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IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.135/2012

THE EXECUTIVE ENGINEER,
WORKS DIVISION VII (NH)
PWD, PANAJI-GOA.

...APPELLANT

Versus

MAHADHAN REAL ESTATE PVT. LTD.
& VARDHAN REAL ESTATE PVT. LTD.
Salgaonkar House of Dr. Francisco
Luis Gomes Road, Vasco-da-Gama,
Goa 403 802.

...RESPONDENT

**Mr. Arun Talaulikar, Additional Government Advocate for the
Appellant-State.**

Mr. A. D. Bhobe, Advocate for the Respondent.

**WITH
CROSS OBJECTIONS NO.7/2013
IN
FIRST APPEAL NO.135/2012**

MAHADHAN REAL ESTATE PVT. LTD.
& VARDHAN REAL ESTATE PVT. LTD.
Salgaonkar House of Dr. Francisco
Luis Gomes Road, Vasco-da-Gama,
Goa 403 802.

...CROSS-OBJECTOR

Versus

THE EXECUTIVE ENGINEER,
WORKS DIVISION VII (NH)
PWD, PANAJI-GOA.

...RESPONDENT

Mr. A. D. Bhobe, Advocate for the Cross-Objector.

Mr. Arun Talaulikar, Additional Government Advocate for the Respondent-State.

CORAM: M. S. SONAK, J.

DATED: 18th January 2022

JUDGMENT:

1. Heard Mr. Arun Talaulikar, learned Additional Government Advocate for the appellant-State and Mr. Ashwin Bhobe for the respondent-claimant.

2. Learned counsel for the parties agree that the issues involved in this appeal are almost identical to the issues involved in the connected First Appeal Nos.136 and 137 of 2012 and the Cross-objections therein. The only difference is that the lands acquired in this case are from the Village Talaulim which is adjacent to the Village of Chimbel. The lands that were involved in the connected appeals were in the Village of Chimbel.

3. The perusal of the impugned Judgment and Award however indicates that even in this case the Reference Court has relied upon the Judgment and Award dated 29.04.2010 in Land Acquisition Case No.11/2009, which is the precise award which was relied upon in the other two cases as well. This award dated 29.04.2010 has already been upheld by this Court in First Appeal

No.13.2011. The rate of ₹660/- per sq. meter has been accepted by the Government in terms of the said decision.

4. Therefore, by adopting the reasoning in the Judgment and Orders dated 18.01.2022 disposing of First Appeal Nos.136 and 137 of 2012 and the Cross-objections therein, this appeal will have to be dismissed and is hereby dismissed. Insofar as the Cross-objections are concerned, again, by adopting the same reasoning compensation of ₹21,375/- will have to be awarded towards the rubble stone wall which was in the acquired land. No compensation is liable to be awarded towards the loss of trees because the evidence on this aspect is quite sketchy.

5. In this case, it is necessary to note that Mr. Talaulikar did submit that the acquisition was affected by road setback and therefore necessary deduction should be made. This aspect has been considered in the Award dated 29.04.2010 which has already been upheld by this Court. Even otherwise, in terms of the law laid down by the Hon'ble Supreme Court in the case of *State of Goa & Anr. v/s. Gopal Baburao Gaudo & Ors. – 2009 (10) SCC 686*, this contention will have to be rejected.

6. Accordingly, First Appeal No.135/2012 is hereby dismissed. The Cross-objections No.7/2013 are partly allowed

and the respondent is held entitled to an additional compensation of ₹21,375/- in respect of the rubble stone wall. There is no case made out to interfere with the statutory benefits granted in the impugned Judgment and Award.

7. The appeal and the Cross-objections are therefore disposed of in the aforesaid terms without any order for costs.

M. S. SONAK, J.