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

M.A. No. 148/2015 (WZ)

IN

Review Application No. 13/2015 (WZ)

**AND** 

Review Application No. 13/2015 (WZ) Rabindra Dias Vs. Village Panchayat of Colva

IN

Appeal No. 35/2014 (WZ) (Disposed 2.7.2015)

Rabindra Dias Vs. Village Panchayat of Colva

**AND** 

M.A. No. 149/2015 (WZ)

AND

M.A. No. 244/2015 (WZ)

IN

Review Application No. 14/2015 (WZ)

AND

Review Application No. 14/2015 (WZ)
Mrs. Maria Filomena Vs. GCZMA

IN

Appeal No. 33/2014 (WZ) (Disposed of 2.7.2015)

M<mark>rs. Mar</mark>ia Filomena Vs. GCZMA

CORAM: HON'BLE MR JUSTICE V.R. KINGAONKAR, JUDICIAL MEMBER HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER

Present: Applicant/Appellant : Mr. David Rao Adv.

Respondent Nos.2 & 5 / : Mr. Nda Costa Frias Adv.

Date and Remarks	Orders of the Tribunal
Item No. 3, 4, 5,	We have heard the learned Advocates for the parties.
6 and 7 2 <sup>nd</sup> December, 2015 Order No.4	This Review Application is entertained in view of the order
	passed by Hondple Apex Court in Civil Appeal No.5733-34/2015 on
	August 3, 2015 (Mrs. Maria Filomena Furtado & Ors. Vs. M/s. Goa
12	Coastal Zone Management Authority & Ors).
	The text of the order may be reproduced in order to clarify as to
	how the permission to file appropriate review petition alongwith
	additional documents, if any, before this Tribunal was granted:
	"3. Accordingly, the Civil Appeals are disposed of as withdrawn with liberty to the appellants to file an appropriate review petition along with additional documents, if any, before the National Green Tribunal (Western Zone), Pune."  It appears that the Honφle High Court of Bombay at Goa took
	suo moto action against the occupant of illegal construction when the
	large numbers of such constructions were found to have sprouted in
	NDZ CRZ-III (area) where such constructions could not have been

done. No permission was taken from the GCZMA. In suo moto Writ

Item No. 3, 4, 5, 6 and 7 2<sup>nd</sup> December, 2015 Order No.4 Petition No.2/2006 Division Bench of High Court of Bombay at Goa directed that survey be taken of all the beaches of Goa by the competent authority, inquiries be made and by following due procedure illegal structures shall be dismantled and demolished.

The issue pertains to severe violation of CRZ Notification 1991/2011 and from the direction issued by the Honople High Court of Bombay at Goa it appears that the Appellants are occupant of certain construction within No Development Zone situated at Survey No.12/1 to Survey No.12/5 of village Sernabatim, CRZ-III, Goa. Respondent No.2 Rabindra Dias and Respondent No.3 Santana Afonso had filed Writ Petition No.58 of 2010 before the Hondple High Court of Bombay at Goa alleging several violations of CRZ Notification, 1991 by the Applicants. It was alleged that the Applicants have carried out large numbers of construction in NDZ area. The construction and the legality thereon was under the scanner of the Hondple High Court in Writ Petition No.58 of 2010 which came to be disposed off by order dated June 22<sup>nd</sup>, 2010. High Court directed that the Village Panchayats/ competent authority shall re-examine the issue, loco of the construction in question and thereafter, the report be made available to GCZMA which shall complete the proceedings for hearing of the matter and decide the issue on merits.

It may be noted that during the intervening period 133 illegal structures were noticed and identified at Village Panchayat Candolim and other villages. As per above referred direction, the necessary action against those structures are taken, in pursuance to the order passed in PIL(WP) 94 of 2013. It appears that no action was taken by Village Panchayat Candolim and therefore, Writ Petition was filed respondent Nos.2 and 3 i.e. Rabindra Dias and Santana Piedade Afonso and also PIL(WP) No.94/2013.

The issue was framed as to whether the constructions are prior to Notification of 1991 or have been subsequently raised only and carried out in NDZ area. The inquiry of the issue was ultimately framed against the present Applicant and the constructions were found to be illegal being in violation to CRZ Notification, 1991.

It is important to note that the applicants also had filed Writ Petition (Civil) No.814/2015 before the Hondple Supreme Court in context of stay of the order of Tribunal. The Hondple Supreme Court disposed off the said Writ Petition by following order dated November 27<sup>th</sup>, 2015:

% The writ petition is disposed of as withdrawn with liberty to the petitioners to approach the High Court or the National Green Tribunal by filing appropriate application for appropriate Item No. 3, 4, 5, 6 and 7 2<sup>nd</sup> December, 2015 Order No.4 relief(s)."

In order to obtain the order, the order dated August 3, 2015 was perhaps not brought to the notice of the Honople Supreme Court of India when the WP (Civil) No.814/2015 was withdrawn seeking liberty to approach the High Court or National Green Tribunal by filing appropriate application for appropriate relief(s). Be that as it may be, we have already entertained the Review Application in which the Applicants are asking ad interim relief. They prayed stay of the order of the demolition of the structure. The ad interim stay was granted by the Tribunal on September 4<sup>th</sup>, 2015 in order to examine the record before consideration of the question as to whether the confirmation of the ad interim orders to make it interim is essential or that suppression of material fact by the Applicants to this Tribunal.

Now the Applicants have admittedly filed MCA Diary titled as STA/3689/2015 and STA/3688/2015 in *suo moto* Writ Petition No.2/2006. Thus, the Applicants have availed both the remedies.

Once the writ petition is pending before the Hondple High Court and the Applicants have introduced themselves as impleadment parties in that Writ Petition, may be as third party by filing the said application, it would be proper to await for the orders of the High Court for a couple of weeks. In the meanwhile, the ad interim relief is continued for 04(four) weeks. The Applicants shall furnish security of Rs.2,00,000/- with GCZMA within 02(two) weeks. The parties to complete the pleadings in the meanwhile, in as such as Review Application is mainly heard in the Chamber, but the present Review Application is being taken up as directed by the Apext Court for hearing in the Court. The exchange of pleadings and documents within the above period shall be completed. The final hearing of Review Application on the scheduled date will be taken up without adjournment.

Stand Over to 8<sup>th</sup> January, 2016.

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(Justice V. R. Kingaonkar)

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