

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.11686 OF 2023**

Mr. Mallikarjun Bhimraya Chaugule,
Age 34 years, Occu. Agriculture,
Res. Siddhapur, Tal. Mangalvedha,
Dist. Solapur.

..Petitioner

Versus

1. The Collector Solapur,
Collector Office Premises,
Solapur.
2. The Additional Collector and
Deputy Director Rehabilitation
(Land) Solapur
3. The District Rehabilitation
Officer Solapur,
Collector Office Premises,
Solapur.
4. Shri. Ramchandra Mahadev Wadkar
Age: 83 years, Occ. Agriculture
R/o. Vaigaon, Tal. Wai,
Dist. Satara.
5. Laxman Basvraj Patil,
Age: 32 yea4s, Occ. Agriculture,
R/at. Borale, Tal: Mangalwedha,
Dist. Solapur.

..Respondents

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Mr. R. M. Haridas i/by Mr. Prasad P. Kulkarni, Advocate for Petitioner.
Mr. Sanjay D. Rayrikar, AGP for Respondent Nos.1 to 3.
Mr. Ashok B. Tajane, Advocate for Respondent No.5.
Mr. Somnath Thengal, Advocate for Respondent No.4.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 21st NOVEMBER, 2025.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties,
matter is taken up for final hearing at admission stage.

2. The petitioner impugns order dated 19.12.2022 passed by Civil Judge Senior Division below Exhibit-33 in Regular Civil Suit No.63/2022, whereby application submitted by respondent no.5 seeking amendment in plaint has been allowed.

3. The petitioner filed Regular Civil Suit No.63/2022 before Civil Judge Senior Division at Pandharpur seeking relief of declaration that order dated 17.05.2022 passed by Additional Collector and Deputy Director Rehabilitation, Solapur is invalid and declaration that petitioner is owner of suit land bearing Gut No.98/3 situated at village Borale. It is contention of petitioner that in year 1970-71, State of Maharashtra acquired suit land for rehabilitation of project affected persons. On 19.11.1993, land to the extent of 2H 2R was allotted to respondent no.4. He was put into possession under panchanama. His name was also mutated in record of rights. The defendant no.4 executed sale deed dated 05.10.2021 in favour of petitioner. As such, petitioner acquired ownership of suit property. However, respondent no.2 on complaint made by third person, canceled allotment made in name of respondent no.4 on administrative ground giving reason that respondent no.4 has breached condition of allotment. Therefore, petitioner filed suit seeking declaration of his ownership.

4. The respondent no.5 filed an application below Exhibit-33 seeking his impleadment in suit by invoking Order I Rule 10 of Code of Civil Procedure on the ground that his forefathers were owners of suit

property. He had made complaint regarding illegal transfer of land. Accordingly, respondent-Authority has passed order dated 17.05.2022 revoking illegal allotment of land in favour of respondent no.4. The Civil Judge Senior Division, Pandharpur allowed said application vide order dated 19.12.2022.

5. Heard learned Advocates appearing for respective parties.

6. Perusal of record tendered into service before this Court would show that suit land has been acquired for rehabilitation of project affected persons. The State of Maharashtra released compensation amount in favour of original owners in terms of Award dated 15.09.1986. The land in question completely vests with State Government after acquisition. The respondent no.4 was beneficiary under Rehabilitation Act. Accordingly, he was allotted suit land by Competent Authority in year 1993. Later on, on complaint given by respondent no.5, order dated 17.05.2022 is passed by respondent no.2, thereby canceling allotment made in favour of respondent no.4 and repossessing land to State Government. The petitioner, who is purchaser of land from respondent no.4 has instituted suit assailing action of respondent no.2. The respondent no.4 filed consenting written statement. Therefore, there is contest between petitioner and respondents-Authorities under Rehabilitation Act.

7. The impugned order shows that Trial Court permitted impleadment of respondent no.5 in suit for two reasons, firstly,

respondent no.5 claims to be original owner of suit land, before acquisition and continued in possession even after acquisition. Secondly, on his complaint allotment of land in favour of respondent no.4 has been canceled by respondent no.2.

8. The prayers in suit would show that petitioner is seeking relief against respondent-Authorities, who have canceled order of allotment of suit property made in favour of respondent no.4, since he acquired interest on the basis of sale deed executed by respondent no.4. Apparently, respondent no.5, who claims to be original owner of suit property cannot assert any right over suit property, particularly when there is no dispute about acquisition by State Government. After acquisition, suit property completely vests in State Government and erstwhile owner would have no claim or semblance of right over acquired property. Merely because respondent no.5 had made complaint to respondent-Authorities regarding breach of condition of allotment of land, he would not assume any right in suit property. The question as to validity of order passed by respondent no.2 can be decided by Court in absence of respondent no.5. Apparently, respondent no.5 cannot be held to be proper or necessary party in suit between petitioner and respondent nos.1 to 4.

9. The Trial Court has erroneously exercised jurisdiction vested with him under Order I Rule 10(2) of Code of Civil Procedure while permitting impleadment of respondent no.5 as defendant in suit.

10. In result, Writ Petition is allowed in terms of prayer Clause (a).
11. Rule made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE