

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 4 OF 2016

MR.DEVIDAS HALANKAR AND 2 ORS.,	... Petitioners
Versus	
STATE OF GOA, THROUGH CHIEF SECRETARY AND 5 ORS.,	... Respondents

Mr. Vallabh D. Pangam, Advocate for the petitioners.
Mr. V. Rodrigues, Government Advocate for the respondent nos. 1 to 5.
Mr. J. J. Mulgaonkar, Advocate for the Intervenors.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 16th March, 2016

ORAL ORDER :

Heard Mr. V. Pangam, learned counsel appearing for the petitioners, Mr. V. Rodrigues, learned Government Advocate appearing for the respondent nos. 1 to 5 and Mr. J. J. Mulgaonkar, learned counsel appearing for the intervenors.

2. The above petition challenges the acquisition by the State Government for the construction of a four lane road from Assonora to Bicholim town on the ground that such road is not at all required to be constructed at such loco.

3. Mr. Pangam, learned counsel appearing for the petitioners has submitted that he has three fold objections to such acquisition. The first contention is that the Notification under Section 6 of the Land Acquisition Act was published in the Official Gazette dated 11.05.2012 and award was passed on 06.06.2014 i.e. beyond the

period of two years and as such according to him the acquisition itself has lapsed.

4. The next contention of Mr. Pangam, learned counsel appearing for the petitioners is that there is already a two lane road at loco which is sufficient for the movement of traffic except at the place where there is a school near Assonora Bridge and as such according to him there is no reason for constructing a four lane road at the site.

5. The third contention of Mr. Pangam, learned counsel is that in the Regional Plan of 2021 there is already a by-pass road of six lane road which is shown on such plan which is beyond the existing road and as such according to him there is no reason for any acquisition of land for a four lane road at this stage.

6. Mr. Pangam, learned counsel has also submitted that the whole exercise of acquisition is malafide as according to him it will benefit the landlords of the locality to claim a higher compensation by such proposed acquisition.

7. Mr. Pangam, learned counsel has further stated that the petitioner further points out that he has been approached by the Legal Aid Cell on 23.03.2015 and immediately thereafter the petitioners have filed the above petition.

8. Mr. Mulgaonkar, learned counsel appearing for the intervenors has submitted that as per the Road Safety Congress Recommendation when two lane road is constructed, the width is to be restricted to seven metres and in cases in which road is of a four lane road, the width of 16 metres is to be maintained and as such there is no

justification for any further acquisition in the present case.

9. Mr. Mulgaonkar, learned counsel appearing for the intervenors has also pointed out that the purpose of acquisition is to have a minimum of seven metres wide road and as such according to him, further acquiring of land is not necessary.

10. On the other hand, Mr. V. Rodrigues, learned Government Advocate appearing for the respondent nos. 1 to 5 has submitted that the petitioners have no locus standi to file the PILWP as according to him the petitioners are not interested parties in such acquisition. The learned counsel further submits that the acquisition has concluded and most of the persons interested have received the compensation and the compensation has already been paid in terms of Section 17 of the Land Acquisition Act and as such the land has vested in the State Government. The learned Government Advocate further submits that where the width of the road is to be restricted for two lane or four lane is a matter which the State Government has to examine and there is no justification for any interference in such decision taken by the State Government. The learned Government Advocate further submits that the petition itself is barred by laches as according to him the acquisition has started in the year 2011 and concluded in the year 2014 and the petition was filed in the year 2015 which itself shows the delay in filing such petition. The learned Government Advocate further submits that the petitioners have not raised any objection under Section 5A of the Land Acquisition Act and as such, it is not open to them to raise such contention in the above petition. The

learned Government Advocate as such points out that the petition be rejected.

11. We have considered the submissions of the learned counsel and we have also gone through the records. The public purpose for acquiring the land is within the domain of the appropriate Government unless there are malafides or colourable exercise of power attributed to the appropriate Government. In the present case, according to the petitioners, the acquisition is malafide as the landlords of the locality would get a higher compensation by the proposed acquisition. We cannot accept the said contention as the compensation will have to be determined in terms of the Land Acquisition Act and there is nothing on record to suggest that on the basis of such acquisition the landlords of the locality would be benefited by any higher compensation. Apart from that, it is not disputed that the records reveal that the proposed road is in a busy locality where there is a frequent movement of traffic and as such the width of such road has to be examined by the State Government. This Court cannot sit in an appeal in a decision of the State Government unless there are specific allegations of malafides or cogent and patent irregularities in such decision. In the present case, there are no circumstances pleaded or established by the petitioners which would call for interference by this Court in the subject acquisition in the present petition. Apart from that, it is not disputed that neither the petitioners nor the intervenors have filed any objection under Section 5A of the Land Acquisition Act which the

Land Acquisition Officer would have examined while submitting his report to the State Government. As such, it is not open to the petitioners to challenge the acquisition after the land has admittedly been vested in the State Government. Besides it has also been pointed out that the possession of the subject land has already been taken in terms of Section 17 of the Land Acquisition Act and in fact a substantial portion of the road has already been constructed.

12. As such, we find no merits in the above petition nor any reason to interfere in the exercise being carried out by the State Government to widen the said road. Hence, the petition stands rejected.

K. L. WADANE, J.

F. M. REIS, J.

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