

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

APPEAL NO. 51 OF 2022 [WZ]

**BETWEEN:**

The Colva Civic and Consumer Forum

....APPELLANT

**AND**

The Goa Coastal Management Authority and Ors.

.....RESPONDENTS

WRITTEN SUBMISSION DT 14.08.2024 OF THE  
APPELLANT

1. Property admeasuring 1,570 sqm (refer *page 50 – 51 para 2 onwards*) Sy. No 24/1 lies within 200 metres from HTL in the NDZ of CRZ – III of Colva village, Salcete, Goa.
2. That this property is listed in MCA 635/2012 filed by the Appellant in SMWP 02/2006 and in Oral Judgement dt 21.06.2016 the Hon'ble High Court of Bombay at Goa issued

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directions to the R1 Authority to hear the parties and issue necessary orders.

3. GCZMA Order dt 12.10.2022 and Corrigendum dt 19.10.2022 has been challenged on the grounds;

- that part demolition is ordered without due diligence or any site inspection despite evidence of serious violations raised by this Appellant during proceedings before the Resp 1 Authority, who only relied on the mapping of January –February 2022 which showed the structures that were erected between 2006 and 2022 in orange under directions of the Hon'ble High court of Bombay at Goa in PIL10/2020
- Only structures A to F Colly were directed to be demolished .
- that the FAR was increased from 29.81% to 43.54% to 106.91% (*refer pages 77 - 80*)
- that Resp 4 has not produced a single document such as mandatory permissions, NOCs, licences, authorised Construction plans, valid Deed of sale, Electricity/Water bills, House Tax, Trade licences to show the existence of structures in NDZ prior to CRZ Notification 1991.
- All document produced are post approval dt 01.12.1995 (*refer Page 86 - 100*) and all the structures shown Site Plan to be demolished do not refer to any prior approvals (*Page 76- 77*).
- that under the guise of reconstruction of a “traditional residential building of Stilt + 2 upper floors constructed a Ground + two floors and several other illegal structures.
- that No Objection to start business activities was granted by Resp. 3 only on 05-03-1998, after CRZ Notification 1991 & without approvals of GSCCE/Resp 1 Authority (*refer page 87-4*)

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4. This Appellant identified illegal Structures 'X' and 'Y' (*Exh R page 145*) and using google imagery other structures identified by Appellant as illegal were 'O'(main building) 'T' 'U', 'V', 'W', 'Z' (*Exh 1 page 269*).

5. During pendency of the present proceedings, the Resp No 4 demolished structure 'X', ( *identified by Appellant*) 'B', 'D', 'E', 'F'( *identified in R1 directions dt 12.10.2022 & 19.10.2022*) and T', 'U', 'V', 'W', and 'Z'( *identified by Appellant in Google images Exh 1 page 269*)

Structures as per order dt 12 & 19.10.2022 to be demolished	Structures identified by appellant to be demolished	Structures demolished by Resp 4 during pendency of Appeal
A,B,C,D,E,F & F Colly	X, & Y (Page 145)  O,T,U,V,W & Z (page 269 Satellite imagery)	B, D, E, F (Jt. report dt 19.02.2024.)  T,U,V,X & Z

Structures to be demolished as per Jt. Site Insp. 19.02.2024	<p style="text-align: right;">4</p> <p>A, (part, canopy), C, F.&amp; Structure adjacent to "C" (report 19.02.2024)</p> <p>"O" "Y" (main building),</p> <p>Concrete flooring of entire property ( page 301)</p>
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#### 6. Deficiencies in the Site Inspection Report dt 19.02.2024.

- I submit that the details in the Joint site Inspection directed by this Hon'ble Tribunal and conducted on 19.02.2024 have not recorded all the violations ( **pages 278 - 279** ) which have been raised in Appellant's letter to the Secretary/of Environment/Chairperson of Resp 1 Authority dt 24.04.2024 (**pages 294-295**) and in rejoinder to this report (**pages 283 - 301**) is as follows:

- The plot 24/1 is located within 200m of the HTL in the CZMP 2011 and not between 200 – 500m from HTL as erroneously claimed in the report on page 278 para 3, pt no. (i) . I submit the final CZMP map overlaid on the Satellite google image of Colva village shows the plot within 200m from the HTL (**Refer to page 296**)

- The total built up area of the structure 'O' (main building) was not measured.

I submit that that the Respondent 4 has reconstructed the building without any approvals and has changed the very nature of the

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building from 1995 approval of 341.80sqm to 428.21 sqm (*refer to R4 architects report page 186-187*) effectively further illegally reconstructing the building with an increased built up area by 86.41 sqm on each of the three floors. A total increase of 259.23 sqm built up area in violations of CRZ rules.

- The photographs and measurements taken by the Resp I during the Site Inspection of the Reception area, two toilets, electric room and Bar and Restaurant all housed in the Stilt area and outside the main building was not recorded in the report This Appellant has provided available satellite 3D google images of structures seen in the stilt area. (refer pages 297 -300).

- *With respect to reliance by this Appellant on Satellite Imagery and the details including the progress of illegal constructions in sy. No 24/1 of Colva Village in NDZ of CRZ - III*

- *I herein rely on the Judgements of the Hon'ble Supreme Court in*

- *i). Vamika Island (Green Lagoon Resort) Vs Union of India (Radhakrishnan J.) SLP'S (c) Nos 24390-91 of 2013 dt 08.08.2013. Page 767 para 24 last three lines state "..... Satellite imagery also, in our view, is one of the best scientific indicators to know, when was the construction effected in violation of CRZ which, in our view, has been correctly applied in this case". Emphasis relied & supplied on the Relevant pages*

- *ii ). Writ Petition (s) (Civil Nos(s) 4677/1985 in M C Mehhta Petitioners Vs Union of india & ORS Respondent(s)*

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**" SATELLITE MAPPING TO DETECT  
ENCROACHMENTS OF LANDS**

*The matter has been placed before us as per our directions because the aspect of Satellite mapping and Geo Fencing is extremely important considering that the unauthorized construction is perennial problem. It is necessary that the modern technologies for Satellite mapping of lands and buildings to detect encroachments and unauthorized/illegal constructions and Geo fencing of land/ premises for prompt monitoring and control takes place. On analysis of the matter, we find that in order to detect encroachment of land, preliminary requirement was conducting satellite mapping of lands and Digitisation of Cadastral Maps which apparently has already been completed in the Union Territory of Delhi under Digital India Lands Records Modernization Programme (DILRMP). The next requirement to obtain High Resolution Satellite Imagery of the area from Indian Remote Sensing Agency (IRSA) or other external sources such as Google. The alternate apparently is that the aerial photography by engaging services of drone fitted with high precision cameras as aerial photography through high resolution drones are purported to be superior to that which are readily available through Satellite Imagery pictures". **Emphasis relied & supplied on the Relevant pages***

- The Resp. 4 has admitted in the Detailed affidavit (pg. 186) that a kitchen, restaurant and Reception are in existence in the Stilt area, but hid the fact that there were also two toilets and an electrical room.

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- The open to sky central portion of the building is still covered as, shown as "Y" (Sketch Plan Page 145) but not identified in the report.
  - Measurements of the built up areas of the first and second floors were not taken.
  - The Reception room, Bar and restaurant, two toilets, electrical room and their measurements taken at the time of inspection not recorded in the report.
  - Almost all of the area surrounding the ground floor has been concretized has not been recorded.
  - If the measurements of all the existing structures beyond the main building are to be included this further increases the FAR which are in violations of the CRZ Notification.

**7. With respect to objections raised by this Appellant to the Site Inspection reports dt 19.02.2024** which did not record all the violations which should have been included in the said reports I rely on the Hon'ble High Court Order dt 14.01.2020 (para 7) which states that "*...In fact the GSCZMA authorities goes for inspection and if they notice any violation under the GSCZMA, the law requires that they take cognizance of any such act and under such law..*" **Emphasis relied & supplied on the Relevant pages**

**8. I further submit that the approval dt. 01.12. 1995 (refer page 77) for Reconstruction of only one Traditional Residential building, after 19.02.1991 and now converted to a commercial building without approval** does not refer to any previous

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permission, the Chief Town Planner (Member Secretary, GSCCCE), could not have approved stilt + two upper floors by increasing the area from 468.09 sqm to 683.60sq for the two upper floors in violation of the CRZ Notification 1991 Annexure I Section 6 (1) (CRZ III)(i) states "*The area upto 200 metres from the High Tide Line is to be earmarked as 'No Development Zone' 53[provided that such area does not fall within any notified port limits or any notified Special Economic Zone]. No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density, and for permissible activities under the notification including facilities essential for such activities,*". It is apparent that the permission itself is questionable and maybe a forged document as no previous records prior to 1995 are available with any departments (refer pages 208 -214)

9. The various illegalities beyond the approved plans/permissions and present area status of construction are thus in violation of the CRZ Rules in the NDZ of CRZ-III areas, Details of violations enumerated below

i). Prior to 01.12..1995 Site plan, area 468.09sqm built up area FAR = 29%.

ii) Approval 1995 Site plan, area 683.60sqm built up area FAR = 43.24%

iii) Present Status Area  $428.21 \times 3 = 1284.63$  ssqm built up area FAR = 81.82 %

iv) A, C, F & Structure adjacent to C . Area not known, hence FAR cannot be calculated, though measurements were taken not reflected in detail report (pages 278-279)

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## 10. Brief back ground facts

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1. This Appellant has filed this Appeal as the Resp 1 Authority issued the order dt 12.10.2022 & 19.10.2022 directing only structures A to F Colly to be demolished.

- That all the structures lie in the NDZ of CRZ III and the Resp 4 has not produced a single document such as mandatory permissions, NOCs, licences, authorised Construction plans, valid Deed of sale, Electricity/Water bills, House Tax, Trade licences to show the existence of structures in NDZ prior to CRZ Notification 19.02.1991
- that all the permissions produced by the Respondent 1 pertains to the year 1995 & thereafter
- that the Site Plan (page 77) does not describe the nature and area of each of the structures and their use proposed to be demolished it is not known how the Chief Town Planner approved re-construction of a residential building dt 01.12.1995 of Stilt plus two upper floors in NDZ of CRZ III by increasing the FAR from 29% to 43.24 % raising doubts about the authenticity of this approval..
- That subsequent to the 1995 approval several illegal structures were constructed by illegally increasing the FAR in violation of CRZ Notification 1991.
- That three restaurants were illegally constructed and used for commercial activities without any approvals/permissions from GSCCE, TCP or Panchayat.
- . that demolition orders issued by the Resp. 3 were aborted.
- that No Objection to start business activities was granted by Resp. 3 only on 05-03-1998, after CRZ Notification 1991 & without approvals of GSCCE.

- No physical Site Inspection was carried out to verify all the violations by Resp 1..
- That RTI reply received from the TCP department revealed that no such approval/permission dt 01.12.1995 was issued.

11. Therefore I pray that structure A, (part, canopy), C, F, and Structure adjacent to "C" (report 19.02.2024) and including structure "O" "Y" (main building) (refer page 269) including the open area which has been concretized all be demolished and the land restored to its original condition and environmental compensation be levied.

12. Payer Clause (a), (b), and (c), sustained.

13. The Resp 1 Authority has done due diligence and issued order dt 11.02.2022 wherein there were several violations in the case of Agnelo Fernandes & Anr in Calangute, Bardez, Goa *Exh 'P' pages 118 – 129*)

This Hon'ble Tribunal in its order dt 02.09.2022 in Appeal 16 of 2022 quoted the GCZMA order in para 7 ( "*The Authority noted that even though it shows that there existed a small structure on site at the time of promulgation of the survey records; no benefit can be given to the Respondents as the old structures existing as shown in the survey plan are no longer in its original condition as shown in the mapping carried out by the DSLR IN 26/03/2021* )

The Resp 1. must be held responsible for condoning such serious violations in the NDZ of CRZ III , for using different yardsticks when passing orders and when fresh direction is given by this Hon'ble Tribunal to conduct a Site Inspection an attempt

is made to still conceal facts which are detrimental to the cause of  
justice to the environment //

14. I say that in view of the above submissions prayer clause (a), (b) and (c) are sustained and pray that this Hon'ble Tribunal direct that the nature of all the illegally reconstructed structures and other unauthorised structures of R4 in Sy. No 24/1 of Colva village in NDZ of CRZ - III be demolished and Environmental costs be imposed, in accordance with the formula for calculation of Environmental Compensation applied by the G.C.Z.M.A. in past cases, as per directions of this Hon'ble Tribunal in O. A 23/2014 (WZ) in its order dt.02.11.2017.

  


**DEPONENT**

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Writ Petition No. 1105 of 2019

Minguel Caetano Do Rosario Vaz v. Goa State Coastal Zone Management Authority

2020 SCC OnLine Bom 63

In the High Court of Bombay at Goa  
(BEFORE M.S. SONAK AND M.S. JAWALKAR, JJ.)

Minguel Caetano Do Rosario Vaz ..... Petitioner;

v.

Goa State Coastal Zone Management Authority, Thr. its Member  
Secretary and Others ..... Respondents.

Writ Petition No. 1105 of 2019

Decided on January 14, 2020

Advocates who appeared in this case:

Mr. Jitendra P. Supekar with Mr. Sufiyan Sayed, Advocates for the petitioner.

Mr. Manish Salkar, Government Advocate for the respondents no. 1 and 2.

Mr. Parikshit Sawant, Advocate for the respondent no. 3.

The Judgment of the Court was delivered by

**M.S. SONAK, J.:**— Heard Mr. Jitendra Supekar, the learned Counsel for the petitioner, Mr. Manish Salkar, the learned Government Advocate for the respondents no. 1 and 2 and Mr. Parikshit Sawant, the learned Counsel for the respondent no. 3.

2. Rule is made returnable forthwith, at the request of and with consent of the learned Counsel for the parties.

3. The basic grievance of the petitioner is that the respondent no. 3 has carried out certain unauthorized structures within the area covered under the Coastal Regulation Zone (CRZ) Notification 2011, as amended from time to time. It is the case of the petitioner that despite his filing complaints, no action was being taken by the respondent no. 1, the Goa State Coastal Zone Management Authority (GSCZMA), which is duty bound to take action in terms of the law.

4. The respondent no. 3, has denied that any illegal construction has been put up and maintains that whatever structures have been put up are in accordance with the permissions/NOC's granted by such authorities.

5. Since, the complaint was that the GSCZMA was not taking any action, we direct the GSCZMA to inspect the site. The site was ultimately inspected on 7/1/2020 and 9/1/2020. Mr. Salkar, the learned Government Advocate, has now placed before us a copy of the Site Inspection Report. He states that the said Inspection Report thus indicate prima facie some illegalities and the GSCZMA will issue a Show Cause Notice to the respondent no. 3 as well as certain other parties in relation to the illegal structures at the site. Mr. Salkar, the learned Government Advocate, states that the Show Cause Notice will be issued within a period of three weeks from today and the same will be disposed of as expeditiously as possible and in any case within a period of three months from today.

6. The respondent no. 3 complains that even the petitioner has put up some illegal structures at or around the site. The GSCZMA is directed to inspect the site and if, the petitioner or any of his relations have put up any illegal construction at the site the GSCZMA are entitled to take action as well.

7. In fact the GSCZMA authorities goes for inspection and if they notice any violation under the GSCZMA, the law requires that they take cognizance of any such



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(2013) 8 SCC

(2013) 8 Supreme Court Cases 760

(BEFORE K.S.P. RADHAKRISHNAN AND A.K. SIKRI, JJ.)

VAAMIKA ISLAND (GREEN LAGOON  
RESORT)

.. Petitioner;

a

*Versus*

UNION OF INDIA AND OTHERS

.. Respondents.

SLPs (C) Nos. 24390-91 of 2013<sup>†</sup>, decided on August 8, 2013

A. Environment Protection and Pollution Control — Coastal areas — Critically vulnerable coastal areas (CVCA) — Vembanad Lake and its islands in State of Kerala (Kerala backwaters) — Protection of its ecological resources from progressive encroachment/human intervention and environmental degradation — Directions passed by High Court for demolition of illegal constructions in one of the islands of said Lake, held, are justified in larger public interest — Said Lake has been declared to be an ecological sensitive area both nationally and internationally — Constitution of India — Arts. 21, 14, 226, 48-A and 51-A(g) — Protection of critically vulnerable coastal areas from illegal constructions — Demolition order of High Court, upheld (Paras 27 to 29)

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B. Constitution of India — Arts. 136, 226, 21, 14, 48-A and 51-A(g) — Illegal constructions in prohibited areas i.e. CRZ I area — Factual findings regarding said constructions, held, cannot be interfered with by Supreme Court (Para 26)

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C. Environment Protection and Pollution Control — Coastal areas — Critically vulnerable coastal areas (CVCA) — Prohibition of construction in coastal areas of Kerala notified as CRZ I having ecological and marine resources — Petitioner's property falling in CRZ I area as per map prepared by Kerala Coastal Zone Management Authority (KCZMA) — Challenge to said map on ground that petitioner's properties were wrongly included in said map — Tenability — KCZMA preparing map by following guidelines of MoEF, by adopting all scientific methods and expert data available i.e. maps prepared by Survey of India and Survey Deptt. of Kerala — KCZMA also relying on satellite imagery — Held, there is no illegality in map prepared by KCZMA and technique employed by it to prepare the map for ascertaining illegal constructions in prohibited areas — High Court was also right in not finding any illegality in the adoption of salinity test (even if said test was incorporated in 2002 i.e. after the preparation of maps) — Order of demolition given by High Court, therefore, needs no interference — Constitution of India — Arts. 21, 14, 48-A and 51-A(g) — Critically vulnerable coastal areas (CVCA) — Map prepared by experts including petitioner's properties in CVCA — Validity — Environment (Protection) Act, 1986, Ss. 3(1) and (3) (Paras 11, 17 and 21 to 29)

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<sup>†</sup> From the Judgment and Order dated 25-7-2013 of the High Court of Kerala at Ernakulam in WP (C) No. 8299 of 2012 and WP (C) No. 2947 of 2013

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SUPREME COURT CASES

(2013) 8 SCC

1991 Notification, the entire coastal stretch from the lowest low tide to highest high tide line and the coastal land within 500 m from the high tide line on the landward side is termed as CRZ. CRZ is classified into four categories depending on the sensitivity of the zones and prohibited and regulated activities have been listed for each zone. Later, a Notification dated 18-8-1994 was issued making six amendments to the main notification and those were made on the basis of the report submitted by the B.B. Vohra Committee which was set up by the Central Government. It was noticed that having issued the main notification, no follow-up action was taken either by the coastal States, Union Territories or by the Central Government. The provisions of the main notification appeared to have been ignored and violated with impunity and there was complete laxity in the implementation of the Act and other related statutes including the preparation of the coastal management plans by the various coastal States.

19. In *Indian Council for Enviro-Legal Action v. Union of India*<sup>2</sup> this Court elaborately dealt with the scope of CRZ I, CRZ II, CRZ III and CRZ IV and noted with concern the delay on the part of the various States in not implementing the main notification as well as not preparing the coastal management plans for proper implementation of the 1991 as well as 1994 Notifications. The Court directed the Central Government to set up under Section 3 of the Environment (Protection) Act State Coastal Management Authorities in each State or zone and also National Coastal Management Authority.

20. The Central Government, following the directions given by this Court in *Indian Council for Enviro-Legal Action case*<sup>2</sup> as well as in exercise of its powers conferred by sub-sections (1) and (3) of Section 3 of the Act, constituted KCZMA vide its Notification dated 21-7-2008 which was published in the Gazette of India, Extraordinary, Part II. The Authority has been entrusted with the power to examine the proposals for changes or modification in classification of CRZ areas and in CZMP received from the State Government and to make specific recommendations to the National Coastal Zone Management Authority. It has also the power to deal with environmental issues relating to CRZ which may be referred to it by the State Government, the National Coastal Zone Management Authority or the Central Government. The Authority is also entrusted with the power to identify ecologically sensitive areas in the CRZ and to formulate area-specific management plans for such identified areas. The Authority is also empowered to identify coastal areas highly vulnerable to erosion or degradation and formulate area-specific management plans for such identified areas. The Authority is further obliged to submit the plans prepared by it to the National Coastal Zone Management Authority for examination and its approval. Various other powers have also been entrusted to KCZMA by the abovementioned notification.

<sup>2</sup> (1996) 5 SCC 281

VAAMIKA ISLAND (GREEN LAGOON RESORT) v. UNION OF INDIA  
(Radhakrishnan, J.)

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- a 21. CZMP 1995 of the State shows the entire Vettila Thuruthu as FP (Fig.1: Map No. 32-A of CZMP). CZMP described FP as: another fish spawning/breeding ground and these are shallow water bodies adjoining the backwater system where certain species of fish are grown in large numbers. The 50 m belt adjoining it is also demarcated as CRZ I, since this area is low lying, it is likely to be inundated due to sea level rise (SLR). Hence, the entire Vettila Thuruthu is described as CRZ I as per 1991 Notification and, as per 2011 Notification, it is described as either CRZ I, CRZ III or CRZ IV. New constructions are not permitted in CRZ I, the no-development zone of CRZ III and in CRZ IV. Repairs of existing structures can be permitted in no-development zone of CRZ III subject to conditions for permissible activities as per the notification. Tourism activity is also not permitted in the no-development zone of CRZ III or CRZ I.
- b 22. CRZ for Kerala in CRZ 2011 also prohibits new construction within 50 m from high tide line and only dwelling units of local communities could be repaired or reconstructed.
- c 23. KCZMP was prepared, as already indicated, based on the guidelines of MoEF, taking care of the maps prepared by the Survey of India (Government of India) and cadastral maps prepared by the Survey Department of Kerala Government were used as base map for preparation of CZMP of the State. The area between low tide line and high tide line is also CRZ I. The FPs, as already indicated, are shallow water bodies which are spawning/breeding area of fishes and hence, as per notification, they are CRZ I.
- d 24. CRZ 2011 has been made applicable with effect from 6-1-2011. CZMP is being prepared on CRZ 2011, at that time the plan prepared on the basis of the 1991 Notification would be "in force". Coastal plan prepared on the basis of the 1991 Notification clearly shows Vettila Thuruthu as "FP". We do concur with the view of the High Court that islands could be coastal stretches of river or backwater or backwater islands in Kerala are clearly covered by CRZ I. It cannot fall under either CRZ III or CRZ IV. We also fully endorse the view of the High Court that even before the salinity test was incorporated in the year 2002, reliance was placed on that test, on the basis of 5 ppt, which was made as per standard measurements technique in parts per thousand. Satellite imagery also, in our view, is one of the best scientific indicators to know, when was the construction effected in violation of CRZ which, in our view, has been correctly applied in this case.
- e 25. We, therefore, find no illegality in the map prepared by KCZMA as well as the techniques employed to ascertain that works/constructions have been made in violation of CRZ 1991 as well as 2011.
- f 26. The petitioner had effected the construction in violation of the provisions of 1991 and 2011 Notifications as well as Map No. 32-A, so found by the High Court. The factual details of the same and where actually the portion of some of the properties of the petitioner in Vettila Thuruthu will
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(2013) 8 SCC

fall, has been elaborately dealt with by the High Court in its judgment in paras 109 to 119. We notice that the High Court has dealt with the issue pointing out that so far as buildings which have been constructed by the petitioner during the currency of the Notification issued in 1991 are concerned, they are clearly in violation of this notification, hence, action has to be taken for the removal of the same. The Director of Panchayat also vide letters dated 7-3-1995, 17-7-1996 directed all the panchayats to strictly follow the provisions of CRZ notification which it was found not followed by granting permission. The High Court has also found on facts that reconstruction work appeared to have been done during the currency of the 2011 Notification and two buildings (193/D and 193/E) were also constructed illegally. The High Court has also noticed another new construction underway. These all are factual findings which call for no interference by this Court. The High Court has clearly noticed that reconstruction work has been done contrary to the 1991 as well as 2011 Notifications and the report of the Expert Committee constituted by the Kerala State Committee on Sciences Technology and Environment (KSCSTE) was accepted.

27. We are of the considered view that the above direction was issued by the High Court taking into consideration the larger public interest and to save Vembanad Lake which is an ecologically sensitive area, so proclaimed nationally and internationally. Vembanad Lake is presently undergoing severe environmental degradation due to increased human intervention and, as already indicated, recognising the socio-economic importance of this waterbody, it has recently been scheduled under "vulnerable wetlands to be protected" and declared as CVCA. We are of the view that the directions given by the High Court are perfectly in order in the abovementioned perspective.

28. Further, the directions given by the High Court in directing demolition of illegal construction effected during the currency of the 1991 and 2011 CRZ Notifications are perfectly in tune with the decision of this Court in *Piedade Filomena Gonsalves v. State of Goa*<sup>3</sup>, wherein this Court has held that such notifications have been issued in the interest of protecting environment and ecology in the coastal area and the construction raised in violation of such regulations cannot be lightly condoned.

29. We, therefore, find no reason to interfere with the judgment<sup>1</sup> of the High Court. The special leave petitions are accordingly dismissed.

<sup>3</sup> (2004) 3 SCC 445

<sup>1</sup> *Vaamika Island Resorts (P) Ltd. v. Union of India*, WP (C) No. 2947 of 2013, decided on 25-7-2013 (Ker)

ITEM NO.42

COURT NO.3

SECTION PIL-W

18

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 4677/1985

N.C.MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(MATTER IS LISTED ONLY FOR DIRECTIONS ONLY NAMES OF FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST :MR. S GURU KRISHNA KUMAR, SR. ADVOCATE (A.C.) MS. ANITHA SHENOY, SR. ADVOCATE (A.C.)MR. A.D.N. RAO, SR. ADVOCATE (A.C.)PETITIONER-IN-PERSON MR. G.S. MAKKER,MR. AMRISH KUMAR,MR. PRAVEEN SWARUP, MR. NISHIT AGRAWAL,MR. CHIRAG M. SHROFF, ADVOCATES )

Date : 30-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE ABHAY S. OKA

Mr. S. Guru Krishna Kumar, Sr. Adv. (A.C.)  
Mr. A.D.N. Rao, Sr. Adv. (A.C.)  
Ms. Aarti Krupa Kumar, Adv.

Ms. Anitha Shenoy, Sr. Adv. (A.C.)  
Ms. Aarthi Krupa Kumar, Adv.  
Ms. Ayushma Awasti, Adv.  
Ms. Namrata Sarah Caleb, Adv.

For Petitioner(s) Petitioner-in-person

For Respondent(s) Ms. Aishwarya Bhati, Ld.ASG  
Ms. Suhasini Sen, Adv.  
Mr. Rajesh K Singh, Adv.  
Mr. Rajat Nair, Adv.  
Mr. S.S. Rabello, Adv.  
Ms. Swarupama Chaturvedi, Adv.  
Ms. Ruchi Kohli, Adv.  
Ms. Sakshi Singh, Adv.  
Ms. Kirti Khangarot, Adv.  
Ms. Shagun Thakur, Adv.  
Mr. G.S. Makker, AOR  
Mr. Amrish Kumar, AOR  
Mr. Arvind Kumar Sharma, AOR

Mr. Sanjiv Sen, Sr. Adv.  
Mr. Praveen Swarup, AOR

Mr. Willin Wadhwa, AOR

Mr. Saptiya Jeneja, AOR

Mr. Manjavya Sharma, Adv.

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UPON hearing the counsel the Court made the following  
O R D E R

SATELLITE MAPPING TO DETECT ENCROACHMENTS OF LANDS

The matter has been placed before us as per our directions because the aspect of Satellite mapping and Geo fencing is extremely important considering that the unauthorized construction is a perennial problem. It is necessary that the modern technologies for Satellite mapping of lands and buildings to detect encroachments and unauthorized/illegal constructions and Geo fencing of lands/premises for prompt monitoring and control takes place.

On analysis of the matter, we find that in order to detect encroachment of land, a preliminary requirement was conducting satellite mapping of lands and Digitization of Cadastral Maps which apparently has already been completed in the Union Territory of Delhi under Digital India Lands Records Modernization Programme (DILRMP).

The next requirement is to obtain High Resolution Satellite Imagery of the area from Indian Remote Sensing Agency (IRSA) or other external sources such as Google. The alternative apparently

is that the aerial photographs by engaging services of drone fitted with high precision cameras as the aerial photography through high resolution drones are purported to be superior to that which are readily available through Satellite Imagery pictures. 20

The next step would be a Geo fencing of the Digitalized Cadastral Maps and High Resolution Satellite Imagery (of all aerial photography) by fixing reference points along the boundary of the areas selected for Mapping. Such reference points are fixed by using Electronic Total Station (ETS) and Differential Global Positioning System Equipment (DGPS) and the number of such points shall vary, depending on the area to be mapped and the topography.

Once the aforesaid two exercises are completed, the Geo reference maps are superimposed on each other to obtain changes/variations of ground realities from the Land Revenue records. Proper alignment of the Geo referenced Digitalized Cadastral Maps and Satellite Imagery/aerial photography after allowing for permissible variations between the two, shall provide the necessary details regarding encroachments.

#### UNAUTHORIZED/ILLEGAL CONSTRUCTION

The area development plans of the area are to be mapped which are made available by the Delhi

Development Authority (DDA). Geo reference of the area selected for mapping to detect unauthorized/illegal constructions is to take place in terms of what we have expounded aforesaid and services of drone fitted with high precision cameras to take 3D pictures of the entire area for the selected survey. These aerial photography obtained from the Drone shall be superimposed on the Geo reference area development plans to detect unauthorized usage of lands for construction within the permissible zone. The aerial photography obtained from the drone needs to be verified with individually with the approved building plans by the DDA. 21

#### ILLEGAL OCCUPATION OF LANDS/PREMISES

Geo fencing is widely used for various purposes including surveillance/monitoring of selected areas/premises requiring constant vigil and care and it would possibly be ideally used in the cases of water bodies, forests, mining areas etc. which require regular monitoring to prevent various illegalities such as encroachments, illegal mining etc. Geo fencing of premises/lands is possible only after coordinates of the selected areas/premises are available through Geo reference.

We understand that there is a Government of India funded scheme for Presentation on Digital India Land Records Modernization Programme dated 11.01.2016. It appears that there has been very little use effectively by the States and the UTs, for obvious reasons. By adopting the technologies and the schemes of the Government of India the scope of human intervention is decreased and consequently the monetary intervention. 22

We are of the view that the aforesaid must be implemented at the earliest and a status report in respect of the aforesaid filed before us by the concerned authorities within four weeks from today.

List on 14.11.2022.

At this stage, learned Amicus points out that in terms of our order dated 13.09.2022, space had to be arranged for the Judicial Committee of Judges appointed by us within two weeks and that nothing has happened till date. Learned ASG to ensure that the needful is done by the concerned within a week on the pain of contempt.

The Amicus is permitted to place the consolidated list of applications sought to be transferred to the Judicial Committee appointed in pursuance to further work done by them.

Learned Amicus points out that in terms of the directions by this Court dated 26.07.2022/13.09.2022,

the expenses for the Judicial Committee are to be borne out of the amounts deposited with the Monitoring Committee. Learned counsel submits that out of the total amount of over Rs.10 crore, deposited with the Committee, about Rs.8 crore plus has been transferred to this Court. The suggestion thus, is that since the Monitoring Committee had its own expenses also, the amounts be paid to the Judicial Committee out of the funds of this Court. 23

We direct that the Judicial Committee both for in-pocket and out of the pocket expenses may raise memos and the Registry is directed to remit payments in pursuance thereof.

In order to avoid back and forth on the issue of fixing of the fee of the Judicial Committee, we consider appropriate to fix fee ourselves.

We fix the fee at Rs.2.5 lakh each per sitting for the Judicial Committee for the time being.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)