

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5612 OF 2021

Balasaheb Gopalrao Maral & Ors.

...Petitioners

Versus

The State of Maharashtra,
Secretary Revenue And Forest
Dept. & Ors.

...Respondents

Mr. Y. B. Lengare a/w. Mr. Aditya K. Gaikwad for the Petitioners.

Mr. Rajan S. Pawar, AGP for the Respondent (State).

Mr. Nitin P. Deshpande for Respondent Nos.7 to 13.

CORAM : G. S. KULKARNI,
JITENDRA JAIN, J.J.

DATE : 9th AUGUST, 2023.

P.C.

. Called out for Speaking to the Minutes of order dated 26th July 2023, para 6 of the said order be deleted and be substituted by the following order:-

“6. It is on such backdrop the proceedings are before us today. We have perused the additional affidavit dated 17th February 2023, filed on behalf of the State Government, by Mr. Aseem Gupta, Principal Secretary, (Disaster Management, Relief and Rehabilitation), Revenue and Forest Department, Mantralaya, Mumbai *interalia* stating that the Petitioners have not constructed a house

within one year from the date of allotment. He has also referred to a Government Resolution dated 6th April 2015, wherein a decision was taken by the Government to convert the “Gairan land” (grazing land) into agricultural land. The relevant extract of the said affidavit is required to be noted which reads thus:-

3. I say and submit that, 53 project affected persons of Gunjavani project including 15 of the Petitioners viz., Petitioner Nos.1 to 15, having been allotted residential plots from gaothan at Gat No.295 and 415 in Village Jategaon Tal., Shirur Dist., Pune vide order dated 31.03.2001. However, out of the 53 PAPs, actual physical possession of the residential plots has been delivered on 11/05/2001 to 23 project affected persons including 15 of the Petitioners. I say and submit that as per terms and conditions mentioned in the allotment order of the said plots that the present Petitioner had to abide by the terms and conditions and complete the construction of house on the said plot within a period of one year from the date of allotment. However, the Petitioner had not constructed the house on the residential plots allotted them till date and thus have violated the aforesaid terms and conditions. Copy of the list of 15 Petitioners allotted plots and Taba pavati viz.,

receipt in respect of handing over of the possession of said 15 plots is hereto annexed and marked as Exhibit-R1 colly.

4. I say and submit that the Projected Affected persons affected by the Gunjavani project had submitted a representation dated 25.11.2013 to the District Collector, Pune wherein they had mentioned their willingness to accept alternate land at any place in the benefit zone of Gunjavani project and had also given an undertaking that they will not demand plots separately at the place wherein they are allotted alternate land. Therefore in the larger interest of PAPs and for convenience and benefit of project affected persons of the Gunjavani project as mentioned in earlier Affidavit, a policy decision has been taken vide Government Resolution dated 6/4/2015, whereby new gaathan has been created at village Dhanep I and II Tal Velhe for PAPs of Gunjavani project residing at Kanand Tal. Velhe and the earlier decision to create gaathan from village Jategaon Budruk, Taluka Shirur was revoked. Hence, as per this Government Resolution the earlier allotment order for granting plots to 53 project affected persons including 15 of the Petitioners, which have been passed by the then District Rehabilitation Officer Pune in Village Jategaon Tal. Shirur Dist. Pune stands cancelled.

Hereto annexed and marked as Exhibit-R2 is the copy of Government Resolution dated 6/4/2015.

5. I say and submit that, as per the Government Resolution dated 6/4/2015, two gaothan with all civic amenities have been developed in Village Dhanep Tal. Velhe Dist. Pune. The Gaothan No.01 is having total 39 residential plots and all 39 plots allotted to 20 PAPs from Kanand Village. Another Gavthan No.02 is having total 264 residential plots. Out of them, 179 residential plots have been allotted to 99 PAPs from Village Kanand.

6. I say that, at present there are 53 residential plots available in Gaothan No.02 from Village Dhanep Taluka Velhe Dist. Pune and said residential plots can be allotted to the Petitioners. Previously, 53 PAPs to whom residential plots have been allotted from old gaothan Village Jategaon BK, Taluka Shirur, Dist. Pune in the year 2001, out of them, 17 PAPs requested to allot plots in new Gaothan at Village Dhanep and same have been allotted to them. The Petitioners are PAPs from Village Kanand, Tal. Velhe, Dist. Pune. Hence, the petitioners are entitled to be allotted available residential plots from Village Dhanep, Gaothan No.2, Taluka Velhe, Dist. Pune as per their eligibility.”

2. The order dated 26th July 2023 is corrected accordingly. The corrected order be uploaded on the website as order no.2 in this matter.
3. At the request of Mr. Pawar, AGP for the Respondent (State), stand over to **23rd August 2023**, to place on record the said affidavit dated 17th February 2023.
4. Ad-interim relief shall grant for a period till the adjourned date of hearing.
5. It is informed by Mr. Lengare that although this Court has granted ad-interim reliefs, Respondent Nos.9 had created third party rights. As the proceedings are pending before this Court any third party rights created by Respondent No.9 shall be subject to the further orders to be passed by this Court.
6. Considering this peculiar situation that Respondent No.9 was of the opinion that there is no stay to create third party rights and other Respondents may follow the same, we direct that none of the Respondents shall henceforth create any third party rights in respect of the land in question. Ordered accordingly.
7. The affidavit to be filed by the State Government would also clarify as to in view of the decisions being taken by the State

Government as to what would be the position qua the Petitioner when their allotment has not been cancelled. This be categorically specified in the affidavit which would be filed.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]