



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

FIRST APPEAL NO. 1072 OF 2023

Madhukar S/o Gowardhan Rathod,
Aged about 64 years, Occ.-Agriculturist,
R/o. Khumbharkinhi, Tq. Darwaha,
District - Yavatmal.

.... **APPELLANT**

// **VERSUS** //

- 1) The State of Maharashtra,
Through Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) Special Land Acquisition Officer,
of Kumbharkinhi Project, Darwaha,
Tq. Darwaha, Dist. Yavatmal.
- 3) Executive Engineer of Kumbharkinhi
Dam Division, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

WITH

FIRST APPEAL NO. 530 OF 2024

Sau. Kalabai W/o Kashiram Chavan,
Aged about 58 years, Occ.-Agriculturist,
R/o. Khumbharkinhi, Tq. Darwaha,
District - Yavatmal.

.... **APPELLANT**

// **VERSUS** //

- 1) The State of Maharashtra,
Through the Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) Special Land Acquisition Officer,
Kumbharkinhi Project, Darwaha,
Tq. Darwaha, Dist. Yavatmal.

- 3) Executive Engineer of Kumbharkinhi
Dam Division, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

WITH

FIRST APPEAL NO. 581 OF 2024

- 1) Madhukar S/o Gowardhan Rathod,
Aged about 64 years, Occ.-Agriculturist,
R/o. Khumbharkinhi, Tq. Darwaha,
District – Yavatmal.

- 2) Vishal S/o Madhukar Rathod
Aged about 30 years, Occ.-Agriculturist,
R/o. Khumbharkinhi, Tq. Darwaha,
District – Yavatmal.

.... **APPELLANTS**

// VERSUS //

- 1) The State of Maharashtra,
Through Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) Special Land Acquisition Officer,
Darwaha, Tq. Darwaha, Dist. Yavatmal.
- 3) Chief Executive Engineer,
Kumbharkinhi Dam Division, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

WITH

FIRST APPEAL NO. 584 OF 2024

Sau. Satyabhamabai W/o Bhagwan Gaiki,
Aged about 75 years, Occ.-Agriculturist,
R/o. Khumbharkinhi, Tq. Darwaha, Dist. Yavatmal.

Through Power of Attorney Holder,
Vishwajeet S/o Bhagwan Gaiki,
Aged about 56 years, Occ. - Agriculturist,
R/o. Kumbharkinhi, Presently at
R/o. Dattapur, Tq. Darwaha,
District – Yavatmal.

.... **APPELLANT**

// **VERSUS** //

- 1) The State of Maharashtra,
Through the Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) Special Land Acquisition Officer,
Kumbharkinhi Project, Darwha,
Tq. Darwha, Dist. Yavatmal.
- 3) Chief Executive Engineer of
Kumbharkinhi Dam Division, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. S. V. Ingole, Advocate for appellants.

Mr. P. P. Pendke, Assistant Government Pleader for Respondent
Nos.1 and 2/State.

Mr. Mangesh A. Kadu, Advocate for respondent No.3.

CORAM : SANJAY A. DESHMUKH, J.

DATE OF RESERVING THE JUDGMENTS : 21.06.2024.

DATE OF PRONOUNCING THE JUDGMENTS : 20.07.2024.

COMMON JUDGMENT.

1. All these appeals arises out of one and same Award dated 30.12.2000 passed by Land Acquisition Officer in L.A.C. No.15/47/1998-99, in respect of open plot and having construction thereon, situated at village Kumbharkinhi, Tq. Darwha, District Yavatmal. Hence, these appeals are being disposed of by this common judgment.

2. First Appeal No.1072 of 2023 is preferred against the Judgment and Award passed by learned Civil Judge, Senior Division, Darwha in Land Acquisition Case No.2094 of 2004, dated 25.03.2014. The reference Court partly allowed the reference with direction to pay enhanced compensation at the rate of Rs.240/- per sq.mtr. in respect of open plot area 120.64 sq.mtr. and at the rate of Rs.2000/- per sq.mtr. for constructed area of the house admeasuring 36.60 sq.mtr. to the claimant for acquired house No.79 of village Kumbharkinhi, Tq. Darwha, District Yavatmal.

3. First Appeal No.530 of 2024 is preferred against the Judgment and Award passed by learned Civil Judge, Senior Division, Darwha in Land Acquisition Case No.1956 of 2004 (Old L.A.C. No.273/2003), dated 11.03.2015. The reference Court partly allowed the reference with direction to pay enhanced compensation at the rate of Rs.240/- per sq.mtr. in respect of open plot area 58.20 sq.mtr. and at the rate of Rs.1700/- per sq.mtr. for constructed area of the house admeasuring 30.60 sq.mtr. to the claimant for acquired house No.136/3 of village Kumbharkinhi, Tq. Darwha, District Yavatmal.

4. First Appeal No.581 of 2024 is preferred against the Judgment and Award passed by learned Civil Judge, Senior Division, Darwha in Land Acquisition Case No.2155 of 2004, dated

10.03.2016. The reference Court partly allowed the reference with direction to pay enhanced compensation at the rate of Rs.240/- per sq.mtr. in respect of open plot area 50.70 sq.mtr. and at the rate of Rs.700/- per sq.mtr. for constructed area of the house admeasuring 17.16 sq.mtr. to the claimants for acquired house No.237 of village Kumbharkinhi, Tq. Darwaha, District Yavatmal.

5. First Appeal No.584 of 2024 is preferred against the Judgment and Award passed by learned Civil Judge, Senior Division, Darwaha in Land Acquisition Case No.2176 of 2004, dated 03.08.2016. The reference Court partly allowed the reference with direction to pay enhanced compensation at the rate of Rs.240/- per sq.mtr. in respect of open plot area 5.00 sq.mtr. and at the rate of Rs.2064/- per sq.mtr. for constructed area of the house admeasuring 55.00 sq.mtr. to the claimant for acquired house No.37 of village Kumbharkinhi, Tq. Darwaha, District Yavatmal.

6. Heard learned Advocate Mr. S. V. Ingole, Advocate for appellants, Mr. P. P. Pendke, Assistant Government Pleader for Respondent Nos.1 and 2 and Mr. Mangesh A. Kadu, Advocate for respondent No.3.

7. The learned Advocate for the appellants is relying upon the Judgment passed by this Court in ***First Appeal No. 364 of 2016, Ganesh Pundlik Deeve Vs. The Executive Engineer, Kumbharkinh Dam Division Pusad and Ors.***, dated 22.02.2021, in which this Court after considering all aspects enhanced the amount of compensation and directed to pay compensation @ of Rs.3,200/- per Sq.Mtr. for constructed structure of house. He, therefore, submitted to apply the rule of parity, because the acquired properties are of one and same village, same award and same purpose. He prayed to allow all these appeals on the basis of principle of parity.

8. This Court has considered various aspects while enhancing an amount of compensation in ***Ganesh Pundlik Deeve*** cited *supra*. The evidence of an experts witness is also considered. The facts of the above noted case and all these cases are similar, therefore, by applying the principle of parity, the modification in the impugned judgments and awards to that extent is justifiable. Therefore, for the constructed portion, Rs.3,200/- per Sq. Mtr. compensation required to be granted to the claimants in all these appeals. All these appeals deserve to be partly allowed.

9. All these Appeals are **partly allowed**.

10. The impugned Judgments and Awards passed by learned Civil Judge, Senior Division, Darwha in Land Acquisition Case No.2094 of 2004 dated 25.03.2014, Land Acquisition Case No.1956 of 2004 (Old L.A.C. No.273/2003) dated 11.03.2015, Land Acquisition Case No.2155 of 2004 dated 10.03.2016 and Land Acquisition Case No.2176 of 2004 dated 03.08.2016 are partly set aside and modified as follows :

- (i) The appellants/claimants are entitled to compensation at the rate of **Rs.3,200/-** (Rs. Three Thousand Two Hundred only) per square meter for constructed portion of houses only, rest of the part of Judgments and Awards are confirmed.
- (ii) All the appellants/claimants shall be entitled for all statutory benefits.
- (iii) The respondent No.3 is directed to calculate the appropriate amount of compensation as held above and deposit the remaining amount in this Court within six month from today.
- (iv) It is made clear that the appellants shall not be entitled for the interest on delayed period which had occurred for filing of the appeals which was condoned by this Court.
- (v) After depositing the amount, the appellants are entitled to withdraw the same and no any further application or order is required for directions to the registry.

- (vi) The registry is directed accordingly to pay that amount.
11. All these appeals stand **disposed of** accordingly. No costs.
12. Pending application(s), if any, shall stand disposed of.

(SANJAY A. DESHMUKH, J.)

Kirtak