

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14345 OF 2022

Dattatraya Shripati Gosavi

...Petitioner

Versus

The Deputy Collector (Resettlement) and Ors.

...Respondent

....

Mr. Nitin P. Deshpande for the Petitioner.

Ms. P. J. Gavhane, AGP for the State.

**CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ**

DATE : 23rd AUGUST, 2023.

PER COURT:

1. We have heard Mr. Deshpande learned counsel for the Petitioner and Ms. Gavhane AGP for the State. The Petition under Article 226 of Constitution of India has prayed for the following reliefs:

A. this Hon'ble Court may, by an appropriate writ, order or direction, quash and set aside order dated 21.07.2022 bearing No.Punarvasan/Dhamni. MaPra/RR/099/2022 of the Sub-Divisional Officer, Radhanagari-Kagal Sub-Division, Kolhapur and direct the respondents to accept the occupancy price from the Petitioner.

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B. During the pendency and till the hearing and final disposal of this writ petition, this Hon'ble Court may stay the execution, implementation and operation of the order dated 21.07.2022 bearing No.Punarvasan/Dhamni. MaPra/RR/099/2022 of the Sub-Divisional Officer, Radhanagari-Kagal Sub-Division Kolhapur.

C. All other just and necessary Orders may kindly be passed in favour of the Petitioner.

2. The case of the Petitioner is that the Petitioner was granted allotment of an alternate land by an order dated 29th March, 2022. The said order according to the State Government was passed under assumption that the Petitioner has deposited 65% of of the amount as per the provisions of the Maharashtra Project Affected Person Resettlement Act. The grievance of the Petitioner is also that such allotment was made under the order dated 29th March, 2022 passed by the Sub-Divisional Officer, Radhanagari Kagal, Sub-Division Kolhapur. The same has now been cancelled by the impugned order dated 21st July, 2022 on the ground that on scrutiny, it was revealed that the Petitioner although had deposited 65% of the amount, same was withdrawn by the Petitioner by his application dated 25th May, 2012 and hence the Petitioner was not eligible and entitled for the allotment made to him under the order dated 29th March, 2022. Reply affidavit is filed on behalf of the

Respondents. To such effect categorical averments are made which can be seen in paragraph No.9 thereof, which read thus:

“4. I say that after the Petitioner submitted the application on 22/01/2007 contending that he should receive the first installment of compensation amount of Rs.7860/- and he wants the remaining amount of the acquired land, and he submitted the affidavit dated 22/01/2007 alongwith the application that he wants the 65% amount returned back because of some family problem and he will not demand the alternate land in future. Hereto annexed and marked as **EXHIBIT - “1” colly** are the copies of the application dated 20/01/2007 and Affidavit dated 22/01/2007. I say that therefore, this officer shall return back the 65% amount of Rs.43797/- to Shripati Shankar Gosavi on 22/05/2012 and Rs.14599/- on 22/05/2012. Hereto annexed and marked as **EXHIBIT - “2” colly** is the copy of the C.C. Voucher. I say that this fact was not updated in the Census Register (SANKALAN REGISTER), the Petitioner took benefit of this and demanded the alternate land. I say that while demanding the alternate land, the Petitioner hide this fact that he has taken the 65% amount back and got the alternate land.”

3. The only grievance as made by Mr. Deshpande is that the representation made by the Petitioner be considered before such order was passed. It is quite clear that the basic eligibility and entitlement of the Petitioner was lacking since the Petitioner had withdrawn 65% amount which was deposited by him on 30th November, 2009 vide its application dated 22nd May, 2021. Mr. Deshpande fairly submits that such fact of withdrawal of the

amount is an admitted position

4. In the above circumstances, it was rightly held that the Petitioner was not eligible for the allotment thereby leading to issuance of the impugned cancellation order.

5. For the above reasons, we do not find any merit in the petition. The petition is summarily rejected. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]