



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

FIRST APPEAL NO. 868 OF 2024

Shri. Gajanan S/o Namdeo Dive,
Aged about 55 years, Occ.-Agriculturist,
R/o. Khumbharkinhi,
Tq. Darwaha, District - Yavatmal.

.... **APPELLANT**

// VERSUS //

- 1) The State of Maharashtra,
represented by the Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) The Sub Divisional Officer and
Land Acquisition Officer,
of Kumbharkinhi Project, Darwaha,
Tq. Darwaha, Dist. Yavatmal.
- 3) Chief Executive Engineer of
Minor Irrigation Division, Pusad,
Tq. Pusad, Dist. Yavatmal.
- 4) Vidarbha Irrigation Development
Corporation, Nagpur,
Through Executive Engineer,
Minor Irrigation Division, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. S. V. Ingole, Advocate for Appellant.
Ms. D. I. Charlewar, Assistant Government Pleader for
Respondent Nos.1 and 2.
Mr. Mangesh A. Kadu, Advocate for Respondent Nos.3 and 4.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 26th AUGUST, 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 11.07.2016 in Land Acquisition Case No.1887/2004.

3. The challenge under this appeal is only about constructed area 80.00 sq. mtr., situated at village Kumbharkinh, 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 passed by this Court in ***First Appeal No.364/2016*** (*Ganesh Pundlik Deeve Vs. Executive Engineer, Kumbharkinh 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.

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

6. Heard learned Advocate Mr. S. V. Ingole for appellant, learned Assistant Government Pleader Ms. D. I. Charlewar for respondent Nos.1 and 2 and learned Advocate Mr. Mangesh A. Kadu for respondent Nos.3 and 4.

7. The admitted facts are that house No.165 of village Kumbharkinhi, Tahsil Darwha, District Yavatmal was acquired admeasuring 80.00 sq. mtr. constructed area and 45.41 sq.mtr. open plot area by notification dated 6.11.1997 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.1452/- per sq.mtr. for construction was fixed and total amount of Rs.1,18,676/- was granted as compensation to the appellant. 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.2,100/- per sq.mtr. for constructed area. 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 **80.00** 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 20.08.2024.

10. The respondent Nos.3 and 4 are directed to calculate the appropriate compensation as per above rate and deposit the remaining amount in this Court within six months.

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

12. 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.

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

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

(SANJAY A. DESHMUKH, J.)

Kirtak