

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13043 OF 2024**

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Tukaram Ganpat Mohare
Since deceased through legal heir Shivaji Tukaram Mohare,
Age 63 years, Occ: Retired /Agri. Gavathan,
Residing at Gawadewadi, Punarvasan,
Taluka Ambegaon, Dist. Pune

...Petitioner

Versus

1. The Collector, Pune (Rehabilitation Branch) Pune.
 2. The Additional Collector, Pune
(At office of the District Collector, Pune)
 3. The Deputy Collector, Rehabilitation, Pune at office
of the District Collector, Pune.
 4. The Village Talathi, Kathapur, BK, Taluka Ambegaon, District: Pune.
 5. The Village Talathi, Aavasari Bk., Taluka Ambegaon, District Pune.
 6. The Circle Officer, Pargaon, Taluka Ambegaon, District Pune.
 7. Kailash Piraji Aatre, Age:56 years, Occ. Agriculturist,
Residing at Kathapur Bk. Taluka Ambegaon, District:Pune
 8. The State of Maharashtra
- ...Respondents

Mr. Vivek V. Salunke a/w. Ms. Manthan Chaudhari, for Petitioner.
Mr. Nitin P. Deshpande, for Respondent No.7.
Dr. Dhruti Kapadia, AGP for Respondent No.1 to 3, 6 & 8/State

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 24th November 2025

ORAL JUDGMENT (PER : AARTI SATHE, J)

1. This Petition is filed under Article 226 of the Constitution of India
praying for the following substantive reliefs :

*a) The Petitioner, therefore, prays that:-
By suitable writ, order or direction the order dated 30/10/2023
passed by the present Respondent No.2 - the Additional Collector,
Pune may be quashed and set aside;*

b) By suitable writ, order or direction this Hon'ble Court may be pleased to cancel the Mutation Entry, No. 4288 which has been recorded on the basis of the impugned order dated 30/10/2023 in the record of rights with respect to the subject properties and accordingly the names of the present Petitioner may be restored back in the 7/12 extracts with respect to the subject properties.

c) Pending the hearing and final disposal of the present Petition, all the further steps and actions on the basis of the impugned order dated 30/10/2023 passed by the present Respondent No. 2 - the Additional Collector, Pune may be stayed;

d) Pending the hearing and final disposal of the present Petition, not to create third party interest in respect to the subject properties by the Respondents and may be pleased to restrain the Respondents from taking physical possession in respect to the subject properties.

e) Interim / Ad-interim relief in terms of the prayer clause (c) above be granted.

f) Such other and further relief's be granted as the nature and circumstances of the case may require.

2. As seen from the prayers the Petitioner challenges an order dated 30th October 2023 passed by Respondent No.2 whereby the allotment of the alternate land made in favour of the Petitioner as a Project Affected Person (PAP) has been cancelled.

3. Facts relevant for the adjudication of this Petition needs to be noted :

a) The predecessor of the present Petitioner late Shri Tukaram Ganpat Mohare was resident of Village Pulwade, Taluka Ambegaon, District Pune. The land bearing Gat No.287/1 + 2(New Gat No.157/1/A)admeasuring 0H-41R at Village Awasari Bk. Tal. Amebgaon, Dist.Pune was the alternate land allotted to the predecessor of the Petitioner in view of the acquisition of the land of the Petitioner for Dimbhe Dam Project. Such land totally admeasuring 2H 93R (hereinafter referred to as the "subject land") was acquired for the 'Dimbhe Dam Project' and as the predecessor of the present Petitioner Shri.Tukaram Ganpat Mohare, was declared PAP on account of the aforesaid acquisition.

b) The subject land which was allotted to the Petitioner was owned by Respondent No.7. It is the Petitioner's contention that Respondent No.7 right from the beginning continuously objected for taking over the subject land and the consequent allotment made to the predecessor of the present Petitioner. It is the Petitioner's contention that Respondent No.7 and his family members have tried to disturb the possession of the subject land from the Petitioner.

c) Several complaints have also been made by Respondent No.7 and his family members alleging wrongful allotment of the subject land to the Petitioner and his predecessor. On the basis of the aforesaid complaints an order dated 4th November 2019, was passed by Deputy Collector (Rehabilitation), Pune, whereby it is held that the complaint made by Respondent No.7 and others was without any substance and hence the same was rejected. A separate order dated 4th November 2019 in Application No.12 of 2019 was also passed by Deputy Collector (Rehabilitation) Pune who directed the Tahsildar and Rehabilitation Officer, Dimbhe Dam Project, Taluka Ambegaon to hold detailed inquiry with respect to allotment of the subject land made to the Petitioner and with respect to the area of the land allotted to the Petitioner. It was further directed that a report be submitted to the office of the Deputy Collector (Rehabilitation) Pune.

d) In pursuance of the said order dated 4th November 2019, an inquiry was held and a report dated 29th June 2021 was forwarded by the Tahsildar to the Deputy Collector (Rehabilitation) Branch, Pune recording that the complaint made by Respondent No.7 and others is without any substance and no action is needed to be taken.

4. However, it is the Petitioner's contention that in spite of the aforesaid reports and orders, Respondent No.2 i.e. Additional Collector, passed the impugned order cancelling the allotment of subject land made in favour of the

present Petitioner without giving any notice or hearing to the Petitioner, thereby not following the principles of natural justice. It is the Petitioner's contention that the impugned order of cancellation of allotment of subject lands is passed without giving an effective hearing to the Petitioner and without making the Petitioner aware as to what was the case which has been made out against the Petitioner to cancel the allotment of the subject land in favour of the Petitioner. It is the Petitioner's contention that even a show cause notice setting out the details of the all the allegations against the Petitioner prior to passing the impugned order was not served upon the Petitioner. In view thereof, it is Petitioner's contention that the impugned order is liable to quashed and set aside and that the mutation entries deleting the name of the Petitioner from the 7/12 extract be cancelled immediately.

5. We have heard learned counsel Mr. Vivek Salunke on behalf of the Petitioner, Mr. Nitin Deshpande, learned counsel on behalf of Respondent No.7, and Dr. Dhruti Kapadia, AGP on behalf of Respondent Nos. 1 to 3, 6 & 8.

6. In opposition an affidavit in reply dated 13th November 2024 has been filed on behalf of Respondent No.7 interalia contending that since he was the original owner of the subject land which was allotted to the Petitioner, he had the locus to challenge the allotment of the subject land made in favour of the Petitioner. It was also contended that the Petitioner has obtained the subject land as PAP without bringing out the correct facts in respect of the aforesaid allotment in favour of the Petitioner.

7. Affidavit in reply dated 27th March 2025, filed on behalf of Respondent Nos. 1, 2, 3 and 8 by one Mr. Swapnil More, working as Deputy Collector (Rehabilitation) District Pune, is filed opposing the reliefs as prayed for in the aforesaid petition. The relevant paragraphs of the said affidavits are reproduced below:

4. I say that the land of father of the Petitioner i.e. Shri. Tukaram Ganpat Mohare (Original Kabjeedar), Gat No 39/2 area 0 H 07 R and Gat No. 41/2 area H 0.85 R i.e. total 92 R from Village -Fulvade Tal. Ambegaon, District- Pune was acquired "Dimbhe Irrigation Project" and as such he was Project Affected Person of Dimbhe Affected Person. At the time of acquiring the said land his family consisted of two persons. Being Project Affected Person as per land he was entitled 1 H 20R. The Award was declared on 09.08.1979 of the said land at Village Fulwade, Tal. Ambegaon, Dist. Pune.

*5. I say that admittedly being Project Affected Person the Petitioner was allotted land from Gat No. 129/2, area admeasuring 1 H 34 R from Village - Awasari BK, Tal. Amebgaon, Dist. Pune vide Order passed by District Rehabilitation Officer bearing no Resettlement/Kavi/l/Javi No 421/1996 dated 10.10.1996. I say that accordingly the name of said Shri. Tukaram Ganpat Mohare (Original Land Holder) through whom Petitioner is claiming his right, was recorded in the 7/12 extract of Village - Awasari BK, Tal. Amebgaon, Dist. Pune. After taking possession of the said property and the name of said Shri. Tukaram Ganpat Mohare recorded in the records of right he sold the said property by the registered sale deed dated 06.11.1996 to one Shri. Dhnanjay Bhimsan Pimple, Gavadevadi, Tal. Amebgaon, District- Pune, after obtaining sale permission from the Hon'ble Divisional Commissioner, Pune Division (Resettlement Branch), Pune bearing reference No. Reset/Kavi/l/Javi no 421/1996. Hereto annexed and marked as **Exhibit-2 (Colly)** are the copies of Order dated 10th October 1996 Alongwith sale deed dated 6th November, 1996. Thus the father of the Petitioner had received the said land bearing Gat No. 129/2 from Village - Awasari BK, Tal. Amebgaon, Dist. Pune area admeasuring 1 H 34 R against his entitlement of I H 20 R in full satisfaction and resettlement completed being Project Affected Person.*

6. I say that thereafter the said Shri. Tukaram Ganpat Mohare and co-owners has made applications for allotment of various land being Project Affected Person of aforesaid Irrigation Project and the land bearing Gat No. 39/2 area 0.07 and 41/2 area H, 0.85 R from Village - Fulvade Tal. Ambegaon, District- Pune when in fact being Project Affected Person he was resettled by allotting the land bearing Gat No.129/2 area

admeasuring 1 H 34 R vide Order dated DRO/1057/1988-in March 3/1988 in full satisfaction.

7. I say that though they said Shri. Tukaram Ganpat Mohare was allotted aforesaid land in full satisfaction office claiming the said Shri. Tukaram Ganpat Mohare has again made an application for alternate land from Village - Awasari BK, Tal. Ammebgaon, Dist. Pune and District Rehabilitation Officer office vide Order No. RESET/Kavi/489/2000 dated 27.01.2000 allotted land admeasuring 0 H 72 R from Gat No. 480 Village Kathapur BK, Tal. Ambegaon, Dist. Pune inspite of combined land two Shri. Tukaram Ganpat Mohare and Shri. Rambha Kusa Mohare, then area admeasuring OH 59 R allotted to both of them vide Order dated 18.04.2001 vide Order No. Reset/Dhimbhahi/Kavi/1/197/2001 by cancelling the earlier allotment of 59 R from Gat No. 135 and further allotted land admeasuring I H 21 R from Gat No. 480/2 at Village Kathapur BK, Tal. Ambegaon, 1Dist. Pune on 27.11.2000 vide Order No. Reset/Kavi/429/2000 Thus falsely I H 72 excess land which was cancel by land Ld. Additional Collector vide above Order.

8. I say that as stated hereinabove the said Shri. Tukaram Ganpat Mohare and Shri. Rambha Kusa Mohare, were holding only land bearing Gat No. 41/2 area admeasuring 1 H 70 R and after clearing the said land the said Shri. Tukaram Ganpat Mohare was given land admeasuring 1 H 34 R from Gat No. 129 /2 of Village -Fulvade Tal. Ambegaon, District- Pune.

9. I say that both the aforesaid land holder was settled have been given land as per their entitlement under resettlement Act and as such resettlement is completed of receipt.

10. However, both the said land holder fraudulently made again an application for allotment land from benefited Zone suppressing the fact that they were already allotted entire land as per there entitlement under Resettlement Act and the father of the Petitioner i.e. Shri. Tukaram Ganpat Mohare, has sold property in the year 1989 allotted to him and thereafter again made Application suppressing of the said fact. Then District Rehabilitation Officer, Pune without considering the fact of the earlier allotment in the complete satisfaction of their entitlement again illegally allotted three properties i.e. Gat No. 287/1+2 area admeasuring 0 H 4l Ares at Village - Aavasari BK vide Order dated 29.11.1988, area admeasuring 72 R from Gat No. 480 Village - Kathapur vide Order dated 27.11.2000 and area admeasuring 59 HR, Gat No. 480 / 2 of Village Kathapur Bk vide Order dated 18.04.2001. Thus they were allotted land 1 H 71 R in excess then from entitlement as per there land effect by submerge of the aforesaid Irrigation Project. There was no land holding joint in the name of the said Shri. Tukaram Ganpat Mohare and Smt. Rambha Kusa Mohare, for which they were entitled and/or there land in any manner effect by the said Dam there Village-Fulvade. The said persons are trying to take disadvantage of the entry No. 176 and 177 in Sankalan Registrar in respect of land bearing Gat No. 7 of Village Fulvade where their names were wrongly recorded when the said

property was admittedly owned by Laxman Baliba Dherange and Manjunath Savaleram Dherage.

11. As matter of fact I have place on record the said Shri. Tukaram Ganpat Mohare was allotted plot of land from benefited Zone from the Village Avasaru BK from Gat No. 129/2 area admeasuring 1 H 34 R as his enticement and Shri. Rambha Kusa Mohare, was allotted land admeasuring 1 H 21R from Gat No. 480/2 of Village Khapur vide Order dated 27.11.2000 for acquisition of his land bearing Gat no. 41/2 - 0.85 R, 330/31-0.04R, 330/12-0.28 R i.e. in aggregate 1 H 17 of Shri. Rambha Kusa Mohare, share acquired and as per resettlement Act his entitlement was 1 H 20 R. However the said land allotted to Shri. Rambha Kusa Mohare, through his legal heirs Khandu Rambha Mohare from Gat No. 480/2 of Village Kathapur BK, 1 H 21 R is cancelled. The said Order shall be reconsidered after verifying the old record about allotment and acquisition awards.

I respectfully submits that the Petitioner and co-owner have suppressed aforesaid facts from this Hon'ble. Court in the Petition and suppressing the said fact have filed the above Writ Petition challenging the Order passed by the Additional Collector, Pune which is rightly passed in the fact stated hereinabove the accept the land allotted to Khandu Rambha Mohare area admeasuring 1 H 21R there Gat No. 480/2 of Village Kathapur BK, Tal. Ambegaon, Dist. Pune.

In the aforesaid facts no justify ground and reason is shown by the Petitioner to grant in relief prayed in the Petition hence the Petition may dismissed.

8. In the aforesaid affidavit it is categorically submitted that the Petitioner has suppressed certain vital facts from this Court. It is submitted in the said affidavit that the father of the Petitioner i.e. Tukaram Ganpat Mohare, had already been allotted land as a Project Affected Person (PAP) admeasuring 1H 34R in village Awasari BK, Tal. Ambegaon, Dist. Pune against his entitlement of 1H 20R in full and final settlement being PAP. Inspite of getting the aforesaid land, Petitioner's father i.e. Tukaram Ganpat Mohare, had again made an application for alternate land as PAP. The earlier allotted land had been sold by the Petitioner's father i.e. Tukaram Ganpat Mohare, is the contention made in the said affidavit. Hence by suppressing the fact that an earlier allotment of land was made in the favour of Petitioner's father i.e. Tukaram Ganpat Mohare, and the other co-

applicant Smt. Rambha Kusa Mohare, the Petitioner has approached this Court by way of the present Petition.

9. The aforesaid affidavit also goes on to submit that on account of the suppression of facts by the Petitioner's father, i.e., Shri Tukaram Ganpat Mohare, the District Rehabilitation Officer, Pune before considering the fact of the earlier allotment in complete satisfaction of their earlier entitlement once again allotted 3 properties, i.e., Gat No. 287/ 1+2 Area admeasuring 0 H 41 R. at Village Aavasari BK Vide order dated 29.11.1988, area admeasuring 72 R from Gat No. 480, Village - Kathapur vide order dated 27.11.2000 and are admeasuring 59 HR, Gat No. 480/2 pot Village Kathapur Bk vide order dated 18.04.2001. It is therefore the Respondent's contention that the Petitioner's father i.e., Shri Tukaram Ganpat Mohare was allotted 1 H 71 R excess land over and above his entitlement. Further there was no landholding jointly in the name of the Petitioner's father Shri Tukaram Ganpat Mohare and Smt. Rambha Kusa Mohare for which they were entitled to any and/or there land which was affected by the dam. It is therefore Respondent Nos. 1, 2, 3, and 8's contention that the Petitioner has not come with clean hands before this Court and has suppressed crucial facts from this Court.

10. Having perused the proceedings and the record available before us and the impugned order, which, in our view, has been passed in violation of the principles of natural justice in as much as no show cause notice or hearing was afforded to the Petitioner prior to passing the impugned order. In view thereof, we pass the following orders which would serve the ends of justice:

I) Impugned order dated 30th October 2023, stands set aside.

- ii) Respondent No.2 to issue fresh show cause notice to the Petitioner and Respondent No. 7 in respect of the allotment of the subject land within a period of two weeks from the date this order is made available to the Respondent No.2 by the Petitioner.
- iii) After receipt of the aforesaid show cause notice by the Petitioner and Respondent No.7, the Petitioner and Respondent No.7 to file their reply within two weeks thereafter.
- iv) Respondent No.2 to pass a reasoned order within a period of 4 weeks after receiving the replies and granting a hearing to the Petitioner and Respondent No.7.
- v) All rights and contentions of the parties are expressly kept open.
- vi) Writ petition is disposed of in the aforesaid terms.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)