

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10718 OF 2018

SHANTAWAN SHRIPATI LANDGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr Deshmukh H.D.
AGP for Respondents : Mr. S B Pulkundwar

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CORAM : N.M. JAMDAR, J.
Dated: November 21, 2018

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PER COURT :-

The petitioner has challenged the order passed by the Divisional Commissioner, Aurangabad dated 26.12.2017. The order has been passed by the Divisional Commissioner pursuant to the directions issued by the Division Bench of this Court on 23.7.2015 in writ petition no.7282 of 2015. It is the contention of the petitioner that his property was acquired for irrigation of the project and in lieu thereof he was allotted two plots i.e. plot nos.17 and 18 under the rehabilitation scheme. According to the petitioner, he had taken possession of the plot no.17, however, plot no.18 was not given to him. This contention has been rejected by the Divisional Commissioner.

2. Learned counsel for the petitioner has heavily relied upon the communication issued by the Tahsildar to Gramsevak on 18.12.2015.

According to the petitioner, this communication reflects that the petitioner is entitled for two plots i.e. plot nos.17 and 18. Based on this, petitioner had filed Writ Petition no.7282 of 2015 and representation tendered by the petitioner was directed to be decided. Thereupon, an enquiry was conducted on site. It was found that some other person was in occupation of the plot no.18. The petitioner has no document to show that the petitioner has allotted specific plot no.18. Divisional Commissioner has held an enquiry into the facts and has found that the plot no.18 is in possession of some other person. Rights therefore have been accrued in favour of the said person. Without the petitioner producing any document whatsoever except the communication of the Tahsildar, rights accrued to the third parties cannot be divested in this in these proceedings. If it is the case of the petitioner that some unauthorized person has encroached upon the plot allotted to him, the petitioner has his remedy of raising a civil dispute. The Writ Petition is, therefore, cannot be entertained and is disposed of.

(N.M. JAMDAR, J.)

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