

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3139 OF 2014

Pandurang Sakharam Ghorpade	.. Petitioner
V/s	
Uddhav Anandrao Kadam & Ors.	.. Respondents

Mr. Sachin Pawar for the petitioner.
Mrs. M.P. Thakur, AGP for the State.
Mr. P.J. Thorat for respondent nos.1 to 3.

**CORAM: DR. MANJULA CHELLUR, CJ. &
N.M. JAMDAR, J.**

DATE : 16th AUGUST 2017

P.C.:

The present petition is filed by the petitioner seeking physical and actual possession of the lands in Gat Nos. 497/1B/1 and 462/1/A/1 with all easement to the petitioner admeasuring 64 Ares and 40 Ares respectively in the said lands which are situated in Village Malgaon, Taluka and District Satara.

2. A detailed reply affidavit is filed by the respondent – Land Acquisition & Resettlement Officer explaining the problem with the above two lands. According to the respondent Authority, on 17th July 2010 and 6th August 2010, paper allotment of lands and

possession was done, so far as these two Gat numbers, in favour of the petitioner. Subsequently, respondent no.5 was complaining that respondent no.4 was obstructing the petitioner to cultivate the land in Gat No. 462/1/A/1. Therefore, he requested the Tahsildar to remove the obstruction by exercising powers under section 21 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 read with Mamlatdar Courts Act, 1906. On 21st July 2011 by exercising powers under the Mamlatdar Courts Act, the Tahsildar directed respondent nos.1 to 4 to provide physical possession of the said lands with all easementary rights to the petitioner. Necessary directions were given to respondent no.4 not to interfere with the peaceful possession of the lands.

3. According to the respondent – Resettlement Officer, since there was dispute of land bearing Gat No.497/1B/1, as respondent nos.1 to 3 were not ready to hand over physical possession of the said land but were ready to hand over physical possession of Gat No. 185 situated at Malgaon, Taluka and District Satara, petitioner was called to receive another land. However, the petitioner did not show any interest to come and receive the said land under a panchanama on 21st March 2013. According to the Resettlement Officer, when alternate land at Village Malgaon is shown, the petitioner should not insist upon the land in Gat No. 497/1B/1.

4. Then coming to Gat No. 462/1/A/1, the said land is with respondent no.4. Even so far as this land, the Resettlement Officer is

ready and willing to provide alternate land from the benefit zone of Dhom Project within 3 months. According to the Resettlement Officer, total entitlement of the petitioner is 2 Hectares 80 Ares and is allowed to receive only 1 Hectare 74 Ares. The Resettlement Officer is willing to give another 1 Hectare 6 Ares as well from the same benefit zone of Dhom Project.

5. The petitioner might have raised a technical ground in the present writ petition contending that prior to cancellation of allotted land in his favour, no notice was given to him. Apparently, except the paper allotment, physical possession of the land was never handed over to the petitioner. On the other hand, the petitioner was approaching the respondent Authority and the Tahsildar constantly seeking removal of encroachment and handing over vacant possession of the said lands. Apparently, the lands are not allotted to third parties. The lands are allowed to be retained by the owner of the lands. Instead of those two lands from the very same owner, other lands are taken. When compared to the grievance of the owner to that of the project affected person, since he was not the owner of this land, we are of the opinion that he may not insist upon allotment of a particular land. As long as the allotted land in the same benefit zone of Dhom Project is free from encumbrance, we are of the opinion that the petitioner should not have any grievance. The Resettlement Officer has come forward to provide suitable alternate land in the same benefit zone of Dhom Project. Therefore,

we are of the opinion that there need not be any direction as sought in the writ petition and we dispose of the writ petition directing the Resettlement Officer to complete the process of allotment as well as putting the possession of the land in favour of the petitioner within 6 months from today.

(N.M. JAMDAR, J.)

CHIEF JUSTICE