

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

WRIT PETITION NO. 7029 OF 2021

Laxman Gajanan Wadekar Since Deceased
The Legal Heirs and Anr.

...Petitioners

vs.

The Additional Commissioner Pune
and Ors.

...Respondents

Mr. Sanjeev Sawant i/by Abhishek P. Deshmukh, for the Petitioner
Mr. P. D. Dalvi i/by Mr. Bhalchandra S. Shinde - for the Respondent
No. 7.

Mr. R. S. Pawar – AGP for Respondent-State.

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

DATE : 30th NOVEMBER, 2021

PER COURT:-

- . Heard the learned counsel appearing for the respective parties.
2. Though there is reference to long run proceedings and various orders namely the order passed by the Revenue Authorities as well as the orders passed by this Court as we are of the opinion that the petition can be disposed of with certain directions. On the backdrop of the peculiar facts, it may not be necessary for us to refer to either these proceedings or the various orders passed by the Authorities or by this Court.

3. It can be briefly stated that the Petitioners claimed for allotment of the land reiterating the Petitioners as the Project Affected person, then there was an order passed by the Authority in favour of the Petitioners for the allotment of the land. The order was challenged by raising counter submissions namely the Authorities mechanically and without considering the record, passed an order in favour of the Petitioners. It was also submitted that the Petitioners committed breach of the conditions. The Deputy Collector, Rehabilitation and the Administration, Rehabilitation Pune vide order dated 19/06/2019 passed an order of allotment in favour of the Petitioner to the extend of 2 H 40 Ares.

4. As stated above the allotment in favour of the Petitioners was subject matter of challenge. There is also an order passed by the Divisional Commissioner, Pune on 04/09/2019, wherein the Divisional Commissioner, Pune Division found that the exercise of allotment of land in favour of the Project affected person is not conducted properly. The Divisional Commissioner found that there are certain irregularities. He also found that the concerned officer acted indefinite negligence and acted irresponsibly. As such certain

directions were issued by the Divisional Commissioner in his order dated 04/09/2019 and there was an order passed by the Authorities dated 04/01/2020 whereby the Additional Collector Pune found that certain excess land is allotted in favour of the Petitioners and by order dated 04/01/2020 the allotment order passed in favour of the Petitioners to the extent of 1H 20 Ares being an excess land was canceled.

5. Being aggrieved by the said order the Petitioners have approached this Court by filing the Writ Petition (ST) No. 358 of 2020 before the learned Single Judge of this Court. The petition was opposed by Respondent No. 6- Namdev Bhagwan Khedkar who is Respondent No. 7 in the present petition. The learned Single Judge while passing order dated 31/01/2020 made a reference to the rival contention raised by the learned counsel appearing for the respective parties. Learned single Judge found that the while passing the order dated 04/01/2020 the authorities failed to follow the principle of natural justice namely opportunity of hearing was not granted to the Petitioners and further observed that such failure to observe principle of natural justice goes to the route of the matter. At that

point of time, the learned AGP appearing for the State submitted before this Court that if the Court directs the Additional Collector shall re-hear the parties and shall decide the matter afresh on its own merits and in accordance with law. It was also pointed by the learned AGP that copy of the report is probably was not available to the Petitioners when the petition was filed in this Court and was listed before learned Single Judge. The copy of the report then supplied to the Petitioners. Receiving the report was a fact acknowledged by the learned counsel appearing for the Petitioners.

6. On the backdrop of these facts, the learned Single Judge of this Court was pleased to allow the petition partly. The order referred in the petition was set aside by remitting back the matter to the learned Additional Collector for deciding it afresh on its own merit and in accordance with law. In the light of the observations made in the order dated 31/01/2020 in the paragraph 9 of the learned single Judge also observes that “needless to mention that learned Additional Collector shall be obliged to supply all such documents which learned Additional Collector proposed to rely upon, while taking action if any, on the basis of the show cause notice.”

7. This ultimately the concerned authorities namely the Additional Collector was directed to decide the matter afresh. The counsel for the Petitioner submitted before us that the matter is pending before Additional Collector and there was no progress in the matter.

8. Today, the learned counsel appearing for the Respondents invited our attention to the notice issued by the Additional Collector dated 25/11/2021 under the caption 'hearing notes' there is reference to the name of the parties namely the Petitioners as well as Shri Dhananjay Namdev Khedkar.

9. The perusal of the notice further shows that though the same matter was listed before the Authority but for the restrictions in view of the SOP declared by the State of Maharashtra on the backdrop of Covid-19 pandemic, the hearing could not be proceeded further and all the hearing were kept abeyance.

10. Notice/communication further reveals that now the hearing is scheduled on 02/12/2021 at 11 a.m. in the office of the Additional

Collector, Pune. The parties are informed to attend the hearing with all necessary documents on which they would like to rely upon.

11. The copy of the notice is taken on record and marked 'X' for identification. In view of this document marked X, it is more clear that now delay in hearing from concerned Authority was on justifiable reasons and now the hearing is scheduled on 02/12/2021. The notice also indicates that the parties are at liberty to place on record the documents on which the parties would like to rely on.

12. The learned counsel for the Petitioners submits that the Petitioners be permitted to file their written submissions before the Authorities raising various grounds which the Petitioners feel necessary for the decision by the Authorities namely Additional Collector Rehabilitation Pune on various grounds including the maintainability.

13. We have permitted to submit written submission raising necessary ground. In our opinion, the prayer made by the learned counsel for the Petitioners to file written statement before the

authorities would not cause any serious prejudice to the other side and particularly Respondent No. 1, if we balanced the equity if Respondent Not 7 is also permitted to place on record written submission and by such permission granted to both the parties the interest of justice would be appropriately served.

14. Considering all these aspects we are of the opinion that the no fruitful purpose will be served by keeping the petition pending and accordingly petition can be disposed of with the directions to the Authority who has already taken the exercise of hearing of the parties vide notice dated 25/11/2021.

15. Accordingly, the petition is disposed of with directions to the Additional Collector, Pune to proceed with the hearing, pursuant to the notice dated 25/11/2021 in compliance of order of learned Single Judge of this Court and complete the hearing and to pass an appropriate order as expeditiously as possible and not later than eight weeks from the date of order received by the authority.

16. The exercise of filing the written submission before the

authority be completed within two weeks from today.

17. In case the order of the authority is against the Petitioners, the authority should communicate the order passed by them to all the parties and after receipt of order of the communication by all the parties, within 10 days order may not be given effect, so as to facilitate the Petitioners to avail appropriate remedies to challenge order passed by the authorities.

18. With the above directions, petition is disposed of.

19. We make it expressly clear that this Court has not made any observations on the contentions or the merits of the petition.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)