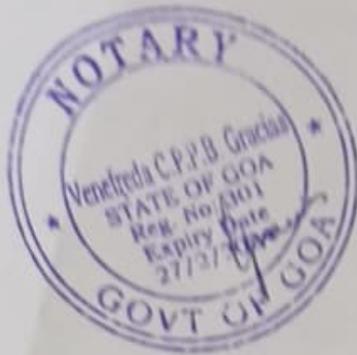


BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH PUNE



APPEAL 143/2024(WZ)

VERNON RODRIGUES. APPELLANT

VS.

GCZMA AND ORS RESPONDENTS

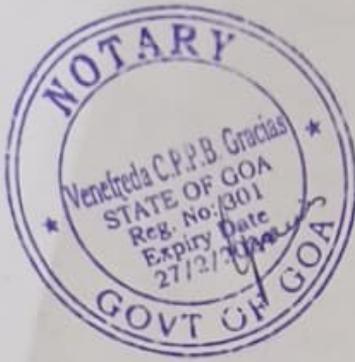
AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 1

I, MR. JOHNSON BEDY FERNANDES, adult, being the Member Secretary, Goa Coastal Zone Management Authority, having my office at: 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I say that I am the Member Secretary of the Respondent No. 1 Goa Coastal Zone Management Authority (hereinafter referred to as *GCZMA*) in i.e. Respondent No.1, and am authorised to affirm the present reply affidavit on its behalf. I have

Johnson Bedy Fernandes
9

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH PUNE



APPEAL 143/2024(WZ)

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VS.

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AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 1

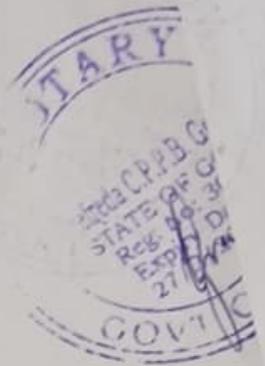
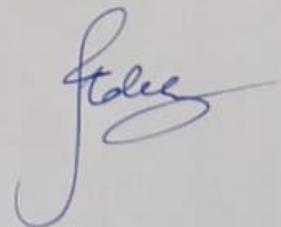
I, MR. JOHNSON BEDY FERNANDES, adult, being the Member Secretary, Goa Coastal Zone Management Authority, having my office at: 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

- I say that I am the Member Secretary of the Respondent No. 1 Goa Coastal Zone Management Authority (hereinafter referred to as *GCZMA*) in i.e. Respondent No.1, and am authorised to affirm the present reply affidavit on its behalf. I have

free

examined the relevant records available in my office in respect of the order dated 21/03/2024 passed by the GCZMA and challenged before this Hon'ble Tribunal in the above-captioned Appeal and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the memorandum of the above-captioned Appeal. Nothing in the memorandum of the above-captioned Appeal may be deemed to have been admitted for mere want of specific denial.

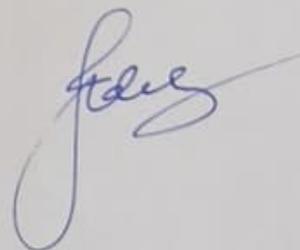
2. I say and submit that this Appeal has been filed challenging the order dated 21/03/2024 passed by the present Respondent i.e. Goa Coastal Zone Management Authority (GCZMA) which is annexed at Page No. 34 to the Appeal. I say that vide the said order, the GCZMA had directed the Appellant to demolish the structures A,B,C,E,F,G,H shown on the survey plan dated 04/07/2022 situated in the property bearing Survey No.135/7 of Candolim village and further to restore the land to its original condition within 30days from the date of receipt of the order.



3. I deny that the present Respondent has passed the said order without appreciating the facts of the Appellant. I deny that the present Respondent did not grant opportunity of hearing to the Appellant.

4. I say that based on the complaint received from the complainant i.e. Respondent No.3 herein, the present Respondent carried out the site inspection on 22/03/2022 wherein the Appellant did not allow the officials of the present Respondent to take measurements of the structures situated in Survey No.135/7 of Candolim village. I say that it was noted by the inspecting team that there were 14 shops in front face of the building of masonry structure with permanent plinth.

5. I say that at the site inspection on 15/06/2022, it was noted that there were new as well as old structures on site. The Areas of the structures were noted as A (400sqm), B: (600sqm), C (360 sqm), D: (214 sqm), E: (52 sqm), F: (119 sqm), G: (92.50 sqm), and H: (140 sqm).

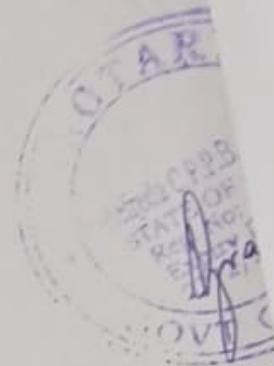


6. The Appellant was furnished copies of the Site Inspection Report and asked to prove that the structures are standing prior to 1991.

7. The Appellant produced three electricity bills to show that the structures are standing prior to 1991. The bills bear meter nos 550, 551 and 179. The Appellant further stated that the energization date shows as 1980-81. However, upon perusal, only two bills having nos. 550 and 551 were produced to the Authority i.e. the present Respondent and there is no connection between the structures and the meter numbers.

8. I say that Adv Lobo at the hearing on 22/12/2023 [378th GCZMA Meeting] who was then appearing for the Appellant filed an application producing additional documents a copy of which was served on Respondent No. 3. Subsequently, the matter was posted for orders on 11/01/2024.

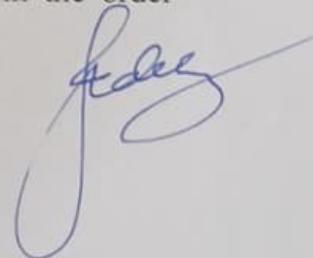
9. I say that, the present Respondent in its 381st Meeting held on 11/01/2024; decided that, based on the complaint received from Judith Rodrigues, i.e. Respondent No.3, the answering Respondent had carried out a site inspection on 22/03/2022;



A handwritten signature in blue ink, appearing to be "J. Lobo".

wherein the Appellant did not allow the officials of the GCZMA to take measurements of the structures in question. Subsequently the present Respondent issued a SCN to the Appellant stating the illegalities observed and sought for reply with directions to remain present for personal hearing. The Respondent failed to remain present hence the Authority decided to seal the property with a direction to PWD and Electricity department to disconnect the connection to the structures in Sy. No. 135/7 of Candolim Village. The property was sealed by the Deputy Collector and report was submitted to the present Respondent. The Appellant moved an application to review the order of sealing stating that he would cooperate with the inquiry. Subsequently, the Authority in Meeting the present Respondent decided to desal the property and hold a fresh Site Inspection hence disposing the recall application of the Appellant. The SCN and report of the Deputy Collector are hereto annexed and marked as 'Annexure A Colly'.

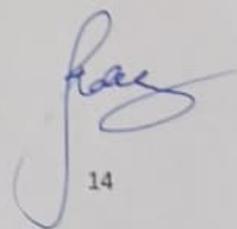
10. I say that at the site inspection it was noted that there are new as well as old structures on site as specified in the order



marked and marked as Annexure A of the paper book of the Appellant.

11.I say that from the structures identified by the inspecting team of the GCZMA the structures at D is figuring on the Survey Plan of the DSLR which proves that the old house since depicted on the Survey Plan proves that the Structure was standing prior to 1991 and is termed as a legal structure. The Survey Plan is hereto annexed and marked as 'Annexure B'.

12.I further say that, the present Respondent noted that part of the residential house was used commercially for which they have produced the excise licence which bore House No 368 which was connected to the Meter bearing no 551. The Letter from the Village Panchayat of Candolim dated 17/01/2023; clearly states that the house no 368 was recorded in the name of Balkrishna Bhat in the year 1988-89 and subsequently transferred to the name of Laximikant G. Bhat as per the records maintained by the village



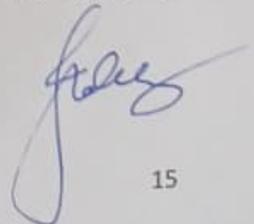
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was

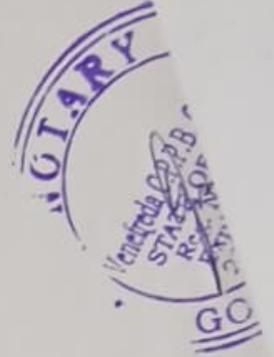
Panchayat of Candolim. However, the House no 368 never belonged to the Appellant as claimed by him. In view of the discrepancies pointed out by the Respondent No.3 herein, by way of documentary proof that the House Nos. do not belong to the Appellant, and in view that the electricity bill and the excise letter are inter connected by the house numbers, the documents produced by the Appellant cannot be taken into consideration to determine that the structures were standing prior to 1991.

13.I say that the Appellant has failed to produce documents to prove that the structures were erected prior to 1991.

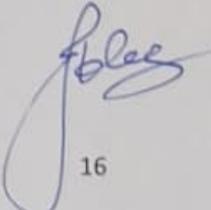
14.I say that the Respondent sought to rely on the order of the Block Development Officer bearing case no. BDO-II-BAR/201(A)/4/2022 filed by Judith Rodrigues vs Village. Panchayat of Candolim and Vernon Rodrigues; upon perusal of the order it is noted that the same is irrelevant to decide the legality of the structures. However, it is noted that the BDO has stated that the Appellant has a house bearing House no 483 and that it belongs to the father of



the Appellant. As per the demand and collection register it bore old house no 31/5. Respondent no 3 has also produced a letter issued by the Village Panchayat dated 17/01/2023 stating that the new House No. 483 corresponds to old House No 31/5(old) and was existing since 1972-73. However, the Appellant has not relied on this house number to prove the legality of his structures. There being a discrepancy in the house numbers and the Appellant not having come clear on the documentation part to prove that the structures are in existence prior to 1991, give a ground to issue demolition order against the structures A,B,C,E,F,G,H structures shown on the survey plan dated 04/07/2022 and discharge order against the old structure shown on the plan dated 04/07/2022 marked as "D".



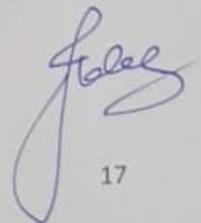
15. I therefore say that, the GCZMA in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 (Central Act 29 of 1986) read with sub-rule (3) (a) of Rule 4 of the Environment (Protection) Rules 1986,


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and read with power vested with the GCZMA vide Order S.O. 6071 € dated 27/12/2022 issued by the Ministry of Environment & Forests, Government of India, the GCZMA passed the impugned order.

PARAWISE REPLY

- i) As far as paragraphs 1 to 10 are concerned, those are the personal facts stated by the Appellant.
- ii) As far as paragraphs No. 11 to 13 & 15, 16 are concerned, these are facts on record.
- iii) As far as paragraphs No. 14 is concerned, the Respondent No 1 submits that the reply has been duly considered by the Authority and only thereafter the Authority has taken a conscious decision to pass the directions.
- iv) As far as paragraphs No. 17 is concerned, the Authority was of the opinion that the Respondent was driving the benefits of the area in question and hence the need to



issue any notices to the co-occupants of the property did not arise as the Authority also felt the Appellant was resorting to delay tactics for the Authority to arrive at a decision.

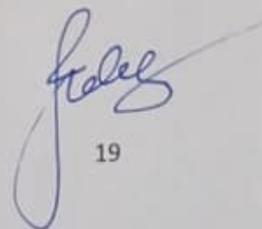
- v) As far as paragraph 18 is concerned, the present Respondent has nothing to comment as it is a personal facts and does not concern the answering Respondent.
- vi) As far as paragraph No. 19 is concerned, the present Respondent has dealt with the issue of electricity bills, excise licence, house tax receipts extensively in the impugned order observing why these documents cannot be taken into consideration to determine that the structures were standing prior to 1991.
- vii) As far as paragraph No. 20 is concerned, the present Respondent states that the Appellants are relying on the RSI maps prepared upon the directions of the Hon'ble High Court. However, the 14 shops are not shown on



the plan hence the structures are illegal and come up after 1994.

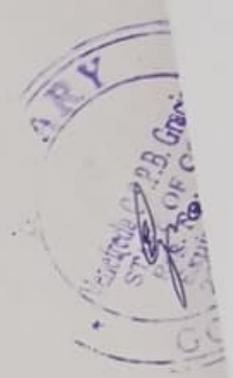
- viii) As far as paragraph No. 21 is concerned, the present Respondent has dealt with the documents extensively in the impugned order observing why these documents cannot be taken into consideration to determine that the structures were standing prior to 1991.
- ix) As far as paragraph No. 22 is concerned, the present Respondent states that the contents are true and correct
- x) As far as paragraph No. 23, 24 and 25 is concerned, the present Respondent denies the contents and puts the Appellant to strict proof thereof.
- xi) As far as paragraph No. 26 is concerned, the present Respondent states that the Appellants are put to strict proof. The present Respondent has dealt with all the replies and documents produced by the Appellants before the Authority and have rightly concluded that the Appellants have failed to establish by way of





documents that the structures were constructed prior to 1991 and seeks to rely on the Order passed by the Authority.

- xii) As far as paragraph No. 27 28 &30 is concerned, the present Respondent does not wish to comment as it has no connection to prove the legality of the Structure. Moreover, in **Piedade Filomena Gonsalves vs State Of Goa And Ors {Appeal (civil) 960-961 of 2002}** the Hon'ble Supreme Court of India has held that, "The Coastal Regulation Zone notifications have been issued in the interest of protecting environment and ecology in the coastal area. Construction raised in violation of such regulations cannot be lightly condoned". Hence the Authority cannot consider the emotions when it come to Environment violations hence passed the Order of Demolition.
- xiii) As far as paragraph 29 is concerned the contents are denied. It is denied that the Appellants were not given adequate notice and fair hearing in the matter.



[Signature]

- xiv) As far as ground A to M are concerned the same are denied and the Appellants are put to strict proof.
- xv) As far as contents of paragraph 32 to 36 and the prayers prayed for are concerned are denied.

In view of the above, it is most humbly submitted that the Appellant has failed to make out a case to quash and set aside the impugned order dated 21/ 03/ 2024 passed by this Respondent. I say that the order dated 21/ 03/2024 passed by this Respondent deserves to be upheld. I say that the aforementioned contents are in terms of records maintained in the office of the Answering Respondent.

Hence this affidavit.

DEPONENT

VERIFICATION

I, the deponent above-named do solemnly affirm that all that is stated in this Affidavit is True to the best of my knowledge and belief, which is based on the records available in respect of the issue involved in the above-captioned Appeal. Nothing false has been stated herein.

Solemnly affirmed at Calangute on this 05th day of

August, 2024



[Signature]
 DEPONENT

Solemnly Affirmed Before Me by
Johnson B. Fernandes

Who is identified before me by

_____ at Calangute - Goa

Sr No. 424/08/2024

Date: 05/08/2024

[Signature]
 Venefreda C.P.P.B. Gracias
 Advocate & Notary
 Bardez-Goa

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology & Environment, (Govt. of Goa)
4th Floor, Dempo Towers, Patto, Panaji -Goa.
www.czma.goa.gov.in

Ref. No. GCZMA/H/ILIE-Comp-1/21-22/89/568 Date: 14/06/2022

ORDER

WHEREAS, the Goa Coastal Zone Management Authority (hereinafter referred to as 'the GCZMA' in short) has been constituted by the Ministry of Environment & Forests (MoEF), Government of India pursuant to the directions of the Hon'ble Supreme Court of India to deal, inter alia, with violation of the Coastal Regulation Zone (CRZ) Notification 2011 and implementation of the CRZ Notification.

AND WHEREAS, the Office of the Goa Coastal Zone Management Authority (hereinafter referred to as 'the GCZMA' in short) had received a complaint letter dated 28/01/2022 from Mrs. Judith Rodrigues, r/o H.No.D-6; TRT Holiday Enclave, Near Hotel Golden Tulip, Muddo Waddo, Candolim Bardez Goa; with respect to illegal construction of multiple structures of Ground +2 nos. 13/14 shops structures; in the property bearing survey no 135/7, at Vaddy, Candolim, Bardez Goa within CRZ III area carried out by Mr. Vernon Rodrigues, house no 483, Vaddy, Candolim, Bardez Goa; within the CRZ Limits .

AND WHEREAS, the Authority issued number of notices for Site Inspection directing its Expert Members, Engineer, Field Surveyor, Field Surveyor of DSLR with a direction to map the structures on site and draw a report. The Complainant and Respondent were also directed to remain present for the Site Inspection to be conducted. However, no inspection could be carried out as the Respondent was locking the gate all the time and not allowing the inspection team to enter the premises for Site Inspection.

AND WHEREAS, the Inspecting Team in its report has recorded that Engineer, Field Surveyor, Field Surveyor of DSLR and the Complainant remained present for the Site Inspection, however the Respondent was not present for the Site Inspection. When the Inspecting team reached the site the entry gate to the property was locked during the time of inspection. The inspecting team noted that the property falls in 200-500 mts from HTL; that there were 14 nos of shops in front face of the building of masonry structure with permanent plinth.

AND WHEREAS, the matter was placed in the 302nd GCZMA Meeting held on 05/05/2022. The proceeding at the hearing is that, "Adv for the Complainant present, Complainant Judith Rodrigues present in person. Respondent absent."

AND WHEREAS, the Authority in its 302nd GCZMA Meeting held on 05/05/2022; the Authority decided "to seal the property bearing Survey No. 135/7 Vaddy, Candolim Village Bardez Goa with a direction to PWD Department and the Electricity Department to disconnect the Water and Electricity connection of the said premises, and posted the matter on 26/05/2022".

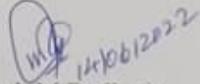
AND WHEREAS, the Deputy Collector and SDM of Bardez was directed to immediately seal the property bearing Survey No 135/7 of Village Vaddy, Candolim, Bardez Goa within 48 hours and send the Compliance report to this Authority.

AND WHEREAS, the Office of the Dy. Collector & SDO Mapusa has submitted a Compliance report of Sealing the property bearing Survey No 135/7 of Village Vaddy, Candolim, Bardez Goa vide letter no DC/SDM/Map/CRZ/Vernon Rodrigues/2022/7211 dated 19/05/2022.

AND WHEREAS, the Respondent has filed an application for recall of decision taken in the 302nd Meeting of the GCZMA (*Enclosed Copy of the Application*).

AND WHEREAS, this matter was placed in the 308th GCZMA Meeting held on 09/06/2022, the Authority decided that, "The Authority decided to de seal the property so as to enable the Authority Members to carry out the Site Inspection"

NOW THEREFORE, the Deputy Collector & SDO Mapusa is hereby directed to de-seal the structures in property bearing survey No. 158/1 of Calangute Village, Bardez Goa; immediately on receipt of this order.


 (Dasharath M Redkar)
Member Secretary (GCZMA)
 OIC

To,

- 1) **The Dy. Collector & SDM of Bardez, Goa...** is hereby directed as to *enforce these directions and seal the property bearing Survey No 135/7 of Village Vaddy, Candolim, Bardez Goa.*
- 2) **Mr. Vernon Rodrigues**, house no 483, Vaddy, Candolim, Bardez Goa.
- 3) **Mrs. Judith Rodrigues**, r/o H. No. D-6; TRT Holiday Enclave, Near Hotel Golden Tulip, Muddo Waddo, Candolim Bardez Goa.

GOA COASTAL ZONE MANAGEMENT AUTHORITY

C/o Department of Science, Technology and Environment (Govt. of Goa)
4th floor, Dempo Towers, Patto, Panaji Goa

www.czma.goa.gov.in

Ref. No. GCZMA/N/ILLE-COMPL/21-22/89/ 575

Dated: 14/06/2022
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CORRIGENDUM

Sub: Orders.

Ref.: GCZMA/N/ILLE-COMPL/21-22/89/586 dated 14/06/2022.

Vide Order bearing Ref No. GCZMA/N/ILLE-COMPL/21-22/89/568 dated 14/06/2022; issued to Dy. Collector & SDm of Bardez Goa.

In the said order there is mention of Sy No 158/1 on page 2 last para wherein the same may be reads as,

NOW THEREFORE, the Deputy Collector & SDO Mapusa is hereby directed to de-seal the structures in property bearing survey No. 135/7 of Candolim Village, Bardez Goa; immediately on receipt of this order”.

And

The Dy. Collector & SDM of Bardez, Goa.... is hereby directed as to enforce these directions and de seal the property bearing Survey No 135/7 of Village Vaddy, Candolim, Bardez Goa.

The rest of the contents of the Order bearing Ref No. GCZMA/N/ILLE-COMPL/21-22/89/568 dated 14/06/2022; remains the same.

(Dasharath M. Redkar)
Member Secretary (GCZMA)

o/c

To,

To,

- 1) **The Dy. Collector & SDM of Bardez, Goa....** is hereby directed as to enforce these directions and desal the property bearing Survey No 135/7 of Village Vaddy, Candolim, Bardez Goa.
- 2) **Mr. Vernon Rodrigues**, house no 483, Vaddy, Candolim, Bardez Goa.
- 3) **Mrs. Judith Rodrigues**, r/o H. No. D-6; TRT Holiday Enclave, Near Hotel Golden Tulip, Muddo Waddo, Candolim Bardez Goa.



OFFICE THE DY. COLLECTOR & S.D.O. MAPUSA GOA
Government Complex Building, Morod, Mapusa Goa.
Phone No:- 0832-2262038 (Fax) 2250398
Email: sdm-mapusa.goa@nic.in

No. DC/SDM/Map/CRZ/Vernon Rodrigues/2022/7686 Dated:20/06/2022

To,
The Member Secretary,
Goa Coastal Zone Management Authority,
C/o Department of Science and Technology &
Environment, (Govt., of Goa), 4th Floor, Dempo Towers, Patto, Panaji Goa.

Sub:..Compliance report of De- sealing of the Property bearing **Member Secretary,**
Sy.No.135/7 of Village Candolim Bardez Goa. **G. C. Z. M. A.**

Inward No. 1126
Date: 22/06/2022

Sir,

With reference to your letter No. GCZMA/N/ILLE-COMPL/21-22/89/568 dated 14/06/2022 was forwarded to the Mamlatdar of Bardez with direction to de-seal property bearing survey no 135/7 of Village Vaddy, Candolim Bardez Goa immediately on receipt of this order and report compliance.

The Mamlatdar of Bardez vide letter No. MAM/BAR/CI-II/Sealing Par & SPA/2022 dated 17/06/2022 had Submitted the report stating that the talathi of Candolim Saza, Mr.Ankit Arobekar , attached to Mamlatdar office reached the site along with the property owner for necessary De-sealing of the premises on 16/06/2022 at 12.00 pm.

The detailed Panchanama is drawn on the site which is enclosed herewith and Submitted for necessary action.

Yours faithfully,



(Gurudas S. T. Desai)
Dy. Collector, SDO & SDM.,
Mapusa, Bardez Goa.

✓ Encl: As above

27/6
In this case
Station 0 is
supported to
inspect the
Site
pls follow
up
27/6

OFFICE OF DY. COLLECTOR

SDO & SDM

INWARD NO. 7719

MAPUSA

Inward Clerk



OFFICE OF THE MAMLATDAR OF BARDEZ, MAPUSA GOA

Government Offices Complex Building,

Morod, Mapusa Goa

Phone No. 2262233 (Fax), 2262210

E-mail: mam-bardez.goa@nic.in

No. MAM/BAR/CI-II/Sealing PAR& SPA /2022/

Date: - 17/6/2022

To,
The Dy. Collector, SDO & SDM,
Mapusa, Bardez Goa.

Sub: Compliance report of De-Sealing of the Property bearing Sy. No. 135/7 of Village Candolim Bardez Goa.

Ref: DC/SDM/Map/CRZ/Vernon Rodrigues/2022/7623 Dated 15/06/2022.

Sir,

With reference to the above cited subject and referred memorandum, the Talathi of Candolim Saza, Mr. Ankit Arobekar, attached to this Office reached the site along with the property owner for necessary De-sealing of the premises as per the memorandum mentioned above on 16/6/2022 at 12.00 pm.

The detailed Panchanama is drawn on the site which is enclosed herewith and Submitted for necessary action.

Yours faithfully,

(Rahul C. Desai)

Mamlatdar of Bardez Taluka
Mapusa - Goa.

Encl: As above

of Exhibit

Case No.

of 20

Date:

PANCHANAMA

June 2022

With Reference to the Memorandum forwarded by Dy collector, SDO, & SDM Muzusa - Goa bearing NO DC/SDM/Map/CRZ/Verover/Rodriguez/2022/15 dt 15th June 2022 in respect of de sealing the ci of the property bearing Sy. NO 135/7 of Candolim village

As per instruction of Mr. Dattaram Kamat C.I attached to mamlatdar of Bordis along with Mr. Ankit Arobekar, Talathi of Candolim was visited the site and with de seal the structures / shops of Around 14 Nos & one Store Room.

The entire process was started around 11:00 am in presence of the property owner on site and concluded around 12:00 pm

Ankit Arobekar

Mr. Ankit Arobekar
Talathi, Candolim

D. N. Kamat

Mr. D. N. Kamat
CE-12