

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5369 OF 2017

Kakasaheb Narayan Salunkhe
and Ors.

.....Petitioners

V/s
The State of Maharashtra
and Ors.

.....Respondents

* * * * *

Mr. Vijay Killedar, Advocate for the petitioners.

Dr. Kirti Kulkarni, AGP for respondents no.1 to 4.

Coram : A.A. Sayed, &

Sandeep K. Shinde, JJ.

Monday, 22nd October, 2018.

P.C. :

1. The petitioner seeks implementation of order dated 26th November, 2001 passed by the Additional

Commissioner, Pune Division, Pune whereby the proceedings filed by the predecessor-in-title of the petitioners under Section 48(1) of the Land Acquisition Act was allowed. In terms of the said order, the predecessor-in-title of the petitioners were permitted to surrender the land Gat No. 385 instead land Gat No.210 then acquired for allotment to the respondent no.5 being project affected person under the Rehabilitation Act. It is the petitioners' own case that, on 11th February, 2001 the land was allotted to project affected person namely, Bapu Ganpati Pawar i.e. respondent no.5.

2. The State has filed an Affidavit and contended that the land at Gat No.210 admeasuring 1 hectare and 20 Ares was allotted to respondent no.5 on 11th February, 2001 and possession was handed over on 9th January, 2003. The State has placed on record the mutation entry no. 1035 dated 9th January, 2003

whereby the name of respondent no.5 was mutated.

3. The documents placed on record by the State, clearly establishes the fact that respondent no.5 is in the possession of the Land Gat No. 210 since 2003. Infact, respondent no.5 is not willing to accept the alternate land which is offered by the petitioners herein. In view of these facts and since respondent no.5 is in the possession of the subject land since 2003, we are not inclined to accept the contention of the petitioners and interfere with the impugned communication dated 31st October, 2015. In view of the above, the petition is dismissed.

(SANDEEP K. SHINDE, J)

(A.A. SAYED, J)