

Jose

IN THE HIGH COURT OF BOMBAY AT GOA

**MISC. CIVIL APPLICATION NO.256 OF 2023
IN
FIRST APPEAL NO.129 OF 2013**

LATE PACIENCIA JOAQUINA
CRASTO (SIN. DEC.) THROUGH
HER LR. JOSE CAETANO ASIS
TIMOTHY PEREIRA

..... Applicant.

Versus

THE MEMBER SECRETARY,
NORTH GOA PLANNING
AND DEVELOPMENT AUTHORITY

.... Respondent.

Mr R. G. Ramani, Senior Advocate with Mr P. Kakodkar,
Advocate for the Applicant.

Mr H. D. Naik, Advocate for the Respondent.

CORAM: VALMIKI SA MENEZES, J.

DATED: 26th October 2023

P.C.:

1. This is an application for a direction to the Respondent to pay to the Applicants the shortfall of compensation now calculated and placed along with this application.
2. By order dated 26.07.2023, this Court had directed the Registry to release the entire amount deposited by the Respondents on 18.01.2018 in this Court. It appears that, though such a direction was given, the amount has yet not been released. The Registry is directed

to release the entire compensation deposited by the Respondents on 18.01.2018 i.e. the amount of ₹14,79,616/- with the entire bank interest accrued thereupon to be paid to the Applicant Jose Caetano Asis Timothy Pereira. Registry to effect the payment of deposited compensation directly to the account of the Applicant within a period of one week of this order, details of which are set out in para 8 of this order.

3. Prayer (b) in this application is for a direction to the Respondent for payment of balance of ₹1,62,453/- with statutory interest thereon from 18.01.2018. The application was opposed with respect to prayer clause (b) by placing on record their own statement of calculation.

4. I have gone through the two statements of calculations. It appears that the Respondents have taken the date of the Section 4 notification for reckoning the payment of interest for payment of compensation as 30.09.2005, which is the last date of its publication being a notice at the location of the acquisition. Contrary to this stand, the Applicants have reckoned the compensation from 29.10.2004, which is the date on which the Section 4 notification was published in the Official Gazette.

5. The Hon'ble Supreme Court in *Kolkata Metropolitan Development Authority vs. Gobinda Chandra Makal and Another*; (2011) 9 SCC 207 has dealt with precisely that decision and has held that the correct date for reckoning the compensation would be the

date of publication of the notice under Section 4 of the Land Acquisition Act in the Official Gazette and not the last date of publication in any other form.

6. Applying the ratio laid down in *Kolkata Metropolitan Development Authority* (supra) to this case, the Applicants appear to have taken the correct date of issuance of Section 4 notification i.e. the date on which the notice was published in the Official Gazette on 29.10.2004.

7. Doing the calculation on that basis, the shortfall in compensation actually deposited by the Respondents on 18.01.2018 is ₹1,43,263/-. Needless to state, statutory interest is required to be paid @ 15% per annum thereon in terms of Section 28 of the Land Acquisition Act from 18.01.2018, until the date of actual payment.

8. In that view of the matter, the Respondent is directed to pay the balance compensation of ₹1,43,263/- with 15% interest thereon to the Applicant Jose Caetano Assis Timothy Pereira. The payment shall be effected by the Respondent by 30.11.2023. The payment is to be effected directly into the account of the Applicant, details of which are set out below:-

Account Holder: Jose Caetano Assis Timothy Pereira
Bank Name: Union Bank of India
Branch: Ribandar-Goa, North Goa-403006
Account No.: 520101258850854
IFS Code: UBIN0908169

9. The application is disposed of in the above terms.

VALMIKI SA MENEZES, J.

JOSE
FRANCISCO
DSOUZA

Digitally signed by JOSE
FRANCISCO DSOUZA
Date: 2023.10.26
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