

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

WRIT PETITION NO. 1247 OF 2022

Vilas Bajirao Phand ...Petitioner
vs.
The State of Maharashtra and Ors. ...Respondents

Mr. Sadashiv Deshmukh, Advocate i/by Mr. Sachin H. Deokar - Advocate
for the Petitioner
Mr. S. B. Kalel - AGP for the Respondent Nos. 1, 2 and 5.

**CORAM : R. D. DHANUKA AND
S. M. MODAK, JJ.**

DATE : 16th FEBRUARY, 2022

P. C. :-

1. The Petitioner claims land through the Respondent No. 4 bearing Gat No. 1655/1 (Old Gat No. 2132) admeasuring 80 Ares, situated at village Shikrapur, Taluka Shirur, District Pune. This land was allotted to the Respondent No. 4 by the Respondent No. 2.

2. The Respondent No. 4 entered into registered sale deed with the Petitioner and since 2019, the Petitioner is in possession of the said land.

3. The Respondent No. 2 however passed an Order of cancelling the allotment of the said land to the Respondent No. 4 by Order dated 24/01/2022.

4. The matter was adjourned on 09/02/2022 to enable the learned

AGP to take instructions whether the impugned Order dated 24/01/2022 can be withdrawn and a fresh Order in accordance with law can be passed by granting personal hearing to the Petitioner as well as to the Respondent No. 4.

5. Mr. S. B. Kalel, learned AGP tendered a copy of the letter dated 15/02/2022 from the Deputy Collector addressed to the learned AGP stating that the authority has no objection if the Petitioner is heard at this stage. The copy of the letter dated 15/02/2022 is taken on record. In view of the instructions of the Deputy Collector dated 15/02/2022 who is agreeable to grant personal hearing to the Petitioner and to re-consider the entire matter at this stage, Mr. Sadashiv Deshmukh, learned counsel for the Petitioner on instructions seeks liberty to delete Respondent No. 4 from the cause title of the petition.

6. Leave to amend is granted to delete Respondent No. 4 from the cause title of the petition. Amendment to be carried out during the course of the day. Re-verification is dispensed with. Rule. Respondent Nos. 1 to 3 waive service. Writ petition is heard finally.

7. In view of the letter dated 15/02/2022, addressed by the Deputy Collector the impugned Order dated 24/01/2022 passed by the Respondent No. 2 does not survive and is accordingly, quashed and set aside. The proceedings are restored before Respondent No. 2.

8. The Respondent No. 2 shall pass a fresh Order after granting personal hearing to the Petitioner as well as Respondent Nos. 3 and 4. The Respondent No. 2 shall give 7 days clear advance notice to the Petitioner and Respondent Nos. 3 and 4 to remain present.

9. If any of the party remains absent or indicate that he is not interested in personal hearing, the Respondent No. 2 shall proceed with the matter without hearing such party.

10. The Respondent No. 2 shall pass a fresh Order in accordance with law without being influenced by the observations made and the conclusions drawn in the Order dated 24/01/2022 within 12 weeks from the date of first hearing.

11. Mr. Sadashiv Deshmukh, the learned counsel for the Petitioner on instructions states that his client will remain present for hearing and would not seek any unnecessary adjournment.

12. In view of the fact that Order dated 24/01/2022 passed by the Respondent No. 2 is quashed and set aside, the mutation entry effected pursuant to the impugned Order dated 24/01/2022 also stands quashed.

13. The Petitioner is directed to convey this Order to the Revenue Authority to implement this Order and to delete the concerned mutation entry.

14. The learned AGP also agrees to convey this Order to the Revenue

Authority for deletion of mutation entry within two weeks from the date of communication of this Order.

15. The Revenue Authority shall act on the authenticated copy of this Order.

16. After deletion of mutation entry, the copy of the mutation entry duly modified shall be furnished to the Petitioner within one week from the date of implementing the Order passed by this Court.

17. The writ petition is allowed in aforesaid terms. Rule is made absolute. No order as to costs.

18. Parties to act on the authenticated copy of this Order.

19. Mr. Sadashiv Deshmukh, the learned counsel for the Petitioner on instructions states that his client would not alienate land in question and would not part with possession thereof till a fresh Order is passed by the Respondent No. 3 and for a period of two weeks thereafter. The statement is accepted.

[S. M. MODAK, J.]

[R. D. DHANUKA, J.]