

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10248 OF 2018

Eknath Pandurang Vazarkar	Petitioner
versus	
The State of Maharashtra through The Chief Secretary and others	Respondents

AND

WRIT PETITION NO.10249 OF 2018

Eknath Govind Jadhav and others	Petitioners
versus	
The State of Maharashtra through The Chief Secretary and others	Respondents

AND

WRIT PETITION NO.10419 OF 2018

Ganpat Shripati Sable and others	Petitioners
versus	
The State of Maharashtra through The Chief Secretary and others	Respondents

AND

WRIT PETITION NO.10422 OF 2018

Baban Bhikaji Gawari	Petitioner
versus	
The State of Maharashtra through The Chief Secretary and others	Respondents

AND

WRIT PETITION NO.10429 OF 2018

Rambhau Dnyaneshwar Chorghe and others	Petitioners
versus	
The State of Maharashtra through The Chief Secretary and others	Respondents

Mr.Gaurav Potnis I/by Pallavi Potnis for petitioners.
Ms.Geeta U. Shinde, AGP, for respondents 1 to 4.

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

DATE : 7th June 2019

PC :

1. Learned Counsel for the Petitioners states that the case of the Petitioners would be covered by the order dated 27th August 2018 passed by the Division Bench of this Court in Writ Petition No.3087 of 2016 (Govind Mahadu Jadhav (deceased) through Lrs. V/s. State of Maharashtra & Ors.).

2. Learned AGP does not dispute this position.

3. In the circumstances, we dispose of the Writ Petitions by passing the following order:

ORDER

(i) The impugned communication dated 9th April 2018 of the Deputy Collector (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 19th August 2019 at 12.30 p.m. 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 notices 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 (Resettlement), 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;

4. The Writ Petitions stand disposed of in the above terms.

(PRAKASH D. NAIK, J.)

(A.A.SAYED, J.)

MST