

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3275 OF 2021

Smt. Parubai Laxman RautPetitioner
Versus
The State of Maharashtra and ors.Respondents

with

WRIT PETITION NO. 1260 OF 2021

Avinash Shivram DeshpandePetitioner
Versus
The State of Maharashtra and ors.Respondents

with

WRIT PETITION NO. 1257 OF 2021

Nivruti Dagadu JogadePetitioner
Versus
The State of Maharashtra and ors.Respondents

with

WRIT PETITION NO. 1264 OF 2021

Smt. Salubai Dagadu Jogade
since deceased through Legal Heirs
Nivrutti Dagadu JogadePetitioner
Versus
The State of Maharashtra and ors.Respondents

with

WRIT PETITION NO. 3276 OF 2021

Nivruti Dhondiba RautPetitioner
Versus
The State of Maharashtra and ors.Respondents

with

WRIT PETITION NO. 1657 OF 2021

Chandrakant Dagadu JogadePetitioner
Versus
The State of Maharashtra and ors.Respondents

Mr. Y. B. Lengare along for the Petitioners.
Mr. V. S. Gokhale, 'B' Panel Counsel for the Respondent - State.

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

Date : **August 26, 2022.**

P. C. :

1. By these petitions, the Petitioners have prayed for direction to the Respondent authorities, particularly to the Deputy Collector, Resettlement, Pune, to allot lands to the Petitioners, being the project affected persons. On behalf of the Respondent-State, affidavits-in-reply are filed in these petitions. The affidavit-in-reply filed in Writ Petition No.1657 of 2021 (Chandrakant D. Jogade v. State) is treated as lead reply affidavit for the disposal of these petitions.

2. The perusal of reply shows that the petitioners have claimed certain lands from Gat Nos.415, 495, 239 and 197. Now, by this affidavit-in-reply it is submitted before this Court through the Deputy Collection (Rehabilitation), Pune that the Government had decided to establish gavthan for the allotment of residential plot to the project affected persons by Gunjwani Project. However, it was subsequently realised that by decision dated 6 April 2015 the proposal for establishment of Gavthan at Gat No. 415 and 295 was cancelled; the

lands in Gat Nos. 415 and 295 were included in the land pool for allotment as an agricultural land. The decision of Government to cancel the establishment of Gavthan on Gat Nos. 415 and 295 is challenged in Writ Petition (St.) No. 27910 of 2019. A photocopy of the order passed by the Division Bench of this Court in the said writ petition is annexed to the affidavit-in-reply at Exhibit "R-3". Vide the said order dated 18th October 2019 passed in the said writ petition, the parties are directed to maintain status quo. The said interim order is still operational. Thus, it is stated in the affidavit-in-reply that in view of the said interim order, the State Government cannot allot any land from these two Gats, namely Gat Nos. 415 and 295. Then the position in respect of Gat No. 239 is submitted in the affidavit-in-reply and it reads thus :

"I state that in respect of the Gat No. 239 situated Dingrajwadi admeasured 35He. 61 Ares, the said Gat number is shown as a Gairan Land. Gat No. 239 was bearing old Gat No. 1098; the part of the land is used for cultivation of the Tuti trees which are important in Silk production project. Part of the land admeasuring about 02 Hectors is in possession of the Executive Engineer MSEB Pune. As there is a Gairan and part of land was used for growing Tuti trees my office has addressed letter on 24th December 2021 to the Divisional Commissioner, Pune Division Pune seeking instructions in respect of allotment of the said land. The Divisional Commissioner, Pune Division Pune has submitted the said proposal to the State Government and sought for necessary instructions. The matter is pending before the State Government for decision in respect of the 'allotment of land from Gat No. 239 can be taken by my office only after the necessary order/directions from State Government."

3. Now remains Gat No. 197 for consideration. It is stated in

the affidavit-in-reply that the claim is made for allotment of land in Gat No.197 by as many as 136 claimants / project affected persons, and the petitioners are enlisted in the said list of 136 project affected persons. The list of those project affected persons is annexed to the affidavit-in-reply at Exhibit "R-4" page no.70. It is further stated by the deponent that for considering the claim of Petitioner qua the other claimants, he will have to examine the other claims by going through the necessary record. It is also stated that considering the land available for allotment qua the number of claimants, the authority may be required to lay down certain criteria so as to avoid future litigation in respect of the allotment of land. Then, another option is stated in the affidavit-in-reply if the land claimed by the Petitioner is available for allotment and there are no other claimants in respect of the said land, then the said land can be allotted to the project affected persons. It is also stated in the affidavit-in-reply that the Petitioner can certainly undertake the exercise of approaching the office of deponent for getting the list of available lands and if the Petitioner approaches the office of deponent, such list can be provided to the Petitioner. If the Petitioner makes an application for the allotment of any other available land, by giving choices of those other lands, the authority would pass appropriate orders.

4. Learned counsel appearing on behalf of the Petitioner

submitted before this Court that the petitioners are ready for consideration of their claims along with other claimants as per the list submitted with the affidavit-in-reply at Exhibit "R-4". He further submitted that the Petitioner may also be granted liberty, in case if no land is allotted to the Petitioner for any reason, from Gat No.197, the Petitioner may indicate the other options submitted in the affidavit-in-reply.

5. Accordingly, the petitions are disposed of with directions to the Respondent authority to consider the claim of Petitioner along with other claimants whose list is annexed at Exhibit "R-4" to the affidavit-in-reply. The authority by considering the claims may pass appropriate orders as expeditiously as possible and not later than sixteen weeks from the date of receipt of a copy of this order. The Petitioners are also at liberty to submit a fresh application in case their application for allotment of land from Gat No. 197 is not positively considered or rejected. If such an exercise is undertaken by the Petitioners, those fresh applications be considered expeditiously.

6. We further make it clear that the direction of this Court to the authorities to consider the applications and pass orders shall not be construed as if an absolute right is created in favour of the Petitioners

and the authorities are at liberty to consider the applications in the light of various government resolutions, and on their own merits.

7. Writ petitions are disposed of with the afore-stated directions. No order as to costs.

[Kishore C. Sant, J.]

[Prasanna B. Varale, J.]