

IN THE HIGH COURT OF BOMBAY AT GOA**CIVIL APPLICATION (REVIEW) NO. 12 OF 2017
IN
FIRST APPEAL NO. 16 OF 2012**

1. Gomati alias Radha Tima Gaude;
2. Soku Tima Gaude,
3. Guna Tima Gaude,
4. Kashinath Tima Gaude,
5. Gopinath Tima Gaude,
6. Tulshi Tima Gaude,

All of major age, Indian
Nationals, residents of Dhavali,
near Tip Top Bridge,
Ponda-Goa.
(Registered Addresses)

..... Applicants

V e r s u s

- 1) Deputy Collector,
Ponda Sub-Division,
Ponda-Goa.
- 2) The Executive Engineer,
Division XVIII (Roads)
Public Works Department,
Ponda-Goa.

.... Respondents.

(Registered Addresses)

Mr. S.D. Lotlikar, Senior Advocate with Adv. Ms. A. Araujo for the
Applicants.

Ms. Susan Linhares, Additional Government Advocate for the Respondent

nos.1 & 2.

Coram:- C. V. BHADANG, J.

Date:- 23rd October 2018.

JUDGMENT:

This is an application for review of the judgment and order dated 28/8/2015 passed by this Court (K. L Wadane, J) in FA. No.16/2012. That was an appeal filed by the appellant seeking enhancement of the compensation granted in respect of the land acquired belonging to the applicants. This Court by the judgment under review has held the applicants to be entitled to compensation at the rate of Rs.45/- per sq.mtr.

2. I have heard Shri Lotlikar, the learned Senior Counsel for the applicants and Ms. Linhares, the learned Additional Government Advocate for the respondent.

3. The only contention raised on behalf of the applicants is that the land which is subject matter of acquisition is a free hold land, however, this Court has determined the compensation on the basis that it is a tenanted land. Ms. Linhares, the learned Additional Government Advocate does not dispute that the land which is subject matter of the present application is a free hold land. It also transpired during the course of the arguments at bar that some of the

First Appeals arising of the acquisition pertaining to the same notification under section 4 of the Act were placed before the Lok Adalat and have since been disposed off on settlement. In such circumstances, it is submitted by Shri Lotlikar, the learned Senior Counsel for the applicants that in the event this Court is inclined to review the judgment, the First Appeal may be directed to be placed before the Lok Adalat. Ms. Linhares, the learned Additional Government Advocate in all fairness submits that this Court may pass appropriate orders in the circumstances of the case.

4. A perusal of para 11 of the judgment under review shows that the learned Judge has relied upon the judgment of this Court in F.A. No.101/2005, a copy of which was produced at Exhibit 44. Indisputably the said First Appeal pertains to a land which was a tenanted land, while the present application involves a free hold land. In that view of the matter, the application is allowed. The judgment dated 28/8/2015 is hereby recalled. The First Appeal No.16/2012 is restored back to file. By consent of parties, the First Appeal No.16/2012 to be placed before the next Lok Adalat.

C. V. BHADANG, J.

ap/-