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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3147 OF 2014

Shankar Krishna Sutar
(since deceased by heir
Prakash Shankar Sutar & Ors. ...Petitioners

vs.

The District Resettlement
Officer, Kolhapur & Ors. ...Respondents

Mr.N.J.Patil for the Petitioners
Mr.V.B.Thadhani, AGP for the respondent Nos.1 to 5.

CORAM : A.S.OKA, &
C.V.BHADANG, JJ.
DATE : FEBRUARY 18, 2016

P.C.:

1 Heard the learned counsel for the petitioners. On instructions he states that there is no specific order of allotment in favour of the petitioners of the lands mentioned in prayer clause (a). The submissions were heard on the last date and today, the petition was kept to enable the petitioners to make a statement on the aforesaid aspect.

2 The petitioners are claiming to be the project affected persons of Tulsi project. Their case is that they have been allotted an area of 20 Ares of land from Gat No.878 situated at village Dhamod, Taluka Radhanagari, District Kolhapur, an area of 2 Ares from Gat No.36 at village Chande and an area of

2 Ares from Gat No.63 from village Radhanagari. He stated that these lands have been allotted to the first petitioner. It is claimed that the petitioner Nos.2A and 2B have been allotted the area of 6 Ares out of land bearing Gat No.1161 situated at Udgaon, Taluka Shirol, District Kolhapur. It is claimed that the petitioner No.3 has not been allotted any land.

3 Prayer clause (a) of this petition reads thus:

"(a) That this Hon'ble Court be pleased to pass appropriate order thereby directing the respondents to forthwith initiate an enquiry in respect of the inaction on the part of the respondents in not handing over possession of the land admeasuring 35 Are from Gat No.362 situated at village Jainapur, Taluka Shirol, District Kolhapur and land admeasuring 50 Are from Gat No.170 situated at village Udgaon, Taluka Shirol, District Kolhapur to the petitioner No.1 and land admeasuring 60 Ares from Gat No.362 situated at village Jainapur, Taluka Shirol, District Kolhapur to the petitioner No.2 and land admeasuring 80 Ares from Gat No.362 situated at village Jainapur, Taluka Shirol, District Kolhapur to the petitioner No.3 in the benefited zone in lieu of their acquired land in affected zone of Tulsi project and after taking suitable action to submit the report to this Hon'ble Court."

4 As stated earlier, the lands which are incorporated in prayer clause (a) have not been allotted to the petitioners. We, therefore fail to understand how the petitioners can claim allotment of specific lands which are claimed in prayer clause (a). The petitioners are relying upon the applications made to the District Collector and a copy of which is annexed to the petition at page 22. There is no date on the said application. There is no acknowledgment on the said application.

5 Having perused the entire petition, we find that the petitioners have not spelt out any right to allotment of the land specified in prayer clause (a). Therefore, a writ of mandamus as prayed cannot be issued.

6 The learned counsel for the petitioners submitted that as the petition is confined to the lands specified in prayer clause (a), the petitioners may be granted a liberty to make a fresh application for allotment of some other land.

7 It is true that we cannot prevent the petitioners from making a fresh application for the allotment of lands. However, if such application is made, the petitioners will have to prove their entitlement for the allotment to lands and they will have to explain the delay as well.

8 Subject to what is observed above, writ
petition is rejected.

(C.V.BHADANG,J.)

(A.S.OKA,J.)