

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3680 OF 2019

1. Sitaram Ramchandra Bhogle
Since deceased through his legal heir:
Dinesh Sitaram Bhogle, Age : 62 years
2. Balkrishna Sakharam Phadnaik
(Sawant) since deceased through his
legal heir : Prakash Balkrishna Sawant
3. Bajirao Sakharam Patil,
Since deceased through his legal heir:
Anil Bajirao Patil
4. Madhukar Anant Nawale
Since deceased through his legal heir:
Ravindra Mandhukar Nawale
5. Ramesh Sahadeo Sonar (Pokharankar)
Since deceased through his legal heir:
Prasad Ramesh Pokharankar
6. Janardan Vithoba Patil
7. Sudhakar Shivram Patil
8. Tukaram Abaji Sawant
Since deceased through his legal heir:
Sudhakar Tukaram Sawant
9. Narayan Ganpat Patil
10. Digambar Ganpat Patil
11. Keshav Kundalik Patil
12. Sitaram Dattaram Patil
Since deceased through his legal heir:
Sugandha Sitaram Patil
13. Ganpat Vishnu Sutar
Since deceased through his legal heir:
Shailesh Ganpat Panchal
14. Ganpat Babu Patil
Since deceased through his legal heir:
Dashrath Ganpat Patil
15. Laxman Sakharam Gaikwad
Since deceased through his legal heir:
Ramchandra Laxman Gaikwad
16. Shankar Sakharam Gaikwad
Since deceased through his legal heir:
Ravindra Shankar Gaikwad

17. Ladoba Sitaram Patil
Since deceased through legal heir:
Vasudeo Ladoba Patil
18. Soma Sakharam Gaikwad
Nos.1 to 18 all Adults, all residing at
Kurli, Taluka Vaibhavwadi, District
Sindhudurg
19. Ganpat Vishnu Sutar
Since deceased through his legal heir:
Manasi Manoj Panchal
20. Mohan Vishram Chavan
21. Smt. Vaishali Santosh Chavan
22. Shantaram Sakharam Gaikwad
23. Sahadeo Sitaram Gaikwad
24. Ragho Ramchandra Patil
Since deceased through his legal heir:
Maruti Ramchandra Patil
25. Mohan Balkrishna Patil
26. Shripat Babu Patil
Since deceased through his legal heir:
Satyawan Shripat Patil
27. Tukaram Gopal Kadam
Since deceased through his legal heir:
Vikas Tukaram Kadam
28. Yashwant Ramchandra Powar
Since deceased through his legal heir:
Namdeo Yashwant Powar
29. Manohar Shankar Teli
Nos.19 to 29 all adults and all are
residing at Kurli, Taluka Kanakavali,
District Sindhudurg
30. Mahadev Kundlik Margaj
Since deceased through his legal heir:
Vasudeo Kundlik Margaj
31. Waman Balaram Chavan
32. Madan Gunadhar Nagaonkar
33. Motiram Gopal Teli
34. Umaji Laxman Powar
since deceased through his legal heir:
Surendra Umaji Powar
residing at Navin Kurli Vasahat
Phondaghat, Taluka Kanakavali,
District Sindhudurg

35. Shalini Anant Pilankar
Since deceased through her legal heir:
Ankush Anant Pilankar
Residing at Navin Kurli Vasahat
Phondaghat, Taluka Kankavali,
District Sindhudurg
36. Manohar Dattaram Kadam
Residing at Navin Kurli Vasahat
Phondaghat, Taluka Kankavali,
District Sindhudurg
37. Sahadev Bhiva Bhatade (Dalvi)
Since deceased through his legal heir:
(a) Prakash Sahadev Bhatade (Dalvi)
(b) Ankush Sahadev Bhatade
Residing at Navin Kurli Vasahat
Phondaghat, Taluka Kankavali,
District Sindhudurg.
38. Rajendra Bhagwan Kolte
39. Bhagwan Tukaram Kolte
40. Maruti Tukaram Kolte,
Since deceased through his legal heir:
Smt. Nirmala Maruti Kolte
41. Bhiku Ragho Chambhar
Since deceased through his legal heir:
Kundalik Bhikaji Chavan (Chambhar)
42. Ramchandra Ragho Parte
Since deceased through his legal heir:
Pandurang Ramchandra Parte
43. Dhondu Gopal Chavan
Since deceased through his legal heir:
Arun Dhondu Chavan
44. Shivram Hari Powar
45. Chandrakant Ramchandra Sawant
Since deceased through his legal heir:
Smt. Rohini Chandrakant Sawant
46. Savalaram Keshav Chavan
Since deceased through his legal heir:
(A) Radhabai Sawalaram Chavan
(B) Nana Keshav Chavan
(C) Pandurang Vishnu Chavan
47. Maruti Ramchandra Teli
Since deceased through his legal heir:
Bhagwan Maruti Teli
48. Kashiram Sakharam Rane

49. Pandurang Shankar Gorule
Since deceased through his legal heir:
Sahadev Gorule
50. Krishna Narayan Parab
Nos.30 to 50 all adults and all are
Residing at Navin Kurli Vasahat
Phondagaht, Taluka Kanakavali,
District Sindhudurg
51. Vinod Baliram Patil
Since deceased through his legal heir:
Sameer Vinod Patil
52. Shivram Nana Patil
Since deceased through his legal heir:
Arun Shivram Patil
53. Vishnu Vithoba Kadam
Since deceased through his legal heir:
Suryakant Vishnu Kadam
54. Laxmibai Sitaram Bhogle
Since deceased through his legal heir:
Dinesh Sitaram Bhogle
55. Gangaram Rama Bhogle
Since deceased through his legal heir:
Dinesh Sitaram Bhogle
56. Atmaram Narayan Patil
Since deceased through his legal heir:
Vilas Atmaram Patil
57. Parshuram Shivram Patil
Since deceased through his legal heir:
Arvind Parshuram Patil
58. Deepchand Dattaram Kadam
Nos.51 to 58 all adults, all are residing
at Kurli, Taluka Vaibhavwadi,
District Sindhudurg
59. Smt. Pramodini Prabhakar Talekar
Adult, residing at Kurli, Taluka
Vaibhavwadi, Dist. Sindhudurg
60. Dashrath Mahadeo Sutar
Adult, residing at Kurli, Tal.
Vaibhavwadi, Dist. Sindhudurg
61. Mahadeo Ramchandra Sutar
Since deceased through his legal heir
Govind Mahadeo Sutar
Residing at Kurli, Tal. Vaibhavwadi,
Dist - Sindhudurg

62. Jiji Tukaram Patil
Since deceased through his heir
Prakash Jiji Patil
residing at Kurli, Tal. Vaibhavwadi
District - Sindhudurg
63. Narayan Sakharan Chambhar
(Chavan) Since deceased his legal heir
Eknath Narayan Chambhar (Chavan)
Residing at Kurli, Taluka Vaibhavwadi
Dist. Sindhudurg

...Petitioners

Versus

1. The Collector and Deputy Director for
Rehabilitation, Sindhudurg District,
having its office at Oros, District
Sindhudurg
2. Deputy Collector (Rehabilitation)
District Sindhudurg
3. The State of Maharashtra
Through its Department of
Rehabilitation, Mantralaya, Mumbai
400 032.

...Respondents

Mr. P. D. Dalvi, for the Petitioners.

Mrs. P. N. Diwan, AGP for the Respondents/State.

**CORAM: R. M. BORDE &
N. J. JAMADAR, JJ
DATED: 22nd APRIL, 2019**

ORAL JUDGMENT:- (Per R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith. With the consent of the Counsels for the parties heard finally.
2. The Petitioners are the Project Affected Persons and are calling in question the order passed by the Deputy Collector, Rehabilitation, Sindhudurg, dated 28th May, 2017, rejecting the respective claims of the Petitioners for grant of alternate land

towards the rehabilitation benefits. The application tendered by the respective Petitioners claiming allotment of land in accordance with the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 are rejected on the ground that the respective Petitioners have not deposited the amount to the extent of 65% of the awarded amount with the State Government within 45 days from the date of the disbursement of the amount of compensation. It is the contention of the Petitioners that they have not been served with the notices as contemplated by Section 16(2)(a) of the Maharashtra Project Affected Persons Act, 1999 calling upon them to deposit 65% amount. It is further contended that since the notices have not been issued by the rehabilitation authority, the limitation should not commence to run from the date of the amount of compensation received and the period of limitation shall have to be computed from the date of issuance of notice as provided under Section 16(2)(a) of the Act of 1999.

3. We have perused the order impugned in this petition passed by the Deputy Collector, Rehabilitation, dated 28th May, 2017. The order does not refer to issuance of notices within contemplation of Section 16(2)(a) of the Act of 1999. The Petitioners specifically contend that they have not received

notices from the District Rehabilitation Officer calling upon them to deposit the amount. In these circumstances, it is not open for the Respondent – Rehabilitation Officer to reject the claim of the Petitioners on the ground that they have failed to deposit the amount. In this context, reliance was placed on the judgment delivered in identical matter, Writ Petition No.259 of 2012 (Ganpat Bajju Pombale vs. State of Maharashtra & ors.) and other connected matters, dated 17th July, 2012, as well as the judgment of the Division Bench of this Court in the case of **Ram Shankar Deshmukh and ors. vs. State of Maharashtra and others** in Writ Petition No.8385 of 2010, decided on 2nd May, 2011. Considering the observations made by the Division Bench of this Court in the matter of **Ram Deshmukh**, the instant petition also deserves to be allowed and appropriate directions need to be issued to the Collector / District Rehabilitation Officer directing him to enquire into the claims of the Petitioners and to pass appropriate orders. Hence, we pass the following order:

- (a) The Collector and the Deputy Director for Rehabilitation of Sindhudurg District shall verify as to whether the notices within the contemplation of Section 16(2)(a) of the Maharashtra Project Affected

Persons Rehabilitation Act, 1999, were issued to the Petitioners directing them to deposit the amount to the extent of 65% of the awarded amount and if there is failure to issue such notices, the Collector and District Rehabilitation Officer shall ensure service of notices by Registered Post A. D. on each of the Petitioner within three months from today.

(b) The Petitioners shall be called upon to deposit the amount within contemplation of the provisions of the Act of 1999 within the time stipulated in the notices and on deposit of the amount, the Collector shall take steps for allotment of alternate land considering the entitlement of each of the Petitioner.

(c) The process of determination of entitlement of each of the Petitioner for allotment of alternate land and issuance of the orders in that regard shall be completed as expeditiously as possible, preferably within six months from today.

(d) The orders impugned in this petition are quashed and set aside.

4. Rule is made absolute in above terms. There shall be no order as to costs.

[N. J. JAMADAR, J.]

[R. M. BORDE, J.]