

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

APPEAL NO 49 OF 2022 [WZ]

BETWEEN:

The Colva Civic and Consumer Forum

...APPELLANT

AND

The Goa Coastal Zone Management Authority
and Others

...RESPONDENTS

WRITTEN SUBMISSION DT 14.08.2024 OF THE APPELLANT

1. This property bearing survey number 40/4 (part) measuring 4,920 sqm as per approval dt 06.07.1995 lies within 200m from HTLin the NDZ of CRZ – III of Colva village, Salcete, Goa.

2. That this property is one of those listed in MCA 635/2012 filed by the Appellant in SMWP 02/2006 and Oral Judgement dt 21.06.2016 the Hon'ble High Court of Bombay at Goa issued directions to the R1 Authority to hear the parties and issue necessary orders.



2

3. Resp 1 Authority's order dt 12.10.2022 discharging the proceedings against Respondents No 4 and 5 has been challenged on the grounds

- that without conducting any site inspection to verify the illegalities and relying on a post dated CZMP of 2011 to decide the HTL when the approvals were given on 06.07.1995.
- that Resp 1 has ignored that the water body is no more in existence, and instead a swimming pool is constructed without any valid permissions. by the Resp 4. (refer page 65 of Appeal).
- that R1 in their meeting dt 21.04.1999 (refer page 67, Item no. 87) permitted only bio-fencing but presently a concrete wall has been constructed without any approvals from any authorities.
- that having consumed more than permissible FAR of 49.01 % ie as per approved plan 06.07.1995 the Resp 1 Authority could not have issued an NOC dt 16.07.2022 for another 33% in NDZ and in violation of the Beach Carrying Capacity Report 2016 starting 75 m from the HTL.. Notwithstanding this, the R 5 has constructed permanent structures instead of Temporary structures.

4. Documents in possession of the Resp 1 Authority and relied on by this Appellant prove that prior to the Approval in 1995 it was the same Chief Town Planners office and the Government of Goa that had repeatedly rejected the same proposal on dt 10.05.1989 and on 15.01.1992 stating that the entire property was within the 200m HTL (refer page 245) and reiterating that irrespective if property is shown in the tourism development plan the CRZ Notification 1991 and EPA 1986 would prohibit any construction/development within the 200m HTL.

AA

5. The report dt 22.06.2022 at page 70 point 9 says as per CZMP 2011 distance from HTL is 75m [75m from HTL + (length of property) 42.30 + 13,70+ 43.50 = **174.50m**] confirms that the entire property falls within 200m from HTL

6. The Resp 4 after the original approvals in 1995 the nature of all the structures have been reconstructed without approvals by increasing the area. (*refer to page 297, Sheet Ff*)

7-A, THE GOA STATE COMMITTEE for COASTAL ENVIRONMENT (GSCCE) ITSELF HAS ERRED WHEN APPROVING STRUCTURES IN 1995

i). No approval for either a Residential Complex or any new structures could have been approved in the NDZ after 20.02.1991 (*Refer para 4 above*). **Emphasis** is placed on relevant part of CRZ Notification 1991 “Annexure I Section 6 CRZ III (i) *The area upto 200 metres from the HTL is to be earmarked as 'No Development 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.....*” .

ii). That the Applicants letter dt 10.05.1989 (refer page 244) at point 3 states that the area of 4920 is **within 200mts of HTL** and at point 4 states “**Area after 200m from HTL is NIL**”

GA

4
 iii). The GSCCE approved the project despite complete knowledge that the entire property of 4,920 m² was within the NDZ (Refer to page no. 244 of Appeal).

iv). When approving the project falsely stated that the project is within 0 - 500 mts HTL (Refer to page no. 56 of Appeal) when it was fully aware that the proposal was rejected in 1989 and 1992 (Refer page 245-246) which was after CRZ Notification dt 20.02.1991.

v). Knowing that the NDZ area cannot be calculated under the 33% regulation but only based on plinth yet it approved a total of 49.01 % FAR for an area of 1431.66 m².

vi). Based on converted area of 775.09 m² of the Conversion Sanad, the GSCCE could have only granted construction based on the so-called converted area of 33% for only an area of 255.77 m²

B). The Present status as on 23.12. 2022, using Satellite imagery subject to ground verification of the total calculated area of Construction of structures based on the Conversion Sanad:

a) The Conversion Sanad converted an area of 775.09 m² (refer page 51-52) permission for construction of an area of 255.77sqm could have been approved and not 1431.66sqm in 1995 hence presently the constructed FAR exceeds by = 334.69% = 2594.23 m². (refer to page 294, 297 Sheet Gg)

PA

C) The present Status as on 23.12.2022 using google Satellit Imagery, subject to ground verification of the total calculated area of construction based on the 06.07.1995 approval 5

a) The Present status as on 23.12.2022, area of Construction of structures in the property of 40/4 (part) for an area of plot of 4920 as against approved area for construction of 1431.66m² it is evident that the Total (G+L) = 1715 + 1135 = 2850 m². the FAR exceeds the approved 49.01 % by an additional 40.79 % = 1575 m² which makes it evident that the Resp 4 has undertaken illegal constructions of newer structures including extensions of so called approved structures. (refer to pages 294, 296).

b) With respect to reliance by this Appellant on Satellite Imagery and the details including the progress of illegal constructions in sy. Nos 55/3 & 54/5 of Colva Village in CRZ - III

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

- 1). 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

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

PA

6

" 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**

8. The Approval dt 06.07.1995 (refer page 55) Site Plan records 15 % open space ie 759 sqm maintained as per Town & Country Planning Act 1974. This "OPEN SPACE" is now occupied with structures.

OA

9. I submit that the stance taken by R1 that all proposed structures are beyond the 200 mts HTL is incorrect and contrary to records .

7

10. All permissions such as construction licence, Occupancy certificate, compound wall, swimming pool, conversion sanad, restaurant, certificate for registration of Hotel etc., show that the structures in NDZ of CRZ III of Colva village are post 20.02.1991.

11. The GSCCE approval dt 06.07.1995 for construction of a Residential Complex with an F.A.R. of 49.01% (Page 55) without referring to any **prior permission** or plinth area of structures that existed prior to 20.02.1991. And based on such vague & misleading approval by the GSCCE, all other departments such as TCP, Panchayat, Dy. Collector granted approvals subsequently.

12. Assuming without accepting that part of the plot falls in the 200-500 m HTL, yhe CRZ Notification even in the regulated zone permits only 33 % and not 49.01% as per 1995 approval Annexure I section 6 CRZ III (iii) “ *Construction/reconstruction of dwelling units between 200 and 500 metres of the HTL permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and gaothans. Building permission for such construction/reconstruction will be subject to the conditions that the total number of dwelling unit shall not be more than twice the number of existing units, total covered area on all floors shall not exceed 33 percent of the plot size; the overall height of construction shall not exceed 9 metres and construction shall not be more than 2 floors (ground floor plus one floor)*”.

JA

13. Accounting without admitting the legitimacy of the approval dt 06.07.1995, if we are to go by the approval for a built up area of 1431.46 m², if the area is 33% then as per calculations of the large extensions and new illegal structures the Sheet F7 page 297 shows that the area consumed is now 2,850 m², this area far exceeds by 58.86% to an area of 1,826 m² and plot area including the portion of the NDZ of Plot - A (3102.50 + 759.50 = 3862 m²). FAR consumed (= 2850 / 3862 × 100) = 73.79%. Hence FAR exceeds beyond the already 1995 approval of 49.01% by another 40.79 % = 1575 m². (Refer to Sheet No Ge page 297).

14. That the Resp 1 Authority during the pendency of the proceedings before it, issued a NOC dt 15.07.2022 (refer page 86 - 89) to Resp. No 5 (lease holder of Resp. 4) for erection of Temporary Ayurveda Spa and Yoga Centre with a canteen and storeroom in violation of the Beach Carrying Capacity Report 2016 which states that no more permissions can be granted in the Colva Panchayat jurisdiction (refer page 97 - 98).

i) I rely on the Judgement dt 28.09.2022 in Appeal 13/2022 with Appeal 21/2022 (refer para 20 page 110) "But in view of the policy laid down by the Respondent No. 1 through its Minutes dated 15.11.2016, decision of which is quoted here-in above, it is clear that GCZMA has decided not to allow any further construction of huts etc. in the Survey Number in question and yet has proceeded to allow the said construction which appears to be in violation of the said policy. Keeping in view the precautionary principle, we are also of the view that no such construction should have been allowed by GCZMA in the said area without clearly mentioning as to whether the permission granted of the said

OH

construction, would fall within the Beach Carrying Capacity or not. Therefore, in view of this non-clarity on the part of the Respondent No. 4, both the impugned orders dated 04.03.2022 and 23.12.2020 need to be set aside and are accordingly set aside with a liberty that in case, Respondent No. 4 approaches the Respondent No. 1 again with respect to raising the construction of temporary huts, etc., the same should be considered in the light of the 'Beach Carrying Capacity' on the date of its consideration." 9

15. Prior to obtaining any clearance from the Resp 1 the Resp 4 on 30.12.2021 (refer page 267) obtained an NOC from the Resp 3 (Panchayat) to run the Kare Ayurveda and Yoga Retreat in the Hotel premises thus violating the CRZ Notification 1991/2011.

16. Reliance is placed on page 298 under title "Area calculations of FAR in Plot 40/4(part) portion within NDZ sought for temporary structures permission DT 15.07.2022 with GCZMA

FAR consumed = $42/750.50 \times 100 = 55.29$

FAR Exceeds by = 22.29% = 169.29 SQM.

17. 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 & R5 in Sy. No 40.4(part) of Colva Village in the 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 tribunal in O. A 23/2014 (WZ) in its order dt.02.11.2017.

Almeida
DEPONENT



10

760

SUPREME COURT CASES

(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;

Versus

UNION OF INDIA AND OTHERS

Respondents.

SLPs (C) Nos. 24390-91 of 2013†, 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)

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)

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)

† 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

JA

766

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*² 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*² 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.

2 (1996) 5 SCC 281



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

767

- 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.
- c 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.
- d 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.
- e 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.
- f
- g 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.
- h 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

13

768

SUPREME COURT CASES

(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*³, 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 judgment¹ of the High Court. The special leave petitions are accordingly dismissed.

3 (2004) 3 SCC 445

1 *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

14

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 & 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

Validity unknown
Digitized by
ASHA S. S. S. S. S.
Date: 27/10/18
13:15:54
Reason:

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

Mr. June Gop

Mr. Nitin Mishra, AOR

Ms. Supriya Jeneja, AOR

Mr. Mantavya Sharma, Adv.

15

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

JA

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.

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.

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.

GA

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.

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.

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)

JA June 6, 2017.