

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 1023 OF 2018**

Chowgule and Company Private Limited,
Having its registered office at
Chowgule House, Marmugao Harbour,
Goa 403 802 through its duly
constituted attorney

Mr. Sudhir Y. Wakhale,
son of Mr. Yadavrao Wakhale,
age 49 years, resident of Ponda, Goa

.... Petitioner

V e r s u s

1. The Chairman,
Pangarpath Khajan Tenants Association,
Haldanwadi, Mayem,
Bicholim, Goa.

2. The Mamlatdar of Bicholim Taluka
Bicholim, Goa.

3. Additional Collector-I,
North Goa District,
Collectorate Building,
Panaji-Goa.

4. State of Goa,
Through its Chief Secretary,
Secretariat, Alto-Betim,
Bardez, Goa.

.... Respondents

Mr. S. D. Lotlikar, Senior Advocate with Adv. P. Lotlikar for the Petitioner.

Mr. Arun Talaulikar, Addl. Government Advocate for the Respondent nos. 2,
3 and 4.

Adv. J. P. Mulgaonkar for the Respondents no . 1.

Coram:- C. V. BHADANG, J.

Date:- 1st July 2019.

Oral Judgment:

Rule, made returnable forthwith. The learned counsel for the respondents waive service. Heard finally by consent of the parties.

2. This petition can be disposed off on a short count.
3. The Mamlatdar by an order dated 14/5/2010 had fixed the compensation in respect of the subject agricultural lands at the rate of Rs.1.5 per sq.mtr. The first respondent which is an Association representing Pangarpath Khajan Tenants Association, filed an application dated 21/12/2012 for enhancement of the compensation to Rs.6/- per sq.mtr.. The Mamlatdar called for a report from the Zonal Agricultural Officer (ZAO). Mr. Anant P. Hoble , Zonal Agricultural Officer, Bicholim gave his report on 2/4/2014 and found that considering the loss, the compensation needs to be enhanced to Rs. 3/- per sq.mtr.. The Mamlatdar by the impugned order dated 25/3/2015 has enhanced the compensation to Rs.3/- per sq.mtr.. The total compensation granted is R.15,05,970/- and the petitioner was directed to pay the same within 15 days. The petitioner challenged the same before the Collector under section 22 of the Mamaladar's Court Act being Case

No.MCA/AC-1/REV/02/2015 . The Additional Collector by the judgment and order dated 19/2/2018 has dismissed the revision application as not maintainable. The petitioner is challenging the order passed by the Additional Collector as well as the original order passed by the Mamlatdar.

4. I have heard Shri Lotlikar, the learned Senior Counsel for the petitioner, Shri Mulgaonkar, the learned counsel for the respondent no.1 and I have also heard Mr. Talaulikar, the learned Additional Government Advocate for the respondent nos.2, 3 and 4.

5. The only contention raised on behalf of the petitioner is that a specific request was made before the Mamlatdar for summoning the Zonal Agricultural Officer for cross examination, and the learned Mamlatdar without affording an opportunity to the petitioner to cross examine the ZAO has passed the impugned order dated 25/3/2015. It is submitted that the impugned order passed by the Mamlatdar is based only on the report of the Zonal Agricultural Officer and the same could not have been relied upon in the absence of an opportunity to cross examine the ZAO being granted to the petitioner.

6. Mr. Mulgonkar, the learned counsel for the first respondent submitted

that in the event this Court is inclined to favourably consider the petition, an opportunity of cross examining may be granted even to the first respondent. I find that the order passed by the Mamlatdar is based on the report of the ZAO and the parties before the Mamlatdar were entitled to cross examine the ZAO, in order to test the veracity of his report. In the circumstances, it is not necessary to consider whether the revision application before the Collector was maintainable or not. In that view of the matter, the following order is passed:

ORDER:

- (i) The petition is partly allowed.
- (ii) The impugned order dated 25/3/2015 passed by the learned Mamlatdar is hereby set aside.
- (iii) The proceedings in Case No. Mam/Bich/Mine/01/2013 are restored back to the file of the learned Mamlatdar at Bicholim for disposal according to law.
- (iv) The Mamlatdar shall decide the matter after affording an opportunity to the petitioner as well as the first respondent to cross examine the ZAO.
- (v) It will be open to the Mamlatdar to call for a fresh report from the ZAO, if found necessary. Needles to mention that if such fresh report is called, the petitioner as well as the first respondent will be entitled to cross examine the Officer giving such report.
- (vi) The Mamlatdar shall decide the application on its own merits and in

accordance with law after holding the necessary inquiry as aforesaid.

(vii) The parties to appear before the Mamlatdar on 26/7/2019 at 10 a.m.

(viii) Rule is made absolute in the aforesaid terms with no order as to costs.

C. V. BHADANG, J.

ap/-