by it under the Deeds of Assignments dated 13.10.2014, 26.02.2016 and 24.03.2017.
66. The Plaintiff has not received any notice of caveat from the Defendants or any one of them.
67. That, for the purposes of court fee and jurisdiction, prayer clause (A) is valued at Rs. ~~4,25,000~~ 50,000, prayer clause (B) is valued at Rs. 2, 67, 50, 000, prayer clause (C) is valued at Rs. 500, prayer clause (D) is valued at Rs. 500, prayer clause (E) is valued at Rs. 500, prayer clause (F) is valued at Rs. 87, 50, 000, and prayer clause (G) is valued at Rs. 87, 50, 000, and maximum court fees of Rs. 31, 230/- (Rupees Thirty-One Thousand Two Hundred and Thirty only) is paid herewith.

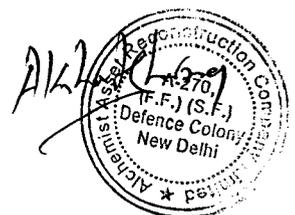


68. The suit property is situated at Village Agonda, Canacona Taluka, Goa and this Hon'ble Court has the territorial pecuniary jurisdiction, to hear and decide the present suit.
69. That, the suit is accompanied by an Affidavit of the Plaintiff in support and all the relevant documents. The Plaintiff craves leave to file further documents as may come to its knowledge from time to time.
70. That, no other or similar suit or petition has been filed by the Plaintiff before this Hon'ble Court or any other Court or Hon'ble Supreme Court of India seeking the same relief(s).
71. For the purpose of service, the address of the parties is as mentioned in the memo of parties as annexed to this suit.

PRAYER

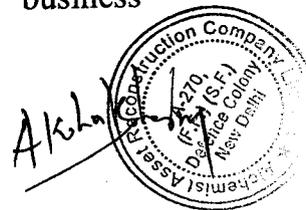
That in light of the aforesaid facts and circumstances, it is therefore respectfully prayed that this Hon'ble Court may kindly be pleased to:

- A. Pass a judgement and decree declaring that the Defendant Nos. 1 and 2 are not entitled to an area of land exceeding



50 sq. mtrs. in the Suit Property i.e. property surveyed under Survey No. 100/10 in Village Agonda, Canacona Taluka, Goa;

- B. Pass an order directing the Defendants to vacate and handover the possession of the area occupied in excess of 50 sq. mtrs. in Survey No. 100/10 of Village Agonda, Canacona, Goa, to the Court Receiver/ Resolution Professional of 'Dugal Projects Development Co. Ltd.' (DPDCL), as the case may be, and/ or to their successors-in-interest;
- C. Pass a judgement and decree of permanent and mandatory injunction against the Defendants, their legal heirs, representatives, servants, agents, employees and/ or any other person acting for and on their behalf, restraining them from further encroaching and/ or in any manner interfering with the Suit Property, including but not limited to erecting structures thereon, creating third party rights/ interests and also from carrying business therefrom;



- D. Pass a judgement and Decree of permanent and mandatory injunction directing the Defendants to demolish all existing structures on the suit property, and to remove the material stacked at the site of the suit property thereby restoring the land/ suit property to its original condition;
- E. Pass a judgment and decree to declare that the Deeds of Lease dated 12.09.2016, 23.09.2020 and Rectification Deed dated 23.09.2020 do not confer any right on the Defendant No. 3 in respect of the Suit Property;
- F. Pass a judgment and decree of declaration that the lease deed dates 23.09.2020 registered in Book-1 under No. CAN-1-119-2022 in the office of Sub-Registrar, Canacona, Goa, be declared null and void and the original of the same be directed to be delivered up to the Plaintiff;
- G. Grant judgment and decree of declaration in favour of the Plaintiff that the rectification deed dated 23.09.2020 registered in Book-1 under No. CAN-1-118-2022 in the office of Sub-Registrar, Canacona, Goa, executed between



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Defendants, be declared null and void and the original of the same be directed to be delivered up to the Plaintiff;

H. Costs;

I. Pass any such other and further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice, in favour of the Plaintiff and against the Defendants.



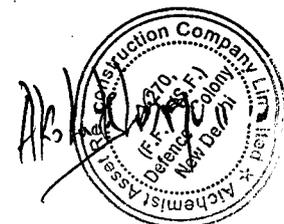

Advocate for the Plaintiff

Place: _____, Goa

Dated: 10.10.2024

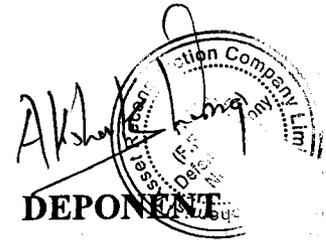
VERIFICATION

I, **AKSHAT SHARMA**, Son of Sh. S.K. Sharma, major, age 36 years, Indian National, working for gain with the Plaintiff





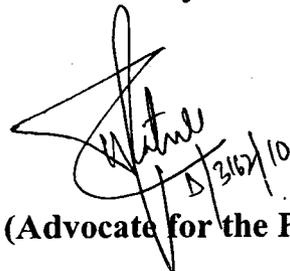
abovenamed at its Registered office at A-270, 1st and 2nd floor, Defence Colony, New Delhi – 110 024, do hereby verify and state that the contents of Paragraphs Nos. 1(p), 2, 3, 4(p), 5-37, 38(a) – 38(aa), 39-55, 56(p), 57(p), 58(p), 59(p), 60(p), 61(p), 62(p), 63(p), 64(p), 65, 66, 67(p), 68(p), 69(p), 70 and 71 are true to my knowledge and/or based on records, and, the contents of Paragraphs Nos. 1(p), 4(p), 56(p), 57(p), 58(p), 59(p), 60(p), 61(p), 62(p), 63(p), 64(p), 67(p), 68(p), and 69(p), are legal submissions and/or inferences of facts, which I believe to be true.


DEPONENT

Solemnly verified at _____,

On this 10th day of October, 2024

Identified by me:

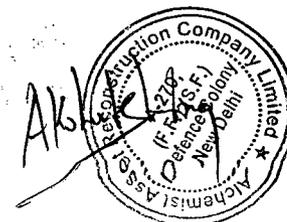

 (Advocate for the Plaintiff)

AFFIDAVIT

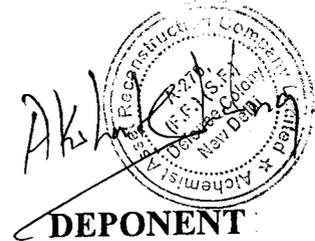
I, **AKSHAT SHARMA**, Son of Sh. S.K. Sharma, major, age 36 years, Indian National, working for gain with the Plaintiff above named at its Registered office at A-270, 1st and 2nd floor, Defence Colony, New Delhi – 110 024, do hereby on solemn affirmation state and submit as under: -



- 1) I say that I have filed today the accompanying suit before this Hon'ble Court.
- 2) I say that the annexures to the accompanying suit are the true copies of its originals.
- 3) I say that what is stated by me in Paragraphs Nos. 1(p), 2, 3, 4(p), 5-37, 38(a) – 38(aa), 39-55, 56(p), 57(p), 58(p), 59(p), 60(p), 61(p), 62(p), 63(p), 64(p), 65, 66, 67(p), 68(p), 69(p), 70 and 71 are true to my knowledge and/or based on records, and, the contents of Paragraphs Nos. . 1(p), 4(p), 56(p), 57(p), 58(p), 59(p), 60(p), 61(p), 62(p), 63(p), 64(p), 67(p), 68(p), and 69(p), are legal submissions and/or inferences of facts, which I believe to be true.



4) I say that what is stated by me in Paragraphs 1, 2, and 3 above is true to my own knowledge.



[Handwritten mark]

Solemnly verified at Canacona

On this 10th day of October, 2024

Identified by me:

[Signature]
S362/10

(Advocate for the Plaintiff)



Solemnly affirmed before me by
Mr/Ms. Akshat Sharma

On this 10th day of 10 2024

[Signature]
ADV. ASHWINI RAMCHANDRA PATIL
NOTARY
CANACONA TALUKA
State of Goa (India)
No. 1048/2024
10/10/2024