



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

FIRST APPEAL NO. 755 OF 2024

Shri Govinda S/o. Dattaram Kale,
Aged about 54 years, Occ. Agriculturist,
R/o. Khumbarkinhi, Tq. Darwha,
Distt. Yavatmal.

... Appellant

.. Versus ..

1) The State of Maharashtra,
through the Collector, Yavatmal.

2) Special Land Acquisition Officer,
Kumbharkinhi Project, Darwha,
Tq. Darwha, District Yavatmal.

3) Executive Engineer of
Kumbharkinhi Dam Division, Pusad,
Tq. Pusad, District Yavatmal.

..Respondents

Shri S.V. Ingole, Advocate for appellant.
Shri Piyush Pendke, AGP for respondent nos.1 and 2.
Shri M.A. Kadu, Advocate for respondent no. 3.

CORAM : SANJAY A. DESHMUKH, J.

DATED : 29/07/2024

ORAL JUDGMENT

1. This appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwha, District Yavatmal dated 16.02.2015 in Land Acquisition Case No. 1861/2004.

2. The challenge under this appeal is only about constructed area 27.68 sq. mtr. situated at village Kurbharkinhi, 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.

3. 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 3200

per sq. mtr. He, therefore, submitted to award the same rate to the appellant.

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

5. Heard learned Advocate for both sides.

6. The admitted facts are that house No. 231 of village Kumbharkinhi, Tahsil Darwha, District Yavatmal was acquired admeasuring 27.68 sq. mtr. constructed area of house of appellant by notification dated 06.11.1998 according to the award passed on 30.12.2000. By the award of Land Acquisition Officer construction rate of Rs. 985/- per sq. mtr was fixed. The valuer determined its rate of Rs. 83,040 - 3,000 per sq. mtr. with 10% depreciation of the house is which comes to Rs. 8,304/ i.e. total Rs. 74,736/-. The valuer report is at Exh. 38. The Reference Court granted Rs.1,900/- per sq. mtr. rate for constructed area of house. However, after reappraisal of the evidence of the expert, this

Court in the case of ***Ganesh Pundlik Deeve*** (supra) considered Rs.3,200/- per sq. mtr. rate as reasonable and proper for constructed area of same village. The appellant is also entitled for same rate of compensation. Thus, by 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.

7. The appeal is partly allowed.

8. The appellant is entitled for compensation at the rate of Rs.3,200/- per sq. mtr. for the constructed area of 27.68 sq. mtr., to that extent impugned judgment and award deserves to be 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.

9. The respondent No.3 is directed to deposit the remaining amount as per above rate in this Court within six months.

10. 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.

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

12. The appeal is disposed of.

[SANJAY A. DESHMUKH, J.]

B.T.Khapekar