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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3658 OF 2016

Shri Jijabhau Rambhaji Tajane

.. Petitioner

Versus

Deputy Collector (Rehabilitation) & Ors.

.. Respondents

Mr. Vivek V. Salunke for Petitioner.

Mr. Y. S. Khochare, AGP for Respondents.

CORAM: PRADEEP NANDRAJOG, CJ. &
SMT. BHARATI DANGRE, J.

DECEMBER 06, 2019.

P.C.

1. Case of the Petitioner is that for the Vadaj Dam project his agricultural land in Mauje Kusujar, Taluka-Junnar, District – Pune was acquired vide Award No. LAQ/3/SR/25/78. Being illiterate and ignorant he was not aware that he is entitled to compensatory land as a project affected person under the Maharashtra Project Affected Persons Act, 1999. When he learnt about his rights, he made an application on 30.08.2013 to Respondent No.1 for allotting compensatory land. His application

was rejected on the ground that he had not deposited the requisite amount as a condition for allotment of compensatory land.

2. Case pleaded by the Petitioner is that under Sub-section (2) of Section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1989 his obligation to deposit 65% of the compensation received by him for acquired land is contingent upon the department intimating to him the alternative land which the department proposes to allot. Thereafter, within 45 days of said intimation the Petitioner has to exercise the option and if the option is to accept the land then only 65% of the compensation received has to be deposited.

3. Sub-section (2) of Section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1989 reads as under :-

16. Grant and assignment of land. -

(1) xxxx

(2) An affected person eligible for the grant of land or plot under sub-section (1) shall forfeit his right to get the same if,-

(a) he fails to communicate his willingness to accept the grant of land or plot made to

him, to the Collector within a period of 45 days from the date of receipt by him of a notice in that behalf from the Collector; or

- (b) he fails to deposit with the Collector, towards occupancy price of the land, sixty-five per cent of the amount of compensation which he has received for his land which is acquired from him in the affected zone, or of the likely cost of the land to be granted to him under sub-clause (a) of sub-section (1), whichever is less, at the time of payment of such compensation to such affected person.*

4. Indeed the submission of the Petitioner is correct.

5. In the counter affidavit filed, it is not pleaded that processing the application filed by the Petitioner he was intimated the parcel of alternative land proposed to be allotted requiring the Petitioner to exercise the option whether or not to accept the offer, and if accepted, to pay 65% of the compensation which he had received for his acquired land.

6. Thus, we dispose of the Writ Petition quashing the communication dated 27.03.2015. We issue a mandamus to the first Respondent to identify the land which the respondents proposed to allot to the Petitioner as compensatory land. Within six weeks from today a communication shall be addressed to the Petitioner informing the aforesaid fact. Within 45 days from receipt of the same, the Petitioner would then exercise his option and if he opts to accept alternative land, he shall deposit 65% of the compensation which he had received in the treasury. Thereafter, within two weeks the Petitioner would be put in possession of the alternative land offered and in the revenue records his ownership would be mutated.

Pravin
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SMT. BHARATI DANGRE, J.

CHIEF JUSTICE