

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8333 OF 2014

Smt. Lilabai Yashwant Malusare. ... Petitioner.
V/s.
State of Maharashtra and others. ... Respondents.

Balasheb Deshmukh for the petitioner.

Mrs.M.P.Thakur, AGP for the State.

**CORAM : DR.MANJULA CHELLUR, C.J.
AND G.S.KULKARNI , J.**

DATE : 14th February 2017.

P.C. :

Apparently, the petitioner belongs to the family of a project affected person. By order dated 29th August 2016, we directed the petitioner to place on record whether any of the entitlements as a project affected person was extended to the family of the petitioner. Now, learned counsel for the petitioner brings to our notice that his mother was allotted a residential plot during her life time, however, no agricultural land came to be given to her or to the petitioner since the respondents refused to accept from the

petitioner deposit of 65% of the compensation, which was paid to the project affected person, for her land being taken away under acquisition. It is well settled that the entitlement of a project affected person to have an alternate land is recognized statutorily under the Maharashtra Resettlement of Project Affect Persons Act, 1999 ("said Act" for short). There is forfeiture of such right/entitlement, if 65% of the compensation amount is not deposited within a prescribed time, but this forfeiture of right surfaces only if there is a statutory demand indicating that the project affected person can get alternate land provided 65% of the compensation amount is deposited within a prescribed time. Unless such option by a notice recognized under the statute is extended and after that if the projected affect person does not accept the offer made by the concerned authority, then only one can conclude that there was an offer as recognized under the statute. In the present case such notice was not given to the project affected person and as such there was no forfeiture of right/entitlement. This position is made clear by this Court as early as in 2013 in the case of *State of Maharashtra v. Shantaram B. Nawale*, reported in 2013 (6) Mh.L.J. 527, as well as in an unreported judgment in WP No.8385/2010 and other connected matters (*Ram Shankar Deshmukh & ors. v. State of Maharashtra & ors.*). It is observed that unless a notice under section 16(2)(a) of the said Act is issued to the project affected person, there would be no occasion

for the affected person to obtain knowledge of the fact that such an offer to deposit of 65% compensation for obtaining alternate land is given. In absence of such notice, forfeiture of right/entitlement would not arise.

2. Apparently, in the present case, no such offer demanding deposit of 65% of the compensation was given to the project affected person i.e. mother of the petitioner to choose option of alternate land. In that view of the matter, we are of the opinion that the petition deserves to be allowed.

3. Accordingly, we direct the respondent authorities to receive 65% of the compensation amount along with application of the petitioner seeking alternate land, which has to be submitted within four weeks. Once such payment is made and application is submitted as stated above, the Rehabilitation and Resettlement Officer shall dispose of the said application in accordance with the procedure contemplated, in the light of the above observations within four weeks thereafter. With this direction, the writ petition is disposed of.

(G.S.KULKARNI, J.)

CHIEF JUSTICE