

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

WRIT PETITION NO. 2944 OF 2020

Shri. Krishna Raghu Tamkar
since deceased through his legal heir :
Vishnu Krishna Tamkar

...Petitioner

Versus

Collector and Land Acquisition Officer No. 1,
Kolhapur District, Kolhapur & Ors

...Respondents

- Mr. P. D. Dalvi, Advocate for the Petitioner.
- Ms. M. S. Bane, AGP, for the Respondent – State.

**CORAM : PRASANNA B. VARALE &
KISHORE C. SANT, JJ.**

DATE : JULY 28, 2022.

P. C. :

1. Heard learned Counsel for the petitioner.
2. By the present petition, petitioner prayed the following principal reliefs.

(a) Your Lordship may be pleased to issue an appropriate writ, order or direction directing the Respondent Nos. 1 and 2 to consider the application of the Petitioner for allotment of alternate suitable land as demanded by the Petitioner by his Demand Application annexed at Exhibit "D" to the present Petition, as early as possible in accordance with law;

(b) Pending the hearing and final disposal of this Writ Petition, this Honourable Court be pleased to direct the Respondent Nos. 1 and 2 to consider the application of the Petitioner for allotment of alternate suitable land as demanded by the

petitioner by his Demand Application annexed at Exhibit “D” to the present petition, as early as possible in accordance with law.”

Prayer Clause (a) and the prayer clause (b) is in the nature of an interim-relief. An application at the instance of the petitioner – Vishnu Krishna Tamkar who is the legal heir of Krishna Raghu Tamkar was submitted to Respondent No. 2 – District Rehabilitation Officer, Kolhapur. The ancestral land of the petitioner was acquired for Tulshi Medium Irrigation Project and father of the petitioner Krishna Raghu Tamkar was declared as Project Affected person. In view of the policy of the State Government, the petitioner prayed for an alternate land. The copy of the proforma application is also placed on record at page no. 23. All the necessary details are referred to in proforma application including the area of land acquired, the project for which the land was acquired namely Tulshi Medium Dam Project, the details of members in the family and in column no. 10 of the proforma application, a reference is made as to whether the claimant/applicant had deposited any amount for claim of an alternate land. In this column no. 10, the petitioner specifically stated that an amount of Rs. 14,000/- is deposited. Now as the application was pending before the authority for considerable period, the petitioner approached this Court. The Division Bench of this Court on 12th July, 2022 passed the following order.

“1. Mrs. Bane, learned AGP for the Respondent Nos. 1 to 3 on instructions states that the Respondent No. 2 has already fixed

the hearing on 18th July, 2022 and would pass appropriate order within two weeks from the date of conclusion of hearing to be granted to the petitioner. She submits that if the application filed by the petitioner is allowed by the Respondent No. 2, the petitioner would be allotted alternate suitable land as demanded by the petitioner by demand letter Exhibit "D" collectively within two weeks from the date of such order. Statement is accepted. It is made clear that no further extension of time would be granted.

2. Place the matter on board for reporting compliance on 28th July, 2022. A copy of the order that would be passed by the Respondent No. 2 shall be furnished to the petitioner within 24 hours from the date of passing order."

3. Learned AGP placed on record the communication dated 25th July, 2022. In this communication certain statements are made, we may refer the relevant statements viz (1) Pursuant to the directions of this Court, the petitioner remained present before the authority and submitted the attested copy of the documents namely, letter outward No. 07/2022/198 dated 25.07.2022. (2) Then it is stated that the petitioner was asked for copy of the challan dated 31st March, 1977 to the tune of Rs. 14,000/- deposited in the Government Treasury under entry no. 8443, and interestingly it is further stated that as the relevant record in the office of the Deputy Collector (Rehabilitation), Kolhapur of the same period is destroyed, no details about this amount and challan are available in the office, and as such the amount paid cannot be ascertained, and as the petitioner failed to show that he had deposited the amount by way of challan to the Government, the application of the petitioner was disposed of.

The entire approach of the authority prompts us to say that the approach of the authority is hyper technical and entirely negative towards the citizens.

4. It may not be exaggeration to state that such an approach of the authorities give rise to coined term such as “nepotism”. In the present matter the petitioner has placed on record the copy of the application along with all these necessary material annexed to the application which was submitted to the authorities. One of the annexure to the application is certificate issued by the treasury office of Radhanagari. The signatory to the Certificate is Deputy Treasury Officer and this certificate is issued on 30th May, 2006. Loose translation of the certificate may read thus :

“That it is certified that Shri. Krishna Raghu Tamkar had deposited an amount of Rs. 14,000/- in the revenue account in the said treasury Radhanagari by a challan bearing No. 95 on 31st March, 1977.”

There is another endorsement on this certificate which reads thus :

“The said certificate is issued to son of Vishnu Krishna Tamkar, who is legal heir. In view of his application dated 30th may, 2006”

5. It may not be out of place to state that along with the claim application, an affidavit sworn by father of the petitioner Vishnu Krishna Takmar was also annexed. In this affidavit, reference is made to this certificate issued by the Treasury Officer. When all these documents were available with the Deputy Collector (Rehabilitation), Kolhapur, to whom the

application was submitted, without even going through these documents a statement is made before this Court that the petitioner failed to submit the challan of year 1977 and as the record in the office of the Deputy Collector is destroyed, the office is unable to verify as to whether the father of the petitioner had deposited the said amount or not.

6. It may not be out of place to state that the authority has firstly shifted burden over the petitioner, secondly has made a casual observation without verifying the record, which was duly available with the authority in the form of the application and the annexures, and has disposed of the application of the petitioner. When admittedly the petitioner is Project Affected Person who had lost his land for certain project initiated by the State Government for public good, it was reasonably expected to provide an alternate land that too in view of the policy framed by the State Government itself and by following all the necessary formalities. The approach of the authorities ought to have been more positive and more public cause oriented but what reveals from the factual aspects, is entirely otherwise.

7. Considering all the above referred facts, the only conclusion which can be drawn by us is that the petition needs to be allowed. Accordingly, the petition is allowed. The Respondent authority is directed to allot an alternate suitable land as demanded by the petitioner by complying with all the other formalities as early as possible and not later

than 10 weeks from the receipt of the order of this Court.

8. Copy of the order of this Court be forwarded to the Collector, Kolhapur and the Divisional Commissioner, Kolhapur as well as Secretary, Revenue and Forest Department, State of Maharashtra.

9. All concerned shall act upon a copy of this order which is duly authenticated by the Registry of this Court.

(KISHORE C. SANT, J.)

(PRASANNA B. VARALE, J.)