

Item No.2

(Pune Bench)

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

[Through Physical Hearing (With Hybrid Option)]

APPEAL NO.02 OF 2024 (WZ)

Calangute Constituency Forum

....Appellant

Versus

The State of Goa & Ors.

....Respondents

Date of hearing: 09.01.2024

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

Appellant : Mr. Rohit Bras De Sa, Advocate

ORDER

1. In compliance with our previous order dated 08.01.2024, learned counsel for the appellant has impleaded M/s Oxford Global Properties Pvt. Ltd., as respondent No.9, which is stated to be the owner of Survey No.12 of village Candolim, Bardez Goa, which is a landed property. The learned counsel has accordingly submitted amended Memo of Parties on record. An email dated 08.01.2024 has been sent by the learned counsel for the appellant to the said newly impleaded respondent intimating about the matter to be taken up today for admission, but none has appeared from their side.

2. A prayer is made in the present appeal seeking quashing of order dated 30.11.2023 (annexed at pages 40 to 46), passed by respondent No.3 – GCZMA, discharging the Show Cause Cum Stop Work Order issued against respondent No. 6 – Department of Water Resources and it was further directed that respondent No.6 shall comply with the following conditions scrupulously :

- “1. *There will be no road access provided to the bound and access will be limited from the staircase from (thereafter sentence appears to be incomplete).*
2. *Replantation of mangroves along the bund in consultation with GSBB/Mangroves Society.*
3. *Sluice gate to be maintained.*
4. *All plantation to be in consultation with GSBB.*
5. *Use of pavers, or paver block with atleast 50% opening for construction of approach road to control the surface runoff.*
6. *Street light should be installed of solar only.”*

3. Having drawn our attention to the said order, the learned counsel for the appellant has urged that the Government of Goa i.e. respondent No.1, on the pretext of strengthening of the bund existing from Nerual bridge to Caculo House covering the Khazan land, had issued a tender stating the objective in terms of the work to be executed. Respondent No.1 has exceeded the terms of tender as well as CRZ permissions and destroyed the existing bund covering the Khazan land and in the process, destroyed the mangroves, the Khazan land and the ecosystem. Further it is alleged that in 1936 Communitate Plan, the bund was of 3 meters width with mangrove cover on both the sides. With the present work being undertaken under the garb of protecting and preserving the existing bund, respondent Nos.1 to 6 are seeking to widen the width to 7.5 meters so as to convert it into a public road to serve the requirement of Survey No.12 of Candolim village, which is a landlocked property and for which, a revised villa project, compound wall and swimming pool on plot bearing Survey No.12 of Candolim village, Bardez has come to be approved by the North Goa Planning and Development Authority – respondent No. 7. If the proposed repair work is allowed to be continued, the bund will be converted into a 7.5 meters public road and the entire mangrove cover would be factually destroyed. The learned counsel

during argument has pointed out that the impugned order also contains the permission of streetlight to be set up, which indicates that the said survey number is intended to be used as a road otherwise such kind of provision would not have been there.

4. Our attention is also drawn by the learned counsel for the appellant to the NOC/permission granted by respondent No.3 – GCZMA, dated 26.8.2019 for strengthening and renovation of existing bund from Nerul bridge to Caculo house at Candolim, Bardez Goa (pages 95 and 96 of the paper-book), wherein it is recorded that as per CRZ Regulation, repair and renovation of bund along the river bank is permitted to prevent further erosion of bund and to stop the intrusion of saline riverine water into the adjacent agricultural field area, hence it approved the application of respondent No.6 for strengthening and renovation of existing bund at the said place. This permission was granted subject to the conditions stated therein, which include that it would be incumbent upon the applicant to obtain permission from any other authority as required under the law and other material used for strengthening the bund would be of such a nature that it would be environmentally benign.

5. Our attention is also drawn to the report of the joint site inspection, submitted by the Goa State Biodiversity Board dated 06.02.2019, annexed at pages 115 and 116 of the paper-book, which is of the date prior to filing of the present appeal, wherein it is recorded that the area where the bund is being permitted to be repaired is rich in mangrove cover. The breach in the bund has led to the prolific growth of the mangroves due to the inundation and present free flow of saline river water, encroachment of mangroves has lead to loss of the agricultural land and hence, there is urgent need of repair of the bund so as to revive the agricultural activities. It was recommended that the bund should be repaired but it should be ensured that the use of boulders and laterites

be used consisting of such a design so as to provide the niche and crevices for the habitats of aquatic fauna including crabs and other species. The learned counsel has pointed out that instead of doing that, respondent No.6 has used/is using concrete and gravel.

6. Our attention is also drawn to page 131-A of the paper-book, which is a photograph, to show the current status of the work being undertaken, which appears to be wide enough to be used as a road. Further our attention is also drawn to page 132 of the paper-book for clarifying the Survey No.12, which is found to be a landlocked property and it is alleged that the same is being tried to be accessed by 10 meters road so as to give access to the said survey number. Earlier, the applicant had filed PIL Writ Petition No..762/2023 before the Hon'ble High Court of Bombay at Goa with a prayer for mandamus to the effect that respondent Authorities be directed to make site inspection of respondent No.1 starting from Nerul bridge to Caculo House and after consideration, the Hon'ble High Court, vide order dated 25.04.2023 (pages 134 to 136 of the paper-book) has disposed of the said writ petition, wherein inspection was ordered to be conducted in presence of the parties.

7. We find that prima facie case is made out to show adverse impact on the environment while challenging the impugned order. Therefore, we admit this appeal and direct the Registry to issue notice to the respondents, returnable within four weeks.

8. We also deem it appropriate to constitute a Joint Committee comprising one member each of the District Collector, North Goa, Goa Coastal Zone Management Authority (GCZMA) and Goa State Biodiversity Board (GSBB) and the GCZMA will be the nodal agency of the said Committee. The Joint Committee shall visit the site in question after issuing notice to the appellant as well as all concerned parties

communicating them the date of the visit to be made. The Committee, after site visit, shall submit a fact finding report along with photographs and sketches of the site and further submit action plan and corrective measures as well as environmental damage compensation (EDC) regarding loss of environment caused by the activities. The said report shall be submitted before this Tribunal within four weeks from the date of uploading of this order, by e-mail at ngt-pune@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

9. The appellant is directed to provide copies of the appeal memo and annexures thereto to the respondents within a week from the date of uploading of this order.

10. The appellant is also directed to take necessary steps for service upon the respondents by both ways and also through available e-mail.

11. Copy of this order shall be served upon all the members of the Joint Committee by the GCZMA for compliance as above.

12. Put up this matter for next consideration on 01.03.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 9, 2024
APPEAL NO.2/2024 (WZ)
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