



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

FIRST APPEAL NO. 1281 OF 2024

Shamrao S/o Nagoji Kale (Dead),
Through his Legal Representatives :

- 1) Mainabai Wd/o Shamrao Kale,
Aged about 80 years, Occ.-Nil,
R/o. Kumbharkinh, Tq. Darwha,
District Yavatmal.
- 2) Ajabrao S/o Shamrao Kale,
Aged about 40 Years, Occ.-Agriculturist,
R/o. Ambika Nagar, Darwha,
Tq. Darwha, Dist. Yavatmal.
- 3) Anandrao S/o Shamrao Kale,
Aged about 56 years, Occ.-Agriculturist,
R/o. Kumbharkinh, Ward No.2,
Tq. Darwha, Dist. Yavatmal.
- 4) Smt. Ratna Wd/o Gajanan Kale,
Aged about 44 years, Occ.-Agriculturist,
R/o. Kumbharkinh, Tq. Darwha,
District Yavatmal.
- 5) Prabhatai W/o Balkrushna Sonulkar,
Aged about 62 years, Occ.-Housewife,
R/o. Bhuli, Tq. Manora, Dist. Washim.
- 6) Kunjamal W/o Sanjay Pimpalkar,
Aged about 51 years, Occ.-Housewife,
R/o. Kamargaon, Tq. Karanja,
Dist. Washim.
- 7) Shobha W/o Bhaurao Khardekar,
Aged about 65 years, Occ.-Housewife,
R/o. Khopadi Bk.,
Tq. and Dist. - Yavatmal.

.... **APPELLANTS**

// VERSUS //

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

.... **RESPONDENTS**

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

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 03.03.2015, in Land Acquisition Case No.2165/2004.

3. The challenge under this appeals is about House No.6,
admeasuring total plot area of 53.59 sq.mtr. including 53.59 sq.mtr.
construction thereon, situated at village Kumbharkinhi, Taluka

Darwha, District Yavatmal, 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 appellants is relying upon the judgment passed by this Court in ***First Appeal No.364/2016*** (*Ganesh Pundlik Deeve Vs. Executive Engineer, Kumbharkinihi 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. and at the rate of Rs.240/- per sq.mtr. for open plot area. The learned Advocate for the appellants submitted that house 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 enhance the amount of compensation.

5. Learned Advocate for the appellants pointed out that the learned Reference Court awarded compensation for only constructed area of 53.59 sq.mtr. However, the total plot area was 53.59 sq. mtr. and constructed thereon was 53.59 sq.mtr. Therefore, he prayed to allow the compensation in plot area of 53.59 sq.mtr. also.

6. 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*.

7. The admitted facts are that the House No.6, admeasuring total plot area of 53.59 sq.mtr. including 53.59 sq.mtr. construction thereon, 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, determined the amount of compensation @ Rs.80/- per sq.mtr. for open plot area and @ Rs.843/- per sq.mtr. for constructed area and awarded total amount of compensation of Rs.49,446/- to the original 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.2100/- per sq.mtr. for constructed area only 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 and Rs.240/- per sq.mtr. for open plot area of the same village. It is not disputed by the other side. This Court has satisfied that this appeal is fully covered by the decision rendered

in **First Appeal No.364/2016**. Therefore, the appellants are entitled for same rate of compensation, as the house of appellants was situated at same village and acquired for same purposes, after deducting the deprecation i.e Rs.2550/- per sq.mtr. for constructed area of 53.59 sq.mtr. The appellants are also entitled for compensation @ Rs.240/- per sq.mtr. for acquired plot area of 53.59 sq.mtr. as the total plot area including constructed area were acquired by the Land Acquisition Officer.

8. 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.

9. The appeal is **partly allowed**.

10. The appellants are entitled for compensation at the rate of **Rs.2550/- (Rs. Two Thousand Five Hundred and Fifty only)** per sq. mtr. for the constructed area of **53.59 sq.mtr.**, and at the rate of **Rs.240/- (Rs. Two Hundred and Forty only)** per sq.mtr. for plot area of **53.59 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.

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

(SANJAY A. DESHMUKH, J.)