

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.9193 OF 2015**Eknath S/o Ravan Avdhoot Vs. The State of Maharashtra and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.Shivaji B.Ghatol Patil, advocate for the Petitioner.
Mr.B.A.Shinde, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**
Date : 06.10.2016.

PER COURT :

1. Heard.
2. The land of the petitioner's predecessor was acquired. As per provisions of the Maharashtra Project Affected Persons Rehabilitation Act, the predecessor of the petitioner was allotted 3 acres land from S.No.21, village Naigaon and 1 acre from S.No.15 of the same village. It is submitted by Mr. Ghatol, learned counsel for petitioner that the father of the petitioner deposited the first instalment, still, the possession of the land allotted was not given to the petitioner's father. The petitioner repeatedly requested for handing over possession of the land as per allotment order and to accept the remaining amount but no cognizance was taken. The

petitioner had filed representation, however, no decision was taken. The petitioner approached this Court, this Court under order dated 24.3.2014 in W.P.No.2377/2013 directed the Respondents to take decision. The representation of the petitioner was rejected on the ground that total amount of occupancy price was not deposited nor 75% of the compensation amount was deposited. According to the learned counsel, it was also duty of the Respondent authority to give possession of the land before the Respondent could demand payment of instalment of occupancy price. The learned counsel relies on the Government Resolution dated 20.6.1973 to buttress his submission.

3. The learned A.G.P. submits that the allotment was made in the year 1983, however, the father of the petitioner except depositing the first instalment had not taken any further steps to deposit the remaining amount. After 1983 neither the original allottee nor the present petitioner deposited the entire occupancy price in respect of the allotted alternate land. Moreover, the father of the present petitioner had also not submitted his consent to deposit 75% compensation amount payable to him. The claim of the petitioner has been rightly rejected.

4. We have considered the submissions.

5. The petitioner's father was allotted alternate land on the ground that he had become landless on acquisition of his land. As

such it would be too late in the day for the Respondents to contend that the father of the petitioner had not given consent to deposit 75% of the amount of compensation. The father of the petitioner has also deposited the first instalment and the same is admitted by the Respondents. The possession of the land is admittedly not given to the father of the petitioner nor to the petitioner. The Government Resolution dated 20.6.1973 would come to the aid of the petitioner.

6. We had asked the learned A.G.P. to take instructions as to whether the land allotted to the petitioner's father is still vacant. The learned A.G.P. has received the communication from the Deputy Collector (Rehabilitation) stating that 3 acres out of S.No.21, Gat No.56 is still vacant and barren, so also as far as 1 acre from S.No.15 (Gat No.38) is concerned, is in possession of the legal heirs of the original owner and it was found that 2 acres of land of Gat No.21 is in their possession on the basis of Eksala Laoni.

7. As far as 3 acres from S.No.21 Gat No.56 is concerned, 2 acres is in possession of the legal heirs of the original owner on the basis of Eksala Laoni. The said land is allotted to the petitioner in the year 1983.

8. Considering the above, the Respondents shall on the petitioner paying all the instalments of the occupancy price and complying with all other legal requirements hand over possession

of the land which-ever is vacant and available and shall take steps to hand over possession of total 4 acres of the land as per the allotment order issued in favour of father of the petitioner as expeditiously as possible.

9. The Writ Petition is disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.06.10.2016.
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