



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR

FIRST APPEAL NO. 808 OF 2024

Damdu Baban Rathod,
Age : 75 years, Occ. : Agriculturist,
R/o Kumbharkinh, Tq. Darwha,
Yavatmal.

... APPELLANT

VERSUS

1. The State of Maharashtra,
Through Collector, Yavatmal,
District Yavatmal
2. The Special Land Acquisition Officer,
Darwha, Tq. Darwha,
District Yavatmal
3. The Chief Executive Engineer,
Kumbharkinh Dam Division,
Pusad, Tq. Pusad,
District Yavatmal

... RESPONDENTS

Shri A. B. Nakshane, Advocate for Appellant
Shri M. A. Kadu, AGP for Respondent Nos. 1 and 2/State
Smt. Malika Babhulkar, Advocate for Respondent No. 3

CORAM : ROHIT W. JOSHI, J.
DATE : 7th FEBRUARY, 2025

ORAL JUDGMENT :

1. The present appeal is preferred under Section 54 of the Land Acquisition Act, 1894 challenging the judgment and award dated 04.01.2012 passed by the learned Civil Judge Senior Division, Darwha in Land Acquisition Case No. in 1808 of 2004. The appellant who is the petitioner in the said land acquisition case is dissatisfied with the amount

of compensation awarded and seeks further enhancement by filing the present appeal.

2. A piece of land bearing Survey No. 185 situated at Village Kumbharkinh, Taluka Darwha, District Yavatmal admeasuring 121.42 sq.mtrs., with a building standing thereon having built-up area of 98.22 sq.mtrs., owned by the appellant, was acquired by the respondents for Kumbharkinh Dam. Notification under Section 4 of the Land Acquisition Act was issued on 06.11.1998 and the Land Acquisition Officer passed award under Section 11 of the Act on 30.12.2000. The Land Acquisition Officer awarded compensation for land admeasuring 121.42 sq.mtrs. at the rate of Rs. 80/- per sq.mtr. and a sum of Rs. 85,00,861 /- for the building structure standing thereon.

3. The appellant was not satisfied with the compensation awarded and therefore, at his behest a reference under Section 18 of the Land Acquisition Act was made, which came to be registered as Land Acquisition Case No. 1808 of 2004. During the course of evidence in the said case, a valuation report dated 30.01.1999 issued by one Sunil M. Chandkapure, an approved property valuer, was proved and exhibited vide Exhibit 46. The learned Reference Court after considering the evidence on record and valuation report has awarded compensation at the rate of Rs. 240/- per sq.mtr. for the land and compensation at the rate of Rs. 1500/- per sq.mtr. for built-up area of the building standing on the said land. Mr. Nakshane, learned advocate for the appellant

contends that the controversy pertaining the valuation of the property and amount of compensation to be awarded is covered by judgment of this Court in First Appeal No. 364 of 2016 decided on 22.02.2021. He points out from the judgment that a similar house property, situated in the same village and acquired under the same notification was subject matter of the said appeal in which compensation for the land is awarded at the rate of Rs. 240/- per sq.mtr. and for the building compensation for the land is awarded at the rate of Rs. 3200/- based on the valuation report of the same valuer Mr. Sunil M. Chandkapure, who was also examined in the present matter before the learned Reference Court as witness of the appellant. He points out that the valuer has valued the building structure at the rate of Rs. 3200/- per sq.mtr. and after considering depreciation the rate is reduced to Rs. 2880/- per sq.mtr.

4. Mr. Kadu, learned AGP appearing for respondent Nos. 1 and 2 and Advocate Ms. Babhulakar appearing for respondent No. 3 do not dispute the said fact. In view of the aforesaid, following point arises for my consideration.

What should be the appropriate compensation awarded to the appellant in lieu of acquisition of his property?

5. I have perused the judgment dated 22.02.2021 delivered in First Appeal No. 364 of 2016. Perusal of the judgment will indicate that this Court has maintained compensation awarded for the land at Rs. 240/- per sq.mtr. as was awarded by the learned Reference Court. In view of

the matter, I am of the opinion that compensation for land cannot be enhanced. As regards the building structure the same valuer was examined in the said case. He has valued the building structure in the said case at Rs. 3200/- per sq.mtr. In the present case also the building structure is valued at the rate of Rs. 3200/- per sq.mtr. and the same is thereafter reduced to Rs. 2880 per sq.mtr. by factoring in depreciation. Perusal of the evidence of the valuer does not indicate any reason for disbelieving the valuation report. His valuation report for similar structure was accepted by this Court in the aforesaid judgment. In view of the aforesaid, I am inclined to enhance the compensation awarded for the building structure at the rate of Rs. 2880 per sq.mtr. In the result, the appeal is partly allowed as under.

ORDER

(i) The respondent Nos. 1 to 3 are directed to pay compensation for 98.22 sq.mtrs. of built-up area of structure standing on the acquired land at the rate of Rs. 2880 per sq.mtr. and further to pay solatium, 12% component and interest on the enhanced amount of compensation as awarded by other Reference Court in its judgment and award dated 04.01.2012 passed in Land Acquisition Case No. 1808 of 2004.

(ii) Parties to bear their own costs.

[ROHIT W. JOSHI]
JUDGE