

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14038 OF 2016

...
Mahadeo Vishram KadamPetitioner
V/S
The Collector, Kolhapur & Ors.Respondents
...
Mr. Gajanan M. Savagave for the Petitioner.
Mrs. M.S. Srivastava, AGP for Respondent Nos.1 to 4/State.
...

**CORAM : A.A. SAYED &
S.C. GUPTA, JJ.**
DATE : 12 SEPTEMBER 2018.

ORDER:

1 We are informed that the issues raised in the present petition are identical to the issues raised in Review Petition (Stamp) No.34787 of 2015 dated 27 October 2016 (**The Collector of Pune & Ors. V/s. Sakharam Tukaram Shivekar & Anr.**) and the directions contained in the order dated 27 October 2016 in that Review Petition can be issued in the present Petition also.

2 In the circumstances, we pass the following order :

“(i) We direct the Deputy Collector (Rehabilitation), Ichalkaranji to examine the case of the Petitioner with a view to ascertain whether he is project affected person as

claimed by him and whether he is entitled to allotment of lands under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 or under similar enactments;

(ii) We direct the Petitioner to appear before the Deputy Collector (Rehabilitation), Ichalkaranji on 26 September 2018 at 12.30 p.m. The Petitioner shall produce necessary documents in his custody along with a Representation. If the Petitioner is not in possession of all the documents, the Deputy Collector (Rehabilitation), Ichalkaranji shall grant time of three months to him to produce the relevant documents from the date fixed for appearance;

(iii) In the event, the Petitioner produces evidence to show that his Application for grant of heirship certificate/succession certificate/probate/letters of Administration is pending, on being satisfied that such Application is pending, the Deputy Collector (Rehabilitation), Ichalkaranji shall extend the time of three months provided in this order and shall grant a reasonable time to enable the Petitioner to obtain necessary grant from the concerned Court;

(iv) We direct the Deputy Collector (Rehabilitation), Ichalkaranji to consider documents and to pass an order recording brief reasons. The order shall be passed within a period of three months from the date on which time

granted to the Petitioner to produce documents expires. A copy of the order passed by the Deputy Collector (Rehabilitation) Ichalkaranji shall be served upon the Petitioner.

(v) If the Deputy Collector (Rehabilitation), Ichalkaranji is satisfied that the Petitioner is the project affected person or legal representative of the project affected person and/or otherwise is entitled to allotment of a land, the State shall ensure that the Collector or appropriate authority of the State immediately issues a notice to the Petitioner under clause (a) of sub-section (2) of section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Notice shall be issued either by RPAD and/or by hand delivery;

(vi) It will be open for the Petitioner to communicate his willingness to accept the grant of a land within a period of 45 days from the date of receipt of such notice from the Collector/Competent Authority;

(vii) The Petitioner shall deposit with the Collector (Rehabilitation), Ichalkaranji, 65% amount of the compensation received by him or his predecessor for the land acquired from him or the likely cost of the land granted to him, whichever is less at the time of payment of such compensation to the Petitioner.

(viii) Needless to add that adjudication will be made by the Deputy Collector (Rehabilitation), Ichalkaranji in the light of the discussion made in this order. We clarify that the Petitioner will not be required to produce evidence to show that an Application under sub-section (1) of section 16 of the said Act has been made either by him or by his predecessor. We also clarify that even assuming that the Petitioner or his predecessor in title has made statement before the Land Acquisition Officer stating that he is not interested in allotment of alternate land, such statement shall not amount to waiver of his right of allotment of land by way of Rehabilitation;

(ix) The Writ Petition stands disposed of in the above terms.

(S.C. GUPTE, J.)

(A.A. SAYED, J.)

katkam