Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO.467/2026
IN
WRIT PETITION NO.185/2024
AND
MISC. CIVIL APPLICATION NO.468/2026
IN
WRIT PETITION NO.183/2024
AND
MISC. CIVIL APPLICATION NO.469/2026
IN
WRIT PETITION NO.182/2024
AND
MISC. CIVIL APPLICATION NO.470/2026
IN
WRIT PETITION NO.184/2024

M/S. SUNSTAR HOMES, a Partnership firm through its Partner, Mr Anup Vishram Prabhu Walavalkar, 51 years of age, residing at H. No.20, Khorlim, Mapusa, Bardez, Goa-403507. … APPLICANT/ PETITIONER

Versus

1. THE STATE OF GOA through the Ministry of Law & Justice, Secretariat, Porvorim – Goa. 403521.

2. THE GOA REAL ESTATE REGULATORY AUTHORITY, SPACES, Plot No.40, Block No.101, 1st Floor, EDC, Patto Plaza, Panaji – Goa.

3. MR VIVEK ARJUN NAIK TULASKAR, major in age, residing at House No.26, Nagzar, Varkhand, Pernem, Goa – 403512. … RESPONDENTS

Mr Harshad Bhadbhade and Ms Tabitha Liza Tayag Souto, Advocates for the Applicant/Petitioner.

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Mr N. Vernekar (WP No.185/2024), Mr S. Priolkar (WP No.183/2024), Mr T. Gawas (WP No.182/2024) and Mr G. Shetye ((WP No.184/2024), Additional Government Advocates for Respondent No.1.

Mr D. Shirodkar, Additional Government Advocate for Respondent No.2.

CORAM: VALMIKI MENEZES &
AMIT S. JAMSANDEKAR, JJ.

DATED: 08th SEPTEMBER 2026

ORAL JUDGMENT : (Per Valmiki Menezes, J.)

1. The main challenge in these Petitions is to the vires of Rule 4 of the Goa Real Estate (Regulation And Development) (Recovery Of Interest, Penalty, Compensation, Fine Payable Forms Of Complaints And Appeal Etc.) Rules, 2017 ('the Rules' for short). The main contentions of the Petitioner is that Section 40 of the Real Estate (Regulation and Development) Act, 2016 ('the Act' for short) provides for recovery of interest or penalty or compensation and enforcement of order, etc in two manners; sub-section 1 of Section 40 provides for execution and enforcement of orders passed by the regulatory authority or the appellate authority which are in the form of directions to pay interest or penalty or compensation. Sub-section 2 of Section 40 provides for a manner of execution of orders of adjudicating officers or regulatory authority or appellate authority, where such orders direct the person to do any act, or to refrain from doing any act, and enforce such directions.

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2. Sub-section 1 of Section 40 provides for execution of orders granting compensation, penalty or interest by recovery proceedings but arrears of Land Revenue. Sub-section 2 provides for execution of directions and orders in the manner prescribed by the Rules.

3. It is contended that Rule 4 of said Goa Rules prescribes only one method of execution of both, orders passed under sub-section 1 of Section 40 (which prescribes recovery as arrears of land revenue), as also, sub-section 2 of Section 40 which prescribes enforcement of directions of the authorities, both as if they were decrees of a civil court; the Rule provides for only one method of executing both types of orders by filing execution proceedings in terms of the Code of Civil Procedure before a Civil Court.

4. These contention would have to be examined in the backdrop of the specific facts of the Petitioner's case. The Petitioner suffered an order of the RERA which was composite in nature, in which the Petitioner was directed to hand over possession of certain premises, to pay penalty and to pay interest to the complainants. This order came to be challenged before the RERA Appellate Tribunal which dismissed the appeal, and the original order of the RERA stood confirmed. The complainants proceeded in an execution proceedings before the Civil Court, in terms of order 21 of the CPC and under Rule 4 of the Goa Rules seeking enforcement of that part of the decree of the RERA which directed the possession of the apartment to be transferred by the Petitioner to the Respondent No.3 in WP No.183, 184

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and 185 of 2024 and Respondent Nos.3 and 4 in WP No.182/2024 (hereinafter referred to as 'complainants') in these four Petitions. The Civil Court has as of today, completed the execution of the possession order and handed over the possession to the aforementioned complainants and nothing further survives to be executed of the RERA order.

5. Insofar as the part of the RERA order directing payment of penalty and interest, the complainants/Respondents in these Petitions filed proceedings before the Mamlatdar under the Goa Land Revenue Code, 1971 in which, the Revenue Authorities have quantified the interest and penalty amount and proceedings under the Code are pending.

6. From these facts, what we understand clearly is that the original decree/order of RERA has been fully executed. Insofar as sub-section 2 of Section 40 is concerned, the possession of the premises has been handed over. However, insofar as enforcement of the order under sub-section 1 of Section 40 is concerned, the proceedings are still pending before the Revenue Authorities. As we see, the Respondents/complainants have adopted the correct course by having that part of the decree which fell under sub-section 2 of Section 40 to be executed by the Civil Court in terms of the Code of Civil Procedure whilst the part of the decree that was fully executed under sub-section 1 of Section 40 was sought to be executed correctly before the Revenue Authorities.

7. Though the vires of the provisions of Rule 4 has been challenged before us, in the aforementioned scenario, where the

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decree has partly been executed, and the proceedings pending under the Land Revenue Code are well within the powers of the Revenue Authorities under sub-section 1 of Section 40 of RERA, we do not propose to enter into the questions raised in challenge to the vires of Rule 4 of the Goa Rules. This would be only an academic matter in the facts of these Petitions, and we leave this challenge to be addressed in an appropriate Petition.

8. Considering the aforesaid reasons assigned by us for declining to entertain these Petitions insofar as the challenge to the provisions of Rule 4 of the Goa Rules is concerned, we dismiss these Petitions. No cost.

9. All the Petitions are disposed of in the above terms. The Rule is discharged in all these Petitions.

AMIT S. JAMSANDEKAR, J. **VALMIKI MENEZES, J.**

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