



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

FIRST APPEAL NO. 1024 OF 2024

Shriram S/o Kanhu Kamble (Dead)
(Died on 18.06.2016, after passing
of Reference Court Judgment)
Being Dead through LRs.

- 1) Suresh S/o Shriram Kamble,
Aged about 47 years, Occ.-Agriculturist,
R/o. Khumbharkinh, i,
Tq. Darwaha, District - Yavatmal.

.... **APPELLANT**

// VERSUS //

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

.... **RESPONDENTS**

Mr. S. V. Ingole, Advocate for Appellant.
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 : 10th 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 26.02.2014 in Land Acquisition Case No.2167/2004.

3. The challenge under this appeal is only about constructed area 90.76 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 appellant 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 appellant submitted that house of appellant is similarly situated with

the house in ***First Appeal No.364/2016***. 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 Mrs. Hemlata Dhande for respondent Nos.1 and 2 and learned Advocate Mr. M. A. Kadu for respondent No.3.

7. The admitted facts are that house Nos.176, admeasuring 103.18 sq. mtr. open plot area and 90.76 sq. mtr. constructed area of village Kumbharkinhi, Tahsil Darwha, District Yavatmal was acquired 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.538/- per sq.mtr. for construction was fixed and total amount of Rs.1,04,498/- was granted as compensation to the appellant. Being aggrieved, the appellant has 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.1000/- 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 appellant is also entitled for same rate of compensation as the house of appellant 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 with 10% depreciation i.e. Rs.2,880/- per sq.mtr. 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.2,880/-** (Rs. Two thousand Eight hundred and Eighty only) per sq. mtr. for the constructed area of **90.76** 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 04.10.2024.

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 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.)