

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW NO. 105 OF 2020

Mr. Paul Fernandes and anr. .... Petitioners

*V e r s u s*

The State of Goa and Ors. .... Respondents

Ms. Asha Desai, Advocate for the Petitioners.

Mr. D. Pangam, Advocate General with Mr. Prashil Arolkar, Additional Government Advocate for the Respondents.

Coram :- M. S. SONAK &  
M. S. JAWALKAR, JJ.

Date : 14<sup>th</sup> August, 2020

ORAL ORDER

1. Heard Ms. Asha Desai, the learned Counsel for the petitioner and Mr. D. Pangam, the learned Advocate General for the respondents.
2. On 04.08.2020, we made the following order :

*“Heard Ms. A. Desai, learned counsel for the Petitioners and Mr. D. Pangam, learned Advocate General for the Respondents.*

2. *Ms. Desai has made her submissions on the grounds raised in this petition. The learned Advocate General has also attempted to urge that this petition is not maintainable or in any case ought to be dismissed inter alia on the ground of suppression of material particulars.*

3. *However, in the course of the arguments it transpires that the Petitioners in lieu of the acquired portion of the Petitioners' property has been offered an alternate property in terms of allotment order at page 86 ( appended to the affidavit in reply filed by Chandrakant Shetkar, SLAO). The learned Advocate General points out that this factum of such allotment was suppressed by the Petitioners. He points out that the Petitioners have in fact approached the Human Rights Commission seeking some other plot.*

4. *Ms. Desai, on the basis of the instructions however states that in case the plot which is the subject matter of the order at page 86 is in fact allotted to the Petitioners,*

*then, the Petitioners, will be satisfied and not interested in pursuing this petition any further. She however points out that the acquisition in the present case was only in respect of the area 375 square metres. She points out that the possession notice is silent and therefore she has apprehension that the possession of property in excess of 375 square metres may be taken.*

*5. The learned Advocate General makes it clear that the possession of only 375 square metres, which is the acquired portion, will be taken and therefore, the apprehension need not persist.*

*6. The learned Advocate General points out that there may be some dispute inter se between the Petitioners or at the Petitioners' end with some other. He therefore submits that the Petitioners prior to taking over the alternate site must give an indemnity to the Government. Ms. Desai on instructions, agrees that such indemnity will indeed be furnished.*

*7. The learned Advocate General states that the actual allotment/possession of plot in terms of the order at page 86 can be given to the Petitioners within a period of one week from today. He states that he will inform Ms. Desai the precise date on which this exercise can be*

*completed.*

*8. In view of the aforesaid, we defer the hearing in this matter to 14<sup>th</sup> August, 2020, by which time, we expect that necessary formalities with regard to the allotment of rehabilitated plot will complete in all respects.”*

3. Today, the learned Advocate General makes a statement that the alternate property in terms of the allotment order at page 86 (appended to the affidavit in reply filed by Chandrakant Shetkar, SLAO), has been handed over to the petitioners. This position is confirmed by Ms. Desai, the learned Counsel for the petitioners.

4. Ms. Desai, however submits that the respondents should consider offering the petitioners on rent or rental premises until the petitioners can put up their own structure in the alternate property, of which, possession is now delivered to the petitioners.

5. We find that in the present case, the Government has not only given an alternate property but is also offering compensation in lieu of the

acquired lands and, therefore, we will certainly not be in a position to issue any directions to the Government for making any further payments.

6. However, we grant liberty to the petitioners to make a representation to the appropriate respondents and the learned Advocate General states that such representation will be considered and disposed off in accordance with law within a reasonable period.

7. We accept the statement made by the learned Advocate General.

8. We clarify that now there can be no restraint upon the respondents in taking over the possession of the acquired property. The issue of consideration of representation is, therefore, not linked to the issue of taking over possession of the acquired land.

9. The learned Advocate General states that a notice has already been issued to the petitioners to attend before the LAO to sort out the issue of payment of compensation. The learned Advocate General also pointed out that fresh notice will be issued to the petitioners to attend the proceedings

before the LAO to sort out the issue of compensation since, on account of the present pandemic situation, the petitioners may not be able to attend before the LAO.

**10.** Ms. Desai, the learned Counsel for the petitioners, states that as and when the notice is received, the petitioners will attend the office of the LAO in order to sort out the issue of payment of compensation.

**11.** In view of the aforesaid, we dispose off this petition, We make no order as to cost.

**M. S. JAWALKAR**

**M. S. SONAK, J.**

arp/\*