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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2876 OF 2022

Rajaram Abasaheb Deshmukh] .. Petitioner

vs.

The State of Maharashtra & Ors.] .. Respondents

ALONGWITH

WRIT PETITION NO.9109 OF 2021

Kaluram Mahadu jadhav & Ors.] .. Petitioners

vs.

The State of Maharashtra & Ors.] .. Respondents

Mr.Drupad Patil a/w B.G. Ligade for the Petitioner in WP No.2876/2022 and for Respondent No.2 in WP No.9109/2021.

Mr.Harshad Sathe and Saurabh Butala for Petitioner in WP No.9109/2021.

Mr.R.S. Pawar, AGP for State.

**CORAM : S.V. GANGAPURWALA &
M.G.SEWLIKAR, JJ**

DATE : 29TH APRIL, 2022.

P.C.

1] The Petitioner in Writ Petition No.2876/2022 seeks directions against Respondents to record the name of the Petitioner in the 7/12 extract of land bearing Gat No.401/3. The Petitioner in WP No.9109/2021 challenges the orders dated 02.01.2020 and 17.02.2020 passed by Respondent No.1 therein to the extent of allotting 67 R of land from Gat No.401/3 to the Respondent No.2 therein.

This order stands corrected as per speaking to minutes order dated 06.05.2022.

2] Heard the learned counsel for the respective Petitioners and the learned counsel for Respondents.

3] The prima dona contention of the learned counsel for the Petitioner in Writ Petition No.9109/2021 is that the orders dated 02.01.2020 and 17.02.2020 are passed by the Competent Authority without jurisdiction. On the relevant dates, the Competent Authority did not possess the powers to pass the orders and the Competent Authority was stripped of its powers on the relevant dates. Reliance is placed on the communication dated 04.09.2019.

4] The learned counsel Mr.Patil submits that the said Authority has passed orders after obtaining sanction from Additional Collector and in view of that due process has been followed by him. In fact, the file of the Petitioner in Writ Petition No.2876/2022 was processed in the year 2018. The steps for allotment of alternate land were taken before communication dated 04.09.2019. No illegality has been committed. The Petitioner in Writ Petition No.9109/2021 is guilty of suppression of facts. In fact the said Petitioner was shown to have been allotted the land on the date he made an application.

5] We have considered the submissions. If orders are passed by Authority without jurisdiction the same is coram non judice. The communication states that the Deputy Collector did not possess the powers to pass orders. The form of sanction also does not appear to be properly given.

6] The Petitioner in Writ Petition No.9109/2021 was already allotted

This order stands corrected as per speaking to minutes order dated 06.05.2022.

land from the said Gat No.401/3 admeasuring 61 R under order dated 31.10.2018. The said order was not set aside and at the same time allotment is also made in favour of the Petitioner in Writ Petition No.2876/2022 subsequently on or about 21.02.2019. There would be two contradictory orders in force.

7] In the light of above, following order is passed :

i] The impugned orders dated 02.01.2020 and 17.02.2020 are set aside.

ii] The parties shall appear before the Additional Collector, Pune Division, Pune on 30.05.2022 and put-forth their stand.

iii] The Additional Collector, Pune shall consider the stand of the parties and take decision afresh with regard to allotment of land from Gat No.401/3 situated at Nanekawadi, Taluka-Khed, District-Pune.

iv] The decision shall be taken preferably within 3 months from the date of appearance of parties before the Authority.

v] Writ Petitions are disposed of. No costs.

[M.G.SEWLIKAR, J]

[S.V.GANGAPURWALA,J]