



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

FIRST APPEAL NO. 778 OF 2024

Sau. Chandibai Govardhan Rathod(Dead)
Through her Legal Representatives :

- 1) Haribhau S/o Govardhan Rathod,
Aged about 75 years, Occ.-Agriculturist,
- 2) Ramesh S/o Govardhan Rathod,
Aged about 73 years, Occ.-Agriculturist,
- 3) Madhukar S/o Govardhan Rathod,
Aged about 68 years, Occ.-Agriculturist,
- 4) Sudhakar S/o Govardhan Rathod,
Aged about 66 years, Occ.-Agriculturist
All R/o. Kumbharkinh,
Tq. Darwaha, District – Yavatmal.
- 5) Sau. Bebi W/o Pralhad Jadhao,
Aged about 63 years, Occ.-Housewife,
R/o. Kumbharkinh,
Tq. Darwaha, District – Yavatmal.
- 6) Sau. Sheshikala W/o Shriram Chavan,
Aged about 58 years, Occ.-Housewife,
R/o. Palashi,
Tq. Darwaha, District – Yavatmal.
- 7) Sau. Manorama W/o Shriram Chavan,
Aged about 56 years, Occ.-Housewife,
R/o. Kumbharkinh,
Tq. Darwaha, District – Yavatmal.

.... **APPELLANTS**

// VERSUS //

- 1) The State of Maharashtra,
Through the Collector, Yavatmal,
Tq. & Dist. Yavatmal.

- 2) Special Land Acquisition Officer,
Kumbharkinhhi Project, Darwha
Tq. Darwha, Dist. Yavatmal.
- 3) Executive Engineer of
Kumbharkinhhi Dam Division, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

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

Ms. Deepa I. Charlewar, Assistant Government Pleader for
Respondent Nos.1 and 2.

Mr. M. A. Kadu, Advocate for Respondent No.3.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 02.08.2024.

ORAL JUDGMENT.

1. Heard. **Admit.** Heard finally by 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 10.10.2016 in Land Acquisition Case No.1963/2004 (Old
L.A.C. No.280/2003).

3. The challenge under this appeal is only about constructed
area 80.96 sq. mtr. situated at village Kumbharkinhhi, 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 appellant pointed out the judgment in ***First Appeal No.364/2016*** (*Ganesh Pundlik Deeve Vs. Executive Engineer, Kumbharkinhi Dam Division Pusad, Tq. Pusad Distt. Yavatmal and others*) dated 22nd February, 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.

5. Perused the impugned judgment and the judgment of this Court dated 22nd February, 2021 passed in First Appeal No.364/2016.

6. Heard learned Advocate for both sides.

7. The admitted facts are that house No.78 of village Kumbharkinhi, Tahsil Darwha, District Yavatmal was acquired admeasuring 80.96 sq. mtr. constructed area and 43.27 sq. mtr. open plot area, by notification dated 6.11.1998 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.507/- per sq.mtr. for

construction was granted as compensation to the appellant. The appellant was not satisfied with the award, therefore, filed reference before the Civil Judge, Senior Division, Darwha. The Reference Court granted Rs.240/- per sq.mtr. for open plot and Rs.1014/- per sq. mtr for construction. 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.

8. The appeal is **partly allowed**.

9. The appellant is entitled for compensation at the rate of **Rs.3,200/-** per sq. mtr. for the constructed area of **80.96** 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.

10. 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 month from today.

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**.

(SANJAY A. DESHMUKH, J.)

Kirtak