

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7312 OF 2015

Shri Damu Ladu Khade
Since deceased through his LR
Shri Anil Damu Khade

.. Petitioner

V/s

The Collector, Pune & Ors.

.. Respondents

Mr. Uday Nighot for the petitioner.
Mrs. M.P. Thakur, AGP for the State.

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

DATE : 26th JULY 2017

P.C.:

The petitioner is before us challenging the impugned order contending that as on the cut off date, there were 19 family members and not 9 family members as indicated in the impugned order.

2. During the course of submissions on 12th July 2017, the petitioner's counsel orally submitted that there is material to show that there were 13 members in the family. The Court directed the petitioner's counsel to substantiate the said statement by material. Now the petitioner's counsel is before the Court contending that at least the case of 11 members must be considered since there is further material.

3. It is well settled principle that while invoking extraordinary jurisdiction of the Court under Article 226 of the Constitution of India, the petitioner not only must come with clean hands, but with clean heart and soul. However, according to the petitioner, even if 9 members were to be admitted as family members, as indicated in the impugned order, as on the cut off date the family is entitled to have 3 Acres and not 1 Hectare.

4. Under these circumstances, we direct the respondent Authorities to consider the matter only taking into account the number of family members as observed in the impugned order, i.e. 9 and not any other number, since as on the date of passing the impugned order there was no such material available. However, if on the date of the impugned order there is any material to indicate more than 9 family members, the petitioner is entitled to point out such material from the records available and not by bringing on record the fresh material.

5. With the above observations, the writ petition is disposed of directing the respondent Authorities to reconsider the matter only based on the existing material available on record, within two months from today.

(N.M. JAMDAR, J.)

CHIEF JUSTICE