

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

WRIT PETITION NO.3171 OF 2021

Sumita S. Kadam
& Another .. Petitioners.
v/s.
The Collector, Satara & Others .. Respondents.

Kanchan Phatak h/f. Mr. Nitin P. Deshpande, for the Petitioners.
Mr. R. S. Pawar, AGP for the Respondent-State.

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CORAM: S.V. GANGAPURWALA &
VINAY JOSHI, JJ.
DATED : 1st APRIL, 2022.

PC:-

The learned Counsel for the Petitioners submit that land of the Petitioners were acquired. The alternate land was allotted to the Petitioners under order dated 28th October, 2017 and 30th October, 2017 respectively to the Petitioner Nos. 1 and 2. The said allotment order was cancelled. The learned Counsel submits that the allotment was cancelled without notice to the Petitioners. The said order cancelling the allotment of alternate land to the Petitioners, is set aside. The learned Counsel submits that Petitioners are ready to accept the land allotted to them on 'as is where is basis' and would not raise any objection by any other party.

2 The learned AGP submits that initially the land allotted to the Petitioners were cancelled on the basis of report of the Tahsildar that the farming activities are not possible on the said allotted land.

3 The learned AGP submits that some part of the land allotted to the Petitioners is encroached upon by the CIDCO.

4 We have considered the submissions. It is not disputed that the Petitioners were allotted the following land:-

Petitioner No.1.

Sr. No.	Name of the village	Survey No.	Total area out of Hecter Are	Allotted area Hecter Are
1	Koyanaweale	23/1	060-40-H.R.	0-15-00 H.R.
2	Koyanaweale	31/1	1-45-00 H.R.	0-45-00 H. R..
3	Pendhar	46/1A	2-39-60 H.R.	1-00-00 H.R.
	Total		4-45-00 H.R.	1-60-00 H.R.

Petitioner No.2.

Sr. No.	Name of the village	Survey No.	Total area out of Hecter	Allotted area Hecter Are
1	Pendhar	151/0	0-21-00-H.R.	0-21-00 H.R.
2		153/0	0-56-00 H.R.	0-56-00 H.R.
3		250/20	0-37-20 H.R.	0-37-20 H.R.
4		252/1/9	0-17-00 H.R.	0-17-00 H.R.
5		107/1	0-03-00 H.R.	0-03-00 H.R.
6		107/2	0-10-00 H.R.	0-15-80 H.R.
7		107/3	0-17-00 H.R.	0-15-80 H.R.
	Total:		1-61-20 H.R.	1-60-00 H.R.

It is also not disputed that the allotment orders allotting to the aforesaid land to the Petitioner was cancelled. The Respondents have filed affidavit in Writ Petition No.2141 of 2021, stating that State has no objection to set aside the cancellation order dated 10th January, 2019. This Court under order dated 24st June, 2021 recorded the said facts.

However, at that time, it was suggested on the part of the Petitioner that they are willing to accept the said allotment of the land with directions to Respondent-State to remove the infrastructure immediately.

5 It transpired from the affidavit filed by SDO- Panvel that some portion of the land i.e. allotted to the Petitioner has been encroached by CIDCO. The affidavit further clarifies that, State and/or authorities have not allotted any part of the said land to CIDCO.

6 In the light of the statement made by the learned Counsel for the Petitioner, on instructions of the Petitioner, that even if there is any encroachment on some part of CIDCO, they are ready to accept on '***as is where is basis***'. We pass the following order:-

The order cancelling the allotment to the Petitioner is set aside.

7 The Petitioners shall be given the possession of the allotted land to the Petitioner on '***as is where is basis***' and for which, the Petitioner do not have any objections. It would be for the Petitioner to deal with the alleged encroachment, if any and/or to deal with any encumbrance over the said plots and the same would not be responsibility of the State-Authority. The necessary consequence shall follow.

8 Writ Petition stands disposed of. No costs.

(VINAY JOSHI,J.)

(S.V.GANGAPURWALA,J.)