

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 744 OF 1996

Shri Dilip Vithal Nanaware,
aged 34 years, residing at Murum,
Taluka- Baramati, Dist. Pune.

..Petitioner.

V/s.

Shri Bhikoba Parvati Nigade
since deceased by his heirs and
legal representatives -

1. Smt. Janabai Bhikoba Nigade
2. Shri Dattatraya Bhikoba Nigade,
both residing at and Post Murum,
Taluka-Baramati, Dist. Pune.
3. Smt. Sulochana Subhash Shedage,
residing at Dhon Vasahat, Dhon,
(Songirwadi), Taluka-Wai,
District- Satara.
- 4 The Tahasildar,
Taluka- Baramati, Dist. Pune.
- 5 The Sub- Divisional Officer,
Taluka – Baramati, Dist. Pune.
- 6 The Additional Collector, Pune.
7. The Additional Commissioner,
Pune Division, Pune.

8. The State of Maharashtra.

..Respondents.

Mr. Deepak r. More, advocate for petitioners.

Mr. S.G. Deshmukh, advocate for respondent Nos. 1 and 3.

Mr. P.K. Hushing, advocate for Respondent No. 2.

Mr. S.D. Rayrikar, AGP for respondent Nos. 4 to 8.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : FEBRUARY 7, 2019.

JUDGMENT :

1 Heard the learned Counsel for the petitioner and the learned Counsel for the respondents.

2 The Petitioner by this Petition is challenging the order passed by the Officer on Special Duty (Appeals) and Secretary, Revenue and Forests Department at Ex. E in Revision Application No. S.30/78082/CR-1267/J5(CR. 60/94/A&R)/CR 316/95/A&R vide order dated 5/1/1996. The facts of the case in a nut shell are as follows :

 The Government was in the process of disposing of the government waste land, as contemplated under the Maharashtra Land Revenue (Disposal of the Government of Lands) Rules, 1971. The same was allotted to Laxmibai Namdeorao Nigade on 15/5/1981, as she happened to be the wife of Ex-Serviceman. The petitioner herein had filed an appeal before the Assistant Collector, Baramati, challenging allotment in favour of the said Laxmibai Nigade and had contended before the Additional Collector that she is the holder of Jirayat land. She was not eligible for the allotment in the said scheme. By upholding the contention of the petitioner, the allotment was cancelled vide order dated 7/2/1983.

Talwalkar

3 Being aggrieved by the said order, an appeal was filed by Laxmibai before Additional Collector, Pune. The said appeal was dismissed by an order dated 25/3/1985. Additional Collector had held that the Tahasildar had not adopted a proper procedure for allotment of lands and therefore, the matter was remanded to the Tahasildar for disposing of the suit lands. The Tahasildar upon holding a detail enquiry had allotted the said lands in favour of the present petitioner. The said order was confirmed by the Sub-Divisional Officer, Baramati by an order dated 20th April, 1984. The Additional Collector has set aside the said allotment by an order dated 25th March, 1985. The said order was stayed by the Minister of Revenue and Forest on 22/11/1990 informing to the present petitioner that the matter was transferred to the Officer on Special Duty(Appeals) and the Secretary by the Government 20/7/1994. The Sub-Divisional Officer had perused the record and after giving a due hearing to the petitioner as well as the respondent had arrived at a conclusion that the allotment in favour of the petitioner was not in accordance with law and not in consonance with the provisions of Maharashtra Land Revenue Code. It was brought to the notice of the authority that in fact, the petitioner is a member of the joint family and that the family has a holdings of 1 hectare and 38 R of land in Gat No. 61 and 62. Hence, he could not be termed as a landless person.

4 In fact, upon perusal of the order of the Sub-Divisional Officer, it is clear that the order is passed in accordance with law and upon perusing the records and proceedings and also considering the fact that the applicant was ineligible for any allotment whatsoever. It was also observed by the learned Sub-Divisional Officer that there is a certificate by the Talathi that the petitioner is a member of the joint family, which is a holder of lands and that allotment was meant for landless people and for special category, which is carved out in favour of the Ex-serviceman. The said order dated 5/1/1996 was stayed by this Court vide order dated 9/2/1996.

5 The learned Counsel for the petitioner has fairly submitted that during the pendency of this Writ Petition, the Petitioner has handed over the possession to the Government for proper allotment under the said scheme only to eligible person. The said process will take its own course.

6 No interference is warranted in the order dated 5/1/1996. Hence, the same stands dismissed. Needless to say that the order dated 9/2/1996 granting interim relief to stand vacated.

[SMT. SADHANA S. JADHAV, J.]