

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

[Through Physical Hearing (with Hybrid Option)]

**ORIGINAL APPLICATION NO.05 OF 2023 (WZ)
WITH
I.A.NO.161/2023 IN O.A. NO.05/2023**

Sagardeep Sirsaikar

.... Applicant

Versus

GCZMA & Ors.

.... Respondents

Date of hearing : 27.09.2023

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

Applicant : Mr. Aagney Sail, Advocate

Respondents : Ms. Supriya Dangare, Advocate for R-1
Mr. S.S. Kantak, Senior Advocate i/b and with
Mr. Shivshankar Swaminathan, Advocate for
R-2 to R-5
Mr. Raghvendra Kulkarni, Advocate holding
for Mr. Rahul Garg, Advocate for R-6
Mr. Pushkal Mishra, Advocate along with
Mr. Shrikrishna Kachave, Advocate for R-7

ORDER

I.A. No.161/2023 :

1. This application has been filed by respondent No.2 in Original Application – Mr. Robert F. Coutinho, praying therein that the present Original Application should be dismissed because the subject matter is being considered by the Hon'ble High Court of Bombay at Goa in PIL Suo Moto Writ Petition No.2 of 2022.

2. The learned Senior Counsel for respondent No.2 has drawn our attention to page 336 of the paper-book which is an order dated 19.10.2022 passed by the Hon'ble High Court at Goa in ***Writ Petition No.2148 of 2022 (Ramesh Bipul Muzumdar Vs. The State of Goa and***

Ors.), wherein attention is drawn to paragraph No.9 onwards, which are quoted hereinbelow for the sake of convenience :

“9. From the photograph placed in this case at least, prima facie, there seem to be several other structures that have come up in the No Development Zone or right on the Anjuna beach. Therefore, by our order dated 18th October 2022, we had directed the Panchayat and the GCZMA officials to hold a joint inspection and file a report on the status of all such constructions on the Anjuna beach.

10. However, we propose to dispose of this Petition by registering the material in this Petition as a Public Interest Litigation (Suo Motu) on the subject of illegal, unauthorized constructions on Anjuna beach. Therefore, the direction for joint inspection and submission of the report should be considered as a direction made in Public Interest Litigation (Suo Motu).

11. The Registry is directed to register a separate Public Interest Litigation (Suo Motu) in the above terms. The State of Goa, through the Chief Secretary, Village Panchayat of Anjuna – Caisua, Goa Coastal Zone Management Authority, and the Police Inspector, Anjuna Police Station, to be impleaded as the Respondents in the Public Interest Litigation (Suo Motu). Place the Public Interest Litigation (Suo Motu), after the same is registered and numbered, for consideration on 9th November 2022.

12. The learned Advocate General states that the report of the joint inspection and action taken report, if any, will be placed in Public Interest Litigation (Suo Motu) on 9th November 2022.

13. This Petition is disposed of with the above directions and accepting the above undertaking. Therefore, though this Petition is disposed of, the material therein and pleadings should be placed in the Suo Motu Petition.

14. The issue of prima facie inaction on the part of the Authorities will now be examined in the Suo Motu Petition.”

3. Pursuant to the above order of the Hon’ble High Court, Public Interest Litigation (Suo Motu) No.2 of 2022 was registered by the Registry of the Hon’ble High Court, which was considered on 01.03.2023 and following order was passed:

“2. Mr. Bhobe states that the time limit for disposing of the balance 164 show cause notices is upto 15.03.2023 and this timeline will be duly adhered.

3. Mr. Bhobe states that 54 demolition notices have already been issued and where there are no orders staying demolitions, the same will be implemented. We direct such demolition orders should be implemented at the earliest considering that the structures were on the beach and in, prima facie, the No Development Zones. Necessary compliances report should be filed by the Panchayat in this regard.

4. Mr. Bhobe states that 57 notices were discharged and copies of such discharge orders will be furnished to the learned Amicus Curiae within a week from today. He states that full details will be supplied to the Amicus Curiae.

5. At least prima facie, around 275 structures were found to be on the Anjuna beach and in NDZ area. It is the duty of the Goa Coastal Zone Management Authority (GCZMA), in the first place, to prevent the mushrooming of such constructions. In any case, after this material is placed on record by the Panchayat, it is certainly the duty of the GCZMA to inspect the beach/NDZ at Anjuna and initiate action in accord with law.

6. Learned Advocate General points out that the inspection which was carried out earlier was a joint inspection by the GCZMA and the Panchayat authorities. If this is the position, then the GCZMA should also take action in accord with law particularly because the inspection report reveals that these structures were in the NDZ.

7. The GCZMA is therefore directed to take action in accord with law against these structures.

8. The Panchayat and GCZMA should file a compliance report by 27.03.2023 after giving a copy to the learned Amicus Curiae.

9. We stand over this matter to 03.04.2023.”

4. It is apparent from the above orders that the Hon’ble High Court has directed the GCZMA – respondent No.1 to take action in accordance with law with respect to the illegal structures found to be there on Anjuna beach, details of which have also been recorded in the above mentioned paragraphs, particularly because the inspection report reveals that these structures were in No Development Zone (NDZ) and the Hon’ble High

Court directed the GCZMA to file a compliance report on 27.03.2023 before the Hon'ble High Court and the matter is adjourned for consideration by the Hon'ble Court to 03.04.2023.

5. In pursuance of that order, the learned counsel for respondent No.2 states that a show-cause notice dated 19.05.2023 was issued by the GCZMA wherein at page 350 of the paper-book, mention is made of the property related to the property in the present matter and that reply to the show-cause notice has also been submitted by respondent No.2 before the GCZMA, which is under consideration.

6. The learned counsel for respondent No.2 has argued that since the Hon'ble High Court is seized of the matter, in view of the judgment of the Hon'ble Supreme Court in ***State of Andhra Pradesh Vs. Raghu Ramakrishna Raju Kanumuru; (2022)8 SCC 156***, this Tribunal should not proceed with the hearing in the present Original Application because in that case, the Hon'ble Supreme Court has held that it was not appropriate on the part of the NGT to have continued with the proceedings before it in respect of the subject matter, when the High Court was in seisin of the matter.

7. This application (I.A.) is being opposed by the learned counsel for the original applicant by filing counter affidavit dated 26.09.2023, wherein it is submitted that none of the pleadings of PIL No.2 of 2022 has been placed before this Tribunal to establish that the issues raised and the relief sought in the present O.A. are the same. Further, the prayers (B), (D) and (E) made in the present O.A. do not concern the 'Romeo Lane Bar & Restaurant site' belonging to respondent Nos.2 to 5, which are directly related to a substantial question of environment arising from implementation of the Environment (Protection) Act, 1986 and the CRZ Notification, 2011, over which this Tribunal has jurisdiction.

8. For the sake of convenience, the prayers (B), (D) and (E) made by the applicant in Original Application are reproduced hereinbelow:

- “(B) Direct the Goa Coastal Zone Management Authority to submit a report on the availability of the text of the consents/approvals (including conditions) granted by it for Shacks/Huts/Tents/Cottages and events in Private Lands in the entire State of Goa on their official website.*
- (D) Direct the Goa Coastal Zone Management Authority in compliance of its decision taken for Item No.2.4 in its 306th Meeting held on 26.05.2022 to publish all the Completion Certificates issued for erection of temporary shacks/huts etc. including pictures of such structures on their official website <https://czma.goa.gov.in/> inviting objections/ suggestions from concerned citizens.*
- (E) Direct the National Coastal Zone Management Authority (NCZMA) to set up a Committee to determine Environmental Compensation made to be recovered for violations of CRZ Rules pertaining to permanent constructions of shacks, huts, cottages etc. in Goa and submit its report before this Hon’ble Tribunal for approval.”*

9. Further it is mentioned in this objection that in prayers (A) and (C) in the present Original Application, a direction is sought to be issued to respondent No.1 – GCZMA to take action as per the provisions of the CRZ Notification, 2011 for illegality/violation found and submit a report on the same before this Tribunal and that ongoing PIL No.2/2022, the Hon’ble High Court through its order is directing the same GCZMA to conduct site inspection and take action in accordance with law i.e. CRZ Notification, 2011. Therefore, there is no clash between the proceedings in the present O.A. and before the Hon’ble High Court. It has resulted in another complaint of the original applicant against the same site/illegal construction which can certainly be adjudicated simultaneously by this Tribunal for which there is no bar. Further it is mentioned that in the judgment in the case of **State of Andhra Pradesh Vs. Raghu**

Ramakrishna Raju Kanumuru (supra), relied upon by respondent No.2, there were conflicting orders passed by the Hon'ble High Court of Andhra Pradesh and this Tribunal. The Hon'ble High Court had granted an interim order dated 06.05.2022 staying the construction of a resort and on 20.05.2022, this Tribunal had issued the order staying the Hon'ble High Court's order dated 06.05.2022. In the present case, there is no such conflict as there is no stay granted in ongoing PIL No.2/2022 by the Hon'ble High Court in favour of respondent Nos.2 to 5, pertaining to the subject property.

10. It is also pointed out by the learned counsel for the original applicant that in the present Original Application, apart from Survey No.213/5, which appears to have been mentioned in the show-cause notice by the GCZMA, there are additional two survey Nos. namely Survey No.213/6 and 206/1 of village Anjuna, Mandrem, Bardez Taluka, North Goa District, which are subject matter of the property in question.

11. After having heard both sides, we are of the view that we do not find any conflict between what is being pursued before the Hon'ble High Court and before us because it appears that there is matter of illegal structures found to be there at the site in question about which the Hon'ble High Court directed GCZMA to ensure that no such illegal structure remains there and that they all should be demolished and compliance report be submitted before the Hon'ble High Court, while in the present case before this Tribunal also, the applicant is raising the issue of illegal construction over one of the survey numbers, which is Survey No.213/5 along with two other Survey Nos.213/6 and 206/1 regarding which GCZMA has not issued any notice. Apart from that, there are other prayers (B), (D) and (E), cited above, made by the applicant in the O.A., which need to be additionally considered. Hence, this I.A. No.161 of 2023 needs to be rejected and is accordingly rejected.

O.A. No.05/2023 :

12. As per our previous order dated 31.07.2023, the respondent No.1 – GCZMA was directed to file reply-affidavit, which has been e-mailed to us today and according to the learned counsel for respondent No.1, copy of the same has also been served upon the learned counsel for the applicant today. Therefore, the learned counsel for the applicant wants to file rejoinder against the same for which he seeks two weeks' time. The same is allowed.

13. From the side of respondent No.7 – NCZMA, learned counsel Mr. Pushkal Mishra has appeared and states that the reply-affidavit has been filed, a copy of which has been served on the other parties. The rejoinder/reply thereto, if any is to be filed, the same may be filed within two weeks.

14. Put up this matter (O.A.) for final arguments on 18.01.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 27, 2023
O.A. No.05/2023(WZ)
npj