



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 772 OF 2023

Mohinder Kaur Paintal, Wife of Mr.
Lakhinder Singh Paintal, Aged 83 Years,
Indian origin, Residing at H. No. 199/2/B1 – ... Petitioner
B2, Fernandes Vaddo, Siolim, Bardez, Goa.

V e r s u s

1. The State of Goa, Through the Chief Secretary, Porvorim, Goa.
2. The Goa Coastal Zone Management Authority, Through its member Secretary, Porvorim, Bardez, Goa.
3. Village Panchayat of Marna – Siolim, Through the Sarpanch/Secretary, Siolim, Bardez, Goa.
4. M/s. Goveia Resorts/Waterfront, Goveia Marina Resorts, Vaddy, Siolim, Bardez, Goa.
5. Deputy Collector & SDO Mapusa, Govt. Complex Building, Morod, Mapusa. ... Respondents

WITH
MISC. CIVIL APPLICATION NO. 1829 OF 2024 (F)
IN
WRIT PETITION NO. 772 OF 2023

Mohinder Kaur Paintal, Wife of Mr.
Lakhinder Singh Paintal, Aged 83 Years,
Indian origin, Residing at H. No. 199/2/B1 – ... Petitioner
B2, Fernandes Vaddo, Siolim, Bardez, Goa.

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5. Deputy Collector & SDO Mapusa, Govt. Complex Building, Morod, Mapusa. ... Respondents

A N D

Marilyn Agasta Sabrina Judith Soares E Fernandes Goveia, Aged 52 years, Resident of Flat No. 306, Block E, Devashri Garden, ... Applicant Porvorim, Goa.

**WITH
MISC. CIVIL APPLICATION NO. 2012 OF 2024 (F)
IN
WRIT PETITION NO. 772 OF 2023**

Mohinder Kaur Paintal, Wife of Mr. Lakhinder Singh Paintal, Aged 83 Years, Indian origin, Residing at H. No. 199/2/B1 – ... Petitioner B2, Fernandes Vaddo, Siolim, Bardez, Goa.

V e r s u s

1. The State of Goa, Through the Chief Secretary, Porvorim, Goa.
2. The Goa Coastal Zone Management Authority, Through its member Secretary, Porvorim, Bardez, Goa.
3. Village Panchayat of Marna – Siolim, Through the Sarpanch/Secretary, Siolim, Bardez, Goa.

4. M/s. Goveia Resorts/Waterfront, Goveia Marina Resorts, Vaddy, Siolim, Bardez, Goa.
5. Deputy Collector & SDO Mapusa, Govt. Complex Building, Morod, Mapusa. ... Respondents

A N D

Ashley Coutinho, Son of Anthony Leo Coutinho, Aged 53 years, Residing at 41, Reggie Cottage, Veronica Street, Bandra, Mumbai – 400 050. ... Applicant

Mr. Y. V. Nadkarni, Advocate with *Mr. Amey Kakodkar, Mr. Pankaj Shirodkar, Mr. Nilay Naik and Mr. Kunal Nadkarni, Advocates for the Petitioner.*

Mr. D. Pangam, Advocate General, with *Ms Maria Correia, Additional Government Advocate for Respondent nos. 1 and 2.*

Ms. Pranita Gawandi, Advocate for Respondent no. 3.

Mr. Parag Rao, Advocate with *Mr. Akhil Parrikar, Advocate for Respondent no. 4.*

Mr. S. S. Kantak, Senior Advocate with *Mr. P. Lotlikar and Mr. Bhavesh Lotlikar, Advocates for the Applicant in MCA No. 1829 of 2024(F) and MCA No. 2012 of 2024(F).*

CORAM: BHARATI H. DANGRE & NIVEDITA P. MEHTA, JJ.

RESERVED ON : 11th September, 2025
PRONOUNCED ON : 18th September, 2025

JUDGMENT (Per Bharati Dangre, J.)

1. The Petitioner, the owner, residing in property under Survey no. 62/1-A and Survey No. 63/5-A-1 of Village Siolim is aggrieved by the illegal construction being put up across the river and allege that the construction of permanent nature does not bear any sign of permission or licence and being put up on the banks of river Siolim, is in violation of the CRZ Notification.

This constrained him to address a legal notice to the Goa Coastal Zone Management Authority (GCZMA) to take prompt action and even complaints were also made to the Police Inspector of Siolim Police Station as well as Village Panchayat of Siolim, Marna.

2. Pursuant to the complaint of the Petitioner, GCZMA directed the SDM to carry out site inspection and submit a report but since no action was taken in respect of the alleged illegal construction underway in property surveyed under nos. 318/2, 319/2 and 320/2, the Petitioner filed the Writ Petition praying for issuance of writ of mandamus commanding the Respondents to stop the illegal construction carried out by the private Respondent M/s. Goveia Resorts/Waterfront, the Respondent No.4 and the Respondent-authorities to act on the complaint of the Petitioner and if the constructions are found to be illegal, to demolish the same by ensuring that land is restored to its original condition.

3. On 11.01.2024, notice was issued to the Respondents and the Petitioner was permitted to implead the SDO of the area concern as a party-Respondent and at the same time the Court issued the following directions:

“8. We direct Respondent No. 2-GCZMA to conduct the survey in an appropriate manner and take all legally permissible steps to ensure that no further constructions without the requisite sanctions and permissions takes place.”

4. On 25.01.2024, it was pointed out to the Court that a stop work order dated 11.01.2024 was issued but the Court was informed that during surprise inspection conducted on 23.01.2024, it was found that construction was going on despite the stop work order but from 24.01.2024, the work was stopped and GCZMA along with the Police Authorities were monitoring the site on day to day basis. Amongst the conundrum whether the construction activity was actually going on or not, a direction was issued to GCZMA and the Police Authorities to ensure that the construction work is completely stopped and sealed and when a statement was made on behalf of the private Respondent that the construction is complete and even the premises are rented to the parties, the Court observed that there is no occupancy certificate and the private Respondent cannot take advantage of the works carried out in defiance of the stop work order.

5. During the pendency of the Petition, certain relevant information came to the knowledge of the Petitioner and, therefore, the Petition was extensively amended in pursuance of Order dated 08.02.2024, by placing on record the developments, which included the OA No. 03 of 2018 filed before the National Green Tribunal (WZ), by one Goa Paryavaran Savrakshan Sangharsh Samitee against the illegalities of the Respondent No.4 culminating into an Order dated 15.12.2022, passed by the National Green Tribunal, issuing directions to the Respondent no. 4 for ensuring its compliance within a period of one month. The Petitioner therefore made a grievance that despite these directions, there was no compliance.

In addition, the Petitioner pleaded that from a bare comparison of the historical aerial images of the subject property available on the Google Earth profile, right from April 2010 till April 2023, it is evidently clear that there is no removal of mud filling or restoration of lagoon and sluice gate after 2010.

The Petitioner also engaged the services of a private Surveyor, who, on the basis of the images available on Google Earth, informed that there is no change in dimensions of the lagoon after land filling was carried out. Apart from this, the Petitioner also pleaded that an expert member of GCZMA Dr. Antonio Mascarenhas had carried out the site inspection on 04.03.2016 of the same subject property pursuant to a complaint filed by one Anthony D'Souza and Mr. Joseph

A. Noronha, against the illegal structure constructed in survey no. 318/2 of Village Siolim and the said report formed part of the affidavit filed by GCZMA in O.A. No. 03/2018.

Relying upon the inspection report dated 05.03.2016, the Petitioner specifically pleaded thus :

“15H) The Petitioner states that from the said Inspection Report dated 05/03/2016, it is seen that the Google Earth images of 2003 showed a large lagoon/pond admeasuring 125m x 80m, which dimensions are stated to match more or less that of the DSLR plan. The said Inspection Report further states that the Google Earth images of 2015 show the lagoon area is 90m x 70m and that the change in dimensions is because a rectangular portion measuring 25m x 80m on the southern part of the lagoon was reclaimed by mud filling around the year 2008; that 8 small houses were seen in the Google Earth image of 01/2008 on the reclaimed portion and that these structures were removed around the year 2011. The Inspection Report further states that the reclamation has taken place on all four sides, the maximum being on the southern part. The Inspection Report also states that Google Earth image of 2003 also shows a very narrow passage that opens into the creek along the northern boundary of the plot which was subsequently widened into a 12 meters wide opening that leads into the river/creek.

15I) Presently, the historical images prior to April 2010, are not available/seen on Google Earth Pro. However, the Google Earth aerial image of April 2010 clearly depicts that there was a large lagoon and a very narrow opening/sluiice gate to the river. The subsequent Google Earth aerial images from April 2012 show large-scale reclamation of the

lagoon by mud filling and a large opening made along the river. The mud filling/reclamation has ever since not been removed nor has the opening/sluid gate been restored to its original state.

15J) Petitioner states that the illegal cottages recently constructed and forming the subject matter of the present Petition are erected over this reclaimed portion abutting the river.”

6. In the amended pleadings, the Petitioner also placed reliance upon the report of GCZMA of its 144th meeting held on 21.03.2017, which had directed restoration of the opening of the sluice gate from 12 metres to its original size and to remove the mud filling carried out in the lagoon and restore the lagoon to its original dimensions of 125 m x 80 m, and it is in this background, the Petitioner pleaded that the construction carried out by M/s Goviea Resorts and pursuant to the permissions/approval granted by GCZMA on 23.08.2021 is liable to be revoked as they are placed on the reclaimed portion of the lagoon.

The prayer clause in the Petition was also amended with the following prayers being inserted :

(bb) For a direction to the Respondent no. 2 to comply with the directions contained in the Order dated 15/12/2022 in oA No. 03/2018 (W2) and to remove the mud filling and reclamation done along the northern, western and eastern boundary of the lagoon in Survey No. 318/2 of Village Siolim and restore it to its original dimensions of 125m x 80m.

(bbb) For an order directing the Respondent no. 2 to revoke/cancel the Permission/ Approval dated

23/08/2021 bearing Reference No. GCZMA/N/Shack-Hut-Cott-Tent /20-21/52/774.”

7. It is this aforesaid Petition with its amended pleadings which came up for consideration before the Division Bench on 15.03.2024 when extensive arguments were advanced on behalf of the Petitioner along with the learned Advocate General for the State Government and Mr. Parag Rao appearing for the private Respondent.

During the course of hearing the attention of the Court was invited to the sequence of events emanating from the Order dated 07.04.2017 issued by GCZMA against the 4th Respondent and the Court being specifically informed that the appeal filed against this Order was dismissed by the NGT on 15.05.2017 and even a Review Petition was also dismissed on 09.07.2021, resulting into finality being attached to GCZMA Order dated 07.04.2017.

The Advocate General clearly expressed before the Court that there was only partial compliance of the said directions and he also referred to the order passed by the NGT in O.A. No. 03/2018 but made specific statement that neither the directions contained in the order of GCZMA dated 07.04.2017 which had attained finality nor the directions in the Order dated 15.12.2022 passed by the NGT were complied by the Project Proponent.

With reference to the Order of 15.12.2022, the learned Counsel representing M/s Goviea, Mr. Rao assured the Court that the said directions shall be complied within 48 hours or in any case before 20.03.2024 and a compliance report shall be filed. An argument was advanced, that GCZMA's Order dated 07.04.2017 stood substituted by the NGT's Order dated 15.12.2022 and there was no requirement to comply with the directions as the original dimension of the lagoon was 96 m x 67 m and willingness was expressed to restore the lagoon to the specific dimensions.

The Division Bench however expressed its displeasure in no uncertain terms as it recorded that a natural lagoon is filled up to convert it into a commercial property and it also deprecated the approach of GCZMA, which turned its blind eye towards the activity of Respondent no. 4.

The relevant observations in the Order dated 15.03.2024 would be referred by us when we deal with the submissions.

8. Apart from this, since the Bench was of the view that the show cause notices being issued by GCZMA deserved a disposal, it was directed to dispose off the show cause notices within a period of 15 days and reminded GCZMA of its duty to prevent environmental damage by vigilant action as that a trustee was appointed to take care of CRZ areas and a direction was issued to GCZMA to the following effect :

“... We direct the GCZMA to tentatively assess the environmental damages caused by fourth respondent and issue a show cause notice for recovery of such damages. Such show cause notice must be issued and disposed off in accordance with law as expeditiously as possible and not later than four months from today.

The fourth Respondent was also directed as below :

“44. Since the fourth respondent has agreed to restore the lagoon only to the extent of 96 mtrs. x 67 mtrs., we direct the GCZMA to undertake the work of balance restoration so that the lagoon is restored to its original dimensions of 125 mtrs. x 80 mtrs. As it is, the GCZMA's order dated 07.04.2017 stated that in case the fourth respondent fails to comply, the Deputy Collector and SDO of Bardez shall comply with the directions and recover the expenses from the fourth respondent as arrears of land revenue.

45. Further, we direct the fourth respondent to deposit 75 lakhs in the first instance with the GCZMA within two weeks from today. The GCZMA must start the restoration works within two weeks, irrespective of the fourth respondent's deposit of this amount. The GCZMA must also inform the Court of the tentative costs for the restoration so that suitable directions can be issued to the fourth respondent for depositing the costs.”

Since the Court was informed that there are other issues involved in the Petition, it was directed to be listed on a future date and even the fourth Respondent was directed to report compliance.

9. In the sequence of events, we must note that the order passed by this Court on 15.03.2024 was subjected to challenge in Special Leave to

Appeal (C) No. 7997/2024 by M/s. Goveia Developers before the Apex Court.

Much arguments are advanced before us about the observations of the Apex Court and we shall deal with the submissions a little later however, we extract the relevant portion of the Order of the Apex Court so as to ascertain its effect in view of the counter submissions.

“1. The subject which concerns us here is the unauthorised construction made at the hands of the petitioner, on a river lagoon, in North Goa.

What is impugned here is an order of the Division Bench of the Bombay High Court dated 15.03.2024 in a writ petition filed by Ms. Mohinder Kaur Paintal who is respondent No. 4 before us. The High Court in its order has given a finding that the petitioner has encroached on a lagoon, and consequently orders have been passed directing the petitioner to remove the encroachment and restore the lagoon to its original size of 125 mts. x 80 mts. Since the writ petition is still pending before the High Court, where several other aspects relating to environment and conservation and coastal management of Goa appear to be still under consideration, we would not go into any details. Yet we must make it clear that as to the present dispute of this lagoon is concerned, it would stand concluded by our present orders here.

....

11. We have heard learned senior counsels, Mr. Neeraj K. Kaul for the petitioner and Mr. Abhishek M. Singhvi for the respondent no. 4 and we have perused the materials placed on record.

We find no scope whatsoever to interfere with the order impugned. The Petitioner's contention in this regard is that it has now complied with the order of the Green Tribunal dated 15.12.2022 and restored the lagoon to the size of 95 mts x 65 mts. We do not find this to be

relevant now. We are completely in agreement with the findings of the High Court that the NGT, Pune in its order dated 15.12.2022 could not have modified its earlier directions passed in the first proceeding as the same had attained finality once the review petition was dismissed, and the lagoon had to be restored to its original size of 125 mts x 80 mts.

12. In this view of the matter, no interference is required by this Court in the order dated 15.03.2024, passed by the High Court of Bombay at Goa. The special leave petition is accordingly dismissed. We have gone through the specific order of the High Court as to the implementation and the cost to be given. Let the orders be complied at the earliest, if not already done.”

10. In the wake of the aforesaid, this Court on 05.07.2024 directed thus :

“We expect the demolition to be completed by next Friday i.e. 12.07.2024. Let the report be filed by Respondent no.1.

...

3. The learned Additional Government Advocate submitted that the estimated cost required for restoration is under consideration. The difficulty expressed by the learned Additional Government Advocate is that the officials may have to enter into the private property of the adjoining land owners for which some more time is stated to be required. By next Friday i.e. 12.07.2024, the Goa Coastal Zone Management Authority (GCZMA) may submit the tentative costs to be incurred for restoration in so far as Respondent no.4's portion of the land which is to be restored, is concerned.”

Pursuant to this Order, the Public Works Department estimated the cost of restoration of lagoon by demolition of the structure and

removal of the illegal land filling in survey no. 318/2 carried out by M/s. Goveia Resort/Waterfront and the cost was worked out at Rs.66,20,2870.00 with the time limit of carrying out the work being set out as sixty days.

The aforesaid estimate being placed before the Court, it was informed on 12.07.2024 that the seals are removed from the property for the purpose of facilitating the demolition and no construction activity is ongoing.

11. Misc. Civil Application No. 1829/2024/(F), came to be filed by one Marilyn Augusta Sabrina Judith, seeking intervention and recall of the Order dated 15.03.2024 as the applicant pleaded that she along with her former husband were partners of M/s. Goveia Waterfront/Resorts which was involved in Hospitality Business and on account of some dispute, her husband Mr. Francisco Goveia, had filed proceedings in form of Civil Suit No. 29 of 2021 seeking a declaration and permanent injunction and he also instituted Matrimonial Petition. Similarly, she also filed two proceedings, one of which being Matrimonial Proceedings. However, subsequently, on account of the consent terms being arrived at, all the four proceedings were disposed off as withdrawn and divorce was granted distributing the assets between her and her former husband.

According to the Applicant, she was still undertaking the development project in her name and she became aware of the filing of the Writ Petition as well as the Order dated 15.03.2024, which directed GCZMA to ascertain the cost of restoration and the estimate being submitted by Public Works Department for carrying out restoration work in the lagoon. According to her, the Orders are issued against the non-existing entity, Goveia Waterfront/Resorts which has nothing to do with the lagoon and the order is nullity.

12. Miscellaneous Civil Application No.2012 of 2024(F) is filed by Ashley Coutinho who sought intervention by stating that he is purchaser of Villa No.3 which is situated in survey No.310/1 of Village Siolim in the project 'Goveia Marina' and he is in peaceful possession of the Villa. According to the applicant, on the northern side of the Villa lie survey no.318/2 and as far as survey no.310/1 is concerned, there was never any lagoon though it is stated that there was some water body on the northern side of the property. Since it is expressed that the applicant is likely to be affected by the relief sought in the Petition of restoration, by order dated 23.04.2025 we permitted the intervention by Ashley Coutinho.

13. Mr. Nadkarni, the learned Counsel representing the Petitioner, would commence his argument by inviting our attention to the directions issued by GCZMA under Section 5 of the Environment

(Protection) Act, 1986, read with Rule 4 of the Rules of 1986, with regards to carrying out restoration measures for the lagoon and demolition of the concrete platform as well as the boundary wall standing on the subject property of Village Siolim, Bardez, Goa. According to him, the authority after detailed deliberation and on consideration of the report prepared by the expert member of GCZMA, issued directions to be complied by M/s. Goveia Waterfront Resorts and included a direction to restore the lagoon.

He would submit that the aforesaid directions were issued in the backdrop of the complaint received from the residents of Vaddy, Siolim, pursuant to which a show cause notice was issued by GCZMA, which received response from the noticee and even personal hearing was granted to the parties.

According to him, the directions make reference to site inspection carried out by the expert members on 04.03.2016, which involved survey no. 318/2, 319/2 and 320/2, which made a reference to the Google Earth (GE) images reflecting the size of the lagoon as 125 m x 80 m in the year 2003, whereas the lagoon at present was found to be in the area of 90 m x 70 m, which clearly reflected, the reduction in its size due to reclamation by filling rectangular portion of 25 m x 80 m with mud. It is also a specific submission of Mr. Nadkarni, that the Minutes of 144th GCZMA meeting held on 21.03.2017 also confirmed

that the directions related to all the three survey numbers, all belonging to the Respondent no. 4.

14. In support of the submission that there was reclamation of the lagoon, Mr. Nadkarni would submit that the GE images of the property for the year 2003 and 2016, were compared which clearly revealed that the lagoon has been reduced, in its size as it was reclaimed by mud filling.

He would further submit that being aggrieved by the said direction dated 07.04.2017, an appeal was filed by M/s. Goveia Developers before the NGT in form of Appeal No. 41 of 2017 which was dismissed, by referring to the site inspection report and the fact that the attention of the authority was invited to the GE images of the property and by recording that the development carried out was without any permission from GCZMA. Even the Review Petition filed by M/s. Goveia Developers came to be dismissed, is the contention of Mr. Nadkarni.

15. Our attention is also invited by Mr. Nadkarni to the order passed by the NGT in OA No. 03/2018 instituted by the Goa Paryavaran Savrakshan Sangharsh Samitee against M/s. Goveia Resorts the learned Counsel submit that the Order passed by the Tribunal, in no way amounted to diluting the directions issued by GCZMA which had been upheld by NGT on 15.05.2017 when it dismissed the appeal filed by M/s. Goveia Developers.

The emphasis of Mr. Nadkarni is upon the directions issued by this Court on 15.03.2024, when it directed GCZMA to undertake the work of balance restoration so that the lagoon is restored to its original dimension of 125 m x 80 m and direction being issued to M/s. Goveia Resorts to deposit Rs.5 Lakhs with GCZMA, which was directed to work out the tentative cost of restoration. He would submit that even this Order was challenged before the Hon'ble Apex Court, which dismissed the SLP No. 7997/2024 on 14.05.2024 as the Apex Court clearly observed that in the Writ Petition which is still pending before the High Court several other aspects relating to Environment and Conservation and Coastal Management of Goa, are still under consideration but it made clear that as far as the dispute of lagoon is concerned, it would stand concluded by the said Order.

It is therefore urged before us that since the Apex Court expressed its agreement with the findings of the High Court that NGT, Pune, in its Order dated 15.12.2022 could not have modified its earlier directions passed in the proceedings which had attained finality, once the Review Petition was dismissed and the lagoon had to be restored to its original size of 125 m x 80 m.

Mr. Nadkarni has also placed before us the memo of the SLP and, according to him, all possible grounds of raising a challenge were set out, which refer to the purported restoration to the extent of 96.00 mtrs as well as the ground that Order dated 07.04.2017 being illogical

since total length of the property on which the lagoon stands is 120 mtrs and that the error has crept in on account of the reliance placed by GCZMA on the Google Earth Images rather than the actual survey of the property.

According to Mr. Nadkarni, despite all these specific grounds raised in the SLP, the same was dismissed by upholding the Order of this Court dated 15.03.2024 and foreclosing the issue as far as the lagoon is concerned.

16. According to Mr. Nadkarni it is incorrect to say that the lagoon should be restricted only to survey no. 318/2, as purportedly the survey plan in or about 1970 showed a water body only in the said survey, of which the maximum length was 120 mtrs and therefore the restoration of the lagoon to the size of 125 m x 80 m is not possible.

It is his submission that this argument is fallacious and misleading as it do not lie in the mouth of the Respondent no. 4 in the wake of the Order of the Apex Court which had mandated that the lagoon shall be restored to 125 m x 80 m and the ground of impossibility of being urged before the Apex Court was not acknowledged. He would further submit that the Respondent no. 4 has not only reclaimed a part of the water body shown in survey no. 318/2 but has also illegally retained and constructed a 12.00 m wide and 32.00 m long concrete platform on the north east corner of the

property along the bank of the creek, which is in survey no. 319/2 and 320/2. By relying upon the Google Earth image of April 2010, he would submit that the northern portion of the lagoon was a water body with a narrow passage along with a river and Google Earth image of April 2012 showed a long concrete platform constructed in survey no. 319/2 and 320/2 by illegal reclamation.

According to the learned Counsel, the restoration of lagoon thus is in respect of three survey numbers and this inference is based on, (a) direction dated 07.04.2017, which refer to site inspection dated 05.03.2016 in respect of all three survey numbers; (b) minutes of GCZMA meeting held on 21.03.2017, which refer to all three survey numbers; (c) inspection report dated 05.03.2016 referring to all three survey numbers; (d) letter dated 25.01.2024 addressed by GCZMA to the Deputy Collector and SDO dated 25.01.2024, which also refer to all the three survey numbers and also GCZMA's permission/approval for erection of temporary cottages and restaurant dated 23.08.2021 which also has reference to the three survey numbers.

In the wake of the aforesaid, he would seek implementation of the directions of this Court dated 15.03.2024 to assess the environmental damages and recover the same from the Respondent no.4. He has also invited our attention to the Order passed by the NGT on 03.06.2025, praying for quashing of the Order dated 18.12.2024

passed by GCZMA which has worked out an amount of Rs.39,47,16,000/- towards environmental damages/costs and has remanded the matter to GCZMA, as it was noted that there is some error in calculating the area and a request is made that GCZMA shall be directed to conclude the proceedings expeditiously.

17. The argument pressed into service by Mr. Nadkarni received resolute opposition from Mr. Parag Rao appearing for M/s Goveia Waterfront/Resorts.

At the outset, he would submit that the Petition is bereft of any foundational factual matrix, as the order dated 07.04.2017 do not form part of the Petition and it proceeds on the basis that there is an illegal construction on the northern side of the lagoon, whereas his client is already armed with the permission from GCZMA dated 23.08.2021, permitting construction of temporary structures on the northern side. He would submit that during the pendency of the Petition, a show cause notice was issued on 11.01.2024 in respect of the said structures and some of them are already demolished and some of them are brought in conformity with the permission dated 23.08.2021 resulted into discharge of the show cause notice by GCZMA on 17.05.2024 and therefore the prayer clauses (a) and (b) in the Petition have worked out for itself.

Contending that there is no factual pleadings or reference to the order dated 07.04.2017 in the entire Petition and in contrast, with reference to the order dated 15.12.2022 passed by the NGT with a relief being sought for its enforcement, as the lagoon was ordered to be restored in the size of 96 m x 67 m, it is the submission of Mr. Rao that the Petitioner is now praying for restoration of lagoon to the size of 125 m x 80 m, which is an impossibility. In short, it is his submission that in absence of proper pleadings, which would form the foundation for any relief to be granted, the Petitioner is not entitled for the direction for restoration of the lagoon to the extent of 125 m x 80 m in survey no. 318/2.

18. Another point of significance which Mr. Rao has pressed into service is that the order dated 07.04.2017 is without jurisdiction and therefore a nullity as, according to him, the Coastal Regulation Zone 1991 (CRZ 1991), came into force on 19.02.1991 and remained in force up to the year 2022 and there was no provision for a buffer of 50 mtrs along with the mangroves. In terms of the note, on 'Prohibited Activities' of CRZ of 1991, he would submit that the application of CRZ 1991 in cases of rivers, creeks and backwater shall not be less than 100 mtrs or width of creek of river of backwater whichever is less. He would submit that in the instant case, the area of the river which abuts the property on the northern side is admittedly 43 mtrs and the CRZ

1991 would have applicability only for a distance of 43 mtrs from the High Tide Line, which in case of river, is reflected as the highest point on the shore of the river. It is thus his submission that from the shore of the river on the northern side up to a distance of 43 mtrs towards the southern side, would be the CRZ zone and the activity within 43 mtrs would be subject to the jurisdiction of GCZMA but it would lack jurisdiction on the southern side, even an inch beyond 43 mtrs.

In case of CRZ 1991, unlike CRZ 2011, he would submit that there is no provision for demarcation of buffer of 50 mtrs along the mangroves and demarcation of CRZ zones can only be done in the Coastal Zone Management Plan (CZMP) as approved by the Ministry of Environment and Forest and admittedly CZMP would depict the classification of CRZ under clause 7 of CRZ of 2011, which could be considered for grant of clearance for permissible activities under clause 4.2. It is therefore his submission that in terms of CRZ 1991 and up to 06.09.2022, a buffer of 50 mtrs could not have been depicted by GCZMA and consequently even as buffer zone along the mangroves, beyond 43 mtrs. In short, it is his submission that when the Order dated 07.04.2017 was passed, there was no buffer of 50 mtrs along the mangroves and GCZMA could not have exercised any jurisdiction whatsoever on the southern side of the CRZ side demarcated in survey no. 318/2.

It is also the submission of Mr. Rao that the Order dated 07.04.2017 direct an impossibility to be performed, as there is no possibility to accommodate the lagoon from 125 m x 80 m in the subject property i.e. survey no. 318/2 as the said property has length only of 120 m and not 135 m, which impression was created before the Court when it passed the interim order dated 15.03.2024.

According to Mr. Rao, the order in this Petition dated 15.03.2024 being an interim order is not binding on the Court while deciding the Petition finally, as this Court was not ceased of all the requisite facts while passing the said Order, apart from the fact that the matter was heard in absence of any reply filed by Respondent no. 4. He would submit that when the Respondent no. 4 was called upon to advance submissions in respect of Order dated 07.04.2017, which was handed over to the Court in the forenoon session, the Court did not have an opportunity of perusing the entire material and even looking at the survey plan prepared in the year 1970 which has been placed before the Court by Respondent along with its affidavit on 24.07.2024 and the subsequent reports establishing the impossibility imposed upon his client by order dated 07.04.2017.

Mr. Rao would also submit that the impossibility of compliance is also substantiated by the report of the Deputy Collector of GCZMA dated 28.06.2024 which, inter alia, holds that in order to achieve the

dimension of the lagoon to the extent of 125 m x 80 m, breaking of compound wall separating survey no. 318/2 and 310/1 on its southern side would be necessitated and that the lagoon would have to be extended in survey no. 310/1 to achieve the dimension of 125 m x 80 m. It is also his submission that the Supreme Court in no way has foreclosed the issue and, therefore, this Court shall take into consideration the material which was not looked into and which was not placed before the Court on which the impugned Order was passed on 15.03.2024. Apart from the aforesaid submission, Mr. Rao would urge that the order dated 17.04.2017 is only restricted to survey no. 318/2 but while passing the interim order, the High Court did not look into its true purport and in fact this order, according to him, was nullity on account of lack of jurisdiction of GCZMA but this aspect was not looked into, when the Court directed its implementation.

Relying on the legal maxim '*Actus Curiae Neminem Gravabit*', Mr. Rao would strenuously urge before us that his client shall not be put to prejudice on account of the prima facie observations recorded in the Order dated 15.03.2024.

19. We have perused the pleadings in the Petition as well as the affidavits filed before us by the Respondents and we appreciated the arguments in light thereof as well as the inspection reports and photographs of the site placed before us.

The Writ Petition filed on 20.10.2023 raised a grievance about the illegal construction carried out by M/s. Goveia Resorts/Waterfront on the banks of Siolim river in violation of CRZ Notification 2011 and complained about the delay in taking of action by GCZMA despite correspondence being made to various authorities including GCZMA. The Petitioner complained that the existing mechanism appeared to be ineffective to deal with the complaints of the Coastal Zone Regulations violations and therefore there is a necessity to improve the existing mechanism to deal with the complaints so that further damage to environment is curtailed and prevented.

During its pendency, the Petition was allowed to be extensively amended and the amended Petition brought on record various subsequent events as the Petitioner engaged the services of Surveyor which, on the basis of the images available on Google Earth, indicated that land filling was carried out. The Petitioner could also procure a site inspection report of Dr. Antonio Mascarenhas, the Expert Member of GCZMA, on 05.03.2016, who had carried out the survey pursuant to the complaint filed by the owners of the property in the presence of local Sarpanch as they had complained that there was large scale interference in form of unauthorized development in six survey numbers mentioned above.

The Order passed in OA No. 03/2018 which is the fulcrum of the argument of Mr. Rao was also introduced in the Petition by the amendment.

20. The report dated 05.03.2016 placed at annexure 'H' of the amended Petition, make reference to the site inspection being conducted at Siolim in survey no. 318/2, 319/2 and 320/2, the property belonging to M/s. Goveia Resorts on 04.03.2016.

The report pertinently record thus :

- “a. The site is located along a creek that flows towards the river Chapora on the west;
- b. The riverbank is by and large intact; original embankment is still preserved;
- c. Fringing mangroves, big and small, line most of the river bank;
- d. A major part of the plot is occupied by a lagoon (agor) which is connected to the creek through a 12 metre wide opening;
- e. The lagoon has been (re)built using boulder — cement combination: the top 50 cm of this wall is built using laterite stones;
- f. A cemented pathway is constructed around the lagoon;
- g. An hexagonal platform built on stilts is found in the north-western part of the lagoon;
- h. The southern part of the property is converted into a garden with ornamental trees;
- i. Two cabins are identified at both southern the corners of the plot;
- j. The north-eastern corner of the property is occupied by a 20 cm thick concrete platform 12 m wide and 32 m long, along the creek bank;

k. The property is barricaded by stone masonry boundary wall on either side, up to the edge of the creek.”

The report also make reference to the DSLR plan and record that the area of the three combined plots is 135 m x 90 m and within this area the lagoon occupies an area of 95 m x 65 m and the lagoon had an exit point at the north east corner.

In addition, the site report referred to the Google Earth (GE) images for comparison it record as below :

“3. Google Earth (GE) images can be used for comparisons. The GE image of 2003 shows a large lagoon / pond admeasuring 125 m x 80 m; these dimensions more or less match those of the DSLR plan. In comparison, the GE image of 2015 shows the present lagoon area as 90 m x 70 m.

4. The change in dimensions is because a rectangular portion measuring 25 m x 80 m the southern part of the lagoon was reclaimed by mud filling around the year 2008. Eight small houses are seen in the GE image of 01/2008 on the sluice gate. The part was subsequently widened into a 12 m wide opening that leads into the river / creek.

6. ...

7. If the DSLR plan, GE images, and the present disposition of the plots 318, 319, 320 is concerned, there appears to be a mismatch, particularly about the size of the lagoon. If the complainants insist, the entire plot will have to be re-surveyed and mapped to confirm the changes that have indeed taken place over time.

8. Nevertheless, the owners have verbally agreed to restore whatever additional changes they made, particularly the concrete platform at the northern part along the river bank.”

The report concluded thus :

“9. In summary,

(a) The plot has undergone changes with respect to the dimensions of the lagoon in particular;

(b) The hexagonal platform built on concrete columns in the lagoon does not seem to have approvals from competent authorities;

(c) The need for the reclamation of the lagoon and the approvals obtained, if any, for land filling will have to be explained by the promoters of the resort, as such activity is tantamount to CRZ 2011 violations of a tidal water body.”

21. Based on the aforesaid inspection report, Petitioner contended that the Google Earth aerial image of April 2010 clearly depicts that there was a large lagoon and a very narrow opening/slucice gate to the river but the subsequent Google Earth aerial images from April 2012 show large-scale reclamation of the lagoon by mud filling and a large opening made along the river.

It was also alleged that the illegal cottages recently constructed and forming the subject matter of the present Petition are erected over this reclaimed portion abutting the river.

22. The Petitioner has heavily relied on the minutes of GCZMA's 144th meeting held on 21.03.2017, which are placed before us in a compilation by Mr. Nadkarni.

The Minutes with reference to the complaint received from residents of Vaddy Siolim about the alleged construction of an unauthorized development besides sluice gate, fish pond (agor) and several other bodies blocking the traditional access, the construction being carried out by M/s. Goveia Waterfront Resorts Private Limited in the property survey no. 318/2 of Siolim. This resulted in a show cause notice being issued, which received response from noticee stating that all the structures seen on the property have been existing on the date of Sale Deed and repairs to retaining wall were carried out prior to CRZ 2011 and erosion control measures are not the prohibiting activities as per the said Notification.

GCZMA relied on the site inspection carried out by experts on 04.03.2016, involving the three survey numbers along with the rejoinder submitted on 18.10.2016 by M/s. Goveia Waterfront Resorts.

The Minutes clearly record that “Goveia Waterfront had not obtained any permission from GCZMA for erection of the structures, as per the records available by GCZMA.”

In the 142nd meeting of GCZMA held on 28.02.2017, in the light of the inspection report of its expert member of GCZMA and on comparing the Google images of 2003 with that of 2016, the Authority decided to direct M/s. Goveia Waterfront Resorts to carry out restoration of the lagoon in consultation of the expert members of

GCZMA and the authority directed (a) to restore the opening of the sluice gate from 12 m wide to its original size, (b) to remove the mud filling carried out in the lagoon to its original dimensions i.e. 125 m x 80 m, (c) to remove the concrete platform along columns in the lagoon constructed along the river bank, and (d) to remove/demolish the boundary wall of laterite masonry constructed up to the edge of the river.

23. The above meeting of GCZMA was the basis of the directions issued by GCZMA under Section 5 of the Environment Protection Act on 07.04.2017, with reference to the application no. 181/2015 filed by Mr. Anthony D'Souza and others before the NGT challenging the illegal construction of permanent structures within the CRZ area along the Chapora river located in survey no. 318/2 and M/s. Goveia Waterfront Resorts in survey no. 319/2 and as the NGT disposed off the application with a direction to attend the personal hearing before GCZMA and GCZMA directed to take a final decision within a period of four weeks.

24. On consideration of the stand of the developer M/s. Goveia Waterfront Resort, the order of GCZMA record an inference that on comparison of the Google images of the property for the year 2003 and 2016 wherein the GE image for the year 2003 a large lagoon / pond is clearly seen, however, the GE image for the year 2016 the dimension of

the said lagoon is reduced which shows that the said lagoon is reclaimed by mud filling.

GCZMA also relied upon the site inspection report dated 05.03.2016 prepared by Dr. Antonio Mascarenhas, the then Expert Member, GCZMA wherein it is stated that the lagoon has been (re) built using boulder - cement combination; top 50 cm of this wall is built using laterite stones a cemented pathway is constructed around the lagoon, an hexagonal platform is built on stilts in the north-western part of the lagoon, two cabins are identified at both southern corners of the plot, the north-eastern corner of the property is occupied by 20 cm thick concrete platform, 42 m wide and 32 m long, along the creek bank, the property is barricaded by stone masonry boundary wall on either side, up to the edge of the creek. As per the GE image of 2003 shows a large lagoon / pond admeasuring 125 m x 80 m which more or less match those of DSLR plan and in comparison of the GE Image 2015 shows the present lagoon area as 90m x 70m. The change in dimensions is because a rectangular portion measuring 25m x 80 m or the southern part of the lagoon was reclaimed by mud filling around the year 2008. The GE image of 2003 also shows a very narrow passage that opens into the creek along the northern boundary of the plot. This was probably an ancient sluice gate. The part was subsequently widened into a 12 m wide opening that leads into the river / creek.

25. In the wake of the aforesaid, GCZMA in exercise of its power conferred under Section 5 of the Environment (Protection) Act, 1986 read with sub-rule (3)(a) of Rule 4 of the Environment Protection Rules, 1986, read with the power vested with GCZMA vide order dated 22.07.2014 issued by MOEF, Government of India, directed M/s. Goveia Waterfront Resorts to implement all the measures recommended and restore the entire lagoon under reference located in survey no.318/2 of Village Siolim, Bardez, Goa, to its original condition within 45 days and file compliance report.

It was also directed to remove/demolish the concrete platform along the river bank and boundary wall of laterite masonry construction up to the edge of river located in survey no. 318/2 within 15 days, failing which, the Deputy Collector and SDO of Bardez were directed to remove the same within a period of two weeks and recover the expenses from the project proponent.

26. his order was challenged by M/s. Goveia Developers before the NGT (WZ) through Appeal No. 41/2017 (WZ) and the NGT dismissed the appeal with the following observations:

“ ... The record reveals that the Show-cause Notice dated 21.6.2012 and further Show-cause Notice dated 4.11.2014 were issued to the Appellant with Particular reference made to the illegal construction/development carried out by the Appellant in

the said Show-cause Notices. The Show-cause Notices were replied. Broadly, the Appellant contended that all these structures alleged to have been illegally developed were existing since the time the property in question was purchased on 26.08.2008 and repairs to the retaining wall were carried out prior to CRZ Notification, 2011 and erosion control measures, which were not prohibited activities, were taken. The record reveals that the site inspection was carried out by the Expert Member and hearing was given to the Appellant as well as to Respondent No.3-complainant Mr. Anthony D'Souza, a resident of Vaddy, Siolim-Bardez-Goa where development in question was carried out. The record reveals that the Authority had taken into account submissions made by the rival parties and considered the record and passed the impugned order. The Authority particularly, invited attention of the parties to the Google Images of the property for the year 2003 and 2016, which demonstrated that lagoon was reclaimed by mud filling after the year 2003. Certainly, development carried out was without any permission from GCZMA.

We do not see any perversity in the impugned order. We, therefore, are not inclined to entertain the Appeal.

The Appeal is dismissed in limine.”

A review application filed was also dismissed by NGT on 09.07.2021 by recording that there is no merit in the same.

27. Coming to the OA No. 03/2018 filed before NGT by Goa Paryavaran Savrakshan Sangharsh Samitee, and the Order dated 15.12.2022, it is worth to note, that on the date of hearing, the applicant failed to remain present and it was recorded that the commercial activity was being carried out in survey no. 318/2, 319/2 and 320/2 of

Village Siolim and an allegation was levelled that enormous damage was caused to the existing lagoon, which is connected to a creek with a wide opening of 12 mts and it was also alleged that a huge amount of reclamation was done in the lagoon and paddy field portion was also converted into a garden with ornamental trees besides construction of large RCC building with several rooms for tourist accommodation. Reference is also made to the Order of GCZMA directing demolition of the structures but despite these directions, it was noted that the commercial activities were in operation in full swing.

It is pertinent to note that upon the OA being filed on 22.08.2022, the NGT constituted a three-member committee to visit the spot and conduct the inspection in order to ascertain the factual condition on the spot with respect to the illegal construction and submit its report.

Accordingly, the Committee carried out an inspection and enlisted its observations qua all the three survey numbers belonging to M/s. Goveia Developers and the observations reflected thus:

Sr.No .	Survey No./ Sub Div. No.	Observations at location	Remarks
1.	318/2, 319/2 320/2 Siolim/ Bardez	The site encompasses a plot of land bearing Survey Nos. 318/2, 319/2 & 320/2 of Village Siolim of Bardez Taluka.	As shown in the Survey Plan of Directorate of Settlement and Land Records, Panaji-Goa.
		The properties bearing Survey Nos. 318/2, 319/2 & 320/2 of Village Siolim of Bardez Taluka partly falls under NDZ of Chapora River.	As per the CZMP

2.	318/2 Siolim/Bardez	A Water Body / Lagoon exists at location in Survey No. 318/2 and 319/2(part) of Siolim Village of Bardez Taluka.	Ass per online computerised Form I and XIV records the area of dry crop is 4275m and the area of Class 'B' i.e. Water Body / Lagoon is 6425 m in respect of Survey No. 318/2 of Siolim Village of Bardez Taluka, recorded in the name of M/s. Goveia Developers.
		The Northern part of Survey No. 318/2 is a water body / lagoon, the South, East and West side of Survey No. 318/2 is constructed with laterite boulder in combination of cement. There is a cemented pathway all around the lagoon outside the boundary wall of the lagoon.	As per Survey plan issued by the O/o DSLR the plot bearing Survey No. 318/2 consists of Water Body having surrounded by Bharad/Dry Crop land on the all four sides and one structure "A" on the south western side and other structure on the south eastern side presently surveyed under Survey No. 318/3.
		As per site condition, the lagoon is measured into two parts. The length of major part of Lagoon towards Eastern side is 78.50 m whereas it's length is 93.50 m in western side. The width of Lagoon for major part measures 61.00 m.	As per the Survey Plan issued by the O/o DSLR the length of Water Body/Lagoon works out to 96 m stretching from North to South and 67 m from East to West.
3.	319/2	The Survey No. 219/2 consists partly of Water Body/Lagoon and a mud filled bund on the Northern, Eastern and Western side in Survey No. 319/2.	As per Survey Plan issued by the O/o DSLR the Survey No. 319/2 is shown as Water Body. As per Form I and XIV records.
		On the Northern side of Survey No. 219/2 there is a Water Body/Lagoon having opening of 12.10 m vide leading to sluice gate and further to Chapora River.	Survey no. 319/2 is shown as Class 'B' admeasuring 1250 m recorded in the name of M/s. Goveia Developers.
3.	319/2	There exists a rectangular Water Body Lagoon having dimensions of 12.10 m long and 11.00 m wide on the northern side of Survey No. 319/2.	As per Survey Plan issued by the o/o DSLR the Survey no. 319/2 is shown as Water Body.
		The shape of the Water Body/Lagoon does not tally the Survey Plan and also the area does not tally with the class 'B' area of Form I and XIV of Survey no. 319/2.	As per Form I and XIV records Survey no. 319/2 is shown as Class 'B' admeasuring 1250 m recorded in the name of M/s. Goveia Developers.
		The creek of River Chapora lying entirely in Survey No. 319/2 is having an inlet into the lagoon situated in Survey No. 318/2.	

		Wherein it is extending in North-South direction with a Lagoon towards North, which is further connected to a Creek in the northern-most end falling in Survey No. 319/2.	
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Apart from this, the report referred to the GE images of 2003 record thus :

Sr.No.	Survey No./ Sub Div. No.	Observations at location	Remarks
9.		GE imagery of 2003 shows larger size of Lagoon/ponds admeasuring 125m x 80 m approximately which more or less matches with the DSLR plan. With this change in dimension, it is inferred that a rectangular portion on the southern boundary of the plot has been reclaimed by mud filling.	

28. This report being placed before the NGT, the project proponent argued that the water body in survey no. 318/2 cannot be referred to as lagoon and prior to the purchase of the said properties, the earlier owners used the said water body as fish pond and prawn farming and he has not made any changes to the water body. With no clear finding recorded but the NGT only recording the stand of the Respondent no. 1, i.e. the Project Proponent, qua each recommendation which was made with a simpliciter denial, the OA was disposed off with direction to the Respondent no. 1 to carry out the recommendations of 1 to 4 stated in paragraph 10 within a period of one month from the date of the order, failing which, GCZMA was at liberty to proceed with the demolition.

29. On perusal of the said Order passed by the NGT, we cannot consider the same to be in any way diluting the earlier directions issued by GCZMA on 07.04.2017 which has received approval of the NGT. It is worth to note that the Joint Committee submitted its report and as regards the lagoon, it had recorded thus :

“... the dimension of lagoon as per old DSLR 96.00 m x 67.00 m, the mud filling done of water body from southern side of the lagoon has to be retained to maintain 96.00 m of the lagoon, since filling carried out comes within the mangrove buffer zone as per the CZMP 2011.”

This conclusion and recommendation clearly run contrary to the observations in the report as we find that the report makes reference to the presence of the water body of the lagoon in survey no. 318/2 and 319/2 (part) and a specific observation that a part of lagoon/water body in 319/2 is mud filled. We must note that the applicant did not appear before the Tribunal and M/s. Goveia Waterfront Resorts, the Respondent no. 1, only proceeded on the basis of denial and as we have already noted that the conclusions and the recommendations of the report do not match with the observations which inspected all the three survey numbers of the Project Proponent which was falling in the NDZ of Chapora river and the water body/lagoon was found to be existing in 318/2 and 319/2(part) of Siolim Village. Therefore, according to us, much

weightage cannot be given to the Order dated 15.12.2022 of the Tribunal as Mr. Rao has attempted to canvas before us that the Tribunal directed restoration of the lagoon in terms of the dimensions as set out in the old DSLR plan showing 96.00 m x 65.00 m, which recommendation is without any foundation.

30. Mr. Rao has revolved his arguments on the Order passed by this Court on 15.03.2023 and as to why it is not necessary to ensure its compliance. At the outset, we must make it clear that this Order passed by us cannot be considered merely as an interim order as we find considerations of the counter arguments threadbare and this included the arguments on behalf of the Petitioner and the learned Advocate General on behalf of the State and GCZMA and Mr. Rao for M/s. Goveia Waterfront/Resorts.

Since the focus of the Petitioner was on the directions issued by GCZMA on 07.04.2017 for removing the mud filling in the highly eco-sensitive area in restoration of the lagoon to its original dimension of 125 m x 80 m and recorded that the NGT had dismissed the appeal by specifically recording that GCZMA had invited the attention of the parties to the Google Earth images for the year 2003 and 2016, which clearly depicted that the lagoon had shrunk and the activities were carried out by the Project Proponent without obtaining requisite

permission from GCZMA. Recording that even Review Petition was dismissed, the Division Bench specifically recorded thus:

“15. Despite the GCZMA's order dated 07.04.2017 attaining finality on account of dismissal of the appeal against the same by NGT vide its order dated 15.05.2017 and after the dismissal of Review Application No.3/2019 against the NGT's order dated 15.05.2017, the fourth respondent still insists that the directions issued by GCZMA for removing the mud filling carried out in the lagoon and restoring the lagoon to its original dimensions i.e. 125 mtrs. X 80 mtrs. is wrong. Such a contention or argument cannot be accepted. At this stage, there is no question of resurvey or involving the DSLR to conduct a re-survey. A finding in the order dated 07.04.2017, which has attained finality, cannot be revisited simply because the fourth respondent does not adamantly wish to comply with the same.”

31. The contention that the order passed by GCZMA on 07.04.2017 was substituted by NGT's Order dated 15.12.2022 was also turned down by recording that it was a misconceived argument and nothing but a ploy to avoid compliance of the order of GCZMA dated 07.04.2017 which had attained finality.

When the argument was advanced that the Google Earth images relied upon were not accurate, the Division Bench recorded that when the Order of GCZMA dated 07.04.2017 had referred to the images and the appeal was dismissed by NGT and the Review Petition was dismissed, it had no propriety in disturbing the said finding.

In the order, the reference is also made to the communication of the Project Proponent demanding a resurvey by stating that as per the Survey Plan, the length of its property is only 120 metres and therefore it is not possible to restore the length of 125 m. However, the Counsel representing the Petitioner invited attention of the Court to the building plan submitted by the Project Proponent to GCZMA where it has claimed that the length of its property was 135 m x 64 m and therefore the Court recorded thus:

“This belies the contention about the length being only 120 mtrs. Therefore, when it comes to obtaining benefits, the fourth respondent goes by the length of his property being over 135 mtrs. but when it comes to restoring the lagoon to its original size, the claim is that the length of the lagoon was only 96 mtrs. and not 125 mtrs. In the communication dated 22.05.2018, the fourth respondent went so far as to claim that he had never done any mud filling or that the area would be beyond the CRZ demarcated area.”

32. The order dated 15.03.2024 with lot of anguish, record as below:

“27. The record bears out that the fourth respondent virtually filled up a natural lagoon with a view to finding a place for putting up a commercial project. Concrete walls were constructed on the river bank; sluice gate walls were demolished and re-constructed, and sluice gate openings were unduly widened. The constructions put up on the property virtually amount to environmental havoc. Still, the fourth respondent wants to put more cottages on the property for commercial exploitation. All this, even without complying with the orders made by the GCZMA and the NGT.

28. ...

29. Therefore, the fourth respondent's conduct deserves to be severely deprecated. However, what shocks and hurts us most is the approach of the GCZMA. When the fourth respondent applied for permission to construct more cottages, the GCZMA officials claimed to have visited the property. However, none of the GCZMA officials flagged the issue of noncompliance with the GCZMA's order dated 07.04.2017 or, for that matter, NGT's order dated 15.12.2022. The GCZMA officials did not even record that the fourth respondent had failed to restore the opening of the sluice gate from 12 mtrs. to its original size and restore the lagoon to its original dimensions of 125 mtrs. x 80 mtrs. Instead, approvals were granted, and even though the fourth respondent prima facie exceeded the approvals, the GCZMA did not deem it fit to stop the unauthorised constructions and initiate an action against the fourth respondent.”

The Division Bench also flagged the inaction on the part of GCZMA who, according to it, is enjoined with the responsibility of protecting areas affected by the CRZ notification, did not take any immediate action and much is observed also about the conduct of GCZMA, which is blamed for not complying its own orders and instead of ensuring compliance and restoration of the site degraded by the 4th Respondent to its original condition, it is accused of being busy with considering fresh proposals of constructions submitted by the very said Respondents. Therefore, direction was issued to GCZMA to assess the environmental damage caused by the 4th Respondent and recover the same after issuing show cause notice in an expeditious manner.

33. Disturbed by the facts surfacing before it, this Court also sought necessary information from the learned Advocate General about the water bodies in the State and took note of the instances of filling up water bodies and wet lands for environmental commercial exploitation by noting that even if complaints were filed, no action was forthwith coming. The Court was therefore constrained to issue directions to the State through its agencies and instrumentalities to ensure that the restrictions set out in rules of Wetlands (Conservation & Management) Rules of 2017 are duly enforced.

What is pertinent to note is the paragraph 44 of the said Order when the 4th Respondent agreed to restore the lagoon to the extent of 96 m x 67 m on its own and the Court directed GCZMA to undertake work of balance restoration so that the lagoon is restored to its original dimension of 125 m x 80 m and to act in compliance with the directions issued by it on 07.04.2017.

34. The aforesaid observation in the Order dated 15.03.2024 foreclose the issue as regards the restoration of lagoon in the dimension of 125 m x 80 m but only kept the issue open for GCZMA to assess the environmental damage caused by the 4th Respondent with a direction being issued to deposit Rs. 5 Lakhs in the first instance and permitting GCZMA to start the restoration work even prior to the said deposit.

Since the Petition involve other issues, as per the Counsel for the Petitioner, its hearing was postponed when even the 4th Respondent was also directed to file its compliance.

35. This order being challenged by way of Special Leave Appeal, is upheld and as we have recorded above, in the very opening paragraph. The Apex Court made it clear that as far as the dispute of lagoon is concerned, it would stand concluded by its order.

The order referred to the business of the Petitioner, M/s. Goveia Developers, owner of property bearing survey no. 318/2, 319/2 and 320/2 in Village Siolim, located on the banks of a creek that joins river Chapora before it meets the sea. Noting that the property enjoins the lagoon, which is a water body separated from a larger body to a natural barrier, a reference is made to the prior sanction and approval of the illegality of the authority of GCZMA constituted under the Environment Protection Act, 1986.

The order passed by the Apex Court refer to the show cause notice issued to the partnership firm pursuant to the complaint made by the residents of Siolim to be followed by a site inspection report dated 05.03.2016 that the area of the subject property which observed the area of the property to be 135 m x 90 m that lagoon occupies an area of 19 m x 65 m. It also made reference to the Google Earth images which found the lagoon to be 125 m x 80 m more or less matching the dimensions as set out in the plans by the Settlement Land Records. It

then made reference to the order dated 07.04.2017 and the order being upheld by the NGT. Referring to the order of the NGT, in an application filed by Goa Paryavaran Savrakshan Sangharsh Samitee, the Apex Court also took note of the order of 15.12.2022 where it directed the restoration of the lagoon to the size of 96 m x 67 m with a specific observation to the following effect :

“8. There is no point here to discuss as to whether this new round of litigation was a ploy engineered by interested parties to somehow get away and defeat the earlier orders of the Tribunal which had given a different finding as to the measurement of the lagoon, and had actually attained a finality. We leave this to the High Court, which is still seized with the broader issues. What is obvious, however, is that all this was to the benefit of the petitioner. The role of GCZMA too is problematic. But even this order of NGT was not complied by the petitioner, till a writ petition was ultimately filed before the High Court.”

By extensively referring to the observations made by the High Court after hearing all the parties, with a direction to restore the lagoon in its original form i.e. 125 m x 80 m as it existed before it was encroached and reclaimed, it is noted that the High Court referred to the previous litigation and the order passed by the Tribunal and rendered a finding that the actual size of the lagoon was 125 m x 80 m, and finding no scope for interference, the finding in the order that NGT, Pune, by its order dated 15.12.2022 could not have modified its directions passed in the first proceedings which had attained finality,

was of the view that the lagoon has to be restored to its original size of 125 m x 80 m.

While dismissing the Special Leave Petition, the Apex Court directed compliance of the orders passed by the High Court at the earliest.

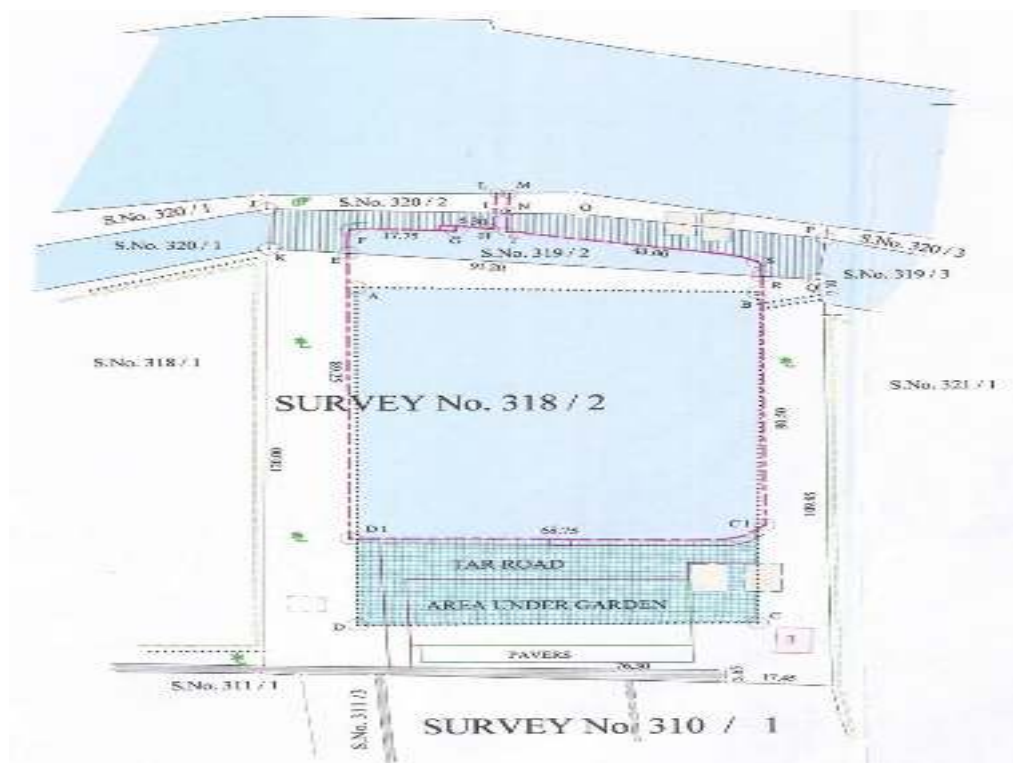
36. While the Petition was being heard, on 09.07.2025, when Mr. Rao representing Respondent no. 4, urged before us that practically there is no scope of expanding the area whereas the Petitioner adopting a stand that the lagoon must be restored, we deemed it appropriate to have a site inspection to be carried out. Since the consensus was arrived in appointment of an Officer from the Directorate of Settlement and Land Records, North Goa, (DSLRL), he was requested to carry out the inspection on 15.07.2025 in the presence of the representatives of the Petitioner, Respondent no. 4 as well as the representative of the GCZMA and the report was directed to be furnished.

Accordingly, on 22.07.2025, a report was placed before us and we permitted the copies of the same to handed over to all concern.

The report of the site inspection conducted on 15.07.2025 in the presence of the representative of the respective parties, is accompanied by a site plan, and the report is based upon the actual survey of properties bearing sub-division no. 310/1(part), 318/2, 319/2 and 320/2 identified on the basis of the existing survey map as well as

available survey records, the survey being carried out using DGPS (Differential Global Positioning System) instrument. The report referred to the existing features at loco in the properties bearing sub-division nos. 318/2, 319/2 and 320/2, the same being superimposed on the survey map resulting into drawing of a site plan.

37. The site plan produced before us along with the said report has demarcated the boundaries of the properties of Respondent no.4 and for its effective understanding, we have pasted the site plan, submitted as an annexure to the said report below.



The site plan drawn to the above effect has the following noting :

“A, B, C, D... WATER BODY/LAGOON AS PER EXISTING SURVEY RECORDS IN S.NO. 318/2, (AREA-6425 SQMTS)

E, F, G, H, I, J, K & N, O, P, Q, R, S, T, ... PORTION OF WATER BODY/LAGOON AS PER SURVEY RECORDS BACKFILLED AT LOCO IN S.NO.319/2, (AREA-702 SQMTS)

EXISTING STRUCTURES WITHIN WATER BODY/LAGOON AT LOCO IN S.NO. 318/2 & 319/2

C, C 1, D, D1... EXISTING TAR ROAD, AREA UNDER GARDEN, OPEN SPACE BACK FILLED WITHIN WATER BODY/ LAGOON IN S.NO.318/2, (AREA-1616 SQMTS)

C 1, D1, E, F, G, H, I, & L, M, N, T, S, R...EXISTING WATER BODY/LAGOON AT LOCO FALLS IN S.NO. 318/2 & 319/2, (AREA-5921 SQMTS)”

The site inspection report thus clearly depict that the portion of water body/lagoon has been back filled and the existing structures stand within the water body lagoon at loco survey no. 318/2 and 319/2 and they have been specifically indicated in the site plan. It is also evidently clear that the existing water body/lagoon falls in survey no. 318/2 and 319/2 in area of 5129 square metres. The above site plan reinforce the case of the Petitioner and confirm the existence of the lagoon of the dimension of 125 m x 80 m, which was the position prevailing, when GCZMA passed the Order on 07.04.2017, by relying upon to the site inspection report dated 05.03.2016, under the signature of Dr. Antonio Mascarenhas.

38. During the course of hearing, when we referred to the site inspection report of 2016, we could note that the Google Earth images were used for the purposes of comparison and the report clearly stated that the GE image of 2003 reflected a large lagoon/pond admeasuring

125 m x 80 m and this specification was matching with the DSLR plan whereas in the year 2015, the lagoon area was reflected as 90 m x 70 m. Since the reports were not available, the affidavit of signatory of the said report of Dr. Antonio Mascarenhas working as Scientist at the National Institute of Oceanography and former expert of GCZMA and of the Goa State Biodiversity Board, placed his affidavit before us.

In the affidavit, affirmed on 22.08.2025, the deponent state that he had personally inspected site bearing survey no. 318/2, 319/2 and 320/2 in Village Siolim in furtherance of show cause notice issued by GCZMA on 04.11.2014. He categorically state that the report prepared by him on 05.03.2016 was based on the ground truthing as well as the DSLR survey plan of survey no. 318/2 and 319/2 combined geological and morphological evidence collected in the field as well as the modifications observed in the property.

The affidavit contain the following statement of fact :

“6. I say that upon an examination of the DSLR survey plans of the combined properties bearing Nos. 318, 319 and 320 the dimensions of 135m x 90m was derived. The dimensions of 125m x 80m of the lagoon/water body was calculated from the GE image of 2003. Similarly, the GE images of 2008, 2011, and 2015 were consulted to attempt a time series analysis to decipher the extensive human interference around the lagoon over a period of time (the same is made out from a perusal of paragraph nos. 2, 3 and 4 of the said report dated 05/03/2016).

7. I say that the GE images of 2003 and 2008 are no longer available. But it is possible to access the same if a request is made to Google Earth agencies. If need arises, the State Environment Department or the Survey Department can make an official request so as to acquire the relevant images.”

39. In support of the observations made in the report dated 05.03.2016, the GE images which are presently available as the GE image 04 of 2010, with the said image being produced before us, he has deposed that the said image confirm that plot no. 318/2 and 319/2 constituted a lagoon/water body within a larger marshy mangrove tidal wet land by the river side. Thereafter, he also referred to the GE 04/12 showing large scale modification in survey no. 318/2 and 319/2 along a period of time in 2010 with the specific conclusion to the following effect :

“III) The GE image of 04/2010 also distinctly shows that a substantial portion of the original lagoon has been reclaimed. The presence of red extraneous mud, within a marshy wetland that is typically characterized by black organic sediment, is evidence enough that the red surface is obviously due to alien material brought in from outside. The reclaimed area roughly corresponds to 28-30 meters x 85-88 meters.

The affidavit conclusively state thus :

“A. The property bearing survey 318/2, 319/2 and 320/2 was entirely a saline water body/lagoon, connected to the river, and in the midst of a marshy, mangrove wetland by the riverside.

B. The RP 2021 had already mapped and designated these plots as 'fish farm'.

C. The GE image of 2003 (presently not available) also shows these plots as a lagoon linked to the river, within an intricate system of adjacent water bodies and mangroves.

D. The GE image of 04/2010 also confirms a water body from eastern to western boundary; significant human interference is evident from this image.

E. A large area of around 28-30 meters (N-S) x 85-88 meters (E-W) has been reclaimed; the existence of red mud within a marshy black soil is evidence of alien material dumped in the lagoon.

F. The maximum length of the earlier lagoons was around 128-130 meters, and the maximum width was about 85-88 meters.

G. Drastic modifications are identified all around the lagoons, particularly in the southern part; concretization in the form of pathways and structures was done subsequent to year 2010, and distinctly observed in GE image of 2015.

H. The ISLR report of 2025 has also highlighted backfilling on all four sides;"

40. The aforesaid affidavit according to us clearly support the finding rendered in the direction of GCZMA issued on 07.04.2017 and this Order having been upheld upon the NGT dismissing the appeal as well as Review Petition has definitely attained finality.

We also have perused the inspection report carried out by the Expert Committee constituted by the NGT, in OA No. 03/2018 filed by Goa Paryavaran Savrakshan Sangharsh Samitee and as well as other

site inspection reports make it evidently clear that on every occasion, it involved survey no. 318/2 along with the other survey no. 319/2 and 320/2 at Siolim Village. Time and again, attempt was made to bring the actual specifications on site and the inspection report/panchanama dated 28.06.2024 carried by GCZMA after the Supreme Court order has brought the specifications of the water body before us even this inspection report referred to survey no. 319/2, 320/2 and 310/1 and all these surveys are the properties of M/s. Goveia and since from the very beginning it is the case of GCZMA that there is filling of the water body and there is a construction of concrete platform along with columns in the lagoon constructed along the river bank and the compound/boundary wall of laterite masonry constructed up to the edge of the river on survey no. 318/2, GCZMA had issued directions to restore the opening of the sluice gate to its original size and also to remove the lagoon and restore the same to its original dimension i.e. 125 m x 80 m.

It is worth to note that all the while, there is involvement of property bearing survey no. 318/2 along with two adjoining i.e. survey numbers 319/2 and 320/2, which also belong to the Respondent no. 4. The Google Earth images referred to the lagoon size of 125 m x 80 m in the year 2003 which was however found to be reduced to 90 m x 70 m, as there was reclamation by filling rectangular portion 25 m x 80 m with mud.

Since all the while it is the stand of GCZMA that the lagoon deserves to be restored to its original dimension as it was destroyed by the land filling and construction of the structures which were clearly in violation of the directions issued by GCZMA, we are not impressed by the submissions advanced by Mr. Rao that GCZMA had no authority or competency to examine the same. It is pertinent to note that the complaints against M/s. Goveia are as old as in the year 2015 as we find that proceedings were filed before the NGT Pune alleging illegal construction of permanent structures in CRZ in survey no. 318/1 and 318/2 and the NGT had issued directions directing GCZMA to conduct hearing and adjudicate upon the said complaint and this resulted into the proceedings being taken over by GCZMA. At that relevant time, only the Google Earth images of the property for the year 2003 and 2016 were compared resulting into an inference that the lagoon is reduced as it was reclaimed by mud filling.

A very categorical finding is reached by GCZMA pursuant to the report of 05.03.2016, clearly reporting on site situation and it being compared with the GE image of 2003 showing a lagoon admeasuring 125 m x 80 m, which corresponded to the DSLR plan whereas 2018 GE image had shown the size of the lagoon to be 90 m x 70 m. A clear inference is drawn that the change in dimensions is because a rectangular portion measuring 25 m x 80 m on the southern part of the lagoon was reclaimed by mud filling around the year 2008 and the GE

image of 2003 showed a narrow passage that opens into the creek along the northern boundary of the plot which was prescribed as an ancient sluice gate and which was subsequently widened into a 12 m wide opening that leads into the river/creek.

41. In the wake of the consistent finding recorded by GCZMA and which is fortified before us in the wake of various inspections carried out including the inspection carried out by GCZMA and also the last inspection report which is placed before us upon the inspection being carried out by the Directorate of Settlement and Land Records, the position remaining consistent throughout, reflecting that the lagoon had shrunk on account of mud filling, in our view, the Petition deserve to be made absolute in terms of the Order dated 15.03.2024 and though Mr. Rao has contended that it is an interim order, we are unable to subscribe to his view, as we find that the order has finally put to rest the issue of lagoon and appropriate directions are issued, as the Court found fault with GCZMA, which had ignored the implementation of the directions issued by it under Section 5 of the Environment Protection Act, as early as 07.04.2017 and in utter ignorance granted permission on 23.08.2021.

With the GE images and the current photographs of the site placed before us along with the plans that are placed along with the inspection, we have no hesitancy in allowing the Writ Petition and

directing the Respondent no. 4 to ensure compliance of the Order passed by the High Court on 15.03.2024, which has been upheld by the Hon'ble Supreme Court on 14.05.2024, leaving no option to the Respondent no. 4, then to ensure its compliance. As far as compensation aspect is concerned, we are informed that the compensation being worked out, the Respondent no. 4 has approached the NGT, which has remanded the matter back for reconsideration and we direct GCZMA to take decision as regards the compensation liable to be paid by the Respondent no. 4 for causing damage to the environment in an expeditious manner.

42. In the light of the observations recorded in Order dated 15.03.2024, with reference to the direction dated 07.04.2017 issued by GCZMA, which has attained finality, which had clearly recorded that there existed a lagoon/pond admeasuring 125 m x 80 m, which more or less was matching with the DSLR plan and since it directed removing the mud filling carried out in the lagoon and its restoration to its original dimension 125 m x 80 m, this Order having been upheld by the Hon'ble Apex Court on 14.05.2024, foreclosing the issue as far as dispute of lagoon is concerned, we direct its implementation.

We must also express that the Order dated 15.12.2022, passed by NGT, no way has the effect of diluting the directions dated 07.04.2017, issued by GCZMA and which is upheld by the NGT, as the appeal filed by Respondent no. 4 was dismissed.

In the wake of the aforesaid, the Petition is made absolute in terms of prayer clause (bb) and (bbb). We direct the High Court order dated 15.03.2024 to be implemented by GCZMA forthwith.

Misc. Civil Application Nos. 1829 of 2024(F) and 2012 of 2024(F) stand disposed off accordingly.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.