

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

Writ Petition No. 6131 of 2007

- | | | |
|--|--|------------------------|
| <ol style="list-style-type: none"> 1. Kautik s/o. Deorao Surase,
Age : 56 years,
Occupation : Agriculture,
R/o. Karanjkhed,
Taluka : Kannad,
District : Aurangabad. 2. Chandrabhan s/o. Laxman Ghadge,
Age : 68 years,
Occupation : Agriculture,
R/o. as above. 3. Chandrabhan s/o. Bala Surase,
Age : 75 years,
Occupation : Agriculture,
R/o. as above. |  | <p>.. Petitioners.</p> |
|--|--|------------------------|

versus

- | | | |
|---|---|------------------------|
| <ol style="list-style-type: none"> 1. The State of Maharashtra,
through Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai. 2. The Divisional Commissioner,
Aurangabad. 3. The Collector, Aurangabad,
Through Special Land Acquisition
Officer, J.P. No.1, Aurangabad. 4. The Rehabilitation Officer,
Aurangabad,
Office at Collectorate, Aurangabad. |  | <p>.. Respondents.</p> |
|---|---|------------------------|

.....

Mr. S.K. Adkine, Advocate, for the petitioners.

*Mr. S.S. Tope, Additional Government Pleader, for
respondent nos.1 to 4.*

.....

**CORAM : A.V. NIRGUDE &
A.M. BADAR, JJ.**

DATE : 14TH JULY 2015

ORAL JUDGMENT (Per A.V. Nirgude, J.) :

1. Heard learned Counsel for the petitioners and the learned Additional Government Pleader for the respondents.
2. The petitioners came before this Court for demanding rehabilitation aid from the State of Maharashtra, pursuant to Government Resolution dated 15-12-1983.
3. The facts which emerge from the record submitted before the Court are as under :-

The petitioners' lands were acquired for Nevpur Medium Project. The acquisition proceedings started in 1993 and the petitioners were given notices under Section 12 of the Land Acquisition Act, 1897 [**For short, hereinafter referred to as "Act of 1894"**] for receiving compensation in 1997. The petitioners obtained compensation under protest and filed different references in respect of different notices under Section 12

received by them. It so happened, that the petitioners had houses on agricultural lands. Along with the land, houses were also affected by acquisition. The petitioners received separate notices under Section 12 of the Act of 1894, in respect of their houses. They, therefore, filed references under Section 18 for getting more compensation in respect of houses. However, thereafter in 2003, they withdrew these references and approached the Government for getting rehabilitation aid. Such aid is permissible to persons who do not go in reference, etc. The Special Land Acquisition Officer vide his letter dated 20th January 2007, refused to pay aid to the petitioners.

4. The respondents explained as to why the aid was refused to the petitioners. It is stated, that the petitioners were erroneously issued separate notices under Section 12 of the Act of 1894, for their houses which were situated on the lands which were affected by acquisition. Such house would not be counted as separate property and, therefore, the petitioners were not even entitled to file reference under Section 18 of the Act of 1894.

5. We perused record and found that the statement in the affidavit of the respondents is as per the facts. The houses for which the petitioners were given notice under Section 12 of the Act of 1894, were indeed situated on the acquired lands. They were not situated in *Gaothan* area. In view of this, it is clear to us, that the petitioners are trying to take disadvantage of the notices which they had received under Section 12. As observed above, these notices were unnecessary and did not give rise to any entitlement to the petitioners. The petition should, therefore, fail.

6. In the result, the petition is dismissed. Rule is discharged. In the circumstances of the case, there shall be no order as to costs.

(A.M. BADAR)
JUDGE

(A.V. NIRGUDE)
JUDGE

.....