

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 57 OF 2020

Illario Agostinho
Menezes, through his
Duly constituted
Attorney Lucy Menezes
& anr. ... Petitioner

V e r s u s

State of Goa through its
Its Chief Secretary & 3 Ors. ... Respondents

Mr. Valmiki Menezes and Ms. S. Mandrekar, Advocates for the
Petitioners.

Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar,
Additional Government Advocate for the Respondents.

Coram :- M. S. SONAK &
 M. S. JAWALKAR, JJ.
Date : 28th January, 2020.

ORAL ORDER

1. Heard Mr. Menezes, the learned Counsel for the
petitioners and Mr. D. Pangam, the learned Advocate General for
the respondents.

2. The petitioner seeks the following substantive relief in this petition:

"A. This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction in the nature of Mandamus, directing the Respondents to consider the proposal made by the petitioners vide letters dated 7/1/2020, 9/1/2020 and Affidavits dated 21/1/2020 to realignment of the proposed road along the bundh of the paddy filed under survey no.39/2 and 39/3 of Village Sarzora along the area marked in orange hatched outline on the Plan Annexed hereto as Exhibit "A"."

3. The record indicate the acquisition of the petitioners' property in the present case commenced with the issuance of Notification under Section 4 of the Land Acquisition Act, 1894 (said Act) way back on 08.06.2006. The acquisition was completed in all respects with the making of the award and taking over of possession of the petitioners' land way back in the year 2009 itself. Accordingly, it is really not possible to entertain any

challenge to the acquisition as such at this point of time. Though the petitioner has not thrown an express challenge to the acquisition itself, the ultimate relief is designed to secure the release of the acquired portion by offer of alternate portion.

4. Besides, the learned Advocate General, on the basis of instructions, makes a statement that the alternate alignment proposed by the petitioner is not at all feasible on account of topographical conditions at the site. He points out that the alternate proposal will involve acquisition of a portion of a property which admittedly does not belong to the petitioners. The learned Advocate General pointed out that the construction of the road has already commenced and at this point of time, it will really not be possible to consider the alternate proposal made by the petitioners.

5. Taking into consideration the limited scope of our jurisdiction in such matters, we are of the opinion that at this stage, we will not be in a position to direct the respondents to

consider this alternate proposal made by the petitioners. Ultimately, the issue of alignment, is the matter which will have to be decided by the Engineers depending upon the site conditions. The acquisition/notifications issued way back in the year 2006 were quite clear even insofar as the alignment of the road was concerned. At that stage, there is nothing on record to indicate that the petitioners had made any offer for alternate alignment. Besides, it is pointed out by the learned Advocate General, even if the acquisition as per the original alignment is to be abandoned, it does not mean that the land can be reverted to the petitioners once the land is already vested in the Government.

6. For all the aforesaid reasons, we decline to entertain the present petition. The petition is therefore dismissed. There shall be no order as to costs.

M. S. JAWALKAR

M. S. SONAK, J.

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