



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

FIRST APPEAL NO. 1092 OF 2024

Smt. Chandrakabai Wd/o
Karanlal Karoddeo (**Dead**)
through Legal Representative :

- 1) Kishor S/o Karanlal Karoddeo,
Aged about 30 years, Occ.-Agriculturist,
R/o. Darwha, Tq. Darwha,
District Yavatmal.
- 2) Sau. Hemlata @ Usha
W/o Suresh Lohakpure,
Aged about 46 years, Occ.-Household,
R/o. Dhanaj (Khd), Tq. Karanja,
District Washim.
- 3) Sau. Jaishree W/o Prakash Shankarpure,
Aged about 34 years, Occ.-Household,
R/o. Donad, Tq. Karanja,
District Washim.

.... **APPELLANTS**

// VERSUS //

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

.... **RESPONDENTS**

WITH

FIRST APPEAL NO. 1093 OF 2024

Prakash Udheban Borchate,
Aged Adult, Occ.-Agriculturist,
R/o. Kumbharkinh, Tq. Darwha,
District Yavatmal.

.... **APPELLANT**

// VERSUS //

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

.... **RESPONDENTS**

Mr. I. M. Ghongade, Advocate for Appellants in both appeals.
Mr. S. B. Bissa, Assistant Government Pleader for Respondent
Nos.1 and 2 in both appeals.
Mr. T. M. Zaheer, Advocate for Respondent No.3 in both appeals.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 03rd DECEMBER, 2024.

ORAL JUDGMENT.

1. **Admit.** Heard finally with the consent of the learned
Advocates for the parties.
2. Both these appeals arises out of one and same Award
dated 30.12.2000 passed by Land Acquisition Officer in L.A.C.
No.15/47/1998-99, in respect of open plots along with constructed

houses situated at village Kumbharkinhi, Tahsil Darwha, District Yavatmal. Hence, both these appeals are being disposed of by this common judgment.

3. The First Appeal 1092/2024 is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwha, District Yavatmal dated 31.12.2013 in Land Acquisition Case No.1909/2004 (Old LAC No.145/2003).

4. The First Appeal 1093/2024 is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwha, District Yavatmal dated 15.06.2016 in Land Acquisition Case No.1849/2004.

5. The challenge under these appeals is about constructed areas 31.86 sq. mtr. and 58.20 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.

6. Learned Advocate for the appellants 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 amount of compensation regarding constructed structure of the same village at the rate of Rs.3200/- per sq. mtr. The learned Advocate for the appellants submitted that houses of appellants is similarly situated with the house situated in ***First Appeal No.364/2016***. He, therefore, prayed to award the same rate to the appellants and enhancement the amount of compensation.

7. Perused the impugned judgments and the above referred judgment passed in ***First Appeal No.364/2016*** cited *supra*.

8. The admitted facts are that in First Appeal No.1092/2024 house No.16, having total area 41.96 sq.mtr. out of which constructed area admeasuring 31.86 sq.mtr. and in First Appeal No.1093/2024 house No.105, having total area 93.84 sq.mtr. out of which constructed area admeasuring 58.20 sq.mtr. of village Kumbharkinhi, Tahsil Darwha, District Yavatmal was acquired by notification dated 06.11.1997 according to the award passed on 30.12.2000. By the award of Land Acquisition Officer awarded total compensation of Rs.1,35,859/- to the claimants in First Appeal No.1092/2024 and Rs.71,011/- to the claimant in First Appeal No.1093/2024. Being aggrieved, the claimants have filed references 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.2900/- per sq.mtr. for constructed area to the claimants in First Appeal No.1092/2024 and @ Rs.240/- per sq.mtr. for open plot area and @ Rs.2000/- per sq.mtr. for constructed area to the claimant in First Appeal No.1093/2024. However, on going through the judgment rendered in ***First Appeal No.364/2016*** in respect of the property situated at village Kumbharkinhi, considered Rs.3,200/- per sq. mtr. rate for constructed area of same village. It is not disputed by other side. This Court has satisfied that both these appeals are fully covered by the decision rendered in ***First Appeal No.364/2016***. Therefore, the appellants are also entitled for same rate of compensation as the houses of appellants was situated at same village and acquired for same purposes. Considering this fact and applying the principle of parity, the appeal deserves to be partly allowed. The impugned judgments and awards of the Reference Court deserves to be partly set aside and modified.

9. Both these appeals are **partly allowed**.

10. The appellants in both these appeals are entitled for compensation at the rate of **Rs.3200/- (Rs. Three Thousand Two Hundred only)** per sq. mtr. for the constructed area of **31.86 sq.mtr.** in First Appeal No.1092/2024 and constructed area of **58.20 sq. mtr.**

in First Appeal No.1093/2024, to that extent impugned judgment and award is modified along with statutory benefits, except the period for which the delay was caused in filing these appeals and it was condoned by this Court by order dated 17.10.2024.

11. The respondent - acquiring body is directed to calculate the appropriate compensation as per above rate and deposit the remaining amount in this Court within six months.

12. The appellants are required to pay the deficit Court fee, if any, on the enhanced amount of compensation.

13. 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.

14. The Registry is directed accordingly to pay that amount.

15. Both these appeals are **disposed of** accordingly.

(SANJAY A. DESHMUKH, J.)