



Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.3101 OF 2024 (F)

EDCON REAL ESTATE DEVELOPERS

THR. ITS PARTNER EDWIN T. DE MENEZES ... PETITIONER

Versus

THE GOA REAL ESTATE REGULATORY

AUTHORITY, THR. ITS CHAIRPERSON ... RESPONDENT

Mr. A. F. Diniz, Senior Advocate with Mr. Ryan Menezes,
Advocate for the Petitioner.

Mr. Deep Shirodkar, Additional Government Advocate for the
Respondent Nos. 1, 2 and 5.

**CORAM:- BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

DATED :- 02nd April, 2025

P.C.

1. The challenge has been raised to the Circular dated 04/10/2022 issued by the Goa Real Estate Regulatory Authority on the subject of registration of Joint Development Agreement between Promoter/Builder and Land Owner which comprised of the following clauses:-

2. Section 4 of The Real Estate (Regulation and Development) Act, 2016 read with Rule 3(2) (d) of the Goa Real Estate (Regulation and

Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017, mandates collaboration agreement, development agreement, joint development agreement or any other form of agreement, as the case may be, entered into between the promoters and owner of the land. Further, such documents/ transactions are required to be registered under Section 17 of the Indian Registration Act, 1908.

3. In the light of the above, all real estate promoters / builders and land owners are hereby directed to furnish registered joint development agreement or collaboration agreement or any other form of agreement, which comes within the purview of section 17 of the Indian Registration Act as the case may be, entered into between the promoters and land owners which is duly registered with the jurisdictional Sub-Registrar, in which, project is located for registration of the real estate project. In the event of non-submission of such document, the Authority would cause hearing of the applicant for submission of the same within given time frame or else the registration would be liable to be rejected.

2. The learned Senior Counsel while challenging the

aforesaid clauses has urged before us that the Circular travels beyond Section 17 of the Registration Act, 1908 and further that it is vague as it contemplates any agreement, development agreement or any other form of agreement in terms of promoter or owner of the land, to be registered under Section 17 of the Registration Act, 1908.

3. The Secretary of the Goa Real Estate Regulatory Authority, Mr. Paresh Fal Desai has affirmed on affidavit on 27/03/2025 responding to the petition, particularly, the statement made in paragraph 6 of this affidavit offers clarity to the petition and even redresses the grievance raised in the petition.

The affidavit in para 6 states as under:-

6. I say that the entire basis of the challenge of the Petitioner is misconceived. I say that the Circular unequivocally directs that registered agreements should be produced before the Authority when the agreements are entered into between the promoters and land owners and which come within the purview of Section 17 of the Registration Act, 1908. I say that though it would have been permissible for the Respondent to otherwise require production of registered agreements in all cases of agreements between the

promoter and the owner in light of the scheme, object and purpose of the Act, in the interest of protection of the buyers/allottees, no such direction has been issued by the said Circular. As already stated above, the Circular only seeks production of registered agreements which are otherwise required to be registered in terms of Section 17 of the Registration Act, 1908. I say that in the meeting of the Authority held on 29.10.2022, the draft Circulars on two subjects, one of which is the said Circular, were discussed and deliberated upon in detail and it was decided to add the words "which comes within the purview of section 17 of the Indian Registration Act" in paragraph 3 of the draft Circular, which was accordingly done and the same is reflected in the said Circular. I say that this makes it very clear that the Respondent has considered the relevant provisions of law and consciously limited the scope of the direction in the said Circular to cover only those agreements which come within the purview of Section 17 of the Registration Act, 1908. I say that no promoter or owner can have any grievance and cannot be heard to contend that he will not register an agreement though the same is required to be registered in terms of law.

4. In the wake of the clarity that is now offered though the

affidavit, we do not deem it necessary to test the challenge in this petition.

5. Needless to state that all those applications which are pending before the Goa Real Estate Regulatory Authority in the wake of the clarification offered, the Circular including the application of the petitioner will be disposed of within a period of 4 weeks from today.

6. Writ petition is disposed of.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.