

*Esha***IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO. 761 OF 2024**

DEVANAND LADU GAUNS ... PETITIONER  
VS  
GOA HOUSING BOARD, THR. ITS  
MANAGING DIRECTOR & ANOTHER ... RESPONDENTS

Mr. Parag S. Rao with Mr. Akhil Parrikar and Mr. Ajay Menon,  
Advocates for the Petitioner.

Mr. Hanumant D. Naik, Advocate for the Respondents.

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

**DATED: 16<sup>th</sup> APRIL 2025**

**P.C:**

1. The Goa Housing Board had advertised a scheme for allotment of shops, offices/flats and the Petitioner responded to it by applying for allotment of a flat in Sector 'D'.

On 24.01.2008, the Petitioner paid the initial cost of Rs.10,000/- along with the Application and was even permitted to select the flat, being Flat No. DC-2 in Sector 'D', Block 'C' admeasuring 112.13 sq.mts.

On 22.04.2008, an allotment order was issued in favour of the Petitioner mentioning the rate of allotment as Rs. 18,000/- per sq.mt. with a parking area admeasuring 32.66 sq.mts. at the rate of Rs. 5,000/- per sq.mt. i.e. a total consideration of Rs.21,81,640/-.

On 23.07.2008, the Petitioner paid a sum of Rs. 8,72,656/- i.e. 40% of the total cost of the flat as indicated in the letter of allotment. It is in the year 2010, the Petitioner was informed that the rate of the flat was revised to Rs.25,500/- in place of Rs.18,000/- per sq.mt.

2. The Petitioner objected to this rise in the rate, which constrained the Respondents to cancel the allotment of the Petitioner, with an indication that the Petitioner shall receive 40% advance paid alongwith interest at the rate of 5% as the project could not be completed due to non availability of forest clearance. The Petitioner however permitted the Respondents to retain the amount, which he had already paid and requested for giving preference in allotment, whenever the construction would commence.

3. Immediately thereafter i.e. within a period of one month from the cancellation of the allotment, the Forest Department granted its NOC and the project was ready to take off.

However, since the Petitioner did not hear anything at the end of the Respondents, he persuaded his cause of taking over the flat in the scheme, to be constructed since he was already allotted the flat, but he faced strong opposition, which constrained him to approach this Court.

4. Being aggrieved by the cancellation of his allotment on 25.10.2024, the Petitioner had also approached the District Consumer Disputes Redressal Commission, which rejected his claim on the ground that the Petitioner is not a 'Consumer'.

5. On the last date of hearing, we had indicated Mr. Naik representing the Respondents to obtain necessary instructions. According to Mr. Naik, there are two other persons similarly situated as the Petitioner and therefore, he cannot offer any concession to the Petitioner.

We have therefore heard Mr. Parag Rao for the Petitioner and Mr. Naik for the Respondents on the merits of the case.

6. At the outset, we must notice that the Petitioner had completed the necessary formalities upon being allotted the flat and also deposited 40% of the amount. For no fault of his, he was informed that the scheme cannot be completed and the allotment was liable to be cancelled. However, immediately, thereafter, since the forest clearance was received and the scheme took off.

For almost a period of eight years, the Petitioner was constantly persuading the Respondents for confirming his allotment as he had already deposited the amount of 40% with the Respondents, but all the requests made by him as well as the Applications preferred under RTI met with a negative response and therefore, he has approached this Court.

7. It cannot be said that the Petitioner is to be blamed for the project not being taken up as after obtaining the necessary NOCs, the construction of the building is complete and the occupants are placed in occupation from 2017, but the Petitioner has been denied the benefit of occupying the flat in his favour.

8. On the last date of hearing, Mr. Rao indicated that the Petitioner is ready to make the payment at the rate of Rs. 48,000/- per sq.mt., provided the benefit of 40% amount which he has deposited and which has been retained by the Respondents, is granted to him.

Mr. Rao has furnished before us the following computation which we reproduce below:

|                                                                                               |                        |
|-----------------------------------------------------------------------------------------------|------------------------|
| Area of Flat DC-2 as mentioned in the Occupancy Certificate dated 22.12.2017                  | 98.67<br>square metres |
| A. Total cost of Flat DC-2 @ Rs.48,000/- per square metre for an area of 98.67 square metres. | : Rs. 47,36,160/-      |
| B. 40% of cost of flat paid to Respondent No. 1 on 23.07.2008                                 | : Rs. 8,72,656/-       |
| C. Simple interest @ 6% on 40% cost for the period from 23.07.2008 to 16.04.2025              | : Rs. 8,76,097.76      |
| Balance Amount to be paid [A-B-C]                                                             | : Rs. 29,87,406.24     |

9. We see the proposal of the Petitioner to be reasonable, as in any case, from 23.07.2008, the Respondents have retained the amount of Rs.8,72,656/- deposited by the Petitioner and the Respondents must have put it to use in the construction activity. The Petitioner now is ready to bear the revised rate of construction at the rate of Rs.48,000/- per sq.mt., subject to he being granted the benefit of 6% interest being accrued on the amount of Rs.8,72,656/- which he had deposited on 23.07.2008 and retained by the Respondents for a period of almost 16 years 8 months and 24 days.

Since the Petitioner did not share any burden for the delay in the scheme and since we are informed that the scheme was completed in the year 2017 and the occupants were put to possession, in fact, the Petitioner has been put to a disadvantageous position for almost last eight years.

In such circumstances, we deem it appropriate to direct the Respondents to convey Flat No. DC-2 in Sector 'D', Block 'C' in favour of the Petitioner by executing necessary documents, subject to payment of Rs.29,87,406/- by the Petitioner, after giving him the benefit of cost of 40%, which was lying with the Respondents from 23.07.2008 and on computing 6% interest per annum on the said amount.

The Petitioner undertakes to pay the amount of Rs.29,87,406/- to the Respondents within a period of four months, pursuant thereto, the necessary documents shall be executed by the

Respondents in favour of the Petitioner within four weeks from the receipt of payment of Rs.29,87,406/-.

10. With the aforesaid directions, the Writ Petition is disposed of.

**NIVEDITA P. MEHTA, J.      BHARATI DANGRE, J.**