Amrut

# IN THE HIGH COURT OF BOMBAY AT GOA

## WRIT PETITION NO.465 OF 2026

M/S. Palaceio Property Developers Pvt. Ltd.
Through its Director,
Gera Imperium 1, 612,
6th Floor, Patto Plaza,
Panaji Goa 403001. ... Petitioner

*Versus*

Mr Ashok R. Mundkur & Ors. …Respondents

Mr Sarvesh Kamat Malyekar, Advocate for the Petitioner.
Mr Abhijit Gosavi, Advocate for Respondent Nos.1 and 2.
Mr Iftikhar Agha (Through V.C.) with Mr Ketan Morajkar, Advocates for Respondent No.3.

**CORAM: S. G. CHAPALGAONKAR, J.**

**DATED: 27th AUGUST 2026**

**ORAL ORDER :**

**1.** The Petitioner takes exception to order dated 29th April 2026 passed by the Adjudicating Officer, Goa Real Estate Regulatory Authority (RERA), thereby rejecting Petitioner's application seeking leave to cross-examine Respondent No.1 in Application No.4/RERA/Adj. Matters (126)/2024.

**2.** Respondent Nos.1 and 2 have filed application/complaint before the Adjudicating Officer, Goa RERA claiming compensation and other relief on account of delay in handing over possession of allotted premises. The Petitioner filed a reply to said application denying averments and contentions. Respondent No.1 filed evidence affidavit pursuant to direction given by the Adjudicating Officer. On 19th March 2025, the Petitioner filed application seeking leave to cross-examine Respondent No.1, which was opposed on merits. On 29th April 2026, learned Adjudicating Officer rejected Petitioner's application on the ground that it may result in protracting the proceeding.

**3.** Learned Advocate appearing for the Petitioner submits that in an application filed by Respondent seeking compensation before Adjudicating Officer, Petitioner was entitled to cross-examine Respondent No.1. Sections 35, 38 and 71 of the RERA Act, 2016 contemplate inquiry consistent with principles of natural justice and empower Authority to record evidence whenever necessary. Once the Authority is empowered to secure evidence, there is no reason to deny opportunity to cross-examine particularly when it is specifically sought by party.

**4.** Learned Advocate appearing for Respondents supports impugned order contending that proceeding is to be conducted in a summary manner and permitting cross-examination of complainant

would frustrate the object of speedy disposal of proceedings under RERA Act.

**5.** Having considered submissions advanced by learned Advocate appearing for respective parties, it can be observed that the Respondent No.1 has filed a complaint before Adjudicating Officer raising claim for compensation of Rs.1,00,000/- towards harassment, mental agony, stress etc., and Rs.1,90,656/- for monetary loss towards legal and related expenses with further direction to provide all amenities and facilities in the flat as listed in advertising brochure and schedule VI and VII of the Agreement. In pursuance to aforesaid complaint, Respondent No.1 has filed evidence affidavit. At this stage, Petitioner moved an application seeking permission to cross-examine him.

**6.** Section 35 of the RERA Act empowers the Authority to call for information and conduct investigations on a complaint relating to violation of the Act, Rules or Regulations made thereunder. Sub-Section (2) of Section 35 empowers the Authority to exercise all powers vested in a Civil Court under the Code of Civil Procedure for trial of the suit, particularly in respect of discovery and production of books of account, summoning and enforcing the attendance of persons, issuing commissions for examination of witnesses or documents and any other matter which may be prescribed.

**7.** Section 38 prescribes powers of Authority to impose penalty or interest, in regard to any contravention of obligations cast upon the

promoters etc. Sub-section (2) of Section 38 stipulates that Authority shall be guided by the principles of natural justice and subject to the other provisions of Act and Rules framed thereunder. Further, the Authority shall have powers to regulate its own procedure.

**8.** Section 71 deals with power to adjudicate compensation under Sections 12, 14, 18 and 19. Sub-section (3) of Section 71 stipulates that the Adjudicating Officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence.

**9.** Gist of the relevant provisions of RERA Act, 2016 and Rules framed thereunder, would suggest that the application for adjudicating compensation has to be dealt with by the Adjudicating Officer as expeditiously as possible and within a period of 60 days from the date of receipt. However, if the Authority has been conferred with all powers of Civil Court to be exercised while adjudicating a suit and to record evidence of the witnesses, it cannot be said that the Authority is powerless or incompetent to permit cross-examination in appropriate cases. The order impugned simply suggests that permitting cross-examination may frustrate timeline prescribed for disposal of complaints under the Act. However, this Court cannot countenance the reason supplied by the Authority while declining to entertain Petitioner's application for permission to cross-examine. In cases where compensation is to be determined, multiple factors are required to be

taken into account and sometime veracity of the statements made in the complaint or evidence affidavit requires deeper scrutiny by way of cross-examination. In the aforesaid backdrop, this Court finds that in the facts of this case, the Petitioner's application seeking permission to cross-examine ought to have been entertained.

**10.** In result, writ petition is partly allowed in terms of prayer clauses (A) and (B) which read thus:-

> "(A) That this Hon'ble Court be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction, quashing and setting aside the impugned order in Application No.4/RERA/Adj. Matters (126)/2024 dated 29.04.2026 passed by the learned Adjudicating Officer, Goa RERA, rejecting the Petitioner's application for leave to cross-examine Respondent No.1;
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> (B) That this Hon'ble Court be pleased to direct the learned Adjudicating Officer to permit cross-examination of Respondent No.1 on the affidavit filed in evidence."

**11.** The Petitioner shall be at liberty to cross-examine the complainant; however, such cross-examination shall be restricted to point in issue and, as far as possible, shall be completed within one session.

**S. G. CHAPALGAONKAR, J.**