

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
PUBLIC INTEREST LITIGATION WP NO.11 OF 2017

Ashok Pandurang Chari. Petitioner.

V/s.

State of Goa, and others. Respondents.

Ms. K. Govekar, Advocate for the Petitioner.

Ms. Amira Abdul Razaq, Government Advocate for Respondents No.1, 2, 3 and 5.

Mr. S. D. Padiyar, with Mr. P. Shirodkar, Advocate for Respondent No. 4.

Mr. Vibhav Rajiv Amonkar, Advocate for Respondent No.7.

Coram : M.S. Sonak &
Nutan D. Sardesai, JJ.

Date : 17th September, 2019.

P.C.:-

Heard Ms. K. Govekar, learned Counsel for the Petitioner, Ms. Razaq, learned Government Advocate for Respondents No.1, 2, 3 and 5, Mr. Padiyar, learned Counsel for Respondent No.4 and Mr. Amonkar, learned Counsel for Respondent No.7.

2. In this public interest litigation, the Petitioner had basically complained that Respondent No.7, who is the private individual, was undertaking some construction activities in the property bearing Survey No.58/1 of village Harvalem, which property was already

acquired by the Government under award dated 16.11.1995, passed in Case No.10/288/92/LAO-PWD. The Petitioner has sought for appropriate writ or direction to take steps in accordance with law, to remove the illegal construction put up by Respondent No.7 on such Government land.

3. Ms. Razaq, learned Government Advocate for Respondents No.1,2, 3 and 5 points out that it is true that a portion of the land belonging to Respondent No.7 had indeed been acquired under Award dated 16/11/1995 by the Government. She, however, points out that whilst executing the public purpose i.e. aligning the road in question, there were some issues and it now transpires that the road was put up upon a portion of the property of Respondent No.7, which was in fact not acquired. She submits that this was a bonafide error. She submits that after the error was realised, the Government proposed for exchange of properties, so that the land on which the road alignment has come up, may be regarded as Government land and the land on which Respondent No.7 is putting up his construction, may be regarded as a private land of Respondent No.7. She submits that necessary exchange deed has already been executed and registered. She points out that the same has also been placed on record.

4. On 5th September, 2017 and 9th October, 2017, this Court had made orders, in which the aforesaid proposal was noted.

According to us, now that this exchange has taken place, it cannot be said that the construction, which is being put up by Respondent No.7, is on Government property. Rather, this is a construction on the property which belongs to Respondent No.7 himself or the transferee-Respondent No.6. Learned Counsel for the Petitioner also does not press the public interest litigation any further.

5. In view of the aforesaid circumstance, according to us as well, no longer any issue of public interest survives in this matter.

6. Ms. Razaq, learned Government Advocate states that the Respondents will place on record certified copy of the deed of exchange, along with to scale plan of the portions exchanged, so that there are no confusions in future. We, accordingly permit the Respondents to do so within a period of two weeks from today.

7. Accordingly, we dispose of this public interest litigation.

Nutan D. Sardesai, J.

M.S. Sonak, J.