

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.33 OF 2021

Kisan @ Krishna Bhagu Kadam & Ors. .. Petitioners

Versus

The State of Maharashtra & Ors. .. Respondents

Mr.A. R. Gole a/w Ms.Dimple Tejani i/by Mr.Sanjay Anabhawane for the petitioners.

Mr.Bhupesh V. Samant, AGP for the respondent nos.1 to 9.

Mr.Amol Abhiman Yadav, Additional Collector, Raigad present in Court.

**CORAM: R. D. DHANUKA AND
S.G.DIGE, JJ.**

DATE : 23RD NOVEMBER, 2022

P.C:-

By this petition filed by the petitioners, the petitioners seek an initiation of action against the respondent no.2 under the provisions of Contempt of Courts Act, 1971 for committing the contempt by willful defiance of order dated 3rd December, 2019 passed by this Court in Writ Petition No. 565 of 2019.

2. By an order dated 3rd December, 2019 passed by this Court in

Writ Petition No. 565 of 2019, this Court after recording the statement made by the Deputy Registrar (Rehabilitation) in the affidavit dated 11th November, 2019 recorded that the list of lands had been provided to the petitioners. It was also deposed that the eligibility of the Petitioner with respect to receiving of the alternate land was required to be decided in the first place. This Court after recording reasons, disposed off the said writ petition and directed the Deputy Collector (Rehabilitation), Raigad to allot the land admeasuring 1.10.5 hectare to the petitioners within eight weeks from the date of the said order.

3. We are informed that the petitioners were given a choice to identify a suitable parcel of land which could be allotted to them.

4. In pursuance of the said order, the respondents allotted the plot to the petitioners. The petitioners however, were not satisfied with the said plot that was allotted to them on the ground that the same was not suitable and could not have been used for cultivation. The petitioners therefore filed this contempt petition.

5. On 5th May, 2022, this Court recorded the statement made by the

petitioners that the land allotted to the petitioners was in a hilly area. The Tahsildar has also given a report to that effect. Any agricultural operation is impossible on the said land. The petitioners accordingly gave a list of land to the learned Government Pleader which according to the petitioners could be available for allotment. This Court accordingly directed the learned A.G.P. to take instructions with regard to the said land as detailed on page 139. The respondent no.2 had filed an affidavit in this contempt petition, notarized on 26th July, 2022. On page 150, the respondent no.2 has mentioned the land which according to the petitioners were vacant.

6. The said affidavit admits that parts of the land pointed out by the petitioners are vacant. However in paragraph (5), the deponent of the said affidavit has stated that the pieces of land which are vacant mentioned in the table prescribed in the said affidavit at serial no.3 at serial no.3 at Ghot Village. Serial nos. 1 and 2 of Koyanavele Village, serial nos. 3, 4, 5, 6, 10, 12, 17, 19, 20, 28 and 29 of Pendhar Village can be made available for the allotment to Koyana Project Affected Persons subject to the procedure mentioned in the Government Resolution dated 14th June, 2022 annexed at Ex.2 to the said affidavit.

7. In paragraph (6) of the said affidavit, the respondent no.2 has described the procedure which according to he respondent no. 2 will have to be followed for getting allotment of one of those plots which are lying vacant and are mentioned in the table referred to in the said affidavit.

8. We are not inclined to accept the contentions raised by the respondent no.2 in paragraphs 5 and 6 of the said affidavit dated 26th July, 2022. In our view, the conditions prescribed in the said Government Resolution and the other objections raised by the respondent no.2 in paragraph (6) of the said affidavit would not apply to the substitution of the plot already allotted earlier. For the reasons that the petitioners were already allotted the land prior to 14th June, 2022, the said Government Resolution cannot be made applicable with retrospective effect.

9. It is accordingly made clear that the respondents will have to allot one of those plots which are lying vacant as mentioned in paragraph (5) of the said affidavit to the petitioners insisting the

petitioners to comply with the conditions of the Government Resolution dated 14th June, 2022 or other objections raised in paragraph (6) of the said affidavit. It is made clear that the suitable land shall be allotted out of those vacant plots within three months from today.

10. In view of the order passed by us today, at this stage we do not propose to initiate any action under the provisions of Contempt of Courts Act, 1971 against the respondent nos.2 and 9. It is however made clear that in case the order passed by this Court today is not complied with by the respondent no.2 or the concerned officer within the time prescribed, the petitioners would be at liberty to file a separate contempt proceeding for initiating action against the concerned officer not only for the order passed by this Court today, but also for the order which is the subject matter of this contempt petition.

11. The contempt petition is disposed off in the aforesaid terms. No order as to costs.

12. The parties to act on the authenticated copy of this order.

13. Place the matter on board **‘for reporting compliance’** on **27th February, 2023.**

[S. G. DIGE, J.]

[R. D. DHANUKA, J.]