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IN THE SUPREME COURT OF INDIA  
[SCR ORDER XXI, RULE 3 (1) (a)]  
CIVIL APPELLATE JURISDICTION  
SPECIAL LEAVE PETITION (CIVIL) No: of 2021

[Under Article 136 of the Constitution of India]  
(Arising out of Impugned Final Judgement and Order dated 22.09.2020 of the  
Hon'ble High Court of Bombay at Goa in  
LD-VC-CW-132-2020)

(With Prayer for Interim Relief)

IN THE MATTER OF:

Save Old Goa Action Committee

...Petitioner

VERSUS

Union of India & Ors

...Respondents

Vol. I

PAPER BOOK  
(FOR INDEX KINDLY SEE INSIDE)

I.A. No. __ of 2021	Application for permission to file Additional Documents
I.A. No. __ of 2021	Application for permission to file SLP
I.A. No. __ of 2021	Application seeking Condonation of Delay
I.A. No. __ of 2021	Application seeking exemption from Filing certified copy of order.
I.A. No. __ of 2021	Application for permission to file lengthy Synopsis and list of Dates.
I.A. No. __ of 2021	Application seeking exemption from filing Notarised Affidavit

Filed on:

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ADVOCATE FOR PETITIONER: SATYA MITRA

Vol. I				
INDEX				
Sl. No.	Particular of Document	Page No.	Remarks	
		Part I	Part II	
(i)	(ii)	(iii)	(iv)	
1.	Office Report on Limitation	A	A	
2.	Listing Proforma	A1- A2	A1- A2	
3.	Cover Page of Paper Book		A3	
4.	Index of Record of Proceeding		A4	
5.	Limitation Report		A5	
6.	Defect List		A6	
7.	Note Sheet		NS1 To	
8.	Synopsis /List of Dates	B-SS		
9.	True copy of the Impugned Order of the Hon'ble High Court of Bombay at Goa in LD-VC-CW-132-2020 dated 22.09.2020	1-28		
10.	Special Leave Petition with Affidavit	29-46		
11.	Appendix  Relevant part of the Constitution of India, 1950	47		

12.	Annexure P-1  True Copy of the First Sale Deed between  Mr Jose Maria De Gouveia Pinto and  Manish Navratn Munot. Dated 8.5.2015	48-58		
13.	Annexure P-2  True Copy of the Second Sale Deed  between Mr Jose Maria De Gouveia Pinto  and Mrs Suvarna Suraj Lotlikar dated:  8.5.2015	59-68		
14.	Annexure P-3  True Copy of the application for NOC for  the reconstruction of the existing house  made by Jose Marie de Gouveia Pinto  addressed to Member Secretary, Goa  Coastal Zone Management Authority,  Goa dated: 7.9.2015.	69-70		
15.	Annexure P-4  True Copy of ASI, Goa Circle report on  the NOC for repairs/ reconstruction on  the existing house of Mr and Mrs Pinto at  no 57 under Survey No: 4/1 of village  Ella, Tiswadi, Old Goa dated:  28.10.2015.	71-76		

16.	Annexure P-5  True Copy of the Site Inspection Report made by the Goa Coastal Zone Management Authority dated: 11.11.2015	77-78		
17.	Annexure P-6  True Copy of the NOC/ Approval for purposed reconstruction of existing house bearing house no 57 survey no 4/1 of Ella Village, Tiswadi Taluka issued by the Goa Coastal Zone Management Authority dated 28.12.2015	79-80		
18.	Annexure P-7  True Copy of the Certificate of Conformity with Regulations issued by the Architect and Interior Designer dated: 4.1.2016.	81-82		
19.	Annexure P-8  True Copy of the Structural Liability Certificate issued by the Structural Engineer dated 8.1.2016.	83		

20.	Annexure P-9  True Copy of the Comments on the minutes of the 12 <sup>th</sup> meeting of the Conservation Committee issued by the Archaeological Survey of India, Goa Circle, dated: 21.06.2016	84-85		
21.	Annexure P-10  True Copy of the Proposal of reconstruction of existing house in property bearing survey no 4/1 from the Office of the Chief Town Planner and member Secretary of Conservation Committee, Goa dated: 7.10 2016	86-88		
22.	Annexure P-11  True Copy of the Technical Clearance Order issued by the Town Planner, Town and Country Planning Department Goa dated: 18.10.2016.	89-92		
23.	Annexure P-12  True Copy of the Construction License issued by the Village Panchayat Se Old Goa dated 14.11.2016.	93-97		

24.	Annexure P-13  True Copy of the Application for permission of repair of existing residential house in survey no 4/1 of village Ella (Old Goa), Goa made by the original owner to the Director ASI India dated: 16.11.2018.	98-111		
25.	Annexure P-14  True Copy of the reply by the ASI, Delhi to Application for permission of the repairs of existing residential house in survey no 4/1 of village Ella (Old Goa), Goa made by the original owner dated 19.12.2018.	112		
26.	Annexure P-15  True Copy of the application made by the Original Owner addressed to the Director General Archaeological Survey of India, Delhi for permission of existing residential house in survey No 4/1 of village Ella ( Old Goa), Goa dated 4.1.2019	113-116		

27.	Annexure P-16  True Copy of the permission for repair of existing residential house in survey no 4/1 of village Ella, Goa issued by the Director ASI, Delhi subject to conditions addressed to Respondent No 8 dated: 03.2.2020	117-118		
28.	Annexure P-17  True Copy of the letter issued by the Superintending Archaeologist, Goa for the permission for repair dated 11.2.2020.	119		
29.	Annexure P-18  True Copy of the Reply made by Respondent No.8 addressed to ASI, Goa dated: 19.02.2020	120-121		
30.	Annexure P-19  True Copy of the letter citing unauthorised construction activity against the approval of the Competent Authority addressed to Respondent No.8 dated 12.03.2020	122-125		

31.	Annexure P-20  True Copy of the letter ‘violation of permission for repair’ issued by the ASI Goa dated: 16.3.2020	126-127		
32.	Annexure P-21  True Copy of the Inspection Report made by the Dy. S.A. Archaeological Survey of India, Goa dated 17.3.2020	128-134		
33.	Annexure P-22  True Copy of the forwarding site inspection report sent by the ASI Goa to the ASI Director, Delhi dated: 18.03.2020	135-137		
34.	Annexure P-23.  True Copy of the Letter from the ASI, Goa addressed to the Respondent No 8 for violation of permission for repair dated 23.3.2020.	138-139		
35.	Annexure P-24  True Copy of the Letter for permission for repairs to the existing residential house by the ASI Goa to the respondent no 8 dated 2 06.2020	140-141		
36.	Annexure P-25	142-169		

	True copy of the LD-VC-CW-132-2020 filed by the Respondent No.8 dated Nil August 2020.			
37.	Annexure P-26 True Copy of the Counter Affidavit filed by Respondent No1, 3, 4 and 5 in Writ Petition No. LD-VC-CW-132-2020 dated 18.09.2020	170-172		
	Continue...Vol. II			

IN THE SUPREME COURT OF INDIA

[SCR ORDER XXI, RULE 3 (1) (a)]

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) No:                      OF 2021

[Under Article 136 of the Constitution of India]

(Arising out of Impugned Final Judgement and Order dated 22.09.2020 of  
the Hon'ble High Court of Bombay at Goa in

LD-VC-CW-132-2020)

(With Prayer for Interim Relief)

IN THE MATTER OF:

Save Old Goa Action Committee & Ors                      ...Petitioners

VERSUS

Union of India & Ors                      ...Respondents

OFFICE REPORT ON LIMITATION

1. The petition is/are within time.
2. The petition is barred by time and there is a delay of 207 days in filing the same against the order dated 22.09.2020.
3. There is a delay of \_\_\_\_ days in refilling the petition and petition for condonation of days delay in refilling has been filed.

BRANCH OFFICER

New Delhi

Dated: 15.07.2021

## PROFORMA FOR FIRST LISTING

SECTION:

The case pertains to (Please tick/check the correct box):

Central Act: (Title): The Ancient Monuments and Archaeological Sites and Remains Act 1958. Section 19.

Central rule: (Title) N.A.

Rule no(s): N.A.

State Act (Title)	N.A.
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Section: N.A.

State Rule (Title): N.A.

Rule no(s): N.A.

Impugned Interim Order date:

Impugned Final Order/Decree Date: N.A.

Tribunal/Authority (Name): N.A.

High Court Name: High Court of Bombay at Goa

Name of Judges: Hon'ble Justice Smti M.S. Jawalkar ,

Hon'ble Justice M.S. Sonak

1. Nature of matter: ☐ Civil ☐ Criminal

2. (a) Petitioner/Appellant No.1:  
Save Old Goa Action Committee

- (b) E-mail ID: N.A.

- (c) Mobile Phone Number: N.A.

3. (a) Respondent No.1: Union of India

- (b) E-mail ID: N.A.

- (c) Mobile Phone Number: N.A.

4. (a) Main category classification: N.A.

- (b) Sub classification: N.A.

5. Not to be listed before: N.A.

- |    |                          |     |
|----|--------------------------|-----|
| 6. | Similar/ Pending matter: | N.A |
|----|--------------------------|-----|

- a) Similar disposed of matter with citation, if any, & case details: No similar matter disposed of

b) Similar pending matter with case details: No similar matter pending  
Case details:

7. Criminal matters: NA
- a. Whether accused/convict has surrendered: N.A.
- b. FIR No.: N.A. Date: N.A.
- c. Police Station: N.A.
- d. Sentence Awarded: N.A.
- e. Period of Sentence undergone including period of detention/custody undergone: N.A.
8. Land Acquisition Matters:
- a. Date of section 4 notification: N.A.
- b. Date of section 6 notification: N.A.
- c. Date of section 17 notification: N.A.
9. Tax Matters: State the tax effect: N.A.
10. Special Category (first petitioner/appellant only): woman  
Senior citizen > 65 years ☐ SC/ST Woman/Child  
Disabled Legal Aid case in custody
11. Vehicle No. (In case of Motor Accident Claim matters):

Date: 15.07.2021

(Satya Mitra)

AOR for Petitioner

Registration No. 1852

E-mail id: [satyamitra2003@gmail.com](mailto:satyamitra2003@gmail.com)

## Synopsis

1. This petition impugns the Final Judgement and Order dated 22.09.2020 of the Hon'ble High Court of Bombay at Goa in LD-VC-CW-132-2020 by allowing prayers in the writ petitions to allow the Writ Petitioners to carry out the repairs and renovation of the structure by illegal construction, of a new building in the area not prescribed in the Schedule as per the sale deed dated 8.5.2015.
2. Two SLPs have been filed by the Petitioner. The first SLP Dairy No. \_\_\_\_\_ is against the order dated 3.5.2021 in WP No 1153 of 2021 in which the Petitioner and the public opposed to this illegal construction were not made parties. The second SLP is against the order dated 22.09.2020 in LD-VC-CW-132-2020 in which the Petitioner herein was the Petitioner before the High Court.
3. This SLP relates to new construction admittedly coming up within the protected area (within the meaning of section 2 (i) of The Ancient Monuments and Archaeological Sites and Remains Act, 1958: hereinafter Act) around three protected monuments i.e., Chapel of St. Cajetan, Arch of Viceroy and Largo of St. Cajetan altogether with the minor monuments and adjacent area. This construction is coming up overriding the objections of the office of the Archaeological Survey of India (ASI) whose orders to stop work have been set aside by the High

Court. This is a case of gross misuse of power by the State Government to favour a powerful and influential party.

4. This litigation is restricted to Survey No. 4/1 of the Ella village of Tiswadi Taluka, Goa which has two parts on account of two sale deeds and these two parts are adjacent to each other. Lotlikar's (R-8) part is shown as Part B and Mr. Munot's part is shown as Part A. Both parts were originally owned by Mr. Jose Maria De Gouveia Pinto and family members. By sale deeds both dated 8.5.2015 he sold Part B admeasuring 2400 sq.m. on which there existed a small hut (loja) which was used to store coconuts, to Mrs. Suvarna Suraj Lotlikar (R-8 in the Petitioner's Writ). Part A admeasuring 9500 sq.m. was sold to Mr. Manish Munot. The first sale deed abovementioned is at Annexure P-1 at page No. 48 to 58, and the second sale deed is at Annexure P-2 at page No. 59 to 68.
5. In the sale deed dated 8.5.2015 in respect of the first part abovementioned the structure on the land is described in the sale deed as under:

“Along with a ddilapidated structure “loja” to store coconuts existing therein.”

6. In the sale deed dated 8.5.2015 in respect of the second part the structure on the land is described in the sale deed as under:

“This property is having an ancestral dilapidated residential house which is partly collapsed bearing House No. 57”.

7. Petitioner states that as on today there is no structure on this land at all. At Annexure P-30 at page No. 221-227 are the photographs taken in June 2021 showing the land as completely barren. There does not appear to be any structure at any time on this part of the land.

Official Reports of The ASI Showing Only

A Small Dilapidated Hut (Loja) on The Land

8. The ASI report dated 28.10.15 with the photograph of the hut is at Annexure P-4 at Page No. 71 to 76 The ASI report dated 16.11.18 with the photograph of the hut is at Annexure P-13 at Page No. 98 to 111 The relevant parts of the ASI report dated 28.10.15 are as under:

“This proposal comes in Protected Area of the Centrally Protected Monuments where no permission can be accorded except for the repair.”

The relevant parts of ASI report dated 16/11/2018 are as under:

“1. The said property falls in the Protected Area of the Church of St. Cajetan Old Goa...

2. The only structure standing at the site is a small dilapidated hut which is dilapidated and not occupied by anyone for last many years...

3.....if the house was existing from 1931 no objection was raised when their said property was included in Protected Area. Neither permission was sought from ASI for repairs after the so-called destruction by cyclone in 1992.

4....the applicant does not mention any permission granted from ASI for carrying out repair and renovation of the house in 1986...

5. Permission may be considered only for repair/renovation to the existing structure at the site (Photo Enclosed) without any horizontal and vertical expansion as it comes under the Protected Area of World Heritage Site.”

9. Thus, it is irrefutably established that there was no structure on the land, and certainly no structure on the first part of the land abovementioned save and except for a small hut (loja).

The original owner of the undivided plot - Shri Jose Maria de Gouveia  
Pinto despite having sold the plot in 2015 makes

#### AN APPLICATION FOR REPAIRS

10. This application made by the original owner addressed to the Director General, Archaeological Survey of India, Delhi dated: NIL is at Annexure P-15 at page No. 113 to 116. In the application he states that:

“.....This property has our ancestral house bearing House No.  
57...

Further, this house was repaired and renovated in 1986...

Unfortunately in the year 1992, the said house collapsed...

Hence we are requesting you to grant us the permission for  
repairs...”

Permission of the DG ASI, Delhi

11. On 3.2.20 (Annexure P-16 at page No. 117 to 118.) the DG ASI at Delhi  
gave permission as under:

“F. No. T-19034/46/2018- M

Government of India

Archeological Survey of India

To,  
Suvarna Suraj Lotlikar  
C/O Gopi J. Mhamal,  
Manasa Sarovar, 1<sup>st</sup> level,  
Near Govt, Circuit House,  
Altinho, Panjim- Goa

Sub: Permission for repairs to existing residential house in  
Survey No. 4/1 of village Ella (Old Goa), Goa -reg.

With reference to your letter dated nil on the subject sited  
above, I am to communicate approval of the Competent  
Authority for taking up repairs of house located in the Protected  
Area of two centrally Protected Monuments i.e. Church of St.  
Cajetan and Viceroy's Arch, Old Goa. The permission is further  
subject to following conditions:

1. The repair work should be taken up in consultation with the  
Superintending Archaeologist (I/c), ASI, Goa Circle.
7. The provisions of AMASR Act, 1958 and rules, 1959 made  
there under shall be observed.

H

10. SA (I/c) Goa Circle would keep a strong watch on the repair work, document it periodically and would submit fortnightly report to this Office.

11. The permission does not cover reconstruction.

Yours Sincerely

Arvind Manjul

Director (Monuments - II)

12. Petitioner stresses that the last clause 11 is most important as it specifically bars reconstruction. Clause 10 is important because it was intended to prevent reconstruction in the guise of repair. Clause 7 is important because the Act does not allow for reconstruction.

ASI officials repeatedly record  
disobedience of the permission dated 3.2.20

13. The first letter of ASI Goa Circle dated 11.2.20 (Annexure P-17 at page No. 119 ) addressed to Smti Suvarna Suraj Lotlikar ( R 8 of the petitioners Writ petition) is set out herein below:

“No. 4/55/2019-20-1512

Government of India

Archaeological Survey of India

Goa Circle, Church Complex, Velha Goa

February 11, 2020

To

Smt. Suvarna Suraj Lotlekar,  
C/o Gopi Mhamai, Manasa Sarvovar  
1<sup>st</sup> Level, New Govt. Circuit House,  
Altinho, Panaji, Goa 403401.

Subject:- Permission for repair to existing residential house in  
Survey No. 4/1 of village Ella (Old Goa, Goa reg.)

Madam,

With reference to subject cited above you are requested  
to submit following documents to verify the legitimacy of the  
structure for which the said permission is granted:-

Ownership details shown on plan of Survey No.4/1 along the  
demarcated area where permission for repairs is approved.

As on date existing plan, elevation and photograph of the present  
structure to which the repairs have to be carried out duly signed  
by the competent authority, i.e. Directorate, Archeological  
Survey of India, New Delhi.

Further you are informed to have a joint inspection of the structure before taking up the repairs to existing structure since the permission does not cover reconstruction and permission covers only repair work. Hence kindly bring all the information about the present structure with self-attestation before commencing the work.

Yours faithfully,

(K. Amarnath Ramakrishna)  
Superintending Archaeologist  
Archaeological Survey of India  
Goa Circle, Goa

14. The second letter of the ASI Goa Circle dated 12.3.20 (Annexure P-19 at page No. 122 to 125) addressed to Smti Suvarna Suraj Lotlikar is set out herein below:

“Office of the Conservation Assistant

Archaeological Survey of India

Church Complex, Old Goa 403402

No. 14/2/ACT/2019-20/...

Date: 12.03.2020

To,

Suvarna SurajLotlikar

C/o Gopi Mhamai,  
Manasa Sarvovar 1st Level,  
Near Govt. Circuit House,  
Altinho, Panaji, Goa

Sub: - unauthorized construction activity against the  
approval of the competent authority-reg. Ref.Lr  
F.no:4/55/2019-20/1636, dated 03/03/2020.

Madam,

With reference to the subject cited above, it is come to the notice that some poles are being erected at the site – in survey no. 4/1 of village Ella, but you have been received permission for only repairs of the existing structure – particularly the hut, so in this connection you are hereby directed not to erect any poles at the site without any prior permission from the Competent Authority and remove the erected poles immediately within 24 hours or we have to take further action.

Yours faithfully,

Senior Conservation Assistant  
Archaeological Survey of India  
Old Goa Sub-Circle

L

Old Goa, Goa.

Copy to:

The Superintending Archaeologist, Archaeological Survey of India. Goa Circle, Old Goa for your kind information and necessary action.”

15. The third letter of the ASI Goa Circle dated 16.3.20 (Annexure P-20 at page No. 126 to 127) addressed to Smti Suvarna Suraj Lotlikar is set out herein below:

“Government of India

Office of the Conservation Assistant

Archaeological Survey of India

Old Goa Sub Circle, Old Goa

No. 14/2/SCT/2019-20/832

Date: 16.03.2020

To,

Suvarna Suraj Lotlikar

C/o Gopi Mhamai,

Manasa Sarvovar

1st Level, Near Govt. Circuit House,

Altinho, Panaji, Goa-403-401

M

Sub:- Violation of permission for repair in survey no. 4/1,  
Old Goa – reg.

Madam,

With reference to this letter vide no. 14/2/ACT/2019-20/827, dated 12.03.2020 you were informed to remove the illegal erection of metal poles in survey. No. 4/1. However, even after 24 hours the same is not been removed by you neither this office have received any communication in this regard.

In this regard you are herewith informed that under the provision of The Ancient Monuments & Archaeological Sites & Remains Act 1958 Sec. 19 sub section 1 & 2 if any work in the protected area is carried out at the site by violating the permission issued by Director General, Archaeological Survey of India, New Delhi will have to seek the legal action.

Therefore you are once again informed that the permission granted is restricted only for the repairs to the existing hut (without any horizontal or vertical expansion). Failing to the above this office will be compelled to take further action as per legal provision.

Yours faithfully,

N

Senior Conservation Assistant  
Archaeological Survey of India  
Old Goa Sub-Circle  
Old Goa, Goa.

Copy to:

The Superintending Archaeologist, Archaeological Survey of  
India. Goa Circle, Old Goa for your kind information and  
necessary action.”

16. The fourth letter of the ASI Goa Circle dated 23.3.20 (Annexure P-23  
at page No. 138 to 139) addressed to Smti Suvarna Suraj Lotlikar is set  
out herein below:

“No. 4/55/2019-20-1686

Government of India

Archaeological Survey of India

Goa Circle, Church Complex, Velha Goa

To

March 23, 2020

Smt. Suvarna Suraj Lotlekhar,  
C/o Gopi Mhamal,

Manasa Sarovar,  
1st Level, Near Govt. Circuit House,  
Altinho, Panaj, Goa 403401

Subject – Violation of permission for repair in Sy.No.  
4/1, Old Goa Ref – Your letter dated 17 March 2020

Madam,

With reference to your claim in the above mentioned reply following are the our observations for you to inform this office before commencing any work, such as any kind of digging, putting any type construction activities, demolishing the existing hut etc. in the Sy. No. 4/1, Village Ella, Old Goa.

1. The permission granted by Directed General, Archaeological Survey of India, New Delhi vide no. T-19034/46/2018-M dated 03 February 2020 clearly mentions permission for the repairs to the existing structure/existing house (hut)
2. Based on the permission you were informed to submit the approved plans by the Director General, Archaeological Survey of India, New Delhi of the existing structures to this office for

understanding the work which will be taken up for repairs. You have failed to produce any approved plans to this office and hence status quo needs to be maintained at the proposed site.

3. Your claim of having a structure prior to 1992 does not stand. As the ownership of the ancestral structure which was claim belonged to Jose Maria de Gouveio Pinto does not exist, at present only a small hut is existing at the site. Hence you cannot claim to be the owner of the ancestral house by producing false drawings and photographs.

4. As per your file submitted to this office, regarding the approved permission letters and plans from Town and Country Planning Department, CRZ and conservation committee, their validity has been lapsed. Hence their clearance does not hold any stand.

5. In this regard you are informed to get the permission from all above mentioned department in your name after inspection of the site from the concern departments. The site inspections will be considered valid only when a representative from this office (Archaeological Survey of India, Goa Circle) will participate for the joint inspection.

6. You are also informed to submit the measured drawing and most recent photographs of the structure for which the permission for repairs was granted. The photographs must show the existing structure prominently in survey no. 4/1 of village Ella.

Further once again you are informed to remove all the poles illegally erected by you within 24 hours as per this office notice or the undersigned will be compelled to take legal action against you.

Yours faithfully,

(K. Amarnath Ramakrishna)

Superintending Archaeologist

Archaeological Survey of India

Goa Circle, Goa.

17. The fifth letter of the ASI Goa Circle dated 2.6.20 (Annexure P-24 at page No. 140 to 141) addressed to Smti Suvarna Suraj Lotlikar is set out herein below:

“No.4/55/2019-20.279

Government of India

Archaeological Survey of India

Goa Circle, Church Complex, Velha Goa

R

circlegoa.asi@gov.in

0832 2285302

June 2, 2020

To

Smt. Suvarna Suraj Lotlekar,

Clo Gopi Mhamal,

Manasa Sarovar,

1st Level, Near Govt. Circuit House,

Altinho, Panaji, Goa 403401

Subject: - Permission for repairs to existing residential house in Survey No. 4/1 of village Ella (Old Goa), Goa reg.

Ref: - Your letter dated 11 May 2020

Madam,

With reference to subject cited above it is to inform you that this office has already clarified in the previous communication vide letter no. 4/55/2019-20-1512 dated 11.02.2020, 4/55/2019-20-1636 dated 03.03.2020 and 4/55/2019-20-1698 dated 23.03.2020. There is no need to repeat again and again regarding the same. You are requested to arrange a joint survey

for verification for the existing structure claimed by you admeasuring 397 sq. mts. at the site with the representative from all concerned departments to verify its existence at the said property in Survey No. 4/1 of village Ella (Old Goa), Goa for which the permission is granted or submit copy of the duly approved plan, elevation and photographs of existing structure by the Director General, Archaeological Survey of India, New Deihi. The photograph, plan and the elevation submitted to this office is found to be bogus as in reality only a small hut exists in the proposed site.

No further communication in this regard will be entertained by this office until you submit the documents as desired by this office.

This is to remind you that the permission granted by the Director General, ASI, New Delhi is conditional and specifically mentions that the permission is for Repairs.

You are requested to kindly mark three conditions of the permission viz. nos.

1. The repair work should be taken up in consultation with the Superintending Archaeologist (I/c), ASI, Goa Circle.

T

10. SA (l/c) Goa Circle would keep a strong watch on the repair work, document it periodically and would submit fortnightly report to this office.

11. The permission does not cover reconstruction.

Hence your allegation that this office has no right to stop your work is not acceptable. Since the permission is for “taking up repairs of house located in the protected area” you are requested to repair the existing hut in your property.

This is for your kind information.

Yours faithfully,

(K. Amarnath Ramakrishna)

Superintending Archaeologist

Archaeological Survey of India

Goa Circle, Goa

18. The sixth letter dated 8.4.21 (a stop work notice) (Annexure P-27 at page No. 176 to 179) is set out herein below: (To get)

“...F.No 4/50/2021-22- 09

Government of India

Archaeological Survey of India  
Goa Circle, Church Complex, Old Goa – 403402

April 8, 2021

### SHOW CAUSE NOTICE

Ref: - Directions received from Director (Monument-II),  
Archaeological Survey of India vide Letter No. F.No. T-  
19034/46/2018-M dated 01.04.2021 received by this  
office on even date (copy enclosed)

Whereas I, the undersigned, acting upon the directions received from the Director (Monument-II), Archaeological Survey of India vide Letter No. F. No. T-19034/46/2018-M dated 01.04.2021 issue this show cause notice stating that construction of a residential house being carried out by Smt. Suvarna Suraj Lotlikar which falls within protected area of Chapel of St. Cajetan, a centrally protected monument is in contravention of the terms of permission issued by the Director (Monuments-II), Archaeological Survey of India vide letter no.F. No. T-19034/46/2018-M dated February 3, 2020, to Smt. Suvarna Suraj Lotlikar for undertaking repairs of house existing in Sy. No. 4/1 of Village Ella, Old Goa.

Further, the work being carried out is also in violation of the section 42 (a) of the order passed by Hon'ble High Court of Bombay at Goa directing Smt. Suvarna Suraj Lotlikar to carry out the repair work in accordance with the permission issued to her by Director (Monuments – II), Archaeological Survey of India vide letter no.F. No. T-19034/46/2018-M dated February 3, 2020, which has been upheld by the Hon'ble High Court of Bombay at Goa. Further, she is also required to execute the repairs in consultation with and under the supervision of the o/o Superintending Archaeologist, Goa Circle through its subordinate office of the Jr. Conservation Assistant, Old Goa sub-circle.

Instead of carrying out the repairs to the existing old loja/hut, Smt. Suvarna Suraj Lotlikar has started construction actively at the site by bringing in a JCB at the site as reported by the Jr. Conservative Assistant, Old Goa sub-Circle on 30/12/2020. Further, she has demolished the same old loja/hut which was to be repaired by her and dug column pits as apparent from the report submitted by the Jr. Conservation Assistant, Old Goa sub-circle on 04/01/2021. Further, she has erected RCC Columns as reported by the Jr. Conservation Assistant, Old Goa

sub-circle on 19/01/2021, laying of RCC plinth beams as reported by the Jr. Conservation Assistant, Old Goa sub-circle on 29/01/2021 and laying of plinth as reported by the Jr. Conservation Assistant, Old Goa sub-circle on 08/03/2021.

As such Smt. Suvarna Suraj Lotlikar is hereby informed that the construction of residential house being carried out by her within the protected area fails to comply with an order made under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 under sec 30 (1) shall be punishable with imprisonment which may extend upto two years or with fine which may extend to one lakh rupees or with both.

Therefore, Smt. Suvarna Suraj Lotlikar is hereby directed to show cause within 15 days from the date of issue of this notice, that why she violates the terms of permission issued by the DG, ASI vide the letter F. No. T-19034/46/2018-M dated February 3, 2020 of Director (Monument – II) and the final court order in respect of LD-VC-CW-132-2020 dated 22/09/2020, as to why an order under Sub Rule (2) of the Section 19 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 be not issued to her. She is further directed to stop with immediate effect the construction work being carried out by her

in the aforesaid area, which is in violation of the terms of permission issued by DG, ASI and subsequent order of the Hon'ble High Court of Bombay at Goa.

Superintending Archaeologist  
Archaeological Survey of India  
Goa Circle, Goa

To,

Smt. Suvarna Suraj Lotlikar

c/o Gopi Mhamal,

Manasarovar, Near Govt. Circuit House,

Altinho, Panaji, Goa 403001

Copy to

1. The Director General, Archaeological Survey of India, New Delhi.
2. The Director (Monuments – II), Archaeological Survey of India, New Delhi, as per the directions issued vide letter no. F.No.T-19034/46/2018-M dated 01/04/2021, a Show Cause Notice has been issued to Smt. Suvarna Suraj Lotlikar.
3. The Regional Director (South), Archaeological Survey of India, Bangalore

4. The Competent Authority, Chief Town and Country Planning (planner), TCP, Dempo Towers, Panaji
5. The Collector, North Goa, Panaji, Goa, for information and necessary action.
6. The Mamlatdar, North Goa, Panaji, Goa, for individual action against Smt. Suvarna Suraj Lotlikar.
7. The Sarpanch, Village Panchayat, Old Goa, to verify the permissions.
8. The Talathi, Village Panchayat, Old Goa, serve a notice to Smt. Suvarna Suraj Lotlikar.
9. Sr. Conservative Assistant ASI Old GOA for information with the instruction to keep vigil on construction activity and submit the status report

ASI, Goa letter to DG ASI

saying that the photographs submitted are fake  
inspection report concludes that the photos are fake

19. The inspection report dated 17<sup>th</sup> March 2020 is at Annexure P-21 at page No. 128 to 134 hereto and the relevant parts are as under:

“Inspection Report

Visit to Parcem Village, Pernem Taluk, North Goa on  
Wednesday, March 11, 2020

This report is in connection with the NOC matter regarding a permission received by one Smt. Suvarna S Lotlekar in survey no. 4/1 of village Ella, Old Goa. The site of proposed repair falls in the protected area of the monuments at Old Goa. Smt. Suvarna S Lotlekar has submitted a file to this office, which carries a photograph of a structure (Ground + 01 floor). She claims that the house in that photograph existed in survey no 4/1 of village Ella, Old Goa before 1992.

However, this office received information that the house in the submitted photographs is located in Village Parcem, Taluka Pernem, District North Goa. To find out the fact of the matter, **on March 11, 2020 Wednesday**, Parcem village in Pernem Taluka of North Goa District was visited by Sh. Amarnath Ramakrishna, SA, Goa Circle ASI along with Dr. Izhar Alam Hashmi, DySA and Sh. Tarang Mahesh Gharpure, AA with witness (1) Sh. Chandrashekhar Yalwar, (2) Sh Madhusudhan Reddy M. Patil.

As per the information received, a house resembling the submitted photograph was seen by the road side. GPS co –

ordinates of the house are Lat 15.65997325 Long 73.7685186 and the postal address is – House no. 240, Madhalawada, Village Parcem Taluk Pernem, District North Goa, Goa – 403512. The house is rectangular in plan with 17.60 mts length and 8.10 mts breadth. Height of the ground floor as taken from the edge verandah floor is 3.85 mts. (The height of 1<sup>st</sup> floor could not be taken as we were not allowed to enter the house). The house was inspected from various angles for clarity. On comparing the house with the photograph submitted by the applicant, all the details of architecture like the number and the type of the arches on ground floor, small entry gate, pillar capitals and foundations, the wooden railing of the verandah and lay of the roof tiles matched.

There were only two people in the house, a lady and the man, both senior citizens. On approaching the house and making an enquiry, the lady asked us to talk to man. The name given by the man in his introduction is Sh. Dulba Laxman Naik Desai and the house is their ancestral property. He also informed that only he and the lady stay in the house. On enquiring about their kith and kin, he informed that his children have settled in Mumbai and other places and nobody visits. However, they

travel to Mumbai often. He refused to disclose any details about the number of his children, their names or contact details.

On informing him, that Smt. Suvarna S Lotlekar submitted the photographs of his house for seeing a NOC for repairs in Old Goa and asking if he knew Smt. Suvarna S Lotlekar, he informed that he did not know anyone with that name. On making further enquiry, he said that the house was renovated in 2018 and the railings to the verandah were installed in 2018. He also mentioned that a huge sum of Rs. 80, 00, 000/- was spent in the house. The appearance of the house contradicted the audacious claim made by him. He was further requested to remain in communication with this office by telephone and the office telephone number 0832 – 2285302 was given to him. The office also requested him for his telephone number, and the telephone number given by him is 0832 – 2246156. We were allowed to photograph the house from outside, which are enclosed with this report.

Sd/-

Dr. I.A. Hashmi

(Dy.SA.)

Sd/-

Sd/-

Sh.TarangM. gharpure

(A.A.)

Sd/-

Sh. Chandrashekhar Yalwar      Sh. Madhusudhan Reddy

M. Patil

(Witness 1)

(Witness 2)

20. On 18.3.20 (Annexure P-22 at page No. 135 to 137) the Superintendent Archaeologist, Goa sent a report to the DG (Monuments-II) stating as under:

“F.No. 4/55/2019-20-1685      Dated: - March 18th, 2020

To

Dr. Arvin Manjul,

Director (Monuments –II)

Archaeological Survey of India

Dharohar Bhavan, 24,

Tilak Marg, New Delhi -110001

Sub:- Forwarding of site inspection report pertaining to permission for repairs of existing residential house in survey no. 4/1 in village Ella (Old Goa), Tiswadi

Sir,

With respect to the above-cited subject, it is bring to your kind attention that this office received a copy of documents

from Suvarna S. Lotlekar. She claimed that the same documents were already submitted to the D.G., ASI by her. In that document, there is a photograph of a house (copy enclosed). The application claims that the house in the photograph existed in Survey number 4/1, village Ella before it was destroyed by a storm in the year 1992.

However, this office received information that the house in the photograph exist in village Parcem, Taluk Pernem, District North Goa. To find out the fact of matter, on March 11, 2020, the team headed by Sh. K Amarnath Ramakrishna, SA, Goa Circle ASI along with Dr. Izhar Alam Hashmi, DySA and Sh. Tarang Mahesh Gharpure, AA with witness (1) Sh. Chandrashekhar Yalwar, (2) Sh. Madhusudhan Reddy M. Patil; visited Parcem village in Pernem Taluk of North Goa District and inspected the house.

During the inspection, it is found that the photograph submitted by the applicant is false and the claim of existence of the house in Survey no. 4/1 of village Ella, before the year 1992 is fake. The detail site inspection report is enclosed herewith for your kind information and further necessary action.

Encl:- 1. Copy of photograph submitted by the applicant at this  
office

2. Site inspection report

Yours faithfully

Sd/-

(K. Amarnath Ramakrishna)

Superintending Archaeologist

Archaeological Survey of India

Goa Circle, Goa”

21. Along with the report, he submitted photographs submitted by Lotlikar (R-8) to the ASI at Goa, purporting to be the structure on the land in question which, according to Lotlikar, collapsed during the cyclone of 1992.

HC order dated 22.9.20 in LD-VC-CW LD-VC-CW-132-2020

impugned in SLP No.\_\_\_\_ of 2021

the fundamental mistakes

22. First of all, it must be stated that the petitioner herein was not a party to the above Petition nor was any person opposed to the construction in public interest made party. The petitioner remained unaware of this Petition and the order dated 22.9.20 until construction activity started

on the site in February 2021. Thereafter, Writ Petition 1153 of 2021 was filed on 28.4.21.

23. The fundamental mistakes in this order are as follows:

a) First. Para 3 of the impugned order shows that the High Court while referring to the small hut in Part B says that the area of the structure is 397 sq.mts. The hut is not anywhere near 397 sq.mts. It is stated by R-8 that the former structure in Part A which collapsed had an area of 397 sq.mts. Thus, the High Court falls prey to the strategy of R-8 (Lotlikar) to refer to repair of a hut in Part B and thereafter take the area of the hut as if it is 397 sq.mts. with the intention of doing reconstruction work on 397 sq.mts. and not on the area of the hut. The relevant part of para 3 of the impugned order is as under:

“The Petitioner (Lotlikar) claims to be the co-owner of an area of 2400 sq.mts... It is the case of (Lotlikar) that in the said property there is a structure admeasuring 397 sq.mts.”

b) Therefore, two mistakes:

First that the hut which is allowed to be repaired (in Part B) is certainly not 397 sq.mts. and secondly, there is no

structure on Part A let alone a structure admeasuring 397 Sq.mts. (see photographs at Annexure I)

- c) In para 5 a huge mistake appears when the Hon'ble Court says "there is no dispute as regards the existence of the said structure... its dimensions and area have not even been seriously traversed ..."
- d) One only has to read the repeated complaints of the ASI in para 12 to 17 above and the reports made to the DG ASI at paras 18 to 20 to realise, on the face of the record, that Lotlikar had put up a totally false case with photographs of the structure that were totally fake and taken from a totally different part of Goa.
- e) With this evidence on record to say that the conclusions in the impugned order were perverse would be an understatement.
- f) In paragraph 7 and 26 there is a reference to approvals, clearances and licenses, all of them being for the period 2015 – 19. All of them were prior to the DG ASI (Delhi) order dated 3.2.20 which specifically prohibited reconstruction for the High Court to conclude that all the above mentioned approvals should be read as if reconstruction is allowed is surely illegal.
- g) Paragraph 11 shows the fraud. This is the application of Lotlikar. This is an application for repair of a house no. 57 in Part A. This

has nothing to do with the construction currently being done in Part B where the hut is.

h) Paragraph 13 is important because it is recorded that Lotlikar, through counsel “made it clear that (he) had absolutely no grievance with the permission dated 3.2.20. If that is so firstly, the permission was for Part B where the hut is and only for repair of the hut. Once such an admission is made Lotlikar’s fraud is exposed. The construction which is going on (photographs at Annexure J) shows that in the place of the hut a 1 (Ground) + 1 new concrete structure is being constructed. Hence the entire construction is totally illegal.

i) In para 14 of the impugned order condition 1 of the permission is as follows:

“the repair work should be taken up in consultation with the Superintending Archaeological ASI, Goa Circle.”

j) It can be seen from the paragraphs 12 to 20 that the Superintending ASI, Goa Circle, had characterised the entire construction as a fraud and the photographs of the alleged pre-existing structure as fake. Moreover, in clause 11 of paragraph 14 attention is drawn to the permission dated 3.2.20 of the DG ASI, Delhi where it is stated:

“The permission does not cover reconstruction.”

k) The next mistake made is that while setting out in paras 16 to 18 the extensive documentary evidence submitted by the ASI, the Hon’ble Court concludes that the ASI has not put up any serious defence of the impugned communications dated 12.3.20, 16.3.20, 23.3.20 and 2.6.20.

24. The directions given in para 39 and 40 to the effect that the construction would proceed and that all the orders made by the ASI was set aside is an illegal order and ought to be quashed.

Errors in the impugned order dated 3.5.21 in W.P. No. 1153 of 2021

25. The Petitioner in this SLP – Save Old Goa Action Committee – was not a party in the first SLP abovementioned. The submissions on behalf of the Petitioner are set out in paragraph 6 and relates to misrepresentation and fraud engaged in by R-8 (Lotlikar) which have already been dealt with above.

26. The most important part of this judgment is paragraph 15 where the High Court observes:

“To this extent, Mr. Lobo the learned counsel for the petitioner is quite right in his alternative submission that Lotlikar’s activities will have to abide by the permission dated 3.2.20.”

27. If the Petitioner is right and if Lotlikar has to abide by the permission dated 3.2.20 he cannot do reconstruction. He could only do repair work of the existing hut and no more. The above finding of the Court is reiterated in paragraph 18:

“According to us, there is common ground that Lotlikar will have to abide by permission dated 3.2.20 and cannot travel beyond the same.”

28. If Lotlikar cannot travel beyond the permission only to repair and specifically not to do reconstruction how could the High Court direct in para 20 that construction could be done, especially when all the clearances referred to were made between 2015 and 2019 by Departments of the State who colluded with Lotlikar and all these clearances were prior to the DG ASI, Delhi, prohibition on reconstruction dated 3.2.20 which was the last word on the subject.

29. Hence This Special Leave Petition

## LIST OF DATES AND EVENTS

Date	Events
08.05.2015	<p>Sale deed executed between Mr. Jose Maria De Gouveia Pinto, Mrs. Marie Christine Gouveia Pinto, Miss Maria Lizette De Abreu Goveia Pinto and Mrs. Manish Navratn Munot.</p> <p>True and typed copy of the First Sales Deed between Mr. Jose Maria De Gouveia Pinto and Mr. Manish Navrathn Munot dated 8.5.2015 is Annexed as Annexure P-1 in page no. 48-58</p>
08.05.2015	<p>Sale deed executed between Mr. Jose Maria De Gouveia Pinto, Mrs. Marie Christine Gouveia Pinto, Miss Maria Lizette De Abreu Goveia Pinto and Mrs. Suvarna Suraj Lotlikar.</p> <p>True and typed copy of the Second Sales Deed between Mr. Jose Maria De Gouveia Pinto and Suvarna Suraj Lotlikar dated 8.5.2015 is Annexed as Annexure P-2 in page no. 59 to 68</p>
07.09.2015	<p>Application for N.O.C. for the reconstruction of the existing house made by Jose Marie de Gouveia Pinto addressed to Member Secretary, Goa Coastal Zone Management Authority, Goa.</p>

True and typed copy of the application for N.O.C. for the reconstruction of the existing house made by Jose Marie de Gouveia Pinto addressed to Member Secretary, Goa Coastal Zone Management Authority, Goa: Dated 07.09.15 is Annexed as Annexure P-3 in page no. 69 to 70

28.10.2015 Report by ASI Goa Circle of the NOC for repairs/reconstruction of the existing house of Mr. and Mrs. Pinto at no.57 under Survey No.4/1 of village Ella, Tiswadi, Old Goa.

True and typed copy of the ASI Goa Circle Report of the NOC for repairs/reconstruction of the existing house of Mr. and Mrs. Pinto at no.57 under Survey No.4/1 of village Ella, Tiswadi, Old Goa dated 28.10.2015 is Annexed as Annexure P-4 at page no. 71 to 76.

11.11.2015 Site Inspection Report made by the Goa Coastal Zone Management Authority.

True and typed copy of the Site Inspection Report made by the Goa Coastal Zone Management Authority dated:

11.11.15 is Annexed as Annexure P-5 at page no. 77 to 78

28.12.2015 NOC/Approval for proposed reconstruction of the existing house bearing house no. 57 Survey no. 4/1 of Ella Village,

Tiswadi Taluka issued by the Goa Coastal Zone Management Authority.

True copy of the NOC/Approval for proposed reconstruction of the existing house bearing house no. 57 Survey no. 4/1 of Ella Village, Tiswadi Taluka issued by the Goa Coastal Zone Management Authority dated 28.12.2015 is Annexed as Annexure P-6 at page no. 79 to 80

04.01.2016 Architect and Interior Designer issued The certificate of Conformity with Regulations . True copy of the certificate of Conformity with Regulations issued by the Architect and Interior Designer dated: 04.01.2016 is Annexed as Annexure P-7 at page no.81 to 82

08.01.2016 The Structural Liability Certificate issued by Structural Engineer.

True copy of the Structural Liability Certificate issued by Structural Engineer dated 08.01.2016 is Annexed as Annexure P-8 at page no. 83

21.06.2016 The comments on the minutes of the 12<sup>th</sup> meeting of the Conservation Committee issued by the Archaeological Survey of India, Goa Circle.

True copy of the comments on the minutes of the 12<sup>th</sup> meeting of the Conservation Committee issued by the Archaeological Survey of India, Goa Circle, dated: 21.06.2016 is Annexed as Annexure P9 at page no. 84 to 85

07.10.2016 The proposal of reconstruction of existing house in property bearing Survey no. 4/1 from the office of the Chief Town planner and Member Secretary of Conservation Committee, Goa.

True copy of the proposal of reconstruction of existing house in property bearing Survey no. 4/1 from the office of the Chief Town planner and Member Secretary of Conservation Committee, Goa dated: 07.10.2016 is Annexed as Annexure P-10 at page no. 86 to 88

18.10.2016 The Technical Clearance order issued by the Town and Country Planning Department; Goa. True copy of the Technical Clearance order issued by the Town and Country Planning Department; Goa dated: 18.10.2016 is Annexed as Annexure P-11 page no. 89 to 92

14.11.2016 The Construction licence issued by the Village Panchayat SE-Old-Goa.

True copy of the Construction licence issued by the Village Panchayat SE-Old-Goa dated: 14.11.2016 is Annexed as Annexure P-12 page no. 93 to 97

16.11.2018 Report by the ASI, Goa Circle on application for permission for the repairs of dilapidated hut.

True and typed copy of the application for permission of repair of existing residential house in Survey No.4/1 of Village Ella (Old Goa), Goa made by the original owner to the Director ASI India dated 16.11.2018 is Annexed as Annexure P-13 at page no. 98 to 111

19.12.2018 The reply by the ASI, Delhi to the application for permission of repairs of existing residential house in Survey No. 4/1 of village Ella (Old Goa), Goa made by the original owner

True and typed copy of the reply by the ASI, Delhi to the application for permission of repairs of existing residential house in Survey No. 4/1 of village Ella (Old Goa), Goa made by the original owner dated 19.12.2018 is Annexed as Annexure P-14 at page 112

04.01.2019 Application made by the original owner addressed to the Director General, Archaeological Survey of India, Delhi for

permission of Repairs of existing residential house in Survey No.4/1 of Village Ella (Old Goa), Goa. True copy of the Application made by the original owner addressed to the Director General, Archaeological Survey of India, Delhi for permission of Repairs of existing residential house in Survey No.4/1 of Village Ella (Old Goa), Goa. Dated 4.1.2019 is Annexed as Annexure P-15 at page 113 to 116

03.02.2020 The permission for repairs to existing residential house in Survey No. 4/1 of village Ella (Old Goa) issued by the Director Archaeological Survey of India, Delhi subject to conditions to Respondent No. 8. True and typed copy of the permission for repairs to existing residential house in Survey No. 4/1 of village Ella (Old Goa) issued by the Director Archaeological Survey of India, Delhi subject to conditions to Respondent No. 8 dated 03.02.2020 is Annexed as Annexure P-16 at page no. 117 to 118

11.02.2020 The Letter issued by the Superintending Archaeologist, ASI, Goa for the permission for repair.

True and typed copy of the Letter issued by the Superintending Archaeologist, ASI, Goa for the permission

for repair 11.2.2020 is Annexed as Annexure P-17 at page no. 119

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- 19.02.2020 The reply made by Respondent No.8 addressed to ASI, Goa.  
True and typed copy of the reply made by Respondent No.8 addressed to ASI, Goa dated: 19.02.2020 is Annexed as Annexure P-18 at page no.120 to 121
- 12.03.2020 Letter of Senior Conservation Assistant, ASI, Goa Circle against the unauthorized Construction.  
True and typed copy of the letter citing unauthorized construction activity against the approval of the Competent Authority addressed to Respondent No.8 dated 12.3.2020 is Annexed as Annexure P-19 at page no. 122 to 125
- 16.03.2020 Letter of Senior Conservation Assistant, ASI, Goa Circle warning of taking legal action for not abiding 12.03.2020 order of ASI.  
True and typed copy of the letter “Violation of permission for repair” issued by ASI Goa dated 16.3.2020 is Annexed as Annexure P-20 at page no. 126 to 127
- 17.03.2020 Inspection report of the ASI, Goa Circle.

True and typed copy of the Inspection Report by the Dy S.A. Archaeological Survey of India, Goa dated 17.03.2020 is annexed as Annexure P-21 at page 128 to 134

18.03.2020 Letter of Superintending Archaeologist, ASI, Goa Circle to Director (Monument II), Delhi informing about the site inspection report. True and typed copy of the forwarding site inspection report sent by the Superintendent Archaeologist, ASI Goa dated 18.3.2020 is Annexed as Annexure P-22 at page no. 135 to 137

23.03.2020 Letter of Superintending Archaeologist, ASI, Goa Circle against the violation of permission for repairs. True and typed copy of the letter from the ASI, Goa addressed to the Respondent No 8 for violation of permission for repair dated 23.3.2020 is Annexed as Annexure P-23 at page 138 to 139

02.06.2020 The letter for permission for repairs to the existing residential house by the ASI Goa Circle to the respondent no. 8. True and typed copy of the letter for permission for repairs to the existing residential house by the ASI Goa Circle to the respondent no. 8 dated 2.06.2020 is Annexed as Annexure P-24 at page no. 140 to 141

.08.2020 Respondent No. 8 filed WP No: 132 before the High Court of Bombay at Goa.

True copy of the Writ Petition vide No. LD-VC-CW-132-2020 filed by Respondent no.8 dated nil August 2020 is Annexed as Annexure P-25 at page no. 142 to 169

18.09.2020 Respondent No. 1, 3, 4, & 5 filed Counter Affidavit in Writ petition no. LD-VC-CW-132-2020.

True copy of the Counter Affidavit filed on behalf of Respondent No. 1, 3, 4, & 5. In Writ petition no. LD-VC-CW-132-2020 Dated 18.09.2020 is Annexed as Annexure P-26 at page no. 170 to 172

22.09.2020 Impugned Order passed by the Hon'ble High Court of Bombay at the bench of Goa in WP: LD-VC-CW-132-2020 which held that "(b) To quash and set aside the letter dated 3<sup>rd</sup> March, 2020, 12<sup>th</sup> March, 2020, 16<sup>th</sup> March 2020, 23<sup>rd</sup> March, 2020 and 02<sup>nd</sup> June, 2020 issued by the Respondents No.4 and 5 by which the permission granted by the Respondent No.3 has been restricted only to the extent of repairs of the "hut";"

## IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW-132-2020

Suvarna Suraj Lotlikar,

C/o. Gopi Mhamal,

Manasa Sarovar, 1st Level,

Near Govt. Circuit House,

Altinho, Panaji, Goa 403 401.

.....Petitioner.

Versus

1. Union of India,

through the Secretary,

Department of Archaeology,

New Delhi;

2. The State of Goa, through

its Chief Secretary,

Alto, Porvorim, Goa.

3. The Archaeological Survey of India,

Through its Director (Monuments-II),

Government of India, Dharohar Bhavan,

24 Tilak Marg, New Delhi;

4. The Superintendent Archaeologist,  
The Archaeological Survey of India,  
Government of India, Goa Circle,  
Church Complex, Old Goa;

5. The Senior Conservation Assistant,  
The Archaeological Survey of India,  
Government of India, Goa Circle,  
Church Complex, Old Goa;

6. The Office of Chief Town Planner &  
Member Secretary of Conservation  
Committee, Town and Country Planning  
Department; 2nd Floor, Dempo Towers,  
Patto Plaza, Panaji, Goa;

7. The Village Panchayat Se-Old Goa,  
through the Secretary,  
Old Goa, Tiswadi, Goa. .... Respondents.

Mr. Dattaprasad Lawande, with Mr. P. Dangui, Advocates for the  
Petitioner.

Mr. Raviraj Chodankar, Central Govt. Standing Counsel for Respondents No.1, 3, 4 and 5.

Mr. D.J. Pangam, Advocate General with Ms. Maria Correia, Addl. Govt. Advocate for Respondents No. 2 and 6.

Mr Pankaj Vernekar, with Mr. B. Fatarpekar, Advocate for Respondent No.7.

Coram : M.S. Sonak & Smt. M.S. Jawalkar, JJ.

Date : 22<sup>nd</sup> September, 2020.

**ORAL JUDGMENT: - (Per M.S. SONAK, J.)**

Heard Mr. D. Lawande for the Petitioner, Mr. Ravi Chodankar, learned Central Government Standing Counsel for Respondents No. 1, 3, 4 and 5, Mr. Pangam, the learned Advocate General along with Ms. Maria Correia, Addl. Govt Advocate for Respondents No.2 and 6 and Mr. Vernekar, for Respondent No.7.

2. Rule. At the request of and with the consent of the learned Counsel for the parties, Rule is made returnable forthwith.

3. The Petitioner claims to be the co-owner of an area of 2400 sq. metres of property bearing Survey No.4/1 of Village Ela (Old Goa), Tiswadi, Goa, (hereinafter referred to as the said property). It is the case of the Petitioner that in the said property, there is a structure admeasuring 397 sq. metres, which was put up prior to 1932 (the said structure).

4. It is the case of the Petitioner that the said structure was indicated in the old Cadastral Survey Plan prepared and promulgated in the year 1932 at serial No.35. The Petitioner has produced on record a certificate from the survey authorities stating that the property surveyed under No.4/1 of Village Ela (Old Goa) corresponds to the old Cadastral Survey No.35.

5. From the returns filed by and on behalf of Respondents No.1, 3, 4 and 5, who are really the contesting respondents in this matter, there is no dispute as regards the existence of the said structure and its reflection in both, the old as well as the new survey records. In fact, all the material averments in the Petition in relation to the said structure, its dimensions and area have not even been seriously traversed by the contesting Respondents in the return filed by them.

6. It is further the case of the Petitioner that sometime in the year 1986, the predecessor-in-title of the Petitioner applied for and obtained permissions from the Village Panchayat of SE Old Goa for carrying out repairs to the said structure and on the basis of the same, actually carried out some repairs to it. It is further the case of the Petitioner that despite the repairs, by passage of time, the said structure suffered dilapidation and, therefore, was in need of repairs and renovation.

7. The Petitioner, therefore, applied for and obtained from the following authorities permissions/approvals/NOCs to undertake the repairs and renovation to the said structure :

(a) Approval dated 28/12/2015 issued by the Goa Coastal Zone Management Authority (page 73 of the paper book);

(b) Approval/NOC from the Conservation Committee of the Town and Country Planning Department dated 7/10/2016 (page 74 of the paper book);

(c) Plans approved by the Conservation Committee of the Town and Country Planning Department (page 75 of the paper book);

(d) Technical clearance order dated 18/10/2016 issued by the Town and Country Planning Department (page 76 of the paper book);

(e) Construction licence dated 14/11/2016, issued by the Village Panchayat of SE Old Goa (pages 78-80 of the paper book); and

(f) Renewal of Construction Licence dated 4/10/2019 issued by the Village Panchayat of SE Old Goa (page 81 of the paper book).

8. Since the said structure which is now proposed to be repaired and renovated, is at a distance of about 110 metres from the protected monuments under The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (said Act), the Petitioner armed with all the aforesaid

permission/approvals/NOCs, applied to Respondent No.3 for necessary permissions in terms of Section 19 of the said Act.

9. Section 19 of the said Act, inter alia, provides that no person, including the owner or occupier of a protected area, shall construct any building within the protected area or carry on any mining, quarrying, excavating, blasting or any operation of a like nature in such area, or utilise such area or any part thereof in any other manner without the permission of the Central Government.

10. There is no dispute in the present case that Respondent No.3 was the competent authority to entertain and dispose of the applications under Section 19 of the said Act. The record clearly indicates that along with the application, which was in warded under No.31807 dated 4/1/2019, several documents, including the permissions/ approvals/NOCs referred to above, were enclosed for consideration of Respondent No.3. Besides, in the application, a clear idea was given to Respondent No.3 about the present condition of the existing structure, as well as its dimensions. In the application, it was stated that permission, if granted, will in no manner harm the archaeological monuments in the vicinity.

11. Since the application in warded under No.31807 dated 4/1/2019 made to Respondent No.3 is the basis of the permission dated 3/2/2020, ultimately issued by Respondent No.3, it is only appropriate that the entire contents of the application in warded on 4/1/2019 are transcribed below for convenience of reference.

“Inward No:-31807 : dt – 4/1/2020

From :

Jose Maria de Gouveio Pinto,  
C/o Gopi Mhamal, Manasa Sarovar,  
1<sup>st</sup> level, Near Govt. Circuit House,  
Altinho, Panaji Goa – 403001.

Date :

To

The Director General,  
Archaeological Survey of India,  
Dharohar Bhavan,  
24 Tilak Marg. New Delhi.

Sub: Application for permission of Repairs of existing  
residential house in Survey No.4/1 of Village Ella (Old

Goa), Goa.

Respected Madam,

We have an ancestral property bearing Survey No. 4/1 of village Ella in Tiswadi Taluka. This property has our ancestral house bearing House No. 57 registered with the Gram Panchayat. This house was built in the 19<sup>th</sup> century; Old cadastral map of Goa, prepared in 1932 shows this house and the true copy of the same map is attached herewith for your reference. New Survey Plan and Form I and XIV, receipts of home tax paid have also been attached.

Further, this house was repaired and renovated in 1986 after obtaining permission from the Gram Panchayat. Application made by us and the NOC issued by Gram Panchayat are attached herewith in support of the above statement. Unfortunately in the year 1992 the said house collapsed due to the cyclone which hit Goa. Since then we were forced to live in the rented premise in spite of having ancestral property and dilapidated house. Due to lack of financial capabilities the work of repairs was not taken up, but now in our old age and for our future generation, we have decided to repair the ancestral house. As there is emotional attachment with this place, our new and old generation wants to cherish the same.

We had made application to various concerned departments such as Gram Panchayat, Town and Country Planning Department, CRZ, National

Monuments Authority, Conservation Committee of TCP etc. After a long exercise of documentation and follow ups, we have managed to obtain necessary permission from Gram Panchayat of Ella (Old Goa), Clearance from Town and Country Planning Department. CRZ etc. Since the said property has been marked as Preservation Zone (Conservation), the proposal was discussed in the Conservation Committee of the Town and Country Planning Department. This committee approved the proposal subject to NOC from National Monuments Authority.

When the files were submitted to the Competent Authority for the state of Goa, nominated under National Monuments Authority processed the file, it was brought to our notice from the Site Inspection Report of the Archaeological Survey of India, that repairs of the house is permissible but the application needs to be made to the office of the Director General, Archaeological Survey of India, New Delhi, and hence we are requesting you to grant us the permission for repairs of the existing house as per the plans approved by Town and Country Planning Department. CRZ and Conservation Committee.

We state that, the proposed repairs of the house which is in dilapidated condition will not harm in any way the archaeological monuments in the vicinity. We also make following things clear to convey that heritage value of this place will not be affected based on following points:

a) Physical impact: Since our house is located beyond 110 mtrs from both the protected monuments i.e. Viceroy's Arch and St. Cajetan Church at Old-Goa. there will be no physical impact on the archaeological monuments or remains.

b) Visual Impact: Our house is surrounded by coconut plantation and few modern structures hence visually both the monuments will not be affected from visual integrity point of view.

c) Aesthetic impact: Our plans have been approved by the Conservation Committee and CRZ which are as per the local architectural and heritage values to match with the aesthetic integrity of the place.

A copy of the letter addressed to your office by the Competent Authority for the State of Goa who is also Chief Town Planner of the Town and Country Planning Department as well as Member Secretary of the Conservation Committee has also been attached for your consideration.

Since our house has almost fallen and we want to repair it, requesting you to grant us the permission so that we can complete the work before monsoon. You are also requested to expedite the matter, since I have obtained other required permissions and even the site inspection of ASI, Old Goa is also done in this matter.

Following Documents have been attached for your reference:

1. Ownership Documents

2. Old Cadastral Map showing tour ancestral House (1932 Maps)
3. Form I and XIV
4. Survey Plan issued by Department of Survey of Land Records, Government of Goa
5. Application and NOC from Gram Panchayat for Repairs of the House in 1986.
6. Receipt of House Tax paid 1986, and a recent one.
7. Plans approved and approvals by CRZ and Conservation Committee of TCP, Goa.
8. Structural Stability Certificate.
9. Site Inspection Report of ASI, Old Goa.
10. Photograph of the existing structure proposed for repairs.
11. Photographs showing nearest Monument
12. Photographs showing nearby modern structures.
13. Drawings for proposed repairs.
14. Copy of the letter from the office of Competent Authority for the State of Goa/Chief Town Planner/  
Member Secretary of Conservation Committee, TCP. Goa.

Thanking you,

Yours faithfully,

Sd/-

Jose Maria de Gouveia Pinto

Maria Linette de Abreue Gouveia Pinto”

12. Respondent No.3, upon due consideration of the application dated 4/1/2019, issued the permission dated 3/2/2020 as contemplated by Section 19(1) of the said Act to the Petitioner.

13. Mr. Lawande, the learned Counsel for the Petitioner made it clear that the Petitioner has absolutely no grievance with the permission dated 3/2/2020 issued by the competent authority i.e. Respondent No.3. But the grievance of the Petitioner is to certain actions/communications by Respondents No.4 and 5, who are the officers subordinate to Respondent No.3 who, according to Mr. Lawande, are bent upon misconstruing the permission dated 3/2/2020 and, on the said basis, obstructing the Petitioner from proceeding to undertake the repairs and renovation of the existing structure, consistent with the permissions granted by all the prescribed authorities, including Respondent No.3.

14. In order to appreciate Mr. Lawande's contention, we deem it appropriate to transcribe the permission dated 3/2/2020, issued by Respondent No.3 who is, admittedly, the competent authority in terms of Section 19(1) of the said Act:

“F.NoT-19034/46/2018-M

Government of India

Archaeological Survey of India

“Dharohar Bhawan”

24 Tilak Marg, New Delhi

dated 03 FEB 2020

To

Smt. Suvarna Suraj Lotlekar,

C/o. Gopi Mhamal,

Manasa Sarovar,

1<sup>st</sup> level, Near Govt. Circuit House,

Altinho, Panaji, Goa-403 401.

Sub: Permission for repairs of existing residential house in Survey No.4/1 of Village Ella (Old Goa) Goa -reg.

With reference to your letter dated nil on the subject cited above, I am to communicative approval of the Competent Authority for taking up repairs of house located in the protected area of two centrally protected monuments i.e. Church of St. Cajetan and Viceroy's Arch, Old Goa.

The permission is further subject to following conditions:

1. The repair work should be taken up in consultation with the Superintending Archaeological (I/c.) ASI, Goa Circle.
2. The exterior colour should match with the monument.
3. There shall be no change in the facade design.
4. There shall be no building material stacked on the road side or near the monument.
5. There shall be no inconvenience to visitors.
6. It should be ensured that no damage is caused to ancient/archaeological structures within the monument area.
7. The provisions of AMASR Act, 1958 and Rules, 1959 made there under shall be observed.
8. If any object of antique nature is found during the course of work, it has to be submitted to SA (I/c) immediately.
9. There should not be any variation in length, breadth and height of the structure after repairs in compassion to the existing dimensions.
10. SA (I/c) Goa circle would keep a strong watch on the repair work, documents it periodically and would submit fortnightly report to this office.
11. The permission does not cover reconstruction.

Yours sincerely

Sd/-

Arvin Manul

Director (Monuments-II)

Copy to: The Superintending Archaeologist (/C),  
Archaeological Survey of India, Goa Circle for information  
and necessary action please”.

15. As noted earlier, the Petitioner's grievance is against the communications dated 12/3/2020, 16/3/2020, 23/3/2020, and 2/6/2020 issued by Respondents No.4 and 5, obstructing the Petitioner from undertaking repairs and renovation, consistent with the permissions/approvals/NOCs issued by all the prescribed authorities, including Respondent No.3.

16. With the assistance of Mr. Lawande, the learned Counsel for the Petitioner, and Mr. Chodankar, the learned Central Government Standing Counsel for Respondents No.1, 3, 4 and 5, we have perused the aforesaid communications. The communication dated 12/3/2020 requires the Petitioner to remove the poles erected at the site of the said structure within 24 hours. The communication dated 16/3/2020, once again requires removal of such poles and informs the Petitioner that the permission granted is restricted only for repairs to the existing hut, without any horizontal or vertical expansion. The communication dated 23/3/2020, one again reiterates that the permission dated 3/2/2020 relates to repairs to the existing structure/existing house (hut). This communication also requires the

Petitioner to submit several documents, including approved plans, photographs and requires the Petitioner to maintain status quo until all this is complied with. The Petitioner is once again directed to remove the poles within 24 hours. The final communication dated 2/6/2020 responds to the responses of the Petitioner and requires the Petitioner to arrange for a joint inspection. In this communication, it is stated that the photograph, plan and the elevation submitted to the office, is found to be bogus as, in reality only a small hut exists in the proposed site. This final communication states that no further communication in this regard will be entertained by Respondents No.4 and 5 until the Petitioner submits the documents as desired by the said officers.

17. The impugned communications have been sent by K. Amarnath Ramakrishna, Superintending Archaeologist i.e. Respondent No.4 to this Petition. The affidavit-in-reply to this Petition has also been filed by the very same officer on behalf of Respondents No.1, 3, 4 and 5.

18. The affidavit filed by Respondent No.4 runs in all, into 7 paragraphs only. There are neither specific denials to the case set out by the Petitioner in the Petition, nor is there any serious defence of the impugned communications dated 12/3/2020, 16/3/2020, 23/3/2020, and 2/6/2020.

19. In paragraph 1 of the affidavit affirmed on 15/9/2020. The affiant has stated that he has been duly authorised to swear the counter affidavit and the counter affidavit is filed by him in his official capacity on behalf of Respondents No.1, 3, 4 and 5.

20. In paragraph 2 of the affidavit, the affiant has stated that he has read the petition and has understood the true meaning and purport thereof.

21. In paragraph 3 of the affidavit, the affiant has stated that the allegations and averments in the Petition against the answering Respondent are not admitted and deemed to have been denied, except those which are specifically admitted by the answering Respondent. In this paragraph it is also stated that the reply is to oppose the Petition at the admission stage and the affiant reserves liberty to file a detailed reply. However, when the matter was taken up, consent was granted for final disposal of the Petition and no further time was sought to file any reply. Further, this reply was filed after seeking time on two to three occasions and, therefore, nothing prevented filing of the detailed reply, if indeed, Respondent No.4 was serious of defending the impugned communications.

22. In paragraph 4, the affiant has pointed out that as per Section 19 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (AMASR Act, 1958), the protected area needs to be maintained and for any

kind of construction related activity, the due permission of the Central Government is mandatory.

23. In paragraph 5, the affiant has admitted that permission for repairs to the existing residential house in survey No.4/1 of Village Ela (Old Goa), Goa which falls within the protected area, was communicated to the Petitioner by Respondent No.3 on 3/2/2020. This paragraph then quotes the conditions subject to which such permission was granted by Respondent No.3 and further, in paragraph 6, a copy of the permission letter dated 3/2/2020 is attached as Exhibit 1.

24. Finally, in paragraph 7, the affiant has made a very general, omnibus and vague statement, which reads as follows :

“7. That anything done which is beyond the conditions stipulated in permission letter is illegal and clear violations of the rules/act and invites action as per the statute. In view of the foregoing submissions as well as rules and regulations as mentioned herein above, the Petitioner is not entitled for any relief from this Hon'ble High Court. Hence it is respectfully prayed that the Hon'ble Court may be pleased to dismiss the instant Writ Petition being devoid of any merit and to meet the end of justice.”

25. Now, Mr. Lawande, the learned Counsel for the Petitioner has made it abundantly clear that the Petitioner is neither undertaking any activity beyond the conditions in the permissions/approvals/NOCs issued by various authorities, including the permission dated 3/2/2020 issued by Respondent No.3, nor does the Petitioner intend to do so. However, Mr. Lawande submits that in the guise of exercising supervision, Respondents No.4 and 5 have no powers or authority to either misconstrue the permissions already granted or introduce further conditions which virtually have the effect of obstructing the Petitioner from undertaking the works, consistent with the permissions granted by several authorities, including Respondent No.3

26. The contention of Mr. Lawande deserves acceptance in the facts and circumstances of the present case. As was pointed out earlier, the Petitioner has obtained permissions from every single authority by disclosing the factual position at the site. The Goa Coastal Zone Management Authority, Conservation Committee of the Town and Country Planning Department, other officials of the Town and Country Planning Department and the Officials of the Panchayat have already issued the clearances and approvals to the proposed works of the Petitioner. There are approved plans placed on record by the Petitioner which have not been disputed by any of the Respondents. In fact, the learned Advocate General and Mr. Vernekar, submitted that the Authorities whom they represent, have issued the

necessary permissions, approvals or clearances to the proposed work of the Petitioner.

27. The record indicates that it is only after the Petitioner obtained permission/clearance/NOCs from all such authorities that the Petitioner applied to Respondent No.3 i.e. the competent authority for necessary permission under Section 19 of the said Act. As noted earlier, along with the application, the Petitioner enclosed copies not only of the title documents, but all such permissions granted by several authorities in relation to the proposed works. Therefore, it is reasonable to proceed on the basis that it is only upon consideration of all such material, including the plans approved by various authorities that Respondent No.3 issued the permission dated 3/2/2020 in terms of Section 19(1) of the said Act.

28. Once the aforesaid position is accepted, the role of Respondents No.4 and 5, who are admittedly the authorities/officers subordinate to Respondent No.3, can be only restricted to supervise whether or not the Petitioner is undertaking the works consistent with the plans approved by various authorities, which form the basis of the permission dated 3/2/2020 issued by Respondent No.3.

29. In this case, significantly, Respondent No.3 has not filed any affidavit, opposing the grant of any reliefs to the Petitioner. No doubt, the affidavit

filed by Respondent No.4 is also on behalf of Respondent No.3. However, even the Respondent No.4 has merely transcribed the conditions, subject to which the permission dated 3/2/2020 was issued by Respondent No.3. If, Respondent No.3, was of the opinion that permission was not due to the Petitioner to undertake the repair works consistent with the various permissions/ approvals/NOCs and the plans approved by the authorities like Conservation Committee, the Town and Country Planning Department, Goa Coastal Zone Management Authority, or the Panchayat, Respondent No.3 might have not issued the permission dated 3/2/2020, or might have required the Petitioner to submit fresh plans for approval.

30. The permission dated 3/2/2020 issued by Respondent No.3 was in response to the Petitioner's application inwards on 4/1/2019 in which the Petitioner had made all disclosures with regard to the existing position of the said structure, its dimensions, as well as area. The Petitioner had also furnished several documents in support of these particulars. It is only reasonable to proceed on the basis that the permission dated 3/2/2020 was issued by Respondent No.3 after considering all these factors.

31. In the aforesaid circumstances, Respondents No.4 and 5 were not justified in issuing the impugned communications which, to some extent, seek to virtually reopen or revisit the permission dated 3/2/2020 which was issued by the competent authority, who is incidentally an officer superior to

Respondents No.4 and 5. Under the guise of supervision, Respondents No.4 and 5 could not have usurped such powers unto themselves and issued the impugned communications. In particular, we neither understand, nor appreciate the demand for title documents, or styling of the said structure as some 'hut', or requiring the Petitioner to restrict the works to the 'hut'. In issuing such communications, an impression is created that Respondents No.4 and 5 seek to travel beyond the permission issued by their superior i.e. the competent authority under Section 19(1) of the said Act. An impression is created that Respondents No.4 and 5 were misconstruing, if not ignoring the several permissions/approvals placed on record by the Petitioner, which permissions/approvals form the basis of the permission dated 3/2/2020, issued by Respondent No.3. For all these reasons, the impugned communications are liable to be set aside.

32. Mr. Chodankar, the learned Central Government Standing Counsel, in the course of his arguments, however, tried to explain that the communications were being misconstrued by the Petitioner. He pointed out that Respondents No.4 and 5 had absolutely no intention of sitting in judgment over the permission dated 3/2/2020 issued by their superior officer – Respondent No.3. He, however, pointed out that in terms of the permission dated 3/2/2020, repair works have to be taken up in consultation with the Superintending Archaeologist i.e. Respondent No.4. This is the reason why Respondent No.4, vide the impugned communication had merely required

the Petitioner to furnish the documents like approved plans, so that Respondents No.4 and 5 can effectively supervise and ensure that the works are indeed carried out in accordance with such approved plans.

33. Mr. Chodankar pointed out that even the permission dated 3/2/2020 requires the exterior colour should match with the monument or that there should be no change in the facade design. He points out that in terms of the permission dated 3/2/2020, the Petitioner can undertake repairs only on the existing plinth and there is no question of the Petitioner putting up any new structure in the said property. He submits that it is only in order to ensure all this, the impugned communications were issued by Respondents No.4 and 5.

34. Whilst we appreciate the contentions of Mr. Chodankar, at least, the contents and the tenor of the impugned communications do not reflect that they were issued by Respondents No.4 and 5 only for the purposes referred to by Mr. Chodankar, the learned Standing Counsel for the Central Government. Be that as it may, if the purpose of issuing the impugned communications was as submitted by Mr. Chodankar, then, some suitable observations are necessary to protect such purposes, now that the impugned communications are to be set aside.

35. Mr. Chodankar pointed out that the permission dated 3/2/2020 issued by Respondent No.3 inter alia, requires the Petitioner to ensure that the exterior colour of the said structure should match with the monument and there should be no change in the facade design. He points out that there is a condition that no building material is stacked on the road side near the monument, so that there is no inconvenience to the visitors. There is also a condition that the Petitioner whilst undertaking the works, should not cause any damage to the ancient/archaeological structures within the monument area. Mr. Chodankar submits that all these are absolutely reasonable conditions which are binding upon the Petitioner. Consequently, Respondents No.4 and 5 who are to supervise the works, have every right for insisting upon the compliance with such conditions since they are for the protection of the monuments in the area.

36. There is nothing wrong in the conditions referred to by Mr. Chodankar as are indeed to be found in the permission dated 3/2/2020 issued by Respondent No.3. Further, as correctly pointed out by Mr. Chodankar, Respondents No.4 and 5 would be acting well within the scope of their powers if they require the Petitioner to ensure that the exterior colour of the said structure matches with the monument and there is no change in the design of the facade as indicated in the approved plans. In particular, it is only appropriate that Respondents No.4 and 5 insist that the facade design is as approved by the Conservation Committee of the Town and Country

Planning Department. This is because, the Conservation Committee has expertise and addresses the issues like physical, visual and aesthetic impact which the said structure will have, upon the protected area. Similarly, Respondents No.4 and 5 will be entitled to require the Petitioner to ensure that in the course of works pursuant to the various approvals and the permission dated 3/2/2020, the Petitioner does not stack the building materials on the road side or near any protected monuments, so as to cause any inconvenience to the visitors to the said monuments. There is also obviously nothing wrong in the condition that the Petitioner must ensure that no damage is caused to the ancient/archaeological structures within the protected area. Therefore, if the scope of the impugned communications was indeed intended or restricted to these limited purposes, we do not think that even the Petitioner might have had any grievances against the same. In any case, we clarify that Respondents No.4 and 5 will be entitled to supervise the works, so as to ensure that the works proceed in accordance with the approved plans.

37. Mr. Chodankar, the learned Central Government Standing Counsel submits that even the documents which Respondents No.4 and 5 required the Petitioner to furnish, were only in order to ascertain the status of the approved plans, so that Respondents No.4 and 5 could ensure that the works proceed in accordance with the approved plans. He submits that there was

no intention to go behind the permission dated 3/2/2020 or to travel beyond the same.

38. Mr. Lawande, the learned Counsel for the Petitioner submits that all the relevant documents were furnished to Respondents No.4 and 5. In any case, he submits that all such documents which have now been furnished along with this Petition, duly served upon Respondents No.4 and 5. Without prejudice, he submits that all the documents referred to in the application inwards to the competent authority on 4/1/2019, will now again be made available to Respondents No.4 and 5 maximum within a period of two weeks from today. This statement is accepted.

39. Upon receipt of the aforesaid documents, Respondents No.4 and 5 will not cause any obstruction or hindrance to the Petitioner undertaking the works consistent with the approved plans by various authorities, including the Conservation Committee, Town and Country Planning Department, Goa Coastal Zone Management Authority and the Panchayat. This is because, even the permission dated 3/2/2020 issued by the competent authority and upon which Respondents No.4 and 5 rely, also in effect approves the works in accordance with such plans/approvals/NOCs, granted by such authorities. In fact, it is on the basis of consideration of such plans/ approvals/NOCs, that the competent authority issued its permission dated 3/2/2020.

40. However, taking into consideration the submissions made by Mr. Chodankar, the learned Central Govt. Standing Counsel, we clarify that though we are setting aside the impugned communications, Respondents No.4 and 5 will be entitled to supervise the works in order to ensure that such works are carried out by the Petitioner consistent with the NOCs and the approved plans issued by the Conservation Committee of the Town and Country Planning Department, Goa Coastal Zone Management Authority and the Panchayat. For this purpose, Respondents No.4 and 5 shall also be entitled to hold joint inspections at the site, from time to time. The Petitioner must, in fact, cooperate with Respondents No.4 and 5 in the course of such joint inspections to be held, with advance notice to the Petitioner.

41. Mr. Lawande, the learned Counsel for the Petitioner has also made a statement on behalf of the Petitioner that the Petitioner will adhere to the plans approved by the Conservation Committee of the Town and Country Planning Department and the NOCs issued by the Goa Coastal Zone Management Authority and the Panchayat, which form the basis of the permission dated 3/2/2020 issued by the competent authority i.e. Respondent No.3. We accept this statement

42. Accordingly, with the aforesaid clarification, we make the Rule absolute in terms of prayer clauses (a) and (b) of the Petition, which read as follows :

“(a) That this Hon'ble Court be pleased to direct the Respondent No.4 & 5 to allow the Petitioner to carry out the repairs and renovation of the structure which is reflected in cadastral survey plan (annexed at page 64) promulgated in the year 1932 bearing survey no.35(part); also reflecting in survey plan of property bearing survey no.4/1 of Ella Village Old Goa; structure H reflected in for I and XIV Form; and as per the approved plan by the Member Secretary Conservation Committee and Town and Country Planning Department, and plan submitted at page 75; and in terms of Permission dated 03.02.2020 granted by the Director (Monuments-II), the Archaeological Survey of India (Respondent No.3);

(b) To quash and set aside the letter dated 3<sup>rd</sup> March, 2020, 12<sup>th</sup> March, 2020, 16<sup>th</sup> March 2020, 23<sup>rd</sup> March, 2020 and 02<sup>nd</sup> June, 2020 issued by the Respondents No.4 and 5 by which the permission granted by the Respondent No.3 has been restricted only to the extent of repairs of the “hut”;

43. Taking into consideration the reasonable approach of Mr. Chodankar, the learned Central Government Standing Counsel, we think that this is not a fit case for imposition of any costs upon Respondents No.4 and 5.

44. All concerned to act on the basis of an authenticated copy of this order.

**Smt. M.S. Jawalkar, J**

**J. M.S. Sonak, J.**

## IN THE SUPREME COURT OF INDIA

[SCR ORDER XXI, RULE 3 (1) (a)]

## CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) No: OF 2021

[Under Article 136 of the Constitution of India]

(Arising out of Impugned Final Judgement and Order dated 22.09.2020 of  
the Hon'ble High Court of Bombay at Goa in

LD-VC-CW-132-2020)

(With Prayer for Interim Relief)

IN THE MATTER OF:

Sl.no	Between	Before the High Court of Bombay at Goa	Before this Court
1.	Save Old Goa Action Committee A society duly registered under the Societies registration Act having Regd No.1194/Goa/2011 With address at C/O Fatima Pereira, House No. 198/6, Calwaddo, Corlim, Tiswadi, Goa. Through its President Fatima Pereira, Aged 51 years, married, wife of Franklin Pereira, Indian national, House	Petitioner in Writ Petition 1153 of 2021	Petitioner No.1

	No. 198/6, Calwaddo, Corlim, Tiswadi, Goa		
versus			
1.	Union of India Through the Secretary, Ministry of Culture, Department of Archaeology New Delhi.	Respondent No.1	Respondent No.1
2.	The State of Goa Through its Chief Secretary Alto Porvorim Goa.	Respondent No.2	Respondent No.2
3.	The Archaeological Survey of India Through its Director (Monuments —II) Government of India, Dharohar Bhavan, 24 Tilak Marg, New Delhi.	Respondent No.3	Respondent No.3
4.	The Superintendent Archaeologist, The Archaeological Survey of India Government of India, Goa Circle, Church Complex Old Goa.	Respondent No.4	Respondent No.4
5.	The Senior Conservation Assistant, The Archaeological Survey of India Goa Circle Church Complex Old Goa.	Respondent No.5	Respondent No.5

6.	The Office of Chief Town Planner and Member Secretary of Conservation Committee, Town & Country Planning Department, 2 <sup>nd</sup> Floor, Dempo Towers, Patto Plaza, Panaji Goa.	Respondent No.6	Respondent No.6
7.	The Village Panchayat Se-Old Goa Through the Secretary Old Goa, Tiswadi Goa.	Respondent No.7	Respondent No.7
8.	Suvrana Suraj Lotlikar, Aged about 40 years, Indian National, wife of Suraj L. Lotlikar, C/O Gopi Mhamal, Manasa Sarover, 1 <sup>st</sup> Level Near Govt Circuit House, Altinho, Panaji—Goa 403 401.	Respondent No.8	Respondent No.8
9.	Goa Coastal Zone Management Authority, Through its Member Secretary, 4th Floor, Dempo Towers, Patto, Panaji, Goa	Respondent No.9	Respondent No.9

TO:

THE HON'BLE CHIEF JUSTICE AND HIS LORDSHIPS  
COMPANION JUSTICES  
SUPREME COURT OF INDIA.

HUMBLE PETITION OF  
THE PETITIONER HEREIN

MOST RESPECTFULLY SHOWETH:

1. This petition impugns the Final Judgement and Order dated 22. 09.2020 of the Hon'ble High Court of Bombay at Goa in LD-VC-CW-132-2020 by allowing prayers in the writ petitions to allow the Writ Petitioners to carry out the repairs and renovation of the structure by illegal construction, of a new building in the area not prescribed in the Schedule as per their sale deed.
- 1A. The Petitioner states that no LPA or Writ Appeal lies against the impugned order
- 1.B Two SLPs have been filed by the Petitioner. The first SLP Dairy No. \_\_\_\_-- is against the order dated 22.9.20 in LD-VC-CW-LD-VC-CW-132-2020 in which the Petitioner and the public opposed to this illegal construction were not made parties. The second SLP is against the order dated 3.5.21 in WP 1153 of 2021 in which the Petitioner herein was the Petitioner before the High Court.
2. QUESTION OF LAW:  
The Petitioner states that following question of law arise for consideration of this Hon'ble Court:

1. Whether the Petitioners are constrained to approach the Honorable High Court due to misrepresentation of facts by the respondent No. 8 before this Honorable Court in LD-VC-CW-132-2020, and thereby seeking to justify the illegal construction being carried out by the her in the portion of the property bearing Survey No. 4/1 of Village Ela (Old Goa), by depicting to the general public at large that the same has been permitted by the Honourable High Court and complete misrepresentation of facts and deliberate manipulation of permissions allegedly granted.
2. Whether the petitioners pleadings in the High Court that in a well-choreographed manner, without placing proper material on record and by misrepresentation and with the active connivance of the Respondent No. 2, 6, 7 and 9, the Respondent No. 8 has falsely declared that she has approvals for reconstruction of a house duly approved by the concerned authority.
3. Whether the Petitioner has in facts and in law pleaded that it is an admitted and undisputed fact that the said property bearing survey No. 4/1 of Ella Village (Old Goa) falls in the protected area as declared in the Gazette of India dated 1<sup>st</sup> June, 1968, and is therefore covered by the provisions of 'The Ancient Monuments and Archaeological Sites and Remains Act 1958' as amended, and the fact is also undisputed that in view of the same, local/State authorities have no jurisdiction to grant any permissions in areas falling within these zones.

4. Whether the respondent number 8 has taken permission from the respondent No.1 to 7 and 9 by misrepresenting the facts and sought to carry out a construction which is not in accordance with the final permission as granted by the competent authority which is the permission dated 3/02/2020 (Annexure P-16 at Page No.117 to 118) by the ASI, Director (Monuments- II) Delhi
5. Whether the Sale deed between Mr Jose Maria De Gouveia Pinto and Manish Navratn Munot dated 8.5.2015 (Annexure P-1 at Page No.48 to 58 describes) the total plot as:

“Schedule II

(Description of the Entire Property)

‘All that property forming part of the property described in Schedule I, having ancestral residential structure which is partly collapsed bearing H.No: 57 and admeasuring approximately 600 sq. m. The said property admeasuring 11,900 square meters bearing old cadastral Number 35 of the village Ella and bearing New Survey No 4/1 of Ella Village, Tiswadi Taluka, Sub District of Ilhas, District of Goa and being bounded on the whole as follows:

On the East by: Survey No 4/1A of Ella Village

On the West by: Public Road

On the North by: Public Road

On the South: Survey No 1/6.”

6. Whether the Sale deed between Mr Jose Maria De Gouveia Pinto and Manish Navratn Munot dated 8.5.2015 describes the sold plot as :

### SCHEDULE No.III

(Property Hereby Sold)

All that property demarcated as Plot A forming part of the entire property described in the Schedule No II, admeasuring 9500 square meters bearing old cadastral Number 35 of the village Ella and bearing New Survey No.4/1 (Part) of Ella Village, Taluka and sub District of Tiswadi, District of Goa., this property is having ancestral dilapidated residential house which is partly collapsed, bearing H.No.57 and admeasuring approximately 600 sq.m. The Property being bounded on the whole as follows:-

On the East by: PLOT B of same sub-divisions Survey No.4/1 (part)

On the West by: Public Road.

On the North by: Public Road and

On the South: Survey No.4/6.

7. Whether the Sale deed between Mr Jose Maria De Gouveia Pinto and Mrs. Survana Dyansesh Dange dated 8.5.2015 at Annexure P-2 at Page No. 59 to 68 describes the sold plot as :

Schedule No. II

(Property Hereby Conveyed-SAID PROPERTY)

All that property “Plot B” forming part of the property described in the Schedule No II, 2400 bearing old cadastral Number 35 of the village Ella and bearing New Survey No.4/1 (Part) of Ella Village, Taluka and sub District of Tiswadi, District of Goa along with a dilapidated structure ‘Loja’ to store coconuts existing therein. This Property is bounded as follows:-

On the East by: Survey No.4/1A of Village Ella,

On the West by: PLOT A of same sub-division Survey bNo.4/1 (part)

On the North by: Public Road and

On the South: Survey No.4/6.

8. Whether the portion of the property of the survey no. 4/1 Ella village Schedule III sale deed dated 08/05/2015 which admeasures 2400 sq. meters mentions is a dilapidated structure “Loja” which was used to store coconuts. As described in Annexure P-2 at Page No. 59 to 68.
  
9. Whether the respondent No. 8 has deliberately misrepresented facts that the area as allotted to her there is an existing house No. 57. However, as per the sale deeded 08/05/2015, the said portion where the house is mentioned is in Schedule No. II is situated in the 9500 square metres which has been sold to Manish Navratan Munot?

10. Whether there was a clear cut manipulation with local authorities including the Village Panchayat of Se Old Goa when the Regional Plan of Goa 2021 does not depict any structure, nor was the structure part of the village map.
11. Whether any structure as depicted in the survey plan is existing on site? If not who demolished them? Was it legal to demolish the old structure?
12. Whether the Respondent no.8 took permission to repair the structure which is present in the portion of the property for repairs?
13. Whether the application for repairs was applied by the Respondent No.8 or the original owner who sold the land in 2015, while the application for permission of repairs of existing residential house in Survey No.4/1 of village Ella (Old Goa), Goa dated 14.1.2019 (Annexure P-15 at Page No. 113 to 116) was in the name of Jose Maria de Gouveio Pinto c/o Gopi Mhamal, Manasa Sarovar, 1<sup>st</sup> Level, near Govt. Circuit House, Altinho, Panaji-Goa-403001?
14. Whether as per the provisions of The Ancient Monuments & Archaeological Sites and Remains Act 1958 section 19 sub section 1 and 2 no work can be carried out at the protected site by violating the permission issued by The Director General, Archeological Survey of India New Delhi?
15. Whether it is clear from the permissions granted by the ASI Delhi, was to only repair the same without rebuilding or altering the structure?

16. Whether the inspection conducted by the Local ASI, Goa verified that the statement of Respondent No. 8 is not only false but the photographs produced by her as the property in Survey No. 4/1 of Ella Village were of a House bearing No.240, Parcem Village, Percem Talulka as per the inspection report dated 17.3.2020 in Annexure P-21 is enough to established that the Respondent No.8 fraudulently misrepresent and manipulate the papers for permission to repair?
17. Whether it is clear in the minutes of the Conservation Committee meeting that all their approvals are subject to the approval by the ASI, and therefore it has been clearly understood that only the permission of ASI would prevail?
18. Whether Respondent No. 8 has filed a Writ Petition before the High Court of Bombay at Goa against the Superintendent Archeology ASI, Goa Circle and a Senior Conservative Assistant Goa Circle to stop the Respondent No. 8 from carrying out construction by erecting new poles of a totally new structure instead of repairing the existing structure?
19. Whether the Writ Petition LD-VC-CW-132-2020 do not pertain to the said Loja hut but to some structure said to be existing in property bearing Survey no 4/1 of Ella Village, which as per the deed of sale is supported to exist in the portion sold to Manish Munot?
20. Whether the permission granted by Conservation Committee the subjected to the approval of the national monument authority; wherein

the said area for which permission sought is a protected area and not a prohibited/regulated area.

21. Whether the High Court of Bombay at Goa has erred in passing the oral judgment in LD-VC-CW-132-2020 dated 22.9.2020 misrepresentation of fact made by the Respondent no. 8 showing that Respondent No.3 and 4 has granted the permission to demolished the existing 'Loja' by putting up new construction beyond the existing structure totally contrary the permission granted by the ASI 3.2.2020?
22. Whether the current construction is illegal and contrary to the permission and if allowed would have disastrous effect on the entire heritage areas and set a precedent for further construction in the area in complete violation with the Central Act meant for preservation and conservation of protected site?

3. DECLARATION IN TERMS OF RULE 3(2):

The Petitioner states that no other Petition seeking leave to appeal has been filed by against the impugned Judgement and Order dated 22.09.2020 of the Bombay High Court Bench at Goa in LD-VC-CW-132-2020.

4. DECLARATION IN TERMS OF RULE 5:

The annexures P-1 to P-26 produced along with the special Leave Petition are true copies of the Pleading/ documents which form part of the records of the case in the High Court against whose order the leave to appeal is sought for in this petition.

5. GROUNDS:

- a. That the actions of the respondent No 8 in misrepresenting to the general public and to the petitioners that their works being done illegally, without following proper procedure as established by law, without hearing the petitioner, holding out the order of the Honourable High Court to mean one giving sanction to the respondent No. 8 to construct a new structure which is illegal and malafide and ought to be stopped forthwith and stringent action be taken against the respondent 8 as this Honourable Court deems just in the circumstances of the present case.
- b. The actions of Respondent no.8 in misusing the order of the High Court is malafide.
- c. That in terms of section 19 of the Ancient Monuments and Archeological Sites and Remains Act, 1958 as amended, it was the ASI who is the final authority to grant the said approvals and has overriding powers to regulate all construction activated coming within the protected area as defined under the Act.
- d. That in the light of the overriding powers, the permissions have clearly mentioned that the same will not include reconstruction and will only entitle the respondent No. 8 to repair the structure in question.
- e. That the respondent No. 8 in her communications as well as in the petition has clearly accepted the permission as being the one dated 03/02/2020 (Annexure P-16 at page No. 117 to 118) as granted by the ASI and therefore being so, is not entitled to carry out reconstruction.

- f. That the permissions granted by the respondent no. 6 and 7 are illegal, arbitrary, malafide and perverse and totally contrary to law.
- g. That the respondent No. 8 in connivance with the respondent No. 7 and 8 and the local state authorities have misrepresented and held out that the portion as purchased by them contains the old house No. 57, whereas their document of title being the deed of sale in their favor clearly shows that the house is any, is situated in the portion as sold to Monish Munot, and their portion only contains the “Loja” which has no house number.
- h. The respondent No. 8 has fraudulently and maliciously misrepresented facts to the Honorable High Court in an attempt to mislead and misdirect the Honourable High Court.
- i. That the permissions as held out by the respondent No.8 to be that authorizing the construction being undertaken to him do not in any manner pertain to the portion or area as purchased by him and do not authorize the manner in which the construction is being undertaken, as the permissions strictly contain that it is specifically for repair and do not cover any reconstruction.
- j. That the construction if any ought to be demolished and the land and structure restored to its original size and plinth and all the existing dimensions as depicted in the photographs as annexed by the ASI in their reports of the structure be maintained.
- k. That the respondent no. 8 having acknowledged that the permissions are only for repair is now carrying out construction having demolished the

original structure, which is direct conflict and complete contradiction of the permission dated 03/02/2020 of the ASI and is therefore illegal and ought to be stopped and demolished.

- l. That the actions of the Respondent No.8 have caused a grave miscarriage of justice.
- m. That the malicious and malafide manner in which the respondent No. 8 is holding out the order of this Honourable High Court to be permitting the said construction itself speaks volumes
- n. That the subsequent actions of the respondent no. 8 has caused great prejudice to the Petitioner and the public at large since the construction is continuing in full swing to the detriment of the petitioners and the public at large as well as to the which would result in long term effects
- o. That the impugned permission and subsequent actions has caused great prejudice to the public as it will affect the heritage structure of Church.

6. **GROUND IN SUPPORT OF INTERIM RELIEF:**

That Petitioner has a very good case and there is every possibility of succeeding in this case and if during the pendency of the present SLP, suspension of the impugned order is not granted to the Petitioner, the Petitioner would suffer irreparable loss and injury

7. **MAIN PRAYER:**

The Petitioner prays before this Hon'ble Court, inter alia, for following reliefs:

- a. For grant of Special Leave to Appeal against the final order and judgment dated 22.09.2020 of the Hon'ble High Court of Bombay at Goa in Writ petition vide no LD-VC-CW-132-2020.
- b. For any other order or direction that this Hon'ble Court may deem fit and appropriate in the interest of justice

8. INTERIM PRAYER:

The Petitioner prays before this Hon'ble Court, inter alia, for following interim reliefs:

- a) Without prejudice to the contentions raised in this S.L.P., the impugned dated 22.09.2020 passed by the Hon'ble High Court of Bombay at Goa in Writ Petition vide no LD-VC-CW-132-2020 be kindly placed under suspension till the final disposal of the instant petition and interim stay be granted,
- b) Pass such further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER BE GRATEFUL.

Place: New Delhi

Filed on: 15.07.2021

Drawn by: Ms. Olivia Bang



Satya Mitra

Advocate for the Petitioner

IN THE SUPREME COURT OF INDIA  
[SCR ORDER XXI, RULE 3 (1) (a)]  
CIVIL APPELLATE JURISDICTION  
SPECIAL LEAVE PETITION (CIVIL) No:                      OF 2021

[Under Article 136 of the Constitution of India]  
(Arising out of Impugned Final Judgement and Order dated 22.09.2020 of  
the Hon'ble High Court of Bombay at Goa in

LD-VC-CW-132-2020)

(With Prayer for Interim Relief)

IN THE MATTER OF:

Save Old Goa Action Committee    ...Petitioners

VERSUS

Union of India & Ors    ...Respondents

CERTIFICATE

Certified that the Special Leave petition is confined only to the pleadings before the Court/ Tribunal whose order is challenged and the other documents relied upon in those pleadings. Additional facts, documents or grounds have been taken herein or relied upon in the Special Leave petition. It is further certified that the copies of the additional documents/ annexures attached to the Special Leave Petition are necessary to answer the question of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. This certificate is given on the basis of instructions given by the petitioner/ person authorized by the petitioner whose affidavit is filed in support of the Special Leave petition.

Place: New Delhi

Filed on: 15.07.2021



SATYA MITRA

(Advocate for Petitioner)

IN THE SUPREME COURT OF INDIA  
[SCR ORDER XXI, RULE 3 (1) (a)]  
CIVIL APPELLATE JURISDICTION  
SPECIAL LEAVE PETITION (CIVIL) No.\_\_\_\_ oF 2021

[Under Article 136 of the Constitution of India]  
(Arising out of Impugned Final Judgement and Order dated 22-09-2020 of  
the Hon'ble High Court of Bombay at Goa in LD-VC-CW-132-2020)

(With Prayer for Interim Relief)

IN THE MATTER OF:

Save Old Goa Action Committee

...Petitioners

VERSUS

Union of India & Ors

...Respondents

AFFIDAVIT

I, Mrs. Fatima Pereira, Aged 51 years, married, wife of Franklin Pereira, Indian national, C/o Fatima Pereira House No.198/6, Calwaddo, Corlim, Tiswadi, Goa ,President of Save Old Goa Action Committee, do hereby solemnly affirm as under:

1. I say that I am the President of the petitioner society and duly authorized representative of the Petitioner above-named to file the present petition and I am conversant with the facts of the present case.
2. That the statement of the facts contained in Synopsis and list of dates at paragraph 1 to 28 at pages B to RR and of the SLP ( C), page no. 29 to 43, paragraph 1 to 8 along with accompanying Applications filed are true and correct to my knowledge and brief.

3. That the contents thereof are true to the best of my knowledge and belief and nothing material has been concealed
4. That the Petitioner has not filed any other or similar Petition before this Hon`ble Court.
5. I further state that the Annexures annexed to the Special Leave Petition are true copies of their respective originals.



DEPONENT

Verified at Goa on 15th day of July 2021 that the contents of the Affidavit are true and correct to my knowledge and belief and nothing material has been concealed therefrom.



DEPONENT

## APPENDIX

## The Ancient Monuments and Archaeological Sites and Remains Act 1959

## Protected Areas.

Section 19 (1) No persons including the owner or occupier of a protected area shall construct any building within the protected area or carry on nay mining , quarrying, excavating blasting or any operation of a like nature in such area, or utilise such area or any part thereof in other manner without the permission of the Central Government:

Provided that nothing in this sub-section shall be deemed to prohibit the use of any such area or part thereof for purposes of cultivation if such cultivation does not involve the digging of not more than one foot of soil from the surface.

(2) The Central Government may, by order, direct that any building constructed by any persons within a protected area in contravention of the provisions of sub section (1) shall be removed within a specified period and , if the person refuses or fails to comply with the order, the Collector may cause the building to be removed and the person shall be liable to pay the cost of such removal.

## DEED OF SALE

THIS DEED OF SALE is executed at Panaji on this 08<sup>th</sup> day of the MAY 2015 (08.05.2015)

## BETWEEN

(1) MR. JOSE MARIA DE GOUVEIA PINTO, son of late Mr. Jorge Gouveia Pinto, 67 years of age, married, landlord, having Pan Card bearing No. AECPG6705L and his wife (2) MRS. MARIE CHRISTINE GOUVEIA PINTO, 56 years of age, married, housewife, having Pan Card Bearing No. ACSPG8081F, both Indian Nationals, both residing at House No. 541, 7/A, Lake view Colony, Miramar-Panaji, Goa, 403001; (3) MISS MARIA LIZETTE DE ABREU GOUVEIA PINTO, daughter of late Mr. Jorge Gouveia Pinto, 70 years of age, spinster, retired, having Pan Card No. ACJPD3062C, Indian National, resident of E-365, Rua Minguel Vicent d'Abreu, Panaji. Goa, 403001 and; all the parties hereinafter collectively called the "VENDORS" ( which expression shall mean and include unless repugnant to the context their heirs, successors, assigns and other legal representatives) OF THE ONE PART.

## AND

4) MANISH NAVRATN MUNOT (H.U.F.), a Hindu undivided Family, through its Karta MR. MANISH NAVRATN MUNOT, son of Mr. Navratn Munot, 44 years of age, married, businessman, bearing Pan Card No. AAMHM7212C, Indian National, Resident of 3rd Floor, Orient Club Building, Chowpaty Road, Mumbai 400007; hereinafter called the "PURCHASER" (which expression shall mean and include unless repugnant to the context his heirs, successors and other legal representatives) OF THE SECOND PART

WHEREAS, all the parties hereto are Indian Nationals:

VENDORS at No.2 and No.3 are both represented in this act by their duly constituted Power of Attorney Holder Mr. Jose Maria De Gouveia Pinto, by virtue of Power of Attorney dated 28/06/2013, executed before Notary Public Mr.

Shivprasad Manerkar at Panaji-Goa, bearing Registration Serial No.7757/2013 and the VENDOR at No.1 represents and assures that the said Power of attorney is as on date valid and operational and does not suffer from any disability on account of cancellation or operation of law.

WHEREAS there exists a property better described in the Schedule No.1;

AND WHEREAS the Schedule-I property belonged to (1) Luis Minguel do Rosario Abreu alias Luis Miguel Ferreira Abreu, (2) Ana Maria Delfina Berta alias Berta Delfina Ferreira Abreu alias Anna Maria Delphína Berth, (3) Ana Maria Alba Olinda alias Ana Maria Alba Olinda Ferreira de Abreu alias Maria Olinda Gouveia Pinto married to Jorge Alberto de Gouveia Pinto and Branca Neta Ana Maria Ferreira de Abreu alias Neta Ferreira de Abreu and accordingly the property stands registered in their names in the Land Registration Department under No.25914 of Book G 40 and the property is described under No. 202 at pages 286 of Book B-3 (old) in the Land Registration office of Ilhas.

AND WHEREAS the said Luis Minguel Ferreira Abreu expired on 13-04-1971 as a bachelor leaving behind the rest of the parties hereto as his heirs and their status as his heirs has been confirmed by a Deed of Declaration of Heirship dated 07-07-1971 executed and registered in Book No. 597 at pages 58 onwards before the Notary Ex-Officio and Sub-Registrar of Ilhas.

AND WHEREAS thereafter Ms. Ana Maria Delfina Berta Abreu expired on 08-12-1982 as a spinster, leaving behind the above mentioned parties as her heirs and the same status has been confirmed by Deed of Declaration of Heirship dated 21-09-1983 executed in Book No.617 at pages 82 overleaf before the Notary Ex-Officio and Sub-Registrar of Ilhas;

AND WHEREAS by Will dated 12-08-1987, Jorge Alberto de Gouveia Pinto bequeathed his half share in respect of all the properties he was owning including the Scheduled property in equal proportions to his both children as his heirs one son and one daughter namely, the Vendor at no.1 and the Vendor at no.3 herein.

AND WHEREAS by another Will dated 12-08-1987, Maria Olinda de Gouveia Pinto bequeathed her half share in respect of all the properties she was owning

including the Scheduled property in equal proportions to her both children as her heirs one son and one daughter namely, the Vendor at serial no.1 and the Vendor at serial no.3 herein.

AND WHEREAS, by a Will dated 13/08/1987 by Miss Neta Ferreira de Abreu alias Miss Branca Neta Ana Maria Ferreira de Abreu in the status of being unmarried, executed before the Civil Registrar cum Sub Registrar & Notary Ex-Officio of Comarca of Ilhas at Panaji-Goa, the said Neta Ferreira de Abreu willed to her niece Miss Lizette Abreu de Gouveia Pinto alias Miss Maria Lizette de Abreu Gouveia Pinto and her nephew Jose Maria de Gouveia Pinto; both being children of her sister Maria Olinda Gouveia Pinto and her brother-in-law Jorge Alberto de Gouveia Pinto, her undivided half share in equal proportions to said Lizette Abreu de Gouveia Pinto and Jose Maria de Gouveia Pinto.

AND WHEREAS thereafter on 20th February 1992 Jorge Alberto de Gouveia Pinto expired leaving behind him his widow as the moiety holder, Mari Olinda de Gouveia Pinto and as his heirs one son and one daughter namely, the Vendor at no.1 and the Vendor at no.3 herein.

AND WHEREAS, on 28th November, 1992 the said Maria Olinda da Gouveia Pinto expired leaving behind her as her heirs the said Vendor at no.1 and the vendor at no.3 herein and their status has been confirmed as the sole and exclusive owners by the deed of Succession dated 27th October 1994 executed before the Notary Ex-Officio at Panaji in the Notary Book No.650;

AND WHEREAS the Vendors thus became the owners in possession of the property described in the Schedule No.1;

AND WHEREAS, the VENDORS are now the exclusive owners in possession of the property described in SCHEDULE II written hereinafter in this Deed, which property admeasures 11,900 Sq.m. and bears Survey No. 4/1 of village Ella, Taluka and Sub-District of Tiswadi, District of North Goa, State of Goa, and has an ancestral dilapidated house admeasuring about 600 Sq.m., which is partially collapsed, existing therein on the property described in Schedule II and the ancestral dilapidated house bearing old H. No. 57, admeasuring about 600 Sq.mts., being partially collapsed is more particularly described in Schedule II hereunder

and shall be hereinafter for the sake of brevity be called as the "ENTIRE PROPERTY".

AND WHEREAS, the Form I & XIV record of Rights was erroneously showing the name of one Harishchandra Bodco Navelkar as a caretaker.

AND WHEREAS, the said error has been duly rectified by way of a Deed of Declaration by the heirs of the said late Harishchandra Bodco Navelkar, executed before the Sub Registrar of Tiswadi at Panaji-Goa, on 04/05/2015 and bearing registration serial in 1261.

AND WHEREAS, the VENDORS intend to sell and the purchaser intends to purchase a part of said Entire Property demarcated as "PLOT A" carved out of the Property described in SCHEDULE II Property, admeasuring 9500 Sq.m. and bearing Survey No. 4/1 (part) of Village ELLA, which property is better described in the SCHEDULE III appearing in this Deed and marked in red coloured boundary lines in plan attached herewith. This property shall hereinafter for the sake of brevity shall be referred as "SAID PROPERTY".

AND WHEREAS, the Vendors have decided to sell the said property described in the Schedule III, to the PURCHASERS herein, for a consideration of Rs. 1,42,50,000/- (Rupees One Crore Forty Two Lakhs and Fifty Thousand only).

NOW THIS DEED THEREFORE WITNESSES AS UNDER:

1. That in consideration of the sum of Rs. 1,42,50,000/- (Rupees One Crore Forty Two Lakhs and Fifty Thousand only), which is the present market value of the property described in the Schedule III hereunder written, paid by the Purchasers to the Vendors in following manner

a) Rs.25,00,000/- (Rupees Twenty Five Lakhs only), drawn in favour of Jose Maria de Gouveia Pinto, vide cheque dated 21/04/2015, bearing No.231951, drawn on Oriental Bank of Commerce, Mumbai Branch;

b) Rs.25,00,000/- (Rupees Twenty Five Lakhs only) paid in favour of Maria Lizette de Abreau Gouveia Pinto, by RTGS transfer vide RTGS dated 06/05/2015,

from Oriental Bank of Commerce, Mumbai Branch, By RTGS No.0RBCH15126014605;

c) Rs. 45,53,750/- (Rupees Forty Five Lakhs Fifty Three Thousand Seven Hundred and Fifty only) paid today in favour of Jose Maria de Gouveia Pinto, by Cheque dated 06/05/2015, bearing Cheque No.231960, drawn on Oriental Bank of Commerce, Mumbai Branch,

d) 45,53,750/- (Rupees Forty Five Lakhs Fifty Three Thousand Seven Hundred and fifty) paid today in favour of Maria Lizette de abreau Gouveia Pinto, by Cheque dated 06/05/2015, bearing Cheque No.231958, drawn on Oriental Bank of Commerce, Mumbai Branch,

the receipt of which the Vendors do hereby admit and acknowledge and do hereby transfer, convey and assign by way of sale ALL THAT SAID PROPERTY forming an area of 9,500 square metres which is fully described and identified in Schedule III hereunder written, together with all the right, title, interest, claims easements, appurtenances, houses and privileges of the Vendors, unto the purchaser, to have and to hold the same, absolutely and forever free from all encumbrances. T.D.S. of Rs. 1,42,500/- (Rupees One Lakh Forty Two Thousand and Five Hundred Only) being 1% of consideration has been deducted by the PURCHASER and paid to the Income Tax Department on balf of VENDORS.

2. The Vendors as owners do hereby sell, transfer, convey, dispose of in favor of the Purchaser the said property free from all encumbrances, defects, charges of whatsoever nature together with all paths, commons, trees, fences, hedges, ditches, ways, waters, water courses, lights, liberties, compound, privileges, easements and appurtenances whatsoever to the said property belonging or in any way appertaining to usually held or occupied therewith or reputed to belong or be appurtenant thereto, or with the same thereof now or at any time thereto or usually held, used and enjoyed therewith or reputed or known as part and also together with all the deeds, documents, writings and other evidence of title as ordinarily pass on through such sale.

3. THE VENDORS do hereby represent and declare that they are the absolute owners in possession of the said property and have good right, full power and absolute authority to sell and convey the said property hereby conveyed unto the Purchasers in the manner aforesaid and do also state that there is no limitation for residential or commercial utilization of the said property; subject to procuring of necessary permissions from concerned authorities.

4. The Vendors do hereby represent and declare that the said property is free from encumbrances, and/or charges of any kind whatsoever and further that the said property is not subject matter of any litigation, mortgage, land acquisition and claims from any party and the same is not attached in execution of any decree whether of Government or otherwise.

5. THE VENDORS do hereby covenant with the Purchasers that notwithstanding any acts, deeds or things heretofore done, executed or knowingly suffered to the contrary, the Vendors are now lawfully seized and possessed of the said property hereby conveyed, free from all encumbrances, charges, claims, demands and attachments or defects in title whatsoever.

6. The Vendors also declare that they have neither created any Tenancy Rights, License or other rights of use and occupation or any other, rights, interests, mortgages, liens, charges in respect of the said property in favor of any other third party nor any such encumbrances or adverse orders exist on the said property. The Vendors state that they have not entered into agreement for sale/transfer the said property to any other person and that the said property is free from all encumbrances, liens or charges of any nature whatsoever.

7. It is agreed by the vendors that in case the purchaser is ever dispossessed from the said property hereby sold or any part thereof by reason of any defect in the title of the vendors and/or if the Purchaser is not able to utilize the said property due to any misrepresentation of Vendors herein, then the Vendors do hereby agree and undertake to repay to the Purchaser the entire sale consideration amount received by them towards the present sale and compensate the PURCHASER for the entire consideration of this sale, along with interest at the rate of 10% p.a., from the date

of execution of this Sale Deed, also all the out of pocket expenses and compensation to the PURCHASER.

8. The Vendor covenants with the PURCHASER that they shall keep the purchaser fully saved and indemnified from all actions, claims, demands, charges etc. of whatsoever nature for all times to come.

9. The Vendors do hereby deliver to the purchaser all attested copies of deeds, evidences and writings now in their possession and custody relating to the title of the Vendors to the property hereby conveyed.

10. THE VENDORS do hereby covenant and declare that the said property hereby conveyed is free from all encumbrances, charges, equities, claims or demands whatsoever and the Vendors have not done anything whereby the said property may be subject to any attachment or lien of any court or person whatsoever and that the Vendors covenant to save harmless, indemnify and keep indemnified the Purchasers from or against all encumbrances, charges, equities, claims or demands whatsoever and that it shall be lawful for the Purchasers from time to time and at all times, hereafter peaceably to hold, possess and enjoy the said property hereby conveyed with all appurtenances and to receive the rents and profits thereof for his use and benefit without any lawful eviction, interruption, claims or demand whatsoever from, or by the Vendors and from any other person or persons, lawfully or equitably claiming by, from, under or in trust for him and that free and clear and freely and clearly and absolutely acquitted, exonerated, released and forever discharged or otherwise by Vendors and the Purchaser shall be kept sufficiently saved/ defended, kept harmless and indemnified of, from and against all charges and either encumbrances, whatsoever already or hereafter made, executed occasioned or suffered by the Vendors or any other person or persons, lawfully, or equitably claiming any right, estate, title or interest at law or in equity in the said property hereby conveyed or any part thereof under or in trust from the Vendors.

11. That notwithstanding anything done or purported to have been done either by the Vendors or their predecessors in title, the Vendors do hereby confirm to the Purchasers that they have good right, fully power and absolute authority to convey and transfer the said property hereby sold to the Purchasers.

12. The Purchaser shall hereafter at all times peaceably and quietly hold, use, possess and enjoy the said property hereby sold as their own property without any objection, obstruction, interruption, interference or hindrance either by the Vendors or by any person or persons claiming through or under them.

13. The Vendors hereby give their no objection to the Purchasers to include his name in survey Form 1& XIV and/or any other document in respect to the said property by mutation entry and/or by any application/document and also give N.O.C. for demarcation, resurvey, division, Land Partition of said property, transfer the house tax and they further waive any notice/s of whatsoever nature for the same.

14. The Vendors and all the persons claiming under them shall and will from time to time upon request and at the cost of the Purchasers, his successors, administrators, executors, representatives and assigns, do and execute or cause to be done or executed all such acts, deeds and things whatsoever, for further and more perfectly assuring the said property and every part thereof unto the Purchasers, their executors, successors, administrators, representative and assigns and place them in possession of the same and according to the true intent and meaning of these presents and shall or may be reasonably required.

15. The Vendors further covenant with the Purchaser that they shall at the request and cost of the Purchaser do or execute all such lawful acts, deeds or thing for further and more perfectly conveying and assuring the said property hereby sold.

16. The Vendors, their legal representative, executors and assigns shall at all times hereafter indemnify and keep indemnified the Purchasers and his successors against any loss, damages, costs, charges and expenses if any, suffered by reason of any defect in title or any breach of covenants herein contained or in the event of any falsity of representations made in this Sale Deed by Vendors.

17. That the vendors have put the Purchasers in actual physical possession of the said property hereby sold and have further put the Purchasers to the unrestricted use and occupation of the said property with all the rights and privileges whatsoever therein of the Vendors.

18. The RECITALS, SCHEDULES and the PLANS annexed to this Deed shall form part and parcel of the present Deed and be construed accordingly.

19. The Vendors and the Purchasers hereby declare that the property in Transaction does not belong to Schedule Caste/Schedule Tribes pursuant to the Notification No. RD/LAND/LRC/318/77 dated 21.08.1978.

20. The fair market value of the property hereby sold is Rs. 1,24,00,000/- (Rupees One Crore Twenty Four Lakhs only), which is the fair market price for the said property and the stamp duty of Rs. 6,20,000/- (Rupees six Lakhs Twenty Thousand only). is paid hereto.

### **SCHEDULE NO. I**

All that property known as "LARGO DE TERREIROS", situated at Ela, Sub District of Ilhas, District of Goa, bounded on the east with the road, on the West with the compound wall of the Old Arsenal of Army and Navy, on the south with the compound wall of the extinct Covent of St. Cajetan and on the North by the road which previously was the space from the dock denominated Archbishop till the building of the Old Customs. This property bears the new Survey Nos. 2, 3 & 4 of Village Ella and is described in the Land Registration Department under No.28 of book B 3 Old. The same bears Matriz Nos. 88, 89 and 92. This property is situated at Ela, Sub District of Ilhas, District of Goa.

### **SCHEDULE NO. II**

#### **(Description of the Entire Property)**

All that property forming part of the property described in the Schedule No. I, having ancestral residential structure which is partly collapsed, bearing H.No.57 and admeasuring approximately 600 sq.m. The SAID PROPERTY admeasures 11,900 square meters, bearing old cadastral Number 35 of village Ella and bearing new Survey No. 4/1 of Ella Village, Tiswadi Taluka, Sub-District of Ilhas, District of Goa and being bounded on the whole as follows:-

On the East by: Survey No. 4/1A of Ella Village

On the West by: Public Road.

On the North by: Public Road and

On the South: Survey No.4/6.

### SCHEDULE NO. III

(Property Hereby Sold-SAID PROPERTY)

All that property demarcated as "PLOT A" forming part of the Entire property described in the Schedule No. II, admeasuring 9500 square meters, bearing old cadastral Number 35 of village Ella and bearing New Survey No. 4/1(Part) of Ella Village, Taluka and Sub District of Tiswadi, District of Goa. This property is having an ancestral dilapidated residential house which is partly collapsed, bearing H.No.57 and admeasuring approximately 600 sq.m. The Property Being bounded on the whole as follows:-

On the East by: PLOT B of same sub-division Survey No.4/1 (part)

On the West by: Public

Road. On the North by: Public Road and

On the South: Survey No.4/6.

.....IN WITNESS WHEREOF, ALL THE PARTIES HERETO HAVE SIGNED THIS DEED, ON THE DAY AND DATE FIRST HEREINABOVE MENTIONED.

SIGNED AND DELIVERED

By the withinnamed VENDOR

At No. (1) for self and as P.O.A.

Holder for Vendors at No.2 and 3

Mr. JOSE MARIA DE GOVEIA PINTO

SIGNED AND DELIVERED

By the withinnamed PURCHASER

At No. (4)

MANISH NAVRATN MUNOT (H.U.F.)

Through Mr. Manish Navratn Munot

In Presence of:

1. Jose Savio Gaudencio Dias
2. Suraj Laximikant Lotlikar

## DEED OF CONVEYANCE

THIS DEED OF CONVEYANCE is executed at Tiswadi-Goa, on this 08<sup>th</sup> day of May 2015; [08.05.2015]

## BETWEEN

(1) MR. JOSE MARIA DE GOUVEIA PINTO, son of late Mr. Jorge Gouveia Pinto, 67 year of age, married, landlord, having Pan Card bearing No. AECPG6705L and his wife (2) MRS. Marie CHRISTINE GOUVEIA PINTO, 56 years of age, married, housewife, having Pan Card bearing No. ACSPG8081F, both Indian Nationals, both residing at House No. 541, 7/A, Lake view Colony, Miramar-Panaji, Goa, 403001; (3) MISS MARIA LIZETTE DE ABREU GOUVEIA PINTO, daughter of late Mr. Jorge Gouveia Pinto, 70 years of age, spinster, retired, having Pan Card No. ACJPD3062C, Indian National, resident of E-365, Rua Minguel Vicent d'Abreau, Panaji, Goa, 403001 and; all the parties hereinafter collectively called the "TRANSFERORS" ( Which expression shall mean and include unless repugnant to context their heirs, successors, assigns and other legal representatives) OF THE ONE PART.

## AND

(2) MRS. SUVARNA SURAJ LOTLIKAR alias SUVARNA DYANESH DANGE, wife of Suraj Laxmikant Lotlikar, 34 years of age, married, Housewife, bearing Pan Card No, AJBPD9535D, Indian National, Resident of House No. 254, "GULAB", Morombi O Grande, Near Swami Samarth Temple, Mercas-Goa; 403005; hereinafter called the "TRANSFREE" (which expression shall mean and include unless repugnant to the context his heirs, successors and other legal representatives) OF THE SECOND PART.

WHEREAS, all the parties hereto are Indian Nationals.

TRANSFERORS at No.2 and No.3 are both represented in this by their duly constituted Power of Attorney Holder Mr. Jose Maria De Gouveia Pinto, by virtue of Power of Attorney dated 28/06/2013, executed before Notary Public Mr. Shivprasad Manekar at Panaji-Goa, bearing Registration Serial No. 7757/2013 and

the TRANSFEROR at No.1 represents and assures that the said Power of attorney is as on date valid and operational and does not suffer from any disability on account of cancellation or operation of law.

WHEREAS there exists a property better described in the Schedule No. I;

AND WHEREAS the Schedule-I property belonged to (1) Luis Minguel do Rosario Abreu alias Luis Minguel Ferreira Abreu, (2) Ana Maria Delfina Berta alias Berta Delfina Ferreira Abreu alias Anna Maria Delphina Berth, (3) Ana Maria Alba Olinda alias Ana Maria Olinda Ferreira de Abreu alias Maria Olinda Gouveia Pinto married to Jorge Alberto de Gouveia Pinto and Branca Neta Ana Maria Ferreira de Abreu alias Neta Ferreira de Abreu and accordingly the property stands registered in their names in the Land Registration Department under No. 25914 of Book G 40 and the property is described under No. 202 at pages 286 of Book B-3 (old) in the land Registration office of Ilhas

AND WHEREAS the said Luis Minguel Ferreira Abreu expired on 13-04-1971 as a bachelor leaving behind the rest of the parties hereto as his heirs and their status as his heirs has been confirmed by a Deed of Declaration of Heirship dated 07-07-1971 executed and registered in Book No. 597 at pages 58 onwards before the Notary Ex-officio and Sub-Registrar of Ilhas.

AND WHEREAS thereafter Ms. Ana Maria Delfina Berta Abreu expired on 08-12-1982 as spinster , leaving behind the above mentioned parties as her heirs and the same status has been confirmed by Deed of Declaration of Heirship dated 21-09-1983 executed in Book No. 617 at pages 82 overleaf before the Notary Ex-Officio and Sub- Registrar of Ilhas;

AND WHEREAS by will dated 12-08-1987, Jorge Alberto de Gouveia Pinto bequeathed his half share in respect of all the properties he was owning including the Scheduled property in equal proportions to his both children as his heirs one son and one daughter namely, the TRANSFEROR at no.1 and the TRANSFEROR at no.3 herein.

AND WHEREAS by another Will dated 12-08-1987, Maria Olinda de Gouveia Pinto bequeathed her half share in respect of all the properties she was owning

including the Scheduled property in equal proportions to her both children's as her heirs one son and one daughter namely, the TRANSFEROR at serial no.1 and the TRANSFEROR at serial no.3.

AND WHEREAS, by a will dated 13/08/1987 by Miss Neta Ferreira de Abreu alias Miss Branca Neta Ana Maria Ferreira de Abreu in the status of being unmarried, executed before the Civil Registrar cum Sub Registrar & Notary Ex-Officio of Comarca of Ilhas at Panaji-Goa, the said Neta Ferreira de Abreu willed to her niece Miss Lizette Abreu de Gouveia Pinto alias Miss Maria Lizette de Abreu Gouveia Pinto and her nephew Jose Maria de Gouveia Pinto; both being children of her sister Maria Olinda Gouveia Pinto and her brother-in-law Jorge Alberto de Gouveia Pinto, her undivided half share in equal proportions to said Lizette Abreu de Gouveia Pinto and Jose Maria de Gouveia Pinto.

AND WHEREAS thereafter on 20<sup>th</sup> February 1992 Jorge Alberto de Gouveia Pinto expired leaving behind his widow as the moiety holder, Maria Olinda de Gouveia Pinto and his heirs one son and one daughter namely, the TRANSFEROR at no.1 and the TRANSFEROR at no. 3 herein.

AND WHEREAS, on 28<sup>th</sup> November, 1992 the said Maria Olinda de Gouveia Pinto expired leaving behind her as her heirs the said TRANSFEROR at no. 1 and the TRANSFEROR at no.3 herein and their status has been confirmed as the sole and exclusive owners by the deed of Succession dated 27<sup>th</sup> October 1994 executed before the Notary Ex-Officio at Panaji in Notary Book No. 650.

AND WHEREAS the TRANSFERORS thus became the owners in possession of the property described in the Schedule I.

AND WHEREAS, the TRANSFERORS came to be the exclusive owners in possession of the property described in SCHEDULE II written hereinafter in this Deed, which property admeasures 11,900 Sq.m. and bears Survey No. 4/1 of village Ella, Taluka and Sub-District of Tiswadi, District of North Goa, State of Goa, and has an ancestral dilapidated house admeasuring about 600 Sq.m. Which is partially collapsed, existing therein on the property described in Schedule II and the ancestral dilapidated house bearing old H. No 57, admeasuring about 600

Sq.mts., being partially collapsed is more particularly described in Schedule II hereunder and shall be hereinafter for the sake of brevity be called as the “ENTIRE PROPERTY”.

AND WHEREAS, the Form I & XIV record of Rights was erroneously showing the name of one Harishchandra Bodco Navelkar as a Caretaker.

AND WHEREAS, the said error has been duly rectified by way of a Deed of declaration by the heirs of the said late Harishchandra Bodco Navelkar, executed before the Sub Registrar of Tiswadi at Panaji-Goa, on 04/05/2015 and bearing Registration serial in 1261.

AND WHEREAS, the TRANSFERROR have Sold “PILOT A” Carved out of the Scheduled II property, admeasuring 9500Sq.m and bearing Survey No.4/1 (part) of Village ELLA;

AND WHEREAS, The TRANSFERORS, wish to convey to the TRANSFEREE, in consideration of his past services of Development, marketing and Sale of the ‘Plot A’ described above, All that “PLOT B” admeasuring 2400 Sq.m. along with a loja to store coconuts existing therein, which property is better described in the SCHEDULE III appearing in this Deed and marked in red coloured boundary lines in plan attached herewith. This property shall hereinafter for the sake of brevity shall be referred as “SAID PROPERTY”.

NOW THEREFORE, THIS DEED OF CONVEYANCE WITNESSES AS FOLLOWS:

1. In consideration of the services rendered by the TRANSFEREE to facilitate the TRANSFERORS in the Development, marketing and sale of the “PLOT A” mentioned hereinabove and facilitating the entire transaction, they the TRANSFERORS- the Parties at number 1,2 and 3 as the absolute joint owners and possessors do hereby transfer and convey, by way of CONVEYANCE unto the TRANSFEREE - the said MRS.SUVARNA SURAJ LOTLIKAR, ALL THAT Plot “B” more particularly described in the schedule III hereto annexed, TOGHTER WITH all the trees, plants, passages, houses, profits , rents, easements, liberties, privileges, attachments,

profits and appurtenances whatsoever and with ALL the rights, titles, interests, claim and demand whatsoever of the TRANSFERORS to or in the SAID PROPERTY hereby Transferred and in every Part thereof, unto and to the TRANSFEREE,- TO HAVE AND TO HOLD the same as its absolute owner forever.

2. The consideration of the services in monetary form is placed for the purpose of registration fees and stamp duty at Rs. 32,40,000/-(Rupees thirty Two Lakhs Forty Two thousand only) in lieu of which land designated "Plot B" admeasuring 2400 Sq.m. more specifically described in Schedule III hereinafter laid, is hereby conveyed to the TRANSFEREE.
3. The TRANSFERORS as owners do hereby transfer, convey, dispose of in favour of the TRANSFEREE, the said property free from all encumbrances, defects, charges of whatsoever nature together with all paths, commons, trees, fences, hedges, ditches, ways, waters, waters courses, lights, liberties, compound, privileges, easements, and appurtenances whatsoever to the said property belonging or in any way appertaining to usually held or occupied therewith or reputed to belong or be appurtenant thereto, or with the same thereof now or at any time thereto or usually held, used and enjoyed therewith or reputed or known as part and also together with all the deeds, documents, writings and other evidence of title as ordinarily pass on through such Conveyance.
4. THE TRANSFERORS do hereby represent and declare that they are the absolute owners in possession of the said property and have good right, full power and absolute authority to convey the said property hereby conveyed unto the Transferee in the manner aforesaid and do also state that there is no limitation for residential or commercial utilization of the property; subject to procuring of necessary permissions from concerned authorities.
5. The TRANSFERORS do hereby represent and declare that the said property is free from all encumbrances, and/or charges of any kind whatsoever and

further that the said property is not subject matter of any litigation, mortgage, land acquisition and claims from any party and the same is not attached in execution of any decree whether of Government or otherwise.

6. THE TRANSFERORS do hereby covenant with the TRANSFEREE that notwithstanding any acts, deeds or things heretofore done, executed or knowingly suffered to the contrary, the Transferors are now lawfully seized and possessed of the said property hereby conveyed, free from all encumbrances, charges, claims, demands and attachments or defects in title whatsoever.
7. The Transferors also declare that they have neither created any Tenancy Rights, Licenses or other rights of use and occupation or any other, rights, interest, mortgages, liens, charges in respect of the said property in favour of any other third party nor any such encumbrances or adverse orders exist on the said property. The Transferors state that they have not entered into agreement for sale/transfer the said property to any other person and that the said property is free from all encumbrances, liens or charges of any nature whatsoever.
8. It is agreed by the Transferors that in case the transferee is ever dispossessed from the property hereby conveyed or any part thereof by reason of any defect in the title of the transferors and/or if the transferee is not able to utilize the said property due to any misrepresentation of Transferors herein, then the Transferors do hereby agree and undertake to repay to compensate the Transferee, as also pay all the out of pocket expenses and compensation to the Transferee.
9. The Transferors covenant with the Transferee that they shall keep the Transferee fully saved and indemnified from all actions, claims, demands, charges etc. for all times to come.
10. The Transferors do hereby deliver to the Transferee all attested copies of deeds, evidences and writings now in their possession and custody relating to the title of the Transferors to the property hereby conveyed.
11. THE TRANSFERORS do hereby covenant and declare that the said property hereby transferred is free from all encumbrances, charges, equities, claims or

demands whatsoever and the transferors have not done anything whereby the said property may be subject to any attachment or lien of any court or person whatsoever and that the transferors covenant to save harmless, indemnify and keep indemnified the transferee from or against all encumbrances, charges, equities claims or demands whatsoever and that it shall be lawful for the transferee from time to time and at all times, hereafter peaceably to hold, possess and enjoy the Said property hereby conveyed with all appurtenances and to receive the rents and profits thereof for his use and benefit without any lawful eviction, interruption, claims or demand whatsoever from or by the transferors and from any other person or persons, lawfully or equitably claiming by, from, under or in trust for them and that free and clear and freely and clearly and absolutely acquitted, exonerated, released and forever discharged or otherwise by transferors and the transferee shall be kept sufficiently saved, defended, kept harmless and indemnified of, from and against all estate, charges and encumbrances, whatsoever either already or hereafter had, made, executed occasioned or suffered by the transferors or any other person or persons, lawfully, or equitably claiming any right, estate, title or interest at law or in equity in the said property hereby conveyed or any part thereof under or in trust from the transferors.

12. That notwithstanding anything done or purported to have been done either by the Transferors or their predecessors in title, the Transferors do hereby confirm to the Transferee that they have good right, fully power and absolute authority to convey and transfer the said property hereby conveyed to the transferee.
13. The Transferee shall hereafter at all times peaceably and quietly hold, use, possess and enjoy the said property hereby sold as their own property without any objection, obstruction, interruption, interference or hindrance either by the Transferors or by any person or persons claiming through or under them.
14. The Transferors hereby give their no objection to the Transferee to include her name in Survey Form I & XIV and/or any other document in respect to the said property by mutation entry and/or by any application/document and also give N.O.C. for demarcation, resurvey, division, Land Partition of said

property, transfer the house tax and they further waive any notice/s of whatsoever nature for the same.

15. The Transferors and all the persons claiming under them shall and will from time to time upon request and at the cost of the Transferee, her successors, administrators, executors, representatives and assigns, do and execute or cause to be done or executed all such acts, deeds and things whatsoever, for further and more perfectly assuring the said property and every part thereof unto the Transferee, her executors, successors, administrators, representative and assigns and place them in possession of the same and according to the true intent and meaning of these presents and shall or may be reasonably required.
16. The Transferors further covenant with the transferee that they shall at the request and cost of the transferee do or execute all such lawful acts, deeds or thing for further and more perfectly conveying and assuring the said property hereby conveyed.
17. The Transferors, their legal representative, executors and assigns shall at all times hereafter indemnify and keep indemnified the transferee and her successors against any loss, damages, costs, charges and expenses if any, suffered by reason of any defect in title or any breach of covenants herein contained or in the event of any falsity of representations made in this Conveyance Deed by Transferors.
18. That the Transferors have put the Transferee in actual physical possession of the said property hereby conveyed and have further put the Transferee to the unrestricted use and occupation of the said property with all the rights and privileges whatsoever therein of the Transferors.
19. The RECITALS, SCHEDULES and the PLANS annexed to this Deed shall form part and parcel of the present Deed and be construed accordingly.
20. The Transferors and the Transferee hereby declare that the Property in transaction does not belong to Schedule Caste/Schedule Tribes pursuant to the Notification No. RD/LAND/LRC/318/77 dated 21.08.1978.

21. The present Deed is being executed on non-judicial stamp paper of the value of Rs. 1,23,400/- (Rupees One Lakh Twenty Three Thousand Four Hundred only), Which is the applicable stamp duty.

#### SCHEDULE NO. 1

All that property known as "LARGO DE TERREIROS", situated at Ela, Sub District of Ilhas, District of Goa, bounded on the east with the road, on the West with the compound wall of the Old Arsenal of Army and Navy, on the south with the compound walls of the extinct Covent of St. Cajetan and on the North by the road which previously was the space from the dock denominated Archbishop till the building of the Old Customs. This property bears the new Survey Nos. 2, 3 and 4 of Village Ella and is described in the Land Registration Department under No.28 of book B 3 Old. The same bears Matriz Nos. 88, 89 and 92. This property is situated at Ela, Sub- District of Ilhas, District of Goa.

#### SCHEDULE NO. II

##### (ENTIRE PROPERTY)

All that property forming part of the property described in the Schedule No. I, having ancestral residential structure which is partly collapsed, bearing Hno.57 and admeasuring approximately 600 sq.m. The SAID PROPERTY admeasures 11,900 square meters, bearing old cadastral Number 35 of village Ella and bearing new Survey No. 4/1 of Ella Village Tiswadi Taluka, Sub-District of Ilhas, District of Goa and being bounded on the whole as follows:-

On the East by: Survey No. 4/1A of Ella Village

On the West by: Public Road.

On the North by: Public Road and

On the South: Survey No.4/6.

#### SCHEDULE NO. III

##### (Property Hereby Conveyed-SAID PROPERTY)

All that property "PLOT B" forming part of the property described in the Schedule No. II, admeasuring 2400 sq. mts. And bearing old Cadastral No. 35 of village Ella and bearing New Survey No. 4/1 (part) of Ella village, taluka and sub district of

Tiswadi, District of Goa, along with a dilapidated structure “Loja” to store coconuts existing therein. This property is bounded as follows:-

On the East by: Survey No. 4/1A of Village Ella,

On the West by: PLOT A of same sub-division Survey No.4/1 (part)

On the North by: Public Road and

On the South: Survey No. 4/6.

.....IN WITNESS WHEREOF, ALL THE PARTIES HERETO HAVE SIGNED THIS DEED, ON THE DAY AND DATE FIRST HEREINABOVE MENTIONED.

SIGNED AND DELIVERED

By the within named TRANSFEROR

At No. (1) for self and as P.O.A.

Holder for TRANSFERORS at No.2 and 3

MR. JOSE MARIA DE GOUVEIA PINTO.

SIGNED AND DELIVERED

By the within named TRANSFEREE

At No. (4)

Mrs. SUVARNA SURAJ LOTLIKAR

In the presence of:

1. Jose Savio Gaudencio dias
2. Bhupal Nagvesh Chodanker

## ANNEXURE P-3

From : Jose Maria De Gouveia Pinto  
Maria Lizette de abrue e gouveia pinto,  
House No 541 /7/a, lake view colony  
Miramar, Panaji Goa

Date: 7.09.2015

To,  
The Member Secretary  
Goa Coastal Zone Management Authority  
Dempo Tower, 3<sup>rd</sup> Floor,  
Patto Panjim, Goa.

Subject: NOC for the reconstruction of the existing house.

Sir,

We have an ancestral house, in the property bearing survey no 4/1 of village old Goa. The house now is in bad shape and is partially collapsed

We now intend to carry out the construction of this existing house in the plot bearing survey no 4/1 of village Ella of Tiswadi taluka, in accordance with the coastal regulation zone notification dated 19<sup>th</sup> February 1991 and 6<sup>th</sup> January 2011 as amended subsequently

I am enclosing herewith the following documents:

1. Ownership documents
2. Form I and IV
3. Certified copy of the plan issued by Directorate of Settlement and Land Records
4. Site plan showing the existing and proposed development
5. Photographs of the property
6. Demand draft
7. NOC issued by the village Panchayat in 1986
8. House Tax receipt paid in 1986 and latest

We kindly request you to grant the approval for the proposed reconstruction of the existing house in the CRZ.

Thanking you

Yours Faithfully

Jose Marie De Gouveia Pinto

Marie Lizette De Aureu e Gouveia Pinto

ANNEXURE P-4

October 28<sup>th</sup> 2015

To

The Secretary (Archives &amp; Archaeology)

Competent Authority

Govt. of Goa

Secretariat, Porvorim

Subject: NOC for repairs/reconstruction of the existing house of Mr. and Mrs Pinto at no. 57 under Survey 4/1 of village Ella, Tiswadi, Old Goa.

Sir,

With reference to letter no. CA/GOA/159/2015-39 vide dated 8<sup>th</sup> October 2015 on the subject cited above I am to enclose herewith the authenticated site inspection report and Google Earth Image. This proposal comes in protected area of Centrally protected Monuments where no permission can be accorded except for the repair. However if need be the same may be cross checked independently by revenue authorities to authenticate the distance for the reference as cited in the letter no. 4/55/ 2015-16-M-786 dated 11 September 2015.

This is for your kind information.

Yours faithfully

Superintending

Archaeologist

Archeological Survey of India

Goa Circle, Goa

Encl. as above

## SITE INSPECTION REPORT FOR N.O.C

The inspection report for the purpose of issue 'No Objection certificate and the observations are as under:-

01	Name of the applicant	Jose maria de Gouviea Pinto & Maria Linette de Abreue Gouveia Pinto
02	Ownership of Plot/ C.S.No./ R.S.No./F.P.No	4/1 Ella, Tiswadi
03	Name of the monument affected	Church of St. Cajetan, Old Goa & Arch of Viceroy, Old Goa
04	Height of the monument	Around 18 metres
05	Height of the existing building	Proposed for construction of residential house
06	Height of the proposed construction	9 mts approx.
07	Distance of proposed construction from the monument protected limit	Falls in protected Area
08	Prohibited/ Regulated are under which proposed construction falls	Falls within the Protected area as per the Gazette Notification published on June 1, 1968 (Copy enclosed)
09	Surrounding situation and approximate height of the existing buildings and by monument	Monument are situated on plain land.
10	Surrounding situation and approximate height of the existing building nearby proposed construction	There are few modern structures in surrounding area. However most of the area is covered with the coconut plantation without any structures.
11	Remarks	Application for the construction of residential house falls in the Protected area of the Centrally

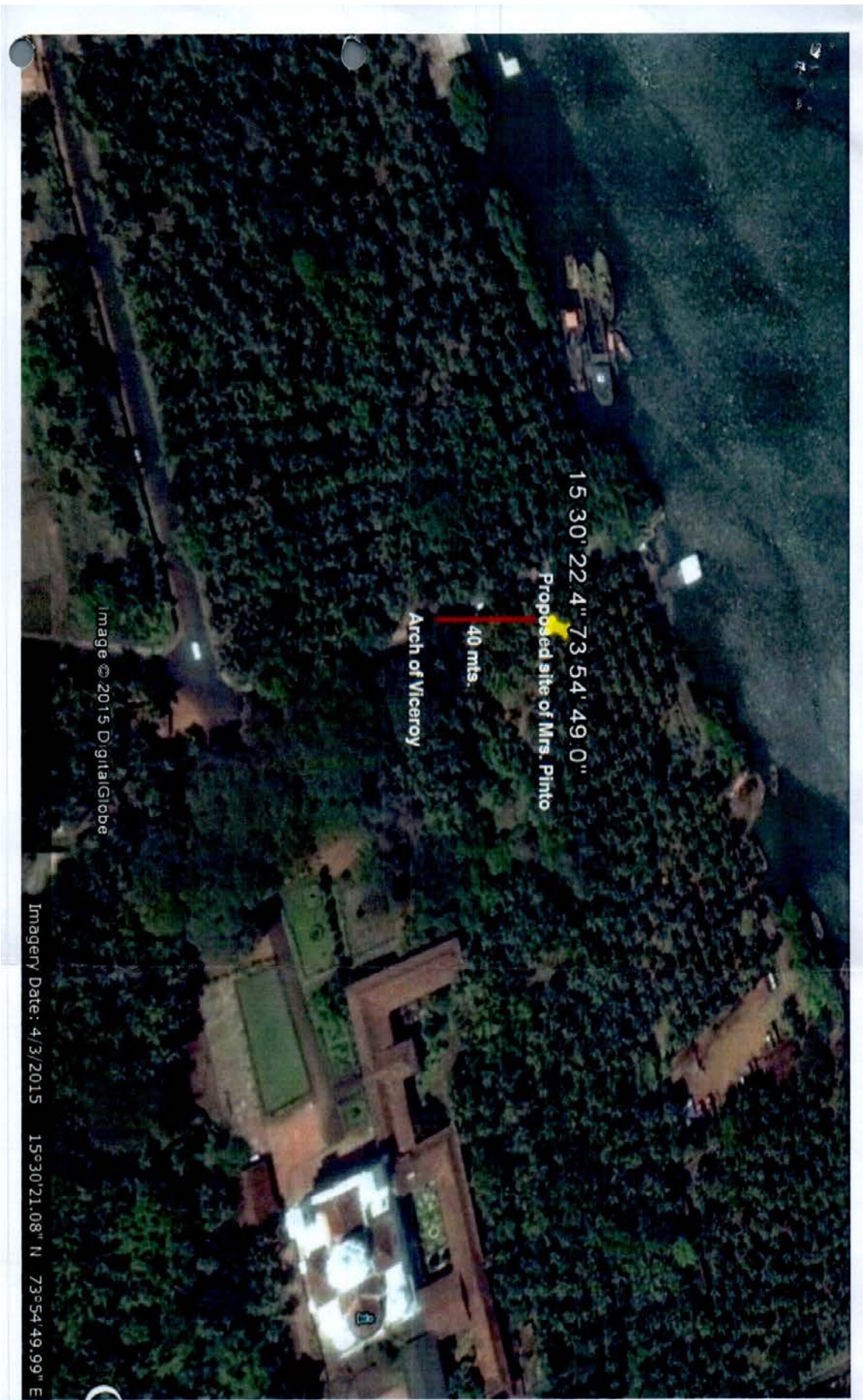
		<p>Protected Monuments (copy of the Gazette Notification is attached) of Arch of Viceroy and the worlds heritage site Church of St. Cajetan, Old Goa. Since the proposed construction is entirely new permission cannot be granted as it falls in the Protected area, only repairs to the existing structure as it is, may be granted without any addition to the structure. ( photos enclosed of the present structure)</p> <p>Technically permission in protected area is beyond the term of reference of Competent authority National Monuments Authority</p>
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Sd/-

Superintending Archaeologist

Archaeological Survey of India

Goa Circle, Goa







Proposed construction site of Mr & Mrs Pinto



Arch of Viceroy, Old Goa



Existing structure at the site which can be permitted for renovation as it is.

## ANNEXURE P-5

## SITE INSPECTION REPORT

1. Date and Time of Inspection: 11.11.2015 at 12.30 PM
2. Name of the project : NOC for reconstructing of existing house
3. Location:  
 Survey No : 4/1 Village: Ella Taluka: Tiswadi  
 Chalta No: \_\_\_\_\_ P.T.S. No \_\_\_\_\_ Town\_\_\_\_\_
4. Detailed description of status of adjoining properties
5. Existing Land use: Existing Structure and Coconut Plantation
6. Accessibility: Accessible
7. Topography:  
 Type of soil: Sandy Rocky lateritic etc  
 Topography: Plain  
 Existence of sand dunes: yes  
 If yes, number of dunes in the property:  
 Heights of the dunes:  
 Slope: NA  
 Whether the dunes are virgin or tampered:  
 If yes give details: NA  
 Whether any lagoons, backwaters, or other water bodies exist in the plot  
 – NA  
 (The location of sand dunes and water bodies should be marked on the side of the plan)
8. Vegetation:  
 Pioneer vegetation like bushes, creepers and grasses:  
 Secondary vegetation like coconut casuarina or other trees  
 Mangroves: NA  
 Any other vegetation or trees:
9. Distance of Seaward boundary from river or sea High Tide line : Within 100 mtrs from HTL of river Mandori
10. Existing structures within the plot: Yes. One old dilapidated structure.

11. Whether any proposed work has been carried out at the site: ( a brief description of the type and extent of the work carries out)
12. Whether any traditional access through the plot exist
13. Any other information about the site that is relevant to the environment:

There is one structure with mongloseus tile exist within the plot. Coconut plantation exist within the plot .Plot with rubble stone compound wall.

Dated: 11.11.2015

Place: Panaji

R.M. Dhune

Signature, name and designation

ANNEXURE P-6

GOA COSTAL ZONE MANGEMENT AUTHOURITY  
C/o Department of Science, Technology and Environment,  
( Govt of Goa)

Dempo Tower, 3<sup>rd</sup> Floor, Patto Panaji, Goa

Reference no : GCZMA/N/15-16/101/2215

Dated: 28.12.2015

To,

Jose Marie De Gouveia Pinto

Marie Lizette De Aureu e Gouveia Pinto

House No 541/ 7/ A, Lake view Colony, Miramar, Panaji, Goa

Subject: NOC/Approval for proposed reconstruction of existing house bearing house no 57 located in the property survey no 4/1 of Ella Village, Tiswadi Taluka.

Ref: Your Application No: NIL dated 07.09.2015

Sir/ Madam,

With reference to your application on the above mentioned subject , it is hereby conveyed that the Goa Coastal Zone Management Authority (GCZMA) has examined your proposal in the 123<sup>rd</sup> GCZMA meeting held on 21.12.2015 in accordance to the provisions of the para 8 of the CRZ Notification 2011 as amended. Accordingly approval is hereby granted in terms of CRZ angle to you for reconstruction of the existing house (area of existing house is 397.00 sq mtrs) bearing house no 57 located in Sy. No.4/1 of Ella Village Tiswadi Taluka, as per enclosed plan thereby not exceeding existing FAR, existing plinth area and existing density, and further subject to the confirmation with local building byelaws.

This approval is subject to the compliances following conditions:

1. All the provisions of the CRZ Notifications 2011, as amended should be strictly complied with.
2. This NOC / Approval is issued without prejudice to any other permission as required under the law including that of ownership of house, court case etc. As such prior to the commencement of the 'reconstruction' work , it will be incumbent upon the applicant to obtain permission for any other

authority as required under the law including from the local authority, Town and Country Planning Department, Revenue Authority etc.

3. The structure should not be used for commercial purpose and not to be sold or transferred to the non-traditional community.
4. This permission is liable to be revoked if it is found at any stage that the application contained false information/ wrong plans /calculations/ documents/ misleading or false information etc or account of violation of aforementioned conditions.

Yours Faithfully

Member Secretary ( GCZMA)

Encl: As above

Copy to :

1. P.A. to Principal Secreatry ( Environment)/ Chairman (GCZMA), Secretariat , Porvorim...for kind information
2. The Chief Town Planner, Town and Country Planning, Patto. Panaji Goa..... for information and necessary action.
3. The Deputy Collector and SDO, (Tiswadi), Tiswadi –Goa.... for information and necessary action.
4. The Secretary, Village Panchayat of Ella, Old –Goa, Tiswadi, Goa.... for information and necessary action.

## CERTIFICATE OF CONFROMITY WITH REGULATIONS

I Arch. Siddha Sardessai

TCP registration No : AR/0130/2010

Having been appointed Maria Linette De Abreu E Gouveia Pinto & Jose Maria De Gouveia Pinto do hereby certify that I have designed the project of Proposed Repairs/ Reconstruction of the existing House and existing compound wall in plot bearing, Chalta No: -of P.T. Sheet No -----/ Survey No 4 of subdivision no 1 in Ella Village of Tiswadi Taluka

And that the same is in conformity with the Goa Land Development Building Construction Regulations 2010.

Date: 4.1.2016

Place: Panaji, Goa

Balwant alias Sidhha D Sardessai

Architect and Interior Designer

Goa Reg No: CA/ 97/21581

TCP Reg No AR/0130/2010

Signature of the Architect / Engineer/ Structural/

Engineer/ Town Planner/ Landscape Architect

Urban Designer

Ground Floor, Dwarka, Nandanvan Complex, Tonca, Caranzalem, Goa

Reg No TCP:AR/10130/2010

## STRUCTURAL LIABILITY CERTIFICATE

I, Shri Chandershekar MG Reg No TCP / SE/0052/2010 having been duly appointed as Engineer by Maria Linette De Abreu E Gouveia Pinto and Jose Maria De Gouveia Pinto for carrying out structural design and supervision of the proposed residential house.

The plans for which have prepared by Architect Siddha Sardessai on survey no 4/1/at Ella Village, Old Goa, Taluka Tiswadi.

I do hereby certify as under:

1. That I shall be responsible for the structural design and stability of the said building
2. That the structural work shall be executed by the owner, as per the structural drawings prepared by me and under my supervision.
3. The provision of the following BIS codes are made in the proposal IS 456: 2000 & SP 16

This certificate is issued in respect of plans, one set of which is enclosed herewith, duly signed by the Architect/ Engineer/ Structural Engineer who has prepared the same.

Place: Panaji

Date: 8.1.2016

Signature of Structural Engineer

I Maria Linette De Abreu E Gouveia Pinto and Jose Maria De Gouveia Pinto hereby confirm that I have appointed the Engineer, Shri Chandrashekar M.G. to carry out the structural design and supervision of above mentioned project.

I further undertake to intimate him at the appropriate stage of construction of my project of proposed residential house to enable him to perform his functions as given in the above certificate.

Signature of owner or his authorised representative

ANNEXURE P-9

No 4/27/2016-17-M 347

Government of India

Archaeological Survey of India

Goa Circle, Church Complex, Velha Goa.

To,

Dated: June 21.06.2016

The Chief Town Planer

Member Secretary of Conservation Committee

Subject: Comments on the minutes of the 12<sup>th</sup> meeting of the Conservation committee held on the 28/04/2016 at 10.30am –reg

Sir,

With reference to the subject cited above this is to request you that whenever the site inspection is fixed for the proposals falling in the 300mtrs area around the Centrally Protected Monuments it may be informed to this office as the area defined through the AMASR ( A&V) Act are very well known to the officials of ASI.

In the matter of item no 11 it is stated that ‘the technical members were of the opinion that the applicant need to submit NOC from NMA regarding the proposal of Mr Jose Maria De Gouveia Pinto and others’. However this is to inform you that the said property falls in the protected area for which the permission is granted by the Director General, Archaeological Survey of India , New Delhi. Further the proposal for the above mentioned construction was received by this office from the Competent Authority and it was returned by citing the same. Hence before finalising any permission for the said proposal the AMASR ( A&V) Act 2010 may be consulted.

In the matter of item no 13 kindly clarify whether the construction falls in the 300mtrs area of the CPM. As in some earlier instances the applicant was not informed properly about the AMASR (A&V) Act 2010 and hence no permission was taken from the NMA.

Also this is to inform you that the Heritage By laws are under preparation for the CPM and if there is a representation from the ASI, Goa Circle in the inspection committee as it will facilitate this department to monitor new proposals

This is for your kind information as further necessary action

Yours Faithfully

Superintending Archaeologist

Archaeological Survey of India

## ANNEXURE P-10

Office of the Chief Town Planner and member Secretary of Conservation  
Committee

Town and Country Planning Department  
2<sup>nd</sup> Floor, Dempo Tower, Patto Plaza, Panaji Goa-403001

Ref: 27/15-3/782/TCP/2016/4195

Date: 7.10.2016

To,

The Dy Town Planner,

Tiswadi Taluka Office

Town and Country Planning Department

5<sup>th</sup> Floor Kamat Tower

Patto Plaza, Panaji Goa

Subject: Proposal of reconstruction of existing house in property bearing survey no 4/1 of Ella Village, Tiswadi Taluka, by Mr Jose Maria De Gouveia Pinto and ors ( File No 27/15-3/782/TCP/2016)

Ref: 1. Your Letter no : Tis /8482/ Ella /TCP/ 16/541 dated 20.04.2016

2. Letter no 27/15-2/TCP/CC/2016/ 2606 dated: 15.06.2016

3. Letter no 4/27/2016-17-M-347 dated: 21.06.2016 from

Superintending Archaeologist, ASI Velha Goa

Sir,

With reference to the above, it is to inform you that the proposal was placed before the 12<sup>th</sup> Conversation Committee Meeting (under the Goa Land Development and Building Construction Regulations, 2010) held on 28.4.2016 under item no 11. The decision of the Committee as per the minutes is reproduced below:

“The Member Secretary informed that the Deputy Town Planner of Tiswadi Taluka Office has forwarded the proposal for reconstruction of existing house.

The Technical Members Arch. Ketak Nachinolkar, Arch Snehalata Pednekar Eng Thomas Costa, Shri Varad Sabnis and Shri John Marcelo (Rep of Chief Architect) inspected the site on 20/04/2016. During the inspection, it was observed that proposed construction is located within 300mtrs from the protected monuments. It was also observed that as per the provisions of ODP as well as RP, the area under reference is earmarked as Archaeological Preservation Zone.

It was informed that the plot falls within 100 mtrs of river Mandovi and for which reason the applicant has obtained NOC from GCZMA vide letter no GCZMA / N/ 15-16-01/2215 dated 28/12/2015 as per which the approval is granted in terms of CRZ angle reconstruction of existing house. It was noted that the NOC stated as under:

‘ The approval is granted as per the plan enclosed thereby not exceeding existing FAR existing plinth area and existing density and further subject to the confirmation with local building bye laws’

The Member Secretary informed that the Technical Members were of the opinion that the applicant need to submit a NOC from NMA regarding the proposal submitted.

A detail discussion on the proposal was then held with specific reference to the NOC issued by CRZ for the structure having ground + one floor and the drawing bearing the seal of CRZ authority consisting of ground floor area of 347.57 sq mts and first floor area of 347.57 sq mts.

Considering all above, the Committee decided to consider the proposal at its end for approval from conservation point of view only, subject to condition that the applicant obtains NOC from NMA prior to commencement of any construction activity.

The proposal therefore stands approved subject to condition above’.

The minutes of 12<sup>th</sup> Conservation Committee meeting containing the proposal under reference and decision taken as above, were circulated to the members of the Committee vide letter referred at (2) above for comments. The Superintending

Archaeologist vide letter referred at (3) above has informed that the property under reference falls in the protected area for which the permission is granted by the Director General, Archaeological Survey of India, New Delhi and it is further instructed that before finalizing any permission for the said proposal, the AMASR (A&V) Act 2010 may be consulted ( Copy of letter enclosed)

The Committee in its meeting held on 19.09.2016 took note of the comments received from the ASI and it was decided that the decision of the conservation Committee as taken in the matter in the 12<sup>th</sup> Conservation Committee held on the 28.04.2016 be communicated to the Tiswadi Taluka Office for compliance of the conditions as imposed by ASI while considering the grant of Technical Clearance.

In view of the above, the applicant may be informed that the proposal stands approved subject to further compliance of the conditions as imposed by Conservation Committee in its meeting held on the 28.04.2016 as communicated by ASI vide their letter referred at (3) above, of which copy is enclosed herewith.

Yours faithfully

Dr. S.T. Puttaraju

Chief Town Planner &

Member Secretary of

Conservation Committee

Encl: As above

Copy to:-

The Superintending Archaeologist

Archaeological Survey of India (ASI)

Goa Circle, Church Complex,

Velha Goa.

Ref No: T15/8482/ ELLA/ TCP/ 16/1404

Town and Country Planning Department

Tiswadi Taluka Office, Kamat Tower, 5<sup>th</sup> Floor,

Patto, Panaji Goa

Dated: 18.10.2016

OFFICE OF THE TOWN PLANNER, TOWN & COUNTRY PLANNING DEPT.  
5<sup>th</sup> FLOOR, KAMAT TOWER, TISWADI TALUKA OFFICE PATTO PANAJI  
– GOA.

#### TECHNICAL CLEARANCE ORDER

Technical clearances is hereby granted for proposed re construction of residential house as per the enclosed approved plans in the property zoned as Preservation /Conservation in the Outline Development Plan for Panaji and situated at Ella village bearing Sy. No 4/1 of Tiswadi Taluka with the following conditions;

1. Construction shall be strictly as per approved plans. No change shall be effected in the approved plans / approved built spaces without the prior permission of this authority.
2. The permission granted shall be revoked, if any information, plans, calculations, documents and any other accompaniments of the applications are found incorrect or wrong at any stage after the grant of the permission and the applicant will not be entitled for any compensation
3. The development permission will not entitle the applicant for making/ laying any claim on water and any other connection from the Government of Goa.
4. The developer / applicant should display a sign board of minimum size 1.00mtrs \* 0.50 metres with writing in black colour on a white background at the site, as required under the regulations

5. The applicant shall obtain conservations sanad under the Goa Land Revenue Courts 1968 before the commencement of any development/ construction as per the permission granted by this order.
6. The soak pit should not be located within a distance of 15.00mtrs from any other existing well in the plot area / plinth.
7. The commencement and the completion of the work shall be notified to this office in writing in appropriate forms.
8. Completion certificate has to be obtained from this office before applying for occupancy certificate from the licensing authority.
9. Storm water drain should be constructed along the boundary of the effected plot abutting to the road.
10. Adequate utility space for the dustbin, transformer etc, should be reserved within the plot area.
11. In case of any cutting of sloopy land of filling of low lying land, prior permission of the Chief Town Planner shall be obtained before the commencement of the works as per the provisions of section 17 (a) of the Goa Town and Country Planning Act 1974
12. The ownership of the property shall be verified by the licensing body before issuing of the license.
13. All the set back as shown on the side plan shall be strictly maintained
14. The balcony proposed should not be covered in any fashion, which may lead to access FAR
15. The traditional access, if any passing through the plot shall not be blocked.
16. Adequate arrangement for collection and disposal of solid waste generated within the plot shall be arranged to satisfaction of village panchayat
17. Panchayat shall verify infrastructure requirement such as water and power supply before issue of construction license.

18. Garbage collection bins shall be provided within the plot itself
- 19 Complaints / Court order if any should be verified by the Village Panchayat before issue of construction license.
20. This order is issued based on the approval granted by the Conservation Committee vide letter no 27/15-3/782/TCP/2016/4195 dated: 7.10.2016 and all conditions laid shall be adhered.
21. This Technical Clearance is issued based on the letter along with plan issued by the Goa Coastal Zone Management Authority vide letter no GCZMA/ N / 15-16/101/2215 dated: 28.12.2015
22. Trees shall not be cut without prior permission from the competent authority.
23. Compound wall should be 7.5 mtrs from the centre line of existing road
24. Along the intersection of the streets, no compound wall shall be raised to a height of more than 0.90mtrs from the crown of the road for length of 0.9mtrs from the intersection of the streets. This distance being measured from the corner point of the plot.
25. Maximum height of the compound wall along the boundary other than that abutting on a street may be permitted up to a height of 1.80 mtrs and along the boundary abutting on a street up to a 1.50 mtrs only and maybe close type up to a height of 90 cm only and of open type above that height
26. In case of Compound walls, the gate shall be open inwards only and traditional access, if any passing through the property shall not be blocked.
27. Engineer who designed the RCC structure of the project proponent is liable for structural design and stability of the project. Structural liability certificate issued by an engineer Shri M.G. Chandrashekar dated 8.01.2016 registration no TCP / SE/0052/2010.
28. The applicant should obtain NOC from NMA prior commencement of any construction activities in the above property.

THIS ORDER IS ISSUED WITH REFERENCE TO THE APPLICATION UNDER INWARD NO 91 DATED 13.1.2016 FROM MR JOSE MARIA DE GOUVEIA PINTO AND OTHERS.

( THIS ORDER IS VALID FOR THREE YEARS FROM THE DATE OF ISSUE OF CONSTRUCTION LICENSE, PROVIDED THE CONSTRUCTION LICENSE IS ISSUED WITHIN THE PERIOD OF THREE YEARS)

R.N.Volvoikar

Dy Town Planner\

Note: Pursuant to this office assessment order no TIS/8482/ ELLA /TCP / 2016 / 1392 dated 17.10.2016 the applicant vide challan no 1612 dated 17.10.2016 has paid the infrastructure tax of Rs 1,61,102/- ( Rupees One lakh Sixty One Thousand one hundred and two only)

To,

Mr Jose Maria de Gouveia de Pinto and ors

H.No 541/7-A

Lake View colony

Miramar Panaji Goa

Copy to :

The Secretary

Office of th Village Panchayat,

Se-Old Goa.

## VILLAGE PANCHAYAT SE OLD GOA

Old Goa, Tiswadi –Goa.

No VP/ SOG/ TIS/2016 -2017/1269

Dated 14.11.2016

## CONSTRUCTION LICENCE NO VP/ SOG/ 21/2016-2017

License is hereby granted for Proposed Reconstruction of Residential House as per the enclosed approved plan in the property zone as settlement in Outline Development Plan for Panaji Goa situated at Ella village bearing survey no 4/1 at village Ella of Tiswadi Taluka in terms of resolution no 3 ( 2) taken in the Panchayat meeting dated 28.10.2016 as per the plans in triplicate / duplicate attached to his application under inward number 2222 dated 27.10.2016. One copy of the plans concerned with the approval note carrying the embossed sealed of this Panchayat and duly signed, is returned to the interested party, who shall comply with the following conditions:

1. The applicant shall strictly comply all the conditions imposed in the technical clearance/ order no TIS /8482 /Ella/ TCP/ 2016 / 1404 dated 18.10.2016 issued by the Town and Country Planning Department Tiswadi Taluka office, Panaji Goa.
2. The applicant shall obtain conversion sanad under the Goa Land Revenue Code, 1968 before the commencement of construction activity.
3. The applicant shall notify the Panchayat for giving the alignment of the building.
4. The construction should maintained the minimum prescribed horizontal and vertical clearances from any overhead electrical line passing adjacent to the construction.
5. All RCC/ structural works shall be designed and supervised by the Engineer who has signed the structural liability certificate submitted to the Panchayat.

6. No materials for construction or earth from excavation or any other construction materials shall be stacked on the public road.
7. The building should not be occupied unless the occupancy certificate is obtained from the Panchayat
8. The construction license shall be revoked if the construction work is not executed as per the approved plans and the statements therein and whenever there is any false statements or misrepresentations of any materials passed, approved or shown in the application on which the permit was based.
9. The applicant should construct a separate soak pit in order to derived in the sulage water
10. Any soak pit should be constructed at a minimum distance of 15 metres away from any well.
11. The ventilation pipe of the septic tank should be provided with a mosquito net.
12. The applicant should connect the pipeline from their latrines / EC's to the sewerage line at their own cost. When the sewerage line is commissioned.
13. The applicant should fix a board at prominent place where the construction started, including the number, the date and the authority for which the license for development work has been granted.
14. All the building material and other rubbish should be cleared from the construction site before applying for the occupancy certificate.
15. Water storage tanks shall be provided with mosquito proof lids and overflow pipes. The tanks should be provided with access ladders where ever necessary.
16. The drains surrounding the plot if any should be constructed with RCC and should be covered with removal RCC slabs of sufficient thickness.
17. The applicants should give the road widening area to the village Panchayat before applying for the occupancy certificate, if the applicant has utilised the extra FAR in lieu of the road widening effecting the plot.

18. The applicant should plaster and paint the building internally as well as externally before applying for occupancy certificate. Exposed bricks / laterite / concrete/ stone/ ashlar / masonry finish to building will also be permitted.
19. The applicant should provide a dustbin at a convenient place accessible for the municipal vehicle for collection of garbage.
20. Road widening area shall be asphalted to the existing road level before applying for occupancy certificate.
21. Garbage and parking areas shown in the approved plan shall be strictly used for parking purposes only and should be easily accessible to vehicles. No commercial activities shall be allowed in these areas.
22. Access up the entrance of the building is to be paved and is provided with drainage facilities
23. Space of parking of vehicles is clearly demarcated on the ground.
24. No Restaurant / Bars will be permitted in the Shops unless a separate soak pit is provided besides conforming to the rules enforced.
25. No commercial activities will be permitted in the shops unless a separate permission obtained from this Panchayat.
26. All temporary sheds / existing buildings shown to be demolished in the plan are demolished before applying for occupancy certificate.
27. Fire escape staircases, if applicable shall be constructed as indicated in the approved plans.
28. All internal court yards should be provided with drainage outlet.
29. The applicant should maintain all existing natural drains in the plot and should not block them at any stage.
30. No soak pit or other structures should come in the road widening area.
31. The plot boundary should be cordoned off by continuous sheet fencing either of wood or metal during the construction period.

32. The construction of compound wall should not obstruct any path way or any public access. The applicant shall make necessary arrangements for smooth flow of rain water by keeping adequate opening in the compound wall for the purpose.

33. No gates shall open outwards on the road.

34. The construction of the compound wall should be as per the approved plan. The applicant shall inform this Panchayat after the completion of the compound wall.

35. Drinking water well should be 15 meters away from any soak pit.

36. The applicant shall obtain an NOC from Primary Health Centres before commencement of work.

37. Adequate arrangements for collection and disposal of solid waste generated with the plot shall be arranged to satisfaction of the village Panchayat.

38 Garbage Collection bins shall be provided with the plot itself.

The license has paid Rs 42,500(Rupees Forty Two Thousand Five Hundred Only) towards construction license fees vide receipts no 65/427dated 11.11.2016

THE LICENSE IS VALID FOR A PERIOD OF THREE YEARS FROM THE DATE OF IISUE OF THIS LICENSE; RENEWAL IF REQUIRED SHALL BE APPIED WITHIN THE PERIOD OF THE VALIDITY OF THE LICENSE.

( Seen by me )

Vinayak J . Fadte

( Shirishkumar Tari)

Sarpanch

Secretary

V.P. Se Old Goa

V.P Se Old Goa

To,

To,

Mr Jose Maria de Gouveia de Pinto and ors

H.No 541/7-A

Lake View colony

Miramar Panaji Goa

ANNEXURE P- 13

November 16, 2018

To

Director (Monuments)

Archaeological Survey of India

24, Tilak Marg,

New Delhi 1

Subject: - Application for permission of repair of existing residential house in Survey No.4/1 of Village Ella (Old Goa), Goa.

Sir,

With reference to your mail dated 13<sup>th</sup> November 2018 regarding the proposed of Jose Maria de Gouveio Pinto in Sy. No 4/1 village Ella (Old Goa) Goa following is the report alongwith the enclosures.

1. The said property falls in the Protected Area of the Church of St. Cajetan, Old Goa. Enclosed Gazette Notification dated 1<sup>st</sup> June 1968 and Corrigendum dated 6<sup>th</sup> August 2008 with map no. 1 (Marked as old Survey. No.35)
2. The only structure standing at the site is small dilapidated hut which is dilapidated and not occupied by anyone for last many years. (Photographs enclosed) Even in the map of gazette notification of June 1 1968 plan of same hut as existing can be seen. (Map no. 1 & 2)
3. The CPM in Old Goa were notified in the year June 1, 1968. However if the house was existing from 1931 no Objection was raised when their said property was included in Protected Area. Neither permission was sought from ASI for repairs after the so-called destruction by cyclone in 1992
4. After the notification of the sites as CPM since 1968 the AMASR Act 1958 is implemented at all the areas. However, the applicant does not mention

any permission granted from ASI for carrying out repair and renovation of the house in 1986.

5. Permission may be considered only for repair/renovation to the existing structure at the site (Photo enclosed) without any horizontal and vertical expansion as it comes under the protected area of world Heritage site.

This is for your kind information.

Encl: - 1. Map of Gazette Notification dated June 1, 1968

2. Corrigendum dated 6 August 2008

3. Village Map Showing protected area with survey members.

4. Google map showing the exact location with boundary marked for protected area.

5. Photographs of the proposed side and existing structure

Yours Faithfully,

Superintending Archaeologist(I/C)

रजिस्ट्री सं० डी० 222

Registered No. D. 222

COMPLETED 2850  
 भारत का राजपत्र  
 The Gazette of India  
 प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 22] नई दिल्ली, शनिवार, जून 1, 1968/ज्येष्ठ 11, 1890  
 No. 22] NEW DELHI, SATURDAY, JUNE 1, 1968/JYAISTHA 11, 1890

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## नोटिस

## NOTICE

नीचे लिखे भारत के असाधारण राजपत्र 20 मई, 1968 तक प्रकाशित किये गये :-

The undermentioned Gazettes of India Extraordinary were published up to the 20th May, 1968 :-

Issue No.	No. and Date	Issued by	Subject
171	S.O. 1634, dated the 13th May, 1968	Ministry of Commerce.	Further amendment to the Imports (Control) Order, 1955.
172	S.O. 1756, dated the 14th May, 1968.	Ministry of Information & Broadcasting.	Approval of the Films specified in the Schedule thereto.
173	S.O. 1757, dated the 14th May, 1968.	Ministry of Food, Agriculture, Community Development and Co-operation.	Order made by the Central Govt. regarding Essential Commodities Act, 1955.
174	S.O. 1758, dated the 18th May, 1968.	Ministry of Commerce.	Amendment in the Order of the Govt. of India in the Ministry of Commerce [S.O. No. 1844 of 18th June, 1966.

एस० ओ० 1759, दिनांक 18 मई, 1968.

वाणिज्य मंत्रालय

भारत सरकार के वाणिज्य मंत्रालय के एस० ओ० संख्या 1844 दिनांक 18 जून 1968 के आदेश में संशोधन।

(2527)

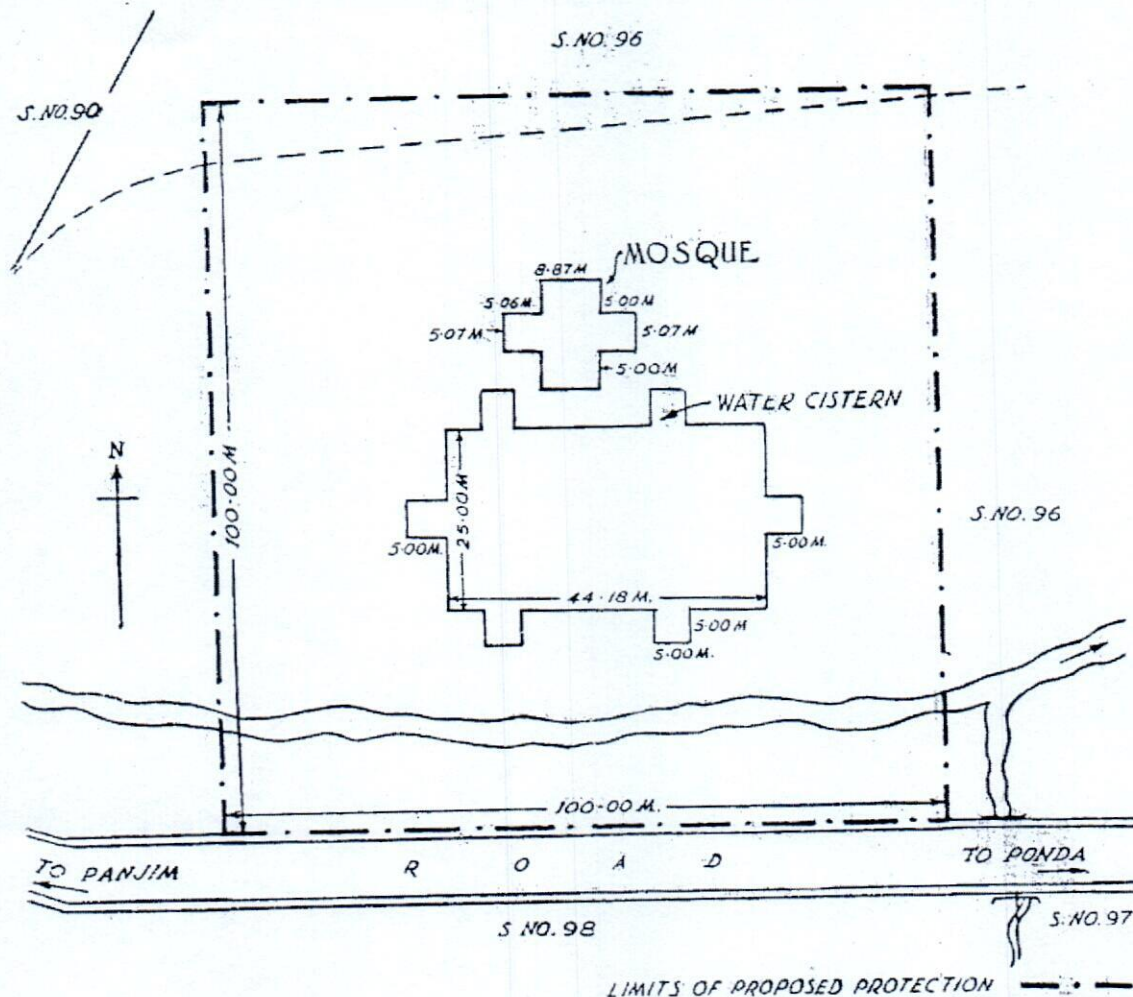
सहायक निर्यात

रजि० जी०-क  
10-8-16

सहायक नियंत्रक (वाणिज्य)  
 भारत सरकार, प्रकाशन विभाग  
 शहरी विकास मंत्रालय  
 सिविल लाईन्स, दिल्ली-54

# SITE PLAN OF SAFA MASJID AT BANDORA

10 0 10 20 30 40 50 METRES



[No. F.4/9/67-CAI(I)]

New Delhi, the 23rd May 1968

S.O. 1389.—Whereas by notification of the Government of India in the Ministry of Education S.O. No. 4399, dated the 24th November, 1967, published in Part II, Section 3, sub-section (ii) of the Gazette of India dated the 16th December, 1967, the Central Government gave notice of its intention to declare the ancient monuments specified in the Schedule below to be of national importance.

And whereas no objections have been received to the making of such declaration.

Now, therefore, in exercise of the powers conferred by sub-section (5) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby declares the said ancient monuments to be of national importance.

सहायक नियंत्रक (वाणिज्य)  
भारत सरकार, प्रकाशन विभाग  
शहरी विकास मंत्रालय  
सिविल लाईन्स, दिल्ली-54

## THE SCHEDULE

Sl. No.	Union Territory	District	Tehsil	Locality	Name of Monuments	Revenue plot numbers to be included under protection	Area	Boundaries	Ownership	Remarks
1	2	3	4	5	6	7	8	9	10	11
1.	Goa, Daman and Diu.	Goa	Ellor	Velha Goa	Group of monuments namely:— (i) Se' Cathedral (ii) Church and Convent of St. Francis of Assisi (iii) Chapel of St. Catherine (iv) Chapel of St. Cajetan (v) Arch of Viceroy (vi) Arch of Adil Shah's Palace (vii) House of Bull (viii) Basilica of Bom Jesus (ix) Chapel of St. Francis Xavier and connected buildings (x) Largo of St. Francis Xavier. (xi) Largo of St. Cajetan together with other minor monuments and adjacent area as shown in the plan reproduced below.	Survey plot Nos. 6A, 6B, 7, 10, 11, 17, 18, 29, 34, 176 177, part of survey plot Nos. 14, 16, 35, 36, 175, 178; 179, 183 and unnumbered survey plots including roads and adjoining open area as shown in the plan reproduced below.	242332.65 Sq. mts.	North:— Survey plot Nos. 9, 12, 15, remaining portion of survey plot Nos. 16, 14, 36 and River Mandovi. East:— Survey plot Nos. 39, 41, 25, 26, 33, 32, 31, 30, 28, 24, 23, public road and remaining portion of survey plot No. 175.	Survey plot Nos. 6A, 10, 11, 17, 18, 29, 34, 175, 176, 177, 178, 179, 183 and unnumbered survey plots including roads and adjoining space:— Government owned. Remaining under private ownership.	

South:— Survey plot Nos. 199, 197, 192, 191, and remaining portion of survey plot Nos. 178, 179 (now included in public road) and part of public road.

West:— Part of public road and remaining portion of survey plot No. 183.

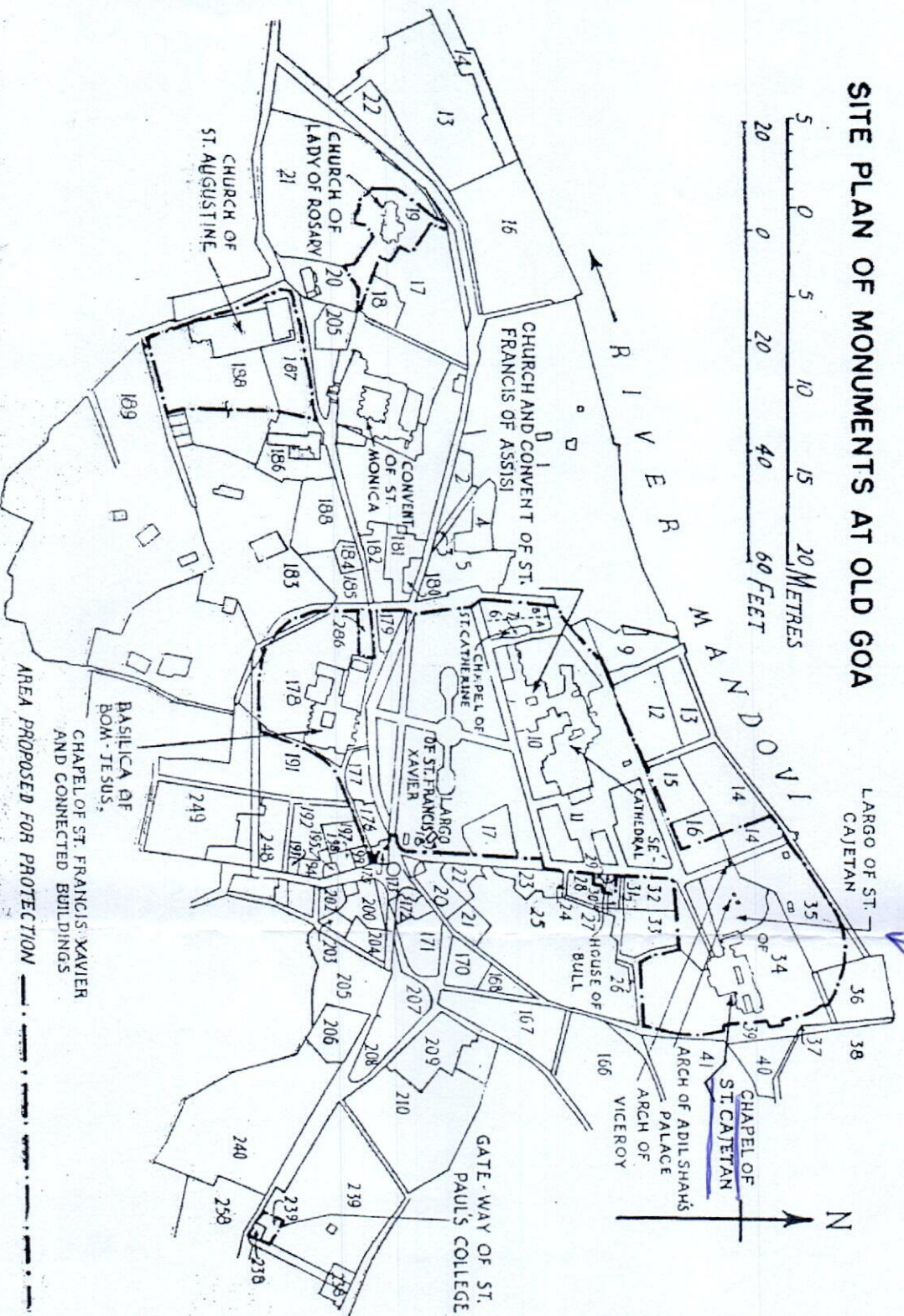
श्री श्री विकास मंगल  
मंगल मंगल, विकास मंगल  
विकास मंगल (विकास)  
10-8-01  
4-5-01

शहरी विकास मंत्रालय  
सिविल वर्कर्स, दिल्ली-७५  
भारत सरकार, प्रकाशन विभाग  
(प्राधिकृत)  
०१-७-०१  
५-५-५५

पुनर्गठित

2.	-do-	-do-	-do-	-do-	Church of St. August- time together with adjacent land com- prised in part of sur- vey plot Nos. 187 and 188.	28560 sq. mts.	North :— Old road East :— Remaining portion of survey No. 17 and 188. South :— Road. West :—Road.	Government	Roads are not assign- ed any survey numbers.
3.	-do-	-do-	-do-	-do-	ortol remains of St. Paul's college to- gether with adjacent land comprised in survey plot No. 238 and part of survey plot No. 239.	942 sq. mts.	North :— Remaining portion of survey plot No. 239. East :— Road. South :— Road West :— Remaining portion of survey plot No. 239.	Survey plot No. 239 private and remaining Govt. owned.	Roads are not assign- ed and survey numbers.
4.	-do-	-do-	-do-	Bangue- nim	Church of lady of Rosary together with adjacent area com- prised in survey plot No. 19.	7932 Sq. mts.	North :— Panjim road and survey plot No. 17. East :— Road and survey plot Nos. 17 and 18. South :— Survey plot Nos. 20 & 21. West :— Survey plot No. 21.	Trustees	

# SITE PLAN OF MONUMENTS AT OLD GOA



[No. F. 4/11/67-CAI (1)]

सर्वेक्षण विभाग, प्रकाशन विभाग  
राष्ट्रीय विकास मंत्रालय  
सिंहगढ़, दिल्ली-54  
10-8-67  
पृष्ठ-54

रजिस्ट्री सं. डी. एल.-33004/99

REGD. NO. D. L.-33004/99



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 1122]

नई दिल्ली, बुधवार, अगस्त 6, 2008/श्रावण 15, 1930

No. 1122]

NEW DELHI, WEDNESDAY, AUGUST 6, 2008/SRAVANA 15, 1930

संस्कृति मंत्रालय

(भारतीय पुरातत्त्व सर्वेक्षण)

शुद्धि पत्र

नई दिल्ली, 6 अगस्त, 2008

का.आ. 1954(अ).—भारत के राजपत्र के पृष्ठ संख्या 2578 में दिनांक 1-6-1968 को भारत सरकार, शिक्षा मंत्रालय, भारतीय पुरातत्त्व सर्वेक्षण द्वारा प्रकाशित सं. का.आ. 1889 दिनांक 23 मई, 1968 में दर्शाये गये स्थल मानचित्र में “संरक्षण के लिये प्रस्तावित क्षेत्र” को “संरक्षित क्षेत्र” पढ़ा जाये।

[फा. सं. 4/11/1967-सी.ए.आई. (आई)]

अंशु वैश्य, महानिदेशक एवं अपर सचिव

MINISTRY OF CULTURE

(ARCHAEOLOGICAL SURVEY OF INDIA)

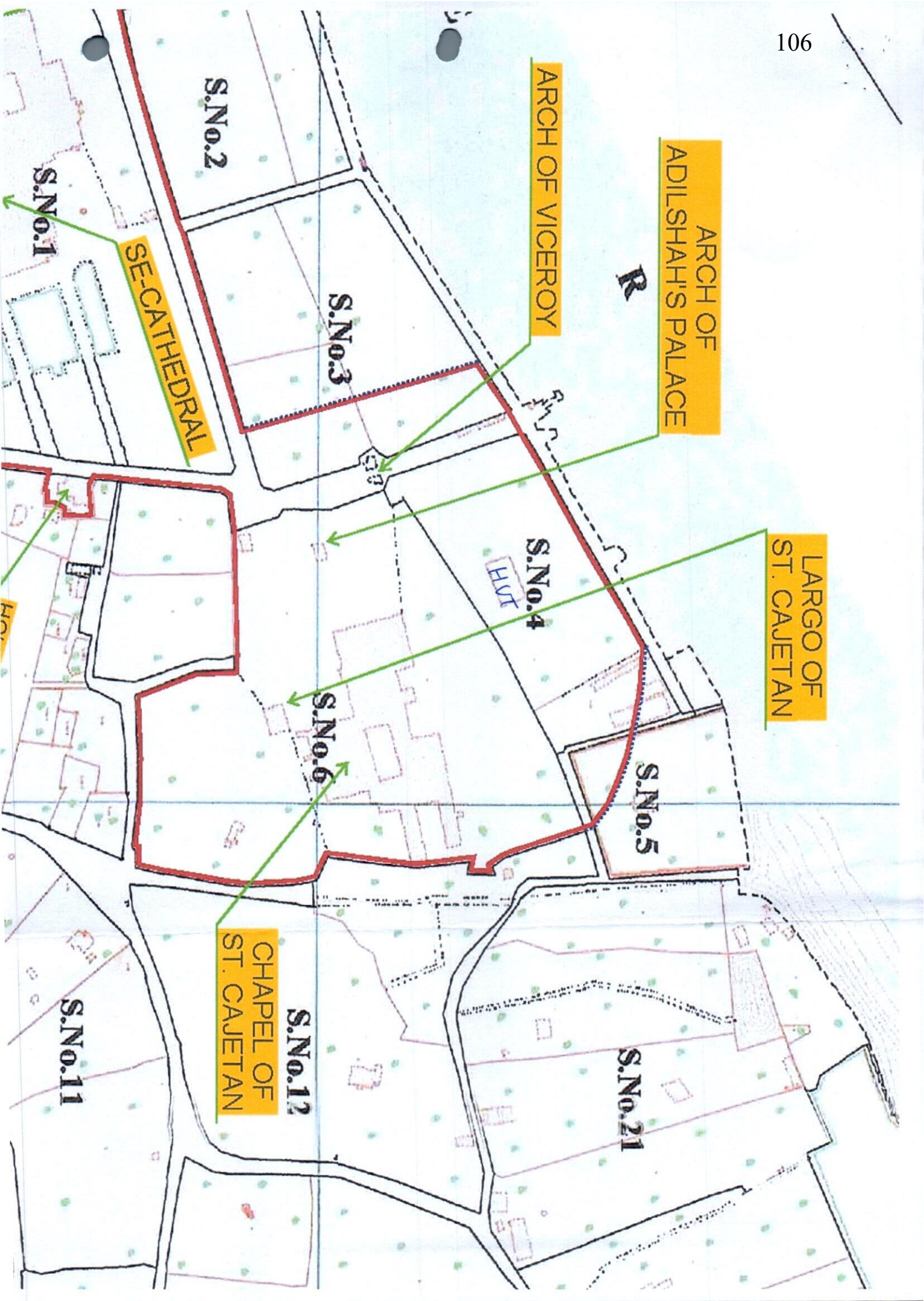
CORRIGENDUM

New Delhi, the 6th August, 2008

S. O. 1954(E).—In the Notification of the Government of India, Ministry of Education, Archaeological Survey of India No. S.O. 1889 dated 23rd May, 1968, published in the Gazette of India on dated 1-6-1968, in the ‘Site Plan’ shown at page No. 2578, the words may be read as “Protected Area” instead of “Area Proposed for Protection”.

[F. No. 4/11/1967-C.A.I. (I)]

ANSHU VAISH, Director General and Addl. Secy.



ARCH OF  
ADILSHAH'S PALACE

R

ARCH OF VICEROY

LARGO OF  
ST. CAJETAN

S.No.5

S.No.4

HUT

S.No.3

S.No.6

S.No.2

SE-CATHEDRAL

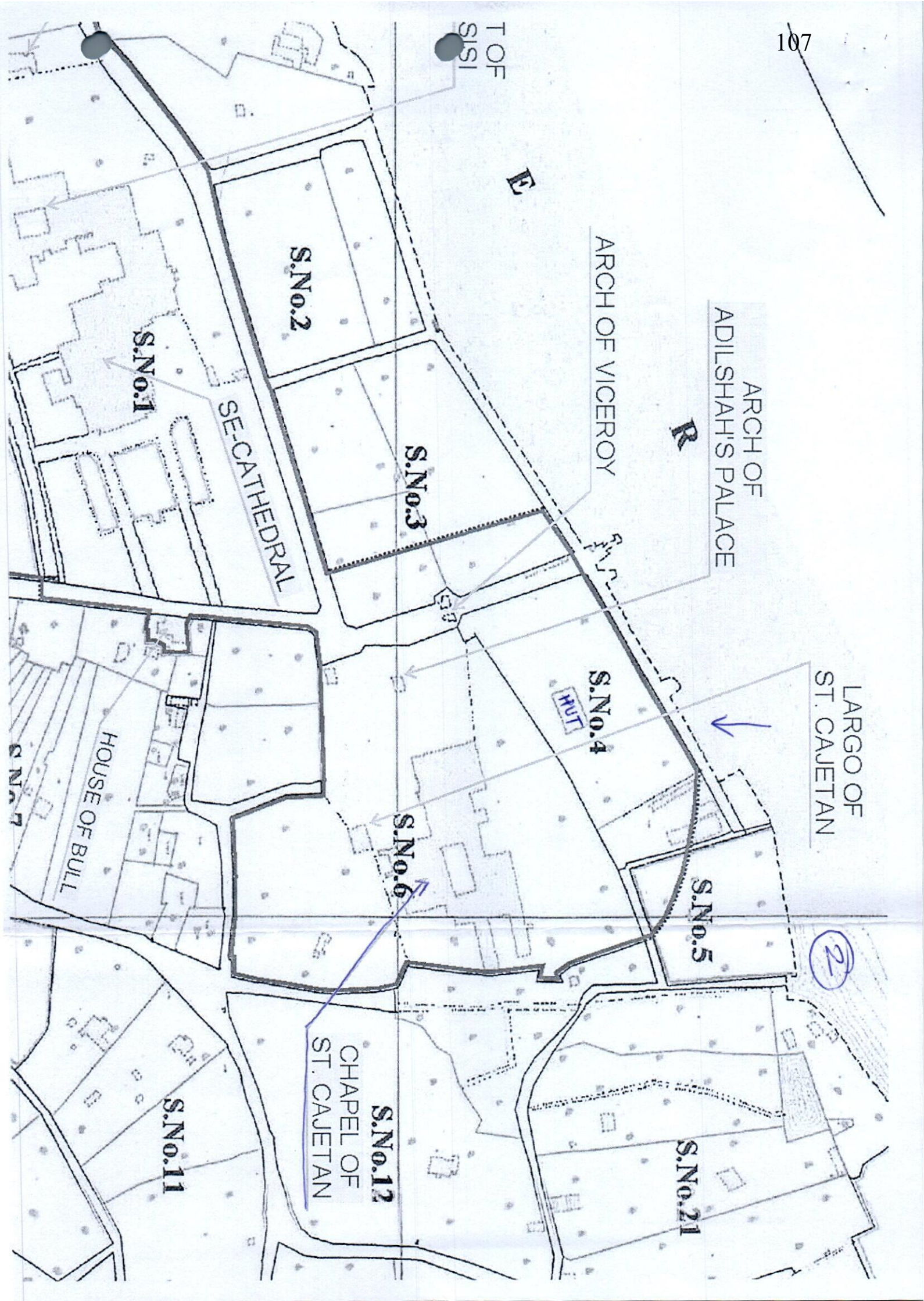
S.No.1

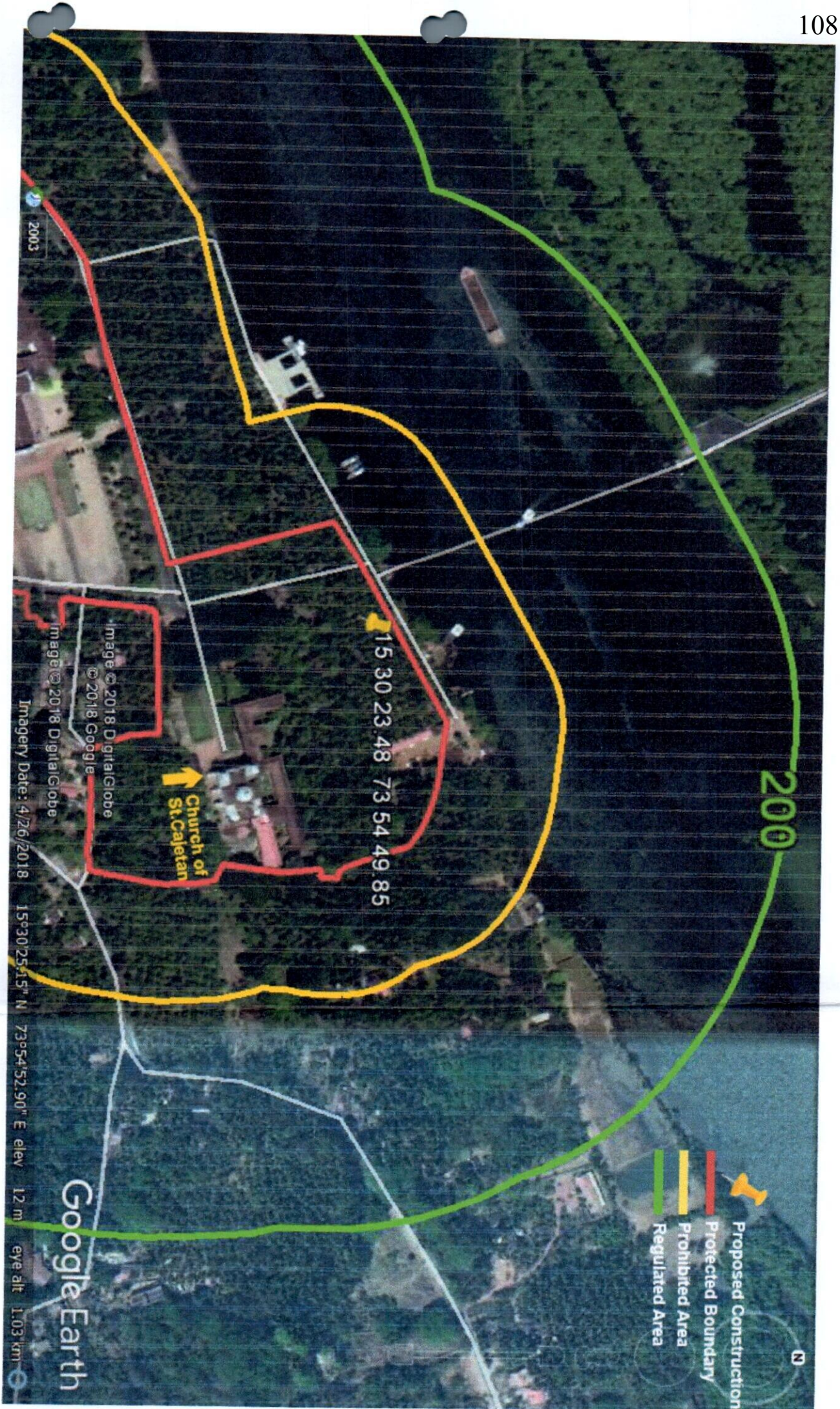
S.No.21

CHAPEL OF  
ST. CAJETAN

S.No.12

S.No.11



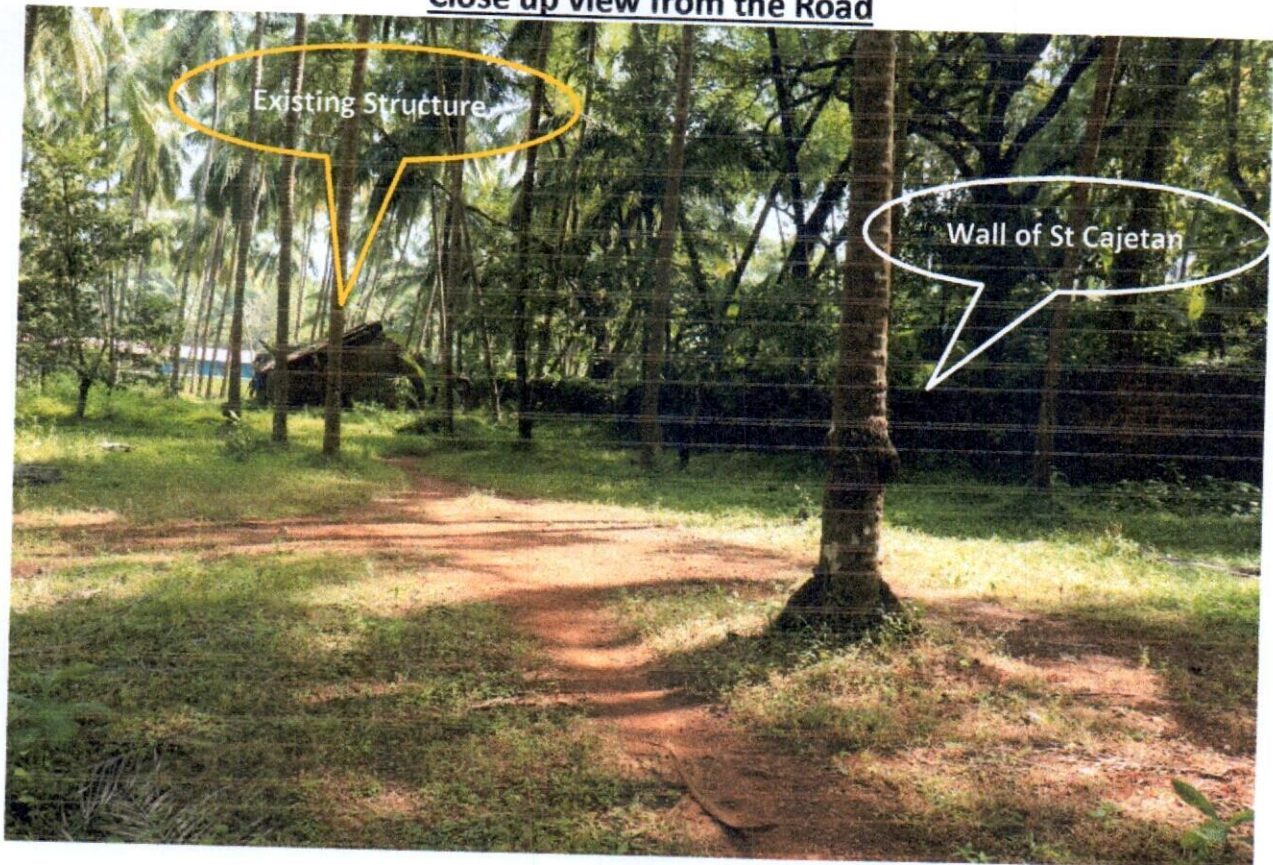




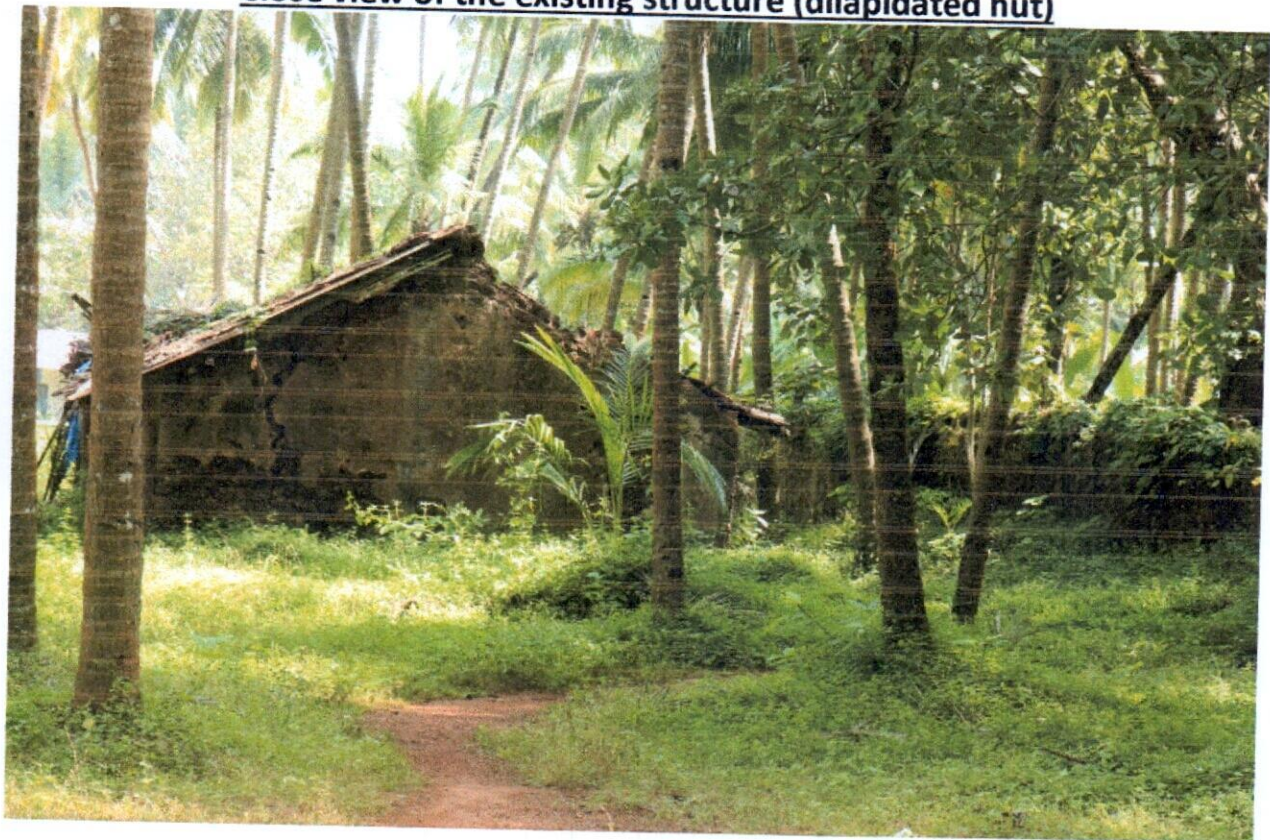
View from the Roadside



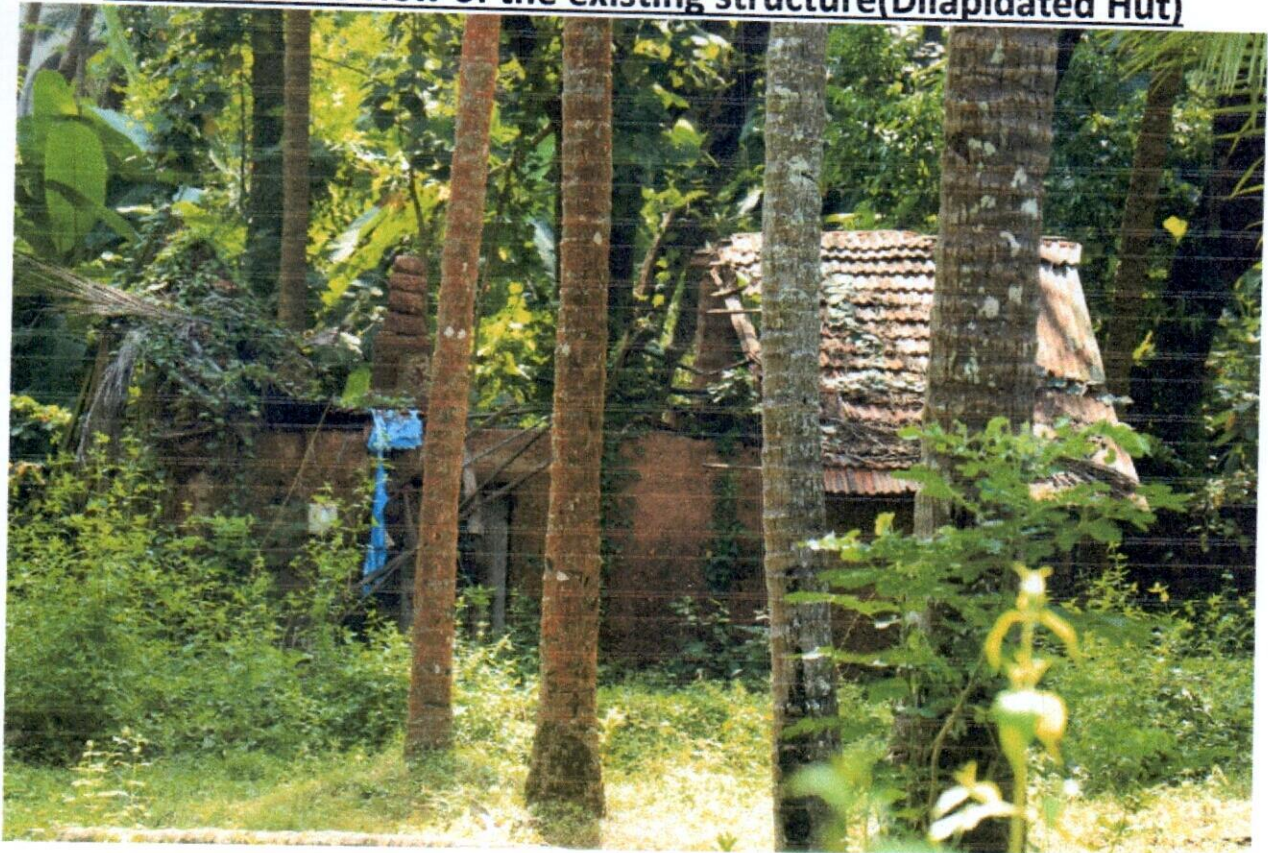
Close up view from the Road



Close view of the existing structure (dilapidated hut)



**Another close view of the existing structure(Dilapidated Hut)**



**View of the proposed area from the River Mandovi**



ANNEUXRE P-14

File No T -19034/46/2018- MONUMENT

Government of India

Archaeological Survey of India

24, Tilak Marg, New Delhi

Dated: 19.12.2018

To,

Jose Marie de Gouveio Pinto

C/o Gopi Mhamal, Manasa Sarovar

1<sup>st</sup> level Near Govt. Circuit House,

Altinho, Panaji, Goa 403001

Subject: Application for permission of repairs of existing residential house in Survey No 4/1 of village Ella (Old Goa) Goa reg.

Sir,

With reference to your letter dated Nil on the subject cited above, it informed that while examining your application for grant of permission within protected monument of St Cajetan Church and Viceroy's Arch, it was found that ownership of the land Survey no 4/1 Village Ella ( Old Goa) Goa, rest with Survana Suraj Lotlikar . Therefore, issue of ownership may be clarified before grant of permission.

Enc: As stated

Yours Faithfully

D.N. Dimri

Director (M)

Copy to the Superintendent Archaeologist Goa Circle, Goa for information.

ANNEXURE P-15

From

Dated 4.1.2019

Mr. Jose Maria de Gouveia Pinto

C/o Gopi Mhamal Manasa Sarvovar

1<sup>st</sup> Level , Near Govt Circuit House

Altinho Panaji Goa 403001

To

The Director General

Archaeological Survey of India,

Dharohar Bhavan,

24 Tilak Marg, New Delhi

Sub: Application for permission of Repairs of existing residential house in survey no. 4/1 of village Ella (old goa) Goa.

Respected Madam,

We have an ancestral property bearing survey no. 4/1 of village Ella in Tiswadi Taluka. This property has our ancestral house bearing H.no. 57 registered with the Gram Panchayat. This house was built in the 19th century. Old cadastral map of goa, prepared in 1932 shows this house and the true copy of the same map is attached herewith for your reference. New survey plan and form I and XIV, receipts of house tax paid have also been attached.

Further, this house was repaired and renovated in 1986 after obtaining permission from the gram panchayat. Application made by us and the NOC issued by Gram Panchayat are attached herewith in support of the above statement.

Unfortunately in the year 1992 the said house collapsed due to the cyclone which hit Goa. Since then we were forced to live in the rented premise in spite of having

ancestral property and dilapidated house. Due to lack of financial capabilities the work of repairs was not taken up, but now in our old age and for our future generation, we have decided to repair the ancestral house. As there is emotional attachment with this place, our new and old generation wants to cherish the same.

We had made application to various concerned departments such as gram panchayat, town and country planning department, CRZ, national monuments authority, conservation committee of TCP, etc. After a long exercise of documentation and follow-ups, we have managed to obtain necessary permission from Gram Panchayat of Ella (Old Goa), clearance from town and Country Planning Department, CRZ, etc. Since the said property has been marked as preservation zone (Conservation), the proposal was discussed in the Conservation Committee of the Town and Country Planning Department. This Committee approved the proposal subject to NOC from National Monuments Authority.

When the files were submitted to the competent authority for the State of Goa, nominated under National Monument Authority processed the file, it was brought to our notice from the site inspection report of the Archeological Survey of India, that repairs of the house is permissible but the application needs to be made to the office of the Director General, Archaeological Survey of India, New Delhi and hence we are requesting you to grant us the permission for the repairs of the existing house as per the plans approved by Town and Country Planning Department, CRZ and Conservation Committee.

We state that the proposed repair of the house which is in dilapidated condition will not harm in any way the Archeological Monument in the vicinity. We also make following things clear to convey that heritage value of this place will not be affected based on following points:

a) Physical Impact:

Since our house is located beyond 110 meters from both the protected monuments i.e. Viceroy's Arch and St. Cajetan's Church at Old Goa, there will be no physical impact on the Archeological monuments or the remains.

b) Visual Impact:

Our house is surrounded by coconut plantation and few modern structures hence visually both the monuments will not be affected from visual integrity point of view.

c) Aesthetic Impact:

Our plans have been approved by the Conservative Committee and CRZ, which are as per the local architectural and heritage values to match with the aesthetic integrity of the place.

A copy of the letter addressed to your Office by the competent authority for the State of Goa who is also Chief Town Planner of the Town and Country Planning Department as well as the member secretary of the Conservation Committee has also been attached for your consideration.

Since our house has almost fallen and we want to repair it, requesting you to grant us the permission so that we can complete the work before monsoon. You are also requested to expedite the matter, since I have obtained other required permissions and even the site inspection of ASI, Old Goa is done in this matter.

Following documents have been attached for your reference:

1. Ownership documents
2. Old Cadastral Map showing our ancestral house (1932 Maps)
3. Form I and IV
4. Survey Plan issued by department of Survey of Land Records Government of Goa.
5. Application and NOC from Gram Panchayat for repairs of the house in 1986.
6. Receipt of house Tax paid 1986 and a recent one.
7. Plans approved and approvals by CRZ and Conservation Committee of TCP, Goa
8. Structural stability certificate

9. Site Inspection report of ASI Old Goa
10. Photograph of the existing structure proposed for repairs
11. Photograph showing nearest monument
12. Photograph showing nearby modern structures
13. Drawings for proposed repairs.
14. Copy of the letter from the office of the competent authority for the State of Goa/ Chief Town Planner/ Member Secretary of the Conservation Committee, TCP, GoA.

Thanking you,

Yours faithfully,

Jose Maria de Goveia Pinto

F.No. T-19034/46/2018-M  
Government of India  
Archaeological Survey of India

Date: 03.02.2020

To,

Suvarna Suraj Lotlekar  
C/o Gopi J. Mhamal,  
Manasa Sarovar, 1<sup>st</sup> level,  
Near Govt. Circuit house,  
Altinho Panjim-Goa

Sub: Permission for repairs to existing residential house in survey no. 4/1 of village Ella (Old Goa), Goa- reg

With reference to your letter dated nil on the subject cited above, I am to communicate approval of the competent authority for taking up repairs of house located in the protected area of two centrally monuments i.e, Church of St. Cajetam and Viceroy's Arch, Old Goa. The permission is further subject to following conditions:

1. The repair work should be taken up in consultation with the superintending Archaeologist (1/C), ASI, Goa Circle.
2. The exterior colour should match with the monument.
3. There shall be no change in the facade design.
4. There shall be no building material staked on the roadside or near the monument.
5. There shall be no inconvenience to visitors.
6. It should be ensured that no damage is caused to ancient/archaeological structures within the monument area.
7. The provisions of AMASR Act, 1958 and Rules, 1959 made there under shall be observed.

8. If any object of antique nature is found during the course of work, it has to be submitted to SA (1/C) immediately.
9. There should not be any variation in length, breadth and height of the structure after repairs in comparison to the existing dimensions.
10. SA (I/C) Goa Circle would keep a strong watch on the repair work, document is periodically and would submit fortnightly report to this office.
11. The permission does not cover reconstruction.

Yours sincerely

Arvin Manjul

Director (Monuments-II)

Copy to: The Superintending Archaeologist (1/C), Archaeological Survey of India, Goa Circle for information and necessary action please.

To

Smt. Suvarna Suraj Lotlekar,  
C/o Gopi Mhamai, Manasa Sarvovar  
1<sup>st</sup> Level, New Govt. Circuit House,  
Altinho, Panaji, Goa 403401.

Subject: - Permission for repair to existing residential house in Survey No. 4/1 of village Ella (Old Goa, Goa reg.)

Madam,

With reference to subject cited above you are requested to submit following documents to verify the legitimacy of the structure for which the said permission is granted: -

1. Ownership details shown on plan of Survey No.4/1 along the demarcated area where permission for repairs is approved.
2. As on date existing plan, elevation and photograph of the present structure to which the repairs have to be carried out duly signed by the competent authority, i.e., Directorate, Archaeological Survey of India, New Delhi.

Further you are informed to have a joint inspection of the structure before taking up the repairs to existing structure since the permission does not cover reconstruction and permission covers only repair work. Hence kindly bring all the information about the present structure with self-attestation before commencing the work.

Yours faithfully,

(K. Amarnath Ramakrishna)  
Superintending Archaeologist  
Archaeological Survey of India  
Goa Circle, Goa

From: Survana Suraj Lotlekar

C/o Gopi J. Mhamal

Manasa Sarovar, 1<sup>st</sup> level

Near Govt. circuit house,

Altinho Panjim- Goa

Date: 19.02.2020

To,

Shri K Amarnath Ramkrishna,  
Superintending Archaeologist,  
Archaeological Survey of India,  
Goa Circle, Old – Goa

Sub: Permission for repair of existing residential house in survey no. 4/1 of village  
Ella (Old Goa) Goa,

Ref:

- a) Your letter reference no. 4135/2019-20/512 dated 11<sup>th</sup> Feb 2020
- b) Our letter dated 17/01/2020 in warded on 20/01/2020.
- c) Our letter in warded dated 11/02/2020.

Sir,

With reference to your letter, the information sought by you at point no. 1 is already submitted to you vide our letter of above-mentioned ref.

With respect to point no.2, all the information except the plan duly signed by the Directorate of Archaeological Survey of India, which we have not received, has been already submitted to you.

In the view of above please let us know the date for the joint inspection if required as we need to start the work before further detoreation of the structure as lot of

delay had already taken place and before ensuring monsoon, we need to take up the repair work.

With warm regards

Survarna Suraj Lotlekar

ANNEXURE P-19

Office of the Conservation Assistant  
Archaeological Survey of India  
Church Complex, Old Goa 403402

No. 14/2/ACT/2019-20/...

Date: 12.03.2020

To,  
Suvarna SurajLotikar  
C/o Gopi Mhamai,  
Manasa Sarvovar 1st Level,  
Near Govt. Circuit House,  
Altinho, Panaji, Goa

Sub: - unauthorized construction activity against the approval of the competent authority-reg. Ref.Lr F.no:4/55/2019-20/1636, dated 03/03/2020.

Madam,

With reference to the subject cited above, it is come to the notice that some poles are being erected at the site – in survey no. 4/1 of village Ella, but you have been received permission for only repairs of the existing structure – particularly the hut, so in this connection you are hereby directed not to erect any poles at the site without any prior permission from the Competent Authority and remove the erected poles immediately within 24 hours or we have to take further action.

Yours faithfully,  
Senior Conservation Assistant  
Archaeological Survey of India  
Old Goa Sub-Circle  
Old Goa, Goa.

Copy to:

The Superintending Archaeologist, Archaeological Survey of India. Goa Circle,  
Old Goa for your kind information and necessary action.

**Item No. 11:- Proposal of reconstruction of existing house in property bearing Sy. No.4/1 of Ella village Tiswadi Taluka by Mr. Jose Maria De Gouveia Pinto and Ors. File No.27/15-3/782/TCP/2016)**

The Member Secretary informed that the Dy. Town Planner of Tiswadi Taluka Office has forwarded the proposal for reconstruction of existing house.

The Technical Members Arch. Ketak Nachinolkar, Arch.Snehalata Pednekar, Eng. Thomas Costa, Shri. Varad Sabnis and Shri John Marcelo (Rep. of Chief Architect) inspected the site on 20/04/2016. During the inspection, it was observed that proposed construction is located within 300 mts. from the protected monuments. It was also observed that as per the provisions of ODP as well as RP, the area under reference is earmarked as Archeological Preservation Zone.

It was informed that the plot falls within 100 mts. of River Mandovi and for which reason, the applicant has obtained NOC from GCZMA vide letter no. GCZMA/N/15-16/01/2215 dtd.28/12/2015, as per which approval is granted in terms of CRZ angle for reconstruction of existing house. It was noted that the NOC states as under:

“The approval is granted as per the plan enclosed thereby not exceeding existing FAR, existing plinth area and existing density, and further subject to the confirmation to local building bye laws”.

The Member Secretary informed that the Technical Members were of the opinion that the applicant need to submit NOC from NMA regarding the proposal submitted.

A detailed discussion on the proposal was then held with specific reference to the NOC issued by CRZ for the structure having ground plus one floor and the drawings bearing the seal of CRZ authority consisting of ground floor area of 347.57 sq.mts. and first floor area of 347.57 sq.mts.

Considering all above, the committee decided to consider the proposal at its end for approval from conservation point of view only, subject to condition that the applicant obtains NOC from NMA prior to commencement of any construction activity.

The proposal therefore stands approved subject to condition as above

Government of India  
Office of the Conservation Assistant  
Archaeological Survey of India  
Old Goa Sub Circle, Old Goa

No. 14/2/SCT/2019-20/832

Date: 16.03.2020

To,  
Suvarna Suraj Lotikar  
C/o Gopi Mhamai,  
Manasa Sarvovar  
1st Level, Near Govt. Circuit House,  
Altinho, Panaji, Goa-403-401

Sub: - Violation of permission for repair in survey no. 4/1, Old Goa – reg.

Madam,

With reference to this letter vide no. 14/2/ACT/2019-20/827, dated 12.03.2020 you were informed to remove the illegal erection of metal poles in survey. No. 4/1. However, even after 24 hours the same is not been removed by you neither this office have received any communication in this regard.

In this regard you are herewith informed that under the provision of The Ancient Monuments & Archaeological Sites & Remains Act 1958 Sec. 19 sub section 1 & 2 if any work in the protected area is carried out at the site by violating the permission issued by Director General, Archaeological Survey of India, New Delhi will have to seek the legal action.

Therefore, you are once again informed that the permission granted is restricted only for the repairs to the existing hut (without any horizontal or vertical expansion). Failing to the above this office will be compelled to take further action as per legal provision.

Yours faithfully,

Senior Conservation Assistant  
Archaeological Survey of India  
Old Goa Sub-Circle  
Old Goa, Goa.

Copy to:

The Superintending Archaeologist, Archaeological Survey of India. Goa Circle,  
Old Goa for your kind information and necessary action.”

## INSPECTION REPORT

Visit to Parcem Village, Pernem Taluk, North Goa on

Wednesday, March 11, 2020

This report is in connection with the NOC matter regarding a permission received by one Smt. Suvarna S Lotlekar in survey no. 4/1 of village Ella, Old Goa. The site of proposed repair falls in the protected area of the monuments at Old Goa. Smt. Suvarna S Lotlekar has submitted a file to this office, which carries a photograph of a structure (Ground + 01 floor). She claims that the house in that photograph existed in survey no 4/1 of village Ella, Old Goa before 1992.

However, this office received information that the house in the submitted photographs is located in Village Parcem, Taluka Pernem, District North Goa. To find out the fact of the matter, **on March 11, 2020 Wednesday**, Parcem village in Pernem Taluka of North Goa District was visited by Sh. Amarnath Ramakrishna, SA, Goa Circle ASI along with Dr. Izhar Alam Hashmi, DySA and Sh. Tarang Mahesh Gharpure, AA with witness (1) Sh. Chandrashekhar Yalwar, (2) Sh Madhusudhan Reddy M. Patil.

As per the information received, a house resembling the submitted photograph was seen by the road side. GPS co – ordinates of the house are Lat 15.65997325 Long 73.7685186 and the postal address is – House no. 240, Madhalawada, Village Parcem Taluk Pernem, District North Goa, Goa – 403512. The house is rectangular in plan with 17.60 mts length and 8.10 mts breadth. Height of the ground floor as taken from the edge verandah floor is 3.85 mts. (The height of 1<sup>st</sup> floor could not be taken as we were not allowed to enter the house). The house was inspected from various angles for clarity. On comparing the house with the photograph submitted by the applicant, all the details of architecture like the number and the type of the arches on ground floor, small entry gate, pillar capitals and foundations, the wooden railing of the verandah and lay of the roof tiles matched.

There were only two people in the house, a lady and the man, both senior citizens. On approaching the house and making an enquiry, the lady asked us to talk to man. The name given by the man in his introduction is Sh. Dulba Laxman Naik Desai and the house is their ancestral property. He also informed that only he and the lady stay in the house. On enquiring about their kith and kin, he informed that his children have settled in Mumbai and other places and nobody visits. However, they travel to Mumbai often. He refused to disclose any details about the number of his children, their names or contact details.

On informing him, that Smt. Suvarna S Lotlekar submitted the photographs of his house for seeing a NOC for repairs in Old Goa and asking if he knew Smt. Suvarna S Lotlekar, he informed that he did not know anyone with that name. On making further enquiry, he said that the house was renovated in 2018 and the railings to the verandah were installed in 2018. He also mentioned that a huge sum of Rs. 80, 00, 000/- was spent in the house. The appearance of the house contradicted the audacious claim made by him. He was further requested to remain in communication with this office by telephone and the office telephone number 0832 – 2285302 was given to him. The office also requested him for his telephone number, and the telephone number given by him is 0832 – 2246156. We were allowed to photograph the house from outside, which are enclosed with this report.

Sd/-

Sd/-

Dr. I.A. Hashmi

Sh. Tarang M. gharpure

(Dy.SA.)

(A.A.)

Sd/-

Sd/-

Sh. Chandrashekhar Yalwar

Sh. Madhusudhan Reddy M. Patil

(Witness 1)

(Witness 2)

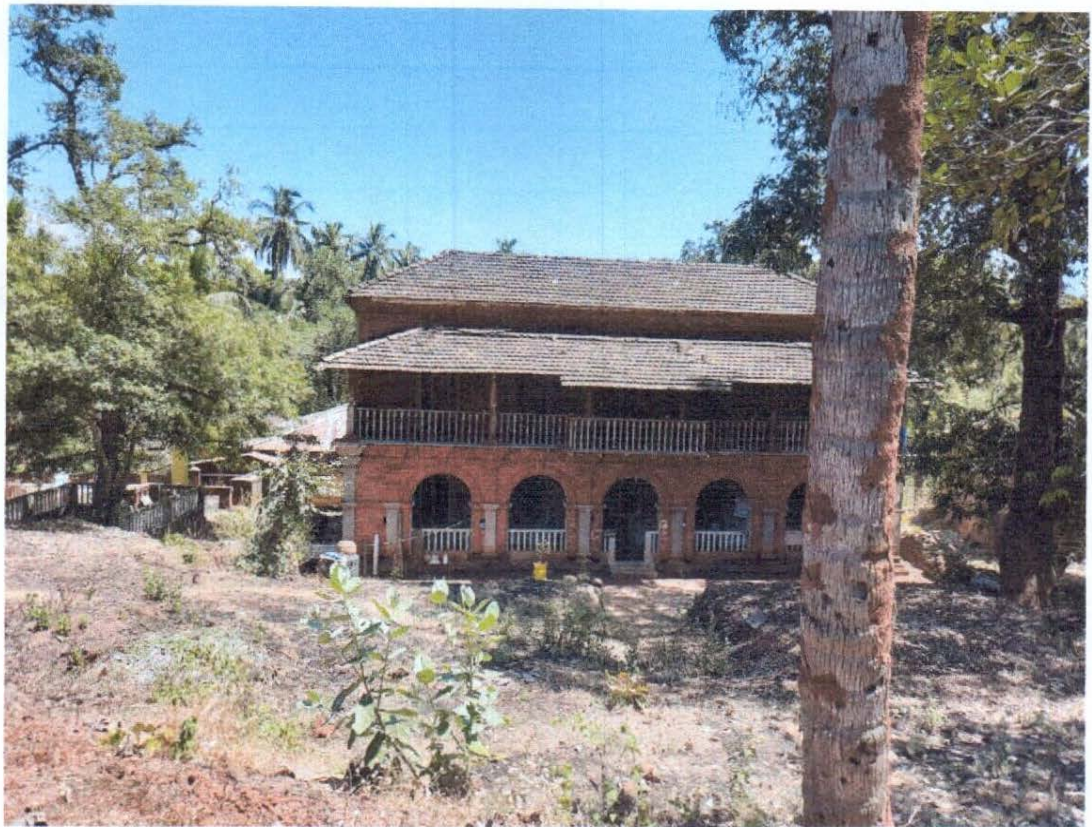
Front View



Side View



House as seen from the road



GPS Co - ordinates

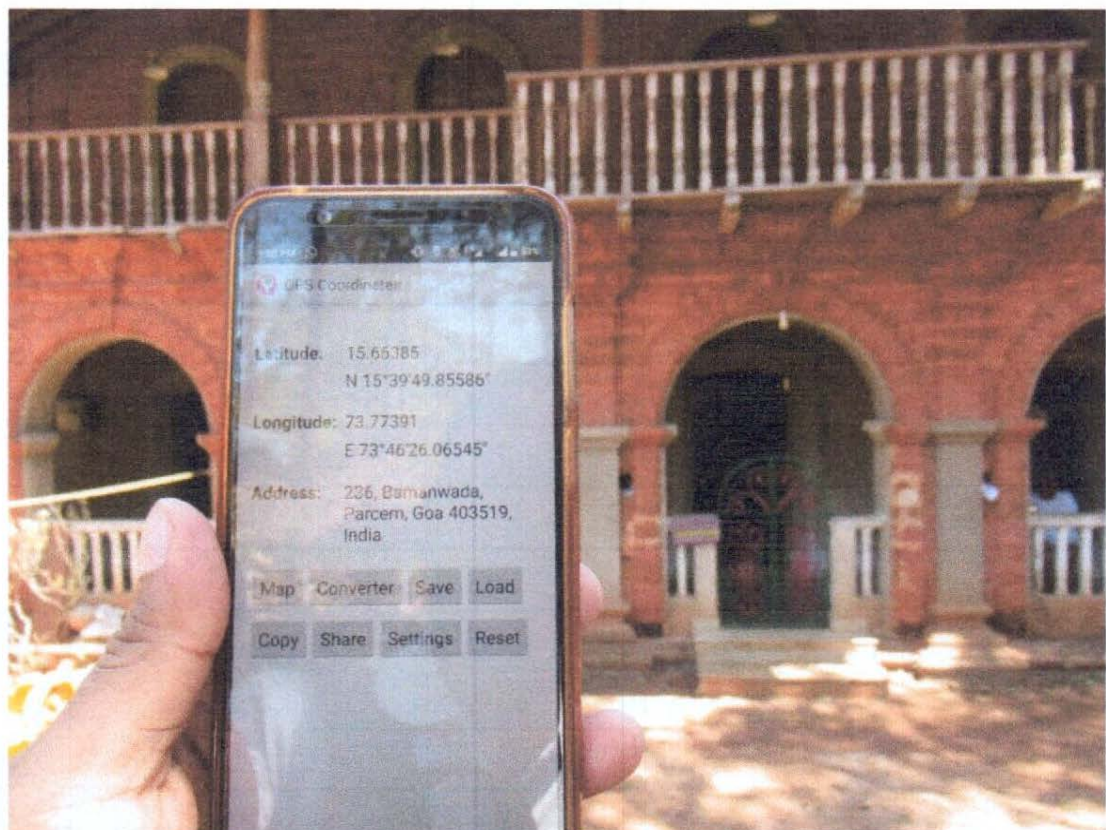
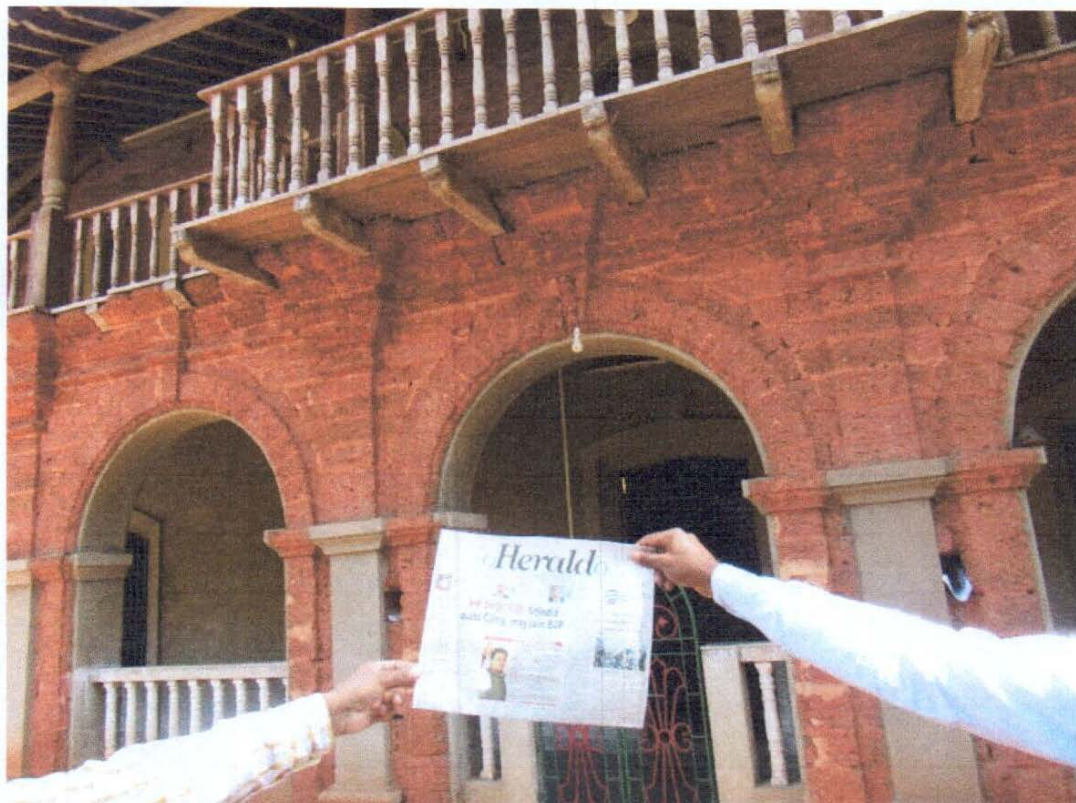
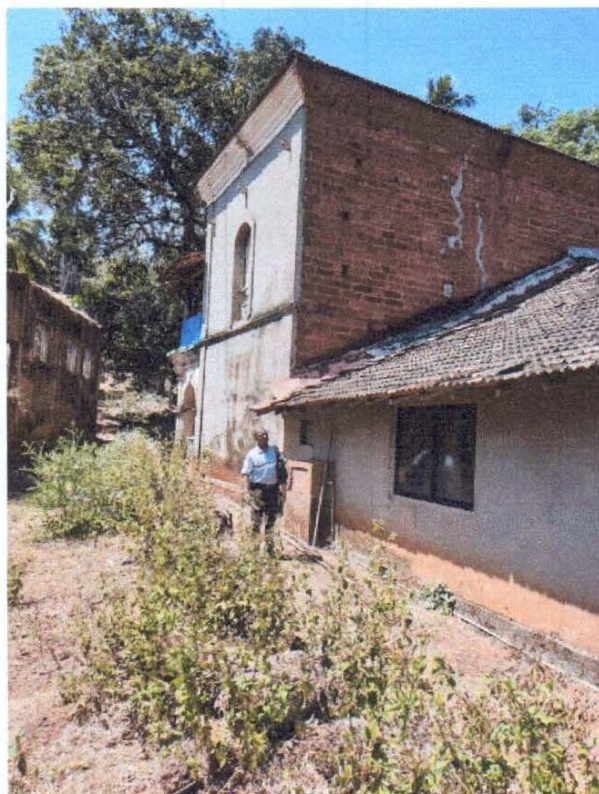


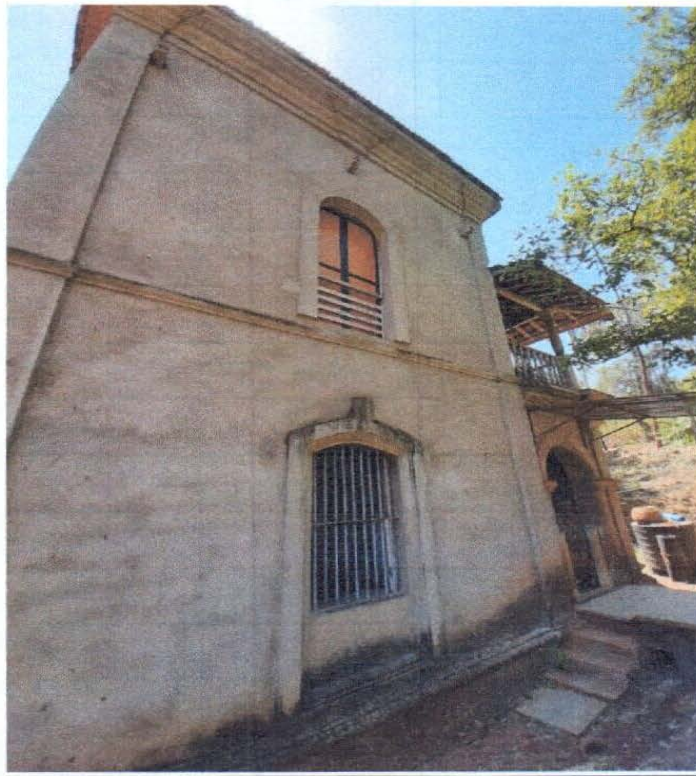
Photo with News Paper



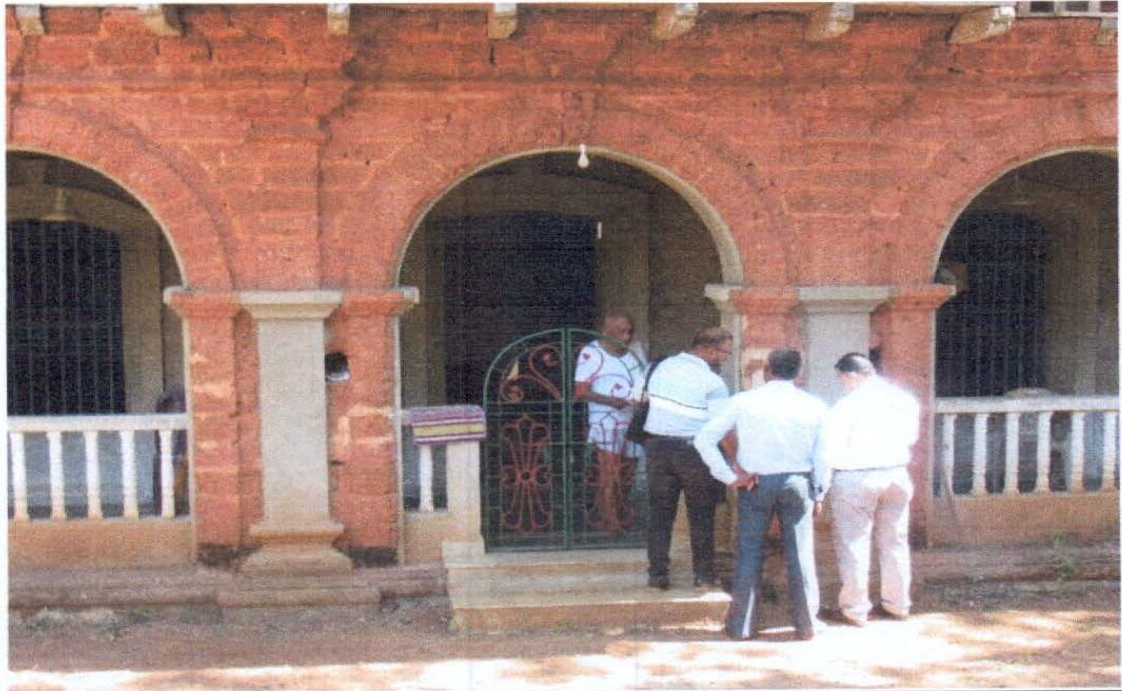
View from the left side of house



View from the right side of house



Discussion with the owner





F.No. 4/55/2019-20-1685

Dated: - March 18<sup>th</sup>, 2020

To

Dr. Arvin Manjul,

Director (Monuments –II)

Archaeological Survey of India

Dharohar Bhavan, 24,

Tilak Marg, New Delhi -110001

Sub: - Forwarding of site inspection report pertaining to permission for repairs of existing residential house in survey no. 4/1 in village Ella (Old Goa), Tiswadi

Sir,

With respect to the above-cited subject, it is brought to your kind attention that this office received a copy of documents from Suvarna S. Lotlekar. She claimed that the same documents were already submitted to the D.G., ASI by her. In that document, there is a photograph of a house (copy enclosed). The application claims that the house in the photograph existed in Survey number 4/1, village Ella before it was destroyed by a storm in the year 1992.

However, this office received information that the house in the photograph exist in village Parcem, Taluk Pernem, District North Goa. To find out the fact of matter, on March 11, 2020, the team headed by Sh. K Amarnath Ramakrishna, SA, Goa Circle ASI along with Dr. Izhar Alam Hashmi, DySA and Sh. Tarang Mahesh Gharpure, AA with witness (1) Sh. Chandrashekhar Yalwar, (2) Sh. Madhusudhan Reddy M. Patil; visited Parcem village in Pernem Taluk of North Goa District and inspected the house.

During the inspection, it is found that the photograph submitted by the applicant is false and the claim of existence of the house in Survey no. 4/1 of village Ella, before the year 1992 is fake. The detail site inspection report is enclosed herewith for your kind information and further necessary action.

Encl: - 1. Copy of photograph submitted by the applicant at this office

2. Site inspection report

Yours

faithfully

Sd/-

(K. Amarnath Ramakrishna)

Superintending Archaeologist

Archaeological Survey of India

Goa Circle, Goa



No. 4/55/2019-20-1686

Government of India

Archaeological Survey of India

Goa Circle, Church Complex, Velha Goa

To

March 23, 2020

Smt. Suvarna Suraj Lotlekhar,  
C/o Gopi Mhamal,  
Manasa Sarovar,  
1<sup>st</sup> Level, Near Govt. Circuit House,  
Altinho, Panaj, Goa 403401

Subject – Violation of permission for repair in Sy.No. 4/1, Old Goa Ref – Your letter dated 17 March 2020

Madam,

With reference to your claim in the above-mentioned reply following are our observations for you to inform this office before commencing any work, such as any kind of digging, putting any type construction activities, demolishing the existing hut etc. in the Sy. No. 4/1, Village Ella, Old Goa.

1. The permission granted by Directed General, Archaeological Survey of India, New Delhi vide no. T-19034/46/2018-M dated 03 February 2020 clearly mentions permission for the repairs to the existing structure/existing house (hut)
2. Based on the permission you were informed to submit the approved plans by the Director General, Archaeological Survey of India, New Delhi of the existing structures to this office for understanding the work which will be taken up for repairs. You have failed to produce any approved plans to this office and hence status quo needs to be maintained at the proposed site.

3. Your claim of having a structure prior to 1992 does not stand. As the ownership of the ancestral structure which was claim belonged to Jose Maria de Gouveio Pinto does not exist, at present only a small hut is existing at the site. Hence you cannot claim to be the owner of the ancestral house by producing false drawings and photographs.

4. As per your file submitted to this office, regarding the approved permission letters and plans from Town and Country Planning Department, CRZ and conservation committee, their validity has been lapsed. Hence their clearance does not hold any stand.

5. In this regard you are informed to get the permission from all above-mentioned department in your name after inspection of the site from the concern departments. The site inspections will be considered valid only when a representative from this office (Archaeological Survey of India, Goa Circle) will participate for the joint inspection.

6. You are also informed to submit the measured drawing and most recent photographs of the structure for which the permission for repairs was granted. The photographs must show the existing structure prominently in survey no. 4/1 of village Ella.

Further once again you are informed to remove all the poles illegally erected by you within 24 hours as per this office notice or the undersigned will be compelled to take legal action against you.

Yours faithfully,  
(K. Amarnath Ramakrishna)  
Superintending Archaeologist  
Archaeological Survey of India  
Goa Circle, Goa.

ANNEXURE P-24

No.4/55/2019-20.279

Government of India

Archaeological Survey of India

Goa Circle, Church Complex, Velha Goa

[circlegoa.asi@gov.in](mailto:circlegoa.asi@gov.in)

0832 2285302

June 2, 2020

To

Smt. Suvarna Suraj Lotlekar,

Clo Gopi Mhamal,

Manasa Sarovar,

1<sup>st</sup> Level, Near Govt. Circuit House,

Altinho, Panaji, Goa 403401

Subject: - Permission for repairs to existing residential house in Survey No. 4/1 of village Ella (Old Goa), Goa reg.

Ref: - Your letter dated 11 May 2020

Madam,

With reference to subject cited above it is to inform you that this office has already clarified in the previous communication vide letter no. 4/55/2019-20-1512 dated 11.02.2020, 4/55/2019-20-1636 dated 03.03.2020 and 4/55/2019-20-1698 dated 23.03.2020. There is no need to repeat again and again regarding the same. You are requested to arrange a joint survey for verification for the existing structure claimed by you admeasuring 397 sq. mts. at the site with the representative from all concerned departments to verify its existence at the said property in Survey No. 4/1 of village Ella (Old Goa), Goa for which the permission is granted or submit copy of the duly approved plan, elevation

and photographs of existing structure by the Director General, Archaeological Survey of India, New Delhi. The photograph, plan and the elevation submitted to this office is found to be bogus as in reality only a small hut exists in the proposed site.

No further communication in this regard will be entertained by this office until you submit the documents as desired by this office.

This is to remind you that the permission granted by the Director General, ASI, New Delhi is conditional and specifically mentions that the permission is for **Repairs**.

You are requested to kindly mark three conditions of the permission viz. nos.

1. The repair work should be taken up in consultation with the Superintending Archaeologist (I/c), ASI, Goa Circle.

10. SA (I/c) Goa Circle would keep a strong watch on the repair work, document it periodically and would submit fortnightly report to this office.

11. The permission does not cover reconstruction.

Hence your allegation that this office has no right to stop your work is not acceptable. Since the permission is for “taking up repairs of house located in the protected area” you are requested to repair the existing hut in your property.

This is for your kind information.

Yours faithfully,

(K. Amarnath Ramakrishna)

Superintending Archaeologist

Archaeological Survey of India

Goa Circle, Goa

## IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Writ Petition No. 132 Of 2020

SUVARNA SURAJ LOTLIKAR

...Petitioner

*Versus*

UNION OF INDIA

...Respondents

I N D E X

SR.NO.	DESCRIPTION	PAGE NO.
1.	Chronology of Dates and Events	4-7
2.	Points for Determination	8-9
3.	Memo of Writ Petition	10-41
4.	<b><u>EXHIBIT – A colly</u></b> is the copy of the NOC for repairs and reconstruction by Village Panchayat SE- Old Goa.	42-43
5.	<b><u>EXHIBIT- B colly</u></b> - is the copy of the FORM I& XIV, Sale Deed dated 08/05/2015 Certificate dated 22 <sup>nd</sup> April, 2015 along with the Old Cadastral Survey Plan.	44-64
6.	<b><u>EXHIBIT - C colly</u></b> - is the copy of the Survey Plan & House tax receipt register of Village Panchayat SE - Old Goa.	65-70

7.	<b><u>EXHIBIT – Dcolly</u></b> are the copies of all the permissions/NOC/Approvals granted by the Authorities.	71-84
8.	<b><u>Exhibit E Colly</u></b> " is the Copy of the Application of Mr. Pinto dated 04/01/2019, copy of the application dated 17/01/2020 by Petitioner, and letter dated 12.02.2019 from suvarna lotlikar to the Superintendent of Archaeologist submitting original form I and XIV and copy of letter dated 9 <sup>th</sup> June, 2015 of Directorate of Settlement& Land Records and Judgement dated 14 <sup>th</sup> July, 2015 of the Deputy Collector and Sub- Divisional officer at Panaji.	85-96
9.	<b><u>EXHIBIT – F</u></b> -is the copy of the Permission / Approval dated 03.02.2020 granted by the Archaeological Survey of India.	97-98
10.	<b><u>EXHIBIT-G</u></b> - is the copy of the letter dated 11.02.2020 issued by the Superintendent of Archaeologist.	99
11.	<b><u>EXHIBIT – H</u></b> - is the copy of the Reply dated 19.02.2020 of the Petitioner.	100-101
12.	<b><u>EXHIBIT-I colly</u></b> - is the copy of inspection report dated 28 <sup>th</sup> October, 2015.	102-104
13.	<b><u>EXHIBIT-J colly</u></b> is the copy of the letter dated 12.03.2020, 16.03.2020 and reply dated 17.03.2020.	105-110
14.	<b><u>EXHIBIT – K</u></b> - is the copy of the letter dated 23.03.2020 issued by the Superintendent Archaeologist.	111
15.	<b><u>EXHIBIT –L colly</u></b> - is the copy of the Reply letter dated 11.05.2020 and Copy of letter dated	112-120

	02.06.2020 received from the Superintendent of Archaeologist, Archaeological Survey of India, Goa Circle, Goa	
16.	Affidavit	121-122
17.	Vakalatnama	

ADVOCATE  
FOR THE PETITIONER

PLACE: Panaji, Goa

DATE : August, 2020

## IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Writ Petition No. 132 Of 2020

SUVARNA SURAJ LOTLIKAR

...Petitioner

*Versus*

UNION OF INDIA

...Respondents

**CHRONOLOGY OF DATES AND EVENTS**

SR. No.	DATE	EVENT
1.	20/07/1986	Application by Mr. Pinto for NOC reconstruction/ repairs of the ancestral house /loja bearing house no 57 in survey no 04/1 of Village Old Goa to the Sarpanch Village Panchayat old Goa
2.	27-7-1986	NOC for Repairs /Reconstruction of the Existing old Structure by the Sarpanch Village Panchayat Se- old Goa.
3.	1986-87	House tax for the structure in Survey no 4/1 of E11a Village was assessed for the purpose of assessment of House tax for the year 1986-87
4.	08/05/2015	Sale Deed between Mr. Jose Maria De Gouveia Pinto and Mrs. Suvarna Suraj Lotlikar.
5.	14/07/2015	The Deputy collector and sub divisional officer disposed off the Application of Mr. Pinto to Correct the survey records, there by directing to update/ correct the survey plan by showing the structure

		admeasuring 397. sq mts in survey no 4/1 in village Elle.
6.	28/10/2015	NOC for repairs / reconstruction of the existing house of Mr.&Mrs. Pinto at no. 57 under Survey No. 4/1 of Village Ella, Tiswadi, Old Goa by Superintending Archaeologist Archaeological India
7.	28/12/2015	NOC/ approval for proposed re construction of existing house bearing H NO 57 located in the property Survey No 4/1 of EllaVillage , Tiswadi Taluka from Goa Coastal Zone Management Authority
8.	07/10/2016	Proposal of Reconstruction of existing of house in property bearing sy No 4/1 of Ella Village Tiswadii Taluka by Mr. Jose Maria De Gouveia Pinto and Ors by the Chief Town Planner & member Secretary of Conservation Committee.
9.	18/10/2016	Technical Clearance order from the Dy. Town Planner
10.	27/10/2016	Provisional no objection  certificate by the Medical Officer Directorate of Health Services Primary Health Center, Corlim
11.	14/11/2016	Construction Licence given by the secretary Village Panchayat SE-Old Goa
12.	12/10/2018	Letter from chief Town Planner proposed to repairs and renovation / reconstruction of existing house at Sy

		No 4/1 of Ella Village, Tiswadi Taluka - Goa
13.	04/10/2019	Renewal of Construction License no . VP/SOG/TIS/2016-2017/1269 Dt. 14/11/2016 by secretary Village Panchayat SE- Old Goa
14.	03/02/2020	Permission for repairs to existing residential house in Survey no 4/1 of Village Ella (Old Goa) Goa from the Director (Monuments -II)
15.	19/02/2020	Letter to Superintending Archaeologist Archaeological Survey Of India asking for permission for repair of existing residential house in Survey No. 4/1 of Village Ella.
16.		Letter from Superintending Archaeologist Archaeological Survey of India giving permission for repairs to existing residential house in Survey No. 4/1 of Village Ella (Old Goa) Goa
17.	17/03/2020	Reply to Letter of Senior Conservation Assistant Archaeological Survey of India.
18.	23/03/2020	Letter from Superintending Archaeologist Archaeological Survey of India to the Petitioner stating that the permission is granted to repair the hut which is contrary to the permission dated 03/02/2020 granted by competent Authority, ASI, through its Director (Monuments II)

19.	11/05/2020	Petitioner submitted his reply to the letter dated 23/03/2020 of the Superintending Archaeologist.
20.	02/06/2020	A letter was received pursuant to the reply dated 11/05/2020 of the Petitioner where by the Superintending Archaeologist directed the Petitioner to carry out only repair work of the structure.
21.	/08/2020	Aggrieved by the aforesaid action of the Respondent no.3 & 4 the present Petition has been preferred.

### **POINTS FOR DETERMINATION**

- 1) Whether the Respondent Nos 4&5 in exercise of powers have exceeded the authority by modifying the permission granted by the Competent Authority under the Act, which is arbitrary, illegal and in violation of the Petitioner's Fundamental Rights under Articles 14 and 21 of the Constitution of India?
- 2) Whether usurping of the power by the Superintendent Archaeologist and the senior conservation Assistant of the Respondent no.3 (Competent Authority) is unfair, illegal and impermissible in law?
- 3) Whether the interpretation adopted by the Respondent no.4 & 5 by which the existing structure is restricted only to the extent of replacement or to the renewal of the existing structure, the same would lead to absurdity as far as the Petitioner's existing ancestral structure is concerned?

### **ACTS AND RULES**

- 1) Constitution of India.
- 2) The Ancient Monuments and Archaeological Sites and Remains Act, 1958

*And any other Act that may be relied upon at the time of Hearing.*

**CASE LAW:**

Nil at the Moment.

IN THE HIGH COURT OF BOMBAY AT GOA,  
PANAJI – GOA

Writ Petition No.132 /2020

IN THE MATTER OF THE VIOLATION OF ARTICLE 14, 19 and 21 OF THE  
CONSTITUTION OF INDIA

AND

IN THE MATTER OF VIOLATION OF PETITIONER'S RIGHT TO  
RECONSTRUCT HIS ANCESTRAL HOUSE

AND

IN THE MATTER OF ARBITRARILY, USURPING THE POWER OF THE  
COMPETENT AUTHORITY BY THE OFFICIALS AND THEREBY  
MODIFYING THE PERMISSION GRANTED BY THE COMPETENT  
AUTHORITY WHICH IS IN VIOLATION OF THE PETITIONERS  
FUNDAMENTAL RIGHT UNDER ARTICLE 21 OF THE CONSTITUTION OF  
INDIA

AND

IN THE MATTER OF ARTICLES 14, 19 (1) (g), 21 AND 226 OF THE  
CONSTITUTION OF INDIA

1. SUVARNA SURAJ LOTILIKAR

c/o Gopi Mhamal,

Manasa Sarovar, 1<sup>st</sup> Level

Near Govt. Circuit House,

Altinho, Panaji - Goa 403401

... PETITIONER

## VERSUS

- a) UNION OF INDIA  
Through the Secretary  
Department of Archaeology  
New Delhi;
  - b) THE STATE OF GOA  
Through its Chief Secretary  
Alto, Porvorim– Goa
  - c) THE ARCHAEOLOGICAL SURVEY OF INDIA  
Through its Director (Monuments -II)  
Government of India, Dharohar Bhavan,  
24 Tilak Marg, New Delhi;
  - d) THE SUPERINTENDENT ARCHAEOLOGIST,  
THE ARCHAEOLOGICAL SURVEY OF INDIA  
GOVERNMENT OF INDIA, Goa Circle,  
Church Complex, Old Goa;
  - e) THE SENIOR CONSERVATION ASSISTANT,  
The Archaeological Survey of India,  
Government of India Goa Circle,  
Church Complex, Old Goa;
  - f) THE OFFICE OF CHIEF TOWN PLANNER  
&MEMBER SECRETARY OF CONSERVATION  
COMMITTEE, Town and Country Planning  
Department:2<sup>nd</sup>Floor; Dempo Towers  
Patto Plaza, Panaji- Goa;
  - g) THE VILLAGE PANCHAYAT SE-OLD GOA  
Through the Secretary, Old Goa,  
Tiswadi Goa
- ... RESPONDENTS

[ALL THE ABOVE ARE REGISTERED  
ADDRESSES OF THE PARTIES]

TO,  
 THE HON'BLE CHIEF JUSTICE  
 & OTHER COMPANION JUDGES  
 OF THE HON'BLE HIGH COURT  
 OF BOMBAY

**THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED:**

**MOST RESPECTFULLY SHEWETH:**

The Petitioners above named most respectfully state and submit as under:

1. The Petitioner herein by the instant Writ Petition filed under Articles 226 of the Constitution of India, is challenging the action of the Respondent no. 4 and 5 which has restricted the Petitioner from acting in pursuance to all the requisite permission granted by the competent authority. The Petitioner herein also challenges the interpretation adopted by the Respondent No 4 and 5 whereby the permission/ approval granted by the competent authority to the residential house of the Petitioner is restricted and interpreted only to a "Hut". The Petitioner also hereby challenges the interpretation adopted by the Respondent No's 4 and 5 which tantamount to modifying the permission granted by the competent authority (ASI, Director, Monuments II) to the Petitioner. The Petitioner herein also challenges the exercise of powers by the Respondent No 4 and 5, de hors the law and thereby curtailing the Petitioner's right to use one's own property in accordance with law. The Petitioner herein challenges the action of Respondent No's 4 and 5 directing the Petitioner to remove the temporary metal poles erected by the Petitioner and further observing that the permission granted by the competent authority is only for the repairs of the existing structure **(referred to as "hut" by Respondents No's 04 and 05 in their communications dated 03.03.2020)** and not with respect to the existing old structure as reflected in

survey records and approved plans. Therefore, the Petitioner challenges the action of The Respondents which is arbitrary, unfair and in contravention of Article 14, 19 and 21 of the Constitution of India.

2. The Petitioner is the co-owner of around 2,400 square meters (Sq. mtrs) of the property bearing survey no. 4/1 of village Ella (Old Goa); Tiswadi Goa (herein after referred as "**said property**"). The Petitioner states that in the said property there is a structure measuring 397 sq. mtr which is existing prior to 1932 (herein after referred as "said Structure"). The Petitioner states that the said structure was shown in old cadastral survey plan which was prepared and promulgated somewhere in the year 1932. The Petitioner states that in the said cadastral survey plan, the said structure was shown as a structure having an area of 397 sq. mtr, thus it is evident that the said structure is existing pre-1932. The Petitioner states that the said structure is also described and reflected in the present survey records and also in form I and XIV of Survey no 4/1 of village Ella Old Goa describing the structure of an area of 397 sq mtr. The Petitioner states that the said structure was repaired and re-constructed in the year 1936 the same is evident from the NOC for repairs and reconstruction granted by Village Panchayat SE-Old Goa. The Petitioner states that the Petitioner has the permissions for repair and reconstruction of the said structure from, the Town and Country Planning Department i.e. NOC/approval dated 28/12/2015 from Goa Coastal Zone Management Authority; approval dated 07/10/2016 from the Member secretary, Conservation Committee; Technical clearance dated 18/10/2016 issued by the Town and Country Planning Department; Provisional NOC dated 25/10/2016 from Directorate of Health Services Primary Health Centre Corlim; Construction license dated 14/11/2016 and renewal of Construction license dated 04/10/2019 from village Panchayat SE-Old Goa; permission for repairs dated 03/02/2020 from the Director (Monuments II) Archaeological Survey of India. The Petitioner has obtained all requisite permissions/NOC/approvals for repair and renovation of said Structure from all the concerned authorities as required under the

law. The Petitioner states that the "said property" is notified as protected area as per the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (herein after referred as "**said Act**"). It is pertinent to mention that the said structure is located at more than **110 mtrs** from the Protected Monuments i.e. "**Church of St. Cajetan and Viceroy's Arch, Old Goa**".

Annexed hereto and marked as "**Exhibit-A**" is the copy of the NOC for repairs and reconstruction granted by Village Panchayat SE-Old Goa.

3. The Petitioner states that the Respondent no. 1 is Union of India, represented through the Secretary, Department of Archaeology, New Delhi. The Respondent no.2 is the State of Goa represented through its Chief Secretary Government of Goa. The Respondent no.3 is the Archaeological Survey of India represented through its Director (Monuments -II) who is competent authority under the said act for granting of permission in the protected area. The Respondent No. 4 is the Superintendent Archaeologist, Archaeological Survey of India Goa Circle Old Goa. The Respondent No. 5 is the Senior Conservation Assistant, the Archaeological Survey of India Old Goa Sub-Circle, Old Goa. The Respondent No. 6 is Member Secretary, Conservation Committee, Town & country Planning Department, Government of Goa. The Respondent No. 7 is the Village Panchayat SE-Old Goa represented through its Secretary.
  
4. The Petitioner states that the Petitioner has purchased the property bearing survey number 4/1 of Village Ella (Old Goa of Tiswadi - Taluka (herein after referred as "**Said Survey No**"), Goa vide sale deed dated 8<sup>th</sup> May, 2015 from Mr. Jose Maria de Gouveia Pinto (herein after referred as Mr. Pinto") and Mrs. Marie Christine Gouviea Pinto and Miss Maria Lizette de Abreu Gouveia Pinto. The Petitioner states that the "said survey no" was surveyed as 35(PART) in the Old Cadastral Survey Plan, which is evident from the Certificate dated 22<sup>nd</sup> April, 2015 issued by the Superintendent of Survey & land Records, Panaji -Goa along with the old cadastral survey plan. The

Petitioner states that in the “said survey no” there is a structure/house admeasuring 397 sq.mts. (hereinafter referred as "said Structure") which is existing prior to 1932. It is thus evident from the aforesaid that the said structure is reflected on the cadastral Survey Plan promulgated in 1932 as well as in the Survey Plan. The Petitioner therefore states that the structure in question is existing for 88 years.

Annexed hereto and marked as "**Exhibit -B Colly**" is the copy of the FORM I & XIV, Sale Deed dated 08/05/2015 Certificate dated 22<sup>nd</sup> April, 2015 along with the Old Cadastral Survey Plan.

5. The Petitioner states that the owner (Mr. Jose Maria De Gouveia Pinto hereinafter referred as "**Mr. Pinto**") of said Survey number had an ancestral house bearing House no. 57 in survey no. 4/1 of village Ella in Tiswadi Taluka in the said property. The Petitioner states that the said structure was also registered with Village Panchayat of Se- Old Goa. The Petitioner states that "said Structure" is registered in the House Tax Register (1986) of Village Panchayat of SE Old Goa, Tiswadi Goa in the name of Mr. Pinto. The Petitioner states that it is pertinent to mention that the Old Cadastral Survey Plan which was prepared in the year 1932 have also shown the "said Structure". The Petitioner states that the House/Structure is also shown in the Survey Plan of the survey no's 4/1 of Village Ella (Old Goa) Goa.

Annexed hereto and marked as "**Exhibit- C**" **Colly** is the copy of the Survey Plan & House tax receipt register of Village Panchayat SE- Old Goa.

6. The Petitioner states that Mr. Pinto had repaired and renovated said Structure/house in 1986 after obtaining necessary permission from the Village Panchayat of SE-OLD GOA. The Petitioner further states that in 1992 due to the Cyclone in the State, part of the said Structure/House collapsed and was left a dilapidated condition. The Petitioner states that due

to lack of Financial Capability of Mr. Pinto, he could not carry out repair of the said Structure at the relevant time.

7. The Petitioner states that due to such sudden collapse of said Structure Mr. Pinto Shifted to rented premises and the repair of said structure was not carried out. The Petitioner states that Mr. Pinto because of his advance stage was not in a position to carry out the repairs of the said structure and therefore showed the intention to sell the property which the Petitioner purchased.
8. The Petitioner states that the Petitioner have several permissions by following authorities for the repair and renovation of the said structure. It is pertinent to mention that since sy. Records was in the name of Mr. Pinto, Petitioner applied in the name of the Mr. Pinto. :-
  - a) Certificate issued by the Supt. Of Survey & Land Records dated 22.04.2015 stating that the survey nos. 4/1 (part) corresponds to the old cadastral Survey plan of 35 (PART).
  - b) NOC/ Approval for proposed reconstruction of existing house bearing H-no.57 in Survey no. 4/1 of Village Ella, Old Goa, Tiswadi Taluka issued by the Goa Coastal Zone Management Authority to Mr. Pinto.
  - c) Chief Town Planner/ Member Secretary of Conservation Committee granted approval dated 07.10.2016 for the proposal of Mr. Pinto for reconstruction of existing house in the property bearing survey no. 4/1 of Village Ella.
  - d) The Office of Town and Country planning Department granted Technical clearance to Mr. Pinto on 18/10/2016.

- e) Directorate of Health Services, Primary Health Centre, Corlim issued Provisional NOC dated 25.10.2016 under Public Health Act to Mr. Pinto.
- f) Village Panchayat of SE-OLD Goa granted Construction licence dated 14.11.2016 to Mr. Pinto.
- g) Village Panchayat SE-OLD Goa issued renewal of Construction licence dated 04.10.2019 for the period of 3 years which is valid up to 03.10.2022 to Mr. Pinto.

Annexed hereto and marked as "**Exhibit -D Co1ly**" are the copies of all the permissions/NOC/Approvals granted by the Authorities.

9. The Petitioner states that the Petitioner purchased the said property from Mr. Pinto vide sale deed dated 08/05/2015. The Petitioner state that prior to that Mr. Pinto has filed an application dated 17.04.2015 for correction of survey record before the Deputy Collector and Sub- Divisional Officer at Panaji. The Petitioner states that the Deputy Collector and Sub- Divisional Officer at Panaji disposed of the application on 14th July, 2015 thereby directing the Directorate of Settlement and Land records, Panaji to update/correct the survey plan and further directed to show the Petitioners structure in the Survey no. 4/1. The Petitioner states that since all the permissions/NOC/approvals obtained in the name of Mr. Pinto the Petitioner applied to the Respondent No. 3 in the name of Mr. Pinto. The Petitioner states that however when the Respondent No.3 vide its letter dated 19/12/2018 informed Mr. Pinto that upon examination of the application for permission it was observed that in form I and XIV of the survey no 4/1 name of the Petitioner was reflecting. Therefore, the Respondent No. 3 asked Mr. Pinto to clarify as regards to the ownership issue of the said property. The Petitioner states that accordingly the Petitioner vide its letter dated 12/02/2019 provided Form I and XIV of the

said property. The Petitioner states that accordingly the Petitioner made an application for permission of repair of existing residential house in survey number 4/1 of Ella Village Old Goa. The Petitioner states that following documents were produced before the Respondent No.3 as follows:

- i. Ownership documents
- ii. Old cadastral Map showing tour ancestral House (1932 Maps)
- iii. Form I and XIV
- iv. Survey Plan issued by department of Survey of Land Records, Government of Goa
- v. Application and NOC from Gram Panchayat for Repairs of the House in 1986.
- vi. Receipt of House Tax paid 1986, and a recent one.
- vii. Plans approved and approvals by CRZ and Conservation Committee of TCP, Goa
- viii. Structural stability Certificate.
- ix. Site inspect of Report of ASI, Old Gooa
- x. Photograph of the existing structure proposed for repairs.
- xi. Photographs showing nearest Monuments.
- xii. Photographs showing nearby modern structure.
- xiii. Drawings for proposed repairs.
- xiv. Copy of the letter from the office of Competent Authority for the State of Goa/ Chief Town Planner/Member Secretary of Conservation Committee, TCP Goa. The Petitioner states that "Mr. Pinto" produced all the permissions/approvals/NOC along with the Application.

Annexed hereto and marked as "**Exhibit E Colly**" is the Copy of the Application of Mr. Pinto dated 04/10/2019, Copy of the application dated 17/01/2020 by Petitioner, and letter dated 12.02.2019 from Suvarna Lotlikar to the Superintendent of Archaeologist submitting original form I and XIV and copy of letter dated 09 June, 2015 of Directorate of

Settlement & Land Records and Judgement dated 14<sup>th</sup> July, 2015 of the Deputy Collector and Sub-Division officer at Panaji.

10. The Petitioner states that since most of the permissions were obtained in the name of Mr. Pinto the Petitioner perused the said application in the name of Mr. Pinto and upon satisfaction, by the Plans approved by the Conservation Committee and other permissions/NOC/Approvals, Respondent No. 03 granted the permission/Approval dated 03.02.2020 for repairs of existing residential house in Survey no. 4/1 of Village Ella (Old Goa). The Petitioner states that one of the important documents before the Respondent No 3 was the approved plan of the Conservation committee and Town and Country planning Department. The Petitioner states that permission was issued by Respondent No. 3 to said structure which was therefore in accordance with the said Plan. The Petitioner state that the permission was granted based on the application submitted by the Petitioner which also contained the plan showing the extent of repairs and renovation to the existing structure prior to 1932. Therefore, the repairs and restoration should be necessarily construed to be in terms of the plan submitted by the Petitioner.

Annexed hereto and marked as "**Exhibit-F**" is the copy of the Permission/Approval dated 03.02.2020 granted by the Archaeological Survey of India.

11. The Petitioner states that pursuant to the permission of the Respondent No.3, the Petitioner started the work of Repairs of the said Structure. The Petitioner states that to surprise of the Petitioner, the Respondent No. 4 issued letter dated 11.02.2020 directing Petitioner to submit ownership details of the said property and existing approved plan. The Petitioner states that ignoring the fact that the same were produced before Respondent No. 3 for consideration of the Application of the Petitioner.

Annexed hereto and marked as "**Exhibit-G**" is the copy of the letter dated 11.2.2020 issued by the Superintendent of Archaeologist.

12. The Petitioner states that the Petitioner replied to the said letter stating that the Petitioner is awaiting the plan and has not yet received a plan from the Directorate of Archaeological Survey of India. The Petitioner further disclosed the readiness for the Joint Site Inspection before the commencement of the Work of the said Structure.

Annexed hereto and marked as "**Exhibit –H**" is the copy of the Reply dated 19.02.2020 of the Petitioner.

13. The Petitioner states that the Respondent no.4 on 03.03.2020 again issued another letter to thePetitioner, stating that the Plan submitted by the Petitioner is not approved by the Competent Authority and further stated that the House which the Petitioner intends to reconstruct/repair does not exist at the site. The Petitioner respectfully submits that the stand taken by Respondent no. 4 in letter dated 03.03.2020 is completely contradictory and the same is being taken by usurping the powers of the Competent Authority. The Petitioner respectfully submits that once the Approval is granted under the said Act by the Competent Authority i.e. Respondent no. 3, the Respondent no. 4 is not authorised to interpret the Approval, The Petitioner states that Approval/Permission granted by the Respondent no. 3 only states that the Repair should be carried out in consultation with the Superintendent of Archaeologist, ASI, Goa Circle (Respondent no. 4). The Petitioner respectfully submits that the statute does not empower the Respondent no.4 to enlarge or reduce the scope of Approval/permissions issued by the Respondent no.3 being the Competent Authority. Therefore, the action of the Respondent no. 4 in directing the Petitioner to restrict the repair only to the extent of existing structure is contrary to the survey records. The Petitioner states that the permission granted by the competent authority (Respondent no. 3) was for repair of residential house which was in terms of approved plan by the Town and Country Planning Department and Conservation Committee. However, Respondent No 4 and 5 referred in the permission that the construction is for a "Hut". Once the permission is

granted by competent authority then it is not open for Respondent No 4 and 5 to misinterpret the permission and restrict the scope of permission.

14. The Petitioner states that the Petitioner has all the permissions /NOC/approvals from the concerned authorities for the repair/renovation/reconstruction of the said Structure. The Petitioner states that all the statutory authorities have granted approval/permissions/NOC's based on the fact that the Structure existed and which has been reflected in the old and new revenue records, Panchayat records etc. It is pertinent to mention that the Site Inspection Report dated 28th October, 2015 of the Respondent no.4 has in fact considered all these aspects and thereafter, has granted the approval. The Petitioner states the Site Inspection Report was in fact prepared by the Respondent No. 4 himself wherein it has been observed by the Respondent No. 4 that the Application for construction of residential house fall in the protected area of Centrally Protected Monuments. It was also observed that there are few modern structures in the surrounding area and the area is covered with coconut plantation. The Site Inspection Report also states that the technical permission in the protected area is beyond the terms of reference of Competent Authority. The Petitioner further states that the Conservation Committee of the Town and Country Planning Department consisted of members from various Government Departments and including the Superintendent Archaeologist of Archaeological Survey of India, Goa Circle (Respondent no.4) being one of the Member of the Conservation Committee. The Petitioner states that the Conservation Committee also carried out the Site Inspection based on which report the proposal was recommended for approval/Clearance by the Conservation Committee. The Petitioner therefore states that the interference by the Respondent no. 4 is unwarranted and uncalled for. Annexed hereto and marked at "**Exhibit- I- colly**" is the copy of inspection report dated 28<sup>th</sup>October, 2015.

15. The Petitioner states that pursuant to the permission of the Competent Authority, the Petitioner started the repair work of the said structure the Petitioner states that while carrying out the repair Work the Petitioner has erected temporary metal poles in order to prevent the dust of construction spilling out from the site. The Petitioner state that it is not a construction activity per say but a protective measure which will be removed once the repair work is done. The Petitioner states that Petitioner received another Letter dated 12.03.2020 from the Respondent no.5 stating that the Permission is only for repairs of existing "Hut" and thereby further directed not to erect any poles at the site without prior permission from the Competent Authority. The Petitioner further states that the Petitioner was in receipt of another letter dated 16.03. 2020 thereby further directing the Petitioner to remove the erected temporary metal poles in said property stating therein that the failure to do so would lead to the Respondent no. 5 being forced to take legal course. The Petitioner states that the Petitioner was granted permission by the Competent Authority (Respondent No.3) for repair of residential house however the Respondent No 4 and 5 in their letter refers to a "Hut" which amounts to misinterpretation of the permission granted by the competent authority. The Petitioner states that the Petitioner replied to both the aforementioned letters vide reply dated 17<sup>th</sup> March, 2020 stating that the stand taken by the Respondent no. 5 that the permission is granted to the "hut" is not in consonance with the records and the factual position and the permission/Approval granted on 3 February, 2020 refers to the existing house/Structure as per the records. As stated earlier the house was not habituated since 1992 and therefore certain walls and structural façade are bound to be in dilapidated conditions. The interpretation canvased by Respondent no.4 & 5, the repairs as contemplated in permission dated 03.2.2020 is only for walls or structure as existing now is completely perverse Interpretation.
- Annexed hereto and marked as "**Exhibit-J colly**" letter dated 12.03.2020, 16.03.2020 and reply dated 17.03.2020.

16. The Petitioner states that the Petitioner was in receipt of a letter dated 23.03.2020 from the Respondent no.4 thereby directing the Petitioner to remove all the temporary poles erected for repair/re-construction of the said Structure of the Petitioner. The Petitioner states that the letter dated 23.03.2020 reiterated the directions in the letter dated 12.03.2020 and 16.03.2020 thereby directing the Petitioner to produce all the plans approved by the Respondent no.3 along with permissions from the several Authorities. The Petitioner states that the Petitioner vide its letter dated 17.03.2020 has informed the Respondent no. 4 that the Petitioner have produced requisite permissions from several Authorities before the Competent Authority while granting approval. The Petitioner states that ignoring the reply dated 17.03. 2020 the Respondent no. 4 in callous manner have issued the letter dated 23.03.2020 directing the Petitioner for removal of the temporary pole: and thereby halting the process of reconstruction of the Petitioners house.

Annexed hereto and marked and "**Exhibit – K** " is the copy of the letter dated 23.03.2020 issued by the Superintendent Archaeologist.

17. The Petitioner states that to the letter dated 23.03.2020 of the Respondent no.4, a reply dated 11.05. 2020 was submitted by the Petitioner. The Petitioner states that thereafter there no communication received by the Petitioner from the Respondent no. 4. The Petitioner states that on 2<sup>nd</sup> June, 2020, Respondent no, 4 have issued another letter to the Petitioner reiterating its earlier stand and thereby interpreting the permission/ approval granted by the Respondent no.2.

Annexed hereto and marked as "**Exhibit- L colly**" is the copy of the Reply letter dated 11.05.2020 and Copy of letter dated 02.06.2020 received from the Superintendent of Archaeologist, Archaeological Survey of India, Goa Circle, Goa

18. The Petitioner states that action of the Respondent No's 4 &5 in restricting the Petitioner from Carrying out repair/renovation of his structure despite

the approval/NOC of Competent Authority is perverse and de hors the law. The Petitioner states that the interpretation that has been adopted by the Respondent No's 4 & 5 stating that the permission/ approval has been granted by the Respondent no. 3 is only for the repair of hut and therefore Petitioner is restrained from carrying Out any reconstruction of his existing ancestral house is absurd and misconceived in law. The Petitioner states that the repairs and renovation of a dilapidated structure with in its ambit would also involve erecting of walls which have fallen down and which does not mean that it amounts to construction or reconstruction of the walls as defined under the act. If the interpretation given by the statutory authorities is accepted than the same may lead to absurd interpretation where under the valuable right of a citizen which includes a Fundamental right to have a decent household would be defeated.

19. The Petitioner respectfully states and submits that of the said structure in the property of the Petitioner is an existing Structure before 1932 and the same is evident from the Survey records and Revenue records. The Petitioner states that said Structure collapsed and left in dilapidated conditions for several years. Therefore, the Petitioner cannot be deprived of his Right to develop his property thereby restricting his right to develop the structure only to the extent of remaining structure when otherwise existence of the said structure is borne out from the records. The Petitioner states that the permissions/NOC/Approvals granted by all the authorities to the Petitioner is for the reconstruction, repair and renovation of the existing house/structure as per the existing plinth area as reflected in the records and Survey plan.
20. The Petitioner states that, the proposed repairs of the house which is in dilapidated condition will not harm on any way the archaeological monuments in the vicinity. The Petitioner states that, in the application itself of the Petitioner it was clarified that following things clearly convey that heritage value of this place will not be affected based on following points:
  - a. Physical Impact:

Since the house is located beyond 110mts from both the protected monuments i.e Viceroy's Arch and St. Cajetan Church at Qld Goa, there will be no physical impact on the archaeological monument or remains.

b. Visual Impact:

The house is surrounded by coconut plantation and few modern structures hence visually both the monuments will not be affected from visual integrity point of view.

c. Aesthetic Impact:

The plans have been approved by the conservation Committee and CRZ which are as per the local architectural and heritage values to match with the aesthetic integrity of the place.

The Petitioner states that the allowing the Petitioner to reconstruct the dilapidated structure as existed and as shown in the Survey records will not affect or impact the Archaeological Monuments in the vicinity in any manner. The Petitioner states that the Petitioner's structure is **approximately 110 mtrs away** from the protected monuments, i.e. Viceroy's Arch and St. Cajetan Church at Old Goa. Therefore, there will be no direct physical impact on the archaeological monuments or remains. Secondly, the house/structure is surrounded by coconut plantation and some modern structures are also present in the area, therefore there will be no issue of visual impact of the said structure on the Protected Monuments. Thirdly and finally, as far as aesthetic impact is concerned the same has been approved by the Conservation Committee and which is as per the local Architectural and Heritage value. The Petitioner states that necessary care will be taken without using heavy machinery will be used and the repairs will be carried out by following the customer practice aesthetically which will be in consonance to the surrounding.

21. Therefore, being aggrieved by the action of the Respondent No's 4 & 5 in restricting the Petitioner right to carry out construction despite Petitioner having all requisite Permissions challenges the same on the following amongst other Grounds each of which are taken without prejudice to each other:

**GROUND**

- a. The Petitioners respectfully submit that the issuance of letters by the Superintendent Archaeologist and the Senior Conservation Assistant to the extent which amounted the modification of permission granted by the Competent authority is illegal, arbitrary, perverse, de hors the statue and the same ought to be quashed and set aside by this Hon'ble Court;
- b. The Petitioner respectfully submits that, usurping of power by the Superintendent Archaeologist and the Senior Conservation Assistant of the Respondent No. 3 (Competent Authority) is unfair, illegal and misconceived in law and same ought to be quashed and set aside.
- c. The Petitioner respectfully submits that, the interpretation given by the Respondent No. 4 and 5 to the permission granted by the Competent Authority which modifies the actual intent of the permission is impermissible and abuse of power and is absolutely perverse.
- d. The Petitioner respectfully submits that if the scope of repairs and renovation of the existing structure is restricted only to the extent of replacement or to the renewal of the existing structure, the same would lead to absurdity as far as the Petitioner's existing ancestral structure is concerned.
- e. The action of the Respondents number 4 and 5 is bad in law arbitrary, unfair and in abuse of power, hence required to quash and set aside.
- f. The Petitioner respectfully submits that the permission dated 03/02/2020 granted by the Respondent No. 3 is specifically for repairs/ renovation of "residential house" in the said Property where by the Respondent 4 and 5 vide letter dated 12/3/2020 and 16/3/2020 have modified the permission by usurping the power and restricting the same only to the "Hut" is arbitrary, illegal and bad in law and therefore the same needs to be set aside;

- g. The Petitioner respectfully submits that the permission granted by the competent authority was granted in terms of the approved plans by the Expert authorities by proper application of mind and therefore the Respondent No.4 and 5 ought not to have interpreted in a manner which is contrary to the expertise and to law which amounts to arbitrary, perverse and abuse of the process of law;
  - h. The interpretation held by the respondent no 4 and 5 that the reconstruction in protected area is not permissible then such interpretation will ultimately lead to infringement and violative of Article 21 as well as Directive Principles of State policy of the Constitution of India;
  - i. Such other and further Grounds that may be urged at the time of Hearing of the Petition;
22. The Petitioner has no other alternative and/or efficacious legal remedy available; and if the Reliefs prayed for herein are granted, they will be effective and complete in themselves.
  23. The Petitioner craves leave of this Hon'ble Court to amend the Petition by adding or deleting the paragraphs as and when necessary.
  24. The Petitioner has not filed any other Petition either in this Hon'ble Court or any other Court or in the Hon'ble Supreme Court of India, regarding the subject matter of the instant Petition.
  25. There is no laches or delay in approaching this Hon'ble Court on Petitioner's part. The Petitioner has approached this Hon'ble Court well within time. The Petitioner submits without prejudice to what is stated herein above that delay if any in approaching this Hon'ble Court, is unintentional and therefore ought to be condoned by this Hon'ble Court.
  26. The Petitioner states that this Hon'ble Court has the Jurisdiction to Entertain, Hear and Decide this Petition.
  27. The Petitioner has herewith paid fixed Court Fee of Rs.150.00 (Rupees One Hundred Fifty only) along with this Writ Petition.

28. The Petitioners therefore Pray as under:

**PRAYERS**

- a. That this Hon'ble Court be pleased to direct the Respondent No 4& 5 to allow the Petitioner to carry out the repairs and renovation of the structure which is reflected in cadastral survey plan (annexed at page bearing 64) promulgated in the year 1932, bearing survey no 35(part); also reflecting in survey plan of property bearing survey no 4/1 of Ella village Old Goa; structure H reflected in for I and XIV Form; and as per the approved plan by the Member Secretary Conservation Committee and Town and Country Planning Department, and plan submitted at page 75; and in terms Permission dated of 03.02.2020 granted by the Director (Monuments-II), the Archaeological Survey of India (Respondent no.3);
- b. To quash and set aside the letter dated **3<sup>rd</sup>March 2020**, 12<sup>th</sup>March 2020, 16<sup>th</sup>March 2020, 23<sup>rd</sup>March, 2020 and 02<sup>nd</sup>June, 2020 issued by the Respondent No 4 and 5 by which the permission granted by the Respondent No 3 has been restricted only to the extent of repairs to the "hut";
- c. Pending hearing and final disposal of the present Petition the stay on the letter dated 3<sup>rd</sup>March 2020, 12<sup>th</sup>March 2020 and 16<sup>th</sup>March 2020;
- d. Ex-parte Ad interim relief in terms of pray clause (c);
- e. For such other and further Reliefs that this Hon'ble Court deems fit and proper in the facts and circumstances of the instant Case.

PLACE: Panaji, Goa

DATE: \_\_\_\_08, 2020

PETITIONER

**VERIFICATION**

I, Suvarna Suraj Lotlikar, wife of Mr. Suraj Laxmikanth Lotlikar, aged about 40 years, Indian National, residing at H No. 254 Morambi 'O' Grand, near swami Samarth Temple Merces Goa, Indian national, the Petitioner above named, do

hereby solemnly verify and state that what is stated by me in paragraphs 1 to 28 OF THE ABOVE Writ Petition is as per the records available with the Petitioners to which I have access and which I believe to be true and correct; and what is stated in the remaining paragraphs are in the nature of Legal Submissions based on legal advice, which I believe to be true and correct.

Solemnly Affirmed at Panaji, Goa

On this 07<sup>th</sup> day of August, 2020

DEPONENT

## IN THE HIGH COURT OF BOMBAY AT GOA, PANJI GOA

LD-VC-CW-132 of 2020

Survana Suraj Lotlikar

.... Petitioner

Versus

Union of India and others

... Respondents

## COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO 1, 3, 4 and 5.

I, K Amarnath Ramakrishna, Son of Shri R. Kishnamoorthy, aged about 46 years, married, Indian National, working as Superintending Archaeologist, Archaeological Survey of India, Goa Circle, Church Complex, Old Goa- 403402, do hereby solemnly affirm and state as follows:

1. That I am working as Superintending Archaeologist Archaeological Survey of India, Goa Circle, Church Complex, Old Goa- 403402. I have been duly authorised to swear this counter affidavit. I have read the contents of this writ petition under reply and I have also gone through the relevant records pertaining to this case and as such, I am well acquainted with the facts and circumstances of this case hence, I am filing this counter affidavit in my official capacity on behalf of respondent no 1, 3, 4 and 5.
2. That a copy of the aforesaid writ application has been served at the office of the answering respondent and having read the same, I have understood the true meaning and purport thereof.
3. That all the contentions, allegations and averments of the petitioners as made in this writ petition against the answering respondent are not admitted and deemed to have been denied except those which are specifically admitted herein by the answering respondent. I am filing this reply to oppose the writ petition

as the admission stage itself and to oppose the grant of any interim relief and I reserve my right to file detailed reply.

4. That as per section 19 of the Ancient Monuments and Archaeological Sites and Remains Act 1958 (AMASR Act, 1958) the protected area needs to be maintained and for any kind of construction related activity, the due permission of the Central Government is mandatory.
5. That the permission for repair to the existing residential house in survey no 4/1 of village Ella ( Old Goa) Goa, which falls in the protected area of two centrally protected monuments i.e, church of Saint Cajetan and Viceroy's Arch, Old Goa was communicated to the petitioner by the Archaeological Survey of India ( Respondent No 3) on 3.2.2020, subject to following conditions:
  1. The repair work should be taken up in consultation with the Superintending Archaeologist ASI, Goa Circle.
  2. The exterior colour should match with the monument.
  3. There shall be no change in the façade design.
  4. There shall be no building material stacked on the roadside or near the monument.
  5. There shall be no inconvenience to the visitors.
  6. It should be ensured that no damage is caused to ancient /Archaeological structures within the monument area.
  7. The provisions of AMASR Act 1958 and Rules 1959 made there under shall be observed.
  8. If any object of antique nature is found during the course of work, it has to be submitted to SA immediately.
  9. There should not be any variation in length, breadth and height of the structure after repairs in comparison to the existing dimensions.
  10. SA Goa Circle would keep a strong watch on the repair work, document it periodically and would submit fortnightly report to this office.
  11. The permission does not cover reconstruction.
6. That the copy of the permission letter dated 03/02/2020 is attached as Exhibit-1.

7. That anything done which is beyond the conditions stipulated in permission letter is illegal and clear violations of the rules/act and invites as per the statute. In view of the foregoing as well as rules and regulations as mentioned herein above, the Petitioner is not entitled for any relief from this Hon'ble High Court, hence it is respectfully prayed that the Hon'ble Court may be pleased to dismiss the instant Writ Petition being devoid of merit and to meet the end of justice.

On the basis of the facts and circumstances stated above, the answering Respondents most graciously prayed before this Hon'ble Court to:

- (a) Dismiss the Writ Petition being devoid of merit,
- (b) Pass any such other order as this Hon'ble Court may deem fit in the interest of Justice.

DEPONENT

#### VERIFICATION

Verified at Panaji on this 18<sup>th</sup> day of September 2020 that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

DEPONENT