



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

FIRST APPEAL NO. 1235 OF 2023

Smt. Archana Gajanan Borchate,
Aged about 44 years, Occ.-Business,
R/o. Kumbharkinh, i,
Tq. Darwha, District Yavatmal.

.... **APPELLANT**

// VERSUS //

- 1) State of Maharashtra,
Through Collector, Yavatmal,
Tq. & Dist. Yavatmal.
- 2) Sub-Divisional Officer and
Land Acquisition Officer, Darwha,
Tq. Darwha, Dist. Yavatmal.
- 3) Chief Executive Engineer of
Minor Canal Division, Pusad,
Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

Mr. I. M. Ghongade, Advocate for Appellant.
Ms. Deepa Charlewar, Assistant Government Pleader for
Respondent Nos.1 and 2.
Mr. T. M. Zaheer, Advocate for Respondent No.3.

CORAM : SANJAY A. DESHMUKH, J.

DATE : 16/07/2024.

ORAL JUDGMENT.

1. Heard. **Admit.** Heard finally by 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 18.04.2017 in Land Acquisition Case No.53/2005.

3. The challenge under this appeal is only about constructed area 34.98 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 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 Rs.3200/- per sq. mtr. He, therefore, prayed to award the same rate to the appellant.

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

6. Heard learned Advocate for both sides.

7. The admitted facts are that house No.113/3 of village Kumbharkinhi, Tahsil Darwha, District Yavatmal was acquired admeasuring 34.98 sq. mtr. constructed area by notification dated 06.11.1998 according to the award passed on 30.12.2000. By the award of Land Acquisition Officer, an amount of Rs.20,961/- for construction was granted as compensation to the appellant. The appellant was not satisfied with the award, therefore, filed reference before the Civil Judge, Senior Division, Darwha. The Reference Court granted Rs.1038/- per sq. mtr for construction. However, after appreciation of the evidence of the expert, this Court in the case of *Ganesh Pundlik Deeve* (cited supra) considered Rs.3,200/- per sq. mtr. rate for constructed area of same village. The appellant is also entitled for same rate of compensation. 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.3,200/-** per sq. mtr. for the constructed area of **34.98** 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.

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 month from today.

11. 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.

12. The registry is directed accordingly to pay that amount.

13. The appeal is **disposed of**.

(SANJAY A. DESHMUKH, J.)