



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

FIRST APPEAL NO. 1275 OF 2024

Shri. Subhash Tulshiram Khatik,
Aged about 51 years, Occ.-Agriculturist,
R/o. Kumbharkinh, Tq. Darwaha,
District - Yavatmal.

.... **APPELLANT**

// VERSUS //

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

.... **RESPONDENTS**

Mr. S. V. Ingole, Advocate for Appellant.

Mr. S. S. Hulke, Assistant Government Pleader for Respondent
Nos.1 and 2.

Mr. M. A. Kadu, Advocate for Respondent No.3.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 18th DECEMBER, 2024.

ORAL JUDGMENT.

1. **Admit.** Heard finally with the consent of the learned
Advocates for the parties.

2. This Appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwaha, District Yavatmal, dated 05.08.2016, in Land Acquisition Case No.2096/2004.

3. The challenge under this appeals is only about constructed area of 9.60 sq. mtr., situated at village Kumbharkinhi, Taluka Darwaha, District Yavatmal, which was acquired for public purpose under the “Kumbharkini Project”. Under the same project, other open plots 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 applying the principle of 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 appellant submitted that house of appellant is similarly situated with the house situated in ***First Appeal No.364/2016***. He, therefore, prayed to award the same rate to the appellant and enhance the amount of compensation.

5. Perused the impugned judgment and award as well as the above referred judgment, passed by this Court in ***First Appeal No.364/2016*** cited *supra*.

6. The admitted facts are that the House bearing No.27/1, total admeasuring 101.56 sq.mtr., out of which, constructed areas 9.60 sq. mtr. and open plot area of 91.96 sq. mtr., situated at village Kumbharkinhi, Taluka 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, passed in L.A.C. No.15/47/98-99, awarded the total amount of compensation of Rs.16,174/- to the claimant. Being aggrieved, the claimant had filed a reference under Section 18 of the Land Acquisition Act, 1894 for enhancement of amount of compensation. The learned Reference Court enhanced the amount and awarded compensation @ Rs.240/- per sq.mtr. for open plot area and @ Rs.1676/- per sq.mtr. for constructed area to the claimant. 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 this appeal is fully 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 purposes.

7. 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.3200/- (Rs. Three Thousand Two Hundred only)** per sq. mtr. for the constructed area of **9.60 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 this appeal and it was condoned by this Court by order dated 14.12.2024.

10. 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.

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