

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

WRIT PETITION NO.12309 OF 2018

Shantaram Mahadu Pingale

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

.....

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

Ms.P.N. Diwan, AGP for Respondent Nos.1 to 5 - State.

.....

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

DATED : AUGUST 07, 2019.

P.C. :

The Petitioner by this Writ Petition prays for the following relief:

“[b] That this Hon'ble Court by way of appropriate writ, order or direction, be pleased to modify the allotment order dated 31.01.2018 passed by the Respondent No.3 in respect of land bearing Gat No.1993 admeasuirng 1 Hector 62 Ares at Village Kalus, Tal. Khed, Dist. Pune and grant the allotted land on Occupational Class - I status.”

2 The Petitioner is a project affected person of Bhama Aaskhed Project, Pune and whose land was acquired for the said project as per the Award dated 1st December, 1999. The 7 x 12 extracts as well as the Certificate issued by the Tahsildar (Exhibit - D to the Petition) show that the acquired land bearing Gat No.278 at Village Deshmukhwadi, Taluka-Khed, District-Pune (hereinafter referred to as "the acquired land", for short) was Occupancy Class-I status. Pursuant to orders passed in Writ Petition No.8400 of 2010, the Respondents were directed to allot alternate land to the Petitioner. On 5th October, 2017, the Petitioner submitted a proposal and requested Respondent No.3 to allot land bearing Gat No.1993 admeasuring 1 Hecter 60 Ares at Village Kalus, Taluka-Khed, District-Pune (hereinafter referred to as "the allotted land", for short). The Petitioner was accordingly allotted the aforesaid land, however, on Occupancy Class - II status.

3 The grievance of the Petitioner is that since the acquired land of the said Petitioner was Occupancy Class-I, the allotted land ought to have been granted on Occupancy Class - I status instead of Occupancy Class - II status.

4 Section 16 (1) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, reads as under:

“16 (1) As eligible affected person who is desirous of getting land or plot or both in the area shown for the purpose in the scheme published under section 5 may make an application for Collector in the prescribed form for grant of land or plot, and subject to such rules as may be prescribed, it shall be lawful for the Collector -

(a) to grant land acquired under section 14 to such affected person with the occupancy status on the land held by him earlier;

*(b) to grant a plot of land to such affected person in a new gaathan or extended part of the existing gaathan with the occupancy status on the land held by him earlier and rupees ten thousand as a special grant for construction of house on such plot,
in such manner, as far as possible, according to the provisions of parts III and IV of the Schedule and on such terms and conditions as may be prescribed:*

Provided that -

- (i) *if the allottee of the land under sub-clause (a) and (b) of sub-section (1) is an occupant Class II, he shall be entitled to conversion of the land to occupant Class I after a period of ten years on payment of premium as may be prescribed;*
 - (ii) *the affected person referred to in sub-section (d) of clause (2) of section 2 shall be eligible to a constructed house on the basis of the Indira Awas Scheme of the State Government;*
 - (iii) *the affected person referred to in sub-clause (e) of clause (2) of section 2 shall be eligible only for grant of a plot under clause (b);*
 - (iv) *subject to the provisions of sub-section (2) and (3), the occupancy price of the land or lot, as the case may be granted under clause (a) or (b), except under sub-clause (ii) above, shall be determined and paid in the manner as may be prescribed.*
- (2) *.....”*

(emphasis supplied)

4 The aforesaid provision thus makes it clear that the grant of land to the affected persons would be on the basis of the 'same' occupancy status as the land held by him earlier.

Moreover, the GR dated 28th July, 2012 also confirms this policy of the State Government. In the circumstances, the impugned allotment order dated 7th February, 2018 granting the allotted land viz. land bearing Gat No.1993, admeasuring 1 Hectar 60 Ares at Village Kalus, Taluka-Khed, District-Pune to the extent that it grants the allotted land on the Occupancy Class-II status cannot be sustained, as the acquired land of the Petitioner was of Occupancy Class-I status.

5 In light of the above, we allow the Petition in terms of prayer Clause (b) as reproduced in paragraph no.1 above.

6 Respondent No.4 shall issue modified allotment order within a period of six weeks from the date this order is uploaded.

8 The Writ Petition to stand disposed of accordingly.

(PRAKASH D. NAIK, J.)

(A.A. SAYED, J.)