



2025 INSC 297

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

NON-REPORTABLE

CIVIL APPEAL NO(S). 9328/2022

ZON HOTELS PVT. LTD.

APPELLANT(S)

VERSUS

GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS.

RESPONDENT(S)

J U D G M E N T

NAGARATHNA, J.

Admit.

2. Being aggrieved by the order dated 14.10.2022 passed by the National Green Tribunal, Western Zone Bench, Pune ("NGT" for the sake of convenience), in Appeal No.19/2022 (WZ), the appellant is before this Court.

3. We have heard learned counsel for the appellant and learned counsel for first respondent and learned counsel for respondent Nos.2 and 3 and we have perused the material on record.

4. The controversy in this appeal is in a very narrow compass. The grievance of the appellant is that pursuant to the direction issued by the High Court in PIL Writ Petition No.2530/2021 dated 19.04.2022, the first respondent herein sought to compute damages vis-a-vis the illegal construction

put up by the appellant herein and estimated the damages resulting from the illegal construction put up by the appellant herein in monetary terms. The first respondent herein by order dated 09.05.2022 directed the appellant herein to pay a sum of Rs.2,04,19,560/- (Rupees Two Crores, four lakhs nineteen thousand and five hundred and sixty only) towards environmental compensation.

5. Learned counsel for the appellant submitted that prior to the determination of the environmental compensation directed to be paid by the appellant herein, there was no opportunity given to the appellant herein inasmuch neither a Show Cause Notice was issued to the appellant nor was an opportunity of hearing granted. The impugned order dated 09.05.2022 is a unilateral, one-sided order which is hit by the principles of natural justice.

6. Being aggrieved by the said order, the appellant herein preferred an appeal before the NGT, Western Zone. Although the NGT acknowledged the fact that the appellant was not heard in the matter, nevertheless it did not remand the matter to the first respondent-management authority for a re-determination of the environmental compensation afresh. Instead, the NGT simply sustained the said order on the premise that it (NGT) was giving an opportunity of being heard to the appellant herein. Learned counsel for the appellant submitted that an Appellate Authority hearing a lis in the form of an appeal is totally different from the original authority which would determine the

environmental compensation which is in the nature of an exercise of administrative powers. Learned counsel submitted that the order dated 09.05.2022 which was passed by the first respondent-management authority was in total violation of the principles of natural justice. The NGT, therefore, ought to have remanded the matter to the Management Authority for re-determination of the environmental compensation that was liable to be paid by the appellant herein after giving an opportunity of being heard and filing objections to the said determination.

7. In the circumstances, learned counsel for the appellant submitted that the impugned order of the NGT as well as the order dated 09.05.2022 may be set aside and there may be a fresh compliance of the direction issued by the High Court dated 19.04.2022.

8. Per contra, learned counsel for the first respondent and learned counsel for third respondent supported the impugned order(s) and contended that there is no merit in the appeal; that the appellant herein could have approached the High Court in Writ Petition No.2530/2021 if it had any grievance with regard to order dated 09.05.2022; that it was the appellant which chose to file an appeal before the NGT and the NGT, after giving an opportunity of hearing to the appellant herein, has passed the impugned order; that there is no merit in this appeal and hence, the same may be dismissed.

9. We have considered the arguments advanced at the bar in light of the material on record and particularly in light of order dated 09.05.2022 passed by first respondent-Authority as well as the impugned order passed by the NGT.

10. We find that the High Court by order dated 19.04.2022 observed as under:

“3. In so far as prayer clause (c) is concerned, we direct the GCZMA as well as other authorities who are involved in the demolition of such construction to file an affidavit indicating the cost required for such demolitions. The GCZMA should also make an estimate of the damages that such illegal constructions cause to the environment in monetary terms, though we are conscious that such damage can never be fully compensated only in monetary terms.

4. Respondent No.6 is also granted an opportunity to file affidavit, if they choose to explain why they should not be required to pay damages to the State for the illegal and unauthorized constructions put up by them in an area effected by CRZ notification.”

11. On the basis of the aforesaid order, the impugned order dated 09.05.2022 was passed by the first respondent-Authority. The Authority while determining the compensation has neither issued any Show Cause Notice to the appellant herein nor has it given an opportunity of being heard. Therefore, the said

determination made by the first respondent-authority is unilateral and in the absence of hearing the appellant herein, we find that the procedure adopted by the first respondent herein was contrary to the settled principles of natural justice. Further, when the said order dated 09.05.2022 was assailed by the appellant before the NGT, the NGT, having found violation of the principles of natural justice, ought to have remanded the matter to the first respondent-authority for re-determination of environmental compensation after giving an opportunity of being heard to the appellant herein. Instead, the NGT took upon itself to determine the correctness or otherwise of the calculation of environmental compensation arrived at by the first respondent-authority on the premise that it was giving an opportunity to the appellant herein.

12. We hold that the opportunity given by the NGT to the appellant herein in an appeal is not the same quality of opportunity which the first respondent as an original Authority would have granted to the appellant herein. Therefore, we find that the NGT was not right in sustaining the impugned order dated 09.05.2022 passed by the appellant herein. Since we are setting aside the order of the NGT only on the issue of violation of principles of natural justice and not on merits, we shall construe the impugned order dated 09.05.2022 passed by the first respondent-Authority as a Show Cause Notice. Appellant herein is granted three weeks' time from today to

reply to the said order now construed as a Show Cause Notice. The appellant shall be heard and there shall be a re-determination of the environmental compensation that has to be paid by the appellant herein having regard to the direction dated 19.04.2022 issued by the High Court in PIL Writ Petition No.2530/2021 extracted above.

13. It is needless to observe that the said re-determination shall be made as expeditiously as possible and in accordance with law.

14. The appeal is allowed in-part and disposed of in the aforesaid terms.

15. It is stated that a sum of Rs.60,00,000/- (Rupees Sixty Lakhs Only) has been deposited by the appellant before the NGT, Western Zone, the disbursal of the said amount shall be subject to the orders to be made by the first respondent-Authority.

Pending application(s), if any, shall stand disposed of.

....., J.
(B.V. NAGARATHNA)

....., J.
(PRASANNA B. VARALE)

NEW DELHI;
FEBRUARY 19, 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). 9328/2022

ZON HOTELS PVT. LTD.

Appellant(s)

VERSUS

GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS.

Respondent(s)

(IA No.201434/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 19-02-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Appellant(s) Mr. Shiven Desai, Adv.
Mr. Avishkar Singhvi, Adv.
Mr. Vivek Jain, AOR
Ms. Suchitra Kumbhat, Adv.
Mr. Rajat Jain, Adv.
Mr. Sadiq Noor, Adv.

For Respondent(s) Mr. Surjendu Sankar Das, AOR
Ms. Annie Mittal, Adv.

Mr. Sanjay Parikh, Sr. Adv.
Ms. Srishti Agnihotri, AOR
Ms. Kritika, Adv.
Mr. D.P.Singh, Adv.
Ms. Tara Elizabeth Kurien, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Admit.

The appeal is allowed in-part and disposed of in terms of the signed non-reportable judgment which is pending on the file.

Pending application(s), if any, shall stand disposed of.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)