

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

I.A. No. 161 of 2023

IN

ORIGINAL APPLICATION No. 05 of 2023 (WZ)

IN THE MATTER OF:

SAGARDEEP SIRSAIKAR

...APPLICANT

VERSUS

GOA COASTAL ZONE MANAGEMENT
AUTHORITY & OTHERS

...RESPONDENTS

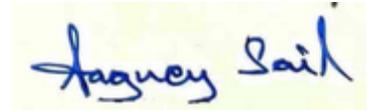
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NEXT DATE: 27.09.2023

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APPLICANT

THROUGH



AAGNEY SAIL

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Filed on: 26.09.2023

Place: Goa

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**REPLY OF ORIGINAL APPLICANT TO APPLICATION FOR
DISMISSAL OF O.A. NO. 05/2023 (WZ) ON THE ISSUE OF
MAINTAINABILITY (I.A. NO. 161/2023) FILED BY
RESPONDENT NO. 2**

MOST RESPECTFULLY SHOWETH:

1. That the present I.A. No. 161/2023 is filed by Respondent No. 2 and pending adjudication before this Hon'ble Tribunal. The answering original applicant craves leave of this Hon'ble Tribunal to refer and rely on the contents of the Original Application No. 05/2023 and its pleadings filed by him, which are not being reproduced herein for sake of brevity, at the time of hearing of the present I.A. No. 161/2023. Nothing in the present reply may be treated to be an admission of the contents of the I.A. No. 161/2023, unless the same is expressly and categorically admitted herein.
2. That a detailed para-wise reply is not given and the main grounds raised in the IA No. 161/2023 are replied to in the present reply.

3. In response to the ground that the High Court of Bombay at Goa is seized of the 'very same subject matter' of the present O.A. which is pending consideration in PIL Suo Moto Writ Petition No. 2 of 2022 ('PIL No. 2/2022' for short) the following points are submitted in response:

- 3.1 It is pertinent to mention that none of the pleadings of the PIL No. 2/2022 have been placed before this Hon'ble Tribunal to establish that the issues raised and the relief sought in the present O.A. are the same in the ongoing PIL No. 2/2022. Hence, adverse inference should be made against the Respondent No. 2 (IA Applicant).
- 3.2 The relief sought in the present O.A. i.e. prayers B, D & E do not concern the 'Romeo Lane Bar & Restaurant site' belonging to the Respondent Nos. 2 to 5. These prayers are directly related to a substantial question of environment arising from implementation of the Environment (Protection) Act, 1986 (EP Act, 1986) and the Coastal Regulation Zone Notification, 2011 (CRZ Notification, 2011) over which this Hon'ble Tribunal has jurisdiction. There is no averment in the IA No. 161/2023 that these prayers B, D & E and issues raised by them are also in the ongoing PIL No. 2/2022. Hence, on this count alone the IA deserves to be rejected.
- 3.3 That, the present O.A. in its prayers A & C (which pertain to the 'Romeo Lane Bar & Restaurant site' of the Respondent Nos. 2 to 5) is seeking a direction to the Goa Coastal Zone Management Authority (GCZMA - Respondent No. 1) to take action as per the CRZ Notification, 2011 for any illegality / violation found and submit a report on the same before this Hon'ble Tribunal. It is pertinent to mention that in the ongoing PIL No.

2/2022 the High Court through its orders (which have been annexed in the IA) is directing the same GCZMA to conduct site inspection and take action in accordance with law i.e. the CRZ Notification, 2011 (refer para 5 of the High Court order dated 01.03.2023 – Exhibit 2 to IA at Pg. 374). Hence, it is submitted that there is no clash between the proceedings in the present O.A. and before the High Court. At best, it has resulted in another complaint of the Original Applicant against the same site / illegal construction which the GCZMA can most certainly adjudicate simultaneously for which there is no bar in the CRZ Notification, 2011.

3.4 That in the case of State of Andhra Pradesh v. Raghu RRK reported in 2022 (8) SCC 516, which has been relied upon by the IA Applicant, there were conflicting orders passed by the High Court of Andhra Pradesh and this Hon'ble Tribunal. The High Court of Andhra Pradesh had granted an interim order dated 06.05.2022 staying the construction of a resort and on 20.05.2022 this Hon'ble Tribunal issued an order staying the High Court's order dated 06.05.2022. In the present case, there is no such conflict as there is no stay granted in the ongoing PIL No. 2/2022 by the High Court in favour of the Respondents No. 2 to 5 pertaining to the Romeo Lane Bar & Restaurant site. In fact, the interim relief sought in the present O.A. of stay of any commercial activity in the said Romeo Lane Bar & Restaurant site is supported by the High Court of Bombay at Goa order dated 23.11.2022 passed in PIL W.P. No. 2106 of 2021 (Annexure-A10) which has come down heavily on construction done in violation of the CRZ Notification, 2011 and GCZMA's delayed action against such constructions.

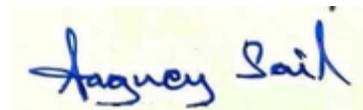
3.5 That in the second and last case relied upon by the IA Applicant which is judgment dated 04.05.2023 passed by

this Hon'ble Tribunal in Appeal No. 18/2022 (WZ) titled Pravir Prabhakar Fadte v. MoEF&CC, it is submitted that this Hon'ble Tribunal exercised its Appellate jurisdiction and adjudicated the Appeal upholding the same. Hence, it is submitted that there will be no conflict with the ongoing PIL No. 2/2022 in the High Court if this Hon'ble Tribunal directs GCZMA to adjudicate and decide the violation (if any) as per the CRZ Notification, 2011. As pointed out earlier even the High Court has given similar direction to the GCZMA, hence, there is no conflict whatsoever.

4. That in light of the above mentioned facts and circumstances, the present IA No. 161/2023 deserves to be dismissed with costs as it is nothing but a deliberate attempt by the IA Applicant to deflect and divert this Hon'ble Tribunal and even the GCZMA from adjudicating the main issue raised of violation of CRZ Notification, 2011 and granting interim stay of stopping any commercial activity till final decision is taken.

APPLICANT

THROUGH



AAGNEY SAIL

ADVOCATES FOR THE APPLICANT

C36, Rama World, Tifra(N.P.), Airport Road,
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...RESPONDENTS

AFFIDAVIT

I, Sagardeep Sirsaikar, S/o Audumber Sirsaikar, aged about 46 years, R/o H. No. 308, Chapora, Dabolwado, Anjuna, Bardez, Goa - 403509, do hereby solemnly state and affirm that:

1. That I am the Applicant in the above mentioned Original Applicant and I am aware of the facts of the present case and as such am competent to swear this affidavit.
2. That I have understood the accompanying Reply to IA No. 161/2023 which has been drafted on my instructions and its content read over and explained to me. I say that the facts stated therein are true to my knowledge, belief and legal advice.
3. That the Annexure A1 to A of the Reply are true and correct copy of their respective originals.

Sirsaiakar

DEPONENT

VERIFICATION:

Verified that the contents of paras 1 to 3 of my above affidavit are true to my knowledge and its content is read and explained to me in the vernacular, no part of it is false and nothing material has been concealed therefrom.

Verified on 26th day of Sept, 2023 at Goa.

Adhar Card no 463015167362

Sirsaiakar

DEPONENT

Solemnly affirmed
Before me

N.C. Gaonkar
N.C. Gaonkar
Advocate & Notary
Mapusa Bardez - Goa
Sr. No. 28483/2023

26 SEP 2023





Reply of Original Application to IA no. 161//2023 in O.A. No. 05/2023

Aagney Sail <aagneysail@gmail.com>

Tue, Sep 26, 2023 at 9:44 PM

To: gczma gczma <goacoastalzone@gmail.com>, Abhay Anturkar <anturkarandassociates@gmail.com>, beinglifehospitality@gmail.com, dir-env.goa@nic.in, Pushkal Mishra <pushkalm6@gmail.com>, Shivshankar Swaminathan <shivshankar.swaminathan@yutilaw.com>, secy-moef@nic.in

To,

1. GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA), THROUGH ITS MEMBER SECRETARY,
1st FLOOR, PANDIT DEENDAYAL UPADHYAY BHAVAN,
NEAR PUNDALIK DEVASTHAN,
PUNALIK NAGAR, PORVORIM, GOA – 403521.
EMAIL: goacoastalzone@gmail.com, anturkarandassociates@gmail.com
PHONE: (0832)2951089 ...RESPONDENT NO. 1

2. MR. ROBERT F. COUTINHO,
R/O H. NO. 548, VAGATOR,
ANJUNA VILLAGE, BARDEZ TALUKA,
NORTH GOA DISTRICT, GOA.
Email: beinglifehospitality@gmail.com
PHONE: 07974436003, 08793243882...RESPONDENT NO. 2

3. MR. ANTONIA D'SOUZA,
SY. NO. 213/5, VILLAGE ANJUNA,
BARDEZ TALUKA, NORTH GOA DISTRICT, GOA.
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PHONE: 07974436003, 08793243882...RESPONDENT NO. 3

4. MR. NELSON BRITTO,
SY. NO. 213/5, VILLAGE ANJUNA,
BARDEZ TALUKA, NORTH GOA DISTRICT, GOA.
Email: beinglifehospitality@gmail.com
PHONE: 07974436003, 08793243882 ...RESPONDENT NO. 4

5. BEING LIFE HOSPITALITY PVT. LTD.
THROUGH ITS MANAGING DIRECTOR,
HAVING ITS REGISTERED OFFICE AT:
H. NO. 122/6/1, GROUND FLOOR,
SANT NAGAR VILLAGE, BURARI CITY,
NORTH DELHI DISTRICT, DELHI – 110084
EMAIL: beinglifehospitality@gmail.com...RESPONDENT NO. 5

6. DEPARTMENT OF ENVIRONMENT & CLIMATE CHANGE,
THROUGH ITS DIRECTOR,
GOVERNMENT OF GOA,
IVth FLOOR, DEMPO TOWERS,
PATTO – PANAJI, GOA – 403001.
PHONE: (0832)2951089.
EMAIL: dir-env.goa@nic.in ...RESPONDENT NO. 6

7. NATIONAL COASTAL ZONE MANAGEMENT AUTHORITY (NCZMA),
THROUGH ITS MEMBER SECRETARY,
JOINT SECRETARY (Coastal Regulation Zone CRZ),
MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE CHANGE, INDIRA PARYAVARAN BHAVAN,
JORBAGH, NEW DELHI – 110003.
PHONE: (011)20819398, 20819340.
EMAIL: secy-moef@nic.in, Adv. Pushkal Mishra pushkalm6@gmail.com
...RESPONDENT NO. 7

Madam / Sir,

Please find attached the reply to IA No. 161/2023 in the abovementioned Original Application No. 05/2023 (WZ) for your record and necessary action

Please acknowledge receipt of the same via email.

Best,

Adv. Aagney Sail,
Counsel for the Applicant,
Mobile: +91.9810076618.

 **Reply to IA 161-2023.pdf**
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