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Appellants: The Goa Foundation represented by its Secretary, Dr. Claude Alvares Vs. Respondent: Ramesh Hotels and Resorts Pvt. Ltd. and Ors. Decided On: 08.08.2008

Acts/Rules/Orders: Goa Town and Country Planning Act, 1974; Indian Partnership Act, 1932; Environment (Protection) Act, 1986 - Section 3(1) and 3(2); Land Revenue Code, 1968 - Sections 32, 33 and 193; Environment (Protection) Rules - Rule 5(3); Constitution of India - Articles 51 and 226

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 265/1999

Hon'ble Judges:

S.C. Dharmadhikari and R.C. Chavan, JJ.

JUDGMENT

S.C. Dharmadhikari, J.

1. By this petition, under Article 226 of the Constitution of India, the petitioners are praying that records and proceedings with regard to the Approvals granted for the reconstruction of a bungalow on Survey No. 41/1 and 41/2 of Utorda Village by the Authorities be called for and after examining their validity, quash and set aside the same.

2. The petitioners are an organization/society which is engaged in protection of ecology and environment. Members of the Petitioners Society are citizens of India and in furtherance of the fundamental duty enshrined under Article 51(g) of the Constitution of India have filed this petition. They have been filing petitions in this Court with regard to environmental issues, so also challenging unauthorised and illegal constructions which violate planning laws. They have also brought to the notice of the Authorities and the Court, violations of CRZ Notification.

3. Thus, the petition is filed in public interest. The first respondent to this petition is a private limited company, having its registered Office at Chembur, Mumbai. It is the successor-in-interest of one Maharani Guest House. Second respondent is the Panchayat of Majorda-Utorda through; the Sarpanch whereas respondents No. 3 to 5 are the State Authorities, namely, the Chief Secretary, the Chief Town Planner and the Minister for Revenue. It is urged that the State and these Authorities implement the provisions of Goa Town and Country Planning Act, 1974.

4. The case of the petitioners is that the land bearing Survey No. 41, sub-division 1 situate at Village Utorda, Taluka Salcete (for short, the said land) in the State of Goa belonged to one Ludovina Fernandes. The first respondent's predecessor claims to have purchased this land under a Deed of Sale dated 22nd September, 1986. The recitals in the sale deed are that the predecessors in title of the Vendors were absolute and exclusive owners in possession of the agricultural properties which are more particularly described in Schedule I to the sale deed and identified in the plan annexed with red boundary lines. After tracing

the title of the vendors to the said agricultural lands, the sale deed recites that Ludovina Fernandes expired on 18.12.1982, as a widow of one Manual Carvalho. She had left a Will dated 11.5.1982. By this Will, she bequeathed the properties described in Schedule I in equal share to her son and daughter, who are the Vendors of the predecessor-in-title of the first respondent. The sale deed recites that there was an agreement for sale between the parties for the consideration mentioned therein. The consideration having been paid, the first respondent's predecessor M/s. Maharani Guest House, a partnership firm, registered under the Indian Partnership Act, 1932, acting through its Partner Mr. Ramesh Kumar Khanna, have become the owner of the said agricultural lands. Schedule I gives the description of the lands and it is stated that the properties together admeasure about 32,775 sq. metres. It is pertinent to note that in Schedule I there is a description of the agricultural lands with survey numbers, but there is nothing mentioned about any structure standing thereon. However, the plan annexed to the sale deed shows that there is a small structure.

5. It is the case of the petitioners that Form I & XIV which has been certified by the Talathi cum Ex Officio Regedor, Majorda -Saza shows that the land admeasures 2 hectares 30 Ars and there is a reference therein of a coconut store room of owners. Our attention is invited to the plan which has been certified by the Directorate of Settlement & Land Records, Panaji showing the plot and making reference to a very small structure. Further, it is stated that the Office of Village Panchayat Majorda received an application dated 9.4.1994 along with xerox copy of the sale deed from Ramesh Kumar Khanna, Partner of M/s. Maharani Guest House, requesting the said Panchayat that the entry pertaining to the House Tax and street light tax of House No. 8- A(old) situate at Acsona Ward, Utorda which is existing in the property (Survey No. 41/1) i.e. the said land, be transferred in the name of the predecessor-in-title of the first respondent. The petitioners state that the Panchayat mentions that the old house ad measures 245 sq. metres, but there is no record of this measurement either with the Panchayat or with the predecessor-in-title of the first respondent. The allegation is that even the sale deed is silent with regard to the measurement and the area of the structure.

6. The petitioners then allege that the predecessor-in-title of the first respondent vide Exhibit-3 (letter January 10, 1996) addressed to Member Secretary, Office of the Chief Town Planner, Panaji sought his approval to renovation/remodel of the existing building on the said land. It is stated that the Coastal Regulation Zone was notified in 1991. It is stated that the said land is affected by the Notification. It is stated that the Coastal Regulation Zone Notification is dated 19.2.1991. It is a notification under Section 3(1) and Section 3(2)(v) of the Environment (Protection) Act, 1986. It is stated that the Environment (Protection) Rules and more particularly Rule 5(3)(d) permits declaration of coastal stretches and Coastal Regulation Zone (CRZ) and regulating activities in the CRZ. The Central Government, through its Ministry of Environment and Forest issued a draft notification and after duly considering the objections, issued the said Notification designating and regulating coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by tidal action (in the landward site) upto 500 metres from the High Tide Line (HTL) and the land between the Low Tide Line (LTL) and the HTL as Coastal Regulation Zone. With effect from the date of the Notification, the restrictions and prohibitions have been set out and as far as the present land and structure is concerned, the case of the petitioners is that under Annexure I to the Notification, the same falls under

CRZ-III. It is their case that the relevant part of the notification, if perused, clearly shows that the area upto 200 metres from the HTL is to be earmarked as "No Development Zone". No construction is permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density, and for permissible activities under the notification including facilities essential for such activities. The relevant part of the Notification reads thus:

CRZ-III (1) The area upto 200 metres from the High Tide Line is to be earmarked as 'No Development Zone' provided that such area does not fall within any notified port limits or any notified Special Economic Zone.¹² No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density, and for permissible activities under the notification including facilities essential for such activities. 3,¹². However, the following uses/activities¹² may be permissible in this zone-agriculture, horticulture, gardens, pastures, parks, play fields, forestry, projects relating to the Department of atomic Energy 19 mining of rare minerals ¹² and salt manufacture from sea water, facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-III appended to this notification and facilities for regasification of liquefied natural gas subject to the conditions as mentioned in para (ii), facilities for generating power by non conventional energy sources, desalination plants, weather radars and construction of airstrips and associated facilities in the Islands of Lakshadweep and Andaman and Nicobar.

7. It is then stated that in terms of the notification, a Committee had been set up called "Goa State Committee on Coastal Environment" (GSCCE) and the predecessor-in-title of the first respondent applied to this Committee for reconstruction of the existing house. Our attention is invited to Exhibit-4 which is a copy of this application. It is stated that most of the columns are left blank. However, area of the plot is mentioned as 32775 sq. metres. In column 5(i) covered area on G.F. existing is 245.00 sq. metres. Therefore, proposed floor area is 224 sq. metres. Thus, the area of the proposed reconstruction is stated to be 224 sq. metres. However, the submission of the petitioners is that there is no documentary proof available either with the predecessor-in-title of respondent No. 1 or with respondent No. 1, so also with the Panchayat and other State Authorities demonstrating that the area of the structure, which was mentioned as a coconut store house, is 245 sq. metres. Yet, based upon this application, the Office of the Chief Town Planner, Town and Country Planning Department, Panaji, Goa by letter dated 18.3.1996 conveyed to the predecessor-in-title of the first respondent that their proposal for reconstruction was approved by the Committee. No objection is conveyed for the proposed renovation/repairs.

8. Our attention is invited to conditions 1 and 4 set out in the letter, which speak of permission as per the recommended plans and obligation of the first respondent's predecessor-in-title to have a valid conversion Sanad of use of land as contemplated under the Goa, Daman and Diu Land Revenue Code, 1968. It is then stated that the first respondent applied for construction licence to the Panchayat by an application in the prescribed form made on 25.3.1996. It is alleged that the licence is sought for repairs of the existing house. On 26.3.1996, the first respondent applied for conversion sanad and, in that application, the area of the site proposed to be used for residential purposes is set out as 300 sq. metres. It is alleged that the plan which has been forwarded with this application is not accurate and genuine. There have been insertions and over writings therein. It is

stated that there is no question of the user of the constructed area/building inasmuch as the land user is agricultural. The permission sought is for repairs and renovation of the existing building. In such circumstances, what was the occasion to apply for a conversion sanad is not clear at all.

9. Further, our attention is invited to the communication dated 26.3.1996 (Exhibit-8) wherein the Sarpanch of the Village Panchayat of Calata-Majorda-Utorda informed the predecessor of the first respondent that the file is incomplete. There are no ownership documents, Schedule-II forms, questionnaire, survey plan, house tax receipt to prove the existing house. There is no site plan and there are no survey records in Form No. I & XIV with the Panchayat. In such circumstances, the Panchayat is unable to consider the application and issue any permission/licence as prayed. On the other hand, it directed the predecessor of the first respondent not to carry out any type of construction/reconstruction work until the construction licence is issued. These state of affairs continued and, yet, the Panchayat submitted the plans of the first respondent for Technical Sanction by the Assistant Engineer of Public Works Department. It is alleged that once the Panchayat finds that the record is incomplete, then, how the Panchayat moved in the matter and facilitates the predecessor of the first respondent in obtaining technical sanction, is not clear at all. Yet, acting upon the letter of the Panchayat (Exhibit-10), the Public Works Department accorded technical approvals vide its letter dated 28.3.1996. Armed with this technical approval, the first respondent resubmitted the documents, except conversion sanad and once again requested the Panchayat to grant construction licence. The Panchayat determined a date for site inspection and communicated its decision to inspect the site in presence of parties on 1.4.1996. Thereafter, the Panchayat on 3.4.96 forwarded the plans of the first respondent to the Senior Town Planner for his clearance from the planning point of view. On 4.4.96, the Senior Town Planner issued a no objection certificate, but on certain conditions. It is in such circumstances that the Panchayat issued a construction licence on 9.4.96 to the first respondent and states that the licence is valid for a period of three years, but before the construction activity is undertaken, the conversion sanad must be obtained.

10. After completion of the construction, the Panchayat issued Occupancy Certificate on 9.7.1996. On 12.11.1996, the predecessor of the first respondent applied for the Panchayat for utilizing the construction as a guest house. The predecessor of the respondent moved on the basis that the reconstructed house is ready for use and occupation. In the meanwhile, the petitioner, a spirited citizen moved in the matter and wrote a letter to the Chief Town Planner on 23.11.1996. In this letter, it is recorded that a site meeting was held. The original survey plan from the Land Survey Department was examined by the petitioner. The reconstructed bungalow is not as per the plinth showing on the survey plan and, therefore, investigation must be undertaken by the Chief Town Planner. The Chief Town Planner informs the petitioner that the reconstruction has been approved by the GSCCE on the basis of the documents submitted by the first respondent and after verification of the site condition. Thereafter, the petitioner noticed that the Deputy Collector and S.D.O. Margao had issued a stop work order, copy of which is annexed as Annexure R-6 (page 203 of the paper book). The Dy. Collector and S.D.O., Sub-Division, Margao in a show cause notice alleged that the first respondent illegally converted the land by constructing plinth area admeasuring 300 sq. metres, without obtaining prior permission of the SDO & Deputy Collector for conversion of agricultural land into non-agricultural. In such circumstances, the notice called upon the first respondent to show cause as to why action under Section 33 of

the Land Revenue Code, 1968 should not be taken. It is stated that the Dy. Collector on 5.2.1997 passed an order directing demolition of the structure/building over an area of 300 sq. metres in the said land as the first respondent failed to respond to the show cause notice. It is alleged that the order of the Dy. Collector is based on a site inspection carried out by him on 3.2.97. The site inspection demonstrated and proved the existence of a building of 300 sq. metres area existing at the site. The Dy. Collector relied upon GSCCE letter/permission and alleged that the same was accorded only for repair/renovation of the existing store which admeasures 89 sq. metres. The construction is within 200 metres of HTL and by no stretch of imagination such a large increase in the plinth area and construction thereon, can be termed as a renovation or repair of the existing structure. In the light of these observations, he directed demolition of the structure. However, it is alleged that the record indicates that the order was passed by the Dy. Collector and SDO ex parte. The first respondent filed an application under Section 193 of the Land Revenue Code praying that the said order was passed before the date stipulated for filing reply had expired. Thus, without any opportunity to show cause and in the absence of any representation the said order was passed. Accepting this contention and submissions, the Dy. Collector and SDO reviewed his order on 20.2.97. He granted time to the first respondent to file reply to the show cause notice upto 10.3.97. A reply was filed to the show cause notice by the predecessor of the first respondent and it urged that only renovation of the existing house was done after obtaining due permissions from the concerned authorities and that the existing house has plinth area of 245 sq. metres. That renovation was approved by the GSCCE and pursuant thereto, the work has been carried out.

11. It was urged that the residential house is and was located around the area which was demarcated as "Pot Kharab". In view of this, the 13 show cause notice be withdrawn and if required, a sanad be granted. The matter was heard by the Dy. Collector and SDO and in the meanwhile, he also called for a check list from the Mamlatdar of Salcete. Thereafter, the Dy. Collector and SDO perused the records and concluded that as per survey plan, there only exists a coconut store of 89 sq. metres. Hence, the new construction admeasuring 300 sq. metres has been done by illegally converting agricultural land in Survey No. 41/1 of Village Utorda. It is held that Form I & XIV of Survey No. 41/1 in which Pot Kharab Class "A" which represents building is only 75 sq. metres and Pot Kharab "B" is 250 sq. metres. These measurements tally with the area indicated on the survey plan. He further held that the Mamlatdar's plea that only survey records and survey plan is an authoritative document in determining the area of structure deserve to be accepted. The application made to the GSCCE by the respondents cannot prove the area as 245 sq. metres since they have not annexed any supporting documents. Holding thus, the Dy. Collector and SDO further concluded that by no stretch of imagination 300 sq. metres could be said to be an existing plinth area. Therefore, there is no question of permitting such construction and that too within 200 metres of the HTL. He holds that no new construction is permitted within this range and admittedly, the land in question falls within that distance. In such circumstances, there is a violation of CRZ regulations. Therefore, the request for regularization cannot be granted, instead the structure will have to be demolished.

12. Aggrieved and dissatisfied with this order passed on 26.8.97, the first respondent approached the State Government by filing a Revision Application. It appears that the revision was heard by the Minister for Revenue, Government of Goa. At that hearing the

SDO and Dy. Collector did not appear, though intimated. The petitioners point out that the first respondent relied upon the same record, namely, GSCCE approval and construction licence of the Panchayat. The respondent also relied upon the Panchayat letters and urged that all these documents have been issued after due inspection of the site. In all these documents area of the plinth is mentioned as 245 sq. metres. In such circumstances, the Dy. Collector and SDO's order is bad in law. There is no question of any conversion inasmuch as the old house was built and it continues as such. There is no conversion. All these pleas have been accepted by the Minister and he sets aside the order of the Dy. Collector and SDO as being without jurisdiction. The Minister has also concluded that the GSCCE is a high powered committee and it is very much concerned with the implementation of the Coastal Regulation Zone notification. In its record, the site inspection shows an area of the plinth as 245 sq. metres. Therefore, relying upon all these documents and accepting the plea based upon them, the Revenue Minister by order dated 3.3.98 set aside the Dy. Collector's order.

13. The present petition is filed sometime in August, 1999 and this Court admitted the petition, passed an interim order by which the first respondent was restrained from occupying the premises. The premises were directed to be sealed. Further, the Panchayat was directed to file a report of structures existing in 200 metres, including plinth area, house numbers and whether constructed before or after the CRZ Notification came into force. Aggrieved by the interim order passed on 12.1.2000, the first respondent approached the Honourable Supreme Court and the Supreme Court directed the parties to maintain status quo, after modifying the interim order of this Court. The Supreme Court order is dated 24.7.2000.

14. In the meanwhile, the Panchayat submitted a list of 9 structures existing in within 200 metres zone from the HTL in Majorda vide Report dated 5.1.04. Similarly, pursuant to further orders, Inspector of Survey and Land Records also submitted his report with regard to the nine structures. That report submitted on 9.8.04 shows that the plinth area of the first respondent's structure as 450 sq. metres.

15. After these developments, the petition has been placed for hearing and final disposal before us.

16. Mrs. Norma Alvares, the learned Counsel appearing for the petitioners submits that the undisputed facts are that there is a Notification dated 19.2.1991 and the area under CRZ-III is a No Development Zone. Admittedly, the construction in question is within the no development zone. Inviting our attention to the phraseology of the subject-notification, she submits that what is mandatory is that the existing structure must be authorized and repairs are permitted only to the extent of existing plinth area. Thus, both conditions are required to be satisfied, if repairs are to be permitted, she submits that there is no dispute that the construction is within 200 metres of the HTL and any construction after 19.2.191 which violates the CRZ-III Notification, cannot be regularized and tolerated, but must be pulled down if the same does not come within the parameters of the notification. She submits that by no stretch of imagination, it can be contended that what has been done at site is a repair of the existing authorized structure not exceeding the existing plinth area. The construction is 95 metres away from the HTL. She has relied upon the word "repairs" appearing in the subjectnotification and submitted that the original area would alone be determinative in this case. The existing area is what is delineated and demarcated in Form I

& XIV and the survey. The survey plan shows that what is a coconut store, is a small structure constructed on a plinth of only 75 sq. metres. She relies upon the sketch map and copy of form I & XIV annexed to the petition and contends that nothing more than the existing 75 sq. metres plinth area can be consumed. Even FAR of the existing plinth alone can be utilized. The construction on the basis of 245 sq. metres, plinth area is much more than what is permissible. In fact, the structure admeasures 300 sq.mtrs. Thus, it is not an authorized structure at all. Therefore, the Minister for Revenue and the GSCCE could not have granted any approval to such a construction.

17. She submits that neither the Panchayat nor the State Authorities have been able to produce any material to show that the existing plinth area was 245 sq. metres. She submits that the petitioner does not dispute that there was an existing structure. However, the petitioners seriously dispute that the existing plinth area was 245/325/300 sq. metres or 450 sq. metres. A coconut store room cannot occupy such a large plinth area. Therefore, all the Authorities have colluded with each other and assisted the first respondent in putting up a structure beyond the permitted area. Such a construction within 200 metres of the HTL, under the garb of repair permission, cannot be allowed to exist at all. It poses major threat to the ecology and environment. Further, the malafides are clear inasmuch as the Minister for Revenue was the Chairman of GSCCE. He was the Chairman at the relevant time. When he 18 presided as such, the approval by the Committee was granted. The same Minister sits as revisional authority and hears the application against the order of the Dy. Collector and SDO. Therefore, he is a Judge in his own cause. He is clearly biased in favour of the predecessor of the first respondent. He should not have heard the revision application in such facts and circumstances. Once it is not denied that the Minister functions in twin capacity, then, the order passed by him is totally nonest and bad in law. The same should be quashed and set aside.

18. Mrs. Alvares has taken us through the documents and has invited our attention to the repair permission/licence. She submits that if there is no proof of the coconut store existing at the site, then there cannot be any repairs. If there is no proof of its existence at site and assuming without admitting that there is a dispute with regard to the area occupied by it, still, the first respondent could not have made altogether new construction violating CRZ Notification. She submits that the grounds raised in the petition and more particularly Ground V at page 16 be taken as the submission to challenge the Minister's Order. The Minister has usurped the authority in law and his order is, therefore, clearly vitiated and deserves to be set aside. Mrs. Alvares relied upon the following decision in support of her contentions:

1) Leonard J. S. Fernandes and Ors. v. The Canacona Municipal Council through its chief Executive Officer and Ors..

19. The learned Advocate General appearing for the State, on the other hand, does not dispute that CRZ Notification applies to the present case. He submits that the present case is covered under CRZ-III. He submits in all fairness that repairs alone are permitted. Relying upon the contents of a document which is annexed by the first respondent to its affidavit-in-reply (Exhibit R-4, page 191-199) he submits that the area statement would show that the existing structure had plinth area of admeasuring 245 sq. metres. He submits that even the site inspection report as per directives of the Authorities would show that the existing plinth area is larger than the structure shown on the survey plan. There is a

dispute which involves going into the factual aspects. He submits that the original survey is of 1970-71 where the structure has been admittedly shown. The structure may have been extended between 1971 to 1991 or between 1991-1996. Ultimately, factual disputes cannot be resolved in writ jurisdiction. This is seriously disputed question of fact and, therefore, it would not be safe to rely upon the copy of the Form I & XIV and the Order of the SDO and Dy. Collector which is, admittedly set aside. He submits that there are no malafides alleged. He submits that the Minister is not made party by name. Revision power was a statutory function under the Land Revenue Code. There is no conflict between this statutory power and the position of the Minister with that of his Designation as Chairman of GSCCE. In such circumstances, merely because he was the Chairman at one time, does not mean that he was inclined towards the first respondent. Admittedly, there is a gap of more than one year between the approval of the GSCCE and the revisional order of the Minister. In such circumstances, the petitioners cannot rely upon the order of the Dy. Collector and SDO, so also the materials referred to therein. Once the Minister's order cannot be challenged as vitiated and when the Minister is right in concluding that the issue of conversion does not arise at all, then, the petitioners cannot call upon this Court to issue writ of mandamus to demolish the construction on the alleged ground of violation of CRZ-III Notification. For all these reasons, the petition be dismissed.

20. Mr. J. E. Coelho Pereira, the learned Senior Counsel appearing for the first respondent which is the contesting respondent in the real sense, urged that if the petition is read as a whole, it does not make out a case of malafides. If malafides are to be alleged, all persons who are charged with malicious intention need to be impleaded as parties personally. Mere description as Minister for Revenue or the Chief Town Planner is not enough. Even if the Panchayat is dragged into litigation and malafides are sought to be alleged, then, those incharge of the affairs as Sarpanch or Officer have to be made parties personally. Mr. Pereira points out that at the relevant time one Mr. Padalai was the Chief Town Planner. In such circumstances, there is no question of any malafides in the subject action. He submits that assuming that it is not necessary that the parties concerned have to be impleaded personally, yet, the petition read as a whole does not make out any case of bias or malafides. Further, the petitioner does not challenge the revisional order. In such circumstances, neither plea of bias or malafides should be entertained.

21. Mr. Coelho Pereira's next contention was that the petitioners were aware of all developments. They have been following up the issue of the construction allegedly violating the CRZ-III Notification. They are seeking details of such sites and buildings, including that of the first respondent. These developments were to their knowledge from 1996 onwards, yet, they choose to remain silent and filed the petition in the year 1999. There is no explanation for this inordinate delay. He submits that such inordinate and unexplained delay constitutes laches on the part of the litigant and the petitioners may have approached this Court in public interest, but the petition should be dismissed on the ground of delay and laches. Mr. Pereira was at pains to take us through the correspondence carried out by the petitioners. He contends that when the allegation is that there is an increase in the plinth area, they had all the documents with them and were aware as to when the construction licence was granted. The petitioners are seeking to protect environment. Yet, when the Authorities, incharge of planning and coastal management apply their mind and communicate to the petitioner their decision of approving the construction of the first respondent, the petitioners deliberately remained silent. They do not target any other

violations of CRZIII Notification. They only pick and choose the first respondent and that too after enormous delay. In such circumstances and considering the conduct of the petitioners, the petition should be dismissed.

22. As far as merits are concerned, the learned Senior Counsel submits that the petitioners have not questioned the site inspection and all approvals and permissions which have been granted after the authorities apply their mind to the proposed construction at site. All documents relevant in that behalf have been considered by them when they have taken a decision to grant approval. The Authorities are aware of their obligation to protect environment. The learned Senior Counsel invited our attention to paras 24 and 26 of the petition and submits that all grounds are invented to circumvent the laches. He submits that there is no substance in the grievance of the petitioners that the first respondent has constructed much beyond the existing plinth area. He submits that all documents which are placed on record by the respondents, including before the Panchayat would show that the survey does not depict the correct area. He submits that at one point the area has been mentioned as 75 sq. metres; whereas at some other place it is stated to be 89 sq. metres. In such circumstances, the Officers carried out their duty in accordance with law. They physically inspected the site and thereafter satisfied themselves that the first respondent has not transgressed any rules, nor its construction is contrary to any regulation including CRZ-III. Once the site inspection is carried out and all details are disclosed, then, unless strong and cogent material is placed on record, the authorities should not be disbelieved. In this behalf, he submits that the GSCCE is not something which can be controlled by the State or the Minister alone. It consists of 15 members. Inviting our attention to page 105 of the petition-Paper Book, Mr. Coelho Pereira submits that independent architect and persons of repute are the Members of this Committee. They are not such who would readily oblige the first respondent and it is not the petitioners' case that the entire Committee and such members constituting the same are guilty of collusion with the first respondent. Therefore, by merely alleging that the Minister being also the Chairman of the Committee, he was inclined to favour the first respondent, the approvals from 1996, cannot be set aside. He submits that the presumption in law about survey and maps is disbelieved by acts of the authorities themselves. Therefore, no dispute can be raised now about the area. If the allegation is of fraud in law, then, the petitioners must establish the same or they must accept the approvals granted in favour of the first respondent. In any event, the disputed question with regard to survey and maps, so also correctness and authenticity of area measurement, cannot be resolved in writ jurisdiction.

23. The learned Senior Counsel submits that the existence of the structure is not disputed, but only the dispute is about the area and in that behalf, the petitioners' silence speaks for itself. For all these reasons, even on merits, the petition should be dismissed. The learned Senior Counsel has invited our attention to the fact that the Minister's order is not specifically challenged. It remains on record. The conclusion of the Minister is a plausible conclusion. Therefore, to rely upon the Dy. Collector and SDO's order which is quashed and set aside, the petitioners cannot succeed, more so, when there is no relief claimed with regard to restoration of that order. That apart, on the own showing of the Dy. Collector and SDO, he proceeded hastily. He passed the order even before the returnable date. In such circumstances, that order was recalled on an application of the first respondent. Thereafter, the very same order has been passed, without applying any mind to the approvals granted. The Collector only relies upon the survey and map, so also the statement of extract Form I

& XIV. These are all revenue records and would not necessarily prove the extent of the area beneath the structure.

24. We have been also taken through the dictionary meanings of the term "repairs" by the Senior Counsel. Alternatively, the learned Senior Counsel appearing for the first respondent has stated before us that in the event this Court comes to the conclusion that the area is not 300 sq. metres or even 245 sq. metres, but the first respondent should be confined to its own measurement of 225 sq. metres, then, appropriate directions be issued and respondent No. 1 would abide by it, so also would take steps to remove and/or demolish the construction exceeding the said portion.

25. Shri Lotlikar, learned Senior Counsel for the Village Panchayat has supported the stand of the Panchayat. He has taken us through the scheme of the building rules and has contended that there is no specific case made out of fraud, but disputed questions have been raised with regard to the area. He submits that there is no area specified of the structure. However, in the petition itself there is nothing stated as to how the area which is stated to be 75 or 89 sq. metres continued to exist even in 1991. The petition is absolutely vague and without any specific data and material. Therefore, 26 assuming that the word "existing" appearing in CRZ-III Notification means existing as on 19.2.1991, yet, in the absence of relevant measurements and details, the petitioners cannot raise such an issue now when the petition itself was already delayed by more than 3 years.

26. In the rejoinder, the learned Counsel appearing for the petitioners has contended that even the respondents do not have any document to show that the existing authorized structure is of 245 sq. metres. Therefore, by relying upon the approvals of GSCCE which, in turn, are based on the application of the first respondent, the respondents cannot urge that the petition raises disputed question of facts or that it should be dismissed on account of conduct of the petitioners. Further, they cannot urge that the petition should be dismissed on the ground of laches when they themselves are guilty of violating CRZ-III Notification. She submits that the Minister's Order is specifically challenged. She submits that the conversion is not an issue, as that is covered by the Land Revenue Code. Therefore, the Minister's order is something which need not be put in issue. Even otherwise, that order cannot override the CRZ-III Notification. For all these reasons, and by urging that in such matters public spirited citizens are handicapped, she prays that the petition be allowed.

27. With the able assistance of the Counsel appearing for the parties, we have perused the petition, annexures thereto and all affidavits filed on record. We have also perused the relevant documents and statutory provisions. We have perused the decisions relied upon as well.

28. The only question that arises for consideration in this petition is whether the construction violates CRZ-III Notification ? That is the only issue highlighted before us inasmuch as the petition also proceeds on the basis that CRZ-III Notification prohibits construction and development activities within 200 metres of HTL. What it postulates and contemplates is only repairs of existing authorized structure by utilizing floor area of the existing plinth and nothing more. In such circumstances, we need not go into other disputes between the parties. What the petitioners have alleged is that the construction at site is contrary to the CRZ-III Notification. We have already reproduced the relevant part of the said Notification. A perusal thereof would reveal that the area upto 200 metres from the HTL is to be earmarked as "No Development Zone" provided that such area does not fall

within any notified port limits or any notified Special Economic Zone. We have proceeded on the basis that the HTL is already demarcated. We are also proceeding on the basis that the construction is within 200 metres of the HTL, as this seems to be the undisputed position. Therefore, the only dispute before us is whether the works carried out by the first respondent are in the nature of repairs to the existing authorized structure, not exceeding existing FSI, existing plinth area and existing density. We are not called upon to decide as to whether the construction is exceeding existing FSI and existing density. We are only called upon to consider as to whether the construction is permissible and whether the construction is exceeding the existing plinth area or not ?

29. In this behalf, a perusal of the writ petition would disclose that the petitioners allege that the first respondent had constructed a bungalow which is being used as a guest house and which is constructed within the No Development Zone. Thus, it violates the Notification. The petitioners challenge the approvals for reconstruction of the residential house on the said land. It is alleged that the reconstruction/remodeling of the existing houses is not permitted. Para 7 of the petition reads thus:

The main grounds set out in the petitions are that reconstruction/remodelling of existing houses is not permitted in the 200 mts. zone of CRZ III as per the CRZ Notification dated 19.2.1991 and that the Respondent No. 1 has gone substantially beyond the plinth area for reconstruction of the allegedly old structure existing on the plot and thus violated the provisions of the CRZ notification. A 75 sq.mts dilapidated coconut storeroom has been reconstructed into a Rs. 6.5 lakh luxury bungalow with a plinth area of 300 sq.mts. Subsequently, the Respondent No. 1 has applied for use of the said premises as a Guest House. Petitioners are therefore seeking demolition of the entire construction as it has been approved and erected in violation of the CRZ notification. Such constructions carried out by influential persons in collusion with the authorities lead to contempt of law and encourage others too to break the law. They should therefore be dealt with in the strictest possible manner.

30. A perusal thereof would indicate that the petitioners allege that the construction has gone beyond the plinth area of the allegedly old structure existing on the plot. It is the case of the petitioners that 75 sq. metres dilapidated coconut storeroom has been reconstructed into a Rs. 6.5 lakhs luxury bungalow with a plinth area of 300 sq. metres. In this behalf, the petitioners are placing reliance upon Exhibit-1 which is Form I & XIV. A perusal of Exhibit-1 reveals that it gives description of the cultivable area in hectares and Ars. It gives name of the occupant, mutation number and name of the tenant along with other rights. The area in hectares and Ars is specified including that of uncultivable/pot-kharab. The pot-kharab is also classified into Class (a) and Class (b). However, it is relevant to notice that what is mentioned in this form under other rights column is "Coconut store room of owners". Rest of the portion in this form including details of crop area, are blank. This is certified copy applied for and provided in the year 1997. The petitioners have relied upon the survey plan. This plan is issued by the Directorate of Settlement and Land Records. It shows that the plot situated at Village Utorda of Salcete Taluka, and survey No. 41/1. The survey plan shows a structure at the extreme left portion. However, this survey plan which is stressed from P.T. Sheet Nos. 18, 20 and 21 of Village Utorda does not show the area of the structure. This sheet is also issued in the year 1999. A further perusal of the petition would reveal that what the petitioners rely upon are the proceedings before the SDO and Deputy

Collector, South Goa, Margao. The petitioner heavily relies upon his order which states that the area of the structure is only 75 sq. metres. The SDO and Dy. Collector relies upon the survey plan prepared by the Mamlatdar. That survey plan shows that a coconut store existed and its area is 89 sq. metres. This order of the SDO and Dy. Collector is in furtherance of a show cause notice which is issued on 21.1.97. That alleges that the first respondent has illegally converted the land by constructing plinth area, thereby utilizing agricultural land under survey No. 41/1. It states that the conversion is contrary to Section 32 of the Land Revenue Code, 1968. The conversion is without prior permission of the SDO and Deputy Collector. Thus, the allegation is that there is unauthorized conversion of use of land by construction of a structure admeasuring 300 sq. metres. In the order that was passed pursuant to this show cause notice, the Dy. Collector and SDO relies upon the survey plans which have been prepared by the Mamlatdar. The application for conversion of an area of 300 sq. metres was filed by the Architect of the first respondent on 26.3.96. The matter was referred to the Mamlatdar of Salcete for his comments and he replied on 5.6.96 that the development will be with GSCCE's approval. According to the Dy. Collector, the GSCCE's approval is for renovation/ repairs of the existing house shown on the survey plan. According to the Dy. Collector the coconut store admeasures 89 sq. metres.

31. We have perused the annexures to the writ petition very carefully with the assistance of the Counsel appearing for both sides. What we find from a perusal of these documents is that in the Form at page 25 and the map annexed thereto, the area of the coconut storeroom structure is not set out. This figure of 75 sq. metres of coconut store room is derived from the report of the Mamlatdar which was forwarded to the Dy. Collector and SDO. That was in the context of wrongful conversion of the land. Even in the order, the Deputy Collector and SDO is not sure as to whether the area of the existing structure is 75 sq. metres or is 89 sq. metres. He mentions both the figures. While it is true that his order has been set aside by the Revenue Minister, it is pertinent to note that even the Dy. Collector and SDO refers to the GSCCE's approval. In this behalf, it is relevant to note that the communication from the Sarpanch of the Village Panchayat is as early as on 9.5.94. That refers to the Panchayat Resolution No. 4 dated 24.4.94. That resolution is in furtherance of the application of the first respondent dated 5.4.1994. The application was made for transfer of house tax and the street light tax of House No. 8-A(old) situated at Acsona Ward, of Utorda Villlage. The Panchayat mentions that this old house admeasures 245 sq. metres. As far as this document is concerned what the petitioners allege is that the area of 245 sq. metres mysteriously appears in this document, with no supporting material with regard to the area of the existing structure. The petitioners allege that this letter is a fraud and was issued in collusion with the Sarpanch and the then respondent No. 1. It is pertinent to note that beyond this there is no pleading. The petitioners have not challenged the Panchayat Resolution which is mentioned in this letter. Neither are the petitioners producing a copy of the first respondent's application dated 5.4.94, nor they are producing the Panchayat resolution. They do not even state that the Panchayat Resolution be called for and complete scrutiny and verification of the same be done with a view to enable the petitioners to challenge the letter of 9.5.94 and test its veracity and correctness, so also its genuineness. The petitioners do not dispute that the application was made by the first respondent in 1994 to the Panchayat and that the letter was issued by the Panchayat. However, the petitioners dispute its contents and that too only with regard to the area mentioned therein. When the petitioners have not been able to produce anything which

would demonstrate that the area of the structure allegedly permitted as a coconut store, is 75 sq. metres or 89 sq. metres, then, they cannot dispute these figures straight away.

32. What we find is that the Panchayat's letter dated 9.5.94 was made foundation by the first respondent for issuance of a construction licence. In this behalf, it is pertinent to note that the Architect of the first respondent approached the Sarpanch on 25.3.96 and requested it to issue a construction licence towards repairs of the existing house. It attached to its application, approval of the Chief Town Planner dated 18.3.96, copy of the approved plans duly signed by the Chief Town Planner and one set of RCC calculations and plans along with estimate certificate. The Sarpanch in response to the letter/application of 25.3.96 stated that the Panchayat file is incomplete. There are no ownership documents, Schedule-II forms, questionnaire, survey plans etc. It does not even have house tax receipt, survey records in Form No. I & XIV and Sanad for conversion of use of land for additional area. Further it has no site plan. However, at the same time, the letter of the Panchayat refers to the Communication dated 18.3.96 received from the Office of the Chief Town Planner, Town and Country Planning Department, Panaji, Goa. The Panchayat informs the first respondent that the plans have not been submitted to PWD for obtaining technical approval and, therefore, directed the first respondent not to carry out any type of construction/ reconstruction work until the construction licence is issued. The petitioners rely upon this letter to urge that if the Panchayat could issue a communication on the subject of transfer of house tax and street light tax way back in May, 1994, then, how does it issue a letter in 1996 informing the first respondent that it has no data and details with regard to the land in its possession. There are no site plans and no house tax receipts on record of the Panchayat is the tenor of this communication. There is no averment in the petition that the first respondent and the concerned officers of the Panchayat have colluded with each other in destroying the record. The then Sarpanch obliged the first respondent in doing so is not the averment and that too with relevant details. That apart, this, by itself, is of no assistance to prove that the area of the structure is 75/89 sq. metres because what we find from the other annexures to the petition is that the first respondent made an application on 10.1.96 to the Member Secretary, Office of the Chief Town Planner, Panaji requesting an approval for the renovation/remodelling of existing building in survey No. 41/1. To this letter/application, the first respondent annexed Form I & XIV, survey plan in quadruplicate, building plan, house tax receipts from the Panchayat. The application was placed before the GSCCE, as by that time the CRZ Notification had been brought into effect.

33. The proceedings of the GSCCE would show that the area of the plot is 32,775 sq. metres and which figure matches with the area mentioned in the sale deed of 1986. Whereas, other details are blank, but item No. 5 of the document (Exhibit-4) would show that covered area on Ground Floor existing is mentioned as 245.00 sq. metres and the proposed area is mentioned as 224 sq. metres. Floor area on the ground floor existing is 245.00 sq. metres and the construction proposed is 224 sq. metres. Thus, at two places in this communication the building is mentioned as 245 sq. metres. It is also clear from a perusal of Exhibit 4 that the Office of the Chief Town Planner on 18.3.96 has communicated to the first respondent the approval of GSCCE which was granted in its meeting held on 24.1.96. The permission is granted as per the plans annexed to the letter of the Chief Town Planner and it is conditional upon the first respondent obtaining valid conversion sanad to use of land. It is, in such circumstances, that the first respondent approaches the Sarpanch of the Village Panchayat on 25.3.96 and prays for construction licence.

34. The first respondent, in its affidavit in reply at paras 32 and 33, states that a demand notice was issued in 1992, demanding payments of house tax and the same have been paid. The same have been paid pursuant to the Demand Notice dated 4.6.92. After making payment, when nearly two years had elapsed, the respondent made an application dated 5.4.94. It is based on these events that the communication from the Panchayat comes in the year 1994. The first respondent has then stated on affidavit that the survey of Village Panchayat of Utorda was completed in the year 1970-71. When the first respondent purchased the property, it was that survey which was in force. He submits that in the year 1995-96 one of the walls of the said house had collapsed and other walls of the said house were also in a weak condition and due to the saline atmosphere, the roof required replacement. He was advised by his Engineers that it was not worthwhile reconstructing the walls and/or repairing the building half way and what would have to be done is renovation of the structure with a RCC reinforced structure. It is in this context and that because the CRZ-III Notification was in force, the first respondent submitted a plan to the GSCCE. In para 39 of the affidavit-in-reply, the first respondent states thus:

Accordingly I asked my engineers to draw up plans for its submissions to the G.S.C.C.E. In fact through plinth area of the existing house was 245 square meters, I decided that the existing plinth be reduced to 224 sq. mts. and accordingly the applications dated 10-01-96 along with a set plans including the site plan indicating the plinth of existing structure was submitted to the office of G.S.C.C.E. for its approval, where the area of plinth was shown as 245 sq.mts. The details concerning the renovation work including the plinth area of house were furnished in the requisite proforma. Hereto annexed and marked as ANNEXURE- R-3 is a set of plans furnished to G.S.C.C.E. and the copy of the proforma.

35. The first respondent, thereafter, relies on Exhibit R-3 and the plan forwarded to GSCCE. It is, thereafter, stated that the scrutiny of the plan was undertaken. Site inspection was carried out by the officials of the Town and Country Planning Department and after verifying the site conditions, they submitted to the GSCCE plans for renovation. It is stated in para 40 of the affidavit-in-reply that the allegation of the petitioner that Shri R. N. Ray, as Chief Town Planner was instrumental in getting the approval and was in connivance with the first respondent is false and mischievous inasmuch as Shri Ray was not the Chief Town Planner at the relevant time. The Office was held by Shri N. Pandalai. Thereafter, in paras 41 and 42 of the affidavit in reply, it is stated that the 10th meeting of the GSCCE had the agenda of the repairs/renovation application of the first respondent, copy of which is annexed as Annexure R-4. The item in the agenda was taken up and approved in the meeting after due deliberation by the members present. The reply which is received has been also set out in paras 45 and 46. Further correspondence with the Village Panchayat and with the Public Works Department and their approvals are set out. Thus, it is of some importance to note that the petitioners who were following up the matter and who allege connivance and fraud, ought to have placed some material to demonstrate and prove their case of the area of the structure in question, more so, after they are aware of the alleged violations of the CRZ Notification. The petitioners have not placed any material on record even after the affidavit in reply was filed by the first respondent from which an inference could be drawn that the measurements stated in the documents, referred to and relied upon by the first respondent are erroneous or very doubtful to say the least. All approvals have to be challenged specifically and it was necessary to demonstrate that the same are vitiated. If fraud in law is alleged, then, in this case, it was incumbent upon the petitioners to lay complete

foundation in that behalf. Every single approval from 1994 is questioned, but, cogent and satisfactory material is not placed to displace the contents of the relevant document. A vague plea in this case, thus, does not suffice.

36. In such circumstances, we are in agreement with the learned Advocate General, so also Mr. Coelho Pereira, that in these proceedings disputed question with regard to area of the structure cannot be adjudicated upon and decided. This is not a fact finding exercise. Further the writ petition is not a proceeding which would decide the issue of title to the properties or correctness of the plans and surveys undertaken by the Revenue Authorities. If there is material on record to show that at least three authorities, namely, GSCCE, the Town Planner and the Village Panchayat concluded that the area of the structure is 245 sq. metres, then very strong circumstances are necessary to displace their findings. More so, when they are based on site inspection and verification of the documents. The approvals have been issued based on this material and some of which have been fairly brought to our notice by the petitioners. If they have been granted as far back as in 1994, then, it was necessary for the petitioners to have questioned their contents by placing contemporaneous material. If these documents and their contents have to be doubted and it is also the case that those incharge have colluded with the first respondent while issuing them, then, it was for the petitioners to have placed the necessary details and materials on record. In the absence of such relevant materials and strong circumstances, it is not possible for us to draw any adverse inference or hold a fishing enquiry. The petitioners allegations are thus vague and unsubstantiated. It is, therefore, not possible to draw the conclusion as desired by the petitioners on some stray allegations. If the first respondent is so influential according to the petitioners that three public authorities acted at its behest and in collusion with it, then it was incumbent upon the petitioners to have placed further material before this Court. In the absence of the necessary particulars and parties before us, we cannot conclude that there is a fraud in law only by referring to certain figures and statements in the documents annexed to the petition.

37. There is some substance in the contention of the first respondent that the SDO and Dy. Collector had passed an order which had to be recalled by him. There is some substance in the contention of the first respondent that when they applied for conversion sanad their Architect submitted all particulars. The application is found to be proper. That is how the Roznama which is on the file of SDO and Dy. Collector reads. Thereafter, it appears that there was an endorsement that the area asked for conversion is 300 sq. metres and, therefore, the applicant-first respondent be asked to pay the conversion charges and further order may be issued. Thereafter, the file remark shows that in 1996 it was decided to issue a show cause cum stay order against the illegal conversion. The proceedings, copies of which are filed, reveal that at no stage the issue of the area under structure was ever raised. The petitioners solely rely upon the show cause notice issued by the SDO and Dy. Collector and the observations in his order to prove their plea with regard to the area. These observations are based upon the Mamlatdar's survey. Even that survey has been not referred to in the petition, leave alone copy thereof annexed by the petitioners. The first respondent, in his affidavit, at para 65 stated that the Mamlatdar along with the check list and the sketch prepared by the Talathi addressed a communication to the Dy. Collector on 17.6.97 which again indicates an area of 200 sq. metres for conversion. The first respondent in para 65 of the affidavit in reply has stated that the Mamlatdar although stated that there was a coconut store of 89 sq. metres, but whilst submitting the check list,

he did not indicate the area of the existing house. Further, he records that the size of the existing house and that the area under conversion was 200 sq. metres. The first respondent states that the house has plinth of 224 sq. metres as against then existing plinth of 245 sq. metres. Thus, far from supporting the stand of the petitioners, the check list would support the first respondent. The check list also shows the date and actual change of use of land as 3 years prior to the check list. In such circumstance, if the petitioners are alleging that as on 19.2.1991 the existing plinth area was 75/89 sq. metres and, therefore, the repairs/renovation could not have been permitted beyond that, then, in the light of the clear assertions of the respondents, further material ought to have been placed by the petitioners. The petitioners do nothing of the kind.

38. There is also substance in the contention of the first respondent that the petitioners are aware of the proceedings. The petitioners were communicating with the authorities from 1996 and, in such circumstances, at least some step is expected to be taken by even public spirited citizens and Institutions in the peculiar facts of this case.

39. Mr. Coelho Pereira has contended that no relief can be granted in favour of the petitioners because, the petition is barred by delay and laches. While urging so, the learned Senior Counsel appearing on behalf of the first respondent invited our attention to paras 13 and 14 of the affidavit in reply. The first respondent has seriously commented upon the conduct of the petitioners in maintaining silence. Although, we are not inclined to dismiss this petition at this stage only on the ground of delay and laches, yet we find that the statements on oath by the first respondent in this behalf lends support to their contentions that a dispute about the area is sought to be raised in this petition by the petitioners on vague and unsubstantiated pleas. Despite the affidavit-in-reply being filed as early as on 12.11.99, we do not find any rejoinder affidavit. We do not also find any further affidavit from the petitioners after the survey reports are placed on record. There is also no counter to the affidavit filed by the Panchayat.

40. In such circumstances, we are of the view that a disputed question with regard to the area of the existing structure at site cannot be resolved in these proceedings. We proceed on the basis that the area that is sought to be utilized is 224 sq. metres, based upon the plinth area of 245 sq. metres. The construction, therefore, could not have been beyond this area. We rely upon the GSCCE's decision which shows that the floor area on the ground floor existing is 245 sq. metres and the floor area of the proposed construction is 224 sq. metres. Thus, any construction in excess of this will have to go, is an admitted position. The Panchayat, State and even the first respondent have agreed to abide by this figure. If this is the figure which can be culled out from the documents which are annexed by the first respondent, then, any construction exceeding the same will have to be removed and must be removed. Therefore, although the petitioners have not succeeded in their challenge to the approvals and actions of the Authorities completely and, merely because they are unable to substantiate their pleas with regard to the exact area of the old structure (75/89 sq. metres), still, they have succeeded in proving that the construction at the site exceeded the GSCCE's and the Town Planning Department's approvals. Thus, challenge to this extent has succeeded on the strength of the documents produced by the respondents. Factual aspects as far as this point is concerned, are undisputed. In such circumstances, the consequences in law must follow.

41. In the view that we have taken, it is not necessary to make a detailed reference to the

decisions cited at the Bar. We proceed on the factual basis that the first respondent has remodelled and renovated the structure at site. That in this case the same falls within the purview of the CRZ Notification has to be accepted. Just as there is no material to support the area measurement. The petition is silent as far as details of the old structures. Merely alleging that it is a small room is not enough. Something more is required to be established before it can be held that under the garb of a repair permission/licence, altogether new construction is made in a "No Development Zone." Hence, the larger issue about the ambit and scope of the word "Repairs" need not be decided in the facts of this case. We leave it open for decision in an appropriate case. Suffice it to state that the Division Bench decision in Leonard's case turns upon the factual aspects noticed and undisputed by parties. The observations in paragraph 4 therefore must be seen in that context. The other decisions including the Division Bench view of this Court on the interpretation of the word "Existing" appearing in the Notification need not be referred once the point is kept open. Further, once it is conceded that the revenue proceedings arising out of non-payment of conversion charges, are strictly not germane for deciding the issue of violation of CRZ Notification, then it is not necessary to go into the allegations of bias and malafide made against the then Minister for Revenue and other authorities. That apart, the allegations in the petition are absolute vague and the petitioners have not performed their duty in law while alleging bias and malafide. Nothing more needs to be said on this aspect.

42. As a result, Rule is made partly absolute. The approvals and permission, so also the licences granted by the Panchayat, the Chief Town Planner and the GSCCE are not interfered with. However, the construction in excess of the proposed floor area i.e. 224 sq. metres is ex facie unauthorized and illegal. If the same is not removed or demolished by the first respondent at its own costs, charges and expenses, within a period of four months from today, then it would be open for the concerned authorities to demolish and remove it, without any further intimation or notice to the first respondent. Similarly, we record the undertaking of the first respondent that the structure will be used as a residence and no commercial activity including running a Guest House would be carried out without prior statutory permissions and approvals. In the peculiar facts of this case, there will be no order as to costs.