

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3318 OF 2020

PRASAD NAIK

... APPELLANT(S)

VS.

GOA COSTAL ZONE MANAGEMENT
AUTHORITY & ORS.

... RESPONDENT(S)

O R D E R

With the consent of the parties, the appeal is taken up for hearing.

A Show Cause Notice was issued to the appellant on 4th August, 2015 by the first respondent alleging that the appellant and another has made illegal construction on land bearing Survey No.63/1, 2 & 3 of Penha de Franca Village, Bardez, Goa by indulging in hill cutting. An order dated 12th July, 2018 was passed on the basis of the said Show Cause Notice. By the said order, a direction was issued to the appellant to stop all commercial activities. However, a specific finding was recorded in the said order that there was no illegal construction and hill cutting made by the appellant.

The order dated 12th July, 2018 was challenged before the National Green Tribunal, Principal Bench, New Delhi by the appellant. By the impugned judgment dated 7th September, 2018, the appeal was disposed of by directing that the structure in Survey No.63/1, 2 & 3 of Penha de Franca Village, Bardez, Goa shall not to be used for any commercial activities.

The Show Cause Notice was issued restricted to the allegation that the appellant has made illegal construction by hill cutting. There is no allegation in the Show Cause Notice about the illegal commercial use of the structure on the subject land. Therefore, while deciding the Show Cause Notice, there was no occasion for the first respondent to make adjudication on the question of the alleged illegal use by the appellant.

This aspect has been brushed aside by the National Green Tribunal.

As there was no allegation in the Show Cause Notice regarding illegal commercial use, an order could not have been passed on the basis of the Show Cause Notice prohibiting commercial use, as no opportunity was granted to the appellant to respond to the allegation of illegal user.

We may note here that the appellant's sister-in-law (Ms. Sonal S.Naik) was carrying on the business of selling liquor in the structure. She has surrendered the liquor licence as noted in the earlier order of this Court dated 28th March, 2025. Hence, it is not necessary to pass any order on this aspect.

Hence, the impugned order dated 7th September, 2018 passed by the National Green Tribunal is set aside. Appeal No.64 of 2018 is allowed by setting aside the order dated 12th July, 2018. However, the finding in the said order that no illegal construction has been carried out by the appellant by hill cutting is maintained.

It will be open for the first respondent to issue a fresh Show Cause Notice to the appellant for the alleged illegal commercial use.

The appeal is accordingly allowed on the above terms.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
April 09, 2025.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 3318/2020

PRASAD NAIK

Appellant(s)

VERSUS

GOA COSTAL ZONE MANAGEMENT AUTHORITY & ORS.

Respondent(s)

(IA No. 91513/2020 - EX-PARTE STAY

IA No. 91515/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 91512/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 09-04-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s) :

Ms. Anitha Shenoy, Sr. Adv.
Ms. Rashmi Nandakumar, AOR
Ms. Ayushma Awasthi, Adv.
Ms. Yashmita Pandey, Adv.

For Respondent(s) :

Mrs. Shirin Khajuria, Sr. Adv.
Ms. Ranu Purohit, AOR
Ms. Swati Tiwari, Adv.
Ms. Niharika Singh, Adv.

Mr. Shantanu Awasthi , AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)