

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.478/2021 (F)

Shri Venkatesh Narayan Prabhu Moni,
aged 50 years, Proprietor of
M/s. Prabhu Constructions
having its office at 'Dempo Trade Centre',
Patto Plaza, Panaji-Goa, 403 001.

...PETITIONER

Versus

State of Goa, through its
Chief Secretary, having his office at
Secretariat, Porvorim Goa.

...RESPONDENT

Mr. S. N. Joshi with Ms. S. Rawool, Advocates *for the Petitioner.*

Mr. D. Pangam, Advocate General with Mr. G. Shetye, Additional
Government Advocate *for the State.*

**CORAM: M. S. SONAK &
M. S. JAWALKAR, JJ.**

DATED: 12th October 2021

P.C.:

1. Heard Mr. S. N. Joshi who appears along with Ms. S. Rawool for the Petitioner and Mr. D. Pangam, learned Advocate General who appears along with Mr. G. Shetye, learned Additional Government Advocate for the State.

2. By this petition, the petitioner has challenged notification dated 11.09.2019 designating the Goa Administrative Tribunal as the Real Estate Appellate Tribunal. The petitioner has also sought for a writ of mandamus to direct the State Government to constitute the Real Estate Appellate Tribunal in accord with Section 43 r/w Sections 45 and 46 of the Real Estate (Regulation and Development) Act, 2016.

3. Learned Advocate General has pointed out that presently in Goa there are hardly two or three cases pending before the Appellate Tribunal. He submitted that this is the reason why the State felt that it will not be appropriate to have an independent Real Estate Appellate Tribunal (Tribunal). However, the learned Advocate General has placed on record the notification dated 16.09.2021 issued in the exercise of powers conferred by the first proviso to sub-section 4 of Section 43 of the said Act. This notification has designated the Maharashtra Real Estate Appellate Tribunal to be the Appellate Tribunal for the State of Goa to hear the appeals under the said Act with effect from the date of publication of the notification.

4. The notification dated 16.09.2021 which has been published in the Official Gazette dated 23.09.2021 reads as follows:

“Department of Urban Development

Municipal Administration

Notification

11/50/2017-DMA/RERA/2146

In exercise of the powers conferred by the first proviso to sub-section (4) of section 43 of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) (hereinafter referred to as the “said Act”), the Government of Goa hereby designate the Maharashtra Real Estate Appellate Tribunal to be the Appellate Tribunal for State of Goa to hear appeals under the said Act, with effect from the date of publication of this Notification.

By order and in the name of the Governor of Goa.

Gurudas P Pilarnekar, Director/ex officio Additional Secretary (UD).

Panaji, 16th September, 2021.”

5. Having regard to the aforesaid development, it is obvious that the notification dated 11.09.2019 will no longer survive. This is accepted by the learned Advocate General as well. Besides, with the designation of the Maharashtra Real Estate Appellate Tribunal to be the Appellate Tribunal for the State of Goa, even the second relief of constituting an Appellate Tribunal stands redressed.

6. Mr. Joshi however has raised a grievance about constituting Maharashtra Real Estate Appellate Tribunal to be the Appellate Tribunal for the State of Goa by pointing out that access would be rendered difficult. According to us, this is an independent grievance that cannot be addressed in the present petition. Besides, presently, it was pointed out by the Advocate General that there are hardly two to three matters pending in the State of Goa.

7. According to us, if the number of matters increase, we are sure that the State Government will consider requesting the Appellate Tribunal to explore the possibility of having some circuit bench or some circuit sittings in the State of Goa. At this stage, however, there is no warrant for making any further orders in this petition since the reliefs as prayed are substantially redressed.

8. The petition is disposed of in the aforesaid terms. There shall be no order as to costs.

M. S. JAWALKAR, J.

M. S. SONAK, J.