



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

FIRST APPEAL NO. 996 OF 2015

Shri. Baban Pundlik Deeve,
Aged about 58 years, Occ.-Agriculturist,
R/o. Khumbharkinhi,
Tq. Darwaha, District - Yavatmal.

.... **APPELLANT**

// VERSUS //

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

.... **RESPONDENTS**

Mr. A. B. Nakshane, Advocate for Appellant.
Mr. A. M. Kukday, Advocate for Respondent No.1.
Mr. P. P. Pendke, Assistant Government Pleader for
Respondent Nos.2 and 3.

CORAM : SANJAY A. DESHMUKH, J.

DATE ON RESERVING THE JUDGMENT : 26.06.2024

DATE ON PRONOUNCING THE JUDGMENT : 23.08.2024

JUDGMENT.

1. This appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwaha, District Yavatmal dated 30.11.2013 in Land Acquisition Case No.2154/2004.

2. The challenge under this appeal is about open plot area 67.10 sq.mtr. and constructed area 46.20 sq. mtr., situated at village Kumbharkinhi, Taluka Darwaha, 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.

3. Learned Advocate for the appellant pointed out 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 parity enhanced the compensation regarding constructed structure of the same village at the rate of Rs.3200/- per sq. mtr. He, therefore, prayed to award the same rate to the appellant.

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

5. Heard learned Advocate Mr. A. B. Nakshane for appellant, learned Advocate Mr. A. M. Kukday for respondent No.1 and learned Assistant Government Pleader Mr. P. P. Pendke for respondent Nos.2 and 3.

6. The admitted facts are that house No. 8 of village Kumbharkinhi, Tahsil Darwha, District Yavatmal was acquired admeasuring 46.20 sq. mtr. constructed area and 67.10 sq.mtr. open plot area by notification dated 06.11.1998 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.35,978/- for construction was fixed and granted total compensation of Rs.68,621/- to the applicant. Feeling aggrieved, the applicant has filed reference. The learned reference Court enhanced the amount and awarded compensation @ Rs.240/- per sq.mtr. for open plot area and Rs.1500/- per sq.mtr. for constructed house. However, after appreciation of the evidence of the expert, this Court in the case of *Ganesh Pundlik Deeve* (cited supra) considered Rs.3,200/- per sq. mtr. rate for constructed area of same village. The appellant is also entitled for same rate of compensation. Considering this fact and applying the principle of parity, the appeal deserves to be partly allowed. The impugned judgment and award of the Reference Court deserves to be partly set aside and modified.

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

8. The appellant is entitled for compensation at the rate of **Rs.3,200/-** per sq. mtr. for the constructed area of **46.20** 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 16.10.2015.

9. The respondent No.1 is directed to calculate the appropriate compensation as per above rate and deposit the remaining amount in this Court within six months.

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

11. After depositing the amount, the appellant is 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.)