

S.S.Kilaje

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4542 OF 2021

Tulshiram Bapu Kadu & Ors.

.. Petitioners

Versus

State of Maharashtra & Ors.

.. Respondent

.....
Mr. Sumit V. Khaire for the Petitioners

Mr. S. B. Kalel, Addl. G.P for the Respondent - State

.....
CORAM : S. J. KATHAWALLA &
MILIND N. JADHAV, JJ.

DATE : SEPTEMBER 27, 2021

P. C. :

. By the present Writ Petition, the Petitioners have prayed for the following reliefs :

"a. This Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate Writ, Order or direction to Respondent No.2 to declare that the residential Plot allotted to Petitioners are as per the provision of the Maharashtra Project Affected Persons Rehabilitation Act, 1999.

b. This Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate Writ, Order or direction to Respondent No.4 to call report from the Respondent No.2 for deciding the appeal 4128/2017 & also direct the Respondent No.2 to submit report to Respondent No.4.

c. This Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate Writ, Order or direction to Respondent No. 5 restore the name of the Petitioners on City survey extract on Old S. No. 24 New Gat No. 118/2 situated at Village Kedgaon Tal-Daund Dist-Pune in their respective plots."

2. On 13.09.2021 we had passed the following order :

" *Petitioners are original residents of villages affected by acquisition of land for the Veer Baji Pasalkar Dam in Pune District. Petitioners' houses were acquired for construction of the Veer Baji Pasalkar Dam Project. Notifications under Section 11 and Section 13 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 have been issued by the authorities. Petitioners claim to be project affected persons (PAPs) originally residing in village Kedgaon, Tal. Daund, District Pune since the year 1972.*

2. Petitioners have pleaded that names of 122 project affected persons were recorded by the District Rehabilitation Officer, Pune as per Mutation Entry No. 48 dated 19.03.1997. However all PAPs were not present at the time of recording of the names on the 7/12 extract as per Mutation Entry No. 48. It is the Petitioners' case that originally 227 plots were allotted for residential purposes at village Kedgaon, Tal. Daund, District Pune out of which the names of only 122 plot holders came to be recorded on the 7/12 extract as PAPs.

3. Petitioners have urged the Court for a direction to Respondent No. 2 - District Re-settlement Officer, Pune to submit a report to Respondent No.4 in respect of the status of the PAPs of village Kedgaon. Petitioners have also referred to Mutation Entry No. 569 dated 15.07.2008 pertaining to 122 plots which were allotted to the PAPs. Petitioners have also referred to the order dated 09.07.2012 issued by the Deputy Collector (Rehabilitation) directing the Tahsildar to visit the project affected areas and submit a detailed report thereof.

4. In the meanwhile, Petitioners have stated that on 05.05.2015 and 16.02.2016, the President of Veer Baji Pasalkar Gramin Vikas Kendra filed applications before the Deputy Director of Land Records, Pune and the Settlement Commissioner, Land Record, Pune complaining that the Deputy Superintendent of Land Record, Daund had prepared bogus map and property card in respect of the aforesaid allotment for PAPs and sought an enquiry.

5. By order dated 30.08.2016, the Deputy Director of Land Record, Pune directed the District Superintendent of Land Record, Pune to consider the report dated 11.03.2016 received from the Deputy Superintendent of Land Record, Daund and issued directions to review and scrutinize the entries. However without review and scrutinizing the entries pertaining to Survey No. 886 to 918 and 920 to 922 and without issuance of notices to the affected parties, some of whom are the Petitioners before us the District Superintendent of Land Record, Pune passed an order dated 13.10.2017 directing cancellation of the allotment and mutation entry from the City Survey Extract in respect of PAPs. Petitioners have filed the statutory appeal challenging the order dated 13.10.2017 before the Respondent No. 4 - Deputy Director of Land Record, Pune in 2017 which has been numbered as Appeal No. 4128 of 2017

and the same is not yet decided. Petitioners have stated that on 08.11.2017 the Respondent No. 4 Deputy Director of Land Record, Pune has in a connected appeal filed by Ajit Digamber Thorat and others granted a status-quo order in respect of the order dated 13.10.2017. For the past 4 years the appeal proceedings have remained pending and hence the Petitioners have approached this Court for a declaration that they are covered by the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 and other consequential reliefs. Petitioners have also questioned the locus of the complainant amongst other reliefs.

6. Considering the grievance raised by the Petitioner, we direct the Collector, Pune to remain present at 10.30 a.m. on 20th September, 2021 through video conferencing and inform us the status of the Petitioners' case as PAPs to enable us to pass further orders."

3. Respondent No. 2 i.e. District Rehabilitation Officer, Pune has submitted a report dated 20.09.2021 pertaining to the status of eligibility of the Petitioners as PAP's before us. A copy of the said report is also furnished to the Petitioners and the Respondent No.4 to enable the Respondent No.4 to take a considered decision while deciding Appeal No. 4128 of 2017.

3.1. Admittedly, RTS Appeal No. 4128 of 2017 filed by the Petitioners is pending hearing and final disposal before the Respondent No.4 i.e. Deputy Director of Land Record, Pune Division, Pune since the year 2017. Relief is therefore sought by the Petitioners to issue direction to the Respondent No.4 to hear the RTS Appeal finally and direct the Collector to submit a report on the status of the Petitioners.

4. Pursuant to our above order dated 13.09.2021, the Respondent No.4 i.e. Deputy Director of Land Record, Pune Division, Pune filed his affidavit-in-reply dated 22.09.2021, *inter-alia*, contending that the aforementioned Appeal and stay application has been heard and an interim order of *status-quo* has been passed on 07.11.2017. In paragraph No. 8 of the said Affidavit it is further stated as under :

"8. I say that, in view of the order dated 29.12.2018, vide bearing No. Na.Bhu/appeal varg / kavi / 2018 passed by the Settlement Commissioner and Director of Land Records Office, Maharashtra State, Pune, total number of 200 matters have been sent including Appeal No. 4128 of 2017 and Appeal No. 4130 of 2017 to the office of the Deputy Director, Land Records Office attached to the Settlement Commissioner, Pune.

5. In view of the above, we direct the Respondent No.4 i.e. Deputy Director of Land Record, Pune Division, Pune to hear and decide the RTS Appeal filed by the Petitioners being Appeal No. 4128 of 2017 within a period of 4 weeks from the date of uploading of this order. The Petitioners shall be heard by the Respondent No.4 and Petitioners shall file their written submissions before the Respondent No.4.

6. Consequent upon the decision in the aforesaid Appeal proceedings, relief for restoration of the name of the eligible Petitioners in the City Survey Extract pertaining to the subject land i.e. Old Survey No. 24 and New Gat No. 118/2 of Village Kedgaon, Tal. Daund, District Pune shall be subsequently carried out by the competent authority in accordance with the law.

7. All contentions of the parties are kept open.
8. Writ Petition stands disposed of in the above terms.

[MILIND N. JADHAV, J.]

[S. J. KATHAWALLA, J.]

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2021.12.07
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