

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.565 OF 2019

Kisan @ Krishna Bhagu Kadam & Ors.

..Petitioners

Versus

State of Maharashtra & Ors.

..Respondents

Mr. A. R. Gole a/w Ms. Dimple Tejani i/by Mr. Sanjay Anabhawane,
Advocate for the Petitioners.

Mr. K. S. Thorat, AGP for Respondent Nos.1 to 4 – State.

Shri. Ravindra Mathapati - Dy. Collector holding additional charge of
DRO present in Court.

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

DATE : 3rd DECEMBER, 2019

P.C.

1] Shri. Ravindra Mathapati, Deputy Collector
(Rehabilitation), Raigad is present in Court. We had sought his
presence in Court in view of the affidavit deposited by him on 11th
November 2019 in which in paragraphs 1 and 2 he deposed as
under :-

*“1. I say that, I have gone through the contents of the
Petition and annexure annexed thereto. After going
through the relevant office record, documents pertaining
to the subject matter of the Writ Petition. I am filing
affidavit in compliance of the order dated 25.9.2019 of
this Hon’ble Court. I crave leave of the Hon’ble High
Court to file additional affidavit, if required.*

2. I say that, in compliance of the directions of this Hon'ble Court, the list of lands has been provided to the Petitioners. At the outset it is submitted that the eligibility of the Petitioner with respect to receiving of the alternate land needs to be decided in the first place. I say that application dated 09.10.2019 has been received and the office of the Respondent is under process and after determining the eligibility further steps shall be taken in accordance with law.

In view of the above facts and circumstances of the case, the Hon'ble Court be pleased to dismiss the present Petition."

2] Suffice it to highlight that in paragraph 2 of his affidavit he has deposed that list of lands has been provided to the Petitioners. In the same paragraph he has deposed that the eligibility of the Petitioners to receive alternative land has to be decided in the first place. In the same paragraph he has pleaded that the application dated 09.10.2019 has been received in his office and was being processed.

3] Case pleaded in the Writ Petition is that the Writ Petitioners are the joint owners of lands in Kasbe Tambi, Taluka Javali, District Satara admeasuring 6.387 hectares. It is pleaded that agricultural lands were acquired in the year 1960 for the Koyna Dam and Koyna Power Plant. It is pleaded that being project affected persons apart from compensation in money, 1.60 hectare land was allotted. As per the Petitioners, they accepted the resettlement land to be offered and as a result suffered the consequence of full compensation payable to them not being received for the acquired

lands. It is pleaded that only 0.49.5 hectare land comprised in Survey No.72/A, Hissa No.48 & 72, C/22 of Village Vadval, Taluka Khalapur, District Raigad was allotted to them and they were put in possession in said land requiring 1.10.5 hectare land still to be allotted. It is pleaded in the Petition that ever since the acquisition of the lands the Petitioners are running from pillar to post.

4] Today Shri. Ravindra Mathapati, Deputy Collector (Rehabilitation), Raigad invited our attention to a letter dated 10.12.2018 addressed by the Additional Collector, Raigad to the son of the Petitioner No.2 calling upon him to submit a copy of the Award and also to approach the Additional Collector (Rehabilitation), Satara informing him that the report received from the said office was incomplete.

5] This is nothing but bureaucratic quibbling. The fact that the Petitioners have also been allotted and put in possession of 0.49.5 hectare land as compensatory land is proof of the fact that the department has with it a copy of the Award. If the department does not have a copy of the Award, it is not for the claimant to run around. The Rehabilitation Department is obliged to obtain a copy of the Award from the Collector's office. Similarly, if there is any deficiency in a report submitted by a particular officer, it is the duty of the Rehabilitation Department to ensure that a proper report is submitted.

6] We cannot overlook the fact that the lands were acquired

way back in the year 1960 and from the compensation assessed and payable to the Petitioners, they permitted deduction of the monetary compensation i.e. money to be retained by the Government so that they can be put in possession of compensatory land.

7] The Petitioners need to be compensated for loss of earning from the compensatory land which would have been allotted to them.

8] We dispose of the Petition directing Shri. Ravindra Mathapati, Deputy Collector (Rehabilitation), Raigad to within eight weeks from today allot 1.10.5 hectare land to the Petitioners. He would have to identify a suitable parcel of land which can be allotted. We declare that he cannot insist upon the Petitioners to produce a copy of Award for the reason the Award is already in his department and the proof is that his department had decided that 1.60 hectare compensatory land has to be allotted to the Petitioners, out of which only 0.49.5 hectare has been given possession of. He cannot ask for any further documents from the Petitioners because all documents are with concerned officer. In any case if some documents are required he must ensure that he obtains the same from the department concerned.

9] No only the Petitioners would be allotted 1.10.5 hectare land but they would be put in possession of the same. It would be ensured that the names of the Petitioners are entered in the revenue records.

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10] For over 59 years the Petitioners have been deprived the benefit of 1.10.5 hectare land and for which we impose cost of ₹ 5 lakhs upon the State Government. ₹ 5 lakhs cost would be paid to the seven Petitioners in equal proportion. The cost would be paid within six weeks from today.

Balaji G.
Panchal

Digitally signed by
Balaji G. Panchal
Date: 2019.12.04
15:12:54 +0530

SMT. BHARATI DANGRE, J

CHIEF JUSTICE