

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.296 of 2015**

Mr. Agnelo Gomes,
major, married, businessman,
r/o Damedem, Tivim, Goa .. Petitioner

Versus

1. Spl. Land Acquisition Officer,
Goa- IDC
2nd Floor, Midas Touch Building,
Opp. El-Dorado Plaza,
Panaji, Goa.
2. Goa- IDC
through their Managing Director,
Patto Plaza, Patto, Panaji, Goa... Respondents

Mr. Ajit R. Kantak, Advocate for the petitioner.

Mr. A. Jamadar, Additional Government Advocate for the
respondent no.1.

Mr. Ashwin D. Bhobe, Advocate for the respondent no.2.

CORAM :- C. V. BHADANG, J.

DATE :- 29th JUNE, 2016.

ORAL JUDGMENT :

Rule. Rule, made returnable forthwith. The
learned Counsel for the respondents waive service.
Heard finally, by consent of the parties.

2. By this petition, the petitioner/ Decree Holder
is challenging the order dated 10/09/2014 passed by the
learned District Judge in Execution Application

No.5/2006, which arose out of Land Acquisition Case No.19/2000. By the impugned order, the Executing Court has disposed of Execution Application on the ground that the amount under the award has been paid and award is satisfied.

3. The only contention raised on behalf of the petitioner is that the Executing Court did not consider the fact that interest under Section 28 of the Land Acquisition Act was payable on the amount of compensation awarded under Section 23(1-A) of the said Act. The learned Counsel for the petitioner had furnished a computation whereunder an amount of Rs.90,208/- is still said to be recoverable as on 08/12/2006. The computation shows that the amount awarded under Section 23(1-A) of the Act is Rs.94,210/- after calculating the amount at the rate of 9 % p.a. for the first year and at the rate of 15 % p.a. for the subsequent period. The learned Counsel for the petitioner has placed reliance on the decision of the Hon'ble Supreme Court in the case of **Patel Jotiram Kalidas and Others Vs. Spl. Land Acquisition Officer & another**; (2007)2 SCC 341, in order to submit that interest under Section 28 of the Act is payable also on the amount of compensation granted under Section 23(1-

A) of the Act.

4. The learned Counsel for the respondent no.2, in all fairness, does not dispute the proposition that interest under Section 28 of the Act is payable on the amount of compensation under Section 23(1-A). Rest is only a matter of computation. In that view of the matter, the learned Counsel for the respondent no.2 states that this Court may pass appropriate order.

5. For reasons stated above, the following order is passed :

(i) The petition is allowed.

(ii) The impugned order is hereby set aside.

(iii) The Executing Court shall proceed to recover the amount of interest, on the amount of compensation, under Section 23(1-A) of the Act, in accordance with law.

iv) Rule is made absolute in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

SMA