

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

WRIT PETITION NO.10112 OF 2018

Gundu Dattu Rane	...Petitioner
Versus	
Collector, Kolhapur and Ors.	...Respondents

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Mr. Chetan G. Patil for the Petitioner.
Mr. Pradeep P. Dalvi for the Respondent No.8
Mr. Mayuresh S. Lagu for the Respondent No.2.
Mr. A.B. Kadam, AGP for the Respondent Nos.1, 9 and 10.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 30th JANUARY, 2019.

P.C.:-

The Petitioner herein has challenged the order dated 26th April, 2016 passed by the Respondent No.9-Additional Collector, Kolhapur in Proceedings No.308 of 2016.

2. Heard Mr. Chetan Patil, the learned counsel for the Petitioner, Mr. Mayuresh Lagu, the learned counsel for the contesting Respondent No.2 and Mr. A.B. Kadam, the learned AGP for the Respondent-State. Perused the records.

3. The Petitioner herein was a project affected person, who

was allotted subject land on 22nd April, 2006. One of the conditions of the allotment was not to sell, mortgaged, gift, transfer or alienate the property in any manner without permission of the Collector. The original owner had sought action against the Petitioner alleging that the Petitioner had entered into an agreement in breach of the condition of the allotment letter. The original owner also filed Writ Petition No.8880 of 2014 seeking directions to the Deputy Collector to take action against the Petitioner. The said writ petition was disposed of by order dated 17th November, 2015 wherein directions were given to the Deputy Collector to pass appropriate order on application dated 30th December, 2013 after giving an opportunity of being heard to the concerned parties. Pursuant to the said order the Additional Collector called for a report from Nayab Tahasildar. Nayab Tahasildar submitted a report wherein he opined that the Petitioner herein had entered into an agreement for sale and had thereby violated the condition of allotment letter. Based on the said report the Additional Collector, Kolhapur cancelled the allotment and resumed the land in favour of the Collector. Aggrieved by this order, the Petitioner had filed a civil suit. However, in view of the objections raised by the Respondent No.8, who is the subsequent allottee, the plaint was returned. Hence, the present petition.

4. A perusal of the order of this Court clearly indicates that directions were given to the Deputy Collector to pass appropriate orders on the application filed by the Respondent No.2 after giving an opportunity of hearing to the original plaintiff as well as to the present Petitioner. The records reveal that the Deputy Collector has passed the impugned order solely on the basis of the report of Nayab Tahasildar without giving any opportunity of hearing to the present Petitioner. The impugned order is in breach of principle of natural justice and hence cannot be sustained.

5. Under the circumstances, the impugned order is hereby set aside. The Additional Collector, Kolhapur is directed to decide the matter after hearing the Petitioner as well as the Respondent No.2. The Petitioner and the Respondent No.2 are directed to appear before the Additional Collector on **11.2.2019** at 11.00 a.m. Petition stands disposed of.

6. It is made clear that I have not gone through the merits of the matter and all points and contentions of the respective parties are kept expressly open.

(SMT. ANUJA PRABHUDESSAI, J.)