

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6991 OF 2023

Rama Santu Mali & Ors.

... Petitioners

Versus

State of Maharashtra & Anr.

... Respondents

Mr. Amit A. Gharte for the petitioners.

Mr. A.I. Patel, Addl. G.P a/w. Ms. M.S. Bane, AGP for the State.

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

P.C.

1. Rule. Respondents waive service. Rule made returnable forthwith. By consent of the parties, heard finally.

2. We have heard Mr. Gharte, learned counsel for the petitioners and Ms. Bane, learned AGP for the State.

3. This petition is filed praying for the following reliefs:

“a) This Hon’ble Court be pleased to issue a writ of mandamus and/or any other order, writ or direction in the nature thereof, thereby directing respondent nos. 1 and 2 to grant possession of the land granted to the petitioner vide Order dated 16/10/2007; and further be pleased to quash and set aside the impugned order dated 20/12/2022 passed by respondent no. 2 in No./Karyasan-15(4)/Rehabilitation/RR/442/2022 as the same is issued without jurisdiction and contrary to settled provisions of law;

b) pending the hearing and final disposal of the present Writ Petition, this Hon’ble Court be pleased to stay the execution, implementation and operation of impugned order dated 20/12/2022 passed by respondent no. 2 in No./Karyasan-15(4)/Rehabilitation/RR/442/2022; and further direct the

respondent nos. 1 and 2 to grant possession of the land granted vide Order dated 16/10/2007.”

4. The challenge as mounted in this petition to the impugned order dated 20 December, 2022 is to the effect that the Additional Collector, Kolhapur has set aside the order dated 16 October, 2007 passed by the Collector and Deputy Director Project Rehabilitation (Land), Kolhapur, which was confirmed by an order dated 16 March, 2018 passed by the Additional Commissioner, Pune in the proceedings of Revision no. RTS/Revision/176/2017, whereby the allotment of the lands in question, namely, lands admeasuring 0.80 Ares in Survey no. 14 in Village Gadhinglaj; 0.80 Ares in Gat no. 600/B in Village Gijvane; and 0.40 Ares in Gat No. 75/2 in Village Gijvane, was confirmed in favour of the petitioners.

5. Learned counsel for the petitioners submits that the original order allotting lands to the petitioners as project affected persons was passed on 16 October, 2007, which was passed by the Collector, Kolhapur and the same was confirmed by the Additional Commissioner, Pune in revision proceedings. It is his submission that without granting an opportunity of a hearing to the petitioners, the impugned order could not have been passed and by not complying with the Government Resolution dated 14 June, 2022.

6. On the other hand, learned AGP would also not dispute that the hearing was not granted to the petitioners when the impugned order came to be passed.

7. Considering such issue that the impugned order itself is passed in breach of the principles of natural justice, in our opinion, the other issues as raised on merits ought not to have gone into. Hence, we propose to allow this petition by setting aside the impugned order on the ground that the same has been passed in breach of principles of natural justice.

8. The petition is disposed of by the following order:

ORDER

(i) The impugned order dated 20 December, 2022 is quashed and set aside.

(ii) In the event, the respondents intend to pass a fresh order, they are directed to issue notice to the petitioners calling upon them to appear for personal hearing and after granting personal hearing to the petitioners, pass an appropriate order in accordance with law.

(iii) All contentions of the parties are expressly kept open.

9. Disposed of in the above terms. No costs.

(JITENDRA JAIN, J.)

(G. S. KULKARNI, J.)

Corrected as per the order of speaking to minutes dated 9 August, 2023.