

IN THE HIGH COURT OF BOMBAY AT GOA
FIRST APPEAL NOS. 269/2002 AND 270/2002

FIRST APPEAL NO. 269 OF 2002

1. State of Goa,
the Deputy Collector (Rev)
& Land Acquisition Officer,
Panaji.
2. The Superintendent of Police,
(Hqs.) Office of the Inspector
General of Police, Panaji. ... Appellants.

Versus

Shri Jose Maria Martins,
r/o House No. 268, S. Paulo,
Taleigao, Ilhas, Goa. ... Respondent

Ms. Susan Linhares, Additional Government Advocate for the
Appellants.

Mr. Joseph Vaz, Advocate for the Respondent.

FIRST APPEAL NO. 270 OF 2002

1. State of Goa,
the Deputy Collector (Rev)
& Land Acquisition Officer,
Panaji.
2. The Superintendent of Police,
(HQ) Office of the Inspector
General of Police, Panaji, Goa. ... Appellants.

Versus

Smt. Beatriz P.L. Dias Menezes,
r/o House No. 143, Burios Bondir,
St. Cruz, Ilhas, Goa.

... Respondent

Ms. Susan Linhares, Additional Government Advocate for the
Appellants.

Mr. Joaquim Godinho, Advocate for the Respondent.

CORAM:- K.L. WADANE, J.

RESERVED ON:- 27th OCTOBER, 2015

PRONOUNCED ON:- 19th NOVEMBER, 2015

JUDGMENT:

The appellants in both the cases have acquired a land surveyed under Survey Nos. 150 and 151 to the extent of 1,640 square meters each, situated at village Taleigao, Tiswadi Taluka for the purpose of construction of police outpost at Taleigao. The respondents in both the above appeals have preferred a reference under Section 18 of the Land Acquisition Act, 1894, bearing Land Acquisition Case Nos. 130/1996 and 131/1996 respectively. Both the references were referred to the Civil Court under the provisions of Section 18 of the Land Acquisition Act, 1894.

2. The claimant/respondent in First Appeal No. 269/2002 filed a Land Acquisition Case No. 130/1996 and thereby contended that land was acquired for the purpose of construction of police outpost by a notification dated 21.12.1991 under Section 4 of the Land Acquisition Act and a notification under Section 6 of the Land Acquisition Act was published on 11.02.1992 and the award was pronounced by the Land Acquisition Officer on 21.04.1994. The Land Acquisition Officer has granted compensation at the rate of Rs.65/- per square metre. Hence, both the respondents adduced evidence in order to prove the claim of the claimants in Land Acquisition Case Nos. 130/1996 and 131/1996 respectively.

3. The claimant/respondent in Land Acquisition Case No. 130/1996 adduced his oral evidence and relied on the copy of the award, certificate of Comunidade, and judgment and order dated 08.04.1996 passed by the Mamlatdar at Exhibits 8 to 10. In addition to that, the claimant has examined the Valuer, Mr. S.N. Bhobe and has relied upon the contents of the three Sale Deeds dated 15.09.1987, 16.08.1989 and the valuation report. As against this, the witness Mr. Vilgilio Coutinho for the respondent

has adduced his oral evidence.

4. The respondent in First Appeal No. 270/2002 is a claimant in the reference under Land Acquisition Case No. 131/1996, who also adduced her oral evidence and produced on record a copy of the judgment, survey plan, Form-3, certificate of Comunidade, valuation report dated 27.01.1995 and a copy of Sale Deed dated 15.09.1987 at Exhibits 12 to 16.

5. Considering the oral evidence as also the documentary evidence on record, the learned Additional District Judge granted compensation at the rate of Rs.80/- per square metre in both the cases. Hence, the appellants preferred these appeals.

6. I have heard the arguments of Ms. Linhares, learned Additional Government Advocate appearing for the appellants in both the appeals, Mr. Vaz, learned Counsel appearing for the respondent in First Appeal No. 269/2002 and Mr. Godinho, learned Counsel appearing for the respondent in First Appeal No. 270/2002.

7. Considering the arguments advanced by both the sides and on scrutiny of the evidence on record, the following points arise for my determination:-

<u>Point for determination</u>	<u>Finding</u>
1. Whether the amount of compensation awarded by the Reference Court is excessive compared to the evidence on record ?	No
2. What Order ?	The Appeals are dismissed with costs.

8. With the help of the learned Counsel appearing for the parties, I have gone through the entire evidence on record. I have also gone through the contents of the award passed by the learned Additional District Judge. On scrutiny of the evidence on record, it appears that the learned Additional District Judge has ignored the valuation report of the Valuer, Mr. S.N. Bhobe, on the ground that it is post notification. On scrutiny of the evidence on record, it appears that the learned Additional District Judge has not considered the evidence of the Sale Deed dated 15.09.1987, on the ground that the acquired lands are situated at a distance of

2.5 kilometres towards St-Inez and it is not similar in nature with the acquired lands, nor in the vicinity of the acquired lands. The other sale deed was not considered on the ground that the sale deed land admeasuring 290 square metres is a small piece of land, sold at the rate of Rs.517/- and it is at a distance of about 1.5 kilometres towards St-Inez. Therefore, on these two counts, the learned Additional District Judge has not considered the Sale Deed dated 16.08.1989.

9. From the reasons recorded by the learned Additional District Judge, it appears that the learned Additional District Judge has determined and fixed the market value on the basis of compensation awarded by the Land Acquisition Officer in Land Acquisition Case No. 15/1998. The learned Reference Court has awarded compensation of Rs.100/- per square metre. The nature of that land was a paddy land and was close to Taleigao market and Taleigao church. The learned Reference Court has considered this judgment for the purpose of determination of the market value and has deducted 5% amount for each year since 1992 to 1995, since the acquired land which was the subject matter of

Land Acquisition Case No. 15/1998 was the land acquired by notification dated 17.08.1995 and the land acquired in the present matter was acquired by notification dated 11.02.1992. Therefore, by making appropriate deductions for four years, the learned Appellate Court has arrived to such a conclusion that the claimant/respondent are entitled to a compensation of Rs.80/- per square metre.

10. Looking to the reasons recorded by the learned Reference Court, I do not find any reason to disturb its findings because the learned Reference Court has considered all the plus and minus aspects to determine the compensation. In view of the reasons recorded, I do not find any substance in both the appeals. Consequently, the compensation awarded at Rs.80/- per square metre in both the matters seem to be appropriate. Hence, point no. 1 is answered accordingly and both the appeals are dismissed with costs.

K. L. WADANE, J.

EV