

IN THE CONSTITUTIONAL COURT OF SEYCHELLES

[Corum: M. BURHAN - PRESIDING JUDGE, C. DODIN - JUDGE AND M. VIDOT - JUDGE]

**MA 194/2018
(arising in CP 01/2017)**

[2018] SCCC 14

MR. ALEX JOSEPH FRICHOT
First Petitioner

MR GERALD MARIE FRICHOT
Second Petitioner

versus

THE GOVERNMENT OF SEYCHELLES
Respondent

Heard: 18 September 2018
Counsel: Mr. Phillip Boulle Attorney at Law for the Petitioners/Judgment Creditors
Mr. Chinasammy Jayaraj Attorney at Law for the Respondent
Delivered: 25 September 2018

RULING ON MOTION

Ruling of the Court

[1] This Court by its Ruling dated 16th January 2018 disposed of this matter and in doing so awarded the Petitioners compensation amounting to SR 29,766,667.00 (twenty nine million seven hundred and sixty six thousand, six hundred and sixty seven) for the

compulsory acquisition of land parcel V3095 by the government. The compensation was calculated using the average of the results of the three surveyors' evaluations regarding the market value of the property: two of the surveyors, namely Mr. Alton and Mr. Lablache, had valued the property at SR 24,650,000.00 (twenty four million six hundred and fifty thousand), while the third surveyor, Mr. Blackburn, had valued the property at SR 40,000,000.00 (forty million). In the ruling ^{of} from 16th of January 2018 this Court further ordered the government to pay the fees arising from the three surveyors' evaluations.

- [2] A dispute has now arisen as to the amount payable to the three surveyors that were tasked with evaluating the property. Mr. Alton and Mr. Lablache, are claiming as their valuation fee a sum of SR 123,250.00 from the government while the third, Mr Blackburn, is claiming a different, higher amount SR 200,000.00. All three surveyors based their respective claims on a calculation of 0.5 % of their respective gross valuation figures. Due to the discrepancy of the claims, the government has not made any payment to the surveyors up to date.
- [3] It is the contention of Learned Counsel for the 2nd Respondent; the Government of Seychelles that the surveyors should be paid equally based on the fact that they have all done equal work and that the amount payable should be calculated using the previously applied formula of 0.5% of the market value as fixed by the Court.
- [4] Mr. Blackburn on the other hand, is insisting on the payment of SR 200,000.00 based on the fact that in his view the amount payable should be calculated at 0.5% of his own evaluation, i.e. 0.5% of SR 40 million. Mr. Blackburn avers that as all the evaluations were done separately, they should be dealt with separately.
- [5] Having listened to Learned Counsel for the Attorney General and Mr. Blackburn himself, this Court rules that all surveyors shall be paid equally and that the amount payable shall be calculated at 0.5 % of the market value as fixed by this court. All three surveyors have completed the same task, i.e. evaluating the market value of the same property. There is no reason why one of them should now be paid more because he valued the property at a higher price. The latter is in no way an indication of the fact that he put more work into

the evaluation than his colleagues or that he exercised the given task in a more diligent manner. As such this Court finds no merit in the contention that he should be paid more.

[6] Furthermore it must be noted that in the Court order of 17th July 2017 in which the panel of surveyors was appointed, it was ordered that the panel shall compile a “joint report”. The surveyors however failed to reach an agreement as to the value of the property and thus submitted separate reports. If they would have submitted a joint report as initially agreed, the fee payable would have been the same for all three surveyors as they would have submitted only one gross evaluation figure. This further substantiates the fact that it was the intention of the parties, that the surveyors should be paid equally and that the contention of Mr. Blackburn that the evaluations should be treated as completely separate, is incorrect.

[7] In light of the above, this Court makes order that the government pay all three surveyors a sum of SR 148,833.34 (one hundred forty eight thousand, eight hundred and thirty three and cents thirty four) calculated as 0.5 % of SR 29,766,667 (twenty nine million seven hundred and sixty six thousand six hundred and sixty seven), i.e. the market value previously fixed by this Court.

Signed, dated and delivered at Ile du Port on 25 September 2018



M Burhan
Judge of the Supreme Court



C. Dodin
Judge of the Supreme Court



M. Vidot
Judge of the Supreme Court