

IN THE HIGH COURT OF BOMBAY AT GOA**FIRST APPEALS NO.233 OF 2003, 332 OF 2003 & 246 OF 2004****FIRST APPEAL NO.233 OF 2003**

- 1 Shri Santosh Shivaji Nadkarni
(since dec.) for self and as
Power of Attorney Holder for
the heirs of late :
- 1(a) Smt. Sharmila Santosh
Nadkarni, aged 50 years,
(widow and half sharer)
- 1(b) Shri Santanu Santosh
Nadkarni, (son), aged 23 years,
bachelor
- 1(c) Ms. Siya Santosh Nadkarni,
(daughter), Aged 21 years,
spinster,
All resident of 1st floor, Jovita
Apartments, above Aquem Post
Office, Aquem, Margao,
Salcete-Goa.
- 2 Shivaji D.S. Nadkarni, namely :
- 2(a) Mrs. Nilabai Shivaji Nadkarni
- 2(b) Shri Datta Shivaji Nadkarni
(since deceased)
- 2(b)(a) Mrs. Ranjana Datta Nadkarni,
Aged 61 years (widow and half
sharer)
- 2(b)(b) Shri Shodhan Datta Nadkarni,
(son), aged 36 years, bachelor
- 2(b)(c) Shri Rohan Datta Nadkarni,
Aged 34 years, married to
- 2(b)(d) Mrs. Sneha Rohan Nadkarni,
Aged 32 years, Dentist
All resident of Villa No.2,
Westerlies Complex, Vanelim
Colva, Salcete, Goa.
- 2(c) Shri Sandeep Shivaji Nadkarni

&

- 2(d) Shri Sudin Shivaji Nadkarni
(since deceased)
All R/o. Above Aquem Post
Office, 1st floor, Aquem,
Margao, Goa.
- 2(d)(i) Smt. Amruta Sudin Nadkarni,
major in age, widow
- 2(d)(ii) Miss Arya Sudin Nadkarni,
Daughter, aged 19 years and
- 2(d)(iii) Miss Ramya Sudin Nadkarni,
daughter, aged 15 years,
represented by guardian 2(d)(i)

All residents of H.No.39,
Anagoll Galli, Tilakwadi,
Belgaum, Karnataka State.

.... Appellants

Versus

- 1 The Managing Director, Goa-
IDC, Shree Saraswati Mandir
Bldg., 18th June Road, Panaji,
Goa &
- 2 The Special Land Acquisition
Officer, Goa-IDC, Midas Touch
Bldg., 2nd Floor, Opp. El
Dourado, Plaza, Panaji, Goa.

.... Respondents

Shri R.G. Ramani, Senior Advocate with Shri Pranav Kakodkar, Advocate
for the Appellants.

Shri H.D. Naik, Advocate for the Respondent No.1.

Ms. Sapna Mordekar, Additional Government Advocate for the
Respondent No.2.

**WITH
FIRST APPEAL NO.332 OF 2003**

- 1 The Managing Director, Goa-
IDC, Shree Saraswati Mandir
Bldg., 18th June Road, Panaji,

Goa &

2 The Special Land Acquisition
Officer, Goa-IDC, Midas Touch
Bldg., 2nd Floor, Opp. El
Dourado, Plaza, Panaji, Goa.

.... Appellants

Versus

1 Shri Santosh Shivaji Nadkarni
for self and as Power of
Attorney holder for the heirs
of late Shivaji D.S. Nadkarni

2 Mrs. Nilabai Shivaji Nadkarni

3 Shri Datta Shivaji Nadkarni

3(a) Mrs. Ranjana Datta Nadkarni,

3(b) Shri Shodhan Datta Nadkarni,

3(c) Shri Rohan Datta Nadkarni,

3(d) Mrs. Sneha Rohan Nadkarni,

All resident of Villa No.2,
Westerlies Complex, Vanelim
Colva, Salcete, Goa.

4 Shri Sandeep Shivaji Nadkarni

5 Shri Sudin Shivaji Nadkarni
(since deceased, through LR's)
All residents of above Aquem,
Post Office, 1st Floor, Aquem,
Margo-Goa.

5(a) Smt. Amruta Sudin Nadkarni,
major in age, widow

5(b) Miss Arya Sudin Nadkarni,
Daughter, aged 19 years and

5(c) Miss Ramya Sudin Nadkarni,
daughter, aged 15 years,

All residents of House No.39,
Anagoll Galli, Tilakwadi,
Belgaum, Karnataka State.

.... Respondents

Shri H.D. Naik, Advocate for the Appellant No.1.

Ms. Sapna Mordekar, Additional Government Advocate for the Appellant No.2.

Shri R.G. Ramani, Senior Advocate with Shri Pranav Kakodkar, Advocate for the Respondent No.1.

**AND
FIRST APPEAL NO.246 OF 2004**

- | | | |
|---|--|----------------|
| 1 | The Managing Director, Goa-
IDC, Shree Saraswati Mandir
Bldg., 18 th June Road, Panaji,
Goa & | |
| 2 | The Special Land Acquisition
Officer, Goa-IDC, Midas Touch
Bldg., 2 nd Floor, Opp. El
Dourado, Plaza, Panaji, Goa. | ... Appellants |

Versus

- | | | |
|-----|--|-----------------|
| 1 | Shaikh Abdul Wahab
Since deceased through legal
heirs | |
| (a) | Smt. Dilshada Xec | |
| (b) | Shaikh Parvez | |
| (c) | Shaikh Inrahim | |
| (d) | Shaikh Adnan | |
| | All above are residents of
Muslim Wada, Sanguem-Goa. | |
| 2 | Smt. Sharifam Bi | |
| 3 | Shaikh Mohamed Shakir | |
| 4 | Shaikh Mohamed Suel, minor,
in the company of Smt.
Sharifam Bi | |
| | All residents of Muslim Wada,
Sanguem, Goa. | ... Respondents |

Shri H.D. Naik, Advocate for the Appellant No.1.

Ms. Sapna Mordekar, Additional Government Advocate for the Appellant No.2.

Shri Sudesh Usgaonkar with Ms. A. Pereira, Advocate for the Respondents No.1 & 2.

**Coram:- DAMA SESHADRI NAIDU &
SMT. M.S. JAWALKAR, JJ.**

Date:- 15 January 2021

JUDGMENT :

This is an appeal by the Goa Industrial Development Corporation against the enhanced award of compensation passed by the Reference Court. We may set out the facts of the case to appreciate the controversy.

2. It all began over two decades. On 02.04.1998, the Special Land Acquisition Officer issued Section 4 notification proposing to acquire the lands to set up an industrial estate at Xelpem and Cotarlim village. Then, followed by Section 6 declaration, the Government eventually acquired 1,16,83 square metres in Survey No.5. Then, the Land Acquisition Officer passed the award on 14.08.2001 fixing the rate of compensation at ₹7.00 per square metre for cashew garden, ₹8.00 per square metre for coconut garden and ₹6.00 per square metre for bharad land. Aggrieved, the respondent land owner went in appeal by invoking Section 18. Through its award dated 05.06.2004, the Reference Court enhanced it to ₹28.00 per square metre. This time the Goa Industrial Development Corporation was aggrieved. Therefore it has filed this first appeal.

3. Under similar circumstances, the Government has filed the other First Appeals : 332/2003 and 246/2004. Though the facts are slightly different in these appeals it arises out of the same notification under similar statutory background. Therefore, we do

not think that the second appeal requires any separate adjudication. It suffices if we dispose of both the appeals by common judgment.

4. Heard the learned counsel for the appellants and the learned counsel for the respondents in both the appeals. Indeed, the respective counsel on both sides have advanced elaborate arguments and they have contended in support of their rival contentions. According to the appellants, the enhancement has been on the higher side. On the other hand, the respondent in First Appeal No.233/2003 has insisted that the award is inadequate and needs to be revised at a higher side.

5. In this context, Shri Naik, the learned counsel, for the Goa Industrial Development Corporation has brought to our notice a judgment dated 15.09.2004, rendered by the Division Bench of this Court, that judgment too concerns the same notification. Though the lands are situated in a neighbouring survey number, we reckon, the reasoning of that judgment squarely applies to the facts of these cases. In that case, the Reference Court revised the Land Acquisition Officer's award and fixed the compensation at ₹23.40 paise per square metre. On appeal this Court has raised that to ₹23.40 paise.

6. Given the slight variation, in the nature of the land acquired, under proximity in Survey No.5, 16/2 (part) and 17/2 (part) the revisional Court has fixed the compensation at ₹28.00 per square metre. After perusing the record, we find that the enhancement as effected by the Reference Court does not seem to be excessive. On the contrary, it is just and proper compensation calling for no interference. Therefore, on the same premise, we must also held that the cross appeal filed by one of the land owners also should fail.

7. We, accordingly, dispose of both the appeals confirming the award passed by the Reference Court.

SMT. M.S. JAWALKAR, J.

DAMA SESHADRI NAIDU, J.

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NITI K
HALDANKAR

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