

BEFORE THE ENVIRONMENT AND LAND USE APPEAL TRIBUNAL

ELAT 2047/21

In the matter of:

Mrs. Suchita Devi Baichoo

Appellant

v.

The District Council of Pamplémousses

Respondent

Ruling

This ruling is being given following statements made by the representatives of the respective parties prior to the start of the hearing and at a formal stage of the proceedings.

Counsel for the Respondent has made a statement to the effect that the portion of land subject matter of the present appeal is also the subject of a compulsory acquisition for the purpose of making an access road, should the hearing proceed, this would tantamount to asking the Tribunal to re-assess the decision of a public authority to proceed with a compulsory acquisition under the Land acquisition Act.

It is on record that there have been several correspondences between the Respondent and the Ministry of Local Government and Disaster and Risk Management (Documents A to A5) with a view to obtain the necessary clearances and financial provisions for the said compulsory acquisition. A statement from counsel for the Respondent via an e-mail dated 16 May 2022 is to the effect that the stand of the Ministry of Housing and Land Use Planning is awaited, thus a motion for a further delay of two months has been made.

The representative of the Appellant has objected to the motion, raising the undue hardship that is being caused to the Appellant.

After perusing the respective statements made before the Tribunal, it comes out that the Appellant is challenging the factual information that has been considered by the authorities in its decision to acquire the strip of land. This relates to the presence or absence of an irrigation road (which is disputed), the availability of alternative access to the inhabitants.

The Appellant, is in essence, disputing the decision to acquire compulsorily the strip of land and the rationale for this decision. This course of action, as pointed out by counsel for the Respondent, is not a matter which is within the jurisdiction of this Tribunal and must be brought before the appropriate jurisdiction.

I have taken note of the point raised that the compulsory acquisition is yet to be done and it is the decision of the Respondent that is presently being challenged. Yet, it is noted that the decision to reject the application for BLUP is dated 10th September 2021. The letter to initiate the process was sent to the Ministry of Local Government on the 17th September 2021. The

process for compulsory acquisition started a week after the refusal letter and the procedure is still ongoing as per the statement of counsel for the Respondent.

We agree that the hearing of the appeal by this Tribunal may yield only an academic judgment if the strip of land is compulsorily acquired. Should the Appellant wish to challenge the basis for the compulsory acquisition, if it is approved by the relevant Ministry, this must be done before the appropriate jurisdiction. At this juncture, in order not to make an abuse of the process before this Tribunal, the motion for postponement prayed for by the Respondent is granted.

The matter will be called in two months' time for this Tribunal to be apprised of the status of the land *in lite*.

Mrs. V. Phoolchand-Bhadain

Chairperson

Date: 24 May 2022