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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 128 OF 2026

WITH

WRIT PETITION NO. 127 OF 2026

The Secretary
Department of Sainik Welfare,
Ground Floor, Collectorate Building,
Panaji-Goa, 403001.

... Petitioner

Versus

Mr. Teofilo J. Monteiro,
Son of Mr. Jose Mario Monteiro,
84 years of age, married,
Indian National, retired,
Resident of House No. 42,
Bambolim,
Tiswadi-Goa, 403202.

... Respondent

Mr. Devidas Pangam, Advocate General with Ms. Maria
Correia, Additional Government Advocate for the Petitioner.

Mr. Vishwesh Kamat, Advocate for the Respondent.

CORAM:- VALMIKI MENEZES, J.

DATED :- 18th FEBRUARY, 2026

ORAL JUDGMENT:

1. Registry to waive office objections and register the matter.
2. Heard learned Advocates for the parties.

3. Rule. Rule is made returnable forthwith; at the request of and with the consent of learned Advocates for the parties, the matter is finally heard and disposed of. Learned Advocate General Mr. Devidas Pangam, appears on behalf of the Petitioner and learned Advocate Mr. Vishwesh Kamat waives service on behalf of the Respondent.

4. Writ Petition No. 128/2026 is seeking to invoke this Court's jurisdiction under Article 227 of the Constitution of India, assailing order dated 18.09.2025 passed on Exhibit D-48 (an application for impleadment of the parties) in Land Acquisition Case No. 9/2011. The impugned order has been passed by the Adhoc-District Judge-2, North Goa at Mercedes.

5. Writ Petition No. 127/2026 seeks to assail order dated 06.12.2025 passed on Exhibit D-57 (an application for stay of the Land Acquisition proceedings) and Roznama orders dated 16.01.2026 and 28.01.2026 in Land Acquisition Case No. 9/2011.

6. The aforementioned Land Acquisition Case is before the District Court on a reference made under Section 18 of the Land Acquisition Act, 1894. The Respondent in this petition is arrayed as Applicant before the Reference Court, and claims title to the acquired land on the basis of a claim of Agricultural Tenancy under the Goa Daman and Diu Agricultural Tenancy

Act, 1964. After receipt of the reference, the Reference Court has impleaded Sainik Welfare Department (Petitioner before me) as a sole Respondent, on the premise that the land has been acquired for the use of the Petitioner herein.

7. The Petitioner herein moved an application seeking impleadment of the Comunidade of Bambolim, whose name is in the occupants column of the Survey Records of the acquired land (Survey No. 92/1 (part) of village Bambolim) and also sought impleadment of the Comunidade of Bambolim, CPWD (the department that has constructed a structure on another part of Survey No. 92/1 in pursuance of an earlier acquisition) and the Land Acquisition Officer/Collector, who had instituted the Acquisition Proceedings and passed an Award with respect to the acquired land. It is this application which is at Exhibit 48 of the record of the Reference Court that has been dismissed. The main reason for the dismissal of the application, as stated in the impugned order, is that the proceeding is with respect to Section 18 of the Land Acquisition Act at the behest of the Applicant Mr. Teofilo Monteiro, and the parties sought to be impleaded by the Petitioner have nothing to do with the reference.

8. The impugned order dated 18.09.2025 must be set aside for the following reasons:

(a) On a reference being received by the Reference Court under Section 18 of the Act, along with the Collector's statement to the Court under Section 19 of the Act, it is the duty of the Reference Court to issue notice to the persons stated in Section 20 thereof. Amongst these, notice is bound to be issued to the Applicant, to all persons interested in the objection and, in the event the objection is in regard to the area of the land or on the amount of compensation, also to the Collector.

(b) The provision of Section 20, therefore, make it mandatory for the Reference Court to issue notice to the Applicant and to any other persons who are interested in objecting to the compensation, which in this case is the Applicant; the Applicant has raised objections to the quantum of compensation offered under the Award and the basis of his claim to this compensation is a title of Tenancy. This title of Tenancy has been claimed against the Landlord or original occupants of the acquired land i.e. the Comunidade of Bambolim. Thus, the Comunidade of Bambolim also would be a necessary party to this reference in terms of Clause (b) of Section 20 of the Act.

(c) In addition to the aforementioned parties, Clause (c) of Section 20 mandates that the Reference Court shall also issue notice, where the objection relates to the quantum of

compensation, to the Collector dealing with the acquisition of land; in this case, an Award was passed by the Deputy Collector, Land Acquisition, Collectorate, North Goa, Panaji, who would necessarily have to be impleaded as a party in terms of the Clause (c) of Section 20. There is no option to the Reference Court to avoid notice to these parties, and more so to the Collector, who would be the only person in a position to lead evidence or to assist the Court in the inquiry to arrive at the true market value of the land.

9. The provisions of Section 20 have been considered by the Hon'ble Supreme Court in ***Rajmani V/s Collector, Raipur***¹, holding the same to be mandatory. The relevant passage has been quoted below:

"3. With a view to appreciate the respective contentions, it is necessary to read the relevant provisions of the Act. Section 53 of the Act envisages that b "(S)ave insofar as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings before the Court under this Act", It would thus be clear that so long as there is no inconsistency between the provisions of the Act and the CPC, all the provisions contained in CPC shall apply to the proceedings under the Act. 'Court' has been defined in Section 3(d) of the Act to mean "a principal civil court of original jurisdiction, unless the appropriate Government has appointed (as it is hereby empowered to do) a special judicial officer

¹ (1996) 5 SCC 701

within any specified local limits to perform the functions of the Court under this Act". When reference was made under Section 18, it should be to the principal civil court of original jurisdiction or special judicial officer within any specified local limits to perform the functions of the court. Section 19 envisages that upon an application made under Section 18 in the manner prescribed thereunder, the Collector should make reference to the court with all the information in writing, as indicated in sub-section. (1) of Section 19. The said statement shall be attached with a schedule giving the particulars of the notices served upon and of the statements in writing made or delivered by the parties interested therein respectively. On receipt thereof, Section 20 enjoins the court the service of the notice with a mandatory language. The court shall thereupon, cause notice served upon the persons named in the reference including the Land Acquisition Officer/Collector, as indicated in clauses (a) to (c) of Section 20 giving and specifying the day on which the court will proceed to determine the objection and direct the parties to appear before the court on that day. In other words, it is the mandatory duty of the court to have the notices served on the persons, viz., the applicant or all persons interested in the objection filed before the Land Acquisition Collector, except if any of them gives consent when produced to receive payment of the compensation awarded and in case of objection relating to the area or the amount of land acquired or the amount of the compensation upon the Collector and Acquisition Officer Upon the receipt and after service of the notice, Section 22 envisages that every proceedings shall take place in the open court and all persons entitled to practise in any civil court in a State shall be entitled to appear, plead and act in such proceedings. It would thus be clear that upon an application made under Section 18 of the Act the Land Acquisition Officer/Collector, when he receives the application within the limitation prescribed under the Act, is enjoined to make a

reference, as above mentioned in Section 19. Upon receipt of those applications, the court should cause the notices/notice served on the applicants, as well as all interested persons and Land Acquisition Officer/Collector. The notice required to be served as is envisaged in Order 5 of the CPC and the manner of service has been indicated thereunder. Therefore, it should be the duty of the court to have the notice served. It is seen that the notice was not properly served on the applicant. It would appear that notice was served on the father of the appellant, Brij Mohan Lal who is now found to have died on 20-12-1973, i.e., much before the date of the alleged service. It would, therefore, be clear that the service of notice has not been duly effected on the appellant. As a consequence, he did not have any occasion to appear before the court.”

Thus, the impugned order dated 18.09.2025 has been passed contrary to the provisions of Section 20 of the Land Acquisition Act and cannot be sustained. Consequently, the impugned order dated 18.09.2025 must be quashed and set aside.

10. In the light of Section 20 of the Act, the question to be answered then is, who would be the parties required to be impleaded and heard in the inquiry in terms of Section 20 of the Act, and in the facts of the present case.

Apart from the Applicant, it is the Comunidade of Bambolim, who would be the person interested in the objections raised by the Applicant, since the Applicant claims the compensation on the basis of the title of Agricultural

Tenancy under the Tenancy Act qua the Comunidade of Bambolim.

11. It is a matter of record that in the very same Acquisition Proceedings, on an application of the Respondent herein, reference has been made to the District Court-2, under Section 30 of the Act for apportionment of the compensation between the Respondent herein and the Comunidade of Bambolim. This reference has been registered as LAC No. 26/2011, and is pending before the District Judge-2 at Mercês. In that case, an issue of Tenancy has been framed and the Reference Proceedings bearing No. LAC 26/2011 has been stayed.

12. In an earlier Acquisition Proceeding regarding another parcel acquired from the same land, the very same claim of Tenancy was raised by the present Respondent against the Comunidade of Bambolim. That claim of tenancy was referred under Section 30 of the Act and is pending before the District Judge-2, at Mercês and numbered as LAC /137/199. An issue of Tenancy was referred in that case to the Mamlatdar of Tiswadi; the Mamlatdar of Tiswadi; in the same Reference under Section 30, one Mr. Rama Vithal Gawas and his wife had also applied for Reference under Section 30 of the Act, claiming Agricultural Tenancy to the same property. This issue of apportionment is presently pending before the District

Judge-2 under LAC No. 137/1997 till the question of tenancy is decided.

13. On a reference of issue of Tenancy to the Mamlatdar of Tiswadi, Mr. Rama Vithal Gawas and his wife have been held to be tenant of the concerned land qua Comunidade of Bambolim, which declaration was reversed by the Deputy Collector, Tiswadi in an Appeal by Judgment and Order dated 30.10.2024, holding that the Respondent herein Mr. Teofilo Monteiro was the Agricultural Tenant of the property. The order of the Collector has now been challenged in a Revision Application before the Administrative Tribunal of Goa and is pending disposal (Tenancy Revision No. 18/2024).

14. It is in these background facts that one must decide whether all the aforementioned Land Acquisition Cases are required to be clubbed together and heard by one Reference Court, to avoid any conflicting Awards from being passed. In this view of the matter, I deem it appropriate on quashing and setting aside the impugned order dated 18.09.2025, and direct the Reference Court to implead the Comunidade of Bambolim as Respondent No. 2 and the Deputy Collector (Land Acquisition Officer, Tiswadi, Collectorate, North Goa) as Respondent No. 3. I further deem it appropriate to exercise jurisdiction under Section 24 of the Civil Procedure Code to transfer LAC No. 9/2011, from which this petition arises, to

District Judge-2 at Merces who shall hear and dispose of all three Land Acquisition Cases i.e. LAC No. 9/2011 (under Section 18 of the Act), LAC No. 26/2011 (under Section 30) and LAC No. 137/1997 (under Section 30).

15. I further deem it appropriate that the proceedings under LAC No. 9/2011 shall remain stayed until the Administrative Tribunal decides the Tenancy Revision No. 18/2024, pending before it, which is when under the Tenancy Act, the proceedings would attend finality.

16. In Writ Petition No.127/2026, the first order assailed is of 16.01.2026. On an Application seeking adjournment on grounds of a medical certificate of a witness, stating he was unwell, the District Court seems to have directed that the witness should be changed and a healthy witness be examined. These reasons for directing a change of witness are completely untenable at law and dehoes the Evidence Act. If a witness is competent to depose and certain facts are within his knowledge, he cannot be precluded from deposing only on the basis that he has health issues. There may be a delay in the proceedings because he was unwell, but that cannot be a justification to deny the party seeking to examine that witness, to record evidence of that witness which may be relevant. For this reason, the Impugned order dated 16.01.2026 must be set aside.

Now that I have directed, by this judgement that the proceedings shall stand stayed till the issue of tenancy is decided, the impugned order dated 28.01.2026 shall also have to be set aside, since a fresh opportunity will have to be given to the newly added respondents, the Comunidade of Bambolim and the Collector, to lead evidence, if required after the issue is decided. In this view of the matter, the order dated 28.01.2026 stands set aside.

17. Rule is made absolute in terms of the above order. The Principal District Judge, North Goa to act upon an authenticated copy of this order and ensure the transfer of LAC No. 9/2011 to District Judge-2 at Mercês, in which the two proceedings which are pending are fixed on 07.04.2026. The parties in LAC No. 9/2011, shall appear before the District Judge-2 at Mercês on 07.04.2026 at 2.30 p.m.

18. The Writ Petitions stand disposed of.

VALMIKI MENEZES, J.