



Niti

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO.27 OF 2022

AND

**MISC. CIVIL APPLICATION NOS.1376 OF 2022(F) &
2961 OF 2024 (F)**

PIL WRIT PETITION NO.27 OF 2022

ROSHAN MATHIAS AND ANR. PETITIONERS

Versus

**THE GOA COASTAL ZONE
MANAGEMENT AUTHORITY
AND 6 ORS.**

... RESPONDENTS

AND

**MISC. CIVIL APPLICATION NOS.1376 OF 2022(F) &
2961 OF 2024 (F)**

ZON HOTELS PVT LTD.

REP. BY VIKRANT D. USGAONKAR ...APPLICANT

Versus

ROSHAN MATHIAS AND 6 ORS.RESPONDENTS

Ms Norma Alvares, Senior Advocate with Mr Om D'Costa,
Advocate for the Petitioners.

Mr Neehal Vernekar, Additional Government Advocate for
Respondent Nos.1,3,4,5.

Mr Shivan Desai with Ms Riya Amonkar, Advocate for
Respondent No.6 and Applicant in MCA Nos.1376/2022(F) &
2961/2024 (F).

**CORAM: M. S. KARNIK &
NIVEDITA P. MEHTA, JJ.**

DATE : 27th JANUARY 2025

P.C.:

1. The brief facts that need to be placed on record for passing appropriate orders in this petition are as follows:

2. Vide directions dated 13.04.2022, the GCZMA had directed the removal of all structures on the property and restoration of the land to its original condition. On 28.09.2022, this Court directed the restoration of the site as directed by the GCZMA. The GCZMA appointed the GSBB to remove the balance debris and to restore the site. The GSBB's report dated 01.06.2023 of the program and cost included sand deposition to cover the area. Total cost was estimated at Rs.9,98,400/- but was later raised to approx Rs.12.00 lakhs. On 05.01.2024 GSBB filed a report of compliance that work of removal of debris was completed and the respondent should commence with tree plantation. As regards restoration of the sandy stretch, it was indicated that restoration by natural process was the best solution.

3. Attempts to accelerate the process of sand replenishment vide the assistance of experts have not worked out. The report of the Joint Inspection of the site dated 13.01.2025 reports as follows:

(i) the adjacent sandy stretch is to be taken as reference for level of sandy stretch on this plot as well.

(ii) it is not possible to source the sand required to cover this plot.

(iii) The trees and vegetation to be planted need to be restored with sufficient sand cover.

(iv) Nature will take time to restore the site to original form.

(v) The existing shacks on the western side are a hindrance to the restoration process due to hindrance to wind flow which is the major driver in beach restoration,

(vi) The task of restoration could be made part of the task of experts proposed to be engaged by the Govt. of Goa.

4. We have heard Ms Alvares, learned Senior Advocate, as well as Mr Vernekar, learned Additional Government Advocate for respondent nos.1,3,4 and 5 and Mr Shivan Desai, learned counsel for respondent no.6. From the report it is clear that the property needs to be covered with the sand for it to be said that the restoration is complete. The

observations and suggestions made by the GSBB and the conclusions reached be taken to its logical conclusion and the recommendation be acted upon for restoring the site in question. Further, we find it appropriate that the respondents should be permitted to erect bio-fencing in the manner instructed by the GCZMA. On an application made, GCZMA to ensure that such bio-fencing will help protect the interest of respondent no.6 as well as serve the object of enabling the sand to be deposited by natural action in terms of the GSBB report.

5. Considering that the site in question has to be restored as per the report, it is necessary that if shacks in front of the site or by the side come in the way of restoration, such erection of shacks should not be permitted. However, considering that in terms of the shack policy presently in operation for the current tourist season, permissions for which are already granted need not be disturbed. However, the report be given effect to and taken into consideration by the Tourism Department when the shack policy for the next season is formulated.

6. It is the submission of Ms Alvares, learned Senior Advocate that until the restoration of the sand on the property is completed, the assessment of which is to be by the GCZMA, whether by natural process or by entrusting the task to any agency, no proposals for any development on the property should be entertained. In this context, Mr Shivan Desai invited our attention to the directions issued by the GCZMA dated 13.04.2022 (page 130 of the petition) where it is observed that structure in property bearing survey no.146/4-E is a legal structure in so far as CRZ norms are concerned because it was of the period prior to 1991. Further, it is observed that it is only on account of this fact that the permission to carry out reconstruction was given.

7. Now that the sandy stretch is to be restored, if any application for reconstruction of the structure admeasuring 396 sq. mtrs is made, it is for the GCZMA to consider whether such reconstruction can be permitted in the light of the recommendation made by the GSBB for restoration of the sandy stretch and as to whether it will come in the way of the restoration of the site. It is open for either of the parties to take legal recourse against the decision on reconstruction.

The GCZMA to consider the application if made in the light of the site inspection report dated 13.01.2025 and the recommendations made therein.

8. The petition is disposed of in the above terms. Pending Misc. Civil Applications also stand disposed of. No costs.

NIVEDITA P. MEHTA, J.

M. S. KARNIK, J.