

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5268 OF 2018

Shri Bhagwan Anaji Kedari	...	Petitioner
V/S		
The State of Maharashtra & Ors.	...	Respondents

Mr. V.S. Tadke, Ms. Trupti Goswami i/b Mr. Mohan B. Gawade for the
Petitioner.
Ms. Pushpalata N. Diwan, AGP for Respondent Nos.1 to 5/State.

**CORAM : A.A. SAYED &
S.C. GUPTE, JJ.**
DATE : 29 AUGUST 2018.

ORDER:

1 It is not dispute that the case of the Petitioner would be covered by the directions contained in the order dated 27 October 2016 passed in Review Petition (Stamp) No.34787 of 2015 in Writ Petition No.3758 of 2011 (The Collector of Pune & Ors. vs. Sakharam Tukaram Shivekar & Anr.). We therefore dispose of the Petition by passing the following order:

ORDER

- (i) We direct the Deputy Collector (Resettlement), Pune 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 (Resettlement), Pune on 17 September 2018 at 12.00 noon. 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 (Resettlement), Pune 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 (Resettlement), Pune, 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 (Resettlement), Pune 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 (Resettlement), Pune shall be served upon the Petitioner;

- (v) If the Deputy Collector (Resettlement), Pune is satisfied that the Petitioner is the project affected person or legal representatives 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 notices to the Petitioner under clause (a) of sub-section (2) of section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Notices 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 notices from the Collector/Competent Authority;
- (vii) The Petitioner shall deposit with the Collector (Resettlement), Pune, 65% amount of the compensation received by him or his predecessors 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 (Resettlement), Pune 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 them or by their predecessors. We also clarify that even assuming that the Petitioner or his predecessors in title have made statements before the Land Acquisition Officer stating that they are not interested in allotment of alternate land, such statements shall not amount to waiver of their right of allotment of land by way of Rehabilitation;

2. The Writ Petition stands disposed of in the above terms.

(S.C. GUPTE, J.)

(A.A. SAYED, J.)

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