



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

FIRST APPEAL NO. 1066 OF 2024

Shri Abdul Rajjak Abdul Gaffar (Dead)
through Legal Representative :

- 1) Smt. Farjana Abdul Rajjak,
Aged about 47 years, Occ.-Household,
- 2) Salman Abdul Rajjak alias
Mohammad Salman Abdul Rajjak
Aged about 20 years, Occ.-Education,

Both 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 of
Kumbharkinhi Project, Darwaha,
Tq. Darwaha, Dist. Yavatmal.
- 3) The Executive Engineer of
Kumbharkinhi Dam Division
Pusad, Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. A. B. Nakshane, Advocate for Appellants.
Mrs. Hemlata Dhande, Assistant Government Pleader for
Respondent Nos.1 and 2.
Mr. M. A. Kadu, Advocate for Respondent No.3.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 17th OCTOBER, 2024.

ORAL JUDGMENT.

1. **Admit.** Heard finally with consent of the learned Advocates for the parties.

2. This appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwha, District Yavatmal dated 17.02.2015 in Land Acquisition Case No.2098/2004.

3. The challenge under this appeal is about constructed area 37.74 sq. mtr. and open plot area 6.80 sq.mtr., situated at village Kumbharkinhi, Taluka Darwha, District Yavatmal was acquired for public purpose under Kumbharkini Project. Under the same project, other lands as well as constructed houses were acquired under the same notification and same purposes.

4. Learned Advocate for the appellants is relying upon the judgment passed by this Court in ***First Appeal No.364/2016*** (*Ganesh Pundlik Deeve Vs. Executive Engineer, Kumbharkinhi Dam Division Pusad, Tq. Pusad Distt. Yavatmal and others*) dated **22.02.2021**, wherein this Court after considering evidence and parity, enhanced the compensation regarding constructed structure of the same village at the rate of Rs.3200/- per sq. mtr. The learned Advocate for the appellants submitted that house of appellants is similarly situated

with the house in ***First Appeal No.364/2016***. He, therefore, prayed to award the same rate to the appellants.

5. Perused the impugned judgment and the judgment of this Court dated ***22.02.2021***, passed in ***First Appeal No.364/2016***.

6. The admitted facts are that house Nos.203/2, admeasuring 6.80 sq. mtr. open plot area and 37.74 sq. mtr. constructed area of village Kumbharkinh, Tahsil Darwha, District Yavatmal was acquired by notification dated 06.11.1997 according to the award passed on 30.12.2000. By the award of Land Acquisition Officer, Rs.80/- per sq.mtr. for open plot and Rs.454.31/- per sq.mtr. for construction was fixed and total amount of Rs.20.709/- was granted as compensation to the appellants. Being aggrieved, the appellants have filed a reference under Section 18 of the Land Acquisition Act, 1894. The learned Reference Court enhanced the amount and awarded compensation @ Rs.240/- per sq.mtr. for open plot area and @ Rs.1900/- per sq.mtr. for constructed area. However, on going through the judgment rendered in ***First Appeal No.364/2016*** in respect of the property situated at village Kumbharkinh, considered Rs.3,200/- per sq. mtr. rate for constructed area of same village. I am satisfied that this appeal is covered by the decision rendered in ***First Appeal No.364/2016***. Therefore, the

appellants are also entitled for same rate of compensation as the house of appellants was situated at same village and acquired for same purpose. Considering this fact and applying the principle of parity, the appeal deserves to be partly allowed and appellants are entitled for compensation @ Rs.3,200/- per sq.mtr. for constructed area. The impugned judgment and award of the Reference Court deserves to be partly set aside and modified.

Corrected as per
Court's order
dated 12.11.2024
passed in CAF
No.3195/2024

7. The appeal is **partly allowed**.

8. The appellants are entitled for compensation at the rate of **Rs.3,200/-** (Rs. Three thousand two hundred only) per sq. mtr. for the constructed area of **37.74** sq. mtr., to that extent impugned judgment and award is modified along with statutory benefits, except the period for which the delay was caused in filing the appeal and it was condoned by this Court by order dated 10.10.2024.

Corrected as per
Court's order dated
12.11.2024 passed in
CAF No.3195/2024

9. The respondent No.3 is directed to calculate the appropriate compensation as per above rate and deposit the remaining amount in this Court within six months.

10. The appellants are required to pay the deficit Court fee, if any, on the enhanced amount of compensation.

11. 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.

12. The registry is directed accordingly to pay that amount.

13. The appeal is **disposed of** accordingly.

(SANJAY A. DESHMUKH, J.)

Kirtak