

**IN THE HIGH COURT OF BOMBAY AT GOA**

**FIRST APPEAL NO. 176 OF 2009  
WITH  
FIRST APPEAL NO. 177 OF 2009  
WITH  
FIRST APPEAL NO. 178 OF 2009  
WITH  
FIRST APPEAL NO. 179 OF 2009**

**FIRST APPEAL NO. 176 OF 2009**

Mr. Durgadas V. Parab,  
R/o F-13, Gomes Catao Complex,  
Rajawada, Mapusa,  
Bardez-Goa.

... Appellant.

Versus

Director of Sport & Youth Affairs,  
Campal, Panaji, Goa.

... Respondent.

Mr. Jitendra P. Supekar, Advocate for the Appellant.

Ms. Purna Bhandari, Additional Government Advocate for the  
Respondent.

**FIRST APPEAL NO. 177 OF 2009**

Mr. Durgadas V. Parab,  
R/o F-13, Gomes Catao Complex,  
Rajawada, Mapusa,  
Bardez-Goa.

... Appellant.

Versus

Director of Sport & Youth Affairs,  
Campal, Panaji, Goa.

... Respondent.

Mr. Jitendra P. Supekar, Advocate for the Appellant.

Ms. Purna Bhandari, Additional Government Advocate for the  
Respondent.

**FIRST APPEAL NO. 178 OF 2009**

Mr. Durgadas V. Parab,  
R/o F-13, Gomes Catao Complex,  
Rajawada, Mapusa,  
Bardez-Goa.

... Appellant.

Versus

Director of Sport & Youth Affairs,  
Campal, Panaji, Goa.

... Respondent.

Mr. Jitendra P. Supekar, Advocate for the Appellant.

Mr. Salvador Rebello, Additional Government Advocate for the  
Respondent.

**FIRST APPEAL NO. 179 OF 2009**

Smt. Chandrakala C. Parab,  
w/o late Shri Chandrakant Parab,  
r/o House No. 130,  
Varchawada, Virnoda,  
Pernem, Goa.

... Appellant.

Versus

Director of Sport & Youth Affairs,  
Campal, Panaji, Goa.

... Respondent.

Mr. Jitendra P. Supekar, Advocate for the Appellant.

Mr. Salvador Rebello, Additional Government Advocate for the Respondent.

**Coram :- U. V. BAKRE, J.**

**Dated :- 16<sup>th</sup> February, 2015**

**JUDGMENT :**

Heard Mr. Supekar, learned Counsel for the appellants in all the above first appeals and Ms. Bhandari, learned Additional Government Advocate on behalf of the respondent in First Appeals No. 176/2009 and 177/2009 and Mr. Rebello, learned Additional Government Advocate on behalf of the respondent in First Appeals No. 178/2009 and 179/2009.

**2.** This common judgment shall dispose of all the above appeals, since they pertain to the plots of land from the same property acquired under the same notification bearing no.

22/13/2006-RD dated 21.04.2006, published in the Official Gazette dated 18.05.2006.

**3.** The above appeals arise out of the judgment dated 02.05.2009, respectively passed in the Land Acquisition Cases No. 56/2008, 53/2008, 55/2008 and 54/2008 by the learned District Judge-1, North Goa, Panaji (Reference Court, for short).

**4.** Land was acquired for construction of International Cricket Stadium at village Thivim in Bardez Taluka, vide the said notification as mentioned aforesaid. This included an area of 290 square metres from Survey No. 430/1-A-7 of village Thivim, belonging to one Lavu S. Parab, which was subject matter of the Land Acquisition Case No. 56/2008; an area of 290 square metres of land was acquired from Survey No. 430/1-A-10 of Thivim village, belonging to one Durgadas V. Parab, which was subject matter of the Land Acquisition Case No. 53/2008; an area of 290 square metres of land was acquired from Survey No. 430/1-A-5 of village Thivim, belonging to the same

Durgadas V. Parab, which was subject matter of Land Acquisition Case No. 55/2008; and an area of land admeasuring 342 square metres from Survey No. 430/1-A of village Thivim, belonging to Smt. Chandrakala C. Parab, which was subject matter of Land Acquisition Case No. 54/2008. Vide judgment dated 18.01.2007, the learned Land Acquisition Officer (L.A.O., for short), awarded compensation at the rate of ₹ 150/- per square metre for the acquired land. Not being satisfied with award made by the L.A.O., the applicant in each cases filed an application under Section 18 of the Land Acquisition Act, 1894 (L. A. Act, for short) for reference that gave rise to the respective Land Acquisition Cases as mentioned earlier. The reference application in Land Acquisition Case No. 56/2008 was filed by said Durgadas V. Parab as Power of Attorney holder of said Lavu S. Parab. The applicant in each case claimed compensation at the rate of ₹ 3,000/- per square metre. An issue was framed accordingly, by the Reference Court, as per the claim of the applicant in each case. In Land Acquisition Case No. 56/08, the applicant examined the Power of Attorney holder Shri Durgadas

V. Parab as AW1. The Power of Attorney is produced as Exhibit 12, in the said Land Acquisition case No. 56/08. In the other Land Acquisition cases, the applicants examined themselves as AW1. In all the cases, the applicants examined a valuer namely, Shri Shivram Dhuri as AW2.

**5.** The applicants mainly relied upon the sale deed pertaining to the plot from the same property bearing survey no. 430/1-A of village Thivim from which the land was acquired. In Land Acquisition Case No. 56/08, the sale deed dated 15/01/1996 was produced, by which the applicant himself had purchased the plot, admeasuring 290 square metres, at the rate of ₹ 138/- per square metre, which was entirely acquired. In Land Acquisition Case No. 53/08, sale deed dated 20/12/1996 was produced by which the applicant himself had purchased the plot admeasuring 290 square metres, at the rate of ₹ 100/- per square metre, which plot was entirely acquired. In Land Acquisition case No.55/08, sale deed dated 20/12/1996 was produced by which the applicant himself had purchased the plot,

admeasuring 290 square metres, at the rate of ₹ 100/- per square metre, which plot was entirely acquired. Lastly, in Land Acquisition case No. 54/08, sale deed dated 15/01/1996 has been produced by which the applicant had purchased a plot admeasuring 342 square metres, at the rate of ₹ 129/- per square metre, which plot was entirely acquired. In the judgment and award dated 02.05.2009, passed separately in each of the cases, the Reference Court fixed the market value of the acquired land at the rate of ₹ 350/- per square metre in Land Acquisition Case No. 56/2008; ₹ 250/- per square metre in Land Acquisition Case No. 53/2008; ₹ 250/- per square metre in Land Acquisition Case No. 55/2008 and lastly ₹ 350/- per square metre in Land Acquisition Case No. 54/2008. It is against the said judgments and awards that the present appeals have been filed.

**6.** During the course of arguments, Mr. Supekar, learned Counsel for the appellants submitted that though the sale deed plots were sub-divided, however, no conversion of land was

obtained at the time of acquisition and the conversion of the said property was obtained on 06.05.1999. He further submitted that this aspect has not been considered by the Reference Court. He further submitted that the applicants had relied upon certain documents regarding allotment of pieces of land by Goa Housing Board. He submitted that in the affidavit-in-evidence, the applicants have specifically stated that they are going to produce the said documents. He further submitted that inadvertently, the said documents are not marked as exhibits in evidence and have not been considered in the judgments passed by the learned Reference Court. He submitted that grave prejudice has been caused to the applicants, since the said documents were of much relevance for determining the true market value of the land. He further submitted that in Land Acquisition Case No. 54/2008, the acquired land admeasured 342 square metres, but in the impugned judgment and award, compensation has been awarded only for 290 square metres. Therefore, the learned Counsel urged that the matter be remanded to the Reference Court by giving

opportunity to the applicants to produce on record the said documents mentioned in the affidavit of the applicants, which documents are as follows:

(a) Offer of allotment dated 27.10.2005 alongwith calculation sheet and order of allotment dated 08.11.2005.

(b) Order of allotment dated 24.11.2005 to Mrs. Ashwini Nilesh Hodarkar alongwith calculation sheet.

(c) Extract of the Minutes of 380<sup>th</sup> meeting, fixing of prices of the lands at different sites of the Housing Board.

**7.** The learned Additional Government Advocates did not have any objection for remanding the matter to the Reference Court for further opportunity to the applicants to produce additional evidence. However, they submitted that if this Court is inclined to give an opportunity to the applicants to produce the said documents, then, the respondents should also be given an opportunity to adduce additional evidence, if any.

**8.** Considering that in Land Acquisition Cases, what the Reference Court is required to do is to determine the fair market value of the acquired land, I am of the view that ample opportunity should be given to the applicants to establish the true market value of the land. It is seen that the documents as mentioned by the applicants in their affidavit-in-evidence are on record. However, the said documents have neither been exhibited nor they have been considered by the learned Reference Court. Hence, in my considered view, a case has been made out for remanding the matters to the learned Reference Court, in the interest of justice. The learned Reference Court shall also take into consideration the inadvertent mistake that has occurred in Land Acquisition Case No. 54/2008, wherein by mistake the compensation has been awarded to an area of only 290 square metres.

**9.** Hence, the following order:

(a) The impugned judgment and award dated 02.05.2009 in all the above appeals is quashed and set aside.

(b) The references stand restored to the file of the Reference Court.

(c) The Reference Court shall give an opportunity to the applicant in each case to produce on record the documents mentioned in the affidavit-in-evidence of the applicants.

(d) The Reference Court shall also give an opportunity to the respondents to adduce additional evidence, if any.

(e) The Reference Court shall pass a fresh judgment, after taking into consideration the observations made above and all the contentions of the parties.

(f) Parties to appear before the Reference Court on 13.04.2015 at 10.00 a.m.

**10.** All the appeals stand disposed of accordingly.

**U. V. BAKRE, J.**

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