

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8894 OF 2023

Shri Jagu Waku Shelar	]	
(Since deceased) Through LRs	]	
1-A. Shri Yashavant Jagannath Shelar	]	
Age 58 Years, Occ. Agriculturist,	]	
R/at. Khavali, Post Asare,	]	
Tal. Wai, Dist. Satara.	]	
1-B. Shri Atmaram Jagannath Shelar	]	
Age 54 Years, Occ. Agriculturist,	]	
R/at. Khavali, Post Asare,	]	
Tal. Wai, Dist. Satara.	]	
1-C. Smt. Sarubai Maruti Wadkar	]	
Age 70 Years, Occ. Nil,	]	
R/at. Gherakelanj, Post Asare,	]	
Tal. Wai, Dist. Satara.	]	
1-D. Mrs. Dropada Gendev Mandhare	]	
Age 67 Years, Occ. Nil,	]	
R/at. Chikhali,	]	
Tal. Wai, Dist. Satara.	]	
1-E. Mrs. Avanta Gangaram Sanas	]	
Age 60 Years, Occ. Nil,	]	
R/at. Asare, Tal. Wai, Dist. Satara.	]	... Petitioners
<u>Versus</u>		
1. The State of Maharashtra	]	
The Secretary, Revenue and Forest	]	

	Department, Mantralaya, Mumbai.	]	
2.	The Collector, Satara.	]	
3.	The Additional Collector, Satara.	]	
4.	The Deputy Collector (Resettlement), Satara.	]	
5.	The Deputy Collector (SLAO No. 16), Satara.	]	
6.	Shri Kondiba Narayan Dhanawade (Since deceased) Through LR's	]	
6A.	Suresh Kondiba Dhanawade Age 51 Years, Occ. Nil	]	
6B.	Pradeep Narayan Dhanawade Age 54 Years, Occ. Nil Resp. No. 6A to 6B R/o. Bhiwadi, Post Triputi, Tal. Koregaon, Dist. Satara.	]	
7.	Shri Bapu Ramchandra Pambre (Since deceased) Through LR's	]	
7A.	Shri Jagdish Ramdas Pambre Age 45 Years, Occ. Nil R/o. Dhom, Tal. Wai, Dist. Satara.	]	
7B.	Shri Shivaji Bapu Pambre Age 60 Years, Occ. Nil, R/o. Dhom, Tal. Wai, Dist. Satara.	]	
		]	... Respondents

*Mr. Y. B. Lengare (Through V.C.) for Petitioners.
Mr. V.M. Mali, A.G.P. for Respondent Nos.1 to 5-State in WP/8894/2023.
Mr. Vijay Patil, Senior Advocate a/w. Mr. Nitin Nikam i/b. Mr. Harsh Arun
Khot for Respondent No.6A-6B & 7A-7B.*

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 17th December 2025.

JUDGMENT (PER : Ajit B. Kadethankar, J.)

1. **Rule.** Rule made returnable forthwith and heard finally with the consent of parties.

2. Heard Mr. Lengare, learned counsel for the Petitioners, Mr. Mali, learned A.G.P. for the Respondent Nos.1 to 5-State and Mr. Patil, learned Senior counsel for the Respondent Nos.6B & 7A.

3. **Subject-matter :** - The matter pertains to the Maharashtra Resettlement of Project Displaced Persons Act, 1976 [for short, "1976 Act"] and the Maharashtra Project Affected Persons Rehabilitation Act, 1999 [for short, "1999 Act"] . The Authorities under the Act have allotted certain land to the Petitioners awarding benefit as Project Affected Persons. The Petitioners however claimed for larger area of land and also preference right over the land that is allotted to the Respondents Nos. 6-A & B and 7-A & B. While the Respondents Nos. 6-A & B and 7-A & B challenge locus of the Petitioners to question allotment of land made over to them, they also sought to justify how they had preference over the land which the Petitioners is claiming.

During the course of hearing its revealed that there are certain disputed questions of facts over which the parties to the

litigation do need to be heard by the concerned authority.

4. Facts in brief :-

4.1 The Petitioners submit that their land admeasuring 1H 22.3R situated at Village Khawali, Tal. Wai, District Satara was acquired for Dhom Dam Project. The Petitioners deposited requisite amount in the treasury for seeking alternate land against the acquisition.

4.2 The Petitioners contend that on 11th October 2013 they submitted a proposal for allotment of land admeasuring 1H 25R in Gat No. 591/4 and 75R land in Gat No. 592/2, both at village Khanapur, Tal. Wai, District Satara. It is further submitted that, the Respondent No.1 infact granted permission for such allotment to the Petitioners on 13th October 2017.

4.3 It is further submitted that the Respondent No.3, pursuant to the allotment, allotted 1H 57R in Gat No. 592/2 and 3R in Gat No. 591/4, both at village Khanapur, Tal. Wai, District Satara on Occupancy Class-II basis. On 22nd December 2020 the Petitioners requested the Respondent No.3 to reconsider the allotment and allot 1H 25R land in Gat No. 591/4 and 75R in Gat No. 592/2 on Occupancy Class-I basis.

4.4 The Petitioners filed Writ Petition No. 782 of 2021 in this Court, which came to be disposed of with directions to the Respondent-Authorities to consider the Petitioners claim within a period of eight weeks from the date of Order. However, on 28th May

2021 the Respondent No.3, rejected the proposal filed by the Petitioners.

4.5 The Petitioners filed another Writ Petition No. 3512 of 2021 wherein this Court directed the Respondent-Authorities to handover possession of the allotted land within a period of six weeks without prejudice to the rights of the Petitioners to claim additional and preferred land. Needless to mention, this allotment was as per the allotment Order dated 11th December 2020.

4.6 Pursuant to the Order passed by this Court, the Respondent No.4 handed over possession of the allotted land to the Petitioners.

4.7 It is the contention of the Petitioners that although their claim was in existence despite the allotment of land in their favour vide letter dated 11th December 2020, their request for the allotment of the preferred land and for larger area of land was turned down by the Respondent-Authorities particularly the Respondent No.4 without giving them any opportunity of hearing.

4.8 He would further submit that, in fact, the lands for which the Petitioners had given their preference and in respect of which they hold a better claim, came to be allotted by the Respondent Nos.3 & 4 to the added Respondent Nos.6A-6B and 7A-7B.

4.9 As such the Petitioners seek directions to the Respondent Nos.3 & 4 to allot them larger area of land, that too at the preferred location as per his proposal.

4.10 Feeling aggrieved by the Order dated 30th May 2023, the Petitioners have filed this Writ Petition. Petitioners contend that despite they being entitled for larger area and preference over the land in Gat No. 591/4 & 592/2 situated at village Khanapur, Tal. Wai, such land is allotted by the Respondent-Authorities to the Respondent Nos.6A & 6B & 7A & 7B.

5. Petitioner's arguments :

5.1 Mr. Lengare, learned counsel for the Petitioners would vehemently argue that the Respondents Nos. 6-A & 6-B as also 7-A and 7-B have multiple agricultural lands at various places, and that the Petitioners have priority and preference over those Respondents.

5.2 Mr. Lengare tried heavily to convince us as to how the Petitioners are entitled for an even larger area and that too at preferred location. He would further submit that the Respondent-Authorities have absolutely not given thoughtful consideration to their claim and thereby have deprived the Petitioners of their legitimate claim.

5.3 Last but not the least, Mr. Lengare invited our attention to his objection as to why and how the Petitioners could be allotted land

categorized as Class-II occupancy holding.

6. Respondent's arguments :-

6.1 Mr. Vijay Patil, learned senior counsel instructed by Mr. Harsh Khot for the Respondents Nos. 6-A & 6-B as also 7-A and 7-B would submit that neither the entitlement of those Respondents could be called in question by the Petitioners, nor on merit such allotment in their favour would be said erroneous for any reason. He would further submit that the Petitioners have absolutely no concern nor do they have any *locus standi* to make any averment against those Respondents.

He would submit that the allotment of the subject land in Gat Nos. 591 & 592 at village Khanapur by the competent Authorities to the said Respondents is followed by the procedure. He would submit that even those Respondents are put in possession by the Respondent -Authorities and possession Panchanama is also executed on 14th July 2023. He would submit that, those Respondents would have nothing to do if the Petitioners deserve any larger area, if the Petitioners could establish their claim. He however objects that in no contingency, allotment of the lands in favor of those Respondents could be questioned by the Petitioners.

6.2 Mr. Patil, learned senior counsel was at pains to submit that the Respondents Nos. 6-A & 6-B as also 7-A and 7-B are

unnecessarily dragged into the present litigation. He would specifically submit that before this Court passed an interim order dated 19th July 2023, those Respondents were already put in actual and physical possession of the subject-matter lands on 14th July 2023. As such Mr. Patil, learned senior counsel would submit that the Petition be dismissed with costs.

7. Learned Assistant Government Pleader's argument:-

7.1 Mr. Mali, learned A.G.P. would submit that this Petition is nothing but a misconceived and frivolous litigation. The entitlement of the Petitioners is perfectly as per the provisions of policy that is framed for rehabilitation of the project affected persons.

7.2 Mr. Mali further urged that the Petitioners have no legal right to claim a specific land or a specific portion of a land. He would further submit that although vide Order dated 19th July 2023 the Respondents were directed not to act upon the allotment order dated 11th July 2023, the actual possession of the subject matter land was already handed over by the Respondent-Authorities to the Respondents Nos. 6-A & 6-B as also 7-A and 7-B on 14th July 2023.

7.3 Mr. Mali, learned A.G.P. would rely upon the possession Panchanama dated 14th July 2023 attached to the reply affidavit tendered by the Respondent-Authorities. As such Mr. Mali would submit that the Writ Petition be dismissed summarily.

8. Consideration and discussion :-

8.1 The allotment Order dated 11th July 2023 passed by the Deputy Collector (Resettlement), Satara, depicts that the said Authority with reasoned Order allotted the subject matter land admeasuring 77 R in Gat No. 591/4 to the Respondent Nos.6A & 6B and land admeasuring 56R in Gat No. 591/4 to the Respondent No.7A & 7B. The said lands are situated at village Khanapur, Tal. Wai.

8.2 It is the contention of the Petitioners that considering the number of family members i.e. 17, he was entitled for 2H 80R land of occupancy Class-I status in view of Section 16(1) of the 1999 Act and Section 17 of the 1976 Act.

He would further submit that the Petitioners are even entitled up to 1H 20R of land, as per the provisions of Section 16 Part-III of the 1999 Act or Section 17, Part-I of Schedule-B of the 1976 Act.

8.3 In connected Writ Petition No. 8893 of 2023, we have observed as below :

***“8.3** We find that the Petitioner is attempting to justify his claim on the basis of some factual aspect i.e. number of family members, the nature of his acquired land and the nature of such status of the land allotted to him / them. Besides this, the Petitioner has also questioned entitlement of the Respondent Nos. 6-A & 6-B as also 7-A and 7-B to receive the land for which the Petitioner had given preference. On the*

other hand, the learned A.G.P. and the learned senior counsel for the Respondents Nos. 6-A & 6-B as also 7-A and 7-B would dispute legitimacy of the claim raised by the Petitioner as also his locus to challenge the entitlement of Respondents Nos. 6-A & 6-B as also 7-A and 7-B.

We note the key objection raised by Mr. Lengare, learned counsel for the Petitioner as to the nature/class of occupancy rights or the nature/class of the land allotted to the Petitioner. Indeed there is substantial difference in the occupancy rights of Class-I and Class-II agricultural lands.

8.4 *We find that the matter is governed by the provisions of 1976 Act and 1999 Act as also the Government Resolution dated 9th May 1973. We also take on record the submission of Mr. Lengare that there are even more provisions under which the Petitioner can establish his claim, if proper opportunity is given to prove the same.*

8.5 *Following are the key issues raised in the present Writ Petition.*

(i) Extent of area entitled to be received by a Project Affected Person,

(ii) Preference on land for allotment of the allottee,

(iii) Nature of land i.e. Class-I/Class-II to be allotted to the parties and the parameters to be applied for such allotment, and

(iv) Procedure to be adopted for resolving the controversy arising out of the first three factors.

8.6 *As per submission of Mr. Kalel, learned A.G.P. the Competent Authority to take decision in such contingency is the Deputy Collector (Resettlement), Satara, i.e. Respondent No.4. The*

said Authority has allotted the respective lands to the respective parties.

- 8.7** *During the course of the arguments, respective parties submit that while deciding the claims as regards the entitlement for larger area as also the preferences of location, the Respondent No.4 could have given an opportunity of hearing to the respective concerned parties.*
- 8.8** *Considering the disputed questions of facts raised in the present Petition, we are of the view that the concerned Authority i.e. the Respondent No.4 has to decide such disputed questions of facts raised by the Petitioner as regards his entitlement to receive larger area and that too at the preferred location. Further if the Petitioner legitimately had preference over the subject matter lands in question, what is to be done with the lands already allotted and handed over to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B qua the right of the said Respondents, who had not committed any wrong while the subject-matter lands are allotted to them.*
- 8.9** *In view of the allotment of some land of which the Petitioner has given preference and that being allotted to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B, it would also be appropriate in the interest of justice that the Respondent No.4 also give an opportunity of hearing to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B.*

9. In view of this, we do not comprehend with Petitioners contention that the Order dated 30th May 2023 issued by the Respondent No.4 has shut the doors completely for the Petitioner. In view of the said Order, rather the Petitioners are also at liberty to put and justify his claim for additional land for which he has to process his application appropriately.

10. In view of aforesaid, we pass the following Order.

- (i) The Petitioners shall make appropriate application to the Respondent No.4 in appropriate format for additional area of land for allotment of an additional land within eight weeks from the date of receipt of a copy of this order.
- (ii) The Petitioners would also be at liberty to demonstrate legitimacy of his demand for his preferred location.
- (iii) The Respondent No.4 Shall give full opportunity of hearing to the Petitioners as also to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B to resolve the grievance raised by the Petitioners, as also to ascertain whether there is any wrong in allotment of the subject-matter lands to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B .
- (iv) All contentions are kept open for all the respective parties.
- (v) We make it clear that we have not commented on merits of the respective parties' cases.
- (vi) Upon receipt of the Application / claim by the Petitioners in appropriate format (supra), the Respondent No.4 shall issue notice to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B calling upon them to put up their response.

- (vii) The Respondent No.4 shall take appropriate decision on its own merits keeping in mind the relevant provisions of law, the policy of Government, and the true facts concerning the respective parties.
- (viii) The Respondent No.4 shall make an endeavour to conclude such proceedings within a period of six months from the date of appearance of the Respondent Nos. 6-A & 6-B as also 7-A and 7-B before him.
- (ix) Considering the statement made on oath by the Respondent-State Authorities and the recitals of the Panchanama dated 14th July 2023, which show that the possession of the subject matter lands have already been handed over to the Respondent Nos. 6-A & 6-B as also 7-A and 7-B on 14th July 2023 i.e. prior to the interim relief dated 19th July 2023; and as the issues are referred to the Respondent No.4, the Respondent Nos. 6-A & 6-B as also 7-A and 7-B would be entitled to enjoy possession of their respective lands, however shall not create any third party interest until the Respondent No.4 passes final Order.

11. Rule is made absolute in the above terms.

12. In view of the aforesaid directions, the Writ Petition stands disposed of.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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