

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

WRIT PETITION NO. 7345 OF 2015

Smt. Kaushalyabai W/o Champatrao Jagdhane,
Age : 72 Years, Occu. : Household,
R/o Dhangar Pimpri, Tq. Ambad,
Dist. Jalna,
At Present Ram Mandir Galli,
Ambad, Tq. Ambad, Dist. Jalna. .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Department of Help and Rehabilitation,
Mantralaya, Mumbai - 32.
2. The District Collector,
Collector Office Building,
Jalna, Dist. Jalna.
3. The Deputy Collector/
District Rehabilitation Officer,
Collector Office Building,
Jalna, Dist. Jalna. .. Respondents

Shri Swapnil A. Deshmukh, Advocate for the Petitioner.
Shri B. V. Virdhe, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.**

DATE : 27TH JULY, 2016.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. The learned counsel for the petitioner submits that, the land of the petitioner is acquired vide award dated 09.11.1998. Because of the acquisition of the land, the petitioner has become landless. The petitioner on 16.07.2013 had applied for the allotment of alternate land. The said application is rejected on the ground that the petitioner has not deposited 65% amount of compensation. According to the learned counsel, at no material point of time the petitioner was issued with notice by the Collector asking her, her willingness to accept the grant of the land or the plot as is required U/Sec. 16(2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for the sake of brevity hereinafter referred as to the "Act of 1999"). The learned counsel submits that, as no notice was issued to the petitioner, the respondents cannot now take the plea of delay. According to the learned counsel, the petitioner is ready to deposit 65%/75% amount of compensation as per the scheme of the Act of 1999.

3. Mr. Virdhe, the learned Assistant Government Pleader submits that, as the petitioner failed to deposit 65% amount of compensation, the application of the petitioner is rejected. The petitioner has approached belatedly. As per the provisions of the

Act of 1999, the petitioner has to make an application within 45 days, however, the petitioner approached after fifteen years. The learned A. G. P. relies on the order passed by this Court in Writ Petition No. 5847 of 2012 with connected writ petitions dated 17th October, 2012.

4. We have considered submissions canvassed by learned counsel for respective parties. The application of the petitioner is rejected solely on the ground that the petitioner has failed to deposit 65% amount of compensation, as such is ineligible for allotment of alternate land/plot.

5. The affidavit in reply filed by the State, nor the order depict any notice being issued by the authority to the petitioner asking her willingness to accept the grant of the land or plot made to her. The provision of Sub Section 2(a) of Sec. 16 of the Act of 1999 makes it clear that the affected persons eligible for the grant of land or plot under Sub Section 1 of Sec. 16 of the Act of 1999 forfeits his/her right to get the same if she fails to communicate her willingness to accept the grant of land or plot made to her to the Collector within a period of 45 days from the date of receipt by her of the notice in that behalf from the Collector. As it is not shown by respondents that, they had at any point of time issued notice to the petitioner. The ground raised by respondents cannot be substantiated.

6. In the light of the above, the impugned order is quashed and set aside. The respondent authority i. e. the respondent No. 3 shall reconsider the application of the petitioner for grant of alternate land/plot considering provisions of Sec. 16(1) and (2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 and take decision on its own merits expeditiously and preferably within nine (09) months from the date of this order.

Rule is made absolute in above terms.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/July 16