

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3858 of 2021**

Subhash Kondaji Kadam

....Petitioner

Versus

The Collector of Pune and ors.

....Respondents

Mr. Sanjiv Sawant along with Mr. Digvijay Palande i/b. Abhishek
Deshmukh, advocate for the petitioner.
Ms. M. S. Bane, AGP for the State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 17th NOVEMBER, 2021.

P.C. :

1. This is a second petition initiated at the instance of the petitioner – Subhash Kondaji Kadam. The petitioner is an agriculturist and a resident of Village – Sakordi, Taluka- Khed, District – Pune. The land of the petitioner was acquired for certain project initiated by the State of Maharashtra and as such, the petitioner was declared as a project affected person under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1999. The petitioner was awaiting for the benefits to be granted to him under the scheme of the State Government treating the petitioner as project affected person. The petitioner was ready and willing to perform part of his duty as expected under the

scheme. The petitioner awaited for a considerable length of period for the benefits. As there was not decision by the authorities, the petitioner was left with no alternative but to approach this Court and as such, writ petition No.7249 of 2012 was filed by the petitioner along with some other petitioner. The petition was admitted and considering the very limited issue raised in the petition, the Division Bench was pleased to dispose of this petition by passing the following order :

O R D E R

“ Rule. Rule made returnable forthwith. Heard finally, by consent of the parties.

2. Upon the petitioners' statement that they are willing to pay 65% of the amount of compensation received by them, the respondents are directed to consider the petitioners' representation dated 21st July 2012 within a period of eight weeks from the date petitioners appear. After hearing the petitioners, the respondents shall pass a reasoned order and communicate the same to the petitioners. The petitioners shall appear on 10th September, 2012. Order accordingly.

3. Rule is disposed of in the above terms.”

3. Mr. Sawant, learned counsel for the petitioner, invited our attention to various documents placed on record and submitted that the petitioner approached the authority time and again initially making oral requests to the authority for grant of benefit. As there was no positive response and no heed was paid to the oral requests, the petitioner filed a

written representation, a copy of which is annexed at Exhibit 'D', page 137 of the petition. The representation/application was received by the competent authority on 1st June, 2020. As there was no positive response or any decision on the representation/application, the petitioner filed second representation which was received by the competent authority on 29th July, 2020, a copy of which is annexed at Exhibit "K", page 168 of the petition. In the backdrop of these facts, the petitioner had approached this Court seeking direction to the respondent authority particularly respondent Nos. 2 and 3 to decide the representation submitted by him on 29th July, 2020 within a stipulated period of two weeks.

4. On issuance of notice to the respondents, affidavit-in reply is filed before this Court by Mr. Uttam Rajaram Patil, Deputy Collector (Rehabilitation), District, Pune, on behalf of respondent No.3. It is submitted in the affidavit-in-reply that in pursuance of the order of this Court in writ petition No.7249 of 2012, a notice was issued to the petitioner informing the petitioner about the hearing of the representation and asking the petitioner to submit documents. It is stated in paragraph 4 of the affidavit-in-reply that the petitioner neither complied with the said notice nor remained present for the hearing, therefore, the application of the petitioner was disposed of vide order dated 2nd August, 2013. Copy of the said order is placed on record at Exhibit 'R1', page 186. Perusal of the order clearly shows that the disposal of the application/representation

of the petitioner on on a solitary ground i.e. failure of the petitioner to remain present before the authorities and on failure of the petitioner to remain present before the authorities, a conclusion was drawn by the authorities that the petitioner was not interested in the hearing.

5. Mr. Sawant, learned counsel for the petitioner, vehemently submitted that the rejection of the representation on the solitary ground is clearly ill-founded. Mr. Sawant submitted that the petitioner had approached the authority by submitting his representations dated 1st June, 2020 and 29th July, 2020 respectively, and therefore, by no stretch of imagination, it can be said that the petitioner was not interested in going before the authority. Mr. Sawant submitted that even today, the petitioner is ready to go before the authority and submit all the necessary documents.

6. Considering the submission of Mr.Sawant, learned counsel for the petitioner, we are of the opinion that instead of going into the controversy as to whether the petitioner purposely failed to attend the hearing before the authority, interest of justice would be served if an opportunity is granted to the petitioner to go before the authority, and it will also not cause any prejudice to the respondent authorities. The petitioner had also expressed his willingness to deposit an amount to the extent of 65% as required under the provisions of the Maharashtra

Project Affected Persons Rehabilitation Act, 1999 and more particularly provision under Section 16(2)(b). Thus, this fact is an additional material to show that the petitioner is bonafidely interested in decision of his claim before the authority. Considering all these aspects, we deem it appropriate to dispose of the writ petition with following directions :

ORDER

- (1) The petitioner shall remain present before the competent authority i.e. respondent No.3 – the District Resettlement Officer, Pune, on 8th December, 2021, and submit the representation afresh with all necessary documents.
- (2) On receipt of such representation, respondent No.3- the District Resettlement Officer, Pune, shall make necessary endorsement in respect of receipt of representation.
- (3) In case, the authority requires any additional documents, the authority may provide one week's time to the petitioner for submitting the additional documents to the authority.
- (4) Respondent No.3-the District Resettlement Officer, Pune, shall decide the representation as early as possible and not later than eight weeks from the date of receipt of the same.

(5) As we have remanded the matter back to the authority for fresh decision, needless to say that the order dated 2nd August, 2013, passed by the authority stands quashed and set-aside.

The writ petition, accordingly, stands disposed of.

7. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)