



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

**FIRST APPEAL NO. 623 OF 2024**

Shri Ramrao Nago Kale (Dead)  
through his legal representatives :

- 1) Smt. Saraswati Ramrao Kale,  
Aged about 78 years, Occ.-Household,
- 2) Dadarao Ramrao Kale,  
Aged about 61 years, Occ.-Agriculturist,
- 3) Shri Vilasrao Ramrao Kale,  
Aged about 56 years, Occ.-Agriculturist,
- 4) Shri Motiram Ramrao Kale,  
Aged about 51 years, Occ.-Agriculturist,
- 5) Sau. Bebi Dyaneshwar Pritamkar,  
Aged about 46 years, Occ.-Household,  
All R/o. Kumbharkinh, i  
Tq. Darwha, District Yavatmal.

.... **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  
Kumbharkinh, i Dam Project Division,  
Pusad, Tq. Pusad, Dist. Yavatmal.

.... **RESPONDENTS**

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

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**CORAM : SANJAY A. DESHMUKH, J.**

**DATE : 16/07/2024.**

**ORAL JUDGMENT.**

1. This appeal is preferred against the judgment and award passed by Civil Judge, Senior Division, Darwha, District Yavatmal dated 05.03.2015 in Land Acquisition Case No.2161/2004.

2. The challenge under this appeal is only about constructed area 44.94 sq. mtr. situated at village Kumbharkinh, 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 appellants pointed out the judgment in ***First Appeal No.364/2016*** (*Ganesh Pundlik Deeve Vs. Executive Engineer, Kumbharkinh Dam Division Pusad, Tq. Pusad Distt. Yavatmal and others*) dated 22<sup>nd</sup> 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 appellants.

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

5. Heard learned Advocate for both sides.

6. The admitted facts are that house No.139 of village Kumbharkinh, Tahsil Darwha, District Yavatmal was acquired admeasuring 44.94 sq. mtr. constructed area by notification dated 06.11.1997 according to the award passed on 30.12.2000. By the award of Land Acquisition Officer, an amount of Rs.61,576/- for construction was granted as compensation to the appellants. The appellants was not satisfied with the award, therefore, filed reference before the Civil Judge, Senior Division, Darwha. The Reference Court granted Rs.1700/- 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 appellants are 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.

7. The appeal is **partly allowed**.

8. The appellants are entitled for compensation at the rate of **Rs.3,200/-** per sq. mtr. for the constructed area of **44.94** 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.

9. 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.

10. 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.

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

12. The appeal is **disposed of**.

(SANJAY A. DESHMUKH, J.)