

Item No. 3

(Pune Bench)

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

(By Video Conferencing)

Original Application No. 20/2023(WZ)

Jose Ivo Gregorio Barreto & Anr.

.....Applicant(s)

Versus

Member Secretary, GCZMA

....Respondent(s)

Date of hearing: 22.03.2023

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

Applicant : Shri Coelho Pereira, Senior Advocate along-with Mr. Vinod Koregoankar, Advocate

ORDER

1. This application has been filed stating that the Applicants are owners in possession of the property bearing Survey No. 110/1 of the Village of Morombi-o-Pequeno, Tiswadi, Goa, admeasuring an area of 10,390 sq. meters. The Applicants came to know about the public hearing on the objections to the Draft Goa Coastal Zone Management Plan on the website of the Coastal Zone Management Authority, which took place on 08.07.2021 and came to know that his above property has been categorized as partly khazan land, partly mangroves and partly as CRZ-I area. The said property has been included in the draft GCZMP. The Applicants made representation dated 23.08.2021, which is annexed as Annexure-B at pages nos. 33 to 37 of the paper book, before the Member Secretary of Respondent No. 1/GCZMA raising objection to the inclusion of the property in Goa Coastal Zone Management Plan (GCZMP). It is

alleged that the inclusion of the property in Goa Coastal Zone Management Plan (GCZMP) has been carried out arbitrary without giving opportunity of hearing to the Applicants. The Applicants' late father Mr. Milagres Jose Santan Barreto had obtained a Conversion Sanad dated 11.04.1979 for a part of the property admeasuring 4000 sq. mtrs., for construction of residential building and that user of the land was allowed to be changed from agricultural land to building and erection of "Janata type Hotel". Although construction thereof did not commence due to the objections raised by the Additional Collector as well as the Chief Town Planner. The Assistant Collector had permitted the conversion of the land admeasuring 4,000 sq. mtrs for residential purpose but the same was revoked by the Revenue Secretary by order dated 12.02.1981, which was challenged before the Hon'ble High Court of Bombay at Goa in Special Civil Application (Writ Petition) No. 90/B of 1982, where-in the Hon'ble High Court quashed and set aside the order of the Revenue Secretary dated 12.02.1981. Further, on account of various litigations, the construction of the proposed 'Janta Hotel' could not be commenced in the property in question. In the year 1992, the bandh that separated the property in question from the saline water got breached, thereby flooding *inter alia*, the Applicants' property with saline water, causing the soil to turn waterlogged and saline, resulting in growth of mangroves and other weeds there-in over a period of years. No action was taken by the Government authorities to repair the broken bandh in order to prevent any further waterlogging. A draft CZMP had been uploaded on the website of the Goa Coastal Zone Management Authority (GCZMA) without Applicants being given opportunity of hearing. The property of the Applicants cannot be classified as partly khazan land, partly mangroves and partly as CRZ-I area having mangroves and 500 mtrs. mangrove

buffer zone. The Applicants have approached this Tribunal with a prayer that the Goa Coastal Zone Management Authority (GCZMA) be directed to afford a personal hearing to the Applicants in the matter and that the property in question of the Applicants be deleted from the proposed GCZMP, 2021.

2. In compliance with our previous order dated 01.03.2023, the learned Counsel for the Applicants has submitted a map showing the Survey No. 110, which has been marked as partly khazan land, partly mangroves and partly mangrove buffer zone. We have also gone through the provisions of CRZ Notification, 2011, where-in Clause 7 [(i)CRZ-I] (A) (a) lays down the criteria for classifying the CRZ area that “*Mangroves, in case mangrove area is more than 1000 sq mts, a buffer of 50 meters along the mangroves shall be provided*”. Therefore, it appears that if a mangrove is found to be there, which is more than 1000 sq. mtrs. in an area, a buffer of 50 mtrs. would be provided and the said area would be treated to be CRZ-I. In the case in hand, it appears that there is mangrove area found. The learned Counsel for the Applicants seems to suggest that the property in question was meant for construction purposes but some bandh got broken, which was required to be maintained by the State Authorities, as a result of which due to saline water having collected on the property in question, the growth of mangroves took place. Therefore, it is prayed that the said area should be kept excluded from being included in the GCZMP.

3. The main grievance appears to be that before including the property in question in the GCZMP, the Respondent did not provide an opportunity of hearing to the Applicants.

4. We, therefore, are of the view that without issuing any notice to the GCZMA, it would be appropriate to direct it to give an opportunity of hearing to the Applicants, provided the Applicants make a representation before it seeking exclusion of its property mentioned above from being included in the GCZMP, as per the Rules. If such a representation is moved by the Applicants within a period of 07(seven) days, the same would be decided in accordance with Rules, within next one month.

5. With the above direction, we dispose of this application.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

March 22, 2023
Original Application No. 20/2023(WZ)
P.Kr