

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8385 OF 2023
WITH
INTERIM APPLICATION NO. 13998 OF 2023
IN
WRIT PETITION NO. 8385 OF 2023

Mauli Ajinath Gutal Patil & Ors.

... Petitioners/
Applicants

Versus

The State of Maharashtra, through its Principal
Secretary, Rehabilitation Dept. & Ors.

... Respondents

Mr. Purushottam G. Chavan for the petitioners/applicants.
Ms. Shruti D. Vyas, 'B'; Panel counsel for the State.

CORAM: G. S. KULKARNI &
JITENDRA JAIN, JJ.
DATED: 2 August, 2023

P.C.

1. This Writ Petition under Article 226 of the Constitution of India is filed
praying for the following reliefs:

"a) Rule be issued and record and proceedings be called for from the file of Respondent nos. 3 and 4 and after perusing the same, legality, validity and maintainability of notice dated 10/02/2023 issued by District Rehabilitation office, Rehabilitation Branch, Solapur (Respondent no. 3 herein), which is signed by Tahsildar Rehabilitation, Solapur (Respondent no. 4 herein) bearing out ward no. Rehabilitation/1/Ujani/R.R./152/2023 be quashed and set aside;

b) This Hon'ble Court be pleased to issue writ of mandamus or any other appropriate writ, directions or order in the nature of directions thereby directing to decide the specific representations pending undecided before respondent no. 2 Authority dated 14.12.2012, 13.12.2012 and subsequent reminder letter dated

06.03.2017 under the strict supervision of this Hon'ble High Court in time bound schedule;

c) During pendency and final disposal of the present Writ Petition, this Hon'ble High Court be pleased to stay operation, implementation and effect of impugned notice dated 10/02/2023 issued by District Rehabilitation Officer, Rehabilitation Branch, Solapur (Respondent no. 3 herein), which is signed by Tahsildar Rehabilitation, Solapur (Respondent no. 4 herein) bearing out ward no. Rehabilitation/1/Ujani/R.R./ 152/2023.”

2. Insofar as prayer clause (a) is concerned, the petitioners appear to be aggrieved by the communication dated 10 February, 2023 whereby the Tahsildar (Rehabilitation), Solapur has called upon the petitioners to remain present along with all the relevant documents for hearing, in regard to the allotment of the land as described in the said communication. For the purpose of an appropriate appreciation, the said communication as impugned is required to be noted, which reads thus:

“(Official translation of Marathi typewritten)

In connection with the above-mentioned subject, you are hereby informed that as regards the allotment of the land bearing Gat No. 1286 Part, area admeasuring 2 hectares, 02 Are situated at village Bhose, Tal. Pandharpur and Gat No. 74/B part, area admeasuring 2 hectares, 2 Are situated at village Gursale, made twice, you should remain present in the chamber of the Additional Collector, Solapur, in this Office, on the date 15.02.2023 together with all original documents in your possession, pertaining to the allotment made twice and put forth your say and produce other documents, if any.

If you fail to remain present on the date 15.02.2023, appropriate action shall be taken in this matter as per government rules, which may be noted.

(Dr. Abhijit Jadhav)
Tahsildar (Rehabilitation)
Solapur”

3. It is clear from the plain reading of the impugned communication that it is merely a notice to the petitioners to appear before the said officer along with all relevant documents, after which an order would be passed by the said officer. The petitioners have grievance that the said officer would not have jurisdiction and the Additional Collector (Rehabilitation), Pune, would have jurisdiction. If that be so, the petitioners are certainly permitted to raise such objection, which shall be taken into consideration in passing further orders by the Tahsildar(Rehabilitation), Solapur.

4. Insofar as prayer clause (b) is concerned, it is prayed that the petitioners' representations dated 13 December, 2012, 14 December, 2012, also 6 March, 2017 be decided. From the perusal of the memo of the petition, we note that there is no explanation whatsoever which has been set out as to why for a relief of such nature, the petition is filed in the year 2023. It is in our *prima facie* opinion that such prayer is barred by the principles of delay and laches considering the settled principles of law as considered by the Supreme Court in ***C. Jacob vs. Director of Geology & Mining & Anr.***¹ as also the decision of this Court in **Nana Narayan Bhalerao (Decd) through LR. Jalindar Nana Bhalerao & Ors. vs. District Resettlement Officer, Pune & Ors.**².

¹ AIR 2009 Supreme Court 264.

² Writ Petition No. 1332 of 2023 dated 26 July, 2023

5. We may also note that in regard to the land in question, there was already a suit filed by the petitioners, which came to be dismissed. Subsequent appeal also came to be dismissed. Now the position is that the Second Appeal is pending before this Court. In these circumstances, it is always open to the petitioners to raise appropriate contentions in the pending Second Appeal.

6. Thus, keeping open all contentions of the petitioners to be agitated in the pending proceedings, we dispose of this petition, in terms of our above observations. No costs.

7. In view of disposal of Writ Petition, Interim Application would not survive and the same is accordingly disposed of.

(JITENDRA JAIN, J.)

(G. S. KULKARNI , J.)