

Item No.1

(Pune Bench)

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

(By Video Conferencing)

APPEAL NO.01 OF 2023 (WZ)
WITH
I.A. NO.11 OF 2023 (WZ)

Hevona Fernandes

.... Appellant

Versus

G.C.Z.M.A. and others

....Respondents

Date of hearing: 19.01.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant : Ms. Fawia Mesquita, Advocate

ORDER

1. This appeal has been preferred against the order dated 18.11.2022 read with its Corrigendum dated 05.12.2022 whereby respondent No.1 – GCZMA directed to demolish the structure/house located in property bearing Survey No.118/8 of village Agonda Canacona Goa, belonging to the appellant.

2. In the body of the appeal, it is submitted that the appellant along with her two daughters and husband is residing in house No.371/A which is existing on Survey No.118/8 and has acquired all possessory and ownership rights therein from her father-in-law Mr. Benjamin Joaquim Mariano Fernandes @ Joaquim Mariano Fernandes who was originally in possession of the same since 1970. Her father-in-law was a poor man. A local toddy tapper took care of the part of the said property who looked after the coconut garden of the subject property. These activities required store rooms-cum-dwelling units for the purpose of storage and processing of the produce and equipment and a part thereof for distilling the coconut extraction to alcohol/toddy. The appellant has acquired the rights of that property by way of inheritance and filed an application on 19.06.2006 for declaration as Mundkar which was dropped, against which Review Petition is pending. The appellant had filed an application for declaration as a tenant under the Goa, Daman &

Diu Agricultural Tenancy Act, which is registered as Suit No.27/2015 and the same is pending adjudication. The GCZMA – respondent No.1 has passed the impugned order illegally without taking into consideration the documentary evidence which was produced before it, which clearly establishes that the said property was in existence since prior to 1991 and hence was not covered under CRZ. It is, therefore, prayed that the impugned order be set aside.

3. During argument, the learned counsel for the appellant has tried to convince us that the said property existed since prior to 1991 based on the documents. Although at this stage we are not very convinced that these documents indicate that the structure in question did exist since prior to 1991, we admit this appeal looking to the statutory right of the appellant and direct the Registry to issue notice to the respondents, returnable within three weeks.

4. The appellant is directed to provide copy of the appeal memo along with its annexures for being served on the respondents within a week.

5. The appellant is also directed to take necessary steps for service of notice upon the respondents by both ways and also through available email.

6. Put up this appeal on 15.03.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 19, 2023
APPEAL NO.01/2023 (WZ)