

Case No. X/4/DY. COLL/LA/95.

Project:- Land Acquisition for implementation
of Housing Schemes of the Board at
Bandera Village in Ponda Taluka.

A W A R D

The Land Acquisition proceedings commenced with the publication of Notification issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act) bearing No. 22/61/95 -RD dated 20/9/1995 published in Official Gazette on page 310 Series II No. 32 dated 9/11/95 and in two local newspapers viz: 1. Gemantak dated 2/12/95 and 2. Gemantak Times dated 29/9/1995. The requisite public notices under Section 4 (1) of the said Act. were issued and published at concerned places through the Mamlatdar of Ponda on 16.1.1996. In the said Notification Government has made applicable the provisions of Sub Section (1) of Section 17 of the Land Acquisition Act, 1894 and therefore Government further directed under Sub-Section (4) of Section 17 of the said Act that the provision of 5A of the said Act shall not apply in respect of the land under acquisition. The Deputy Collector (LA), Collectorate of North Goa District, Panaji was appointed under clause (e) of Section 3 of the said Act, to perform the function of the Collector of North Goa District, Panaji.

2. Although the provision of Section 17(1) of the Land Acquisition Act, 1894, i.e. the urgency clause is invoked

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in the notification no. 4 in order to confirm the factual position of the land in question, on receipt of survey report survey plan from Acquiring Department a site inspection was carried out by my predecessor on 10/1/1996 and the 5A report was submitted to the Government which was approved. A declaration under Section 6 of the said Act was made in Government Notification No. 22/61/95-RD dated 13.2.1996 published on page 452 (Extraordinary) of Series II No.46 of the Official Gazette dated 15.2.1996 and in two local newspapers namely Tarun Bharat dated 20/2/1996 and O Heralde dated 19/2/1996 declaring Government's intention to acquire the land specified in the schedule attached to the said Notification for the public purpose, viz : Land Acquisition for implementation of housing Scheme of the Board at Bandera Village in Ponda. The Deputy Collector(LA) Collectorate of North Goa District, Panaji was appointed to perform the functions of the Collector for all proceedings in respect of the said land and was directed under Section 7 of the said Act to take order for the acquisition of the said land. Government applied provision of Sub Section (1) and (4) of Section 17 of the land.

3. The land to be acquired has been properly surveyed and demarcated with boundary stones and the plans and survey reports prepared. The Survey report incorporates the particulars of the land to be acquired. The plan so prepared which has been referred to the last para of

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the Government Notification dated 13.2.1995 was kept for public inspection in this office alongwith the survey report.

4. The requisite public notices under Section 9 & 10 of the said Act were issued and published at the appropriate places on 6/3/1996 through the Mamlatdar of Ponda. Individual notices were also served on the interested persons in the manner prescribed under Section 45 of the said Act. Thereafter the site inspection was carried out by me on 23.8.1996 in order to ascertain the area to be acquired as well as the plots of the Sales statistics in order to determine the market rate of the land in question in presence of the representative of the Acquiring Department, i.e. the Goa Housing Board, Alto Perverim.

TRUE AREA AND NATURE OF THE LAND.

5. The total area proposed in the Government Notification No.22/61/95-RD dated 20/9/1995 under section 4 of the Act was 80,000-00 sq.mts, but in the Notification No.22/61/95-RD dated 13.2.1996 issued under Section 6 of the said Act, only an area of 78,000-00 sq.mts which is actually required for the above purpose was notified after preparing the survey report and survey plans. No one has objected to the measurement of the land proposed in the Notification under Section 6 of the Act, as such I hold that 78,000-00 sq.mts is the true area of the land for the purpose of this award. The land being acquired has been classified

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as per survey record as Bharad by nature. During the course of inspection it is seen that the land is partly hilly and slightly sloppy, having small plain area in the middle.

COMPENSATION

6. The public and individual notices were issued as per the names of the interested persons mentioned in the schedule attached to the above notification and the claim of compensation filed by them are shown in the Statement 'A' appended hereto.
7. The compensation in respect of the land under acquisition is to be determined taking into consideration the various factors as stipulated in Section 23 of the Land Acquisition Act, 1894. One of the factor is the market value of the land under acquisition on the date of publication of the Notification under Section 4 (1) of the Act, besides the nature, situation as well as potentiality of the land in question.
8. In response to the notices issued u/s 9 & 10 of the Land Acquisition Act the interested parties have filed the claim application and has claimed the compensation @ Rs.500/- and Rs.600/- per sq.mt. respectively. It is contended by them that the land being acquired is situated within the circumference of the tourist cottages of the Tourist Department and renovated temples of Tourist

attraction, so also within a distance of 1 km from the land under acquisition Housing Board has already acquired, developed the plots and the same are sold @ Rs.1000/- per sq.mt. However, in support of their contention they did not adduce any documentary evidence to sustain their claim of compensation. However, I cannot accept their claim of compensation because the land being acquired is very much under developed, which requires ample expenditure to level it, as compared to the one developed plots in the vicinity as indicated by the interested parties.

9. In order to determine the market rate of the land in question, the Mamlatdar of Ponda was instructed to furnish the sales statistics of the plots sold in the vicinity. He has done so vide his letter No.15/CI(1)/LAQ/4/96/304 dated 6.2.96 as detailed below:-

Sr. No.	Date of Execution.	Survey No. Sub Div.No.	Area in sq.mts.	Total amount.	Rate per sq.mt.
1	2	3	4	5	6
1.	26.3.92	224/3	311.00	Rs.62,000/-	Rs.199/-
2.	24.5.93	7/4	408.38	Rs.46,500/-	Rs.114/-
3.	13.9.94	155/1	20625.00	Rs.86,419/-	Rs.4.20

10. The above said plots of land mentioned in the Sales Statistics Report were inspected by my predecessor in presence of Talathi of Bandera Village and the representative of the Housing Board on 12.7.1996. All these plots are situated at one to two kms away from the land under acquisition. The

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plot At Sr.No.1 is a developed plot situated, at about one km. from the land under acquisition and is situated in the residential locality having access from the road and also Electricity etc. The plot at Sr.No.2 is located at a distance of about 1 1/2 km near the developed residential colony having approach road, electricity etc. The plot at Sr.No.3 is located at a distance of about 2 kms from the land under acquisition in the residential locality near Mahalaxmi temple at Bandara. Besides these my predecessor had inspected the plots developed by the Housing Board which are located on the Panaji-Ponda road opposite New Kadamba Stand at a distance of about 1 1/2 km from the land under acquisition. These plots are having all infrastructural facilities.

11. The plots at Sr. No.3 is sold in the year, 1994 whereas the plot at Sr.No.1 and 2 were sold in the year 1992-93 respectively. The per sq.mt rate of the plot at Sr.No.1 and 2 although high but these plots are the developed residential plots provided with all the infrastructural facilities and therefore for deciding the compensation weightage is required to be given to the rate of plot No.3 above these plots. Also the plot at Sr.No.2 and 3 are having an area of 300.00 sq.mts and 408.00 sq.mts respectively whereas the area of plot at Sr.No.3 is 3000.00 sq.mts and therefore in deciding the compensation for the land under acquisition which is 78,000-00 sq.mts the rates of small plots cannot be taken into consideration.

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12. In view of the fact that urgency clause u/s 17 (1)(4) was invoked with instant proceedings the then Dy. Collector(LA) had calculated 80% of the approximate estimate cost i.e. Rs. 9,36,000/- (Rupees nine lakhs thirty six thousand only at the rate of Rs.15/- per sq. mts. The said amount was already received from the Acquiring Department i.e. Goa Housing Board, Alto Perverim, vide their letter No.GHB/TECH/1966/96 dated 23.3.1996, however the said amount was deposited under Revenue Deposit, as the 80% could not be paid to the interested parties as there found to be a dispute amongst the interested parties, although as there was no objection among them, the possession of the land in question was taken over and handed over to the Acquiring Department on 28/5/1996.

13. Now, while determining the market rate of the land in question it has to be taken into account the nature and situation of the land. During the course of site inspection I observed that the land proposed for acquisition is situated close to the land acquired for tourist cottages at Farmagudi Ponda, although it is classified as Bharad land, it has 85% of rock sheets. It is at level in middle and thereafter it is slightly sloppy and hilly at the end of both North and South sides. Furthermore it is situated at the height of 26 mts to 40 mts from the existing road proceeding to Engineering College towards North South direction of the plot.

In view of uneven situation a lot of development work to bring it at level with the road has to be implemented for which lot of expenditure will incur. Considering all these aspects and other factors involved for developing such underdeveloped plots I felt that compensation @ Rs.10/- (Rupees ten only) per sq.mts. will be adequate and fair one, and therefore I fix the abovesaid rate of compensation of the land being acquired.

14. There are numerous trees existing in the property, and the Acquiring Department has forwarded the valuation reports by the Dy. Conservator of Forests North Goa Division, Ponda vide letter No.4/DCFN/PON-VALUA/96-97/207 dated 20/6/1996 and the Zonal Agricultural Officer, Ponda, vide amounting to Rs.10,081-00 and Rs. 10900-00 respectively which I accept being done by an technical Expert.

15. Besides this, I award 30% solatium charges in terms of Section 23(2) I also award 12% in terms of Section 23(1-A) of the Land Acquisition Act from the date of publication Notification under Section 4 till the date of taking over of possession i.e. 28.5.1996.

16. The details of compensation awarded in this case are shown in the statement 'B' appended hereto.

APPORTIONMENT OF COMPENSATION

17. At the time of issue of Notification u/s 4 of the Act, 1894 the Comunidade of Bandera was notified being the person believed to be interested in the property surveyed under No.217/part proposed for acquisition subsequently an issue of Notice u/s 4(1) to the Comunidade of Bandera,

Shri Sad siva P.N. Gaunekar, Attorney, vide his reply dated 17/1/1996, stated that on perusal of all the Communi-
 dade records in the archives of his Comunidade, have found
 that one Shri Ramnath Bhagwant Naik Gaunekar is believed to
 be interested in the land as tenant, being in possession of
 the said land. He further contended that the said Shri Gaune-
 kar has been declared as tenant of the property in question
 u/s 4 of the Agriculture Tenancy Act, 1964 vide judgement and
 order delivered on 28/12/1993 by Mamlatdar of Ponda in case
 No.11/8/38/93-TNC. He further contended that the abovesaid
 order has been acknowledged, read and admitted by Comunidade
 of Bandera in the extra ordinary meeting of the Managing
 Committee held on 13.2.1994 recorded at pages 138 to 140 of
 the Act as Book and the same was presented before the Adminis-
 trator of Comunidade at Panaji on 7.2.1994. He further
 concluded that since said Shri Gaunekar being the tenant of
 the property in question Comunidade of Bandera has no objec-
 tion to award compensation to the said tenant. The Attorney
 also enclosed a copy of the Judgement of the Mamlatdar of
 Ponda declaring said Shri Gaunekar as tenant.

18. In view of the abovesaid contention of the Comunidade
 of Bandera while submitting the 5-A report, the above said
 fact was intimated to Government and considering documents
 on record the name of Shri Ramnath Bhagwant Naik Gaunekar,
 was involved in the schedule attached to Notification u/s
 6 of the Land Acquisition Act, 1894. Shri Ramnath B.N.
 Gaunekar, filed his claim of application and corroborated
 the views expressed by the Attorney of Comunidade of Ban-
 dera.

19. Meanwhile the President of Comunidade of Bandera vide his application dated 27/2/96 stated that there is no tenant in the property in question and entire land belongs to the Comunidade of Bandera. In order to get the matter clarified the Administrator of Comunidades of Bandera Penda vide this office letter dated 27/2/1996 was requested to inform the factual position. He, by his letter dated 6/3/1996 informed that there exists a tenant in the property by name Shri Ramnath B.N. Gaunekar. He further stated that this has been clarified after verifying the Comunidade records. Meanwhile President of Comunidade of Bandera and Attorney of Comunidade of Bandera vide their representation dated 27.2.96 respectively informed that there is no tenant in the property and the property exclusively belongs to Comunidade of Bandera. However, again vide his application dated 6/3/1996 alongwith the affidavit sworn in on 6/3/1996 the Attorney of Comunidade of Bandera Shri Sadasiva Gaunekar reiterated that in tension and anger he had informed wrongly earlier and that he contended that Shri Ramnath Bhagwant Naik Gaunekar is the tenant of the property.

20. On issue of notice u/s 9 and 10 of the Act, Shri Ramnath Bhagwant Naik Gaunekar through his holder of Power of Attorney contended that he is the tenant of the property under acquisition as he has been declared by the Joint Mamlatdar of Penda vide his order dated 28/12/1993. He has enclosed a copy of the said order in support of his contention. But his name does not figure anywhere in survey records nor Form I & XIV.

21. During the course of abovesaid claim having some more objection were receiving from members of the Comunidade of Bandera, objecting the name of Shri Ramnath Bhagwant Naik Gaunekar as tenant, stating that he is not the tenant of the property in question being acquired and that the Comunidade of Bandera is the sole proprietor of the same. Therefore compensation so awarded should be paid to the Comunidade of Bandera exclusively and not to any other persons.

22. Considering all the above facts and contradictory statements and replies, it is observed that there exists a dispute as regards to the tenancy of the property and therefore the matter is being referred to the District Court, Panaji and amount of compensation so awarded is deposited in the said Court u/s 30(1) of the Land Acquisition Act, 1894.

23. All the interested persons who may receive the compensation under this Award are given to understand that they will be liable under the third proviso to Section 31(2) of the said Act, to refund the said amount of compensation or a portion thereof in the event of any other person being adjudged to be lawfully entitled to.

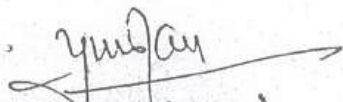
24. The Acquiring Department should ensure that the record of rights and all the relevant documents relating to the ownership of the land are accordingly modified showing that the transfer of the plots indicated in this Award vests solely to the Government consequent to the taking over

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possession of the land and the psyment of the awarded amount of the compensation to the concerned interested parties.

25. This Award is declared with the prior approval of the Government i.e. Collector of North Goa District, Panaji under powers delegated in terms of Section 11(1) of the said Act, vide his Office Memorandum No. COL/CONF/LA/ 43 /96 dated 12/9/1996.


(P.K. Patidar)
Deputy Collector (LA),
Panaji Goa.

Dated:- 13/9/1996.

STATEMENT 'A'

Sr. No.	Village/ Taluka.	Survey No. Sub-Div. No.	Area in Sq. Mts.	Nature of Land.	Name of the persons believed to be interested.	Nature of claim.	Compensation claimed.	Resis if any.	Remarks
1	Bandara/ Ponda.	217/Part	78,000-00	Bharad	O: Comunidade of Bandara. T: Shri Ramnath Bhagwant N. Gaunekar.	Owner	@Rs. 800/-	-	-
2		3	4	5	6	7	8	9	10

Place: Panaji Goa.

Dated: 13/9/1996.


 - P.K. Patidar
 Deputy Collector (LA),
 Panaji Goa.