



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

FIRST APPEAL NO. 777 OF 2024

Laxmibai Namdeo Borchate (Dead)

- 1) Kailash Namdeo Borchate (Dead)
(Died on 08.05.2021 after passing of
Reference Court's Judgment),
Through Legal Representatives :

1-a) Smt. Sadhana Wd/o Kailash Borchate,
Aged about 42 years, Occ.-Household,

1-b) Saurab S/o Kailash Borchate,
Aged about 21 years, Occ.-Education,

1-c) Shivani D/o Kailash Borchate,
Aged about years, Occ.-Agriculturist

All R/o. Kumbharkinhi,
Tq. Darwha, District - Yavatmal.

.... APPELLANTS

// VERSUS //

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

.... RESPONDENTS

Mr. S. V. Ingole, Advocate for Appellants.
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 Advocate for the parties.

2. This appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwha, District Yavatmal dated 05.08.2016 in Land Acquisition Case No.53/2008.

3. The challenge under this appeal is only about constructed area 107.38 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 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 appellants.

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.101 of village Kumbharkinhi, Tahsil Darwha, District Yavatmal was acquired admeasuring 107.38 sq. mtr. constructed area and 107.38 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.1194/- per sq.mtr. for construction, was granted as compensation to the appellants. 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.2,000/- 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 appellants are 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 appellants are entitled for compensation at the rate of **Rs.3,200/-** per sq. mtr. for the constructed area of 107.38 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 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**.

(SANJAY A. DESHMUKH, J.)