

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6278 OF 2016

Smt. Parvatibai Baburao Dalvi & Ors. .. Petitioners
V/s
State of Maharashtra & Ors. .. Respondents

Mr. P.K. Hoshing i/b Mr. Ashok M. Joshi for the petitioners.
Mr. M.M. Pabale, AGP for the respondents.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S. SONAK, J.**

DATE : 19th DECEMBER 2016

P.C.:

The petitioners are before this Court asking for the following reliefs:

- “(a) *The Hon'ble Court be pleased to issue Rule in this petition;*
- (b) *The Hon'ble Court be pleased to issue writ of certiorari or writ of mandamus or direct the respondents to acquire the land owned by the petitioners as per the provisions of Land Acquisition Act and pay compensation at today's market rates or return the land of petitioners;*
- (c) *The Hon'ble Court be pleased to issue writ of certiorari or writ of mandamus or any other appropriate writ, direction or order quashing/setting aside the judgment*

and order passed by the Respondent No.2 dated 11/12/2012 & 10/2/2014;

- (d) The Hon'ble Court be pleased to direct the respondents to allot the petitioners cultivable land in exchange of the land which was given to them;*
- (e) Pending the hearing and final disposal of the present writ petition, the Hon'ble Court be pleased to direct the respondents to allot the land which is more cultivable & give them choice to select amongst the lands available.”*

2. The present petition is filed mainly for allotment of alternate land on the ground that the land, which was allotted to them in Gat No.590/6 in village Kangaon, Taluka Daund, District Pune, is uncultivable land. According to the petitioners, a Tipni made by the Tehsildar at page 57 indicates that the land is uncultivable and in spite of that, the impugned order at pages 64 and 65 (Exhibit “E”) came to be passed and, therefore, the said order is required to be set aside.

3. On perusal of the Tipni at page 57, it indicates that now the land is not cultivable and, according to the learned Government Advocate, in terms of observations at pages 64 and 65, in the year 1995-96 the land in question was cultivated and after 29 years the petitioners are before this Court contending that the land is uncultivable as indicated by the Tehsildar as per the Tipni made in 2012 at page 57. If the land, which was allotted to the petitioners in

village Kangaon, Gat No.590/6 was cultivable land at the time of allotment to the petitioners and if it has become uncultivable on account of not maintaining the said land by the petitioners, it is altogether a different reason. If the land itself was not cultivable from the date of allotment for different reason, then an obligation is casted on the Rehabilitation Officer to look into the matter and allot alternate land. Except mentioning in one line in 1995-96 that the land in question was cultivable, there was no opportunity of explaining anything offered to the petitioners.

4. In that view of the matter, we set aside the order at Exhibit "E" (pages 64-65) and direct the respondent authorities to hear the petitioners and then dispose of the matter strictly in accordance with the procedure contemplated so far as the representation of the petitioners for allotting alternate land instead of Gat No.590/6 at village Kangaon in Daund Taluka, Pune District. The entire exercise has to be completed within 4 months from today.

5. With the above observations, the writ petition is disposed of.

(M.S. SONAK, J.)

CHIEF JUSTICE