

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITIONS NO. 862, 864, 868, 874, 1122, 877, 884, 1010
& 1021 OF 2019

WRIT PETITION NO. 862 OF 2019

PRAKASH DEVU MAHALE., Petitioner. .
Versus
STATE OF GOA, THR. CHIEF SECRETARY AND 14
ORS.,Respondents.

WRIT PETITION NO. 864 OF 2019

GOVIND PUNDALIK MAHALE AND 6 ORS., Petitioners.
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 14 ORS., Respondents.

WRIT PETITION NO. 868 OF 2019

BAPU SAVLARAM MAHALE AND 5 ORS., Petitioners.
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 14 ORS., Respondents.

WRIT PETITION NO. 874 OF 2019

KRISHNA APA MAHALE AND 6 ORS., Petitioners.
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 14 ORS., Respondents.

WRIT PETITION NO.1122 OF 2019

MAHADEV VITHU MAHALE AND 4 ORS., Petitioners.
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 14 ORS., Respondents.

WRIT PETITION NO.877 OF 2019

KRISHNA LAXMAN MAHALE AND 2 ORS., Petitioners.
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 14 ORS., Respondents.

WRIT PETITION NO.884 OF 2019

SATU GAJANAN MAHALE AND 5 ORS., Petitioners.
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 14 ORS., Respondents.

WRIT PETITION NO.1010 OF 2019

RAMCHANDRA GUNO MAHALE & 3 ORS., Petitioners.
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 14 ORS., Respondents.

WRIT PETITION NO.1021 OF 2019

HARSHA RAMCHANDRA MAHALE & 2 ORS., Petitioners.
Versus
STATE OF GOA, THR. CHIEF SECRETARY
AND 14 ORS., Respondents.

Ms. A.A. Agni, Senior Advocate with Ms. J. Sawaikar,
Advocate for the Petitioners.

Mr. D.J. Pangam, Advocate General with Ms. Ankita Kamat,
Addl. Government Advocate for Respondents No.1 & 2.

Mr. D.J. Pangam, with Mr. Parikshit Sawant, Advocates for
Respondent No.3.

Mr. L. Raghunandan, Advocate under Legal Aid Scheme for
Respondent No.4.

Mr. S. R. Rivonkar, Senior Advocate with Mr. R. Rivonkar,
Advocate for Respondent No.5.

Mr. Samir Taleigaonkar, Advocate for Respondents No.7 to 15.

**CORAM: DIPANKAR DATTA, CJ &
M. S. SONAK, J.**

DATED: 18th August 2021

P.C.:-

1. The grievance expressed in all these writ petitions is common; hence, we proceed to dispose of these writ petitions by this common order.

2. The property under survey no.28/2 situated at Uguem, Pernem, Goa (hereafter “the said property”, for short) was acquired by the Government of Goa for the purpose of commissioning of Mopa International Airport. All the petitioners claim to be co-owners of the said property.

3. After proceedings were drawn up by the Special Land Acquisition Officer (hereafter “the SLAO”, for short) in terms of the Land Acquisition Act, 1894 (hereafter “the Act”, for short), an award towards compensation for acquisition of the said property was made on 1/6/2011 in a sum of ₹80,16,793/-. However, the award did not quantify any particular amount payable to any co-owner. Almost 7 years after the award, the SLAO issued an order

dated 16/7/2018. It was recorded in such order that despite notice under Section 12(2) of the Act having been issued in June, 2011 and despite grant of sufficient time to the affected parties to submit their claims, none had submitted required documents to facilitate disbursal of compensation in favour of the co-owners. The SLAO, therefore, was of the view that the sum of compensation awarded by him ought to be kept as revenue deposit in the District Court as provided by Section 31(2) of the Act. The order concluded with the following operative direction: -

“NOW THEREFORE, since interested parties fail to show their individual share and therefore there exist a dispute regarding apportionment of compensation, I hereby order the amount of compensation awarded of Rs.80,16,793/-(Rupees Eighty Lakhs Sixteen thousand Seven Hundred Ninety Three Only) for survey no. 28/2 of village Ugvem which was kept as revenue deposit shall be referred to District and Sessions Court Panaji, u/s 30 to decide apportionment and disbursement of compensation awarded to the interested parties. The amount of compensation which is deposited with EDC shall be withdrawn and sent to District and Sessions Court. The Cheque be issued in the name of Principal District and Sessions Judge, Panaji Goa.”

4. It is this order dated 16/7/2018 of the SLAO that has been subjected to challenge in all these writ petitions.

5. Extensive arguments have been advanced by Ms. Agni, learned Senior Advocate for the petitioners, Mr. Pangam, learned

Advocate General for the SLAO, Mr. L. Raghunandan, learned Advocate for the respondent 4, Mr. S.R. Rivonkar, learned Senior Advocate for the respondent 5 and Mr. Samir Taleigaokar, learned Advocate for the respondents 7 to 15.

6. In course of hearing, pendency of a civil suit between the parties claiming ownership of the said property has been brought to our notice. That apart, disputed questions of fact appear to emerge which cannot be decided merely on the basis of affidavit evidence.

7. We are of the view that these writ petitions need not be decided on merits, having regard to the conflicting claims of ownership of the said property coupled with the fact that the civil suit between the parties is pending. We place on record having also ascertained that the petitioners did not, within the period prescribed in Section 18(2) of the Act, require that the matter of non-acceptance of the award be referred for determination by the Court on the available grounds. Thus, no grievance can be raised at this distance of time by them in regard to the available grounds of objection specified in Section 18(1) of the Act. The award, not being objected to by any of the petitioners, has attained finality. Section 30 of the Act confers power on the Collector, if any

dispute arises as to the apportionment of the amount of compensation or any part thereof, or as to the persons to whom the same or any part thereof is payable, to refer such dispute to the Court for a decision. As has been noticed above, the award determines the amount of compensation payable to the affected persons but does not proceed for apportionment thereof, possibly because of the disputed claims. Though Section 18 provides for limitation to apply to the Collector for referring a dispute for the determination of the Court, neither Section 18 nor Section 30 contemplates that beyond any particular period the Collector may not refer any matter for such determination. We, therefore, do not propose to hold the order under challenge to be invalid based on the self-defeating argument that the reference was not made within the period specified in Section 18(2) of the Act. On the contrary, the order of reference leaves at least some room for apportionment of the amount of compensation among the rightful claimants. Hence, we are of the view that the order dated 16/7/2018 having referred the matter of apportionment of the amount of compensation for acquisition of the said property for determination by the District Court, the petitioners, the respondents 4 and 5 as well as all other private respondents would have the opportunity to establish their claims before the District Court and seek appropriate orders for disbursal of the

compensation awarded for acquisition of such property in proportion to their respective shares.

8. All contentions on merits of the rival claims raised by the private parties are left open for a decision by the District Court. It is, however, made clear that if any affected party has objected to the award by filing an application within the time stipulated in Section 18(2) of the Act, nothing contained in this order shall affect consideration of such an application according to law.

9. With the aforesaid observations, these writ petitions stand disposed of. No costs.

10. Be it placed on record that a request from the Court for reference of the present controversy to the Lok Adalat for an amicable settlement did not meet the concurrence of the private parties.

M. S. SONAK, J.

CHIEF JUSTICE

SANTOSH S MHAMAL  Digitally signed by SANTOSH S
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