

MINUTES OF 214th MEETING OF THE GOA TOWN & COUNTRY PLANNING BOARD HELD ON 24/04/2025 AT 11.00 A.M. IN CONFERENCE HALL, VAN BHAVAN, ALTINHO, PANAJI.

Following attended the meeting:

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| 1. | Shri. Vishwajit P. Rane,
Hon'ble Minister for TCP | ... | Chairman |
| 2. | Dr. Deviya V. Rane,
Hon'ble MLA, Poriem | ... | Member |
| 3. | Shri Rajesh Faldessai,
Hon'ble MLA Cumbharjua | | Member |
| 4. | Shri Arun Kumar Mishra,
Secretary (TCP) | ... | Member |
| 5. | Shri Ralph de Souza,
GCCl | ... | Member |
| 6. | Shri Praveen Kumar Raghav,
C.C.F. | ... | Member |
| 7. | Shri Ralph A. S. Barbosa,
Research Asst. DPSE | ... | Member |
| 8. | Dr. Cheryl de Souza, CMO NLEP | ... | Member |
| 9. | Arch. Rajeev M. Sukhtankar | ... | Member |
| 10. | Shri Paresh Gaitonde | ... | Member |
| 11. | Ms. Vertika Dagur | ... | Chief Town Planner (Admn.) |
| 12. | Shri. Rajesh J. Naik,
Chief Town Planner (Planning) | | Member Secretary |

Item No. 1: Confirmation of the Minutes of the 213th meeting of Town & Country Planning Board held on 07/03/2025.

Member Secretary informed that the Minutes of 213th meeting of TCP Board held on 07/03/2025 were circulated to the Members and since no comments on the same were received, the decisions as taken were implemented.

Members took note of the same and accordingly the Minutes of 213th meeting were treated as confirmed.

The Member Secretary, TCP Board brought to the notice of the members that in 213th meeting of the TCP Board held on 07/03/2025 while deciding on item No. 8 (B) “Regarding cancellation of Higher FAR/change of zone in Margao ODP, the Chalta No. of the property was inadvertently mentioned as P.T. Sheet No. and P.T. Sheet No. of the property was inadvertently mentioned as Chalta No. The Member Secretary, TCP Board accordingly informed the Board members that the minutes of the 213th Board meeting has been corrected as under:-

Sr. No.	P.T.S. No.	Chalta No.	Area in sq.mts.	Original zone	Change of zone as per ODP 2031	Change of zone/correction recommended
1.	231	171	1459.00 sq.mts.	Commercial C-1 zone	SPC (Special Commercial zone)	Reserved Open Space
2.	116	10	19355.00 sq.mts.	Commercial C-1 zone	SPC (Special Commercial zone)	Reserved Open Space

Members took note of the corrections in the minutes of the 213th meeting as above. Member Secretary was accordingly directed to communicate the decision as above to the Member Secretary, South Goa PDA.

Item No. 2: Appeal under Section 52(2) (b) of the TCP Act, 1974 filed by Mrs. Ameena Jabbar Sayed Inus against Mormugao Planning and Development Authority and Mr. Eduardo Camilo Da Cruz. (File No. TP/B/APL/438/24)

The Appeal is preferred to the Board under Section 52(2)(b) of the Goa Town & Country Planning Act, 1974, against the Demolition Notice dated 14/12/2023 issued by Member Secretary, MPDA with respect to complaint dtd. 18/4/2022 by Mr. Eduardo Camilo Da Cruz for illegal extension in the property bearing Chalta Nos. 254, 255 and 328 of P.T. Sheet No. 152 of Vasco city, against the Appellant.

The said complainant is claiming to be owner of property bearing Chalta Nos. 254, 255 and 328 of P.T. Sheet No. 152 of Vasco city.

The complainant also admittedly stated that Mr. Sayad Abdul Jabbar Sayad Inus, the late husband of the Appellant hereinabove was the tenant of a structure in his property identified under Chalta No. 255 of P.T. Sheet No. 152 of Vasco city.

The complainant has alleged that there has been illegal extension in his property surveyed under Chalta Nos. 254, 255 and 328 of P.T. Sheet No. 152 of

Vasco city for which he has filed Complaint before the Respondent No. 1 for taking action against the aforesaid structure and the illegal extension, in accordance with the provision of the Town and Country Planning Act.

The Appellant states that the said structure was in the same condition as it is today, when she married and came to stay in the same and that she has not carried out any extension to the said structure.

It is the case of the Appellant that she is the permanent resident of the said structure existing on the said property which is alleged to be illegal, and is residing in the said property till date whereby she has continued to reside in the same even after the death of her husband Mr.Sayad Abdul Jabbar Sayad Inus i.e. on 24/07/2001.

The Appellant states that the name of the late husband is recorded in Form D of Chalta No. 254 of P.T. Sheet 152 and further states that the structure plotted under Chalta No. 255 belongs to Mr. Sayad Abdul Jabbar Sayad Inus (late husband of the Appellant).

The Appellant states that she has acquired electricity and water connection for her house from the appropriate Departments in her name.

The Appellant states that the said house is assessed for House tax purpose by the Mormugao Municipal Council under two House Nos. 334 and 334(1).

The Appellant states that by Order dated June 1977 of the then Collector of Survey (City Survey of Vasco da Gama), the existence of the said house and the ownership of the said house by the late husband of the Appellant was confirmed.

The Appellant further states that the said structure which is alleged to be illegal extension is existing prior to 1972 and it is denied being illegal as the same is existing prior to 1972 and is duly assessed for Municipal Tax under House No. 334 and 334(1) and is also been provided with basic utilities like Electricity and Water connection since the year 1997.

The Appellant states that it is pertinent to note that she has already initiated Mundkarial proceedings with respect to the said structure on 29/11/2023 prior to the receipt of this Notice which came to be registered as Case No. MAM/MOR/MUND/8A/10/2023/3492 before the Mamlatdar of Mormugao, which was taken up for hearing on 04/01/2024, whereby the Complainant i.e., Mr.

Eduardo Camilo Da Cruz appeared before the Mamlatdar and has sought time to engage Advocate and file their reply in the above matter.

The Appellant states that she has not carried out any illegal extension/development of existing structure with laterite masonry walls and has not covered the same partially with asbestos cement sheets and partially with mangalore tiles.

Being aggrieved by the said demolition notice dated 14/12/2023, the Appellant prefers the appeal on the following grounds:

1. The Impugned Notice is bad in law as the Respondent did not give proper hearing to the Appellant before issuing the Impugned Notice
2. That the Impugned Notice is issued by the Respondent without giving knowledge of site inspection to the Appellant and as such the same is defective and arbitrary without looking the actual location on the site.
3. The Appellant has not carried out any illegal construction or development as alleged in the Impugned Notice. The Impugned Notice is therefore fictitious.
4. The Impugned Notice is arbitrary and against the principles of natural justice and hence deserves to be quashed and set aside.
5. The Appellant states that the Impugned Notice was issued by the Respondent mechanically and without any application of mind, and on false complaint filed by the Complainant i.e., Mr. Eduardo Camilo Da Cruz.
6. The Notice is not supported by any documentary evidence, and is absolutely vague without even showing any illegal development/ extension which is given by the Respondent and bad in law and hence liable to be rejected.
7. The Impugned Notice is issued without giving any valid reasons, and without proper site inspection.
8. Despite the Reply filed by the Appellant to the earlier notice of the Respondent, the Impugned Notice was issued. The Respondent has failed to give any inspection report to the Appellant as to on what basis the Respondent has come to the conclusion regarding illegal construction.

The Appellant has therefore prayed for quashing and setting aside the Notice.

The matter was earlier placed in the 197th meeting of the TCP Board held on 23/02/2024 and during this hearing, Adv. Pratiksha Dabholkar had appeared for the Appellant, whereas Respondent PDA was represented by Adv. Nikhil Pai. Adv. Nikhil Pai representing the Respondent PDA had requested for additional time to file his reply, citing the reason that the very short notice was given to appear before the Board in the matter and whereas, Adv. Pratiksha Dabholkar had also requested for adjournment of the matter for the reason that she has already initiated Mundkarial proceedings before the Mamlatdar of Mormugao and the Order is awaited and the Board had agreed for adjournment of the matter.

Now, the Respondent No. 2 Mr. Eduardo Camilo Da Cruz in the said appeal has submitted Memo of Submission dated 06/08/2024 to TCP office alongwith copy of Judgement issued by the Court of Mamlatdar of Mormugao Taluka, Vasco-da-Gama, Goa dated 27/06/2024 under Section 8A of Goa Daman and Diu Mundkar (Protection from Eviction), Act, 1975, wherein, the Court of Mamlatdar, Mormugao has allowed the objections filed by Mr. Eduardo Camilo Da Cruz as opponent and application dated 29/11/2023 filed by the applicant Ameena Bi Sayyad is dismissed.

The adjourned matter was placed in the 214th meeting of TCP Board held on 24/04/2025.

The Appellant Ameena Sayed Inus submitted a letter dated 24/04/2025 before TCP Board informing that her advocate is unavailable and therefore appellant is not in a position to make her submissions before the Board. The appellant requested for postponement of the matter after June.

The Advocate Mr. Nikhil D. Pai representing for MPDA, brought to the notice of the Board that the appellant has approached Court of Mamlatdar in respect of her ownership issue of land.

The respondent No.: 2 Mr. Eduardo Camilo De Cruz has submitted letter before TCP Board on 24/04/2025 requesting for dismissal of appeal of the appellant in view of the following reasons: -

- 1) No permission by the appellant from MPDA or Municipal Council for extension carried out by the appellant.
- 2) Notices were served to the appellant on multiple occasions by MPDA on different points.

- 3) Even Mundcars cannot extend plinth area without permissions from MPDA and Municipality.

Now, the Respondent No. 2 Mr. Eduardo Camilo Da Cruz in the said appeal has submitted Memo of Submission dated 06/08/2024 to TCP office alongwith copy of Judgement issued by the Court of Mamlatdar of Mormugao Taluka, Vasco-da-Gama, Goa dated 27/06/2024 under Section 8A of Goa Daman and Diu Mundkar (Protection from Eviction), Act, 1975, wherein, the Court of Mamlatdar, Mormugao has allowed the objections filed by Mr. Eduardo Camilo Da Cruz as opponent and application dated 29/11/2023 filed by the applicant Ameena Bi Sayyad is dismissed.

The Members of the TCP Board deliberated on the matter and the Board decided to dismiss the matter, in view of the dismal order issued by the Mamlatdar of Mormugao Taluka.

Therefore, the appeal stands dismissed.

The MPDA shall initiate necessary action as per demolition notice dated 14/12/2023.

The Member Secretary TCP Board was directed to communicate decision of the Board to concerned parties.

Item No. 3: Appeal under Section 52 of the TCP Act, 1974 filed by Mr. Alice Andrade against South Goa Planning and Development Authority. (File No. TP/B/APL/444/24)

The Appellant has preferred the appeal against the Order dated 08/04/2024 bearing ref. No. SGPDA/Illegal/58/24-25 issued by the Member Secretary, South Goa Planning and Development Authority, by virtue of which the Respondent had directed the Appellant to remove all illegal construction carried out by him within a period of 30 days from the date of notice.

Applicant has submitted brief facts of the case as under:

That he is a senior citizen of advanced age of 90 years and is the owner of a residential house, bearing H. No. 204, St. Joaquim Road, Borda, which is located in a property bearing chalta No. 74 P. T. Sheet 136 and the house is 250 years old Portuguese Heritage house in the heritage area of Borda, Margao. The said residential house consists of a ground floor made up of mud walls.

The said residential house occupied by one Maria Amabel Clement and the Appellant has a common house walls and common boundary wall.

As the Appellant has 2 sons, who are residing along with their families and to ensure both families enjoy independent peaceful lives, the ancestral house was mutually divided into 2 parts, upon obtaining necessary permissions from the Margao Municipality and other Government Departments.

The western side of the residential house has been allotted to the Neville Andrade who is residing there along with his wife and 3 children. The said western side of the residential house has been allotted Municipal House license No. 12/132.

The eastern side of the residential house has been allotted to the second son Glenn Andrade who is residing there along with his wife and 3 children. The said eastern side of the residential house has been allotted Municipal House License No. 12/132A.

Appellant states that for the purpose, necessary permissions have been taken for dividing the residential house between her two sons, including following permissions:

1. Permission for sewage connection for the building from Sewage Department dated 15/11/2013, approved by Assistant Engineer.
2. Conversion Sanad from Deputy Collector dated 27/08/2014 for the building.
3. NOC for occupancy of building from sanitary point of view from Health Officer, Urban Health Centre, Margao dated 19/09/2018.
4. Completion Certificate from South Goa Planning and Development Authority Margao dated 06/09/2018.
5. Occupancy Certificate from Chief Officer, Margao Municipal Council dated 24/09/2018.

Appellant states that no illegal construction has been undertaken with respect to the residential house in the property and that all necessary permissions undertaken.

Appellant has received Show Cause Notice dated 19/04/2023 from the Respondent, stating that a site inspection was conducted in the said Property on 23/05/2022, and it was observed that illegal developments were undertaken in the

said property and accordingly a Show Cause Notice dated 19/04/2023 was issued to the Appellant.

Appellant further states that it was only after the site inspection was conducted and show notice dated 19/04/2023 was issued, he was made aware that the site inspection was conducted on the basis of a complaint filed by Maria Clement.

It is further stated by the Appellant that vide letter dated 12/06/2023, all the facts were brought to the attention of the Respondent by him. However, inspite of the information being brought to the knowledge and attention of Respondent, the same was not considered by the Respondent and it is only due to the constant and persistent harassment meted out by the Respondent, he has filed an application for regularization of the minor maintenance/ improvement and alteration works with respect to the said residential house with the Deputy Collector and the said application for regularization is still pending for approval with the Deputy Collector.

Aggrieved by the Impugned Order, the Appellant has preferred the Appeal on following grounds:

1. That considering the nature of the work and in respect of the said Section 52 of the TCP Act cannot be made applicable for the said part of the work of excavation.
2. That the activity undertaken by it cannot qualify as “development” or “change of use of land” under Section 52 of the TCP Act. Appellant further submits that the works carried out by it amounted to minor alteration works, it is reiterated that Section 52 cannot be made applicable based on section of the TCP Act.
3. That it has obtained all the necessary permissions/approvals from the concerned authorities for the residential house undertaken in chalta No. 74 P. T. Sheet 136 except for permission under Sec. 44 of the TCP Act and there is no illegality and/or infirmity as regards the said restaurant. The minor improvement and alterations works by the Appellant are in strict conformance with the said permissions/ approvals and there is absolutely no deviance in respect of the same.

4. That the Appellant has commenced the minor alteration and improvement works pursuant to obtaining all the requisite permissions and approvals whilst complying with the relevant provisions of law.
5. That an application is submitted for regularization of the minor maintenance/ improvement and alteration works with respect to the said restaurant and the said application is pending adjudication and considering that the Appellant's application for regularization is still pending, no order could have been passed whilst the said application for regularization is still pending.

The Appellant has therefore prayed to allow the present Appeal and quash and set aside the Impugned Order dated 19/04/2024 passed by the Respondent Authority.

The matter was earlier placed in the 202nd meeting of TCP Board meeting held on 24/06/2024 during which, Mr. Glen Andrade had appeared on behalf of Appellant and had informed that due to short notice issued to him, he could not prepare and gather relevant documents to defend the matter before the Board. The Appellant had also submitted a letter citing therein health issues and submitted a Medical Certificate issued by Hospicio Hospital, Margao as supporting document and requested for adjournment of the matter and the same was considered.

The matter was again placed before 203rd meeting of TCP Board for which, the Appellant and the Respondent i.e. the Member Secretary of NGPDA were present.

During this hearing, the Appellant had submitted before the Board, a copy of Order dated 25/06/2024 issued by the Hon'ble High Court of Bombay in Writ Petition No. 166 of 2024 (Filing No.) as per which, the impugned communication dated 14/6/2024 issued by South Goa Planning and Development Authority remains stayed.

The Appellant also placed before the Board a letter dated 10/07/2024, vide which, the Appellant had brought to the notice of the Board that a hearing was conducted for regularisation of his house through the office of Deputy Collector, Margao on 09/07/2024 and that the said matter was further fixed for finalization of regularisation on 17/07/2024. Appellant had also stated that an Order in this regard from Dy. Collector was awaited and therefore requested for adjournment of the

matter to enable him to place before the Board final outcome in the matter and considering these submissions, the Board had decided to adjourn the matter.

The Appellant has now submitted an Order bearing No. SDO/SAL/Reg/Pvt-Land/16/2023/3395 dated 31/07/2024 issued by Dy. Collector/SDO and Authorized Officer, as per which, structure A i.e. residential house admeasuring an area of 108.77 sq. mts. in the property bearing Chalta No. 74 P.T. Sheet No. 136 of Margao city has been regularised. However, SGPDA in its notice dated 08/04/2024 had also mentioned about an illegal construction of building B in the said property and the same has not been regularised by the Revenue Authority.

The matter was again heard in 206th TCP Board meeting held on 04/09/2024, during which, Mr. Glenn Andrade represented the Appellant whereas, Advocate A. Fernandes represented Respondent SGPDA.

During this hearing, Mr. Glen Andrade informed that the residential house designated as 'A' admeasuring 108.77 sq. mts. is already regularised by the Dy. Collector/SDO and authorised officer at Chalta No. 74 PTS No. 136 of Margao City vide order bearing No. SDO/SAL/Reg./Pvt. Land/16/2023/335 dated 31/07/2024 and further informed that other building 'B' having number of residential flats were sold in the past after obtaining Development Permission from SGPDA. He further informed that if any violations are noticed in the said building against approved plans by SGPDA, the notices should be addressed to the occupants of the flat.

While arguing on behalf of SGPDA, the Member Secretary of SGPDA informed that there are several other structures which have been cited in the final notice dtd. 8/4/2024 issued by it and what the appellant cites is only one structure which has been regularised by the Dy. Collector/SDO, as such the action still need to be taken on other unauthorised development.

The Appellant at this stage requested that another inspection be carried out by the Authority to verify the actual site condition and the structures referred in their notice.

Considering the request made before it, the Board had directed the Member Secretary, SGPDA to get the site inspected once again and verify the statements made by the Appellant during the hearing.

Accordingly, it was decided that the matter be taken up again in the next meeting of the Board and the Member Secretary, SGPDA shall place before it, the findings of the inspection and the matter was therefore adjourned.

The Member Secretary, TCP Board has communicated this decision of the TCP Board to the SGPDA and to the Appellant vide letter No. TP/APL/444/2024/4084 dated 24/10/2024.

The adjourned matter was placed before 214th meeting of the TCP Board held on 24/04/2025. Mr. Nevil Andrade was present on behalf of appellant Alice Andrade and Adv. A. B. Salkar on behalf of respondent SGPDA.

Advocate A.B. Salkar informed TCP Board that the appellant has carried out illegal construction which has window opening to it. He further informed that the said illegal structure does not have approval from SGPDA and as such the same needs to be dealt as per prevailing rules.

Appellant Nevil Andrade appearing on behalf of his mother Alice Andrade informed the Board that the building constructed by the appellant with the approval of the SGPDA having flats were already sold in the past to the purchasers by way of Valid Sale Deeds.

Therefore, he is not answerable to the illegalities carried out by the purchasers who are now occupants of the respective flats having registered society.

The Board deliberated on the matter at length and decided to consider the appeal filed by the appellant.

The Member Secretary (TCP Board) was directed to communicate decision of the Board to concerned parties.

Item No. 4: Appeal under Section 45 of the Town & Country Planning Act 1974 filed by Smt. Nirmala Sadanand Naik W/o late Sadanand Naik w/o late Sadanand Vithal Naik against the Member Secretary, Mormugao Planning & Development Authority.

The Appellant has preferred the aforesaid appeal on the basis of demolition notice issued by the respondent Mormugao Planning & Development Authority bearing No. MPDA/III/443/Vasco/2024-25/85 dated 27/08/2024.

It is mentioned in the said demolition notice that in the property bearing Chala No. 27 of P.T.S. 121, a residential house has been constructed with frame

structure and RCC slab comprising of ground + one floor and toilet on the second floor, without obtaining prior Development Permission u/s 44 of Town & Country Planning Act, 1974.

The Appellant has clarified by submission of Order issued by Mamlatdar of Mormugao, Vasco-da-Gama in Case No. MNO/VAS/221/86 dated 10th June 1987, wherein Appellant has been registered as mundcar of the opponent (Bhatkar).

Further the Appellant has submitted judgment copy in case No. II/MUND/VAS/04/2008/purch/ dated 19/03/2013 wherein the Appellant was permitted to purchase the dwelling house admeasuring 295.00 m², and has submitted a copy of site plan showing said dwelling unit.

The Appellant states that the area on which structure so developed, is the earlier existing kitchen, bathroom and toilet of his which is having house tax No:- 3 131 (4) and that he is paying house tax of the same to the Mormugao Municipal Council. Earlier structure of the Appellant is more particularly shown in Purchased Plan of Mamlatdar of Mormugao Taluka in purchase case No:- JT-I/MUND/VAS/04/2008/PURCH and the same is having water and electricity connection.

The Appellant states that earlier the house taxes of both the portion/parts was in the name of Appellants husband late Shri. Sadanand V. Naik and now the house taxes of both portion/parts are transferred in the name of the Appellants son Mr. Vishwas Sadanand Naik.

The Appellant further states that the hind portion of the dwelling house bearing house No:- 131 is of natural hill with loose rocky surface with cracks and during the last monsoon, that is, in the month of July 2023 a huge rock rolled down causing threats to the Appellant and her family's life and property, as the rock rolled down on the Appellant side of the dwelling house that is, in the portion/part of house bearing tax No:- 3 131 (2) where the Appellant's bed room exists.

The Appellant states that in view of the said natural collapse, steps were initiated under the Disaster Management Act, where an Assistant Engineer III, PWD penned their report dated 10/01/2024.

The Appellant states that the report dated 10/01/2024 of Assistant Engineer III, PWD indicates the seriousness of the situation and with passage of

time, by the month of December 2023, a severe crack developed at the corner edge of the Appellant's dwelling house wall / bedroom wall. The said wall could have given way without any indications, as such with an oral understanding and approval from the Appellants family members, and other family members, the Appellant developed structure bearing house tax No:- 3 131 (4) within her share, within the original plinth area, as such, the Appellant has also applied on 27/06/2024 for Regularization of the same before the Deputy collector of Mormugao Taluka, since the present structure bearing house tax No:- 3 131 (4) so developed is within the original purchased plinth area of dwelling house.

The Appellant states that she relies on the present Survey Report prepared by the Surveyor Mr. Abdul Gaffar Kati dated 10/06/2024, which clearly indicates that there is no extension of the plinth area and no violation of the building regulation norms. However since this is a dwelling house purchased under the Mundkars Act and is surrounded under other Mundkarial houses, provision for the setback was not possible.

Grounds as stated by the appellant are as under:

- A) The impugned notice bearing no. MPDA/III/443/Vasco/2024-25/895 dated 27-08-2024 is bad in law.
- B) The impugned notice bearing no. MPDA/III/443/Vasco/2024-25/895 dated 27-08-2024 is un-sustainable and devoid of merit.
- C) The impugned notice bearing no. MPDA/III/443/Vasco/2024-25/895 dated 27-08-2024 is contrary to the precincts of Section 52 of TCP Act.
- D) The impugned notice bearing no. MPDA/III/443/Vasco/2024-25/895 dated 27-08-2024 is unreasoned and does not attribute any observation with respect to the contents raised in reference to the notice issued.
- E) The Respondent ought to have appreciated that there is no illegal construction.
- F) The Respondent ought to have given an opportunity as the Appellant desired to seek regularization and there was no extension of plinth area.
- G) The Respondent failed to appreciate the decision under the Disaster Management Act and the fact that the development was necessary for imminent saving of life and property as there was damage to the old structure causing proximity to endanger the life of family of the appellant and her family members.

- H) The entire process has been conducted in disregard to the principals of Natural Justice and the Appellant deserved to be heard and permitted opportunity to regularize instead of extreme step of demolition more so as the act of the appellant are not illegal and not violating building regulation norms more particularly the development has not exceeded the existing plinth area.
- I) The construction/development is undertaken by the Appellant within her own area and property of which she has been declared as Mundkar and no building regulations are violated all of which ought to have been considered.
- J) The Appellant states that the area on which structure so developed is the earlier existing kitchen, bathroom and toilet of the Appellant which is having house tax bearing No:- 3 131 (4) and the same area is purchased and particularly shown in Purchased Plan of the Mamlatdar of Mormugao Taluka in purchase case JT-I//MUND/VAS/04/2008//PURCH.

Appellant has therefore prayed as follows:

- a) Call for the records and proceedings in connection with the impugned notice bearing No. MPDA/III/443/Vasco/2024-25/895 dated 27-08-2024 from the Respondent.
- b) Upon hearing, the Appellant be pleased to apply the ratio of the Supreme Court and vary the notice appropriately imposing conditions on the Appellant enabling regularization of the structure indicated in the impugned notice bearing No. MPDA/III/443/Vasco/2024-25/895 dated 27-08-2024;
- c) Pending hearing, the Respondent the Member Secretary, the Mormugao Planning & Development Authority who has been served in the matter which is seen by their inwards stamp maintain status quo to avoid the present appeal from being in fructuous.

The matter was earlier heard in 207th meeting of the TCP Board held on 10/10/2024, wherein Advocate Sangeeta A. Naik had appeared on behalf of the Appellant and whereas Advocate Divya Yeragi appeared on behalf of Respondent PDA, during which, Adv. Divya Yeragi had requested for some additional time to study the matter so as to enable the Respondent PDA to place proper facts before the Board in its defense and the request as made was considered by the Board and the matter was adjourned.

The matter was again heard in 208th meeting of TCP Board held on 02/12/2024, however the Appellant did not appear before the Board during this hearing, whereas Adv. Kamat had appeared on behalf of Respondent MPDA.

During the discussion on the matter, Secretary (TCP) had opined that MPDA should clearly distinguish between the existing structure and that part of the construction which was illegally undertaken and which could be termed as illegal.

It was therefore decided that Respondent MPDA shall place before the Board the plan showing the extent of construction which can be termed as irregular and also showing that part of the structure which can be termed as illegal that cannot be regularised and the same was agreed upon by the Respondent MPDA.

Matter was therefore adjourned for compliance of the above and the Member Secretary, MPDA was directed to place before the next meeting of the Board, the details as decided by the Board.

The appeal was again placed in 212th meeting Board held on 03/02/2025. Adv. Kamat who appeared for the Respondent MPDA, stated that the process of identifying that portion of the structure which is unauthorised and that part which is illegal, is still going on and will require some more time.

Advocate Shri Kamat further informed that it is not known to the Authority whether the Appellant has obtained conversion sanad or not for the construction undertaken that the Authority will have to check whether the construction undertaken is within the permissible FAR or not.

The Board had deliberated on the matter and had decided that proper study be undertaken by MPDA to identify the extent of illegality to arrive to definite conclusion as regards to the illegality as existing at site.

Considering this exercise to be undertaken and that there was no appearance on behalf of the Appellant, the Board had adjourned the matter.

The adjourned matter was placed before the 214th meeting of the TCP Board held on 24/04/2025. Advocate Sangeeta Naik appeared on behalf of the appellant Nirmala Sadanand Naik and Advocate Anirudh Salkar appeared on behalf of the respondent MPDA.

Advocate Sangeeta Naik informed that as per the decision taken in the 208th TCP Board meeting on 02/12/2024, regarding exercise to be completed by the respondent MPDA and the appellant regarding extent of construction which can be termed as irregular and also showing that part of the structure which can be termed as illegal that cannot be regularised will be initiated soon. Advocate Sangeeta Kamat further informed that after completion of exercise of detailed site inspection by MPDA, appellant shall comply to the directions of the MPDA and submit it's say to MPDA.

The Members of the TCP Board deliberated on the matter and decided that compliance of the appellant shall be submitted to MPDA who shall verify whether it is conforming to the rules in force. It was further agreed by the Board that if the appellant is aggrieved with the decision of the MPDA, the appellant shall be at the liberty to make appeal before TCP Board.

The matter therefore stands disposed off.

The Member Secretary TCP Board was directed to communicate the decision of the Board to the concerned parties.

Item No. 5: Appeal under Section 45 of the TCP Act, 1974 filed by Shri Utkarsh Verenkar against South Goa Planning and Development Authority. (File No. TP/B/APL/451/24)

The Appellant states that he has inherited through his parents a plot admeasuring 327 Sq. mtrs, and having a residential house bearing house No.117, issued by the Margao Municipal Council, situated in the property under chalta No. 11 of PTS No, 32, Village Fatorda, Salcete-Goa.

Appellant's states that his late father during his lifetime had purchased the above described plot by way of a Sale deed, registered before the Sub-Registrar of Salcete at Margao and on purchase of the said plot under chalta No. 11 of PTS No, 32, his father, obtained the permission from the Camara Municipal De Salcete in the year 1971 (as there was no existence of the authority) and completed the construction of the Ground floor of the house by keeping the set back of 1.5 mtrs. towards the Eastern side of the Appellants plot.

Appellant further states that upon Completion of the said house, the neighbour's on the Eastern side of the said house also undertook the construction, by keeping a set-back of hardly 0.60 mts. towards the Western side of the said

house, with the openings of windows, and as such, his father tried to settle the matter amicably, however as nothing materialistic was coming out, a suit came to be filed in the Court of Civil Judge Senior Division, Salcete at Margao under No RCS./72/1973 by the Appellant's father against the owners of the plot in the Eastern side, and finally on 26/02/1974 the suit was disposed by way of a Consent Decree, on Consent Terms, and in that suit, the then Hon'ble Judge has passed order considering 1.5 mtrs. setback, of Appellant vide order dated 26/2/1973, and as such, all openings of house being in the Eastern side were in existence prior to 1972, (before the existence of the authority)

Appellant has obtained the permission for the second time from the Camara Municipal De Salcete in the year 1973 (as there was no existence of the authority) for the construction of the soak pit in the Eastern side of his plot having a width of 1.5 mtrs. and the same was approved by the chief officer on 3/10/1973.

It is further stated by the Appellant that he for the first time in the year 1996, started renovation of the Ground floor and construction of the First floor, for which, proper approvals were obtained from Respondent and that in the year 2010, he started renovation of the Ground floor (southern side), and extension of the First floor (southern side), for which also the proper approvals were obtained from Respondent, and finally an Occupancy Certificate was also issued by the Margao Municipal Council in the year 2011. This Appellant further states that construction, of doors, windows, openings of the said house were existing since 1972, and hence Appellants states that, without changing the plinth area, Construction of first floor was carried out as per the approved plan by the Respondent's Office for the first time in the year 1996 and subsequently in 2010.

Appellant states that his neighbour towards the Eastern side, as a revenge of 1973, and being idle due to retirement, started harassing him by filing illicit range of complaints after complaints before the Respondent, Survey offices, Municipality, Elect dept. Etc.

It is therefore further informed by the Respondent that out of such complaint, and a cross complaint filed by him, a inspection was conducted by the staff of Respondent, and the show cause notices were issued to him, and also to his neighbour and accordingly a reply/clarifications to show cause notice under No. SGPDA/P/4987/1354/21-22 DATED 08/03/2022 was issued by him stating the facts and clearing all the query mentioned in the said Show Cause notice.

Appellant states that the clarification submitted to Respondent towards show cause notice, was very satisfactory and convincing, and hence the matter remained dormant for almost TWO YEARS i.e. from 08/03/2022 to 04/03/2024.

Appellant, further states that it is in the month of August 2024, the Respondent concludes that the reply filed by him two years ago, was not satisfactory and places matter in the 104th meeting of the Authority (SGPDA), held on 04/03/2024, and issued notice dated 20/08/2024, under Ref No. SGPDA/P/4987/693/24-25, under Sec. 52 of T & C.P Act 1974 to him directing to close the 2 windows and door on the wall of the said house.

That being aggrieved by the Impugned Notice, issued by the Respondent, the Appellant has preferred the present appeal on the following grounds:

GROUND S

- a. The present proceedings initiated by the Respondent is barred by law of limitation as the Appellant has all permissions/Order and on this count alone the present Appeal be allowed. The Appellant seeks leave of to Consent Decree passed by the Civil Court Margao.
- b. Appellant states that the said house is existing prior to 1972, which was repaired / alteration were carried out of the ground floor, and part of the First floor, for the first time in the year 1996, and that the part of the first floor in the year 2010.
- c. The impugned notice is bad-in-law, improper, unjust and is passed in violation of the Principal of Natural Justice and contrary to the settled principal of law.
- d. The impugned notice has occasioned manifest failure of justice as the final notice is contrary to the said show cause notice under Ref No. SGPDA/P/4987/1354/21-22 dated 08/03/2022.
- e. By issuing the impugned notice the Respondent has acted beyond 'its jurisdiction. The Respondent ought to have realized that it was duty bound and under a mandate to practice the jurisdiction vested in it which it failed to adhere to.

- f. The Respondent failed to take note, that Appellant's said house was existing prior to 1972, viz. before enacting the statute in terms of which final notice is issued to the Appellant.
- g. The impugned Notice has been issued 'on erroneous assumption and presumptions, as the ground floor was existing prior to 1972, that is prior to existence of SGPDA, and hence the Impugned Notice is bad in law.
- h. The impugned notice is by itself an error of law apparent on face of record.
- i. The impugned notice is based on faulty and vague observations which doesn't specify any illegality nor gives any substantial reason why this respondent has acted maliciously by altering the show cause notice and modifying/altering the same in order to fit as it is, and therefore the same is bad-in-law., to be set aside and quashed away.
- j. The impugned notice does not speak about the detailed reasons for its issuance and on this count alone the impugned notice be set aside.
- k. That any and all the openings towards Eastern side of the Appellants house does not at all disturbs the privacy of the plot owner towards the Eastern side of the Appellants plot, as opposite plot is having a dead wall of approximately 5.00 mtrs. height.
- l. That the notice issued under section 52 of T & C. P Act 1974 is without application of mind and contrary to the show cause notice dated 08/03/2022 a impugned notice under section 52 of T & C. P Act 1974, is issued to this Appellant adding into it "*one door on the ground floor and two windows on the first floor are illegally opened on the dead wall.*" whereas the above statement is no where mentioned in the show cause notice dated 08/03/2022, issued to this Appellant, however it states as "*two windows and one door are existing towards eastern side*" .

The Appellant prays as under:

- a) To call for the records and proceedings, and after perusing the same this Hon'ble Authority please be to quash and set aside the final notice issued to the Appellant dated 20/08/2024, under ref. No. SGPDA/P/4987/693/24-25 under sec.52 of T & C.P Act 1974.

- b) That the pending hearing of the present Appeal the operation of the final notice issued to the Appellant dated 20/08/2024, under ref. No. SGPDA/P/4987/693/24-25 be stayed .

The matter was earlier heard in 208th meeting of the TCP Board held on 02/12/2024 and during this hearing, Adv. Utkarsh Verekar was present, being Appellant himself and whereas Adv. Anirudha Salkar had represented the Respondent SGPDA.

Before this hearing, Advocate for Respondent SGPDA, had requested for additional time, citing the reason that it has not received and copy of the appeal memo as filed by the Appellant and is therefore not in a position to make any statement before the Board. Considering this reasons cited, the Board had agreed for the request as made and had directed the Member Secretary to issue copy of the appeal memo to the Respondent SGPDA.

The Member Secretary, TCP Board vide letter No. TPB/APL/451/2024/4853 dated 10/12/2024 has forwarded a copy of appeal memo to the Respondent as requested for.

The matter was again placed in 212th meeting of TCP Board held on 03/02/2025 and during discussion in the matter on this day of hearing, Member Secretary had informed that a representation is received from Shri Shantidas Khandolkar to add him as an intervener, being the complainant in the matter. The same was discussed upon and it was decided to issue notice to the intervener Shri Shantidas Khandolkar to appear before the Board during the next meeting to give his say and the same was also consented by the Petitioner.

Matter was accordingly adjourned with directions to the Member Secretary, TCP Board to issue notices to the parties, including the intervener to appear before the next meeting of the Board.

The adjourned matter was placed before the 214th meeting of the TCP Board held on 24/04/2025. Advocate Utkarsh Verenkar who is an appellant himself appeared before the TCP Board. Advocate Anirudh Salkar represented on behalf of respondent SGPDA. Advocate Surabhi Nadkarni represented on behalf of the intervenor Mr. Shantidas G. Khandolkar.

Appellant Utkarsh Verenkar who is advocate himself informed board that he had obtained permission for the ground floor and first floor with prior approval from SGPDA vide L.No. SGPDA/1519/786/95-96 dated 29/01/1996.

Further appellant informed that the condition of doors, windows and openings was existing since 1972 and further informed that he without changing plinth area, construction of first floor was carried out as per approval granted by SGPDA in the year 1996. He further informed that occupancy certificate was also granted by Margao Municipal Council dated 11/07/2011.

Advocate Surabhi Nadkarni who represented on behalf of respondent SGPDA informed that there is one opening for the window which fall in setback area which needs to be closed. Appellant Utkarsh Verenkar informed that the said opening is existing since 1972 and therefore question of irregularity does not arise in the present matter. He also informed that the structure is also shown on Sy. Plan with 1.5 mtr. setback.

After deliberations at length, the TCP Board decided to dispose the appeal as the submissions made by the appellant before Board was found satisfactory.

The Member Secretary TCP Board was directed to communicate the decision of the Board to the concerned parties.

Item No. 6: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Jyotendra B. Kamat against Mormugao Planning and Development Authority. (File No. TP/B/APL/458/24)

This has reference to an appeal filed by Mr. Jyotendra B. Kamat against Mormugao Planning and Development Authority before TCP Board. The Appellant states that vide ref no. MPDA/ILL/Vasco/167/2024-25/1250 dated 18/11/2024 issued by Respondent PDA (hereinafter referred to as the “Impugned Notice”) under section 52 of the Goa Town and Country Planning Act, 1974, the appellant has been directed to demolish his alleged illegal construction of Compound wall and Pillar having a length of 5.30 meters and height around 0.45 meters, which is within the road widening area of proposed 10.00 meters wide road as shown on the Outline Development Plan for Vasco-Da-Gama Planning Area, 2030, on the property bearing Chalta No. 84 of P.T. Sheet no. 130, in an area zoned as S-1 Zone, situated within the local jurisdiction of Vasco Municipality.

The Appellant submits the following details:

The Appellant is the owner of the properties surveyed under Chalta No. 84 & 85 of P.T. Sheet no. 130, including the area indicated as an easement of City Vasco, totally admeasuring 858 square meters which originally belonged to appellant's deceased father namely Late. Shri. Balaji Kamat and upon whose demise, the said property is in exclusive possession and enjoyment of the Appellant.

The Appellant states that the subject matter of the present appeal is the property surveyed under Chalta No. 84 of P.T. Sheet no. 130 admeasuring 363 square meters including the area indicated as an easement zoned as S-1 Zone, situated within the local jurisdiction of City Vasco (hereinafter referred to as the "said property")

The Appellant states that in the said property, there exists a garden belonging to the Appellant and the said property is fenced on all sides by a compound wall of laterite stones which also exists since the time the house has been built by the appellant in the property under Chalta No. 85 of P.T Sheet no. 130 of City Vasco.

The Appellant further states that at the entry point of the said property, the compound wall has a gate on the Northern side, and beyond the gate there is compound wall extension only on the right hand side of the said gate if one is facing towards the gate commencing the pillar of the said gate towards the border of the said property, wherein the said extension is further connected to a bigger pillar.

The Appellant states that he was shocked to be in receipt of a show cause notice dated 27/05/2024 issued by the respondent vide ref no. MPDA/ILL/Vasco/167/2024-25/217, under Section 53 of the Goa Town and Country Planning Act, 1974 received by him on 1/06/2024, which stated as under:

“The Site Inspection carried out on 27/05/2024 at 11:30 a.m. by the official of this Authority revealed that you have carried out illegal development on Chalta No. 84 of P.T. Sheet No. 130 in the area zoned as S-1 in Outline Development Plan for Vasco-Da-Gama Planning Area-2030 without prior permission of this Authority as required under section 44 of the Town and Country Planning Act, 1974 and which illegal development consists of: Construction of Compound wall and Pillar having length of 5.30 meters and height around 0.45 meters, which is within the road

widening area of proposed 10.00 meters wide road as per the Outline Development Plan for Vasco-Da-Gama Planning Area, 2030”.

Appellant states that it is pertinent to note that the alleged site inspection mentioned to have been carried out on 27/05/2024 at 11:30 a.m in the said show cause notice, was neither annexed to the show cause notice nor the sketch prepared by the officials of the Authority, as the authority is very well aware of the fact that the same would amount to arbitrary exercise of the jurisdiction vested in it and would also amount to a clear trespass of the property belonging to the appellant without due notice under law.

The Appellant states that he replied to the said show cause notice dated 27/05/2024 vide its detailed reply dated 15/06/2024 inwards on 18/06/2024 before the Respondent, thereby refuting the allegations levelled in the show cause notice and clearly explaining therein that the said wall existed since time immemorial and that the said show cause notice is completely arbitrary and bad in law and has been issued with a malafide intentions and hence deserves to be revoked and set aside.

The Appellant further states that, it is also pertinent to mention that the Respondent had also in the past issued to him a show cause notice 25/08/2015 vide ref no. MPDA/ILL/Vasco/167/14-15/699 under Section 17A of Town and Country Planning Act, 1974 (In Short referred to as ‘TCP Act, 1974), thereby stating that the Appellant has carried out illegal development in the said property and the nature of development mentioned therein was, “Construction of Compound wall and Pillar having a length of 3.15 meters and height around 00.45 meters, which is within the road widening area of proposed 10.00 meters wide road as per the ODP”.

The Appellant states that he had replied to the above said show cause notice vide his reply dated 17/09/2015, once again refusing the contents of the said show cause notice and that the Respondent had not taken the said show cause notice to its logical conclusion.

The Appellant states that vide its reply dated 15/06/2024 to the show cause notice dated 27/05/2024, he had clearly denied the contents of the show cause notice vis-à-vis had pleaded in the said reply certain clarifications concerning the said show cause notice, the relevant portions of which are reproduced herein for ready reference:-

“Your earlier Show Cause Notice dated 25/08/2015 referred to Section 17A whereas this Show Cause Notice dated 27/05/2024 refers to Section 44. This use of different Sections for the same alleged illegality at different points of time (9 years apart with no action if really there was an illegality), itself shows that your above referred ‘Show Cause Notice’ has been served with some malafide intention and bad in law.

It’s to be noted that your earlier Show Cause Notice dated 25/08/2015 itself smacked of coercion since it was issued just after my Suggestions (addition/alteration as well as suggested rectification) to the ODP 2011 on 11.8.2015. Therefore now this Show Cause Notice dated 27/05/2024 again after a delay of 9 years itself shows that it’s been served with some malafide intention and coercion in mind.

Your earlier Show Cause Notice dated 25/08/2015, site inspection on 30/7/2015 at 11.30 am, discloses measurement having length of 3.15 mtrs and height of 0.45mtrs. Whereas, this Show Cause Notice dated 27/05/2024, site inspection on 27/5/2024 at 11.30 am, discloses measurement having length of 5.30 mtrs and height of 0.45 mtrs. This different Lengths (with Height remaining same) at different points of time (9 years apart), though no repairs to the wall have been done to it by me leave aside doing a newer construction, alleging a new construction of 2.15 mtrs. more length done by me over the past 9 years seems an intentional manipulation to justify that illegality is still in process.

Moreover, I was not informed and so was not present for the 2 Site Inspections at different points of time (9 years apart). Your both Notices (Old + Current) itself says that there’s an alleged Pillar, and this alleged Pillar is at one end of the alleged Wall, but at the other end of this alleged Wall is a different Pillar which supports and is part of the Compound Wall & Gate. Therefore, logically for more 2.15 mtrs. Length to be increased, the alleged Pillar should have increased by 2.15 mtrs., which is not a fact at the site. Therefore, your Site Inspections in my absence seems to be a sham, and this itself shows that your above referred ‘Show Cause Notice’ has been served with some malafide intention and bad in law.

At First when you issued me a Clarification Seeking Letter Ref. No. MPDA/Gen-Tech/2014-15/496 dated 18th September 2014 on the Subject “Complaint against Compound Wall”; towards which I replied on 10.10.2014,

asking for which is the Compound Wall that you are referring to, and also asking for a complete certified copy of the referred 'complaint against compound wall', in order to enable me to render proper clarifications on the referred subject. Your later show cause notice dated 25/08/2015 has probably identified which is the compound wall. However, till date you have failed to furnish me the required complete certified copy of the referred 'complaint against compound wall', especially when your later show cause notices could have attached it. Therefore, your failure to submit me the complete certified copy of the referred 'complaint against compound wall' and thus curtail transparency, prejudices me to the cause of natural justice, and thus smacks of a mala fide intention.

Your this Show Cause Notice dated 27/05/2024 states that the Construction of Compound Wall and Pillar is within the road widening area of proposed 10.00 mtrs wide road as per the Outline Development Plan for Vasco da Gama Planning Area 2030, which is the same as that stated in your 9 years earlier Show Cause Notice dated 25/08/2015. However, you have not specified which this proposed Road is”.

That Section 52 (1) of the TCP, Act 1974 provides that, “(1) Where any development or change of use of land has been carried out in any manner specified in clauses (a) to (f) of sub-section (1) of section 51, the Planning and Development Authority may, within four years of such development or change, serve on the owner a notice requiring him, within such period, being not less than one month from the date of service of such notice as may be specified therein”. A bare reading of the said provision makes it amply clear that the authority has powers to act on illegal development within four years of such development or change, thus it is very clear from the show cause notice issued by the respondent themselves in the year 2015, that the said wall in dispute has been existing, and for the sake of arguments assuming the same to be in existence since 2015, the compound wall has completed the period of four years and therefore the respondent lacked powers to initiate action against the appellant, and therefore the respondent has mala fide and without conducting any site inspection as alleged has manipulated the length of the compound wall only to create a fresh cause of action in the year 2024, with an intention to harass the appellant.

The Appellant states that the Respondent herein has not applied its mind nor considered the reply filed by the Appellant and therefore the Respondent on

18/11/2024, issued a demolition notice under section 52 of TCP Act, 1974 vide ref no. MPDA/ILL/Vasco/167/2024-25/1250, thereby directing him to demolish the illegal compound wall and pillar within a period of 30 days from receipt of the demolition notice.

The Appellant states that he being aggrieved by the said impugned Notice dated 18/11/2024, is constrained to file the appeal on the following grounds:-

- a) The impugned demolition Notice dated 18/11/2024, ought to be set aside as the same is issued on the basis of incorrect facts and more specifically on the ground of being beyond limitation as well as suppression of material facts, more so as the said wall has been standing therein for last five decades without any objections.
- b) The Respondent no. 1 i.e. MPDA has grossly erred in not considering the reply filed by the appellant which discloses that the wall in question was an old existing wall and does not affect the traffic in any manner.
- c) Section 52 (1) of the TCP, Act 1974 provides that, “(1) Where any development or change of use of land has been carried out in any manner specified in clauses (a) to (f) of sub-section (1) of section 51, the Planning and Development Authority may, within four years of such development or change, serve on the owner a notice requiring him, within such period, being not less than one month from the date of service of such notice as may be specified therein”. A bare reading of the said provision makes it amply clear that the authority has powers to act on illegal development within four years of such development or change, thus it is very clear from the show cause notice issued by the respondent themselves in the year 2015, that the said wall in dispute has been existing, and has issued the present show cause notice on 27/05/2024 without a fresh cause of action, with an intention to harass the appellant.
- d) The show cause notice dated 27/05/2024 & the Impugned demolition order dated 18/11/2024, is not maintainable in terms of law and hence deserves to be quashed and set aside.
- e) The discrepancies in the two show cause notices dated 25/08/2015 & 27/05/2024 issued by the respondent, clearly shows that the respondent has been only selectively targeting the appellant with a malafide intention of targeting the appellant for reasons well known to the respondent.

- f) The Respondent herein has failed to consider that there are residential structures existing on both the sides of the said proposed 10 meters wide road, which are built with due permissions granted by the respondent, and therefore the proposed 10 meters wide road as reflected on the ODP Plan, 2030 for city Vasco, cannot be in reality implemented as the Respondent will have to issue demolition orders with regard to the compound walls of all the existing residential structures and then proceed with road widening, which would result in reduction of the setbacks maintained by the respective owners and which would consequently result in violation of the Building Regulations, 2010 as applicable to the state of Goa.
- g) The Respondent has also deliberately ignored the fact that the said proposed road of 10 meters wide was shown on the ODP Plan, 2030 only to facilitate some builder lobby to carry out development in the properties situated in the neighborhood in the absence of even a 6 meter wide tarred road at site.
- h) The respondent therefore has not taken into consideration the reply to the show cause notice, the impugned demolition notice has therefore been issued in complete undue haste and without proper application of mind.
- i) The said wall of the Appellant is not on the road widening property, it is in the appellant's private property and does not affect the rights of any of the adjoining owners.
- j) The Respondent has completely ignored the fact that the said existing wall is situated in the private property of the appellant, and that the respondent has not acquired the said portion of land for the purpose of completing the work of expansion of the existing 7 to 8 meters wide road approximately into the proposed 10 meters wide road as reflected on the ODP Plan, 2030.
- k) The demolition notice is completely arbitrary and violative of the Appellants rights under Article 14.

The Appellant states that the impugned demolition Notice dated 18/11/2024 will cause miscarriage of justice if allowed to stand.

It is therefore prayed by the Appellant as under:-

- a) For an order thereby allowing the appeal and quashing and setting aside the impugned demolition notice dated 18/11/2024 issued by the respondent MPDA vide ref no. MPDA/ILL/Vasco/167/2024-25/1250.

- b) That pending the hearing and final disposal of this appeal the operation, implementation and execution of the impugned demolition notice dated 18/11/2024 be stayed.
- c) For ex parte ad interim relief in terms of prayer clause (b).

The matter was earlier heard in 211th meeting of the TCP Board held on 15/01/2025. During the arguments in the matter, Advocate Shri Vishal Sawant appeared on behalf of Appellant, whereas Adv. Meghana Kamat appeared for Respondent MPDA.

While arguing in the matter on behalf of Appellant, Adv. Vishal Sawant informed that earlier, Show Cause Notice was issued by MPDA dated 27/05/2024 citing reasons as under:

“The Site Inspection carried out on 27/05/2024 at 11:30 a.m. by the official of this Authority revealed that you have carried out illegal development on Chalta No. 84 of P.T. Sheet No. 130 in the area zoned as S-1 in Outline Development Plan for Vasco-Da-Gama Planning Area-2030 without prior permission of this Authority as required under section 44 of the Town and Country Planning Act, 1974 and which illegal development consists of: Construction of Compound wall and Pillar having length of 5.30 meters and height around 0.45 meters, which is within the road widening area of proposed 10.00 meters wide road as per the Outline Development Plan for Vasco-Da-Gama Planning Area, 2030”.

It was further informed that vide Show Cause Notice issued by Respondent MPDA dated 18/11/2024, the Appellant was directed to demolish his alleged illegal construction of compound wall and pillar having a length of 5.30 meters and height around 0.45 meters, which was within the road widening area of proposed 10.00 meters wide road as shown on the Outline Development Plan for Vasco-Da-Gama Planning Area, 2030, on the property bearing Chalta No. 84 of P.T. Sheet No. 130, in an area zoned as S-1 Zone, situated within the local jurisdiction of Vasco Municipality.

Adv. Shri Sawant therefore impressed upon the Board that the Respondent Authority at different times have changed its own findings and sections applicable and further, without deciding on one Show Cause Notice has issued another one, that too after about nine years, which itself is something very wrong on the part of Respondent.

Adv. Meghana Kamat while arguing on behalf of Respondent PDA informed that the Respondent MPDA shall give its written submission to the Board in due course of time over the reply given by the Appellant and therefore had requested for additional time to place such a reply before the Board and the same was considered.

Adv. R. S. Banerjee on behalf of Respondent PDA has now submitted a letter dated 07/02/2025 to TCP Board by enclosing therein the reply of the MPDA in connection with reply given by the Appellant to the Board.

The adjourned matter was placed before 214th meeting of the TCP Board held on 24/04/2025. Advocate Vishal Sawant appeared on behalf of the appellant and Advocate Meghana Kamat appeared on behalf of the respondent MPDA.

Advocate Vishal Sawant informed the Board that the notice issued by MPDA dated 18/11/2024 is arbitrary and contrary to law and deserves to be set aside. He further informed that show cause notice issued to the appellant by MPDA is even without conducting site inspection. MPDA did not enclose site inspection report to the notice dated 18/11/2024 and therefore said that said notice is challenged. He further informed that even if the said road where wall and pillar is existing needs to be widened. Acquisition plan of road needs to be kept on record by MPDA. He further informed that the compound wall is existing in the property since time immemorial. He further informed that site inspection was conducted by MPDA without informing MPDA.

Further, he informed that new issue has cropped out about ownership of land of Chalta No. 84 & 85 as raised by MPDA

Further, he also informed issue of access to Chalta No. 86 has also cropped out and therefore it seems that the issue is of ownership of land and not about access.

Advocate Meghana Kamat appearing on behalf of respondent MPDA informed that illegal construction of wall and pillar is constructed in road widening area which needs to be demolished by the appellant. As such, demolition notice dated 18/11/2024 was issued to the appellant.

She further informed that the Appellant Mr.Jyotendra B. Kamat, vide affidavit dated 25/04/2025, has filed a rejoinder, alleging that the MPDA is contending on behalf of ownership of adjoining property and not regarding access.

The Advocate of the MPDA Mrs. Meghana Kamat, informed the TCP Board that the MPDA shall file a rejoinder to the allegations of the Appellant in the next Board meeting.

Therefore, the matter stands adjourned.

Item No. 7: Cases considered by the Committee constituted as per Notification No. 36/1/TCP/503/2023/3349 dated 31/10/2023 for granting additional FAR.

Member Secretary informed that the Government vide Notification No. 21/1/TCP/2021-23/Steering Committee/107 dtd. 9/8/2023, published in Official Gazette, Series I, No. 18 dtd. 09/08/2023 had notified the amendment to GLDBCR-2010, which provided for following:

“(2) The Government on recommendation of the Town and Country Planning Board shall grant additional height and FAR to the proposals on case to case basis in consideration of the locational aspect, nature of development, use proposed, information available and on any such other criteria, if required. Such relaxation shall however not be relaxed for more than 20% permitted in the prevailing Regulations.”

It was then informed that a Corrigendum vide Notification No. 21/1/TCP/2021-23/Steering Committee/119 dtd. 21/8/2023 was thereafter published in Official Gazette, Series I, No. 21 dtd. 24/08/2023 stating that the regulation as referred above shall be read as under:

“The Government on recommendation of the Town and Country Planning Board shall grant additional height and FAR to the proposals on case to case basis in consideration of the locational aspect, nature of development, use proposed, information available and on any such other criteria, if required.”

The Board was then informed that 22nd meeting of the Committee, as constituted in this regard vide Notification No. 36/1/TCP/503/2023/3349 dated 31/10/2023 was held on 22/04/2025 in the office of the Chief Town Planner, TCP Dept., Panaji, during which, the proposals as forwarded by Taluka Offices/PDAs were considered by the Committee and the decisions taken were placed before the Board as required under the amended regulation.

The Board deliberated in detail on the proposals submitted and conformity of the same in terms of notified regulations regarding the same. The Board took

note of the proposals as recommended by the Committee constituted for the purpose and further deliberated on each of the same and considered the same for approval as per the decisions recorded at Table 'A', which forms part of these minutes.

Item No. 8: Applications received under Section 39A of the TCP Act for the consideration of the Board for change of zone in the Regional Plan/Outline Development Plan for approval/recommendation/decision under Sub-rule (1) of rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024.

Member Secretary informed that the Government has introduced new section, Section 39A for change of zone vide Notification Series I No. 47 dated 22/02/2024 which reads as under:

“39A. Change of Zone.— (1) Notwithstanding anything contained in this Act, the Chief Town Planner (Planning) upon direction of the Government or on receipt of an application in this regard and with approval of the Board, may, from time to time, alter or modify the Regional Plan and/ or the Outline Development Plan to the extent as specified in sub-section (2) for carrying out change of zone of any land therein, in such manner as prescribed, after giving notice of 30 days inviting suggestions from the public, provided the change of zone shall not be in respect of any eco sensitive land as may be prescribed.

(2) The alteration or modification carried out under sub-section (1) shall not alter the overall character of the existing Regional Plan and/or the Outline Development Plan.”

The Government has also framed the Rules for considering application under Section 39A of the TCP Act as notified in the Official Gazette (Supplementary) vide Series I No. 49 dated 07/03/2024 and as amended vide Notification No. 21/1/TCP/GTCPACT/2024/824 dated 24/05/2024 published in the Official Gazette, Series I, No. 10 dated 06/06/2024.

Rules provides for procedure to be adopted, objection suggestion period, scrutiny of application and rates of processing fees and change of zone. As per the said rules, application received under Section 39A of the TCP Act shall be placed before the TCP Board after carrying out necessary scrutiny for its

recommendation/approval/decision and the same to be subsequently notified for objection/suggestion.

The applications received by the Department with scrutiny details were placed before the 214th Town & Country Planning Board meeting under sub-rule (1) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024 for its recommendation/approval/decision and the cases as listed at Table 'B' are approved by the Board. The Member Secretary, TCP Board was accordingly directed to initiate further course of action in this matter sub-rule (2) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024.

Details of applications as placed before the Board under Section 39A and decision of the Board on the same is as per Table 'B', which forms part of this minutes.

Item No. 9: Applications received under Section 39A of the TCP Act for the consideration of the Board for change of zone in the Regional Plan/Outline Development Plan for approval/recommendation/decision under Sub-rule (3) of rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024.

Member Secretary informed that the Government has introduced new section, Section 39A for change of zone vide Notification Series I No. 47 dated 22/02/2024 which reads as under:

“39A. Change of Zone.— (1) Notwithstanding anything contained in this Act, the Chief Town Planner (Planning) upon direction of the Government or on receipt of an application in this regard and with approval of the Board, may, from time to time, alter or modify the Regional Plan and/ or the Outline Development Plan to the extent as specified in sub-section (2) for carrying out change of zone of any land therein, in such manner as prescribed, after giving notice of 30 days inviting suggestions from the public, provided the change of zone shall not be in respect if any eco sensitive land as may be prescribed.

(2) The alteration or modification carried out under sub-section (1) shall not alter the overall character of the existing Regional Plan and/or the Outline Development Plan.”

The Government has also framed the Rules for considering application under Section 39A of the TCP Act as notified in the Official Gazette (Supplementary) vide Series I No. 49 dated 07/03/2024 and as amended vide Notification No. 21/1/TCP/GTCPACT/2024/824 dated 24/05/2024 published on the Official Gazette Series I No. 10 dated 06/06/2024.

Rules provides for procedure to be adopted, objection suggestion period, scrutiny of application and rates of processing fees and change of zone. As per the said rules, application received under Section 39A of the TCP Act shall be placed before the TCP Board after carrying out necessary scrutiny for its recommendation/approval/decision and the same to be subsequently notified for objection/suggestion.

The applications received by the Department with scrutiny details were placed before the 214th Town & Country Planning Board meeting sub-rule (3) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024 for its recommendation/approval/decision and the cases as listed at Table 'C' are approved by the Board. The Member Secretary, TCP Board was accordingly directed to initiate further course of action in this matter sub-rule (4) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024.

Details of applications as placed before the Board under Section 39A and decision of the Board on the same is as per Table 'C', which forms part of this minutes.

Item No. 10: Any other item with permission of the chair.

Application of Raj Hospitality for relaxation of rear and side setback on the western side in respect of re-development of hotel building, compound wall and swimming pool at Chalta No. 35-E & 7, Plot No. 142 at Miramar in Panaji Town.

Member Secretary informed that, North Goa Planning & Development Authority has received an application from Raj Hospitality for redevelopment of hotel building in property bearing Chalta No. 35 E & 7 of PTS No. 142 of Taliegao Planning Area.

North Goa PDA has informed that as per ODP 2028 of Taliegao Planning Area, the property is earmarked as Special Commercial Zone (SPC) (300 FAR), and permissible height of 40 mts.

Earlier, North Goa Planning & Development Authority had issued Development Permission for proposed amalgamation of plots bearing Chalta No. 35 E & 7 of PTS No. 142, vide ref No. NPGPDA/256/2025 dated 28/01/2025.

Now, the revised proposal is for redevelopment of hotel building.

Member Secretary of North Goa Planning & Development Authority who was present for the meeting informed that the plot is abutting by two existing public roads, southern side 10 mts road and eastern side 8 mts. road. The northern side of the property has a dead wall and western side is abutting to the open space.

He further informed that as per the Goa Land Development and Building Construction Regulations 2010, clause 4.4.2, which states that *“for the height of 36.00 mts., 8.00 mts. side/rear setback is required and after 36.00 mts. height, the rear/side setback shall be increased by 1.00 mts. for every 4.00 mts. of additional height of 40.00 mts. of the building (8.00 + 1.00 = 9.00 mts.) 9.00 mts. setback is required.”*

Whereas, the proponent has proposed 3.00 mts side setback on the western side against required 9.00 mts.

Member Secretary, North Goa Planning & Development Authority informed that the earlier PDA has raised observations regarding the requirement of side setback as per the Goa Land Development and Building Construction Regulations 2010.

Whereas, the applicant vide his letter dated 20/03/2025, has informed that while designing the hotel structure, a consistent side/rear setback of 3.00 mts. towards the western side and this side setback applies to all the building floors throughout the height of the building without any cantilever projections. The project proponent and architect also stated that since it is an open space on the western side of the property available abutting the plot on the western side, followed by wide 4 lane public road, the fire engine and other emergency agencies have a complete access to any height on the western façade of the building

The Board deliberated on the proposal of the hotel building i.e. relaxation of western side setback at length.

Members also took note that glass facade is prepared for the entire surface of the building (western side) and no opening as such are maintained on the said surface. It was also noted that glass surface is prepared to be used only for the purpose of obtaining light. Justification given by the applicant was also considered by the Board and accordingly it was recommended for relaxation as applied for.

The TCP Board decided to consider the same subject to approval of the Government.

Member Secretary was accordingly directed to move the proposal for approval of the Government.