

BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE.

I.A. No. 222/2024 (WZ)

In

Appeal No. 22/2024 (WZ)

Cochin Estates Ltd. ...Applicant
In
Rajendra Kumar Kamra ...Appellant
Versus
GCZMA & Ors. ...Respondents

**REPLY OF THE APPELLANT TO THE INTERVENTION
APPLICATION DATED 05/07/2024 FILED BY THE
APPLICANT.**

The Appellant above-named most respectfully states and submits as under:

1. The Appellant states and submits that the present application seeking intervention is an indirect ploy by

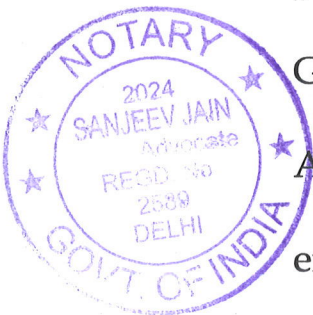


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the Applicant to challenge the Order bearing Reference No. GCZMA/N/ILLE-Compl/22-23/75/3283 dated 17/01/2024 passed by the Respondent No.1/GCZMA (as modified by Corrigendum bearing Reference No.GCZMA/N/ILLE-Compl/22-23/75/3498 dated 29/01/2024), by way of backdoor entry.

2. The Applicant has not explained the reasons as to why the Applicant did not file an independent appeal, challenging the aforesaid Orders of the Respondent No.1/GCZMA dated 17/01/2024 and 29/01/2024 (hereinafter referred to as the "impugned orders") and instead chose to file an intervention application in an appeal filed by the Appellant herein.

3. In any event, the fact of the matter is that the limitation period for instituting an appeal u/s 16 of the National Green Tribunal Act, 2010, at the instance of the Applicant, challenging the impugned orders, has expired and no appeal, if instituted as on the date of



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filing of the intervention application, would be maintainable, owing to bar of limitation. The Appellant submits that it is only with a view to overcome this legal hurdle that the Applicant has cleverly chosen to mount a collateral challenge to the impugned orders, through the present application for intervention, which cannot be permitted in law.

4. In paragraph 20 of the subject application, the Applicant has averred that it was served/communicated with a copy of the Impugned Order dated 17/01/2024 via speed-post. If that was the position, then the Applicant could have very well challenged the Impugned Order dated 17/01/2024, through its own appeal u/s 16 of the NGT Act, 2010.

5. The Appellant states that the alleged non-communication of the Corrigendum dated 29/01/2024 was immaterial and could hardly be considered as an impediment for the Applicant to avail its appellate

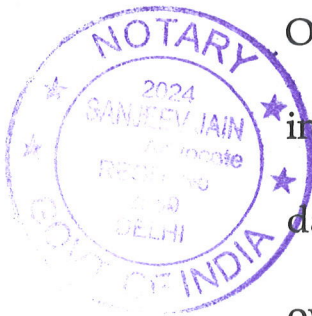


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remedies. For the sake of clarity, it may be noted that the Corrigendum dated 29/01/2024 has not changed any of the contents of the Original Order dated 17/01/2024. The Corrigendum has only corrected the names of the recipients of the Original Order dated 17/01/2024.

6. However, if it the Applicant's own case that it was duly served with a copy of the Original Order dated 17/01/2024, then alleged non-communication of the Corrigendum dated 29/01/2024 could hardly be a reason for the Applicant to not challenge the Impugned Orders, by instituting its own appeal.

7. The Applicant has sought intervention in the present appeal on the ground that, while passing the Impugned Orders, the Respondent No.1/GCZMA has not taken into account, the contents of Applicant's Complaint dated 30/05/2022; as also the findings of GCZMA's own site inspection reports. The Appellant submits

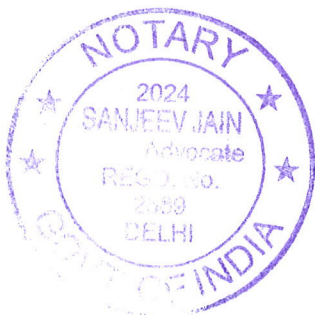


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that such contentions (*right or wrong*) squarely constituted grounds of appeal for the Applicant.

8. The Appellant submits that the Applicant, for reasons best known to itself, has chosen not to avail of its appellate remedies. Having missed its opportunity to directly institute an appeal on its own, the Applicant cannot be permitted to indirectly gain entry into the appeal filed by the Appellant, through intervention.

9. The Appellant submits that the scope of the appeal filed by the Appellant is limited and the Appellant has challenged the Impugned Orders only to the extent the same directs demolition of swimming pool, RCC underground water-tank and footpath in property bearing Survey No. 211/2-A of Ashwem, Village Mandrem, Taluka Pernem, State of Goa. The issue concerning legality of the cottage structures or its location (*in violation of rules of setback etc.*) is not subject-matter of the present appeal filed by the Appellant.



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10. Therefore, if the intervention of the Applicant is allowed, it would completely change the scope of the present appeal and enlarge the grounds of challenge, which cannot be permitted, through intervention. It is reiterated that if the Applicant was indeed aggrieved by the Impugned Orders (*on the basis of the grounds raised in the Intervention Application*), then the Applicant ought to have filed its own appeal challenging the same.
11. It is further pertinent to note that the Applicant had filed a similar application seeking intervention in the matter of *Chandan Suryakant Khojuvekar v/s Rajendra Kumar Kamra & Ors. [I.A. No. 223/2024 (WZ) in Appeal No. 24/2024 (WZ)*, raising similar grounds for intervention, as urged in the present Application.
12. The Appellant submits that by Order dated 23.08.2024, this Hon'ble Tribunal dismissed I.A. No.223/2024 (WZ) on the ground that if the Applicant had any grievance regarding the Impugned Order, then the Applicant



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ought to have filed an independent appeal u/s 16 of the NGT Act, 2010 and not tried to get itself impleaded as one of the Respondents in the Appeal filed by Chandan Suryakant Khorjuvekar.

13. The Appellant submits that the present application seeking intervention, being premised on same/similar grounds as urged in I.A. No. 223/2024 (WZ); the same would merit dismissal, on the same grounds stated by this Hon'ble Tribunal in its Order dated 23/08/2024 passed in the said I.A. Hereto annexed and marked as 'ANNEXURE R1' is a copy of the Order dated 23.08.2024 passed in I.A. No. 223/2024 (WZ) in Appeal No. 24/2024 (WZ).

14. In any event of the matter, the Applicant is neither a co-owner of any portion of property bearing Survey No.211/2-A of Village Mandrem, (*wherein the Appellant has undertaken the subject development of cottages*) nor has



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the Applicant even claimed any direct legal/proprietary right in the said property.

15. In view of the same, the mere fact that the applicant was a co-complainant based on whose complaint the GCZMA had commenced Show Cause Notice proceedings against the Appellant or that the GCZMA had clubbed the Applicant's complaint with the complaint of Chandan Suryakant Khorjuvekar or that the same were jointly disposed-of through the Impugned Orders, cannot constitute a legally valid ground to justify the intervention of the Applicant.

16. The Appellant respectfully submits that it is well settled law that in matter of illegal construction, the role of a complainant comes to an end after he lodges his complaint with the concerned statutory authority and sets the legal process into motion. Thereafter, it is for the concerned statutory authority to adopt necessary



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procedure, pass appropriate orders and to defend the same in appeal, if so instituted.

17. The complainant does not become a necessary or proper party merely on the ground that the Show Cause Notice proceedings and Impugned Order were passed based on his Complaint. The presence of such Complainant is not required for effectual and proper disposal of the Appeal.
18. With reference to paras 1 and 2 of the intervention application, the contents thereof do not warrant any specific comments.
19. With reference to paras 3 and 4 of the intervention application, the contents thereof are denied, as alleged.
20. With reference to paras 5 & 6 of the intervention application, the contents thereof do not warrant any specific comments.



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21. With reference to paras 7 & 8 of the intervention application, the contents thereof are denied, as alleged. The Appellant submits that the Appellant has undertaken the subject work of temporary cottages and allied facilities, strictly in accordance with the statutory permissions granted by the competent authorities, as more particularly set-out in the appeal.
22. With reference to para 9 of the intervention application, the contents thereof are denied, as alleged.
23. With reference to paras 10 & 11 of the intervention application, the facts stated therein are not in the personal knowledge of the Appellant and therefore the Appellant cannot deal with the same. Suffice it to note that all the site inspections have been conducted by the GCZMA without issuing site-inspection notices to the Appellant and the findings of the said inspections are grossly inaccurate and factually incorrect (*as more particularly dealt-with in the appeal*).



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24. Consequently, the contents of paras 13 & 14 of the intervention application are denied.
25. With reference to paras 15 & 16 of the intervention application, the contents thereof are emphatically denied. The Applicant was throughout contesting the Show Cause Notice Proceedings and was therefore well aware of passing of both Impugned Orders by the Respondent No.1/GCZMA.
26. With reference to para 17 of the intervention application, the Appellant submits that it has only exercised its legal rights in the matter and there is nothing mischievous about the Appellant filing application to delete/drop the Applicant (*wrongly shown in the array of parties in the present appeal*).
27. With reference to paras 18 of the intervention application, the alleged grounds stated therein were permissible grounds of challenge in an appeal



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instituted by the Applicant u/s 16 of the NGT Act, 2010 but the same cannot be urged in intervention by a proposed respondent, considering the limited scope of the appeal filed by the Appellant.

28. With reference to paras 19, 20 & 21 of the intervention application, the contents thereof are denied. It is specifically denied that the Appellant informed the Applicant regarding the filing of the present appeal, as alleged in para 21.

29. With reference to paras 22 of the intervention application, it is respectfully submitted that reliefs sought in the intervention application cannot be granted and therefore the same be dismissed with exemplary costs.



Date: 9 DEC 2024 /12/2024

Place: Pune, Maharashtra

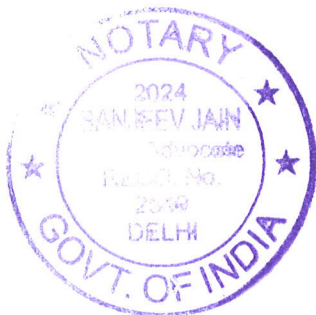
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APPELLANT

VERIFICATION

I, Rajendra Kumar Kamra, aged 54 years, Indian National, son of Leela Krishan Kumar, residing at H. No. 76, 3rd Floor, Pocket No. 27, Sector 24, North West Delhi, the Appellant above-named, do hereby say on oath and solemn affirmation that the contents of paras 14, 18 to 26 & 28 of the foregoing reply are true to my own knowledge and the contents of the remaining paras 1 to 13, 15 to 17, 27 & 29 thereof, are based on legal submissions which I believe to be true and correct.

Solemnly affirmed/verified at Delhi on this 9 DEC, 2024 day of December, 2024.



Rajendra K
DEPONENT

ATTESTED

[Signature]
Notary Public Delhi

9 DEC, 2024