



Shakuntala

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.75 of 2022

BENJAMIN BRAGANZA

37 years of age, Indian National,
c/o Agnelo Sebastiao Rosario,
Resident of H.No.66,
1st Daddio, Taulim, Salcete-
Goa, Dando (Pedda), Margao,
Salcete-Goa.

... PETITIONER

Versus

1. THE STATE OF GOA,
Through its Chief Secretary,
Having its office at Secretariat
Porvorim, Goa.

2. THE LAND ACQUISITION OFFICER
Deputy Collector, Collectorate,
South Goa, Margao-Goa.

3. THE EXECUTIVE ENGINEER
Works Division VI (R-S),
Margao, Salcete-Goa.

4. THE COLLECTOR,
South Goa District
Margao-Goa.

5. THE UNDER SECRETARY
(REVENUE II) Revenue Department,
Government of Goa,
Secretariat, Porvorim-Goa.

... RESPONDENTS

Mr. Nigel Frias, Mr. Savio Misquita and Mr. Vineet Surlakar,
Advocates for the Petitioner.

Mr. D. Pangam, Advocate General, with Ms. Maria Simone Correia, Additional Government Advocate for respondent nos. 1 to 5.

**CORAM:- BHARATI DANGRE &
NIVEDITA P. MEHTA, JJ.**

DATED :- 23rd July 2025

ORAL JUDGEMENT: (Per Nivedita Mehta, J.)

1. Heard Mr. Nigel Frias, learned counsel for the Petitioner and Mr. D. Pangam, learned Advocate General with Ms. Maria Simone Correia, learned Additional Government Advocate for respondent nos. 1 to 5.

2. Rule. The Rule is made returnable forthwith with the consent of and at the request of learned counsel for the parties.

3. The petitioner has sought a declaration that the proposed acquisition of the petitioner's land by the respondents vide the impugned notifications dated 23.11.2010 and 22.12.2011 is illegal and void. The petitioner further seeks quashing and setting aside of the decision dated 12.08.2020 taken by the respondent no.1 with the other ancillary reliefs.

4. The brief facts of the case are that the petitioner is the owner of the property known as "Sirvodem" bearing Chalta Nos. 145 to

156 of P.T. Sheet No. 254 of the city survey of Margao. On 23.11.2010, the respondent no. 1 issued a notification under Section 4 of the Land Acquisition Act, 1894(hereinafter referred to as ‘the Act’), to acquire the “Land Acquisition For Rehabilitation For Missing Link Of Ring Road from Steel Centre, NH-17 in Margao City of Salcete Taluka”.

5. The petitioner submits that he could not file the objections under Section 5A of the Land Acquisition Act, 1894, as he was out of India during that relevant period. In the meantime, the respondent no. 2 had already conducted an inquiry contemplated under Section 5A of the Land Acquisition Act, 1894. The petitioner submits that the Land Acquisition Officer conducted a site inspection and found that there are residential hutments which are coming in the proposed ring road, and hence, the present acquisition was proposed for rehabilitating the hutments which existed for many years. The Land Acquisition Officer recommended the acquisition so that the missing link of the ring road could be completed, which is meant for a public purpose.

6. The petitioner contends that the said residential house, if acquired, would completely deprive him of his permanent place of

residence in Goa. The notification under Section 6 of the Land Acquisition Act, 1894, was declared on 22.12.2011, stating therein that the said land would be used for the purpose of “Land Acquisition for Rehabilitation for Missing Link of Ring Road from Steel Centre, NH-17 in Margao City of Salcete Taluka”. Subsequently, considering all the procedures as contemplated under the Land Acquisition Act, 1984, for acquisition from Section 4 to Section 11 of the Act, which outlined the initial steps and proceedings for acquiring land before the award is passed. The award was finally passed on 17.01.2013.

7. The petitioner, on 30.07.2012, addressed a letter to the respondent no. 2 stating that he was not aware of the proposed land acquisition wherein his land is proposed to be acquired for the construction of the ring road and objected to the same, requested not to proceed with the acquisition process as he is planning to challenge the same. Thereafter, Writ Petition No. 640/2012 was preferred by the petitioner, challenging the proposed acquisition of the petitioner's land by the respondents. Vide order dated 10.09.2012, this Court disposed of the said Writ Petition with an observation that the petitioner is allowed to make a representation

which the Government may consider within a period of 15 days after receiving the same, and the State Government will pass a reasoned order thereupon. Thereafter, the petitioner filed the representation dated 12.09.2012 before the respondent nos. 1, 2, and 3, calling upon them to drop the petitioner's property bearing Chalta Nos. 145 to 156 of P.T. Sheet No. 254 of the City of Margao from the proposed acquisition, as it contained his residential house and the proposed acquisition is not for genuine public purpose. The hutment dweller can easily be accommodated on lands belonging to the Government of Goa at various part of the State such as in Margao (Sansoddo), Davorlim, Verna (near the Verna Industrial Estate), etc., many of which are barren and uninhabited.

8. In his additional representation, the petitioner contended that there is already a Plot bearing Survey No. 160 of Village Loutolim, admeasuring 5000 sq.mts. which has been acquired by the Goa Industrial Development Corporation, allotted to the Government of Goa, for implementation of the 20-Point Programme Housing Scheme, and the same can be utilised for rehabilitation of the slum dwellers who are illegally residing on the land reserved for the

missing link road and again requested to drop his property from the proposed acquisition proceedings.

9. The said representation was considered and duly decided on 04.10.2012, stating therein that, subsequent to the publication of the notification dated 22.12.2010, the proceedings are in the final stage. This ring road is necessary to ease the traffic congestion of Margao City. Hence, this proposal of the Government includes rehabilitation of structures in the same area and land in the planned manner with an intention to complete the missing link to the ring road.

10. On 26.10.2012, it was informed to the petitioner by the respondent no. 2 that his representation had been forwarded to the Government for decision. The respondent no. 5 prepared a report dated 08.10.2012 recommending therein that the request of the petitioner for dropping his land from acquisition cannot be acceded to. The notings on the Government files dated 03.10.2012 are before us annexed at page 85, exhibit 'P colly'. It was also communicated to the petitioner that the Government has rejected

the representation made by the petitioner for dropping survey numbers pertaining to his property vide letter dated 16.10.2012.

11. Thereafter, the petitioner filed Writ Petition No. 794/2012 challenging the notification dated 23.11.2010 and 22.12.2011. This Court vide judgment dated 03.10.2019 disposed of the said petition by observing the following in paragraphs 7 and 8: -

7. “At the stage when the petitioner had instituted Writ Petition No.640/2012 and at the stage when we made our order dated 10/09/2012, the position that the petitioner had not filed objections under Section 5A of the Land Acquisition Act, 1894 within the prescribed period was quite clear. Despite that, looking at the peculiar facts and circumstances of the present case, we had given liberty to the petitioner to file a representation and, thereafter, directed the Government disposed of such representation by passing a reasoned order thereupon. Therefore, the representation could not have been rejected once again on the very same grounds and that too without passing a reasoned order.

8. On the aforesaid short ground, we set aside the impugned communication dated 26/10/2012

and the decision which is conveyed thereby and direct the Government once again to consider and dispose of the petitioner's representation dated 12/09/2012 and 01/10/2012 as expeditiously as possible and in any case within a period of 8 weeks from today. In addition, we grant liberty to the petitioner to file an additional representation within one week from today, without seeking any further extension. This time, the Government to pass a reasoned order upon such representation.”

12. Thereafter, the petitioner filed the representation dated 09.10.2019, making a similar request for dropping his land from acquisition. On 10.09.2020, the petitioner was informed that the representation of the petitioner had been rejected by the Government. Aggrieved by this rejection, the present petition is filed by the petitioner.

13. SUBMISSIONS OF THE PETITIONER

8.1) The learned counsel Mr. Frias, appearing for the petitioner submits that the notification under Sections 4 and 6 of the said Act are arbitrary, in as much as the petitioner's land is sought to be acquired to rehabilitate illegal slum dwellers in the land proposed

to construct the missing link of ring road and due to this, the petitioner has been deprived of his home and rendered homeless.

8.2) There are various Government Lands available to the respondent for rehabilitation of hutment dwellers in Salcete Taluka, which do not comprise any residential structure, and the respondents can easily rehabilitate those hutment dwellers in those barren lands. The proceedings of land acquisition have deprived the petitioner of the right to property as enumerated in Article 300A of the Constitution of India.

8.3) The respondent no. 2 has not made any inquiries about the availability and feasibility of the alternate lands as against the land of the petitioner. The decision taken by respondent no. 1 vide communication dated 12.08.2020, rejecting the representation made by the petitioner, is unreasonable, perverse, and bad in law, as the same is without considering the grounds made by the petitioner and the representation. Moreover, no reasons have been given by respondent no. 1 in its decision made in the representation made by the petitioner.

8.4) The learned counsel for the petitioner relied upon the judgments of this High Court and the Hon'ble Supreme Court in support of his submissions.

(a) Ibaldo Alvito Gomes & Ors. Vs. State of Goa, 2010 ALL MR (Supp.) 693; (b) Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai & Ors., 2014 ALL SCR (O.C.C.) 243; and (c) Women Education Trust & Anr. Vs. State of Haryana & Ors. 2013 ALL SCR 2381.

14. SUBMISSIONS OF THE RESPONDENTS:

14.1) The learned Advocate General submits that there is no challenge to the award dated 17.01.2013 passed for the acquisition of the land of the petitioner for the purpose of land acquisition for rehabilitation for the missing link of the ring road from Steel Centre, NH-17 in Margao City of Salcete Taluka.

14.2) It is contended that the notification under Section 4 was issued on 23.11.2010, and the objections were to be filed within 30 days. The respondent no. 2 received objections under Section 5-A of the Act, but the petitioner's objection was never received. All the objections were duly considered by respondent no. 2 and were

decided on 28.11.2011, and subsequently, a declaration under Section 6 was issued, acquiring the land for the public purpose.

14.3) Moreover, the possession is also taken over by the State Government for the completion of the project, except for the possession of the petitioner's land. Though the representations as directed by this Court in Writ Petition No. 640 of 2012 and Writ Petition No. 794 of 2012 were duly considered, and after finding no substance in the representation, the same were rejected.

14.4) It is submitted by the learned Advocate General that it is the prerogative of the State Government to decide as to which land should be acquired for a particular project, and the Government cannot entertain any suggestion of acquiring the land other than as proposed by the Government.

15. After referring to the submissions of the parties and examining the rival contentions, the analysis and conclusions arrived at by us are as follows.

16. The possession of the land is already acquired for the proposed rehabilitation of the missing link of ring road from Steel Centre, NH-17 in Margao City of Salcete Taluka, by the State

Government, except the land of the petitioner. However, compensation for the petitioner's land is already deposited by the respondent no. 2, before the District and Sessions Court, Margao. The scheme, as regards to the acquisition, has been formulated under Sections 4 to 11, i.e., till the declaration of award. The State Government has scrupulously followed the said procedure as contemplated in the Act.

17. The Judgments relied upon by the petitioner deal with the import of Section 5-A, which specifically provides landowners opportunity to object to the land acquisition intended for public purposes. There is no quarrel as to the proposition laid down in the aforesaid judgments. However, in the present case, the stage of raising objection under Section 5A had already crossed, and the acquisition proceedings had reached the final stage. An objector has to file his objections within 30 days of the issuance of the notification under Section 4 and cannot file his objections beyond the stipulated time, as the Collector would lack the power to entertain such objections. It is therefore obvious in the light of the aforesaid statutory scheme, the objector is not entitled to be heard as of right in respect of objections filed after the expiry of a period

of 30 days after the date of issuance of notification under Section 4. However, in the present case, the representations raising an objection of acquisition of the land of the petitioner were entertained as per the orders passed by this Court in Writ Petition No. 640/2012 and Writ Petition No. 749/2012.

18. Section 5A of the Act gives the landowner an opportunity to object to the same being a valuable right, which is akin to a fundamental right. Section 5A consists of two parts, viz., hearing of objections by the Collector and decision of the Government on the objections on the basis of the Collector's report, and both these parts have to be complied with, and the reasons are required to be assigned while passing an order under Section 5A of the Act. This exercise was already carried out by the State Government. During the period when the State Government was considering the objections under Section 5A, the objection was never raised by the petitioner. It is not in dispute that Section 5-A of the Act confers a valuable right in favour of a person whose lands are sought to be acquired. Having regard to the provision contained in Article 300A of the Constitution of India, the State, in exercise of its power of 'eminent domain', may interfere with the right of property of a

person by acquiring the same, but the same must be for a public purpose and reasonable compensation therefor must be paid.

19. As stated above, the proceedings of acquisition as contemplated under the Act have been completed by the State Government, and at the final stage of proceedings, the petitioner made a representation objecting to the acquisition of his land. As per the orders of this Court in Writ Petition No. 640 of 2012 and Writ Petition No.749 of 2012, the representations preferred by the petitioner were considered and, by a reasoned order, the same were rejected.

20. Considering the facts of the case, we are of the view that acquisition of the land for the public purpose, i.e., the land acquisition for rehabilitation for the missing link of ring road from Steel Centre, NH-17 in Margao City of Salcete Taluka, is a matter of policy and not of law. The State Government is the Authority that has to carry out the plan for which the land has been acquired. The respondent- State Government is in the best position to judge as to which land can be exempted from acquisition. This Court cannot exercise the power of writ under Articles 226 and 227 of the

Constitution of India, and therefore, we do not find that the notifications dated 23.11.2010, 22.12.2011, and the decision dated 12.08.2020 warrant any interference. Accordingly, the petition stands dismissed.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.