

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 610 OF 2016

Shri Vaman Govind Thite .. Petitioner
V/s
State of Maharashtra & Ors. .. Respondents

Ms. Shakuntala Wadekar for the petitioner.
Mr. P.G. Sawant, AGP for the State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
G.S. KULKARNI, J.**

DATE : 20th FEBRUARY 2017

P.C.:

Apparently the petitioner claims to be a project affected person whose lands in Gat Nos. 2454 and 2462 were acquired for Thitewadi Dam Project.

2. The petitioner is before this Court mainly aggrieved by the fact that he was never informed of the offer to give alternate land subject to condition of deposit of 65% of the compensation amount received by the project affected person. According to the petitioner, no notice under sub-section (2) of section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1989 (for short “1989 Act”) came to be given to him offering such option to the land loser to opt out alternate land agreeing to redeposit 65% of the compensation amount within the prescribed time. The grievance

seems to be that the petitioner did not deposit within the prescribed time 65% of the compensation amount to secure alternate land, therefore he is not entitled for the same.

3. There is no material placed on record on behalf of the respondent indicating that there was a notice under sub-section (2) of section 16 of the 1989 Act which was served on the petitioner and he did not opt out to have the alternate land. In the absence of such notice being sent giving an opportunity to the land loser to choose whether he keeps the compensation or he intends to secure alternate land by depositing 65% of the compensation amount, the stage for depositing 65% of the compensation amount within the prescribed time will never arise. Such non-compliance can be complained on behalf of the respondent authorities only if the petitioner were to get such notice under sub-section (2) of section 16 of the 1989 Act and keeps quiet without indicating his willingness or failing to comply in accordance with his willingness.

4. In that view of the matter, we are of the opinion that the petitioner is entitled for the relief at prayer clause (c). Accordingly, we dispose of the writ petition in terms of the following order:

- (a) The petitioner shall submit his application in prescribed form, if any, furnishing all the details within 4 weeks from today to the Rehabilitation Officer concerned.

- (b) On receipt of such application, the Rehabilitation Officer concerned shall intimate to the Petitioner to choose the option available to him in terms of sub-section (2)(a) of section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, which is applicable to him.
- (c) On receipt of such intimation, the petitioner shall intimate the option chosen by him within 2 weeks.
- (d) On receipt of the intimation of option from the petitioner, the respondent Authority shall dispose of the application strictly adhering to the procedure contemplated within 4 weeks thereafter.

(G.S. KULKARNI, J.)

CHIEF JUSTICE