

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.896 OF 2003

The Village Panchayat, Koregaon
Tq. Walva, District : Sangli
Through Shri. Vilasrao @ B. K. Patil
Age : 50 years Occupation : Agriculturist
R/o Koregaon Tq. Walva
District : Sangli.

..Petitioner

Versus

1. The Collector, Sangli
District : Sangli.
2. The District Rehabilitation Officer,
Sangli District : Sangli.
3. The State of Maharashtra.

(Notice of the Respondent No.1 to 3
are to be served on Additional Govt.
Pleader Appellate Side,
High Court of Judicature at Bombay.

..Respondents

Mr. Umesh R. Mankapure a/w Mr. R. A. Naik for the Petitioner.

Mr. A. I. Patel, Additional GP for the Respondent Nos.1 to 3.

CORAM : A. S. OKA &
RIYAZ I. CHAGLA, JJ

DATE : 11th AUGUST, 2017

ORAL JUDGMENT (PER A. .S OKA J.)

1 This Writ Petition is called out for final hearing. Heard

learned Counsel appearing for Petitioner and the learned AGP for the Respondents. The Petitioner is a Village Panchayat established under the Maharashtra Village Panchayat Act, 1959 (For short “the said Act”). The case made out in the Petition on the basis of possession receipt dated 03rd September, 1996 is that the District Collector by order dated 10th April 1987 assigned land admeasuring 19 Acres and 36 Gunthas of village Koregaon (For short “the said land”) to the Petitioner Village Panchayat for forest and horticultural use. The Petitioner, apart from relying upon the possession receipt which is annexed, also relied upon mutation entry No.2139 dated 13th July 1987 made on the basis of order dated 10th April 1987.

2 According to the case of the Petitioner Village Panchayat, the said Panchayat is implementing a Fodder Development Project on a part of the said land. Various details of the implementation of the said project are set out in the Petition.

3 In the Petition, it is pointed out that in December 2002, the Petitioner became aware of the fact that land admeasuring 8 Hectare and 05 Ares has been placed in possession of the District Resettlement Officer, Sangli and the said land has been assigned Gat No.1328. The challenge in this Petition under Article 226 of the Constitution of India is to the order

of the Collector dated 24th December 2001 of allotting the said land to District Resettlement Officer.

4 There are two affidavits filed by way of reply to the Writ Petition. Shri. Ramdas Haribhau Jagtap, District Resettlement Officer, Sangli, District Sangli has filed an affidavit dated 21st April 2005. The said affidavit contains a statement that the possession of entire land has been taken over by the revenue authorities after the said land was deassigned. It is pointed out that the possession of an area of 3 Hectare 20 Ares has been handed over to the project affected persons named in the said affidavit. The affidavit further states that in view of the taking over of said land, now the land admesuring 18 Hectare and 98 Ares from land bearing Survey No.445-A has been assigned for the purpose of Gaothan of village Koregaon. It is contended that the said land vests in the State Government and the Petitioner has no right.

5 The submission of the learned Counsel appearing for the Petitioner is that the entire said land has not been utilized for allotment to the project affected persons as stated in the additional affidavit of Shri. Ramdas Haribhau Jagtap. He pointed out that the said affidavit records that out of the total area of 7 Hectares and 18 Ares only an area of 3 Hectare and 20 Ares has been placed in possession of the project affected

persons. He, therefore, submitted that Petitioner has a right to retain the remaining land. The learned AGP for the Respondents submits that the Petitioner Village Panchayat has no right in respect of the said land and therefore, the Petitioner cannot challenge the decision of the Collector of allotting the said land to the District Resettlement Officer. He would urge that the entire said land is in possession of the State Government.

6 We have considered the submissions. The Petitioner is relying upon the order of allotment dated 10th April 1987. Though the order of allotment is not annexed, mutation entry No.2139 by which the name of the Petitioner was mutated in the revenue record is produced. It reproduces the conditions incorporated in the order of allotment. It is stated that though the land has been handed over to the Petitioner, it will continue to be vest in the Government of Maharashtra and only management thereof has been transferred to the Petitioner Village Panchayat. One of the conditions is that the land shall be used only for social forestry and horticulture. The said conditions are also incorporated in the possession receipt relied upon by the Petitioner. Therefore, the Petitioner is bound by the said terms and conditions.

7 There is no vesting of the said land in the Petitioner Village Panchayat and the State Government continues to be the owner of the

said land. Therefore, the Petitioner cannot raise any objection to the State Government taking over possession of the said land.

8 If the Petitioner is still in possession of a part of the said land, it is open for the Petitioner to make an application to the State Government for allotment of the said portion of the land. If such application is made, the same shall be decided in accordance with law as expeditiously as possible and in the event within a period of three months from the date of filing of the application.

9 As the Petitioner has absolutely no right in respect of the said land, no relief can be granted in this Petition as prayed for.

10 Subject to what is observed above, Writ Petition is rejected. Rule is discharged, with no order as to costs.

[RIYAZ I. CHAGLA, J]

[A. S. OKA, J]