

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3940 OF 2015

Grampanchayat Dingranjwadi.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. U. P. Warunjikar for the Petitioner.

Mr. N. V. Walawalkar, Senior Advocate along with Mr. Gajanan Sangle for Respondent Nos. 4 to 24.

Mr. V. D. Patil along with Mr. Swapnil Mohite for Respondent Nos. 25, 26, 30 and 31.

Mr. S. R. Nargolkar and Mr. Deven Jagdeo for Respondent Nos. 27, 28 and 29.

Ms. A. D. Vhatkar, AGP for the State.

Coram : RANJIT MORE &

SMT. ANUJA PRABHUDESSAI, JJ.

Date : **July 12, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties.

2. The writ petition is filed for following reliefs :

"a) Be pleased to call for record and proceedings of allotment order made by Respondent No. 3 in favour of private Respondent No. 4 to No. 24 and after going through the same satisfy legality, validity and propriety thereof, be please to quash and set aside the same.

b) Be please to direct the Respondent to state on oath what steps they have take to maintaining Gairan Land and what steps taken for allotment of the Petitioner Grampanchayat.

c) Be pleased to direct the Respondent

herein to consider application of the Petitioner for allotment of plot of land from Gairan land in favour of the Petitioner herein."

3. Thus, by relief claimed in prayer clauses (a) and (b), the Petitioner is challenging the allotment of land from Gat Nos. 197 and 239, situated at village Koregaon-Bhima made in favour of Respondent Nos.4 to 24, made by Respondent No.3.

4. Mr. Warunjikar, learned Counsel appearing for the Petitioner relying upon the GR dated 12th July 2011 submitted that nature and character of Gairan land cannot be changed neither the said land can be allotted in favour of any individual or private organisation or institution except for the public purpose and only when no other land is available. For this purpose also, he submitted that there should be resolution in support of the allotment of the land by the concerned Grampanchayat and approval by the Chief Executive Officer of the Zilla Parishad. Lastly, he submitted that the allotment of the land in favour of Respondent No. 4 to 24 is bad and illegal.

5. Mr. Walawalkar, the learned Senior Counsel, Mr. Vijay Patil and Mr. Nargolkar, the learned Counsel appearing for the Respondents opposed the petition very vehemently. They

submitted that the land allotted to Respondent Nos.4 to 24 was though initially gairan, it was resumed by the government and it was allotted by the Respondent Authorities for the public purpose, namely, resettlement of the project affected persons. Mr. Walawalkar also brought to our notice allotment orders as well as the possession receipts in favour of these Respondents.

6. We have gone through the allotment orders and possession receipts annexed to the petition. Perusal of the same do show that the land Gat Nos.197 and 239 belonged to the Government was Gairan land and was given to the concerned Grampanchayat. These documents further show that these lands were subsequently resumed by the government in the year 1989 and thereafter allotted to various project affected persons. This resumption was done for the public purpose, i.e., for the resettlement of project affected persons. In our opinion, the moment government resumed the said lands, those lands lost their character as gairan land and thereafter the government was competent enough to allot the same to the project affected persons.

7. Be that as it may, the Petitioner is opposing the

allotment of land to Respondent Nos.4 to 24 on the ground that the said land is gairan land and at the same time the Petitioner has applied to the Collector for allotment of the said land for primary health care centre, school, etc.. These stands taken by the Petitioner are contrary to each other. In the light of above discussion, we are not inclined to entertain reliefs claimed in prayer clauses (a) and (b).

8. So far as relief claimed in prayer clause (c) is concerned, it is the case of the Petitioner that on 17th February 2014 they have made an application for allotment of the land from said Gat Numbers for construction of various utility centres therein, namely, primary health care centre, hospital, school. It is the grievance of the Petitioner that this application is not considered by the Collector. We are not inclined to grant relief claimed in this prayer clause in exercise of our powers under Article 226 of the Constitution of India. However, we direct the Collector to take a decision on the said representation in accordance with law. The Collector shall decide the said application as expeditiously as possible and at any rate within the period of six weeks from today.

9. Subject to above, the writ petition is dismissed.

10. At this stage, learned Counsel appearing for the Petitioner seeks continuation of the interim relief. Since we have found that the lands which are allotted to Respondent Nos. 4 to 24 are not gairan lands, we are not inclined to continue the interim relief. Request for continuation of the interim relief is, therefore, rejected.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]