

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8613 OF 2013

Janakibai Babu Vaskar & Anr. .. Petitioners

-Versus-

The Collector and Deputy Collector
Rehabilitation, Kolhapur and Ors. .. Respondents

Mr.P.D.Dalvi for petitioners

Ms.P.S.Cardozo, AGP for respondent No.1 to 5

CORAM : M.S.SONAK, J.

DATE : 4th February 2015.

P.C.

1] Rule. With the consent and at the request of learned Counsel for the parties, rule is made returnable forthwith.

2] This court, by its order dated 27th July 2010 in Writ Petition No.5722 of 2010 had directed the Collector of Kolhapur district to dispose of petitioners' representation dated 11th November 2008 for declaring them as Project Affected Persons and for allotment of alternate land.

3] By the impugned order dated 6th December 2011, the Deputy Collector (Resettlement) Kolhapur has rejected the petitioners' representation, inter alia, by observing that the compensation payable to the petitioner has already been deposited in the Treasury at Kolhapur and, therefore, there arises no question of grant of any alternate land to the petitioner.

4] In the affidavit in reply filed by the Deputy Collector (Resettlement), however, the deponent has stated some additional reasons, on account of which, the petitioners' claim is rendered untenable. The additional reasons referred to in the said affidavit are as follows:-

- (a) delay in making representation;
- (b) failure to deposit 65% of the compensation amount;
- (c) allotment of alternate land in favour of petitioners' father one Babu Sitaram Vaskar, from whom the petitioners claim;

(d) existence of certain other legal heirs, like Ravindra Sitaram, Maruti and Yashoda;

5] A perusal of the impugned order indicates that none of the aforesaid reasons find place therein. The learned Counsel for the petitioner, under the circumstances, is right that he was deprived of an opportunity to satisfy the Collector that the aforesaid reasons either are non-existent or in any case, the same are untenable.

6] In view of the aforesaid, it would be appropriate if the impugned dated 6th December 2011 is set aside and the matter is once again remanded to the Deputy Collector for affording the petitioners a fresh opportunity to meet with the aforesaid reasons. The aforesaid reasons, shall be regarded as tentative and final decision shall be taken in accordance with law, only after affording a personal hearing to the petitioners.

7] It is made clear that this court has not gone into the merits and de-merits of the matter. The impugned order is being set aside basically in order to afford an opportunity to the petitioner to meet

with the case now set out in the affidavit in reply and because the case now set out in the reply was not at all reflected in the impugned order.

8] Accordingly, the impugned order dated 6th December 2011 is set aside. The Collector now to decide the matter afresh in the light of the observations as aforesaid. For this purpose the petitioner to appear before the Collector on 25th February 2015 at 3.00 p.m. without expecting any fresh notice in this matter along with authenticated copy of this order. The Collector to take a decision within four weeks from the date of appearance of petitioners and inform the petitioners within two weeks.

9] Rule is made absolute to the aforesaid extent. There shall however, be no order orders as to costs.

(M.S.SONAK, J.)