

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 12850 OF 2015

Babubha Jiwaji Jadhav

...Petitioner

Versus

State Of Maharashtra And Ors

...Respondents

Mr.Gaurav Potnis i/b. Mrs.Pallavi Potnis, for the Petitioner.

Mr.N.P.Deshpande, Addl.G.P for the State-Respondent.

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

DATE :- JANUARY 30, 2017

P. C. :-

1. The petitioner was the owner of the land bearing Gat No.11 and 31 totally admeasuring 35 ares at village Annawale, Taluka Khed, District Pune. The Petitioner's land was acquired by the State Government for Bhama-Askhed project as the land would fall in the submergence area, under land acquisition award dated 5 May 2000. The possession of the land was taken on 24 August 2000. The petitioner contends that under the provisions of Maharashtra Project Affected Persons Rehabilitation Act,1999 (for short 'the said Act') on acquiring the petitioner's land, the Government is required to settle project affected persons (PAP) by allotting to them alternate land. Such land is required to be allotted from the land pool as per the slab

mentioned in the 'Sankalan Register' prepared under the said Act. This land is required to be allotted from the benefited zone of Bhama-Askhed Project.

2. The petitioner contends that at the time or before payment of compensation under the Land Acquisition Act, a notice was required to have been given to the Petitioner by the Re-settlement Officer under Section 16 of the said Act as also occupancy price which is 65% of the land value was required to be deducted from the compensation payable under Section 12(2) of the Land Acquisition Act. It is contended that under Section 16(2)(a) of the said Act, the petitioner was also required to be shown the alternate land and subject to petitioner's approval, the petitioner should have been permitted to file a proposal for allotment of the land. However, all these requirements are not followed in the petitioner's case. The petitioner is deprived of his legitimate entitlement for allotment of alternate land under the said Act despite sixteen years having been passed after the award, and sixteen years have lapsed after the petitioner losing possession of the land. The petitioner contends that similarly situated persons had approached this Court and the Division Bench of this Court has passed an order dated 2 May 2011 in a batch of Writ Petitions (Writ Petition No.8385 of 2010 & connected matters) whereby the authorities were directed to undertake the procedure under Section 16(2) of the Act for allotment of land. The petitioner therefore, intends to place reliance on the orders passed by this Court to support his contention as the petitioner claims to be similarly

placed. On this we express no opinion, this contention is required to be examined by the State authorities. Learned Counsel for the Petitioner states that the Petitioner is willing to make a comprehensive representation for which he is in the process of procuring documents.

3. Having heard the learned Counsel for the Petitioner and the learned Additional Government Pleader, considering the facts and circumstances of the case, we propose to dispose of the present petition by passing the following order:-

ORDER

(i) As the petitioner intends to procure some documents, we permit the petitioner to make a representation to the appropriate officer of the respondents, seeking allotment of alternate land. Such representation be made within a period of three months from today.

(ii) If the petitioner makes such representation, the State Government shall consider the same on its own merits, and decide the same in accordance with law within six weeks of its receipt.

Writ Petition is disposed of in the aforesaid terms. No costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)