

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

CIVIL APPLICATION (REVIEW) NO. 28 OF 2011

IN

FIRST APPEAL NO. 12 OF 2007

THE MANAGING DIRECTOR, GOA-IDC.,

... Applicant

Versus

BENJAMIN PEREIRA

... Respondent

Shri Amogh Prabhudesai, Additional Government Advocate for the Applicant.

Shri Raunaq Rao, Advocate for Respondents No.1(b),1(e),1(f) & 1(g).

Coram:- F. M. REIS &  
NUTAN D. SARDESSAI, JJ.

Date:- 2nd May, 2016

P.C.:

Heard Shri A. Prabhudessai, the learned Additional Government Advocate appearing for the applicant and Shri R. Rao, the learned Counsel appearing for the respondents no.1(b),1(e),1(f) & 1(g).

2. This is a review petition filed by the respondent no.2 in First Appeal No.12/2007 to review the judgment dated 10/06/2010 passed in the said First Appeal No.12/2007, whereby the respondent no.1 was held to be entitled for a sum of Rs.21/- per square metre of the land acquired besides other statutory benefits. There were further directions to the Reference Court to determine the amounts in terms of the said judgment and also a direction to the applicant/respondent

in the appeal to deposit such amount in the Court.

3. During the course of the hearing of the above petition, it was pointed out by the learned Counsel appearing for the applicant that in the meanwhile in another appeal by the Comunidade the issue of tenancy claimed by the respondent no.1 herein is itself under adjudication and as the tenancy itself was under dispute this Court has remanded the matter to the learned Reference Court to determine the compensation/market value of the land acquired after the adjudication of such claim of tenancy by the respondent no.1. An order to that effect by the Reference Court has admittedly not yet been passed as the issue of tenancy by the respondent no.1 is under dispute. As such, unless the tenancy issue is finally decided the question of awarding any compensation in favour of the respondent no.1 herein would not arise. Any amount deposited in this Court would be only after the final adjudication of the claim of tenancy raised by the respondent no.1 herein.

4. In such circumstances, we find that the judgment passed by this Court deserves to be modified and a direction be issued to the learned Reference Court that the amount so fixed would be paid to the respondent no.1 as directed in such judgment depending upon the final adjudication on the claim of tenancy raised by the respondent no.1 before an appropriate forum. To that extent the judgment of this Court dated 10/06/2010 stands modified. The review petition stands

disposed off in the above terms. The amounts deposited in this Court shall continue to be in deposit and the Registry is directed to invest the amount in Fixed Deposit of a Nationalised Bank initially for a period of two years and the same be renewed from time to time until further orders in the said reference proceedings.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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