

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4525 OF 2013

Rajaram Bhau Jagtap

.... Petitioner

Vs.

State of Maharashtra & Ors.

.... Respondents

Ms Shakuntala Wadekar for the Petitioner.

Mr. N.P. Deshpande, AGP, for the Respondents.

CORAM: A.S. OKA &
REVATI MOHITE DERE, JJ.

DATED: AUGUST 03, 2015

P.C:

1. Heard the learned counsel appearing for the petitioner and the learned AGP appearing for the respondents.

2. The prayer made by the petitioner in this petition is for a declaration that the petitioner is entitled to allotment of alternate land admeasuring 2 Hectares and 80 Ares of Class-I from the benefited zone of Chaskaman Dam Project. Though the petitioner claimed that the land bearing Gat No.379 at Village

Rautwadi, Taluka Shirur, District Pune was allotted to him, in the affidavit of Shri Dadabhau Sayaji Joshi, Deputy Collector (Rehabilitation) he has stated that the documents in relation to the alleged allotment of land bearing Gat No.379 could not be located in his office. He has stated that the land bearing Gat No.379 has been allotted to one Ananta Maruti Shelar. It is pointed out that subsequently the petitioner applied for grant of land bearing Gat No.365, which has been allotted to one Pandurang Dagadu Sawant. It is pointed out that out of land bearing Gat No.1258, which was sought by the petitioner by application dated 19-6-2013, various portions therefrom have been allotted to third parties.

3. It will be necessary to consider what is observed in the order dated 9-10-2013. A Division Bench of this Court in paragraph 2 of the order recorded thus:

“2. We had, accordingly, directed the Government by order dated 25th September, 2013 to inform this Court whether Gat Nos.197/69 situated at the said village can be allotted to the Petitioner. In the meantime it appears that the Tahasildar, Shirur by

letter dated 30.9.2013 informed the Collector that out of Gat No.197, an area admeasuring 36 Hectors and .09 Are is available and there is no encroachment on the said land. So far as Gat No.69 is concerned, he has stated that an area 0.85 Are is available for allotment.”

In paragraph 3, the Division Bench issued the following directions:

“3. In our view, since the Tahasildar has clarified that an area 36 Hectares and 0.9 Are is available for allotment from Gat No.197, we direct the Respondents to allot the land which the Petitioner is entitled to get, in accordance with law, without eight weeks from today. The Respondents shall give hearing to the Petitioner and decide which land he is entitled to get and, accordingly, pass an appropriate order. Place the matter for compliance on 25th November, 2013.”

4. There is an affidavit filed by Shri Punaji Ramchandra Kothare, in-charge Deputy Collector (Rehabilitation), Pune in which it is stated that land bearing Gat No.197 at Dingrajwadi is a gairan land which is reserved for establishment of new resettlement gaothan. In fact, during the pendency of this petition, on 28-7-2014 the petitioner again applied to the

concerned Hon'ble Minister for allotment of the said land.

5. Today, on instructions, the learned counsel appearing for the petitioner states that the petitioner is not likely to get any land out of Gat No.197. She, therefore, submits that the case of the petitioner for allotment of an area of 85 Ares out of land bearing Gat No.69 at Village Dingrajwadi, Taluka Shirur, District Pune may be considered. She states that according to the petitioner, the entitlement of the petitioner is to allotment of an area of 2 Hectares and 80 Ares. She states that if the land bearing Gat No.69 is allotted to the petitioner, for the remaining area out of the entitlement of the petitioner, the petitioner will make a separate application for the allotment of additional land.

6. In view of the aforesaid statements made on instructions, by the learned counsel appearing for the petitioner and in view of what is stated in the affidavit of Shri Punaji Ramchandra Kothere dated 21-11-2013, now the directions in terms of the order dated 9-10-2013 need not be implemented.

7. In view of the aforesaid statements made by the learned counsel appearing for the petitioner, the petition need not be kept pending and the same is disposed of by passing the following order:

ORDER

(i) We direct the respondents to consider the case of the petitioner for allotment of land bearing Gat No.69, admeasuring 0.85 Ares, situated at Village Dingrajwadi, Taluka Shirur, District Pune;

(ii) Appropriate decision shall be taken by the respondents within a period of two months from today;

(iii) It will be open for the petitioner to make an application for allotment of additional land. If such an application is made, the same shall be decided within a period of three months from the date on which the application is made;

(iv) We make it clear that we have made no adjudication on the issue of entitlement of the petitioner to claim the area, as claimed in prayer clause (b) of this petition;

(v) All the issues in relation to the entitlement/claim of the petitioner are expressly kept open;

(vi) The petition is disposed of in above terms.

(REVATI MOHITE DERE, J.)

(A.S. OKA, J.)