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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5273 OF 2024

Waman Ganpatrao Kadam]
Since deceased through legal heirs]
(a) Rajesh Wamanrao Kadam]
Aged : 46 years, Occ : Agriculture]
(b) Nilesh Wamanrao Kadam]
Age 44 years, Occ : Agriculture]
(c) Neelam w/o Nandkumar Shinde]
Age : 55 years, Occ : Agriculture]
(d) Archana w/o Ashok Shinde]
Age : 52 years, Occ : Agriculture]
]
All R/o : Koyna Velhi (Ghot Camp)]
Taluka, Panvel, Dist. Raigad.].....Petitioners

Versus

1] The State of Maharashtra,]
Through the Principal Secretary]
Ministry of Relief and]
Rehabilitation Department,]
Government of India,]
NCRMP Office, First Floor,]
Dilwara CHS, M K Road,]
Mumbai – 400 021]
]
2] The Under Secretary,]
Revenue and Forest Department]
(J-10), Mantralaya, Mumbai]
]
4] The Additional Collector, Raigad].....Respondents

Ms Poonam Bodke Patil (Through V. C.), for the Petitioners.
Mr R S Pawar, AGP for the Respondents-State.

CORAM **M.S. Sonak &**
Jitendra Jain, JJ.
DATED: **21 February 2025**

ORAL JUDGMENT :- (*Per M. S. Sonak, J.)*

1. Heard learned counsel for the parties.

2. Rule. The rule is made returnable immediately at the request of and with the consent of learned counsel for the partiers.

3. The Petitioners are the legal heirs of the late Wamanrao Ganpatrao Kadam, who owned the lands measuring 13 Ha 37 acres at village Velhe, Taluka Javli, District Satara, Maharashtra. These lands were acquired for the Koyna Project by an Award bearing No. LQ-5R-48 dated 17 January 1961. The Petitioners claim they have received neither compensation nor a rehabilitation plot in lieu of such an acquisition.

4. The Petitioners rely on a Government policy decision to rehabilitate the persons affected by the Koyna Project. Based on this policy, the Government earmarked the lands bearing Survey Nos. 266/10, 277/3, 248/22, 253/10, 253/11, 253/12, 46/1 and 71 situated at village Pendhar, Taluka Panvel, District Raigad, for rehabilitation.

5. Since there was no dispute about the Petitioner's eligibility and entitlement, the third Respondent, by order

dated 31 November 2017, under the above policy, allotted the following lands to the Petitioners: -

Sr.No.	Survey No.	Total Area	Area
1	266/10	0.10.60 H	0.10.60 H
2	277/3	0.14.00 H	0.14.00 H
3	248/22	0.18.00 H	0.18.00 H
4	253/10	0.04.00 H	0.04.00 H
5	253/11	0.05.00 H	0.05.00 H
6	253/12	0.11.0 H	0.11.0 H
7	46/1A	2.39.60 H	0.93.40 H
8	71	0.04.00 H	0.04.00 H
Total		3.06.20 H	1.60.00 H

6. However, On 10 January 2019, the third Respondent, without even minimum compliance with the principles of natural justice and fair play, cancelled the allotment order dated 31 November 2017. The grounds for cancellation stated were that the allotted land was uneven, the area was not contiguous, or there were some constructions thereon.

7. The Petitioners challenged this cancellation order dated 10 January 2019 by instituting Writ Petition LDVC No.160 of 2020. By order dated 15 October 2020, the Petition was allowed, the cancellation order dated 10 January 2019 was set aside, and the Respondents were given liberty to decide the matter afresh by providing the petitioners with an opportunity of hearing.

8. During the hearing, several queries were raised. The Petitioners submit that those queries were satisfactorily responded to. Despite such satisfactory response, by order

dated 02 August 2022 (Exhibit-C, at pages 23 to 26), a reference has been made under Rule 50 of The Maharashtra Land Revenue (Disposal of Government Land), 1971, Rules and Government Resolution dated 14 June 2022 to the State Government for deciding the issue of allotment of lands by way of rehabilitation to the Petitioners.

9. Ms. Poonam Bodke Patil, the learned counsel for the Petitioners, submits that the issues of eligibility and allotment to the Petitioners were already settled, and there was no dispute regarding the same. In such circumstances, there was no question of issuing the impugned order dated 02 August 2022 referring the matter to the State Government. She submitted that, admittedly, the Petitioners are project-affected persons. Further, the State Government's policy is to rehabilitate such project-affected persons. According to such policy, the lands were allotted to the Petitioners. Apart from violating natural justice, the cancellation was based on irrelevant considerations and reasons that were ultimately given up. She submits that if, for any reason, the same lands allotted to the Petitioners cannot now be allotted, the Respondents are duty-bound to allot the alternate lands by way of rehabilitation. She submits that the reference to the State Government is entirely uncalled for and is only to waste time and deny the Petitioners rehabilitation benefits. She relies on **Kolkata Municipal Corporation and Another Vs. Bimal Kumar Shah and Others**[1] in support of her contentions.

10. Mr. R S Pawar, the learned AGP for the Respondents-State, submits that the earlier land allotted to the Petitioners

[1] (2024) 10 SCC 533

was cancelled because of access issues. He points out that some of the allotted land had already been allotted to other persons.

11. Mr Pawar submitted that a High-Powered Committee has now been constituted to investigate all matters relating to rehabilitation, particularly concerning those affected by the Koyna Project. He stated that this matter could also be referred to the High-Powered Committee, and depending on the Committee's decision, the Government would determine the allotment of alternative lands to the Petitioners. He referred to the affidavit of Sunil Pundalik Thorve, Additional Collector of Raigad District, in support of his argument.

12. The rival contentions now fall for our determination.

13. The entire affidavit does not raise any doubts about the Petitioners' being Koyna Project-affected persons. There are also no doubts about their eligibility or entitlement to land allotment through rehabilitation. The record bears out that though, belatedly, the Petitioners were allotted the lands referred to in paragraph 5, vide order dated 31 November 2017.

14. The order dated 31 November 2017 was cancelled without even minimum compliance with the principles of natural justice. The grounds for cancellation were that the allotted land was uneven, not contiguous, and there were some constructions thereon. Thus, even the cancellation order never doubted the petitioners' eligibility or entitlement to a rehabilitation plot. Upon this cancellation order being set aside, new grounds are put forward, and the matter is sought

to be referred to the State Government under Rule 50 of The Maharashtra Land Revenue (Disposal of Government Land), 1971, Rules and Government Resolution dated 14 June 2022. Again, even the impugned order does not raise any grounds affecting the petitioners' eligibility or entitlement.

15. In the affidavit filed by the Additional Collector, there is a reference to the Panvel Tahsildar's report dated 7 January 2019. This report allegedly states that due to developmental activities by CIDCO, the original boundary marks are missing. According to CIDCO's sector map, there are some constructions on the allotted lands. Consequently, no access road is available to the lands initially allocated to the Petitioners. In his report dated 7 January 2019, the Tahsildar recommended that the Additional Collector cancel the allotment order dated 31 November 2017. By taking this report into account, yet without giving the Petitioners any opportunity to contest it, the allotment order was summarily cancelled by an order dated 10 January 2019.

16. Paragraph 6 of the affidavit states that after this Court set aside the cancellation order dated 10 January 2019, the petitioners were granted ample hearing opportunity. The matter was then decided to be referred to the Government under the provisions of Rule 50 of The Maharashtra Land Revenue (Disposal of Government Land), 1971, Rules, and the Government Resolution dated 14 June 2022.

17. Paragraphs 7 and 8 of the Additional Collector's affidavit read as follows: -

> "7. I say and submit that the land reserved in Raigad District for the purpose of allotment to the Koyna Dam

> project affected persons is insufficient to meet the requirement to fulfill the claims of all project affected persons. I submit that approximately 838-40-00 H. R. P. land is likely to be required for the allotment to approximately 524 Project Affected Persons. However, I submit that only 20-25-82 H. R. P. land is available in Raigad District which is reserved for allotment to the Koyna Dam project affected persons. I further submit that most of the project affected persons are claiming allotment of land in Panvel and Khalapur Talukas of Raigad District. However, I submit that Panvel, Pen, Karjat, Uran, Alibag and Khalapur Talukas of the Raigad Districts fall within the M.M.R. and as per Rule 50 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, prior permission of the government is required for allotment of any government lands falling within M.M.R.
>
> 8. I submit that in absence of specific guidelines in this regard and in absence of guidelines about giving priority while allotment of said available area of land to the PAPs, it is not possible to allot the land either to all or to few Project affected persons in exclusion of others. Considering facts as stated herein above, I say and submit that Collector Raigad vide representation dated 5.11.2020, requested the Government of Maharashtra for specific guidelines/policy decision in respect of points as stated therein. Annexed hereto and marked as Exhibit-2 is the copy of said representation dated 5.11.2020. However, guidelines/policy decision of the Government in this regard are awaited."

18. Paragraphs 9 to 11 of the Additional Collector's affidavit then refer to the directions issued by this Court in Contempt Petition No.201 of 2023 and the constitution of the High Power Committee to inquire with respect to allotment of alternate land to project affected persons of Koyna Dam Project. Reference is also made to this Court's order dated 07 February 2025 in Writ Petition No.565 of 2019/Contempt Petition No.33/2021/Interim Application No.16219 of 2024 by which the directions were issued to the High-Power Committee to examine the cases of the Petitioners in the said matters regarding allotment of alternate lands. Mr. Pawar,

AGP, submitted that the same course of action should be followed in this matter as well.

19. Regarding referring this matter to the High Power Committee, no case has been made for adopting such a course of action. The impugned order gives no reasons why such a course is warranted in the present case. The constitution of the High-Power Committee was necessitated because it was suspected that several fraudulent claims for rehabilitation were being made belatedly. Some complicity of government officials was also suspected in creating and encouraging such claims, followed by allotments to ineligible persons. In that context, the High-Power Committee was constituted and directed to investigate the claims for rehabilitation. The position in Writ Petition No.565 of 2019 and connected matters disposed of by order dated 07 February 2025 was not comparable to the position of the Petitioners in the present case.

20. As noted earlier, in the entire affidavit, no doubts about the Petitioners being Koyna Project-affected persons have been raised. No doubts are raised about the Petitioners' eligibility to receive alternate lands through rehabilitation. The record shows that alternate land was, in fact, allotted to the Petitioners. The same was summarily cancelled not because the Petitioners were ineligible or disentitled but because of some issues with the alternate land allotted to the Petitioners. Even on the affidavit, the justification now offered is that there was a problem of access to the alternate lands or that some portions of the alternate lands had already been allotted to some other parties. In these circumstances, no case is

made to refer this particular matter to the High Power Committee.

21. Similarly, for the above reasons, the impugned order referring to Rule 50 of the Maharashtra Land Revenue (Disposal of Government Land), 1971, Rules was also not warranted. Ms. Poona Bodke Patil is justified in contending that this wastes time and delays justice for the Petitioners.

22. Rule 50 of The Maharashtra Land Revenue (Disposal of Government Land), 1971, Rules provides that notwithstanding anything contained in these rules, no land in any Metropolitan region established under section (1) of Section 3 of the Maharashtra Regional and Town Planning Act, 1960, shall be disposed of for any agricultural or non-agricultural purpose except with the previous sanction of the State Government. There are certain provisos to this Rule. However, neither the impugned order dated 02 August 2022 nor anything in the affidavit justifies such a reference to the State Government. At the cost of repetition, here, there is no dispute about the Petitioners' eligibility or entitlement. The only question is the allotment of suitable lands.

23. If, for any reason, the lands already allotted to the Petitioners by order dated 31 November 2017 cannot be restored to the Petitioners, then the State Government, i.e. the Respondents herein, are duty bound to allot similar lands to rehabilitate the Petitioners. This exercise must be done within a reasonable period. The Petitioners' lands were already acquired in 1960. Based on the State Government's policy, the Petitioners were allotted alternate lands only on 31 November 2017. This allotment was summarily cancelled for reasons

which do not inspire much confidence and without compliance with natural justice. Now, instead of allotting the same or alternate lands for almost eight years, the Petitioners' fate has been kept hanging even though there is no dispute about their eligibility and entitlement. Even now, the submissions made before us are only to prolong the allotment and nothing further.

24. The right to property may no longer be seen as a fundamental right. However, it remains a constitutional right under Article 300A. Furthermore, the Hon'ble Supreme Court has affirmed that it is also a human right. Therefore, the constitutional and human rights of citizens cannot be undermined by mere bureaucratic delays or inaction.

25. Recently, the Hon'ble Supreme Court, in **Kolkata Municipal Corporation** (supra), has held that the binary reading of the constitutional right to property must give way to more meaningful renditions, where the larger right to property is seen as comprising intersecting sub-rights, each with a distinct character but interconnected to constitute the whole. These sub-rights weave themselves into each other, and as a consequence, State action or the legislation that results in the deprivation of private property must be measured against this constitutional net as a whole, and not just one or many of its strands.

26. The Hon'ble Supreme Court has held that the seven sub-rights can be identified, albeit non-exhaustive. These are:- i) duty of the State to inform the person that it intends to acquire his property – the right to notice, ii) the duty of the State to hear objections to the acquisition – the right to be

heard, iii) the duty of the State to inform the person of its decision to acquire – the right to a reasoned decision, iv) the duty of the State to demonstrate that the acquisition is for public purpose – the duty to acquire only for public purpose, v) the duty of the State to restitute and rehabilitate – the right of restitution or fair compensation, vi) the duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings – the right to an efficient and expeditious process, and vii) final conclusion of the proceedings leading to vesting – the right of conclusion.

27. The Hon'ble Supreme Court has held that these seven rights are foundational components of a law that is in tune with Article 300A, and the absence of one of these or some of them would render the law susceptible to challenge. *One of the important rights is the right of restitution or fair compensation. Another is the duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings – the right to an efficient and expeditious process. The seventh sub-right culled out by the Hon'ble Supreme Court is the conclusion of the proceedings, i.e. the right of conclusion.*

28. In the context of the right of restitution or fair compensation, the Hon'ble Supreme Court has held that a person's right to hold and enjoy property is an integral part of the constitutional right under Article 300A. *Deprivation or extinguishment of that right is permissible only upon restitution, be it in the form of monetary compensation, rehabilitation or other similar means. In the context of the right to an efficient and expeditious process, the Hon'ble Supreme Court has observed that the acquisition process is*

traumatic for more than one reason. The administrative delays in identifying the land, conducting the enquiry and evaluating the objections, leading to a final declaration, consume time and energy. Further, passing the award, paying compensation, and taking over possession are equally time-consuming. The administration must be efficient in concluding the process within a reasonable time. This obligation must necessarily form part of Article 300A. The Court has held that the obligation to conclude and complete the acquisition process is also part of Article 300A.

29. In our opinion, the duty of restitution by monetary compensation or rehabilitation within a reasonable time and bringing the proceedings to a conclusion would include settling the compensation and rehabilitation claims within a reasonable period. At least in the present case, the expeditious conclusion has been a casualty. Despite no disputes regarding the petitioners' eligibility and entitlement, bureaucratic delays and, we suspect, red tape have conspired to deny justice to the petitioners.

30. From the record and affidavit now filed on behalf of the State Government, it is apparent that the above principles laid down by the Hon'ble Supreme Court are only being observed by the State Government in breach. To date, there is no final decision on the choice of the lands to be allotted to the Petitioners. The entire attempt is to postpone the matters or require the Petitioners to run from pillar to post, from committee to committee, or authority to authority, even though no doubts are raised about Petitioners' eligibility and entitlement for rehabilitation. The same attempt was evident before this court as well. This cannot be allowed to go on.

31. While the learned counsel for the Petitioners, on instructions, indicated that the Petitioners are not prepared to accept monetary compensation at this stage, we observe that even the State Government, should it encounter genuine difficulties in identifying the lands for allotment, has not bothered to make any monetary compensation offer to the Petitioners. This indicates that the State Government and its officials are simply uninterested in adhering to the mandate of the law or enforcing their policies concerning rehabilitation.

32. Thus, we are satisfied that a case is made out to set aside the impugned order dated 02 August 2022 and to direct the State Government to allot the Petitioners alternate lands by way of rehabilitation as expeditiously as possible and in any event, within six months from today. We order accordingly.

33. The Secretary (Revenue) of the Government of Maharashtra shall be personally responsible for implementing this direction. In case, within six months, the present incumbent is transferred, it shall be the duty of the present incumbent to apprise his or her successor about this order so that the successor does not claim any ignorance about this order. We are taking care to record this because we find that there are several contempt petitions filed alleging non-compliance, and the standard defence of the bureaucrat/officer is that the previous officer should have complied with this Court's orders or that they were unaware of the direction.

34. The other defence is shifting the blame between the Collectors and Revenue officers inter se while, in one way or

another, avoiding compliance with the Court's orders. This must cease, so we have instructed the Secretary (Revenue) of the Government of Maharashtra to take responsibility for ensuring compliance with this order. The AGP must immediately place an authenticated copy of this order before the concerned officials and the revenue secretary.

35. The rule is made absolute in the above terms without any cost order.

36. Though we are disposing of this Petition, we direct the Secretary (Revenue), Government of Maharashtra, to file a compliance report by furnishing an advance copy to the learned counsel for the Petitioners on or before 30 August 2025. All concerned to act upon an authenticated copy of this order.

(Jitendra Jain, J) (M.S. Sonak, J)