

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No.3393 OF 2023

Mr. Kisan Govind Sutar)
Age about 67 years,)
Occupation Farmer, Address at)
Vadval Tanbi, Post. Donvat,)
Tal. Khalapur, Dist. Raigad)...Petitioner

Versus

1. State of Maharashtra)
Through the Government Pleader)
High Court Appellate Side, Bombay)
2. The District Magistrate/Collector)
of Raigad at Alibaug, Dist. Raigad)
3. The Revenue Minister,)
Revenue & Forest Department,)
Mantralaya, Mumbai -400 032)
4. The Additional Collector of Raigad)
Raigad at Alibaug, Dist. Raigad)...Respondents

WITH

WRIT PETITION No.3394 OF 2023

1. Kondiba Ramchandra Mane)
Age About 59 years)
Occupation Farmer, Address at)
Maldev, Post Ransai, Taluka Pen,)
Dist. Raigad)

1. Mr. Dhondiba Ramchandra Mane)
Age 57 years, Occupation Farmer)
Address at Maldev, Post Ransai,)
Taluka Pen, Dist. Raigad)...Petitioners

Versus

1. State of Maharashtra)
Through the Government Pleader)
High Court, Appellate Side, Bombay)
2. The District Magistrate/ Collector)
of Raigad at Alibaug, Dist. Raigad)
3. The Revenue Minister,)
Revenue & Forest Department,)
Mantralaya, Mumbai - 400 032)
4. The Additional Collector)
of Raigad, Raigad At Alibaug,)
Dist. Raigad)...Respondents

WITH

WRIT PETITION No. 3395 OF 2023

1. Mr. Gulab Dagdu Mujawar)
Age about 60 years,)
Occupation Farmer, Address at)
Aarav, Post Ransai, Tal. Pen,)
Dist. Raigad)
2. Mr. Shaukat Dagdu Mujawar)
Age about 58 years, Occup. Farmer)
Address at - Aarav, Post Ransai,)
Taluka Pen, Dist. Raigad)...Petitioners

Versus

1. State of Maharashtra)
Through the Government Pleader,)
High Court, Appellate Side, Bombay)
2. The District Magistrate/Collector)
of Raigad at Alibaug, District Raigad)
3. The Revenue Minister, Revenue)
and Forest Department,)
Mantralaya, Mumbai - 400 032)
4. The Additional Collector of Raigad)
Raigad at Alibaug, Dist. Raigad)...Respondents

WITH

WRIT PETITION No. 3396 OF 2023

Mr. Dyaneshwar Ramchandra Sutar)
Age about 60 years,)
Occupation Farmer, Address at)
Vadval Tanbi, Post. Donvat,)
Taluka Khalapur, Dist. Raigad)...Petitioner

Versus

1. State of Maharashtra)
Through the Government Pleader,)
High Court, Appellate Side, Bombay)
2. The District Magistrate/Collector)
of Raigad at Alibaug, Dist. Raigad)
3. The Revenue Minister)
Revenue & Forest Department,)
Mantralaya, Mumbai - 400 032)
4. The Additional Collector of Raigad)

Raigad at Alibaug, Dist. Raigad)...Respondents

WITH

WRIT PETITION No. 3397 OF 2023

1. Mr. Pravin Vasant Jadhav)
Age about 32 years,)
Occupation Farmer, Address Owe)
Camp, Near Tata Hospital, Sector 22)
Post Kharghar, Tal. Panvel,)
Raigarh- 410210)
2. Smt. Haussa Vasatn Jadhav)
Age 57 years, Occupation Farmer)
Address Owe camp, Near Tata)
Hospital, Sector -22, Post Kharghar)
Tal. Panvel, Raigarh- 410210)
3. Mr. Arvind Vasant Jadhav,)
Age 35 Years, Occupation Housewife)
Address Owe Camp, Near Tata)
Hospital, Sector-22, Post Kharghar,)
Tal. Panvel, Raigarh- 410210)...Petitioners

Versus

1. State of Maharashtra)
Through the Government Pleader,)
High Court, Appellate Side, Bombay)
2. The District Magistrate/Collector)
of Raigad at Alibaug, Dist. Raigad)
3. The Revenue Minister)
Revenue & Forest Department,)

Mantralaya, Mumbai – 400 032)
4. The Additional Collector of Raigad)
Raigad at Alibaug, Dist. Raigad)...Respondents

WITH
WRIT PETITION No. 3398 OF 2023

1. Shrirang Mahadu Kadam)
Age about 32 Years,)
Occupation Farmer, Address at)
Waghali, Post Palas, Taluka Roha)
Dist. Raigarh)
2. Mr. Pandurang Maruti Pawar)
Age about 25 years, Occupation)
Farmer, Address at Waghali,)
Post Palas, Tal. Roha, Dist. Raigarh)...Petitioners

Versus

1. State of Maharashtra)
Through the Government Pleader,)
High Court, Appellate Side, Bombay)
2. The District Magistrate/Collector)
of Raigad at Alibaug, Dist. Raigad)
3. The Revenue Minister)
Revenue & Forest Department,)
Mantralaya, Mumbai – 400 032)
4. The Additional Collector of Raigad)
Raigad at Alibaug, Dist. Raigad)...Respondents

Mr.Datta Mane, Advocate for the Petitioners in all Writ Petitions

Mr. A.I. Patel, Additional G.P. a/w. Mrs. M.S. Bane, AGP for State
Respondents in all Writ Petitions

**CORAM:- R.D. DHANUKA &
GAURI GODSE, JJ.**

DATE :- 20 APRIL, 2023

ORAL JUDGMENT [Per: R.D. DHANUKA, J.]

1. Learned counsel appearing for the parties vehemently states that the facts and issues involved in these matters, are identical and can be disposed of by a common order. Statement is accepted.

2. Since the matters and issue involved are identical, we have taken the facts and submissions from Writ Petition No. 3393/2023.

3. In these bunch of Petitions, the predecessor of the Petitioners, Late Maruti Ganu Sutar, who is a Project Affected Person, his land was acquired by the State of Maharashtra for

construction of Koyna Project in the year 1962. The said Mr. Maruti Ganu Sutar passed away, leaving behind him Mr. Kisan Govind Sutar (Grandson, the Petitioner herein). According to the Petitioners, Respondent No.1 formulated a scheme to rehabilitate the the said project affected person.

4. Under the said Scheme, the displaced project affected persons being affected are entitled for allotment of agricultural land as per the Maharashtra Project Affected Person Rehabilitation Act, 1999 (for short 'the Rehabilitation Act').

5. On 15th March, 1963, an Award being Award No. LAQ.SR.-69 came to be passed in favour of Mr. Maruti Ganu Sutar being the Project Affected Persons at Serial No. 145 in Schedule-E. It is the case of the Petitioners that as per policy decision promulgated by the State Government, Maharashtra for resettlement of project affected person, the Petitioners were offered compensation of Rs.209-30/- and also offered resettlement by allotment of an agricultural lands as per the said Rehabilitation Act. The Petitioners made a representation on 8th September, 2020 and applied for agricultural plot of

land as per the said Scheme. According to the Petitioner the said application is still pending.

6. The Petitioners filed this Petition on 21 January, 2021, inter alia, praying for a Writ of Mandamus against the Respondents to expeditiously allot the land to the Petitioner as per the representation dated 8 September, 2020. Writ Petition(s) are opposed by the learned AGP for the Respondents-State. Learned counsel for the Petitioners in these bunch of Petitions placed reliance on the judgment of this Court delivered on 3rd December, 2019 in Writ Petition No. 565 of 2019 in case of **Kisan @ Krishna Bhagu Kadam & Ors. Vs. State of Maharashtra & Ors.** and submitted that in the identical matter, this Court had granted such reliefs.

7. We have heard the learned counsel for the Petitioners at length and we have considered the documents annexed to the Petition. We have also considered the additional documents filed by the Petitioners in February, 2022.

8. It is the case of the Petitioners themselves that the

land acquisition award was made in the year 1963 in favour of the predecessor of the Petitioners. The Petition is silent as to whether any compensation amount has been deposited at the instance of the Petitioners for the purpose of allotment of the land. On the contrary, the averments made in the Additional Affidavit filed by the Petitioners, indicates that the Maharashtra Project Affected Persons Rehabilitation Act came into force in the year 1999 whereas the land was acquired in the year 1963. The condition of deposit of 65% compensation amount is not applicable in the Petitioner's case as the said Rehabilitation Act came into force in 1999. However, still the Petitioners are willing and ready to deposit the 65% of compensation amount at the time of passing of the Award, if at all Court directs them to deposit the said amount, before the allotment of alternate lands.

9. It is thus a common ground that the Petitioners had accepted the entire compensation amount paid as per the provisions of the said Land Acquisition Act made in the year 1963 passed pursuant to the award dated 15 March, 1963 passed in favour of the predecessor of the Petitioners. The

representation came to be made for the first time on 8 September, 2020. The Learned AGP strongly placed reliance on the judgment of this Court delivered on 8 December, 2022 in Writ Petition No. 10346 of 2022 in case of **Maruti Ganu Supnekar (since deceased) through Legal Heirs Ananda Maruti Supnekar Vs. The State of Maharashtra and Ors.** and submitted that even if the provisions under the Maharashtra Project Affected Persons Rehabilitation Act, 1999 are made applicable to the facts of this case, the Petitioners did not make any application under Section 16(1) of the said Rehabilitation Act when the compensation was offered under Section 12(1) of the Land Acquisition Act, 1894.

10. It is submitted that at this stage, there is no question of offering the Petitioner to deposit 65% amount of compensation received by the predecessor of the Petitioners in the year 1963 for the purpose of making alternate land. In our view, since there was neither such scheme for allotment of as contemplated under Section 15 of the said Rehabilitation Act nor such scheme could be at that time, the question of making any allotment of land after expiry of 60 years did not

arise. The Petitioners cannot seek any allotment of land under the said Rehabilitation Act when the said Act itself came in to effect in the year 1999. It is the case of the Petitioners themselves that the said Act was not in force when the land of predecessor of the Petitioners was acquired.

11. This Court in the said judgment in case of **Maruti Ganu Supnekar (supra)** has distinguished the judgment of this Court in case of **Dadabhau Pandurang Agarkar Vs. State of Maharashtra and Ors.** and has held that the Petitioner had accepted 100% of compensation and did not desire to apply for plot or land or both under the Scheme published by the Government of Maharashtra under Section 16(1) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Question of thus issuing notice under Section 16(2) of Maharashtra Project Affected Persons Rehabilitation Act, 1999 for depositing amount did not arise.

12. This Court held that the stage for issuance of notice under Section 16(2) of the said Rehabilitation Act, to deposit the amount would arise only if the application under Section 16(1) of the said Rehabilitation Act is made by an eligible

affected person who has a desire to get land or plot or both in the area shown for the purpose in the scheme published under Section 15 of the said Rehabilitation Act. There is no automatic entitlement of the land or plot under the said Scheme. This Court held that Section 16(2) of the said Rehabilitation Act cannot be read in isolation and has to be read with Section 16 (1) (a) of the said Rehabilitation Act. Even this Court would have accepted the submission of the Petitioners that obligation to deposit 65% amount would commence from the date of issuance of such notice though no application is made for allotment of such plot under Section 16(1) of the said Rehabilitation Act is accepted, at this stage, the said judgment would clearly advance the case of the Respondents and not the Petitioners.

13. Insofar as the judgment of this Court in case of **Kisan @ Krishna Bhagu Kadam & Ors.** relied upon the learned counsel for the Petitioners is concerned, even in that cases the State Government has provided the list of land to the Petitioners and the eligibility of the Petitioners for allotment of lands had been decided. In this case, the

Petitioner himself has pleaded that 65% amount was not required to be deducted from the compensation paid to the predecessor of the Petitioner in the year 1962. In view of the fact that it is a plea of the Petitioners that the said Rehabilitation Act is not applicable and was not in existence when the land acquisition award was made in the year 1963 in favour of the predecessor of the Petitioner, the question of payment of 65% compensation amount or for allotment of land under the provisions of the said Rehabilitation Act and that also after expiry of the 62 years from the date of award, cannot be accepted. Hence, all these Petitions are devoid of merits and are accordingly dismissed. No order as to costs.

(GAURI GODSE, J.)

(R.D.DHANUKA, J.)