

IN THE HIGH COURT OF BOMBAY AT GOA
CIVIL APPLICATION (REVIEW) NO. 9 OF 2015
IN
FIRST APPEAL NO. 30 OF 2011

Dy. Collector & SDO, Ponda		
Sub Division & Anr.	...	Applicants
Versus		
Shri R.M.S. Khandeparkar	...	Respondent

Ms. Susan Linhares, Additional Government Advocate for the Applicants.

Mr. R.G. Ramani, Advocate for the Respondent.

CORAM : C.V. BHADANG, J.

Reserved on : 16th April, 2019

Pronounced on : 18th April, 2019

ORDER:

By this application, the applicants are seeking review of judgment and order dated 12.09.2014, passed by this Court (A.S. Gadkari J.) in First Appeal No. 30/2011. By the said judgment, this Court, while dismissing the appeal filed by the applicants has confirmed the award of compensation granted by the Reference Court at the rate of Rs.133/- per square metre for the acquired land.

2. The brief facts are that several lands were acquired from village Khandepar and adjoining villages for widening of

national highway no. 4-A vide the earlier notification dated 08.01.1991, under Section 4(1) of the Land Acquisition Act, 1984 (Act, for short). The Government of Goa vide a similar notification dated 29.12.2001 has further acquired an area of 400 square metres from survey no. 107/6 of village Khandepar belonging to the respondent, which is subject matter of the judgment under review. The said land was consisting of coconut garden.

3. The Land Acquisition Officer (LAO) by an award dated 31.08.2004, awarded compensation at the rate of Rs.65/- per square metre. Feeling aggrieved, the respondent filed a reference under Section 18 of the Act, being Land Acquisition Case No. 6/2007. The Reference Court, by a judgment and award dated 19.03.2010 has enhanced the compensation to Rs.133/- per square metre, which was challenged by the applicants before this Court in First Appeal No. 30/2011, which has been dismissed on 12.09.2014, of which the applicants are seeking review.

4. I have heard Ms. Linhares, the learned Additional Government Advocate for the applicants and Mr. Ramani, the learned Counsel for the respondent. Perused record.

5. Ms. Linhares, the learned Additional Government Advocate for the applicants has raised two contentions. Firstly it is stated that in First Appeal Nos. 155/2006, 157/2006 and 107/2009, a rate of Rs.31.50 per square metre has been awarded and these appeals also involve lands, which are subject matter of notification under Section 4 of the Act. Secondly, it is submitted that in First Appeal No. 93/2007 (Dy. Collector & SDO, Ponda Sub Division & Another Vs. Bhaskar Vithal Sinai Wagale), where the acquired land was from Curti has been granted compensation at the rate of Rs.30/- per square metre, which has attained finality. It is submitted that village Curti is much nearer to Ponda, which is a municipal area. It is pointed out that the lands, which were subject matter, are situated further to Ponda city, which cannot be granted compensation at a higher rate. Except this, there are no other contentions raised.

6. Mr. Ramani, the learned Counsel for the respondents has supported the impugned judgment. The learned Counsel for the respondents has placed reliance on the decision of the Supreme Court in the case of (i) Haridas Das Vs. Usha Rani Banik & Others (2006) 4 SCC 78 (ii) State of Goa & Another Vs.

Gopal Baburao Gaudo & Others (2009) 10 SCC 686 and (iii) Haryana State Industrial Development Corporation Ltd. Vs. Mawasi & Others (2012) 7 SCC 200.

7. I have carefully considered the circumstances and the submissions made.

8. First Appeal Nos. 155/06 and 157/2006 were decided before the Lok Adalat, where the claimants had agreed for the rate of Rs.31.50 per square metre. First Appeal No. 107/2009 is decided by this Court on 08.10.2009, based on the compensation granted by the Lok Adalat in First Appeal No. 155/2006. It can thus be seen that there was no adjudication as such, in any of these appeals and if, some of the claimants had agreed for a particular rate before the Lok Adalat, it cannot bind the other owners, whose lands are subject matter of acquisition. In a given case, the claimant can agree for a particular compensation, depending upon the area of the land and several other factors. In any event, reliance placed on the decision in First Appeal Nos. 155/2006, 157/2006 and 107/2009, which essentially turned on the compensation granted before the Lok Adalat on concession, is misplaced.

9. Coming to First Appeal No. 93/2007 (Dy. Collector & SDO, Ponda Sub Division & Another Vs. Bhaskar Vithal Sinai Wagale), a perusal of the judgment dated 08.01.2007, passed by the Reference Court shows that land admeasuring 133 square metres from survey no. 42/8 of village Curti was subject matter of the said appeal. In that case, the claimant, Bhaskar Wagale had claimed an enhancement to the extent of Rs.120/- per square metre. The Reference Court partly allowed the reference and enhanced the compensation to Rs.30/- per square metre. The claimant appears to be satisfied with the said enhancement and did not carry the matter any further. The State came in appeal in First Appeal No. 93/2007, challenging the enhancement to the extent of Rs.30/-. This Court, dismissed the appeal on 02.08.2007, which was carried to the Supreme Court, at the instance of the State in Special Leave to Appeal No. 1609/2008, which was dismissed on 15.02.2008. It is difficult to see as to how the said judgment can come to the aid of the applicants in seeking review of the judgment in the present case. Perhaps, looking to the area of the land acquired was only 133 square metres, the claimant was satisfied with the enhancement to the extent of Rs.30/- per square metre and that again, cannot bind the other owners, whose land is acquired. That apart, a bare perusal of judgment dated 08.01.2007 in

Land Acquisition Case No. 62/2005 and judgment dated 02.08.2007 of this Court in First Appeal No. 93/2007, show that the case clearly turned on its own facts. Thus, both the grounds, which are urged in support of the prayer for review, to my mind, cannot be accepted. The civil review application is without any merit and is accordingly dismissed, with no order as to costs.

C.V. BHADANG, J.

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