



Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.640 OF 2024**

M/s. Aqaab Realty Private
Limited, Through its
Director and Authorized
Representative, Mr. Zakaria
Mohamed Farouk Darvesh, Age 40 years,
Authorized vide the Board Resolution
dated 16/08/2024, with registered
office at Shop No. 7C, Ground Floor,
H.P. Mansion, 70-72, Narayan
Dhuru Street, Mumbai,
Maharashtra, 400003

...PETITIONER

VERSUS

1. The State of Goa,
Through its Chief Secretary,
Secretariat, Porvorim, Goa.

2. The Goa Real Estate Regulatory
Authority, with office at Spaces Building,
Plot No. 40, Block No. 101, 1st Floor,
EDC, Patto Plaza, Panaji-Goa.

...RESPONDENTS

Mr. Dattaprasad Lawande with Mr. Chirag Angle, Advocates for
the Petitioner.

Mr. Geetesh Shetye, Additional Government Advocate for the
Respondent No.1.

Ms. Maria Correia, Additional Government Advocate for the
Respondent.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 18th September, 2024

ORAL JUDGMENT

1. Rule.
2. Rule is made returnable forthwith.
3. The matter is taken up for final disposal with consent of the parties.
4. Heard Mr. Lawande along with Mr. Angle learned Advocates for the Petitioner; Mr. Gitesh Shetye learned Additional Government Advocate for the Respondent No. 1 and Ms. Maria Correia, learned Additional Government Advocate for the Respondent No. 2.
5. A short question in the present proceedings is to order passed by the Goa Real Estate Regulatory Authority [Goa RERA Authority for short] on 23.04.2024 thereby rejecting the application filed by the Petitioner for extension of one year as provided under Section 6 (proviso) of the Real Estate (Regulation and Development) Act, 2016 [RERA Act 2016 for short].
6. Mr. Lawande learned counsel for the Petitioner would submit that the Petitioner applied for registration under the RERA Act and by such application he has disclosed that he

will be completing the project on or before 31.12.2027.

7. Mr. Lawande would submit that the Petitioner has applied for revised plans as well as for environmental clearance for which fresh permissions are required.

8. He submits that because of subsequent developments there is a possibility of delay in the project which may not be completed by the period disclosed earlier. Accordingly, he applied for extension of registration on 06/02/2024 under Section 6 of the said Act. However, the concerned Goa RERA Authority vide order dated 23.04.2024 rejected such extension on the ground that as per the Circular dated 17/01/2020, the Petitioner has to apply to the Goa RERA Authority only three months prior to the expiry of the period of validity of registration.

9. Mr. Lawande would submit that the proviso to Section 6 contemplates a personal hearing before deciding such application for extension. However, no such hearing was given.

10. Mr. Lawande submits that even the Circular dated 17/01/2020, has been wrongly interpreted as it says that the Petitioner has to apply atleast three months prior to the

validity of the registration. He submits that the Petitioner has applied well in advance since he has already applied for revision of the plans, which may delay the project and it will not be possible for the Petitioner to complete it on or before December, 2027.

11. Ms. Correia, learned Additional Government Advocate appearing for the Respondent No. 2 would submit that the Government has published the Extension of Registration of Real Estate Project by the Goa Real Estate Regulatory Authority Regulations 2021, with regard to the extension of registration of real estate project. As per the said regulation, the Applicant/Promoter has to apply atleast three months prior to the validity of the registration period for extension as provided under Section 6.

12. She fairly submits that before passing the impugned order dated 23.04.2024, no personal hearing was given to the Petitioner.

13. The Regulation No. 4 provided that the Promoter shall apply atleast three months prior to the validity period expires and only in exceptional and unforeseen circumstances the said period of three months may be waived by the Authority.

14. Thus, the application filed by the Petitioner is well in advance and the word "atleast" found in Regulation No. 4 has to be properly interpreted. The application filed by the Petitioner is clearly coming within the Regulation No. 4.

15. However, since no personal hearing was given to the Petitioner before rejecting his application, the matter needs to be remanded to the concerned Authority to decide the application filed by the Petitioner afresh and by giving personal hearing as found mentioned under Section 6 (Proviso) of the RERA Act, 2016.

16. Accordingly, the impugned order is hereby quashed and set aside. The matter is remanded to Goa RERA Authority for deciding the application afresh and by giving an opportunity of personal hearing to the Petitioner. While doing so Authority shall take into consideration the Regulation 2021 framed by the RERA and notified by the Government with regard to extension of time.

17. Rule is made absolute in above terms.

BHARAT P. DESHPANDE, J.