

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.13211 OF 2019

Bhika alias Bhima Maruti Burud
V/S

...
....Petitioner

The Special Land Acquisition Officer & Anr.

....Respondents

...
Mr. S.R. Nagolkar i/b Mr. Aumkar Joshi for the Petitioners.
Mr. N.C. Walimbe, AGP for Respondent nos.1 and 2/State.
...

**CORAM : A.A. SAYED &
PRAKASH D. NAIK, JJ.**
DATE : 28 AUGUST 2019.

ORDER:

1 The Petitioner claims to be a project affected person of Kalmodi project.

2 We record the statement of learned AGP that upon the Petitioner submitting the KYC/Identification documents and consent of other landholders as mentioned in the notice under section 12(2) of the Land Acquisition Act, 1894, the amount of compensation shall be paid to the Petitioner by Respondent No.1-Special Land Acquisition Officer after due verification and compliances, within a period of three weeks from the date of submission of the KYC/Identification documents. Subject to what is stated hereinbelow, 65% of the amount of compensation may be retained by the Respondent No.1, as agreed by the Petitioner in the letter dated 22 April 2019.

3 The learned Counsel for the Petitioner states that the Respondent No.3-District Rehabilitation Officer shall thereafter be required to follow the

directions contained in the order dated 27 October 2016 in Review Petition (Stamp) No.34787 of 2015 (**The Collector of Pune & Ors. vs. Sakharam Tukaram Shivekar**). Following the aforesaid order, by consent, we issue the following directions:

- “(i) We direct the Deputy Collector (Resettlement), Pune to examine the case of the Petitioner herein with a view to ascertain whether he is project affected person as claimed by him and whether he is entitled to allotment of land under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 or under similar enactments;
- (ii) We direct the Petitioner to appear before the Deputy Collector (Resettlement), Pune on 14 October 2019 at 12.30 p.m. The Petitioner will produce necessary documents in his custody along with a Representation. If the Petitioner herein is not in possession of all the documents, the Deputy Collector (Resettlement), Pune shall grant time of three months to him to produce the relevant documents from the date fixed for appearance;
- (iii) 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 Petitioner to produce documents expires. A copy of the order passed by the Deputy Collector (Resettlement) Pune shall be served upon the Petitioner;
- (iv) If the Deputy Collector (Resettlement), Pune is satisfied that the Petitioner is project affected person and/or otherwise is 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 Petitioner under clause (a) of sub-section (2) of section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Notice shall be issued either by RPAD and/or by hand delivery;

- (v) It will be open for the Petitioner to communicate his willingness to accept the grant of a land within a period of 45 days from the date of receipt of such notice from the Collector/Competent Authority;
- (vi) The Petitioner shall (unless 65% amount of the compensation is retained in terms of paragraph 2 hereinabove) deposit with the Collector (Resettlement), Pune, 65% amount of the compensation received by him for the land acquired from him or the likely cost of the land granted to him, whichever is less, at the time of payment of such compensation;
- (vii) 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 Petitioner will not be required to produce evidence to show that an Application under sub-section (1) of section 16 of the said Act has been made either by him or by his predecessors. We also clarify that even assuming that the Petitioner may have made statement before the Land Acquisition Officer stating that he is not interested in allotment of alternate land, such statement shall not amount to waiver of his right of allotment of land by way of Rehabilitation;

(viii) If an order is made by the Deputy Collector (Resettlement), Pune, holding that the Petitioner is not project affected person only on the ground that he has not produced requisite documents, it will be open to him to submit his requisite documents within a maximum period of six months from the date of communication of the order to him. If within such time, he produces the relevant documents, his case shall be reconsidered by the Deputy Collector (Resettlement), Pune. We also make it clear that there will not be any question of giving any further opportunity to produce the documents after expiry of the aforesaid period of six months.”

4 The Writ Petition to stand disposed of in the above terms.

(PRAKASH D. NAIK, J.)

(A.A. SAYED, J.)

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