Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.78 OF 2018

1. THE EXECUTIVE
ENGINEER, Work Division VI
(Roads South) PWD Fatorda,
Margao – Goa.

2. DEPUTY COLLECTOR AND LAND
ACQUISITION OFFICER,
Margao-Goa. ...APPELLANTS

Versus

DR. MAX LOYOLA FURTADO
R/o H.No. 785, Chinchinim,
Salcete, Goa. ...RESPONDENT

Ms. Susan Linhares, Advocate *for the Appellants.*

Ms. Melissa Pinto Souza, Advocate *for the Respondent*.

CORAM: M. S. SONAK, J.

DATED: 7th APRIL 2022

ORAL JUDGMENT:

1. Heard Ms. Linhares, learned Additional Government Advocate for the appellants and Ms. Melissa de Pinto Souza for the respondent-claimant.

2. The State challenges the Judgment and Award dated 05.01.2016 in Land Acquisition Case No.10/2012 by which the

Reference Court has enhanced the compensation in respect of the acquired land from ₹47/- per sq.mtr. to ₹210/- per sq.mtr. in respect of Survey No.229/1 (Carmona) admeasuring 793 sq.mtrs. and from ₹98/- per sq.mtr. to ₹335/- per sq.mtr. in respect of Survey No.57/11 (Orlim) admeasuring 97 sq.mtr.

3. Ms. Linhares submits that deduction of 58% made by the Reference Court is inadequate because further deductions were necessary in this matter concerning Carmona property. She points out that the sale deeds relied upon by the respondent were admittedly in respect of developed and converted plots. The acquired property was neither converted nor developed and therefore the deduction should have been to the extent of almost 70% to 80% in the least.

4. Ms. Linhares submits that the same position applies to the Orlim plot as well. She points out that the Reference Court, in any case, erred in making deduction of only 33% on the ground that the acquired property was only 97 sq.mtrs. and there was no question of any deduction towards open spaces. She point out that a plot of 97 q.mtrs. was even otherwise not eligible for development.

5. Based upon the aforesaid contention Ms. Linhares submits that the impugned award warrant interference in this appeal.

6. Ms. Melissa Pinto Souza, learned counsel for the respondent defends the impugned award based on the reasoning reflected therein. She points out that the deductions are in fact on the higher side and they ought not to be interfered with. She points out that in respect of a small plot there is no question of open spaces and therefore the Reference Court quite correctly made a deduction of only 33%. She points out that the sale deeds at Exh.37 and 38 relied upon by the Reference Court were in respect of an area of 11784 sq.mtrs. and 760 sq.mtrs., respectively. In contrast, the acquired properties are small plots. This aspect required even lesser deductions than already made by the Reference Court. For all these reasons, Ms. Souza submitted that this appeal may be dismissed.

7. The rival contentions now fall for my determination.

8. Ms. Souza is quite right in her contention that the determination in respect of the Carmona plot admeasuring 793 sq.mtrs. warrants no interference in this case. The Reference Court has relied upon the sale deed at Exh.37 dated 20.02.2006 in respect of a large area of 11784 sq.mtrs. which was sold at

₹449.82. Though this was in respect of a developed property, the deductions could not have exceeded 50% to 60%. The Reference Court in this case has made deductions to the extent of 58% which, to my mind, are quite reasonable and appropriate particularly since the acquired Carmona property was only about 793 sq.mtrs. The award insofar as the Carmona plot is concerned, therefore, calls for no interference whatsoever.

9. When it comes to Orlim plot admeasuring only 97 sq.mtrs., again, from the base rate of ₹500/- per sq.mtr., deduction to the extent of about 40% to 50% would not be completely inappropriate. This is because there are some issues about the development of plots having an area of only 97 sq.mtrs. However, at the same time, there is no dispute that the Orlim plot was closer to the Margao city. But for this acquisition, this area of 97 sq.mtrs. would have remained with the entire survey holding admeasuring about 1825 sq.mtrs. Considering this aspect, the rate of ₹335/- per sq.mtr. will have to be scaled down but not to the extent suggested by Ms. Linhares. The scaled rate can be appropriately determined at ₹300/- per sq.mtr. in place of ₹335/- per sq.mtr. as determined in the impugned award.

10. This appeal is therefore partly allowed. The compensation in respect of the Carmona plot is maintained at ₹210/- per sq.mtr. but the compensation in respect of the Orlim plot is now determined at ₹300/- per sq.mtr. in place of ₹335/- per sq.mtr. The rest of the directions in the impugned award call for no interference whatsoever.

11. The parties will now be entitled to proportionately withdraw the compensation amount deposited in this Court together with the proportionate interest that will have accrued thereon by now. The Registry to facilitate such withdrawals at the earliest. The respondent will have to furnish identification papers and bank details so that the Registry can directly deposit the compensation amounts into the bank account of the respondent-claimant.

12. There shall be no order for costs.

M. S. SONAK, J.