

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10758 OF 2024

Dnyandeo Jairam Kadale (since deceased) .Petitioners
through legal heirs & ors.

Vs.

The State of Maharashtra & ors. .Respondents

Mr. Sachin Deokar, Advocate, for the Petitioners
Mr. K. B. Dighe, Addl. GP and Ms. Savina R. Crasto, AGP, for
Respondent Nos. 1 to 7 - State

**CORAM : M. S. SONAK &
JITENDRA JAIN, JJ.**

DATE : 07.03.2025

P. C. (PER : M. S. SONAK, J.)

1. Heard learned counsel for the parties.
2. Leave to amend the prayer clause by correcting the date of the Order to 10.03.2023 instead of 10.03.2024. Amendment to be carried out forthwith. Re-verification is dispensed with.

3. On 20.02.2025, we made the following Order.

“1. Heard learned counsel for the parties.

2. The order dated 10 March 2023 is challenged on the grounds that it was made in gross breach of the principles of natural justice and fair play.

3. Mr. Sachin Deokar, learned counsel for the

petitioner, points out that the petitioner and his brother were allotted plot No.3 admeasuring 6000 sq.ft, i. e. 3000 sq.ft. each in 1976. Without following the principles of natural justice and going by the representation of one Atul Kharat, the portion of 3000 sq.ft. allotted to the petitioner is now reallocated to Bhairavnath Temple. Accordingly, we had directed the impleadment of Atul Lala Kharat. The said party is already impleaded, and even service is effected.

4. Mr. Dighe pointed out that even the Bhairavnath Temple would be a necessary party if the allotment involving Bhairavnath Temple is to be cancelled. Mr. Deokar states that there is no trust or legal entity that established and manages Bhairavnath Temple. He further submitted that it is the Gram Panchayat that looks after the affairs of Bhairavnath Temple, and the Gram Panchayat has already been impleaded and served.

5. Mr. Dighe is also unable to say whether any trust or other legal entity is managing the affairs of Bhairavnath Temple. In any event, and as a matter of abundant caution, leave is granted to implead Bhairavnath Temple and its principal office bearer, if any, as respondent No.10. The amendment to be carried out forthwith. Re-verification is dispensed with. Fresh steps must be taken to serve this newly impleaded respondent, informing this respondent that the matter will be posted for final disposal on the next date.

6. Mr. Sopan Tompe, who made the impugned order dated 10 March 2023, has filed an affidavit apologising for the inadvertent mistake in making the impugned order. Similarly, Mr. Sushantkiran Bansode, present Deputy Collector, has also filed an affidavit not defending the impugned order dated 10 March 2023 but offering to allot alternate

property measuring 3000 sq.ft. in the vicinity of the petitioner.

7. Accordingly, we again direct the petitioner to serve respondent No.8, 9 and 10, informing them that this matter is now posted for final disposal at the admission stage on 7 March 2025 (High on Board). An affidavit of service must be filed.

8. Mr. Deokar makes a solemn statement based on the instructions that till today, the temple has not altered the plot or made any construction there. Accordingly, we direct that complete status-quo should be maintained on the said plot until further orders.”

4. Mr. Deokar, learned Counsel for the Petitioners, states that the newly impleaded parties have been duly served and even filed an Affidavit of service. In our Order dated 20.02.2025, we already stated that this Petition would be disposed of finally at the admission stage on 07.03.2025.

5. Accordingly, we grant the rule in this Petition. The rule is made returnable immediately, given our earlier Order dated 20.02.2025 and with the consent of Mr. Dighe, learned Addl. GP for the Respondent – State.

6. The record shows that the Petitioner and his brother were allotted Plot No. 3 measuring 600 Sq. feet, i. e. 3000 Sq. feet each at Sugaobhose – Village, Pandharpur – Taluka, District – Solapur

in 1976. Based on the representation of one Mr. Atul Kharat, a portion of Plot No. 3 measuring 3000 Sq. feet allotted to the Petitioner herein is now re-allotted to the Bhairavnath temple.

7. Admittedly, no principles of natural justice were followed before the impugned Order dated 10.03.2023 re-allotting the Plot to Bhairavnath temple was made. The impugned Order dated 10.03.2023 visits the Petitioner with serious civil consequences. Therefore, such an order could not have been made without compliance with principles of natural justice.

8. Besides, the Petitioner has raised several other issues regarding the competence of the authorities to make such an order. We do not propose to discuss such issues because we are satisfied that the impugned Order dated 10.03.2023 must be set aside only on the ground that it was made without compliance with principles of natural justice and fair play.

9. Mr. Sopan Tope, the Sub Divisional officer who made this Order, filed an Affidavit on 15.02.2025. In the Affidavit, he has admitted that passing such an Order was a mistake. He has urged that he be pardoned for his inadvertent and unintentional mistake.

10. Mr. Sushantkiran Dagadu Bansode, the Deputy Collector (Rehabilitation), Solapur has also filed an Affidavit in which, the impugned Order is not defended. In paragraph 13 of this Affidavit, the present Deputy Collector (Rehabilitation) has stated that to correct the mistake of allotting the Petitioner's plot to Bhairavnath mandir, *"office of the deponent is ready and willing to consider a fresh allotment of plot admeasuring 3000 Sq. feet in the vicinity be allotted to the Petitioner"*.

11. Thus, the impugned Order dated 10.03.2023 is quite correctly not defended by any of the authorities who have made this order. The Order is a nullity because the same was made without complying with minimum principles of natural justice and fair play. For all these reasons, the impugned Order dated 10.03.2023 is quashed and set aside, and the rule is made absolute in terms of prayer clause (a) of this Petition.

12. Considering the fair stance adopted by Mr. Dighe, learned Addl. GP and also the officials who have filed Affidavits in this matter, we impose no costs.

(JITENDRA JAIN, J.)

(M. S. SONAK, J.)