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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4684 OF 2019

Suryakant Rajaram Deshpande

.. Petitioner

Vs.

The Deputy Collector, Rehabilitation
Pune District, Pune & Ors.

.. Respondents

Mr. Siddharth Chapalgaonkar i/by Nitin P. Deshpande for
Petitioner.

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

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

NOVEMBER 25, 2019.

P.C.

1. We have disposed of *Writ Petition No. 3192 of 2018*
Shri Krushna Shiva Kene Vs. State of Maharashtra & Ors. today
passing the following order :-

*“1. The Writ Petition could be disposed of
conveniently noting the stand of the Respondents
in the counter affidavit filed.*

2. *The Petitioner is a project affected persons when his lands were acquired for the Dudhganga Irrigation Project pursuant to an Award dated 19.08.1996. The acquired lands were taken possession of. Exhibit-A1 suggests that 65% of the amount awarded has been credited to the treasury for the reason the Maharashtra Project Affected Persons Rehabilitation Act, 1989 requires said amount to be deposited in consideration of the Petitioner being allotted alternative land after computing the entitlement to the area thereof.*

3. *Exhibit-A2 would reveal that 0.77.8 Ares of land was allotted in the name of the Petitioner in Gat Nos.60, 63 and 503 in villages Vhangutti and Kur. The Petitioner claims that the allocation was less and claimed entitlement to further 0.82 Ares of land. The Petitioner made representation that said 0.82 Ares land be additionally allotted to him. The Petitioner learnt that land was available in Gat No. 1541 in village Udgaon and thus prayed that 0.82 Ares land in said Gat No. 1541 be allotted to him.*

4. *The grievance is to not being allotting further 0.82 Ares of land. Prayer made is that land ad-measuring 0.82 Ares be allotted to the Petitioner from land comprised in Gat No. 1541 in village Udgaon.*

5. *The counter affidavit does not traverse the pleadings in the Writ Petition. The plea of confession followed by plea of avoidance is that land comprised in Gat No. 1541 in village Udgaon*

has been reserved for the project affected persons of Warna Project. It is pleaded that once said land is reserved vide Government Resolution dated 03.03.2016 for project affected persons of Warna Project, it cannot be allotted to the Petitioner.

6. Whilst it may be true that the Petitioner cannot claim right to be allotted a specific parcel of land, but Petitioner's entitlement to be further allotted 0.82 Ares of land would remain.

7. In view of the counter affidavit filed, there being an admission of the fact that Petitioner is entitled to further 0.82 Ares of land, we dispose of the Writ Petition issuing a mandamus to the 2nd respondent to identify 0.82 Ares of land within six weeks from today and thereafter pass an order allotting said parcel of land to the Petitioner. The Petitioner would be put in possession of the allotted land within three months from today and revenue entries would be made in the revenue record to the said effect within same period of time.

8. Noting that 65% of the amount to be deposited has been credited in the treasury on 24.11.1997, Petitioner being deprived the benefit of possession of compensatory land and thus the income, we impose costs in sum of ₹ 1,00,000/- to compensate the Petitioner. The costs shall be paid to the Petitioner by the Respondent No.2. The costs which is compensatory shall be paid within 30 days, failing which it shall be paid with simple interest @ 9% per annum reckoned 30 days from today till date when compensatory costs is paid."

2. Similar order needs to be passed in the instant Writ Petition as well for the reason the counter affidavit filed by the Respondents does not deny the fact that vide Award dated 29.03.1977 land of the Petitioner was acquired for Veer Baji Pasalkar (Varasgaon Dam) Irrigation Project and the Petitioner would be entitled to be considered for allotment of alternative land under the Maharashtra Project Affected Persons Rehabilitation Act, 1976.

3. The Petitioner claims land in Uruli Kanchan. In the counter affidavit filed, as was the counter affidavit in the earlier Writ Petition which we have disposed of and reproduced order passed therein, in the instant Petition it is pleaded that a project affected person cannot claim a particular land.

4. We dispose of the Petition issuing a mandamus that within six weeks from today the 2nd Respondent would determine the Petitioner's entitlement to be offered alternative land. Since there is no averment in the Petition that the Petitioner has deposited 65% of the compensation granted to the Petitioner for his acquired lands to be allotted alternative land, we direct that if the Petitioner has not deposited the amount required, he shall do

so when intimated. Possession of the allotted land, if any, would be handed over to the Petitioner within three months from today upon the Petitioner completing codal formalities. Should it be held that the Petitioner is not entitled to alternative land, an order would be passed stating the reasons for the same. Said order if required to be passed would be passed within two months from today.

Pravin D.
Pandit

Digitally signed
by Pravin D.
Pandit
Date: 2019.11.26
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SMT. BHARATI DANGRE, J.

CHIEF JUSTICE