

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5254 OF 2016

Shri Ananda Narayan Mankumare & Ors.	]	... Petitioners
Versus		
The State of Maharashtra	]	
(Through Secretary of Rehabilitation	]	
Department, Mantralaya, Mumbai) & Ors.	]	... Respondents

AND

WRIT PETITION NO.5255 OF 2016

Shri Ananda Narayan Mankumare	]	
(Since deceased through his L.R.s) & Ors.	]	... Petitioners
Versus		
The State of Maharashtra	]	
(Through Secretary of Rehabilitation	]	
Department, Mantralaya, Mumbai) & Ors.	]	... Respondents

Mr. R. V. Bansode for Petitioners in both Writ Petitions.
 Mr. P. P. Kakade, AGP for State in both Writ Petitions.
 Mr. Vinay Patil for Respondent No.2 in both Writ Petitions.

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

DATE :- JANUARY 24, 2017

P. C. :-

1. The petitioners claim to be agriculturists who also have their dwelling houses in Villlage - Kawadi, Taluka - Jaoli, District - Satara. There is no dispute that the lands of the petitioners were subject-matter of acquisition by the State Government for the Kudali Project (Mahu-Hathgeghar Dam). The entire native village of the

petitioners was acquired for the project. The petitioners became project affected persons (PAPs).

2. In accordance with the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, State Government decided to rehabilitate the petitioners within the beneficial zone of one Dhom-Balakwadi project. A circular to that effect was issued on 21 November 1997 publishing a scheme to implement the rehabilitation. As per the requirement of the scheme, the petitioners also deposited 65% amount of compensation, which they received for acquisition of their original lands, for allotment of an alternate agricultural lands within the beneficial zone of Dhom-Balakwadi project. Receipts were also issued of the said payments. Appropriate data in the form of a register-book of Village - Kawadi was prepared as per the requirement of the Government Resolution dated 8 August 1990. The register also notes the payment of 65% of the amount as deposited by the petitioners. A second compilation / register of the PAPs of Village - Kawadi, came to be prepared in which the authorities have given the names of villages in which the petitioners have been allotted the alternate agricultural lands. The petitioners and the other villagers of Village - Kawadi, accordingly, have been allotted agricultural lands in different villages in the benefited zone viz. Jadhavwadi, Zirapwadi, Bhadali (Bk), Bhadli (Khurd) and Saskal situated in Taluka - Phaltan, District - Satara. Further, an order dated 27 April 2010 came to be issued in view of the provisions of Section 16(1) of the Maharashtra Project Affected Persons Rehabilitation Act,

1999. Accordingly, the schedule mentioning the names of account holders who were distributed agricultural land came to be prepared. All the petitioners find a place in the distribution chart as prepared under the order dated 27 April 2010. The names of the petitioners also came to be inserted in the ownership column and in the other rights column of 7/12 extract with a remark 'on condition of new tenure'. The petitioners have averred that in fact, a separate and independent village is established under the name Jadhavwadi-Phaltan, Taluka - Phaltan, District - Satara, being a rehabilitation village of all the PAPs belonging to Village - Kawadi. This was done to keep all the native villagers in the same village. An amount of Rs.7 to 8 Crores was also spent by the State Government for providing facilities in the said rehabilitation village such as water supply, roads, electricity, schools, temples, toilets, drainages, etc.

3. On this background, the grievance of the petitioners is that despite allotment of the plots to the petitioners, due to strong political pressure created by local villagers by way of Mutation Entry No.7457 dated 27 February 2013, the allotments of plots to the petitioners are bracketed and the names of the original villagers are re-inserted in the 7/12 extract in relation to the plots already allotted to the petitioners. The names of the petitioners are inserted in the 'other rights' column of the 7/12 extract and accordingly the files were closed. This, according to the petitioners, was clearly an arbitrary and high-handed action on the part of the authorities.

4. Some of the petitioners, therefore, made a representation to the State Government pointing out the above facts and requesting that immediate possession of the lands which are allotted to each of the petitioners be given to them. In response to one of the representations, respondent no.7 - Sub-Divisional Officer, Satara, by a letter dated 9 March 2013, informed the said petitioner that the Award of land acquisition pertaining to Village - Jadhavwadi has lapsed and that if in future land becomes available at Jadhavwadi, further necessary proceedings as per the rules will be initiated. This being a shock to the petitioners, a representation was made by them to the Chief Minister, Rehabilitation Minister as also Irrigation Minister. The petitioners also approached the Lok-Ayukta making a grievance that despite the acquisition of their lands three years back as also allotment of land in Village - Jadhavwadi, the petitioners were still not rehabilitated.

5. In the circumstances, as the grievances of the petitioners were not attended to by any of the authorities, the petitioners are before us in the present petition, *inter alia*, praying for the following main reliefs :-

Writ Petition No.5254 of 2016 :-

- “a. *This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby direct the Respondent Authorities to hand over the actual & physical possession to the Petitioners of the agricultural land as well as plot of land as per the Form No-A prepared in view of the order dated 27.04.2010 passed by present Respondent No.7 (Exh-“E”) of this petition, within a stipulated period, as this Hon'ble High Court may deem fit and proper in view of this peculiar facts & circumstances of the present case.*

- b. *This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby be please to, direct the Respondent Authorities to hand over the actual & physical possession of the plots of land to the respective Petitioners as per allotment made to them already in New Rehabilitation village - Kawadi, established on survey no.44 (pai) of village - Jadhavwadi, Tal - Phaltan, Dist - Satara.*
- c. *This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby be please to, direct the Respondent Authorities to hand over the actual & physical possession of the agricultural land to the respective Petitioners as per the 7X12 extract standing on the name of Petitioners in the Revenue record and record of rights of village - Jadhavwadi, Tal - Phaltan, Dist - Satara.*
- d. *This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby be please to direct the Respondent Authorities including Respondent No. 1 State to provide the livelihood allowance to each of the Petitioners regularly each month including arrears of livelihood allowance since the date of acquisition of the agricultural land & dwelling houses of the Petitioners by excluding 2 years upto till date along with interest @ 12% thereon with the difference of arrears of the said livelihood allowance if any within a stipulated period as this Hon'ble Court may deem fit & proper in view of the peculiar facts & circumstances of the present case.*
- e. *This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby please to direct the Respondent Authorities including Respondent No. 1 State to allot and hand over the physical possession of the agricultural land at village - Jadhavwadi, Tal - Phaltan, Dist - Satara and issue 7X12 extract to that extent on the name of Petitioners viz Petitioner No.44 to 53 abovenamed within a stipulated period as this Hon'ble High Court may deem fit & proper, in view of the peculiar facts & circumstances of the present case.....”*

Writ Petition No.5255 of 2016 :-

- “a. *This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby direct the Respondent Authorities to hand over the actual & physical possession to the Petitioners of the plots of land as per the Form No-A prepared in view of the order dated*

27.04.2010 passed by present Respondent No.7 (Exh-“E”) of this petition, within a stipulated period, as this Hon'ble High Court may deem fit and proper in view of this peculiar facts & circumstances of the present case.

- b. This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby be please to, direct the Respondent Authorities to hand over the actual & physical possession of the plots of land to the respective Petitioners as per allotment made to them already in New Rehabilitation village - Kawadi, established on survey no.44 (pai) of village - Jadhavwadi, Tal - Phaltan, Dist - Satara.*
- c. This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction and thereby be please to direct the Respondent Authorities including Respondent No. 1 State to provide the livelihood allowance to each of the Petitioners regularly each month including arrears of livelihood allowance since the date of acquisition of the agricultural land & dwelling houses of the Petitioners by excluding 2 years upto till date along with interest @ 18% thereon with the difference of arrears of the said livelihood allowance if any within a stipulated period as this Hon'ble Court may deem fit & proper in view of the peculiar facts & circumstances of the present case.....”*

6. We have heard the learned Counsel for the petitioners and the learned Counsel for the respondents.

7. We have given our anxious consideration to the facts of the present case and to the rival submissions, as made on behalf of the parties. We may observe that there is no dispute that the petitioners are the project affected persons. It is also clear that the petitioners were initially allotted alternate lands at Jadhavwadi and that steps were taken to enter the names of the petitioners in the revenue record. However, the possession of the lands could not be handed over, as contended by the petitioners, as there was resistance of the

local villagers, as also the petitioners were informed that the acquisition of the said alternate lands which was to entail to the benefit of the petitioners, had lapsed. It is apparent that since about 18 years, the petitioners were deprived of their lands, as also, the petitioners have deposited 65% of the amount of compensation for grant of alternate lands and that allotment of alternate lands was made in their favour, as noted above. If this be the position, we are at a loss to understand as to how the petitioners can be kept deprived of their legitimate entitlement for allotment of alternate lands under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 and policy of the State Government. We, therefore, consider it appropriate that the respondents are directed to take urgent steps to consider allotment of alternate lands to the petitioners after hearing the petitioners with regard to their choice of alternate 2 or 3 lands. We may also observe that if there is a mandatory provision in the statute to pay any compensation / special grant and if it is not paid, the same shall also be considered and paid to the petitioners. This entire exercise of allotment of alternate lands and payment of compensation / special grant be completed within a period of three months from today.

8. The petitions are disposed of in the above terms. There shall be no order as to costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)