(2010) 11 BOM CK 0067

In the Bombay High Court

Case No : First Appeal No. 138 of 2008

Goa Industrial Development Corporation APPELLANT

Vs

Comunidade of Cortalim RESPONDENT

Date of Decision : 26-11-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 4

Citation : (2010) 11 BOM CK 0067

Hon'ble Judges : F.M. Reis, J;A.S. Oka, J

Bench : Division Bench

Advocate : M.S. Sonak, for the Appellant; S.D. Padiyar, for the Respondent

Final Decision : Allowed

Judgement

F.M. Reis, J.—The above appeal challenges the judgment and award passed by the learned District Judge, South Goa, Margao in Land Acquisition Case No. 73/2000 dated 12.9.2007.

2. The Government pursuant to the Notification dated 5.10.1987 published u/s 4 of the Land Acquisition Act intended to acquire an area of 18,668 sq. metres from the property bearing survey No. 158, an area of 19,707 sq. metres from the property bearing survey No. 159, an area of 5,875 sq. metres from the property bearing survey No. 159 and an area of 1,625 sq. metres from the property bearing survey No. 160 for the benefit of the Appellants, belonging to the Respondent No. 1 for setting up an Industrial Estate at Verna Plateau. By an award passed u/s 11 of the Land Acquisition Act (hereinafter referred to as the said Act), the Land Acquisition Officer awarded compensation at the rate of Rs. 8/- and Rs. 3/- per sq. metre depending upon the nature of the property. Being dissatisfied with the said amount, the Respondent No. 1 sought a reference u/s 18 of the said Act for enhancement of the compensation and claimed a compensation at the rate of Rs. 200/- per sq. metre for the land acquired, besides a sum of Rs. 500/- towards the trees. By judgment and award dated 12.9.2007 the Reference Court partly allowed the said reference and awarded

compensation of Rs. 54/- per sq. metre for the land acquired besides statutory benefits. Being aggrieved by the said award, the Appellants who are the acquiring body, preferred the present appeal.

3. Shri M. S. Sonak, learned Counsel appearing for the Appellants has assailed the impugned judgment and submitted that the Reference Court has totally erred in enhancing the compensation to Rs. 54/- per sq. metre for the land acquired. He further submitted that there was absolutely no material on record for the Reference Court to enhance the compensation as awarded by the LAO. The learned Counsel has further submitted that the Reference Court has totally misdirected in coming to the conclusion that the acquired land was similar to the land which was subject matter of the acquisition in Land Acquisition Case No. 23/1987. He further submitted that the Reference Court has erred in coming to the conclusion that the land in the present case was superior to the land purchased by one Bepari involving 559 sq. metres. The learned Counsel has further submitted that the Reference Court has erred in relying upon the award dated 28.2.1989 passed in case No. 99/43/L.A./85-86. The learned Counsel further submitted that the awards produced at exhibit 24 and 25 could not even be relied upon by the Reference Court to determine the market value of the acquired land. The learned Counsel had further submitted that the belting method resorted to by the Land Acquisition Officer was not even challenged by the Respondent No. 1 and as such, the Reference Court has totally misdirected in refusing to rely upon the said belting method which had bifurcated the properties in the manner of its respective nature. The learned Counsel further submitted that the lands acquired were Communidade lands which were restricted properties for transferring to third parties and as such, the question of relying upon the sale instances of free hold land would not arise at all. The learned Counsel further submitted that the lands acquired were in remote place wherein no development was seen as on the date of notification and as such, the Reference Court had erred in enhancing the compensation to Rs. 54/- per sq. metre. The learned Counsel further submitted that the Division Bench of this Court in First Appeal No. 318/2003 had occasion to decide the compensation for the land belonging to Respondent No. 1 located in one of the survey numbers, which is subject matter of the land acquisition bearing survey No. 158 (part), wherein an area of 3140 sq. metres was acquired for the Verna Industrial Estate (Phase II) in respect of the notification issued u/s 4 on 22.3.1990.

4. On the other hand, Mr. S. D. Padiyar, learned Counsel appearing for Respondent No. 1 has supported the impugned judgment. The learned Counsel submitted that in the evidence adduced by Respondent No. 1 it is established that the price awarded by the L.A.O was inadequate. He further pointed out that the Reference Court has minutely considered the evidence adduced by Respondent No. 1 and has enhanced the compensation to Rs. 54 per sq. metre. The learned Counsel further submitted that the Reference Court had relied upon the comparable sale instance which included the award passed in land acquisition case for arriving at the market value of the land acquired as on the date of

notification. Learned Counsel further submitted that the Appellants have failed to adduce any evidence to substantiate their contention that the price offered by the Land Acquisition Officer was just and proper. The learned Counsel in support of his submission has relied upon the judgment of the Apex court reported in (2008) 14 SCC 745 in the case of General Manager, Oil and Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel and Anr. He also relied upon the judgments of the Apex Court in The All India Tea and Trading Co. Ltd. Vs. The Collector of Darrang and Another, . State of Goa and Another Vs. Gopal Baburao Gaudo and Others, , The Deputy Director, Land Acquisition Vs. Malla Atchinaidu and Others, And Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, . He as such submitted that there is no infirmity committed by the Reference Court while enhancing the compensation and as such no interference is called for by this Court in the judgment and award passed by the Reference Court.

5. After hearing the learned Counsel and on perusal of the record, we find that the following point for determination arises in the present Appeal:

POINT FOR DETERMINATION

1. Whether the reference court was justified to come to the conclusion that the market price of the land was Rs. 54/- per sq. metre?

6. A.w.1 Peter Carvalho has deposed on behalf of Respondent No. 1. He has stated in his affidavit that a total area of 45,875 sq. metres was acquired belonging to Respondent No. 1 from the property surveyed under No. 158/1, 159/1 and 160/1 for setting up an Industrial estate at Verna Plateau. He further stated that the land was flat land ideal for construction and it was 500 metres away from Nagoa market; besides there were three schools within a radius of 1500 metres and the post office was at a distance of 2 kms. from the acquired land. He has further stated that in Land Acquisition Case No. 116/1989 property of one Grenville Pereira was acquired admeasuring 3500 sq. metres situated at Verna for the Verna bypass road wherein the amount was awarded of Rs. 79 per sq. metre. He has also stated that by sale deed dated 1.10.1986 land touching the high way was sold for Rs. 95/- per sq. metre and such land was touching the opposite side of the highway and was just 25 metres away and similar to the land acquired. He has also produced an award dated 5.1.1994 of the learned District Judge wherein an area of 25,000 sq. metres was valued at the rate of Rs. 40/- per sq. metre in L.A.C. No. 23/1987. He stated that the said land was at a distance of 300 metres and was hilly and sloppy. He has also produced an award in LAC No. 269/1988 in respect of the property of one Agnelo Machado and another pertaining to property surveyed under No. 48/2 and 46/6 acquired for the construction of Verna bypass and was situated at a distance of 700 metres from the acquired land. He further stated that the land which was the land acquired was superior to the subject matter of the land acquired in LAC No. 23/1987. He further stated that the Kesarval Motel which is a three star hotel had come up in the year 1996 which was in the vicinity of the acquired land. He

has further relied upon a sale deed of one Ismael Bepari of Quelossim village which is 2 kms. away wherein a plot was sold at Rs. 87/- per sq. metre. He has also relied upon the award in case No. 99/43/L.A/85-86 wherein by award dated 28.2.1989 the Land Acquisition Officer awarded Rs. 65/- per sq. metre for an area admeasuring 5350 sq. metres from survey No. 5 of Sancoale village.

7. In his cross examination he has stated that the acquired land was touching the National Highway proceeding from Margao to Panaji for a length of 350 metres. He further stated that apart from one structure, there was no construction activity in the acquired land. He did not agree with the suggestion that the acquired land was earmarked as Export Promotion Zone and yet it was only the Industrial Development Corporation who could deal with the said land. He has voluntarily stated that the zone can be changed by the authorities at any time. The remaining cross examinations are merely denying the suggestions put forward by the Appellants.

8. The next witness examined is Shri Krishna P. Prabhu Dessai who is a Civil Engineer. He has stated that he had visited the acquired land on 7.4.1988. He has stated that the length along the highway of the acquired land was 340 metres and the right of way was 30 metres. He has further stated that there was heavy demand for land within 500 metres from the highway. He has stated that there was heavy demand for properties for erecting the advertisement hoardings. He has further stated that the land coming under the unacquired road widening area was undevelopable/Economic Processing Zone which was very much useful as a infrastructural asset towards parking facilities for any sort of developments in the area. He has further stated that the land beyond the Communidade land belongs to V. M. Salgaonkar and others and as such, the land of the owners abutting the highway had high demand for providing major access to the larger land located beyond the road widening area. He has further stated that the acquired land is flat in its entire stretch and is suitable for construction purpose. He has further stated that the land acquired under the 20 Point Programme is situated nearby. He has further stated that the acquired property is in Economic Processing Zone. He has confirmed the distance from the civic amenities to the acquired land. He has further stated that Kesarval spring is located 500 metres distance from the acquired land. He has further stated that the acquired land is having free planning advantage and has confirmed the similarities of the acquired land vis a vis the sale instances produced by Respondent No. 1. He has commented upon the award passed by the Land Acquisition Officer in his affidavit. He has further stated that the acquired land does not have any tenanted paddy fields or quarry or valley. He has further stated that the Buffer zone can extend only upto 30 metres in view of the restrictions imposed due to the road widening for the National Highway. He as such valued the acquired land at the rate of Rs. 100/-per sq. metre. He has produced the Valuation Report which is at exhibit 30.

9. In his cross examination he has stated that only 10 to 20 hectares of land is

available for development in the area. He has stated that the land of V. M. Salgaonkar is located on the eastern side and is in Quelossim village and is adjacent to the acquired land. He has denied the suggestion that there were stone quarries and paddy fields in the acquired land. He has further stated that the acquired land is at a distance of 300 metres from the land acquired in 20 Point Programme, admeasuring 25,000 sq. metres and that there was a distance of 70 metres between the National Highway and the land which was acquired for 20 Point Programme. He has further admitted that the sale deed dated 25.9.1984 is much smaller plot as compared to the acquired land and the distance is 2.5 kms. towards Quelossim side. He has further stated that the sale deed dated 1.10.1986 is at a distance of 30 metres from the acquired land. He has further stated that there are 4 high schools within a distance of 3 kms. from the acquired land and the remaining part of the cross examination is denying the suggestions put forward by the Appellants.

10. The Next witness, Edmundo Carvalho is A.w.3 who is an Architect. He has stated that the land of Respondent No. 1 is flat and bharad land ideal for construction having a structure therein and was touching the National Highway with a frontage of about 350 metres. He has stated about the similarities between the acquired land and the sale instances produced by Respondent No. 1. In his cross examination he has stated that he is the brother of A.w.1. He has further stated that he does not know the area which is acquired of Francis Almeida. The remaining part of the cross examination is denying the suggestions put to the said witness.

11. A.w.4, Grenville Pereira is one of the claimants in respect of the land which was the subject matter of the acquisition, in Land Acquisition Case No. 116/1989 and he has confirmed the award passed therein. In his cross examination he has stated that there are no residential houses in the acquired land but such houses are at a distance of 2 kms. from the acquired land.

12. The Appellants have examined Parmanand Gaonkar as R.W.1. In his affidavit he has stated that he is a Civil Engineer and he was posted at Verna in the year 1989 as Field Manager. He has stated that total land acquired admeasures 8,62,562/- sq. metres for setting up the Industrial Estate at Verna Plateau. The said land was undulating terrain and mostly rocky in nature. There were stone quarries and blasting depressions of sizable area and some low lying valleys varying from 3 to 4 metres which required substantial filling. He has further stated that there was no water supply arrangement at the site and the scheme to provide such water supply by the PWD was to cost Rs. 120 lakhs. He further stated that an area of 45,875 sq. metres belonging to Respondent No. 1 was acquired from Nagoa village which was classified as barren land touching the National Highway. He has further stated that the acquired land was kept as open space as the same was not utilised for Industrial purpose. He has further stated that the said land was earmarked as Export Promotion Zone in the Regional Plan for Goa and as such only the Goa Industrial Development Corporation could sell

the said land. He further stated that there was no basic infrastructure available at the site and the closest market place was at a distance of 3 kms. from the acquired land. He has further stated that the land, subject matter in Land Acquisition Case No. 116/1989 was located in a developed zone which is a smaller developed plot having entire basic infrastructure.

In the cross examination he has stated that in the year 1987 he was working at Bethora Industrial Estate and he had come to Verna only in the year 1989. He further stated that he was unable to state whether the quarries, pits and low lying areas were located in the property of Respondent No. 1. He has admitted that the acquired land is in Cortalim village and not Nagoa. He has denied the suggestion that the land of Respondent No. 1 was not kept as open space and could not be utilised for industrial purpose. He denied the suggestion that the Regional Plan was not finalised. He admitted that the acquired land was abutting the National Highway. He has admitted that a road was constructed leading to the land acquired for 20 Point Programme from the National Highway No. 17.

13. The Reference Court has relied upon the award in LAC No. 116/1989 wherein the compensation was fixed at Rs. 79/- per sq. metre after deduction towards development charges on non developed acquired land as well as the fact that the land was reserved for Export Promotion Zone and as such has fixed the compensation at the rate of Rs. 54/- per sq. metre.

14. On perusal of the judgment passed by the Division Bench of this Court in First appeal No. 318/2003, we find that the subject matter of the acquisition in the said case was part of the property surveyed under No. 158 which is also one of the properties which is the subject matter of the present acquisition. The area involved therein was 3140 sq. metres and the relevant date of notification was 22.3.1990. The lands which are subject matter of the present acquisition are surveyed under Nos. 158 admeasuring 18,668 sq. metres, 159 admeasuring 5,879 sq. metres, and 160 admeasuring 1,625 sq. metres. which have been classified in the award passed by the Land Acquisition Officer as Bharad Belt - I. The remaining portion of the land which is subject matter of the acquisition admeasuring an area of 19,707 sq. metres, located under survey No. 159 is classified as located in buffer zone. The buffer zone according to the Land Acquisition Officer is the area which is reserved for the purpose of road widening in view of the National Highway towards the western side of the present acquired land. There is no dispute that apart from the land which was located within the road widening area, the Respondent No. 1 was owning more land beyond the area earmarked for road widening. The Apex Court in the judgment of State of Goa and Anr. (Supra) has held at para 5, 6 and 7 thus:

5. The contention that a land adjoining the highway should be treated as having no development potential (and therefore as land without much value except as ordinary agricultural land), while considering the lands to its rear which are farther away from the road, or other adjoining lands of the same extent, but having more depth (so as to extend beyond the 40 m. margin) as having

potential for development, is illogical and cannot be accepted.

6. We may demonstrate the absurdity of such a contention with reference to an illustration. Let us take the example of a residential plot of land measuring 60 x 100. Let us assume that the municipal bye-laws require a front (roadside) set back of 20 for construction of houses in a plot of that size. Therefore, the owner would leave a twenty feet wide front strip in the said plot free of any construction while putting up the construction in the plot. Obviously, he cannot thereafter construct in that front strip. Let us further assume that the front strip is acquired for road widening. Can the acquiring authority deny compensation to that strip on the ground that the said 20 strip acquired for road widening could not in any event be used for any construction purpose and therefore, was not of any value? Obviously not.

7. Therefore, determination of market value of the acquired land with reference to the value of comparable land cannot be faulted.

In view of the said judgment of the Apex Court, merely because the said area abuts the National Highway, it cannot be said that the land which belonged to the Respondent No. 1 had no development potential.

15. This Court while disposing of the said appeal has relied upon most of the sale instances which were relied in the present case in support of the claim of the Respondent No. 1 for enhancement of the compensation. After considering all the sale instances, this Court has relied upon the judgment passed in First Appeal No. 300/2003 wherein the compensation was fixed at the rate of Rs. 48/- per sq. metre in respect of land acquired by the same notification as in the year 1990. This Court on account of dissimilarities reduced 10% and fixed the market value at the rate of Rs. 43/- per sq. metre. Even considering the award in LAC No. 23/1987, the Division Bench of this Court came to the conclusion that after effecting deduction on account of the development charges, the market value of the acquired land would be Rs. 43/- per sq. metre. We find that for the purpose of determining the market value of the present land acquired, the award in LAC No. 116/1989 and the judgment passed by this Court could form the basis for the purpose of determining the compensation payable to the Respondent No. 1.

16. The land which is the subject matter of said acquisition in the award at exhibit 19 in LAC No. 116/1989 is said to be at a distance of 500 metres from the acquired land. The Notification u/s 4 of the said Act was published in December 1985 with regard to the said acquisition. While in the present case the notification has been issued in October 1987, that is after a period of nearly two years. After escalation of 7% per annum being located in the rural/semi rural area, the amount would work out to Rs. 90/- per sq. metre approximately. The Apex Court in the judgment reported in Subh Ram and Others Vs. Haryana State and Another, has held at paras 12, 13, 14, 15 as under:

12. In a standard layout with plots measuring say 2500 sq ft (50'' x 50'') each, to provide road access to each plot, it will be necessary to provide a road after

every two rows of plots. If the depth of each plot is 50'', and if the road width is 25 ft, then for every two strips of plots, there will have to be a strip of road of 25 ft. This means a minimum of 25% of the total land area will be utilised for roads. A typical layout will also have cross-roads, and areas earmarked for park, and/or community areas. Consequently non-saleable area (area which cannot be sold as plots) would be around 30% to 40% of the total area.

13. Therefore, in the hypothetical layout method of determination of market value, as a first step, the areas that will be used up for roads, drains, parks/ playgrounds and community areas, will have to be excluded from the total extent of the acquired land. The standard deduction in this behalf is one-third (33%).

14. But merely deducting the areas required for roads, drains, parks and community areas, will not convert a large tract of agricultural or undeveloped land into a developed residential layout. For that, considerable financial outlay has to be made. The land will have to be levelled. The land will have to be converted from agricultural use to non-agricultural residential use by paying necessary fees/fine to the Revenue/development authorities. Then the roads will have to be asphalted or concreted. Drains will have to be dug and lined with reinforced cement concrete or stone, for drainage of rainwater. Electricity, water, and sewage lines will have to be laid. Deposits will have to be made to the authorities dealing with electricity, water and sewage removal. The development will also involve the service of surveyors, engineers and developers. All these involve considerable expenditure. Further, as there will be a time gap between the expenditure for development and the actual sale of plots, the cost of development will also have an element of interest on investment. The developer who undertakes the development and invests the monies for development would also expect a reasonable profit when the plots are sold. All these expenditure and factors are standardised into another one-third (33%) deduction towards expenses of development.

15. Thus, if the valuation of a large extent of agricultural or undeveloped land is to be based on the sale price of a small developed plot in a private layout, then the standard deductions should be one-third (for roads, etc.) plus one-third (for expenditure of development), in all two-thirds (or 67%), as "development cost" from the value of small plot. The percentage of deduction may however vary between 20% to 75% depending on several circumstances.

17. In the present case there is no dispute that the acquired land had frontage of 340 metres and it is well known that land having frontage to the road has definitely more value than the land located in the interior. The Apex Court has held that the deduction can range from 20% to 75% depending upon the locality and other features. The deduction towards open spaces normally would be 33% and Anr. 33% for development charges for the area of Bharad Belt I. As far as the area located in the buffer zone is concerned, we find that a further deduction would have to be given due to statutory restriction in development in road widening area. As such, for such area of 19,707 sq. metres the compensation

would have to be reduced. We find that the classification done by the LAO has not been challenged by the Respondent No. 1 and in any event the expert examined by the Respondent No. 1 has admitted that a substantial area comes within the buffer zone. The area involved in the said acquisition in LAC No. 116/1989 was 3,500 sq. metres. Apart from that provisional sanction for development was already obtained on the basis of the plan submitted for conversion. In the present case no such permission is obtained. Besides that there would be restrictions with regard to the land which is coming within the road widening area. The area involved in the present acquisition is 26,190 sq. metres besides the area within the buffer zone. On account of largeness the deduction would be 25%. The other dissimilar factors are that, provisional NOC was issued for the land in the said acquisition by the local panchayat for the purpose of development. The said land was closer to Margao city and nearer to the market place and banks etc. in Nagoa village and the development in the land acquired in the present case was at an initial stage. For all these factors a further deduction of 35% would have to be effected. Considering all the said factors we find that an aggregate deduction of 60% would be just and proper. The amount as such would work out to Rs. 36/- per sq. metre approximately for the area beyond the buffer zone. As far as the area coming in the buffer zone, we find that in view of the restrictions imposed in the said area as no development can be carried out therein, the said area can be utilised only for the purpose of calculating the FAR and as an access to the remaining area of the land of the Respondent. As such, a further deduction of 20% would be just and appropriate. The value of the said area of 19,707 sq. metres within the buffer zone works out to Rs. 30/- per sq. metre approximately. The judgments relied by the learned Counsel for Respondent No. 1 enumerate the well settled principles of law to the effect that the previous awards would be material for determining the market value of the land. Even if one considers the judgment passed in First Appeal No. 318/2003 wherein one of the survey number was 158 belonging to the Respondent No. 1 we find that whilst determining the compensation therein at the rate of Rs. 43/- per sq. metre, this Court relied upon the judgment passed in First Appeal No. 300/2003 where the amount was fixed at Rs. 48/- per sq. metre. This Court deducted 10% as the portion of the land therein acquired was not adjoining the main road. In the present case the land acquired is adjoining the main road and this factor will have to be considered though part of the land is from the same survey number.

18. In the year 1987 the Industrial Estate had not come up and the land was located in the rural area as the development of the industrial estate was at the initial stage. The Apex Court in the judgment reported in (2008) 14 SCC 745 in the case of General Manager, Oil and Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel and Anr. at paras 12, 13 and 14 has held thus:

12. We have examined the facts of the three decisions relied on by the Respondents. They all related to acquisition of lands in urban or semi-urban areas. Ranjit Singh related to acquisition for development of sector 41 of

Chandigarh. Ramanjulu related to acquisition of the third phase of an existing and established industrial estate in an urban area. Bipin Kumar related to an acquisition of lands adjoining Badun-Delhi High way in a semi urban area where building construction activity was going on all around the acquired lands.

13. Primarily, the increase in land prices depends on four factors; situation of the land, nature of development in surrounding area, availability of land for development in the area, and the demand for land in the area. In rural areas, unless there is any prospect of development in the vicinity, increase in prices would be slow, steady and gradual, without any sudden spurts or jumps. On the other hand, in urban or semi-urban areas, where the development is faster, where the demand for land is high and where there is construction activity all around, the escalation in market price is at a much higher rate, as compared to rural areas. In some pockets in big cities, due to rapid development and high demand for land, the escalations in prices have touched even 30% to 50% or more per year, during the nineties.

14. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for 26 years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore, if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is, about 5% to 7.5 % per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same.

The Apex Court has held therein that in the rural areas the price rise would approximately be 5 to 7.5% per annum. Considering the location of the land acquired, we find that the escalation would be assessed at 7% per annum. As the price in the year 1990 has been assessed at Rs. 43/- per sq. metre, for the land surveyed under No. 158 and Rs. 48/- per sq. metre in the other appeal, we find that in the year 1987, an amount of Rs. 36/- per sq. metre would be just and proper considering the features stated above. The Reference Court erred in relying upon the award in LAC No. 116/1989 to fix the market value of the acquired land at Rs. 54/- per sq. metre without considering the dissimilarities stated above. The Reference Court failed to note that the area involved therein was only 3500 sq. metres while in the present case the area was more than 8 times and the deduction ought to have been much higher as stated above. In any event in First Appeal No. 300/2003, we have considered the said award and fixed the compensation at the rate of Rs. 48/- per sq. metre for the land acquired in the year 1990 and in First Appeal No. 318/2007 at the rate of Rs. 43/- per sq. metre for an area of about 3000 sq. metres. Considering the rate of escalation of

7% per annum, the value works out to Rs. 36/- per sq. metre approximately for the land located in Bharad Belt I. The remaining area admeasuring 19,707 sq. metres which is located in the buffer zone would require a further reduction of 20% on account of the restrictions in the development of road widening area which would work out to Rs. 30/- per sq. metre. Thus considering the award in LAC No. 116/1989 and the judgment passed by this Court in First Appeal No. 300/2003 and First Appeal No. 318/2003, the market value of the land acquired works out in the manner stated above. The point for determination is answered accordingly.

19. In view of the above, we pass the following:

ORDER

The appeal is partly allowed.

The impugned judgment and award dated 12.9.2007 passed by the District Judge, South Goa, Margao is modified as follows:

(i) for an area of 26,172 sq. metres from the property surveyed under Nos. 158(part), 159 (part) and 160(part) the compensation is fixed at the rate of Rs. 36/- per sq. metre.

(ii) For an area of 19,707 sq. metres the compensation is fixed at the rate of Rs. 30/- per sq. metre.

The remaining part of the award granting statutory benefits is confirmed.

The Registrar is directed to calculate the amount in accordance with the above judgment within 3 months from today and disburse the amount payable to the Respondent No. 1 with interest accrued thereon. The excess amount shall be refunded back to the Appellant with interest accrued thereon.

The appeal stands disposed of accordingly with no order as to costs.