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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.365 OF 2004

Maruti Daji Hulwan

... Petitioner

V/s.

The Tahasildar, Karad & Ors.

... Respondents

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Mr. Rajendra V. Pai, Senior Advocate with Mr. Pradeep D. Dalvi and Ms. Bina R. Pai and Ms. B. Vaze for the petitioner.

Ms. Kavita N. Solunke, AGP for respondent Nos.1 to 4-State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 7, 2025

PC.:

1. This writ petition, invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, assails the legality, propriety, and correctness of the Judgment and Order dated 27th October 2002 passed by the Additional Commissioner, Pune Region, Pune, in Revision Application No.507 of 2001. By the impugned order, the revisional authority has set aside the order of allotment made in favor of the petitioner as far back as in the year 1976, primarily on the premise that the allotment stood vitiated on account of alleged encroachment committed by the allottees, thereby necessitating re-allotment of the subject land.

2. The facts and circumstances giving rise to the present controversy, succinctly stated, are as follows:

3. The petitioner, being a member of the Armed Forces, was the beneficiary of a well-intended scheme formulated by the State Government for the resettlement of ex-servicemen, pursuant to which the Revenue and Forest Department, vide Circulars dated 16th May 1971 and 9th August 1972, initiated the process of allotment of agricultural land to eligible individuals who had served the nation in the armed forces. In furtherance of the said policy, and upon due consideration of the petitioner's entitlement, the competent authority, by an order dated 12th November 1975, allotted agricultural land bearing Survey No. 118, situated at Village Shere, Taluka Karad, District Satara, in favor of the petitioner. The allotment order was duly acted upon, and on 7th July 1976, physical possession of the subject land was handed over to the petitioner, pursuant to which necessary entries were effected in the revenue records, duly mutating the name of the petitioner in the relevant land records.

4. Nearly two decades thereafter, on 21st December 1995, the Tehsildar, Karad, purportedly passed an order of re-allocation of the very land that had already been allotted to the petitioner, thereby unsettling a position that had attained finality. Aggrieved by the said order, the petitioner questioned its legality. The State of Maharashtra, in an inexplicable exercise of revisional jurisdiction, challenged the Collector's order of allotment dated 2nd March 1976 before the Additional Commissioner for Revenue, Pune Region, Pune, by instituting Revision Application No. 507 of 2001.

The Additional Commissioner, by the impugned order dated 22nd October 2002, allowed the said revision, nullifying the allotment of land in favour of the petitioner and directing re-allocation of the same in favour of other beneficiaries. Constrained by the said order, the petitioner has approached this Court for redressal of her grievance.

5. Mr. Pai, learned Senior Advocate appearing on behalf of the petitioner, has vehemently contended that once the allotment of land was made in favour of the petitioner, who is the mother of a deceased soldier belonging to the Armed Forces, and possession had been lawfully handed over to her, the vesting of title stood concluded, thereby conferring upon the petitioner absolute and indefeasible rights over the said land. It has been urged that the belated exercise of revisional jurisdiction in the year 2001 to unsettle an allotment made in 1976 is wholly unsustainable in law and runs afoul of the principles of finality and repose in administrative decisions. Mere allegations of encroachment by third parties cannot, by any stretch of legal reasoning, form the basis for depriving the petitioner of her legally conferred allotment. In the event the State Government desired to annul the allotment, the appropriate legal recourse available was to institute a civil suit within the period of limitation. The impugned order, by arbitrarily rescinding the allotment, operates to divest the petitioner of her property rights without due process, thereby rendering it per se unsustainable in the eyes of law.

6. Per contra, Ms. Solunke, learned Assistant Government Pleader appearing for the respondent-State, has submitted that the

impugned order passed by the Additional Commissioner is well-reasoned, founded on cogent considerations, and necessitated by the discovery of an error in the original allotment. It is urged that the petitioner herself had approached the Lok Ayukta, seeking redressal of certain grievances pertaining to the land, pursuant to which cognizance was taken and it was discovered that an error had crept into the measurement of the land forming the subject matter of allotment. Accordingly, it is contended that the rectification of such an error by setting aside the original allotment was a legally justified and procedurally valid course of action.

7. Rival contentions now fall for our anxious consideration. While adjudicating upon the matter, this Court has carefully weighed the submissions advanced by both parties and has meticulously perused the material on record. On an attentive scrutiny thereof, it stands revealed that the petitioner was allotted land under the statutory framework of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as “the Code”) and the Rules framed thereunder. The petitioner duly remitted the occupancy price and executed an agreement in Form-III as prescribed by the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971. It is not the case of the respondents that the petitioner committed any contravention or breach of the conditions of allotment. In point of fact, possession of the land had been lawfully delivered to the petitioner, followed by a mutation entry reflecting his name in the revenue records. Mere reliance on the Tehsildar’s order dated 27th December 1995, purporting to re-allot the land, cannot confer upon the Divisional

Commissioner the power or justification to annul the valid allotment in favour of the petitioner, especially not on the basis of a complaint allegedly made by the petitioner and taken cognizance of by the Commissioner. It is by now well settled, in view of a catena of decisions, that allotment of government land, once made in accordance with law and followed by the handing over of possession, vests an indefeasible title in the allottee—such title being susceptible to divestment only in the event of an express breach of the conditions of allotment or any statutory stipulation. Once land is allotted and possession is delivered, the beneficiary's title cannot be lightly dislodged. In the case at hand, the alleged encroachment by certain other beneficiaries or the re-partitioning of the lands can hardly be regarded as a valid ground to rescind the petitioner's allotment, especially in the absence of any proven breach on the petitioner's part.

8. In these circumstances, it appears evident that the order impugned, which sets aside the allotment granted to the petitioner, cannot withstand judicial scrutiny. Its foundation, anchored upon a flawed assumption of powers and a disregard for the essential safeguards in the Code and the Rules, is liable to be quashed.

9. Consequently, it is the considered opinion of this Court that the impugned order cannot be sustained and must be set aside forthwith. The original allotment in favour of the petitioner stands restored, subject to all the terms and conditions governing such allotment under the applicable legal framework.

10. Accordingly, rule is made absolute in terms of prayer clause (b). No costs.

(AMIT BORKAR, J.)