

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3599 OF 2014

Keshav Baberao Taskar and others. ... Petitioners.
V/s.
The State of Maharashtra and others. ... Respondents.

Vivek Salunkhe for the petitioners.
PG.Sawant, AGP for the State.

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

DATE : 6th March 2017.

PC. :

Learned AGP appearing for the State submits that in spite of reminding the officer concerned to file affidavit in terms of the order dated 20th February 2017, no instructions are received. Therefore, we are of the opinion that the officer concerned must be of the view that there is no need to file affidavit.

2. Heard learned counsel for the petitioners and learned AGP for the State. We have gone through the impugned order as well as the recommendation of the Collector, Nashik dated 24th March 2003. The petitioner is before us aggrieved by the fact that under rule 20 of the Government Land Disposal Rules, 1971 (“Rules

of 1971” for short) formulated under the Maharashtra Land Revenue Code, 1966, though he was entitled for allotment of land subject to payment of occupancy price, the Government was not justified in rejecting his application in terms of the impugned order. On earlier date when the matter came up before us, we were shown the judgment of the Apex Court in the case of ***State of Kerala v. Bhaskaran Pillai***, (1997) 5 SCC 432, we also opined that the facts of the present case are not similar to the facts of the case referred to. Therefore neither the law nor the facts of the judgment in the case of ***Bhaskaran Pillai*** (supra) would apply to the present case. In spite of such opinion and direction to the State to respond why the petitioners are not entitled for grant of land in terms of rule 20 of the Rules of 1971, there is no reply from the State. On verification of records, we note that there were three or four lands which were acquired for the formation of Nandur-Mandhmeshwar Canal along with other lands in Gat Nos.188 admeasuring 81 Ares and Gat No.189 admeasuring 62 Ares situated in village Dindori, taluka-Niphad, district- Nashik. However, the petitioners are not concerned with Gat No.187 and other lands. According to the petitioners, by virtue of acquiring the above two pieces of land, the petitioners have become landless persons in terms of rule 20. We are aware of the fact that the petitioners could have asked for alternate land in terms of the claim forwarded by the State for the project affected persons under the Maharashtra Project Affected Persons Rehabilitation Act, 1976 modified in 1986 and later in 1999. The fact remains that the rejection of application is not on the ground that the petitioners were

already given an alternate land. The respondent authorities have not replied to show that this is a case of an excess land. In the absence of establishment of above two facts, we fail to understand referring to the Apex Court judgment in the case of **Bhaskaran Pillai** (supra), which is not at all applicable, how the respondent authorities have passed the impugned order totally ignoring the recommendation of the Collector which is at page-30 of the writ papers. The respondent authorities have not even discussed why the recommendation of the Collector is bad and how it is bad in the light of judgment in the case of **Bhaskaran Pillai** (supra). For rejecting the application, they have only referred to the judgment in the case of **Bhaskaran Pillai** (supra) and have not applied their mind to the facts of the case, especially in the light of recommendation of the District Collector.

3. Under these circumstances, we allow the writ petition by directing the respondent authorities to do the needful in terms of recommendation of the District Collector, Nashik vide order dated 24th March 2003 at page-30 of the writ papers without referring to the impugned order dated 8th September 2015. The entire exercise has to be completed within a period of 8 weeks from today.

4. Writ petition is disposed of accordingly.