

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 986 OF 2016

MANSOOR ALI KHAN AND 4 ORS.,	... Petitioners
Versus	
THE STATE OF GOA, THR. THE UNDER SECRETARY (REVENUE) AND 5 ORS.,	... Respondents

Mr. Nigel Da Costa Frias, Advocate for the Petitioners.
 Mr. S. D. Lotlikar, Advocate General with Mr. Sagar Gurudas
 Dhargalkar, Additional Government Advocate for Respondents no.1 to
 3.
 Mr. M. Pereira, Advocate for Respondent No. 5.

AND

WRIT PETITION NO. 1019 OF 2016

MRS. RUBY FERNANDES	... Petitioner
Versus	
THE STATE OF GOA, THR. THE UNDER SECRETARY (REVENUE) AND 5 ORS.	... Respondents

Mr. Nigel Da Costa Frias, Advocate for the Petitioner.
 Mr. S. D. Lotlikar, Advocate General with Mr. P. Dangui, Additional
 Government Advocate for the Respondents no. 1 to 3.
 Mr. M. Pereira, Advocate for Respondent no. 5.

AND

WRIT PETITION NO. 1020 OF 2016

VIJAYENDRA @ PRANAV PANDURANG NATEKAR	... Petitioner
Versus	
THE STATE OF GOA, THR. THE UNDER SECRETARY (REVENUE) AND 5 ORS.	... Respondents

Mr. Nigel Da Costa Frias, Advocate for the Petitioner.
Mr. S. D. Lotlikar, Advocate General with Ms. Purna Bhandari,
Additional Government Advocate for the Respondents no. 1 to 3.
Mr. M. Pereira, Advocate for Respondent no. 5.

**Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date:- 25th October, 2016

P.C.:

Heard Shri Nigel Da Costa, learned Counsel appearing for the Petitioners, Shri S. D. Lotlikar, learned Advocate General appearing for the Respondents No. 1 to 3 and Shri M. Pereira, learned Advocate appearing for the Respondent No.5.

2. The above Petition challenges the process of acquisition initiated by the Appropriate Government for the road widening of an existing road in the suburbs of the City of Margao.

3. The main grievance of the Petitioner is that, though the acquisition is for a public purpose, there was discrimination in dealing with the acquisition in respect of the property bearing Chalta Nos. 11, 12 and 13 which, according to the Petitioner, would include buildings which are not authorised. It is further pointed out that in the property belonging to the Petitioners in P.T. Sheet No. 31 Chalta No. 1 and 24, P.T. Sheet No. 62 Chalta No. 31, P.T. Sheet No. 45 Chalta Nos. 20, 75, 76, P.T. Sheet No. 31 Chalta No. 2, P.T. Sheet No. 45 Chalta No. 74/75, P.T. Sheet No. 45 Chalta No. 1 and P.T. Sheet No. 26 Chalta No. 9, the residential houses of the respective Petitioners are existing. It is further pointed out that though a part of the residential houses are being affected by the proposed acquisition, nevertheless, the Petitioners would be deprived of the right of continuing to occupy the remaining premises of the

respective Petitioners. It is further pointed out that the acquisition itself is malafide as, according to the Petitioners, the Respondents have excluded portion of the property though such areas would be essential for the smooth flow of traffic. It is further submitted that the Petitioners have filed the present Writ Petition only after they obtained the requisite information with regard to the illegal extension carried out by the Respondents.

4. On the other hand, Shri S. D. Lotlikar, learned Advocate General appearing for the Respondents submits that acquisition was initiated in the year 2009 and possession was taken in the year 2012 after complying with all the requisite formalities in accordance with law. It is further pointed out that the Petitioners have filed objections under Section 5A of the said Act which were duly examined by the Land Acquisition Officer and thereafter rejected. It is further submitted that the proposed widening of the road had been substantially complied and as such, entertaining the Petition at this stage would be unjustified. It is further pointed out that the Petitioner would be adequately compensated in terms of law with regard to the proposed land acquisition. Learned Advocate General, as such, submitted that the Petition deserves to be rejected on ground of laches.

5. We have considered the submissions of the learned Counsel appearing for the Petitioners and the Respondents and have also gone through the records.

6. The Petitioners do not dispute that the acquisition carried out by the Respondents/Appropriate Government, is for a public purpose. It is also not disputed that the Petitioners have filed objections which have been rejected. The Petitioners chose not to challenge the notification under Section 6 of the

said Act nor the process of finalisation of the award nor objection/taking over the possession of the said property. Based on the possession taken from the persons interested, the widening of the road has been substantially completed. In such circumstances, as the acquisition is for a public purpose and road widening has been substantially completed, it would be inappropriate or unreasonable to entertain the Petition on the grounds as set out in the Petition. On the ground of laches itself, we are not inclined to entertain the above Petition especially when the Petitioners took part in the acquisition process and raised objections which were rejected.

7. Be that as it may, it is pointed out by Mr. Nigel Da Costa, learned Counsel appearing for the Petitioners, that the residential houses of the respective Petitioners have been affected on account of such acquisition. Section 31(3) of the Land Acquisition Act, 1984 as stated to be applicable to the above acquisition proceedings recognizes how an award of compensation can be worked out by the Land Acquisition Officer with regard to residential houses affected by an acquisition.

8. In such circumstances, the Petitioners are at liberty to file an appropriate application with that regard before the Land Acquisition Officer who shall decide on its own merits within one month in accordance with law. Needless to say, filing of such application would not in any way prevent the appropriate authorities to proceed with the acquisition in accordance with law.

9. The Petitioners have also raised a contention that the building put up by the Respondent no. 4 in the property under Survey No. 11 and 12 is contrary to the statutory regulation. We are not examining such grievance in the

present Petition and such contentions are left open, to be examined in appropriate proceedings in accordance with law.

10. The Petition is accordingly, disposed of.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

msr.