



Amrut

**IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO.309 OF 2024
IN
PUBLIC INTEREST LITIGATION (SUO MOTU) NO.2 OF 2022**

VANESSA ANN MARQUES ... Applicant
Versus
 STATE OF GOA THR. CHIEF SECRETARY
 AND 3 ORS. ... Respondents

Mr Pankaj P. Pai Vernekar and Ms Nikita Nadkarni, Advocates for the Applicant.

Mr Abhijit Gosavi, Amicus Curiae with Mr G. Kerkar, Advocate.

Mr Shubham Priolkar, Additional Government Advocate for Respondent Nos.1, 3 and 4.

Mr Deep Shirodkar, Additional Government Advocate for Respondents-State in MCA(F) Nos.146 of 2024, 1398 of 2024, 1009 of 2024 and 1155 of 2024.

Mr P. A. Kamat, Advocate for Respondent No.2 in MCA No.309 of 2024 and for the Applicant in MCA(F) Nos.760 of 2024 and 146 of 2024.

Mr Manish Salkar, Advocate for the GSPCB in PILSM No.2 of 2022.

Mr D. Lawande and Mr P. Dangui, Advocates for Ms Sheetal Naik, Pancha Member of Village Panchayat of Anjuna Caisua.

Mr D. Lawande and Mr Chirag Angle, Advocates for Mr Laxmidas Chimulkar, Sarpanch of Village Panchayat of Anjuna Caisua.

Mr Kabir Sabnis, Advocate for the Applicant in Misc. Civil Application Nos.1155 of 2024 (F) and 1398 of 2024.

CORAM: **M. S. KARNIK &
VALMIKI MENEZES, JJ**

DATED : **24th JULY 2024**

P.C.:

1. Heard learned counsel for the parties.
2. This is an application seeking de-sealing of structures situated in the properties bearing Survey Nos. 222/3-A, 223/1-A, and 223/4 of Village Anjuna and modification of order dated 13.02.2024 passed by this Court in the present PILSM qua the Applicant. The Applicant has annexed several permissions issued by the various authorities along with this application.
3. We have perused all the permissions in detail. Learned Amicus Curiae submits that the permissions which are relied upon by the Applicant are in place. However, learned Amicus Curiae has a serious objection to the order passed by the GCZMA on 14.11.2023 at page 93 of the paper book. According to learned Amicus Curiae, the Google satellite images from April 2010 to February 2024 placed on record indicate that consistently the Applicant has constructed structures during this period which were not existing prior to April 2010. It is, therefore, submitted that the order passed by the GCZMA is without verifying whether the structures constructed are pursuant to the grant of valid permissions. We do appreciate the concern of the learned Amicus Curiae. It appears that these satellite images were not placed before the GCZMA at the time of passing of the said order. Nonetheless, Mr Priolkar, learned Additional Government Advocate for the

GCZMA submitted that the order was passed after carrying out proper site inspection at page 93 of the paper book.

4. In the light of the findings of the GCZMA regarding the existence of structures prior to 1991 and that the same are used for commercial purposes, we are inclined to allow this application.

5. We must clarify that the learned counsel for the Applicant submitted that so far as the structures in Survey No.223/4 are concerned, these are 14 temporary cottages constructed pursuant to the permission granted by the GCZMA by order dated 19.05.2023.

6. Considering the fresh material placed on record in the nature of satellite images and any other material which the learned Amicus Curiae may have in respect of these structures, we deem it appropriate that such fresh material be placed by the learned Amicus Curiae through one of his representatives before the GCZMA by making an appropriate application. Based on such fresh material, we request the GCZMA to examine the matter from this point of view and if it finds that further appropriate action is necessary, it may carry out site inspection and proceed in accordance with law. In the event, the GCZMA proposes to take action against the Applicant on the basis of such application made by the representative of the Amicus Curiae, the GCZMA

undoubtedly will have to issue show cause notice to the Applicant and proceed further after complying with the principles of natural justice.

7. Subject to what is indicated hereinabove, for the reasons mentioned in the application, we find that the application deserves to be allowed in terms of prayer clause (A). Learned counsel for the Applicant submitted that the trade license and the tourism license which have expired during the pendency of the stay which was operating will have to be renewed for which appropriate applications have been made by the Applicant. The Applicant may commence the commercial operations only after obtaining all the requisite permissions from the concerned authorities. We place on record our appreciation for the assistance rendered by the learned Amicus Curiae Mr Gosavi.

8. The application is disposed of.

9. List the Misc. Civil Application Nos. 760 of 2024 (F), 233 of 2024, 1398 of 2024 (F), 1009 of 2024 (F), 1155 of 2024 (F) and 146 of 2024 (F) in PILSM No.2 of 2022 on 06.08.2024.

VALMIKI MENEZES, J

M. S. KARNIK, J