

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11915 OF 2019

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Kisan Laxman Kadam
Decd. Through LHRS & Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Dilip Bodake for Petitioners.

Mr. A.I.Patel, Addl. GP with Ms K.N.Solunke, AGP for Respondent-State.

Mr. Sanjeev Kadam i/by Mr. Kalpesh Patil for R.Nos.7 and 8.

**CORAM: K. R. SHRIRAM &
NEELA GOKHALE, JJ.**

DATED: 12th October 2023

PC:-

1. The Petition is filed for a direction to the Government to implement an order dated 2nd April 1990 passed by the Sub-Divisional Officer ("SDO"), Karad by measuring and fixing the boundaries of the Gairan land, fill the ditches by levelling land and allot 56 plots to Petitioners. The Petition has been filed 29 years later only on 8th November 2019.

2. Mr. Bodake states that the land is all encroached and the encroachment has been by persons connected with the Sarpanch and other members of the Gram Panchayat.

3. Mr. Kadam appearing for Respondent Nos.7 and 8 states that many of the encroachments have been removed. We also find that

certain orders have been passed earlier and only as recently as in 2022, i.e., 32 years later, Petitioners have paid the amounts, which they were supposed to pay for getting the allotted land transferred in their name/delivered to them.

4. In view of the gross delay in approaching this Court, i.e., after 29 years, we do not see any reason to exercise our jurisdiction under Article 226 of the Constitution of India.

Petition, therefore, dismissed.

5. Petitioners may, however, approach Collector with a representation to implement the order bearing Gaothan/Kavi/433/Satara dated 2nd April 1990 passed by the SDO, Karad (then SDO Satara) and allot 56 plots to the flood affected persons in accordance with law. Collector shall also ensure that applicants are those persons, who are entitled to the allotment before deciding the matter. Before that, Collector shall also consider when the land is admittedly a Government land, under which provision of law was the allotment of the land made in favour of Petitioners on 2nd April 1990. In effect whether such an allotment could ever have been made.

6. Collector shall decide the applications within eight weeks of receiving the representation/application from Petitioner(s) and before passing any order shall give a personal hearing to the

Petitioner(s) notice whereof shall be communicated at-least five working days in advance.

7. Order to be passed shall be a reasoned order dealing with all submissions and claims of Petitioners. If any other party has to be heard, Collector shall give notice to that party also of the application. He may even give public notice of the hearing.

8. We express no opinion on the merits of the application to be filed by Petitioners. All rights and contentions of the parties are kept open.

(NEELA GOKHALE, J.)

(K. R. SHRIRAM, J.)