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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1605 OF 2019

Shri Dhondiba Hari Kank

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

Mr. Sagar Kursiya i/by T. D. Deshmukh for Petitioner.

Ms. Nisha Mehra, AGP for Respondent Nos.1 to 4.

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

FEBRUARY 11, 2020

P.C.

1. The case of the Petitioner is one of denial of natural justice.

2. Land of the Petitioner was acquired for the Devghar Dam and as per the Maharashtra Project Affected Persons Rehabilitation Act, 1999 the petitioner's claim for compensatory land was processed. He deposited ₹ 14,950/- on 29.03.2001. He was allotted land comprised in Gat Nos.1349 and 1352 in village Shirwal. The problem of the Petitioner started at the stage when Respondent Nos.5 to 7, who were the erstwhile owners of the said

land, made a representation under Section 48 of the Land Acquisition Act, 1894 praying that said land be de-notified from acquisition. The request was declined.

3. Said persons made a request to the State Government to exchange said land which has vested in the State Government and offered land owned by the said respondents and on 16.11.2009 the 4th Respondent passed an order exchanging land comprised in Gat Nos.388 and 392 in village Shinde Wadi with the land which was acquired and allotted to the Petitioner in Gat Nos. 1349 and 1352 of village Shirwal.

4. The Petitioner was not put to notice when said order was passed.

5. Suffice it to state once the Petitioner was allotted land comprised in Gat Nos. 1349 and 1352, the Government lost title in the land and the question of the Government proceeding to any exchange does not arise.

6. Unless the Petitioner was heard, the 4th Respondent could not have sanctioned the exchange and passed the order dated 16.11.2009.

7. We dispose of the Writ Petition quashing the order dated 16.11.2009, but clarifying that the 4th Respondent would be permitted to consider the offer of exchange made by the Respondent Nos.5 to 7 after putting the Petitioner to notice and granting him hearing.

**Pravin D.
Pandit**

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE

Digitally signed by
Pravin D. Pandit
Date: 2020.02.12
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