

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

WRIT PETITION NO. 10356 OF 2018

Laxman Baburao Kharmare

... Petitioner.

V/s.

The State of Maharashtra & Ors.

... Respondents.

Mr. Y. B. Lengare, Advocate for the Petitioner.

Mr. C. D. Mali, AGP for the Respondent Nos. 1 to 4.

Mr. Balwant V.Salunkhe, Advocate for the Respondent No.5.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : JANUARY 09, 2019.

PC :

1 Heard the learned counsel for the parties.

2 At the outset, the learned counsel for the Petitioner submits that the Petitioner will restrict his prayer to the relief in terms of prayer clause (b) with liberty to seek the relief in prayer clauses (c) and (d) after disposal of the application filed by the respondent no. 5, for cancellation of allotment of plot of land to the petitioner.

3 The petitioner, herein, was allotted a plot of land in Gat No. 58 part, admeasuring 1-hector, 20-ares at village Gonvadi, Tal. Khed, Dist.Pune. Respondent No. 5 had filed an

application, for cancellation of allotment, stating that the petitioner had sold the said plot of land and had thereby violated the condition of the allotment. It is seen that the Additional Collector, Pune had issued a notice to the Petitioner by registered post. Since, the Petitioner did not remain present, despite receipt of the notice, the Additional Collector cancelled the allotment for violation of condition for such allotment.

4 The learned counsel for the petitioner submits that the petitioner is an aged person and that he did not know that he was required to appear before the Additional Collector, and the consequences thereof.

5 The Petitioner is a project affected person. He was not heard in the matter. In the interest of justice, in my considered view, due opportunity of hearing needs to be given to the petitioner.

6 Hence, the writ petition is allowed.

7 The impugned order dated 28.05.2018 passed by the respondent no.3 is set aside. Respondent No. 3 - the Additional Collector, Pune, is directed to decide the application afresh, after giving opportunity of hearing to the concerned parties.

8 The Petitioner as well as Respondent No. 5 to appear before the Respondent No. 3 on 18.02.2019. It is made clear that this court has not gone into the merits of the matter. All points and contentions of the parties are kept open.

9 The writ petition is disposed of in the above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

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