

IN THE HIGH COURT OF BOMBAY AT GOA.

**LD-VC-CW-61/2020 WITH LD-VC-OCW-138-2020 AND
LD-VC-CW-114-2020**

**LD-VC-CW-61/2020.
WITH
LD-VC-OCW-138-2020**

Shamsundar Shridhar Dalvi ... Petitioner

Vs

State of Goa and ors. ... Respondents

Shri A. Carvalho, Advocate for the petitioner.

Shri D. Pangam, Advocate General with Shri S. P. Munj, Addl. Govt.
Advocate for the respondent nos.1,2,4 to 9.

Shri S. Karpe, Advocate for the respondent no.3.

**WITH
LD-VC-CW-114-2020**

Joe C Mathias Petitioner.

Vs

State of Goa and ors. Respondents.

Shri Nitin Sardessai, Senior Advocate with Shri Gaurang Panandiker,
Advocate for the petitioner.

Shri P. Faldessai, Addl. Govt. Advocate for the respondents.

Coram:- DAMA SESHADRI NAIDU, &

SMT. M. S. JAWALKAR, JJ.

Date: 8th October 2020.

PC.

In 1965, the Government acquired a piece of land and compensated the landowners through an award in 1969. That acquisition covered lands in various cadastral plans. In fact, the Government acquired 5,40,000

square metres of land. A part of that acquired land belonged to the predecessors of the petitioner in LD-VC-CW 114/2020.

2. If we confine referring to the cadastral survey numbers, the petitioner's land stood covered by survey no.785; it was treated as plot no.1. Out of the total extent in that plot no.1, the Government acquired 89,045 square metres.

3. In 1972 a survey took place across the State of Goa. Then, the cadastral survey no.785 was assigned the regular survey number 249/1. After the survey, the petitioner's land and a part of the Government acquired land were together assigned survey no.249/1. But the records reflected only the Government as the owner for the entire extent in the survey number. It was to the petitioner's exclusion. So, the petitioner applied to the authorities concerned to treat him as the co-owner or co-occupant of the property in survey no. 249/1. Thus, in February 1988, the records were mutated, and the petitioner was shown as a co-occupant.

4. Later in 1990, the petitioner applied for the sub-division of survey no. 249/1. Then, in 1994, the authorities concerned subdivided the survey number: the petitioner was assigned survey no. 249/1A; the Government retained the survey no.249/1. The extent the petitioner owns is shown as 83160 sq. metres. The Government has, however, retained the original survey number, that is survey no. 249/1.

5. As things stood thus, about 2006 a third party complained to the Government that some of the acquired lands had been occupied. Then, the Government required the Directorate of Settlement of Land Records (DSLRL) to resurvey the land. In that context, DSLRL reserved the land and submitted a report, dated 24.6.2008. In that survey, it emerged that the

Government possesses 89,121 sq.mts. It is said to possess 76 sq. metres over what it had acquired as plot no.1.

6. In 2007, once more, another third party is believed to have complained to the Government. It was also about an alleged trespass and occupation of the Government land. Again, the Executive Engineer of the Government, through an application dated 10.3.2007, required the DSLR to resurvey the lands. The DSLR, as a result, notified the petitioner, who is a neighbour. Then, the petitioner in LD-VC-CW-61/2020—we will refer to him as the contesting respondent—got impleaded in the survey proceedings. He insisted that he too should be a part of the survey so that he could highlight whatever land grabbing that took place.

7. Eventually, the DSLR surveyed and the land in plot no.1 and submitted a report. Acting on that report, the Deputy Collector passed the impugned order. Aggrieved, the petitioner assailed the sweeping nature of the survey required to be undertaken. On the other hand, the contesting respondent filed LD-VC-CW-61/2020 for having the impugned order implemented.

8. We have heard Shri Nitin Sardesai, the learned Senior Counsel for the petitioner in LD-VC-CW-114/2020; Shri Avalon Carvalho, the learned counsel for the petitioner in LD-VC-CW-61/2020; and Shri Devidas Pangam, the learned Advocate General for respondent nos.1, 2, 4 to 9.

9. To begin with, the learned Advocate General has submitted that the Government is keen to ascertain whether it has intact the land it has acquired. And, in that process, if it finds any shortfall, the Government intends to have even the neighbour's land surveyed. Thus, with a

comprehensive survey, the Government may ascertain whether its property has been grabbed. Shri Dessai, the learned Senior Counsel for the petitioner, and Shri Avalon Carvalho, the learned counsel for the contesting respondent, too, have advanced their arguments. But we will avoid extracting those arguments, for, in the end, the respective counsel have agreed for a consensual order.

10. To elaborate, we may note that all the learned Counsel have agreed that the whole purpose behind the entire exercise undertaken by the Government, either on the own or at a third party's behest, is to ensure that the Government land has not been grabbed. Shri Dessai has fairly agreed that the Government is free to measure the survey no.249/1, that is plot no.1, and ascertain the extent it possesses. According to him-- for any reason, though very unlikely--if there is any shortfall in the Government's land, it may as well have the petitioner's land measured on the side abutting the Government land.

11. In other words, the learned Senior Counsel insists that in the name of ascertaining the exact extent the government possesses, it cannot indulge in any roving inquiry or measuring on all sides of the petitioner's land. It is because on three sides, the petitioner shares boundary with private owners. And they have no boundary dispute with the petitioner. The other learned counsel have agreed for this proposal, hedged with other conditions, though.

12. We, therefore, dispose of both the Writ Petitions, LD-VC-CW-61/2020 and LD-VC-CW-114-2020, with these directions:

- (a) We partially modify the impugned order, dated 20.7.2018.
- (b) DSLR, through its competent personnel, may measure survey no. 249/1, plot no.1, to ascertain whether the

Government possesses land it has acquired initially. Upon such a survey, if DSLR finds that there is any shortfall, it may, incidentally, measure the petitioner's land abutting the Government land in survey no. 249/1A.

- (c) In the eventuality of the contingency in (b), the measuring should confine itself to the petitioner's land only on the side it shares a boundary with the Government.
- (d) DSLR will put the petitioner and the contesting respondent on notice before it undertakes the survey.
- (e) DSLR will complete the process of survey and measurement expeditiously, preferably, in two months.

All miscellaneous applications, too, stand disposed of.

SMT. M. S. JAWALKAR, J

DAMA SESHADRI NAIDU, J.