

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.190 OF 2021

Shri Shreeram Hiraji Dobale
(Dead) Thr. LRs.
Dadarao Shreeram Dobale
Aged 61 years, Occ. Agriculturist,
R/o Kumbharkinh, Tq. Darsha,
Dist. Yavatmal

.. Appellant

-vs-

1. State of Maharashtra
Through Collector Yavatmal

2. Special Land Acquisition Officer of
Kumbharkinh Project, Darwaha,
Tq. Darwaha, Dist. Yavatmal

3. The Executive Engineer
Kumbharkinh Dam Division,
Pusad, Tq. Pusad, Dist. Yavatmal

... Respondents

Shri I. M. Ghongade, Advocate for appellant.
Shri I. J. Damle, Assistant Government Pleader for respondent Nos.1 and 2.
Shri N. M. Gaidhane, Advocate for respondent No.3.

CORAM : NITIN W. SAMBRE, J.

DATE : August 29, 2022

ORAL JUDGMENT :

Heard.

This appeal is by the claimant under Section 54 of the Land Acquisition Act, 1894 (for short, the said Act).

The property of the appellant situated at mouje Kumbharkinh, a house property, was acquired vide Section 4 Notification dated 06/11/1998.

2. The Reference Court upon analysis of oral and documentary evidence on record has awarded compensation vide judgment and order dated

15/06/2016. As the compensation awarded was not sufficient, the appellant has preferred this appeal.

3. The averments raised in the appeal claim that issue is squarely covered by the judgment of this Court dated 22/02/2021 in First Appeal No.364/2016 (*Ganesh Pundlik Deeve vs. The Executive Engineer, Kumbharkinhni Dam Division Pusad, Dist. Yavatmal*). My attention is invited to the consideration of the evidence of expert witness namely Sunil K. Chandkapure. As such counsel for the appellant urges that the enhanced compensation be granted at par with ordered to be paid vide judgment dated 22/02/2021 in the matter of *Ganesh Pundlik Deeve* (supra).

4. Counsel for the respondent would oppose the same. According to him the expert witness who was examined in favour of the present appellant has not supported the case. He would invite attention of this Court to the cross-examination of said expert witness at Exhibit-45. According to him in view of admissions given by said expert witness, case of the appellant cannot be considered at par with the claim in case of *Ganesh Deeve* (supra).

5. I have appreciated the rival submissions. With the assistance of counsel for the respondent, I have also perused the cross-examination of the claimant's witness namely Sunil Chandkapure. If the said evidence of expert witness is analysed in the backdrop of the claim put forth in this appeal for enhancement of compensation so also the judgment delivered by this Court in case of *Ganesh Deeve* (supra), it can be noticed that this Court has considered the nature of structure and the material used for construction of the house which was acquired. Similar set of evidence is also available on record of the present appeal which establishes the claim for enhancement at par with one awarded in the matter of *Ganesh Deeve* (supra).

6. In this backdrop, it cannot be said that the case of the appellant is different from the case in the matter of *Ganesh Deeve* (supra).

In the aforesaid background the objection raised by the counsel for the respondents is overruled.

It is held that the claimant-appellant herein is entitled for enhanced compensation at the same rate as is ordered to be granted in First Appeal No.364/2016 (*Ganesh Deeve vs. State of Maharashtra and ors.*)

It is directed that the amount of enhanced compensation be deposited in Reference Court within a period of twelve weeks from today.

It is clarified that while challenging the judgment and award of the Reference Court, the appeal was delayed by 1261 days. The appellant would not be entitled for interest on the enhanced amount of compensation for the said period.

The appeal is allowed in aforesaid terms. No order as to costs.

Pending civil application also stands disposed of accordingly.

(NITIN W. SAMBRE, J.)