

## **Writ Petition No. 204/1999**

*The Goa Foundation*

*V/s*

*M.M. Caculo; The Panchayat of Candolim; State of Goa; The Chief Town Planner; The Goa State Coastal Zone Management Authority; Department of Electricity; Mr. Kamal M. Morarka*

**Issue:** This petition was filed to challenge the construction of a residential bungalow by M.M. Caculo, part of which was within 200 meters of the High Tide Line (HTL) on Survey No. 123/1 of Candolim village, an area zoned as CRZ-III under the Coastal Regulation Zone Notification of 1991. In CRZ-III the area up to 200 meters from the HTL is earmarked as 'No-Development Zone.' No Construction is permitted within this zone except for repairs of existing authorized structures. The construction that was approved by the authorities went beyond 200 meters, and there for was within the no development zone. Mr. Kamal Morarka was subsequently joined as respondent as he claimed to be the new owner of the building.

The court directed interim stay and also prohibited occupation of the premises. On 15 January 1999, the Goa Coastal Management Zone Authority rejected the application of Mr. Morarka for regularization of the revised plan as the building had changed substantially from the one designated on the approved plan and the actual construction of the building violates the 200-meter no development zone. The GCZMA also found that the floor area was higher than approved. The petitioner's claims were thus fully substantiated by the GCZMA.

The builder/owner informed the Court that they had appealed the decision of the GCZMA before the National Coastal zone Management Authority. Hence the court decided to dispose of the matter as the NCZMA was now hearing the issue. However it kept its interim order intact until the NCZMA decided the issue and for a period of six weeks thereafter with liberty to all parties in the petition to challenge the order of the NCZMA if it is adverse to them.

On 21 December 2001 the NCZMA heard the review petition and ruled that a portion of the building was falling within the 200-meter no development zone and the same had to be demolished.

### **Interim Orders: 1/7/1999**

Respondent No. 1 shall not make any further construction and shall not occupy the construction until a final order is given.

### **Final Judgment: 10/1/2000**

Respondents Nos. 1 and 7 have challenged the decision of the State Coastal Zone Management Authority on 12/11/1999, which rejected the revised plan for

construction submitted by Respondents No. 1 and No. 7 before the National Coastal Zone Management Authority. Under Section 4 Paragraph II (iii)(a), (b) of the Environment Protection Act of 1986 the NCZMA is empowered to review the case of the Respondents. The issue of whether Respondents No.1 and No.7 have violated the provisions of the Environment Protection Act and the Coastal Regulation Zone Notification is an issue to be dealt with by the National Coastal Zone Management Authority. Until the orders of the NCZMA are obtained and for a period of six weeks thereafter the Respondent Nos. 1 and 7 shall not make any further construction and shall not occupy the construction on Survey No. 123/1 of Village Candolim of Bardez Taluka. Liberty to the parties to challenge the order of the NCZMA if it is adverse to any of them.

The petition was dismissed as infructuous.

**Review Petition Before NCZMA: Order dated 21-12-2001**

The portion of the building structure that is falling in the no development zone is not permissible as per the provisions of the CRZ Notification.