

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8003 OF 2011

Nikhil Balasaheb Pasalkar & Anr. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr.Ketan Joshi i/b Mr.Lendl. Coutinho for the petitioners

Mr.V.S.Gokhale 'B' Panel Counsel for the respondent nos.1 to 5

Mr.Madhav Jamdar for the respondent no.6

**CORAM: K.K. TATED &
B. P. COLABAWALLA, JJ.**

DATED : MARCH 26, 2018

P.C. :

- 1 Heard the learned counsel for the parties.
- 2 Advocate for the Petitioner and Respondent no.6 filed Consent Minutes of Order dated 26.3.2018 which reads thus:

“1) Rule, by the consent of the parties returnable forthwith and heard finally.

2) The Writ Petition takes exception to the impugned order dated 20th June, 2009 passed by the Respondent No. 2 in

respect of resettlement/KV-1 Application 2 of 2008.

3) It is the case of the Petitioner that, impugned order is bad in the eyes of law, as it is passed without hearing to the Petitioner and therefore there is violation of principles of Natural Justice. It is also the case of the Petitioner that, order under section 48-A of the Land Acquisition Act, 1894 is bad in the eyes of the law as the possession of the land, which is the subject of the petition is in with the Petitioners.

4) The case of the Respondent no.6 is that, substantial justice is done by way of impugned order. It is also submitted that, the allotment was made of the area more than what was available with the Government. It is also submitted that, by Respondent No. 6 that, they are in possession of the property in question and the application of the Petitioner seeking possession is already dismissed earlier and also considering the nature of impugned order the Writ Petition deserves to be dismissed.

5) The Counsel for the Petitioner and Counsel for Respondent no. 6 agree that, considering the nature of order which is proposed to be passed no reasons are required to be recorded, however, it is not in dispute that, the impugned order directs the Petitioners be granted alternative land instead of Land in Dispute in the present Petition, thus the ends of Justice would be met if the Respondent Collector is directed to give effect to the impugned order in time bound manner and programme.

6) Hence the following order is passed;

a) The Respondent No.3, District collector, Pune is directed to forthwith allot a suitable alternate land to the Petitioner as expeditiously as possible and not later than 6 months from the date of this order. The allotment of the land shall be made by the collector or his designate as per the choice of land expressed by the Petitioner, if the same is available and within the stipulated time.

b) The Ad interim order dated 18th of October 2011 stands

vacated.

c) The impugned order dated 20.06.2009 passed by Divisional Commissioner, Pune Division in Resettlement/KV-1 Application 2 of 2008 is confirmed subject to the foregoing paragraph.

d) Writ Petition is disposed off with no order as to costs.

e) All parties are directed to act on authenticated copy of this order.”

3 Consent Minutes of Order is taken on record and marked 'X' for identification.

4 Writ Petition stands disposed of in terms of Consent Minutes of Order.

5 It is made clear that it is the duty of the Petitioner and Respondent no.6 to make appropriate Application before the concerned authority along with copy of this order for appropriate decision.

6 Collector to decide as early as possible within 6 months from the date of making of Application.

Parties to act on authenticated copy of this order.

(B. P. COLABAWALLA, J.)

(K.K. TATED, J.)