

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.146 OF 2012

Mr. Rajendra Prasad Singla,
Since deceased, through his legal heir,
Mrs. Kailash Singla,
major of age,
wife of late Shri Rajendra Singla,
resident of 253/1,
Karle Villa Properties, Pulvaddo,
Margao – Benaullim Road,
Margao Goa. ... Appellant

Versus

The Commissioner of Corporation of
City of Panaji,
Panaji Goa. ... Respondent

Mr. Y. V. Nadkarni and Mr. S. Parab, Advocates for the Appellant.

Mr. Shivan Desai, Advocate for the Respondent.

WITH

FIRST APPEAL NO.16 OF 2013

The Commissioner,
Corporation of the City of Panaji,
Panaji Goa. ... Appellant

Versus

Mr. Rajendra Prasad Singla,
Since deceased, through his legal heir,
Mrs. Kailash Singla,
major of age,
wife of late Shri Rajendra Singla,
resident of 253/1,
Karle Villa Properties, Pulvaddo,
Margao – Benaullim Road,
Margao Goa.

... Respondent

Mr. Shivan Desai, Advocate for the Appellant.

Mr. Y. V. Nadkarni and Mr. S. Parab, Advocates for the Respondent.

***Coram : R. D. Dhanuka &
Prithviraj K. Chavan, JJ.***

Date : 9th April, 2019

Oral Judgment (Per R. D. Dhanuka, J)

By consent of the parties, both these appeals were heard together and are being disposed of by a common judgment.

2. Some of the relevant facts required for deciding these two appeals are as under :

By Notification dated 10th March, 2006, issued under

Section 4(1) of the Land Acquisition Act, 1894, the State Government proposed to acquire the property bearing survey No.20/3-A(P), admeasuring 14571 square metres in village Bainguinim of Tiswadi Taluka. The said land was acquired for integrated Sanitary Land Fill and Solid Waste Management site for the Commissioner, Corporation of the City of Panaji Goa.

3. It is the case of the Appellant- Rajendra Singla (Original Claimant) that on 31st October, 2006, he entered into an agreement for sale in respect of a larger plot admeasuring 66,666 square metres. By a deed of sale executed on 24th November, 2006 between the claimant -Rajendra Singla and the original owner, the claimant purchased the said land at the rate of Rs.622/- per square metre approximately i.e. for total consideration of Rs.4,15,00,000/-. On 13th November, 2008, the Deputy Collector and Land Acquisition Officer awarded a sum of Rs.150/- per square metre as compensation in respect of the acquired land admeasuring 14571 square metres out of 66,666 square metres.

4. Being aggrieved by lesser compensation awarded in the

award of the Land Acquisition Officer, the claimant applied for a reference under Section 18 of the Land Acquisition Act. The said reference was numbered as Land Acquisition Case No.37/2009 in the Court of the learned District Judge-1, North Goa, Panaji.

5. By judgment and order dated 30th August, 2012, the learned District Judge-1 allowed the said reference partly and determined the market value of the acquired land at Rs.350/- per square metre.

6. Before the learned District Court, the claimant examined two witnesses i.e. himself and a registered valuer R. P. Sinai Varde. Both these witnesses were cross examined by the acquiring body. The acquiring body did not examine any witness in the proceedings before the learned District Court.

7. Mr. Nadkarni, learned counsel for the claimant invited our attention to the valuation report submitted by the valuer and pointed out the location and the benefits available to the land under the acquisition. He submits that though the initial claim of the

claimant was at the rate of Rs.5000/- per square metre, during the course of the hearing before the learned District Court, the claimant reduced the claim to Rs.1450/- per square metre. It is submitted by the learned counsel that though the claimant has filed detailed written arguments before the learned District Court and though the acquiring body has not examined any witness, the learned District Court totally discarded the evidence led by his client as well as the valuer and solely relied upon the sale deed dated 24th November, 2006 entered into between the claimant and the original owner.

8. It is submitted that the land purchased by the claimant was admeasuring 66,666 square metres for total consideration of Rs.4,15,00,000/- whereas the land acquired was only 14571 square metres and thus for the smaller part of the land under acquisition, the Land Acquisition Officer as well as the reference Court could not have considered the same price mentioned in the said sale deed dated 24th November, 2006 which was for a larger plot of 66,666 square metres. The submission of the learned counsel is that though the sale instances referred to by the valuer who was examined as witness AW2, was in respect of an undeveloped land, the learned

District Court has considered 25% deduction towards the development charges and has deducted the said amount from Rs.622/-, the basic rate derived from the sale deed dated 24th November, 2006. He submits that this part of the order passed by the reference Court is *ex facie* perverse.

9. The acquiring body has also filed a separate First Appeal impugning the part of the order passed by the reference Court enhancing the claim of compensation from Rs.150/- to Rs.350/- per square metre.

10. Mr. Desai, learned counsel for the acquiring body on the other hand submits that the reference Court has rightly deducted 25% from the amount of Rs.467/- per square metre on the ground that the sale deed dated 24th November, 2006 was entered into after 8 and ½ months of the date of issuance of Section 4 Notification of the Land Acquisition Act and thus the deduction at the rate of 25% from the amount of Rs.467/- per square metre was fully justified. He submits that even according to the claimant the rate in respect of the land in question had gone up during that period.

11. In so far as the submission of Mr. Nadkarni for the claimant that the reference Court could not have deducted 25% towards the development charges is concerned, the learned counsel could not justify this part of the order passed by the learned reference Court. The other sale instances referred to by the valuer and the solitary document considered by the learned District Court i.e. the sale deed dated 24th November, 2006 were not comparable. In our view, Mr. Nadkarni, learned counsel for the claimant is thus right in his submission that the reference Court could not have deducted 25% towards the development charges from the rate derived from the deed of sale dated 24th November, 2006.

12. In so far as the deduction of 25% considered by the learned District Court from the amount of Rs.467/- per square metre, which amount was derived after deducting 25% towards the development charges is concerned, Mr. Nadkarni, learned counsel for the claimant has not disputed that the sale deed was executed on 24th November, 2006 i.e. after 8 and ½ months from the date of issuance of Section 4 Notification dated 7th March, 2006. The learned counsel also could not dispute that during that period the

price of the property had gone up. We do not thus find any infirmity in the order passed by the learned District Court in so far as the deduction of 25% considered by the reference Court is concerned. The acquiring body admittedly did not lead any oral or documentary evidence before the reference Court.

13. We are inclined to accept the submission of Mr. Desai, learned counsel for the acquiring body that the learned reference Court has rightly considered the sale deed dated 24th November, 2006 to which the claimant himself was a party in respect of the same land as the basis for computation of compensation and also in view of the sale instances produced by the claimant through the valuer were found not comparable.

14. In so far as the other grounds raised by the acquiring body in First Appeal No.16/2013 are concerned, we do not find any merits in those grounds and the same being devoid of merit and are accordingly rejected.

15. We therefore pass the following order :

- (a) The deduction of 25% towards the development charges directed to be made in paragraph 16 of the impugned judgment passed by the learned reference Court is set aside.
- (b) The deduction of 25% towards the increase in rate in the second part of paragraph 16 of the impugned judgment is upheld.
- (c) The basic rate considered at Rs.622/- per square metre is upheld. The market value of the land under acquisition is derived at Rs.467/- per square metre for the purpose of computation of compensation.
- (d) The claimant is also entitled to all the statutory benefits as provided under the Land Acquisition Act, 1894.
- (e) The Executing Court is directed to compute the statutory benefits in terms of this judgment within eight weeks from today.
- (f) Both the appeals are disposed of on the aforesaid terms.
- (g) No order as to costs.

Prithviraj K. Chavan, J.

R. D. Dhanuka, J.

*at**