

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.12613 OF 2019

Mohanchand Dharma Marwari, deceased through Lrs	Petitioners
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.12620 OF 2019

Maruti Pandurang Kalawade and others	Petitioners
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.14206 OF 2019

Baban Raghu Roundhal (since deceased) through Lrs	Petitioners
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.14362 OF 2019

Shivray Ganpat Shivekar, since deceased, through Lrs and others	Petitioners
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.15347 OF 2019

Kaluram Ganpat Gadadde and another	Petitioners
versus	

The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.15547 OF 2019

Bhikubai Dhondiba Shivekar and others Petitioners
versus

The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.15549 OF 2019

Gondoba Devsthan through its Trustees Petitioner
versus

The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.15552 OF 2019

Bhairavnath Devasthan through Trustees Petitioner
versus

The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.22627 OF 2018

Baban Chindhu Gawari Petitioner
versus

The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.22630 OF 2018

Uttam Maruti Bhalsingh and another Petitioners
versus

The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.22631 OF 2018

Pangaji Vithoba Shivekar and others	Petitioners
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.22632 OF 2018

Bhika Vithoba Shivekar	Petitioner
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.22633 OF 2018

Baban Vithoba Shivekar	Petitioner
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.22634 OF 2018

Datta Sakharam Dangale and others	Petitioners
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.28869 OF 2018

Dattatraya Chimaji Medge and others	Petitioners
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.28880 OF 2018

Babu Ravan Roundhal and others	Petitioners
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versus
The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.29011 OF 2018

Baban Pandurang Chorghe and others Petitioners
versus
The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.29409 OF 2018

Parvatabai Vishnu Kawade and another Petitioners
versus
The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.29414 OF 2018

Bhagubai Baban Roundhal and another Petitioners
versus
The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.31840 OF 2018

Ananda Baban Awari and others Petitioners
versus
The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.31924 OF 2018

Alka Shankar Roundhal Petitioner
versus
The State of Maharashtra through Chief
Secretary and others Respondents

WITH
WRIT PETITION (STAMP) NO.33102 OF 2018

Jayram Dagadu Roundhal through POA Chhaya Baban Roundhal	Petitioner
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

WITH
WRIT PETITION (STAMP) NO.35419 OF 2018

Mahadu @ Mahadev Laxman Jachak	Petitioner
versus	
The State of Maharashtra through Chief Secretary and others	Respondents

Mr.Gaurav Potnis I/by Pallavi Potnis for Petitioners.
Mr.Y.D.Patil, AGP, for State in WP No.15547/2018.
Mr.N.C.Walimbe, AGP for State in WP No.22632/2018.
Mr.V.S.Gokhale, `B' panel counsel for State in WP No.29011/2018.
Mr.R.S.Pawar, AGP for State in WP No.33102/2018.
Ms.P.N.Diwan, AGP, for State in WP No.31924/2018.
Ms.S.S.Bhende, AGP, for State, in rest of the matters.

CORAM : A.A.SAYED AND
 PRAKASH D. NAIK, JJ.

DATE : 19th August 2019

PC :

1. The subject matter of the Petitions relates to project affected persons of Bhama Askhed Project.

2. Learned Counsel for the Petitioners states that the case of the Petitioners would be covered by the order dated 27th October 2016 in Review Petition (Stamp) No.34787 of 2015 (The Collector of Pune and others Vs. Sakharam Tukaram Shivekar and another) and the

order dated 27th August 2018 in Writ Petition No.3087 of 2016 (Govind Mahadu Jadhav (decd) through Lrs. Vs. State of Maharashtra and others).

3. Learned AGP does not dispute this position.

4. In the circumstances, we pass the following order :

ORDER

(i) The impugned communication dated 9th April 2018 of the Deputy Collectolr (Rehabilitation), Pune shall stand set aside;

(ii) We direct the Deputy Collector (Resettlement), Pune to examine the cases of the Petitioners with a view to ascertain whether they are project affected persons as claimed by them and whether they are entitled to allotment of lands under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 or under similar enactments;

(iii) We direct the Petitioners to appear before the Deputy Collector (Resettlement), Pune on 5th November 2019 at 12.30 pm. The Petitioners shall produce necessary documents in their custody along with Representations. If the Petitioners are not in possession of all the documents, the Deputy Collector (Resettlement), Pune shall grant time of three months to them to produce the relevant documents from the date fixed for appearance;

(iv) In the event, the Petitioners produce evidence to show that their Applications for grant of heirship certificate/succession

certificate/probate/letters of Administration are pending, on being satisfied that such Applications are pending, the Deputy Collector (Resettlement), Pune shall extend the time of three months provided in this order and shall grant a reasonable time to enable the Petitioners to obtain necessary grant from the concerned Court;

(v) We direct the Deputy Collector (Resettlement), Pune to consider documents and to pass an order recording brief reasons. The order shall be passed within a period of three months from the date on which time granted to the Petitioners to produce documents expires. A copy of the order passed by the Deputy Collector (Resettlement), Pune shall be served upon the Petitioners;

(vi) If the Deputy Collector (Resettlement), Pune is satisfied that the Petitioners are the project affected persons or legal representatives of the project affected persons and/or otherwise are entitled to allotment of a land, the State shall ensure that the Collector or appropriate authority of the State immediately issues a notice to the Petitioners under clause (a) of sub-section (2) of Section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Notices shall be issued either by RPAD and/or by hand delivery;

(vii) It will be open for the Petitioners to communicate their willingness to accept the grant of a land within a period of 45 days from the date of receipt of such notices from the Collector/Competent Authority;

(viii) The Petitioners shall deposit with the Collector (Settlement), Pune, 65% amount of the compensation received by them or their

predecessors for the land acquired from them or the likely cost of the land granted to them, whichever is less at the time of payment of such compensation to the Petitioners;

(ix) Needless to add that adjudication will be made by the Deputy Collector (Resettlement), Pune in the light of the discussion made in this order. We clarify that the Petitioners will not be required to produce evidence to show that Applications under sub-section (1) of Section 16 of the said Act have been made either by them or by their predecessors. We also clarify that even assuming that the Petitioners or their predecessors in title have made statements before the Land Acquisition Officer stating that they are not interested in allotment of alternate land, such statements shall not amount to waiver of their right of allotment of land by way of Rehabilitation.

5. The Writ Petitions to stand disposed of in the above terms.

(PRAKASH D. NAIK, J.)

(A.A.SAYED, J.)

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