

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

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**WRIT PETITION NO.11299 OF 2023**

Sambha Patalu Bombale (since deceased)  
through Lrs.

Balu Sambha Bombale

.. Petitioner

v/s.

State of Maharashtra & Ors.

.. Respondents

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Mr.Sachiin P.Shetye a/w Mr.Jotiram R.Jadhav for the Petitioner.  
Ms.P.J. Gavhane, AGP for State.

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

**DATE : 13<sup>th</sup> September 2023**

**P.C.:-**

. This petition under Article 226 of the Constitution of India challenges the communication dated 25<sup>th</sup> August 2023 issued by the Additional Collector, Pune whereby the allotment of the land Gat No.40 situated at Rautwadi, Tal. Shirur, Dist. Pune allotted to the petitioner vide allotment order dated 8<sup>th</sup> August 2023 has been cancelled.

2. It is the petitioner's case that earlier petitioner had approached this Court in Writ Petition No.10350 of 2022 which came to be disposed of by an order dated 30<sup>th</sup> November 2022 which was a common order on a batch of petitions. The said order reads thus:-

*"1. Rule. Learned AGP waives notice on behalf of Respondents. Rule is made returnable forthwith. By consent, the petitions are heard*

finally.

2. By these petitions filed under Article 226 of the Constitution of India, the petitioners seek writ of mandamus against the respondents to forthwith allot the land described in prayer clause (b) of the petitions and further seeks order and directions to decide the applications made by the petitioners as expeditiously as possible and not later than eight weeks from the date of the order passed by this Court.

3. At this Stage, Mr. Deokar, learned counsel for the petitioners pressed for prayer clause (c) of the petitions. The application mentioned in the said prayer clause (c) is annexed to the respective petition.

4. We direct respondent No.3 to decide the applications filed by the petitioners in all these petitions within a period of eight weeks from today in accordance with law.

5. The order that would be passed by respondent No.3 shall be communicated to the petitioners within a period of one week from the date of passing of the order.

6. In case, the applications made by the petitioners are allowed, consequential reliefs shall be granted in favour of the petitioners within eight weeks from the date of the order as may be permissible in law.

7. If the applications made by the petitioners are rejected, the petitioners would be at liberty to file appropriate proceedings as may be permissible in law.

8. It is made clear that if the applications of the petitioners are decided favourably, the respondents to consider the allotment of lands that are identified by the petitioners in the applications subject to availability and subject to eligibility of the petitioners.

9. The petitions are allowed in the aforesaid terms.

10. It is made clear that we have not expressed any opinion on the merits of the applications made by the petitioners. All contentions of both parties are kept open.

11. The parties to act upon authenticated copy of this order.”

3. The contention of the petitioner is that accordingly Gat No.40 was allotted to the Petitioner by an order dated 8<sup>th</sup> August 2023 and the possession of the said land was handed over to the petitioner. However, the impugned order came to be passed and on the ground that Gat No.40 was already allotted to the another project affected person from Thitewadi Project namely Shri Ramchandra Sahadu Choudhari and hence the allotment made to the petitioner was required to be cancelled.

4. It is the case of the petitioner that in fact Shri Ramchandra Sahadu Choudhari, who is a project affected person in relation to Chaskaman Project was not interested in the allotment of the land Gat No.40 and hence there was no reason why the allotment which was made to the petitioner was required to be cancelled.

5. Learned counsel for the petitioner has also contended that without giving hearing to the petitioner or to Shri Ramchandra Sahadu Choudhari, the order was passed. Hence the said order is bad and illegal.

6. Having perused the record and having considered the impugned order, in our opinion, it appears to be not in dispute that the petitioner was allotted Gat No.40 along with other land by allotment order dated 8<sup>th</sup> August 2023 issued by the Deputy Collector (Rehabilitation), Pune Shri Shridharth Bhandare. It is also the Petitioner's contention that he was put in possession of the land in question, this is however, disputed by the respondents. The impugned order cancelling the allotment of Gat No.40 also appears to have been passed without an opportunity of hearing being granted to the petitioner or Shri Ramchandra Sahadu Choudhari.

7. If what is contended by the petitioner is correct that Shri Ramchandra Sahadu Choudhari was not interested in allotment of the said Gat No.40, such issue can certainly be looked into by the Additional Collector (Rehabilitation) and an appropriate order in accordance with law can be passed. We are accordingly of the opinion that it would be in the interest of justice that the Additional Collector hears the parties afresh and passes a fresh order.

8. We accordingly dispose of this petition in terms of the following order :-

### **ORDER**

- (i) The impugned order dated **25<sup>th</sup> August 2023** is quashed and set aside.
- (ii) The Additional Collector, Pune is directed to hear the petitioner as also any other claimants or Shri Ramchandra Sahadu Choudhari and after hearing such parties, pass an appropriate order in accordance with law. Let this entire exercise be undertaken within a period of eight weeks from today.
- (iii) All contentions of the parties including the State are expressly kept open.

(iv) Disposed of in above terms. No costs.

9. Parties to act on the authenticated copy of this order.

***JITENDRA JAIN, J.***

***G.S. KULKARNI, J.***

*This order is corrected as per speaking to minutes dated 27<sup>th</sup> September 2023.*