



Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 9109 OF 2021**

- |  |   |                       |
|--|---|-----------------------|
| <b>1. Kaluram Mahadu Jadhav</b>                | ) |                       |
| Age: 64, Occupation: Agriculturist             | ) |                       |
| Residing at Pait, Taluka Khed, District: Pune) |   |                       |
| <br>   |   |                       |
| <b>2. Ramesh Mahadu Jadhav</b>                 | ) |                       |
| Age: 62, Occu. Agriculture                     | ) |                       |
| <br>   |   |                       |
| <b>3. Balu Mahadu Jadhav</b>                   | ) |                       |
| Age: Adult, Occ.: Agriculture                  | ) |                       |
| Petitioner Nos. 3 and 4 R/at Gawarwadi,        | ) |                       |
| Post Pait, Taluka Khed, District Pune          | ) |                       |
| <br>   |   |                       |
| <b>4. Sushila Zumber Kute</b>                  | ) |                       |
| Age: Adult, Occ.: Agriculture                  | ) |                       |
| R/at Kolinde Budruk, Taluka Khed               | ) |                       |
| District Pune.                                 | ) | <b>...Petitioners</b> |

**Versus**

- |   |   |                       |
|---|---|-----------------------|
| <b>1. The Deputy Collector (Rehabilitation)</b> | ) |                       |
| Pune Division, District Pune.                   | ) |                       |
| <br>  |   |                       |
| <b>2. Rajaram Abbasaheb Deshmukh</b>            | ) |                       |
| Age: Adult, Occupation: Agriculturist           | ) |                       |
| R/at Deshmukhwadi, Taluka Khed,                 | ) |                       |
| District Pune                                   | ) |                       |
| <br>  |   |                       |
| <b>3. The Additional Collector</b>              | ) |                       |
| Pune Division, District Pune                    | ) |                       |
| <br>  |   |                       |
| <b>4. The Divisional Commissioner,</b>          | ) |                       |
| Pune Division, District Pune                    | ) |                       |
| <br>  |   |                       |
| <b>5. State of Maharashtra</b>                  | ) | <b>...Respondents</b> |

**AND**

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26 July, 2023

## WRIT PETITION NO. 2876 OF 2022

**Shri. Rajaram Abasaheb Deshmukh** )  
Age: 75, Occupation: Agriculture )  
R/o. Deshmukhwadi, Taluka Khed, )  
District : Pune ) **...Petitioner**

**Versus**

**1. State of Maharashtra**, through Secretary )  
Revenue and Forest Department, )  
Mantralaya, Mumbai. )

**2. Additional Collector, Pune,** )  
having office in the Pune )

**3. Deputy Collector (Rehabilitation)** )  
Pune, having office at 4<sup>th</sup> Floor, Pune Zilla )  
Parishad Building, Pune – 411 001. )

**4. Tahsildar**, Taluka-Khed, )  
Office at Khed, Dist – Pune )

**5. Circle Officer**, Nanekarwadi )  
having office at Ground Floor, )  
Chakan Nagarparishad, Chakan, )  
Tal – Khed, Dist – Pune. )

**6. Talathi**, Village – Nanekarwadi )  
having office at Ground Floor, )  
Chakan Nagarparishad, Chakan, )  
Tal – Khed, Dist – Pune. ) **...Respondents**

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Mr. Gaurav Potnis with Mr. Harshad Sathe for Petitioner in WP No. 9109/21.

Mr. Drupad Patil with Mr. B. G. Ligade for Petitioner in WP No. 2876/22 and for Respondent No.2 in WP No. 9109/21.

Mr. Rajan Pawar, AGP for State.

CORAM : G. S. KULKARNI &  
JITENDRA JAIN, JJ.

RESERVED ON: JULY 13, 2023

PRONOUNCED ON: JULY 26, 2023.

**JUDGMENT (Per G.S.Kulkarni, J.):**

The judgment has been divided into the following parts:

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**A. Preface:-**

1. The petitioners in these two petitions are seeking reliefs in respect of the same land, and in this regard the orders passed by the Revenue authorities exercising powers under the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (for short, the “**said Act**”), are the subject matter of challenge in the present proceedings.

2. The petitioners in both the petitions are claiming to be project affected persons of an irrigation project known as “Bhama Aaskhed Project” (for short, the “**said project**”). They claim that being project affected persons falling under the provisions of the said Act, they were entitled for grant of an alternate land on account of the submergence of their land as originally owned by the petitioners, which were acquired for the purpose of the said project. The claim is thus that they have become landless although they had received land acquisition compensation, however, they opted for benefits of allotment of alternate land as per the provisions of the said Act.

3. At the outset, it is required to be noted that Shri Rajaram Abasaheb Deshmukh (for convenience referred to as “**Rajaram**”), who is respondent no.2 in the first writ petition, has filed the companion writ petition being Writ Petition No. 2876 of 2022 praying that he be put in possession of the land, as he was legitimately allotted the land in question. It needs to be noted that both the petitions were heard together by a co-ordinate bench of this Court and by a judgment and order dated 29 April, 2022, these petitions were disposed of in terms of the following operative order passed by this Court:-

“7] In the light of above, following order is passed :

i] The impugned orders dated 02.01.2020 and

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**26 July, 2023**

17.02.2020 are set aside.

ii] The parties shall appear before the Deputy Collector, Pune Division, Pune on 30.05.2022 and put-forth their stand.

iii] The Deputy Collector, Pune shall consider the stand of the parties and take decision afresh with regard to allotment of land from Gat No.401/3 situated at Nanekawadi, Taluka-Khed, District-Pune.

iv] The decision shall be taken preferably within 3 months from the date of appearance of parties before the Authority.

v] Writ Petitions are disposed of. No costs.”

4. Rajaram had challenged the above order passed by this Court before the Supreme Court in the proceedings of Civil Appeal Nos. 8014-8015 of 2022 which came to be allowed by the Supreme Court by a judgment and order dated 04 November, 2022 whereby the proceedings of both the petitions were remitted to this Court for decision of such petitions afresh in accordance with law and on its own merits. The relevant extract of the orders passed by the Supreme Court reads thus:-

“4. Now so far as the impugned common judgment and order passed by the High Court is concerned the High Court has set aside orders dated 02.01.2020 and 17.02.2020 passed by the Deputy Collector solely on the ground that orders were passed by the Deputy Collector without jurisdiction and therefore, the same is *coram non-judice*. However, it is required to be noted that the Deputy Collector was directed to take a fresh decision pursuant to order dated 11.10.2019 passed by the Division Bench of the High Court in WP No. 3126/2019 which was as such in the writ petition filed by respondent No.1 – Kaluram Jadhav. The order dated 11.10.2019 passed by the Division Bench of the High Court in WP No. 3126/2019 by which the Deputy Collector was directed to take a fresh decision attained the finality. Therefore, the High Court ought not to have set aside orders dated 02.01.2020 and 17.02.2020 passed by the Deputy Collector on the ground that the same was without

jurisdiction and *coram non-judice*. At this stage, it is required to be noted that after order dated 02.01.2020, the said order was sent to the Collector and thereafter, the formal order of allotment dated 17.02.2020 was passed. Therefore, the High Court has seriously erred in setting aside orders dated 02.01.2020 and 17.02.2020 on the ground that the Deputy Collector was not having jurisdiction and therefore order is *coram non judice*. Under the circumstances impugned common judgment and order passed by the High Court quashing and setting aside orders dated 02.01.2020 and 17.02.2020 on the aforesaid ground is unsustainable. However, at the same time as the High Court has not considered the legality and validity of orders dated 02.01.2020 and 17.02.2020 on merits and has not considered the rival claims of the respective parties on merits, the matter is required to be remanded to the High Court for fresh decision to consider the legality and validity of orders dated 02.01.2020 and 17.02.2020 on merits.

5. In view of the above and for the reasons stated above the impugned common judgment and order dated 29.04.2022 passed by the High Court quashing and setting aside orders dated 02.01.2020 and 17.02.2020 is hereby quashed and set aside. The subsequent order dated 02.08.2022 passed by the Additional Collector, Pune Division, which has been passed pursuant to the impugned common judgment and order dated 29.04.2022 passed by the High Court is also quashed and set aside. The matter is remitted to the High Court to decide the aforesaid writ petitions afresh in accordance with law and on its own merits.

6. Now, the High Court to consider the legality and validity of orders dated 02.01.2020 and 17.02.2020 on merits. It will be open for respondent Nos. 2 to 4 (in Civil Appeal arising out of WP No. 9109/2021) to file impleadment application(s) before the High Court and make the submissions before the High Court as they were heard by the Deputy Collector. The Writ Petition Nos. 2876/2022 and 9109/2021 are ordered to be restored on the file of the High Court for a fresh decision on merits as observed hereinabove. The present appeals are accordingly allowed. However, it is made clear that we have not expressed anything on merits in favour of either party on the legality and validity of orders dated 02.01.2020 and 17.02.2020 and the claims made by the rival parties and it is ultimately for the High Court to consider the legality and validity of the aforesaid orders in accordance with law and on its own merits. The present appeals are accordingly allowed to the aforesaid extent. No costs.”

B. Facts:-

5. In some detail the facts are:- It is not in dispute that the petitioners in both the petitions namely Kaluram Jadhav (for convenience referred to as “**Kaluram**”) and others (petitioners in the first petition) and Rajaram (petitioner in the second petition) are project affected persons.

6. The subject matter of the controversy is land bearing Gat No. 401/3 admeasuring 0.67 Ares situated at Village Nanekarwadi, Taluka – Khed, District – Pune (for short, “the **said land**”). As set out in the writ petition filed by Kaluram, Rajaram had filed a representation before the Deputy Collector (Rehabilitation) for allotment of an alternate land as his land was acquired for the purpose of the said project. Such application dated 30 November, 2007 was rejected by the Deputy Collector (Rehabilitation) by an order dated 29 October, 2015. Rajaram, being aggrieved by the said order passed by the Deputy Collector (Rehabilitation), approached this Court by filing Writ Petition No. 2639 of 2017. In the said writ petition, Rajaram had *inter-alia* prayed for the reliefs that the order dated 29.10.2015 passed by the Respondent No.2, Dy. Collector (Rehabilitation) Pune rejecting his claim for allotment of a land as a Project Affected Person be set aside. He further prayed for a relief

that he be held entitled for rehabilitation under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1986, and for directions to the Deputy Collector (Rehabilitation) Pune to allot the land to the Petitioner under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1986.

7. By an order dated 12 February, 2018, a Division Bench of this Court disposed of the said petition thereby setting aside the order dated 29 October, 2015 passed by the Deputy Collector (Rehabilitation), Pune and remanding the matter to the said authority for appropriate order to be passed after hearing Rajaram and in the light of the observations made in the said order. The Court observed that the rejection of Rajaram's application for allotment of alternate land, was not correct, for the reason that Rajaram had share in the acquired land, which was jointly held by the Rajaram along with his two brothers. It was observed that although Rajaram's share in the land was less than 4 acres, his request could not have been rejected on the ground that his holding was more than 16 acres. It was thus *prima-facie* observed that Rajaram would be entitled for a proportionate share in the alternative land and for such reason, a fresh determination was required. The relevant extract of the said order passed by the Division Bench of this Court is required to be noted which read thus:-



“6. The petitioner had filed an application for allotment of land. However, the said application was rejected by the impugned order dated 29<sup>th</sup> October, 2015 issued by the Respondent No.2. The petitioner was informed that he is not entitled for an alternative land as he is holding more than 16 acres of the land.

7. It may be mentioned that the said land was jointly held by the petitioner and his two brothers. In other words, the petitioner was not the sole owner of the entire land which is admeasuring more than 16 acres. The petitioner's share in the land was less than 4 acres and hence, his request could not have been rejected on the ground that his holding was more than 16 acres. Even otherwise, there is no such restriction under the Resettlement Act. Therefore, prima facie we are of the opinion that the petitioner would be entitled for a proportionate share in the alternative land.

8. Since the impugned order is passed without taking into consideration the facts narrated hereinabove, we have no alternative but to set aside the same and remand the matter back to the Rehabilitation Officer. We accordingly dispose of the petition by passing the following order:-

(i) The order dated 29<sup>th</sup> October, 2015 passed by the Deputy Collector (Rehabilitation), Pune is quashed and set aside and the matter is remanded to the Respondent No.2-Deputy Collector (Rehabilitation), Pune. The Deputy Collector shall pass an appropriate order after hearing the petitioner and in the light of the observations made hereinabove. Needless to mention that such order shall be passed as expeditiously as possible and preferably within a period of six weeks from the receipt of copy of this order.

9. The petitioner shall remain present before the Respondent No.2-Deputy Collector (Rehabilitation), Pune on 27<sup>th</sup> February, 2018 alongwith the relevant record and copy of this order in order to enable him to comply with this order.”

8. It is thus clearly seen, that Rajaram’s application as per the order passed by this Court was required to be decided within six weeks from the date of receipt of copy of the said order and for which, Rajaram was required to remain present along with the relevant record before the

Deputy Collector (Rehabilitation) on 27 February, 2018. It further appears that as the orders passed by this Court were not complied, Rajaram approached this Court by filing Contempt Petition No.388 of 2018 which was filed on 07 August, 2018, on which on 25 January, 2019, the Division Bench of this Court issued notice while making the following observations in passing the said order:-

“1] The District Resettlement Officer had filed an application wherein he has stated that the proposal of the petitioner is being forwarded to the Additional Collector and the Additional Collector is expected to pass orders. It does appear that inspite of issuance of directions by this Court, those have not been complied with and the Officer concerned is merely passing on responsibility to the higher official. The State Government as well as the District Resettlement Officer were represented before the Court while Writ Petition No. 2639 of 2017 was disposed of.

2] In the above circumstances, we grant liberty to the petitioner to add Additional Collector as a party respondent to the Contempt Application. Amendment to be carried out within one week from today.

3] Issue notice to the added respondent, returnable on 22<sup>nd</sup> February 2019.

4] Stand Over to 22<sup>nd</sup> February 2019.”

9. In the said contempt petition, Kaluram filed an intervention application [Civil Application (Stamp) No. 5698 of 2019] which appears to be dated 21 February, 2019 contending that the said land was already allotted in his favour by an order dated 31 October, 2018 passed by the Assistant Collector/Sub-Divisional Officer, Khed, Sub-Division Khed (Rajgurunagar). He also placed on record of the contempt petition, the

said order passed by the said authority. Kaluram also contended that necessary entries were made in the record of rights with respect to the said land thereby recording his name. Kaluram contended that such allotment was made in his favour as a project affected person, of the said project and that he was eligible for grant of an alternate land, as the land admeasuring 4 Hecter 28.4 R belonging to him was acquired for the said project as he had become landless person. He also contended that a list of the available lands was supplied to him, setting out that the said land was available and he accordingly made a choice of the said land. He also pointed out that the entire process of allotment, was undertaken in a transparent and fair manner. He also contended that Rajaram had no vested right to claim allotment of a particular land, which would have indirect effect of cancellation of the allotment already made in favour of Kaluram. He also pointed out that the authority had not yet passed order of allotment of any alternate land and thus while taking a decision for grant of allotment of alternate land to Rajaram, the subject land would not be available for allotment. Kaluram also pointed out that on 18 February, 2019, Rajaram was called by the District Rehabilitation Officer (for short, “DRO”) in his office in connection with the hearing of the application filed by brothers of Kaluram, that their names also be mutated in the record of rights in regard to the said land. Kaluram was informed that there was a likelihood

that such allotment, which was made in his favour, was likely to be cancelled and in that event, Kaluram was required to choose another land as alternate land for his rehabilitation as a project affected person. It is in these circumstances, Kaluram intervened in the proceedings of the contempt petition filed by Rajaram. It is thus stated that when Kaluram filed his intervention application on 21 February, 2019, certainly a decision was not taken in regard to allotment of alternate land in favour of Rajaram in compliance with the order dated 12 February, 2018 passed by the Division Bench on Rajaram's writ petition.

10. It appears that the contempt petition thereafter was taken up for hearing and by an order dated 22 February, 2019, the contempt petition was disposed of in view of a statement as made, that the direction issued by the Court was complied with. It cannot be ascertained from the order as to on whose behalf such statement was made. The said order reads thus:-

“ This Contempt Petition stands disposed of in view of the statement made that direction issued by this Court has been complied with.

2. Pending Civil Application does not survive and disposed of.

3. Notice issued earlier stands vacated.”

11. Kaluram contends that although a statement was made before the

Division Bench of this Court that the direction issued by the Court was complied, however, nothing was produced before this Court either by Rajaram or on behalf of the authorities. This was noticed, as Kaluram was represented by his Advocate Mr. Vivek Salunke, when the Division Bench passed the order dated 22 February, 2019.

12. Kaluram has contended that although Rajaram's contempt petition was disposed of on 22 February, 2019, a hearing was fixed on the application as made by his brothers for carrying out certain mutations, on which Kaluram wanted to make submissions as also place on record his reply, which was refused to be accepted by the Deputy Collector (Rehabilitation), also an opportunity of a hearing was not granted to Kaluram. Confronted with this, Kaluram filed his say with the office of the Deputy Collector.

13. Kaluram has contended that on 05 March, 2019 when he visited the office of the Deputy Collector (Rehabilitation) to inquire on progress on the mutations to be carried out in respect of the said land allotted to him, he received knowledge of two orders, firstly of the order dated 21 February, 2019 passed by the Deputy Collector (Rehabilitation) in favour of Rajaram, whereby Rajaram was allotted the said land (Gat No.401/3) admeasuring 0.67 Ares. He also received knowledge of a separate order

dated 05 March, 2019 passed by the Deputy Collector (Rehabilitation), Pune by which the order dated 31 October, 2018 passed in favour of Kaluram, *inter-alia* allotting Gat No. 401/3 admeasuring 0.67 Ares was cancelled on the ground that the same was allotted to Rajaram by an order dated 21 February, 2019 and which was stated to be in pursuance of the orders passed by this Court. The said order also recorded that new land would now be allotted to Kaluram, in lieu of cancellation of the allotment of the said land being Gat No. 401/3 admeasuring 0.67 Ares. This order is quite significant considering the rival contentions, hence, is required to be extracted, which reads thus:-

“ **Exhibit 'J'**  
[official translation from vernacular]

READ:

- 1) Application dated 16.11.2018 submitted by (1) Shri Ramesh Mahadu Jadhav, (2) Shri Balu Mahadu Jadhav and (3) Sau. Sushila Zumar Kute.
- 2) Order bearing No. Sakhal/SR/1/2018, dated 31.10.2018, passed by the Sub Divisional Officer, Khed Sub Division, Khed (Rajgurunagar).
- 3) Decisions dated 26.10.2016 and 07.02.2017 of the Hon'ble Bombay High Court, Mumbai passed in the Writ Petition no. 34787/2015 and Contempt Petition No. CP/332/2012 filed before it.
- 4) Order bearing No. D.R.O/Bhama Askhed/S.R./50/2019, dated 21.02.2019, passed by this Office.
- 5) Provisions in the Maharashtra Rehabilitation of the Project Affected Persons.

- 6) Order bearing No. D.R.O/Bhama Askhed/S.R./41/2018, dated 19.10.2018, passed by this Office.
- 7) Special Leave Petition (SLP) Diary No.37700/2017 and Diary No. 37861/2017, filed before the Hon'ble Supreme Court, Delhi.
- 8) Government Circular No. Miscellaneous 02/2011/M.No.-13/E-1, dated 29.03.2012
- 9) Government Circular No. RP-1512/M.No.141/Ra.-1, dated 20.07.2012.
- 10) Notification dated 30.09.2015, published by the Revenue and Forest Department of the Government of Maharashtra.
- 11) Order bearing No. D.R.O/Estt./W.S./19/2019, dated 09.01.2019, passed by the Collector.

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Collector Office, Pune.  
(Rehabilitation Branch),  
No.D.R.O./Bhama Askhed /S. R.  
/52/2019.  
Date : 05.03.2019.

Subject           Regarding the land sanctioned to the  
Projected Affected persons.  
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**ORDER :**

Whereas, Shri Ramesh Mahadu Jadhav, Shri Balu Mahadu Jadhav and Sau. Sushila Zumbar Kute have submitted a Request Application, referred to at Sr. No.1 above, for getting included their names in the area that has been received in the name of Shri Kaluram Mahadu Jadhav alone pursuant to the Order dated 31.10.2018 passed by the Sub Divisional Officer, Khed Sub Division, Khed (Rajgurunagar).

Pursuant to the Request Application, referred to at Sr. No.1 above, in order to file the say and to produce documentary proofs, final hearing was conducted on the dates 29.01.2019, 18.02.2019 and 28.02.2019.

Whereas, on carrying out scrutiny of the documents into the aforesaid matter, it was necessary that the land that had been allotted under the Order bearing No. Sakhal/S.R./1/2018, dated 31.10.2018 by the Sub Divisional Officer, Khed Sub Division, Khed

(Rajgurunagar), should have been allotted in the names of three brothers. Further, pursuant to the Order dated 22.02.2019 of the Hon'ble Bombay High Court, Mumbai, passed in the Petition No.388/2018, the alternative land bearing Gat No. 401/3-Part, admeasuring 00 Hectares and 67 Are, situated at Village – Nanekarwadi, Taluka – Khed, District – Pune and also the land bearing Gat No. 2276, admeasuring 00 Hectares and 53 Are, situated at Village – Kalus, Taluka – Khed, District – Pune, has been sanctioned to the Project Affected Person by name Shri Rajaram Abasaheb Deshmukh, under the Order bearing No. D.R.O./ Bhama Askhed/S.R./50/2019, dated 21.02.2019. Therefore, it is necessary to set aside the allotment of the land bearing Gat No. 401/3, situated at Village – Nanekarwadi, Taluka – Khed, District – Pune and to pass an order afresh.

Therefore, in pursuance of the Application referred to at Sr. No.1, the prayer of the Applicants is allowed. The Order bearing No. Sakhal/S.R./1/2018, dated 31.10.2018 of the Sub Divisional Officer, Khed Sub Division, Khed Rajgurunagar, issued in exercise of the powers delegated under the Order bearing No. D.R.O./Estt./W.S./19/2019, dated 09.01.2019 of the Collector, is set aside.

As per this Office order No. D.R.O./Bhama Askhed/S.R./50/2019 dated 21.02.2019, passed as per the directions of the Hon'ble High Court, as the area adm.00 Hec. 67 Are from out of the land bearing Gat No.401/3, situated at Nanekarwadi, Tal.Khed, District Pune, has been sanctioned to the project affected person by name Shri Rajaram Abasaheb Deshmukh, the project affected person should give the Gat number of the land of new preference, within 8 days.

Particulars of the land situated at Taluka : Khed, District Pune, sanctioned to the persons as project affected.

Name of Project affected persons	Village	Gat No.	Sanctioned area
1. Kaluram Mahadu Jadhav	Sonvadi	31	0.70
2. Ramesh Mahadu Jadhav	Nanekarwadi	401/4	0.22
3. Sau. Sushila Jhumbar Kute	Koregaon Khu.	525/2	1.21

The said land is granted subject to following terms and conditions.

1. The cultivator should bring the land under cultivation within



two years from the date of taking possession of the said land.

2. The cultivator should get prepared the Agreement Form/Proforma in Form No.2 prescribed in the Maharashtra land revenue (Disposal of government land)Rules, 1971, within one month from the date of taking possession of the said land.

3. If the information submitted by the Applicant is found to be false and misleading then, the said order shall be liable to be declared as null and void, ab initio.

4. If the cultivator commits breach of any of the aforesaid conditions or violates any Law, government resolution, circular applicable to the project affected persons then, the said land/lands shall become liable to be forfeited to the Government and the amount towards the ownership right paid by - recovered from the cultivator who has been removed from such land/lands, shall be paid to the said cultivator or the same shall be forfeited.

5. The cultivator shall be liable to make improvement in the said land/lands as per the instructions of the Soil Conservation Officer.

6. The grains received from the crops cultivated by the cultivator from the said land shall be liable for levying taxes as per the government rules or the same shall be liable to be given to the Government for sale thereof on priority basis at the time of sale of the said grains.

7. The cultivator shall be liable to pay the revenue in respect of the said entire land, in one installment. However, if the land allotted to him is a virgin land then, revenue shall not be levied on the said land for first three years from the date of handing over the possession of the said land.

8. The Village Kamgar Talathi should make new mutation entry on the 7/12 extract in respect of the said land, as per the changes made pursuant to the said order and should send the original extracts in respect of the said land, having the entries made thereon in ink and the extract of mutation entry, within 30 days from the date of making the said entry, to this Office.

Place : Pune

Date : 05.03.2019

Sd/-

Deputy Collector, Rehabilitation  
and Administrator,  
Rehabilitation, Reinstatement,  
Pune.

Copy to :-

1) Shri Kaluram Mahadu Jadhav, Ramesh Mahadu Jadhav, Shri Balu Mahadu Jadhav, all three are residing at Gawarwadi, Post Pait, Tal. Khed, District Pune and Sau.Sushila Jhumbar Kute, residing at Kohinde Bu., Tal. Khed, District Pune

2) Tahasildar Khed, Tal. Khed, District Pune,

2/- He is requested to immediately implement the said order and to submit the report togetherwith amended 7/12 extract and extract of mutation entry, to this Office, within 30 days.

3) Deputy Superintendent of Land Records, Khed, Tal.Khed, District Pune.

4) Circle Officer, Nanekarwadi, Gonwadi, Koregaon Khu. and Kamgar Talathi, Nanekarwadi, Gonwadi, Koregaon Khu., Tal. Khed, District Pune for information and appropriate information.

2/- The Kamgar Talathi is directed to make entry of the said order in Record of Right Register and to submit amended 7/12 extract and extract of mutation entry.

(Signature Illegible)  
Deputy Collector, Rehabilitation  
and Administrator,  
Rehabilitation, Reinstatement,  
Pune.”

(emphasis supplied)

14. Copies of the said orders dated 05 March, 2019 and 21 February, 2019 were obtained by Kaluram by making necessary application to the said authority. Kaluram was not heard before the allotment order dated 31 October 2018 was cancelled / revoked by the said order dated 05 March, 2019 passed by the Deputy Collector (Resettlement).

15. In the aforesaid circumstances, being aggrieved by the cancellation of the land allotted to Kaluram, he immediately made a representation on 06 March, 2019 to the Divisional Commissioner, Pune Division,

submitting that a detailed inquiry be held in what he described as to be an illegal, arbitrary and high handed manner in which Kaluram's allotment of the subject land was cancelled. However, as there was no response to the representation, Kaluram approached this Court by filing Writ Petition No. 3126 of 2019, in which Rajaram was impleaded as respondent no.2.

16. It appears that at the level of the department, a significant activity of relevance took place namely that the representation dated 06 March, 2019 as made by Kaluram to the Divisional Commissioner, Pune Division, came to be considered by the Divisional Commissioner who *inter-alia* by his order dated 04 September, 2019 directed an inquiry as to how the Deputy Collector was conferred powers of allotment of land when as per the Government Resolution of the year 2012, the Collector and Additional Collector were the only officers who were conferred with the powers of allotment of land. The Divisional Commissioner recorded that the resettlement issues were required to be considered only by the said officers, however, in the present case, how could the Collector assign such powers by his order dated 09 January, 2019 on the Deputy Collector. It was recorded that this had resulted in a situation that the Additional Collector, Pune had no control on the orders which were being passed by the Deputy Collector, and unilateral decisions being taken by the Deputy Collector. For these reasons, the Divisional Commissioner directed that

the powers which were conferred on the Deputy Collector (Rehabilitation) by the District Collector were withdrawn and such powers be exercised by the Additional Collector, Pune with effect from 06 September, 2019 and a report to that effect be forwarded to the office of the Divisional Commissioner. The Divisional Commissioner also called for an explanation on the complaint as made by Kaluram and a report to that effect was ordered to reach the office of the Divisional Commissioner by 10 September, 2019.

17. It appears that Kaluram's writ petition came up for adjudication before this Court on 11 October, 2019, which is after the orders of the Divisional Commissioner withdrawing the powers of the Deputy Collector (Rehabilitation) to make any allotment of land by his aforesaid order dated 04 September, 2019.

18. A co-ordinate bench of this Court by an order dated 11 October, 2019, disposed of the said writ petition, *inter-alia* observing that since there were rival claims on the allotment of the alternate land, it would be appropriate that the Deputy Collector (Rehabilitation) passes a fresh order of allotment of the said land expeditiously. The said order passed by this Court is required to be noted which reads thus:-

“ The dispute in the Petition is in respect of grant of alternate land to the project affected persons. Both, the Petitioner as well as

Respondent No.2, claim to be project affected persons and have made a claim to the alternate land which is the subject matter of the present Petition i.e. land bearing Gat No.401/3 ademasuring 0 Hectors 67 Ares situated at village Nanekarwadi, Taluka–Khed, District–Pune. The Petitioner is essentially challenging the cancellation of the allotment of the subject land vide order dated 5<sup>th</sup> March, 2019 which land was allotted to him on 31<sup>st</sup> October, 2018. According to the Respondent No.2, the said land was allotted to him on 21<sup>st</sup> February, 2019.

2 We have perused the Affidavit-in-Reply fled by Respondent No.1 – Deputy Collector (Rehabilitation), Pune Division dated 10th October, 2019. In facts and circumstances of the case, we are of the view that since there are rival claims to the allotment of alternate land, it would be appropriate that the Respondent No.1 Deputy Collector (Rehabilitation) passes a fresh order of allotment of the said land expeditiously, and, in any event, within a period of two months from today after hearing all concerned. It is accordingly ordered.

3 We make it clear that the Respondent No.1 shall not be influenced by the earlier allotment / cancellation orders and which orders shall not be acted upon. The Petitioner, Respondent No.2 and Respondent Nos.3 and 4 shall appear before the Respondent No.1 on 11<sup>th</sup> November, 2019 at 11:00 a.m.

4 The Petition to stand disposed of in the aforesaid terms.”

(emphasis supplied)

19. It is clear from the said order that it was the Deputy Collector (Rehabilitation), who was directed by this Court to pass a fresh order of allotment of the said land expeditiously, without being influenced by the earlier allotment/cancellation orders, which were directed not to be acted upon.

20. It can thus be seen from the order dated 11 October, 2019 passed by the Division Bench that the order dated 04 September, 2019 was not pointed out to the Court, which had the legal effect of the Deputy

Collector (Rehabilitation) being denuded of the powers to undertake allotment of the rehabilitation lands and such powers stood vested only with the Additional Collector as per the Government directives of 2012 as clarified by the Divisional Commissioner setting aside such delegation made by him by the order dated 09 January, 2019.

21. It appears that in pursuance of the order dated 11 October, 2019 passed by the Division Bench on Kaluram's writ petition, the order dated 02 January, 2020 came to be passed by the Deputy Collector whereby allotment of land bearing Gat No.401/4 (not subject matter of dispute) came to be confirmed in favour of Kaluram, directing Kaluram that a separate demand application be made for balance 0.67 Ares of land in view of cancellation of allotment of the subject land i.e. Gat No. 401/3 admeasuring 0.67 ares. In so far as Rajaram was concerned, allotment of the subject land i.e. Gat No. 401/3 admeasuring 0.67 Ares was confirmed. The operative order passed by the Deputy Collector (Rehabilitation) is required to be noted which reads thus:-

[official translation from vernacular]

“

ORDER

1. This Office order bearing No. DRO/Bhama Aaskhed/SR/52/2019, passed on the date 05/03/2019 in respect of allotment of the land bearing Gat No. 252/2 area admeasuring 1 H. 21 Are, situated at Village – Gonvadi, Tal. Khed, Dist. Pune and the land bearing Gat No. 401/4 area admeasuring 0 H. 22 Are, situated at Village – Nanekarwadi, Tal. Khed, Dist. Pune to Shri Kaluram Mahadu Jadhav and 3 others is hereby set aside and this land is

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allotted by passing order afresh. As regards the land of remaining 67 Are area, they are once again informed to make a separate demand jointly.

2. This Office order bearing No. DRO/Bhama/Aaskhed/SR/50/2019, passed on the date 21/02/2019 in this matter, in favour of the applicant Shri Rajaram Abasaheb Deshmukh is set aside and as per the direction of the Hon'ble High Court order is passed afresh to allot him the land bearing Gat No. 401/3 area admeasuring 0 H. 67 Are, situated at Village – Nanekarwadi, Tal Khed, Dist. Pune and the land bearing Gat No. 2276 area admeasuring 0 H. 53 Are, situated at Village Kalus, Tal. Khed, Dist. Pune. This decision should be informed to all the concerned persons.”

(emphasis supplied)

22. It appears that thereafter on 17 February, 2020 another order was passed by the Deputy Collector (Rehabilitation) confirming the allotment of land bearing Gat No. 401/3 admeasuring 0.67 Ares in favour of Rajaram which *inter-alia* recorded that the said land was allotted in favour of Rajaram in pursuance of the order passed by this Court in Writ Petition No. 3126 of 2019. The order also sets out the terms and conditions on which the said land was allotted in favour of Rajaram. On the same day, i.e. on 17 February, 2020, another order came to be passed by the Deputy Collector (Rehabilitation) confirming allotment of the land *inter-alia* land bearing Gat No.401/4 along with the other land in favour of Kaluram.

23. It is on the above backdrop, being aggrieved by the orders dated 02 January, 2020 and 17 February, 2020 passed by the Deputy Collector (Rehabilitation), Kaluram has filed Writ Petition No. 9109 of 2021

praying for the following reliefs:-

“(a) By suitable writ, order or direction, this Hon’ble Court may be pleased to quash and set aside the order dated 02.01.2020 and order dated 17.02.2020 passed by the present Respondent No. 1 to the extent the said Order allotted the subject land i.e. land bearing Gat No. 401/3 admeasuring 0 Hectors, 67 Ares situated at Village Nanekarwadi, Taluka Khed, District Pune in favour of the Respondent No. 2 and consequently, the allotment of the subject land in favour of the Petitioner vide Order dated 31.10.2018 be restored.

(b) This Hon’ble Court be pleased to direct the Respondent Nos. 3 to 5 to take suitable action against the Respondent No.1.

(c) Pending the hearing and final disposal of this Writ Petition, this Hon’ble Court may be pleased to stay the effect, implementation, operation and execution of the impugned Orders dated 2.01.2020 and 17.02.2020 passed by the present Respondent No.1.”

24. On the other hand, Rajaram has filed the companion petition (Writ Petition No. 2876 of 2022) praying for implementation of order dated 17 February, 2020 (challenged by Kaluram) passed in his favour by the Deputy Collector (Rehabilitation) and for handing over possession of the land Gat No. 401/3. The substantive prayers in the writ petition filed by Rajaram read thus:-

“(a) This Hon’ble Court be pleased to issue a Writ of Mandamus or any other Writ in the nature of Writ of Mandamus and be pleased to direct the Respondents to forthwith record the name of Petitioner in 7/12 extract of lands bearing Gat No. 401/3 situated at village Nanekarwadi in Taluka Khed, Dist. - Pune as directed vide order dated 17.2.2020 being Exhibit H to this Petition.

(b) This Hon’ble Court be pleased to issue a Writ of Mandamus or any other Writ in the nature of Writ of Mandamus and be pleased to direct the Respondents to forthwith hand over possession of land admeasuring 0 H. 67 R bearing Gat No. 401/3 situated at village Nanekarwadi, Taluka Khed as allotted vide order dated 17.2.2020 being Exhibit H to this Petition.”



25. As noted above, both the writ petitions were heard by a co-ordinate bench of this Court and by an order dated 29 April, 2022 (Supra), the same were disposed of by setting aside the orders dated 02 January, 2020 and 17 February, 2020 and directing the parties to appear before the Deputy Collector (Rehabilitation), Pune Division, Pune on 30 May, 2022. By the said order, the Deputy Collector (Rehabilitation) was directed to consider the stand of the parties and take a decision afresh with regard to allotment of land from Gat No. 401/3 situated at Nanekarwadi, Taluka-Khed, District-Pune. The said order dated 29 April, 2022 passed by this Court was, however, set aside by the Supreme Court by its order dated 04 November, 2022 as noted by us above. The direction of the Supreme Court in the said order is to the effect that this Court should consider the legality and validity of the orders dated 02 January, 2020 and 17 February, 2020 on merits by restoring both the petitions to the file of this Court, for a fresh decision on merits. The Supreme Court also made it clear that the Supreme Court has not expressed anything on merits in favour of either party on the legality and validity of the orders dated 02 January, 2020 and 17 February, 2020 and the claims made by the rival parties and it is ultimately for this Court to consider the legality and validity of the said orders in accordance with law and on its own merits. It

is on such conspectus, the parties are before us.

C. Reply-Affidavits.

Reply-Affidavit of Rajaram.

26. Reply affidavit dated 10 April, 2022 has been filed by Rajaram to the petition filed by Kaluram, inter-alia contending that there were internal disputes in Kaluram's family and therefore, although the allotment order dated 31 October, 2018 was passed, neither the requisite amounts in respect of such allotment could be made by Kaluram with the State Government, nor the possession of the said land was handed over to Kaluram. It is next contended that the Sub-Divisional Officer (for short, the "SDO") who passed the order dated 31 October, 2018 in favour of Kaluram was not well versed with the provisions of the said Act and he had hurriedly taken a decision on 31 October, 2018 to allot the land in favour of Kaluram. It is contended that he had not considered the fact that the other project affected persons also had shown interest in the said land. He next contended that the application dated 09 May, 2018 filed by him seeking allotment of Gat No. 401/3 was pending before the District Rehabilitation Officer (for short, "the DRO"). Referring to the proceedings of his application dated 09 May, 2018 seeking allotment of Gat No. 401/3 and the proceedings which were taken up by him before

this Court, it is contended that the said land (Gat No.401/3) was reserved for allotment to him, however, the SDO was not aware about the said fact when he allotted the said lands to Kaluram vide an order dated 31 October, 2018. Rajaram has next contended that in pursuance of the order dated 11 October, 2019 passed by this Court on Writ Petition No. 3126 of 2019 when the matter was considered afresh, Kaluram had not raised any objection for such order to be passed and had agreed for a fresh decision to be taken by the DRO. It is contended that Kaluram also suppressed the letter dated 04 September, 2019 of the Divisional Commissioner, Pune, Division by which the Divisional Commissioner directed the Additional Collector to take a fresh decision and not the Deputy Collector (Rehabilitation). Rajaram has contended that according to the directions of this Court, he had appeared before the Deputy Collector (Rehabilitation) who had passed the impugned order dated 02 January, 2020 and the consequent approval to the said allotment order by his order dated 17 February, 2020, as assailed. It is thus contended that it hence needs to be presumed that the allotment order dated 17 February, 2020 was issued by the Additional Collector. It is next contended that Kaluram had accepted such allotment order, as also he had executed registered Agreement to Sale dated 15 October, 2020 for consideration of Rs. 85 Lakhs in respect of land bearing Gat No. 31 (not the subject land)

which was allotted to him vide an order dated 17 February, 2020, which was subject matter of acquisition by the MIDC in respect of which, a land acquisition award was also passed on 09 November, 2020 and Kaluram had received an amount of Rs.85 Lakhs as compensation. It is his contention that although the allotment in respect of the subject land being Gat No.401/3 was set aside, one of the petitioners (petitioner no.4) Sushila Kute, sister of Kaluram, executed registered Agreement to Sale dated 27 January, 2022 for consideration of Rs. 10 Lakhs being her share. It is, therefore, contended that Kaluram, in these circumstances, ought not to be granted any reliefs on his petition.

Reply-Affidavit on behalf of the State Government

27. A reply affidavit dated 25 March, 2023 is also filed by Shri. Sandesh Shirke, District Resettlement Officer, which is a common affidavit on both the petitions. He has *inter-alia* stated that on 27 February, 2018 Rajaram had applied for various Gat numbers other than Gat No. 401/3, to which the Additional Collector on 27 March, 2018 had commented that Rajaram should apply for land from Ambethan, Koregaon Khurd and Akshed Budruk. It is stated that Rajaram for the first time applied for the land admeasuring 40 Ares from Gat No. 401/3 of Village Nanekarwadi (subject land) on 07 April, 2018 and the Additional Collector on 27

April, 2018 made a 'Tipani' (Note) recording that Rajaram be given land from Village Kalus. It is stated that thereafter again an application was made by Rajaram on 09 May, 2018 reiterating that allotment of land admeasuring 40 Ares from Gat No. 401/3 at Nanekarwadi and the Additional Collector on 29 May, 2018 directed that the land either from Kalus or Daund be given to Rajaram by way of lucky draw. It is stated that thereafter again Rajaram applied on 16 October, 2018 and the Additional Collector granted consent on 20 October, 2018 to the Tipani (Note) prepared for allotment of 1 Hector 20 Ares from Gat No. 2276 of Village Kalus to Rajaram (not the subject land). It is next contended that under an order dated 19 October, 2018, a camp was held on 31 October, 2018 for the benefit of all project affected persons of the said project. In such camp, not only the person who had been directed by the High Court to be rehabilitated, but all persons who had deposited 65% of the land acquisition compensation as received by them were required to attend such camp and apply for allotment of land as per the gat numbers which were made available in a list for rehabilitation. It is stated that Rajaram did not attend the camp. Kaluram attended the camp and applied for rehabilitation. As a result of which, 0.67 ares from Gat No. 401/3 (subject land) was allotted to him along with Gat No. 31, 401/4 and 252/2 from village Gondwadi, Nanekarwadi and Koregaon subject matter

of the allotment order dated 31 October, 2018. It is stated that along with Kaluram, other 67 persons were allotted the land on the same day. Such camp was specifically held to rehabilitate project affected persons from the said project and Gat No. 401/3 was part of the land available for allotment in the camp as allotted to Kaluram.

28. It is next stated that on 21 February, 2019, the DRO passed an order cancelling Kaluram's the allotment of 0.67 Ares from Gat No. 401/3 of village Nanekarwadi (subject land) and thereafter allotment of the said land was made in favour of Rajaram on 05 March, 2019. It is stated that the Divisional Commissioner, Pune after going through the records in the case, had come to a conclusion that grave injustice was caused to Kaluram and his brothers when the order of allotment for 0.67 Ares from Gat No. 401/3 from village Nanekarwadi was cancelled by the then DRO Mr. Bharat Waghmare. Considering the record, the Divisional Commissioner had directed the District Collector to revoke the powers of allotment of the DRO, pursuant to which the powers of DRO were removed by way of an order dated 05 September, 2019.

29. It is stated that the said orders dated 21 February, 2019 and 05 March, 2019 were challenged before this Court by Kaluram on which this Court had passed an order dated 11 October, 2019 directing the DRO to

decide on the allotment for the said land afresh. It is stated that in pursuance of the orders passed by this Court, considering all the complaints received by the then DRO Mr. Bharat Waghmare, an order was issued by the Additional Collector on 07 January, 2020 directing the revenue authorities not to implement the orders passed by the then DRO Mr. Bharat Waghmare. It is stated that on 02 January, 2020 and 17 February, 2020, the DRO however passed orders in favour of Rajaram which are challenged before this Court in the present proceedings. The said orders were set aside by this Court vide an order dated 29 April, 2022 and thereafter the said order (dated 29 April, 2022) passed by this Court was set aside by the Supreme Court with direction to this Court to decide the writ petitions on merits.

30. It is stated that the DRO also filed his reply before the Supreme Court. It is stated that there was no specific direction of this Court to allot the said land to Rajaram. The Additional Collector vide his decision on 29 October, 2018 had directed that land admeasuring 1 Hector 20 Ares from Gat No. 2276 of village Kalus be allotted to Rajaram, as a result of which, such land could only be allotted to Rajaram and not 0.67 Ares from Gat No. 401/3 of village Nanekarwadi. It is contended that Rajaram was only entitled to an area of 1 Hector 20 Ares of land as a part of the rehabilitation process and that he was not a landless person as he held 3

acres of land, whereas Kaluram and his brothers had become landless after acquisition and were entitled to rehabilitation on priority basis as per the rules.

31. It is next contended that the file of Rajaram was kept before the Additional Collector on 3 separate occasions for approval of the note (Tipani) for allotment of land of Gat No. 401/3 and on all the three occasions, the Additional Collector had either rejected or directed allotment from some other Gat number to Rajaram. It is stated that despite this fact, the then DRO allotted the Gat No.401/3 to Rajaram which point of time its was already allotted to Kaluram. It is next contended that the DRO had allotted 0.67 Ares from Gat No.401/3 of village Nanekarwadi to Rajaram, but there was no application on record to show that Rajaram had applied for 0.67 Ares from Gat No. 401/3. It is stated that allotment of the subject land in favour of Kaluram was prior in time and was in consonance with the order dated 19 October, 2018 passed by the Collector read with order dated 30 October, 2018 passed by the SDO, Khed who was granted powers to make allotment to the project affected persons of the said project. It is stated that Rajaram never applied for 0.67 Ares from Gat No.401/3 from village Nanekarwadi, but had only restricted his application to 40 Ares from Gat No. 401/3 of village Nanekarwadi. Hence allotment of more land than what was applied for is



against the public policy. It is accordingly contended that the orders dated 02 January, 2020 and 17 February, 2020 cancelling the allotment in favour of Kaluram and his brothers and allotment of land in favour of Rajaram was incorrect as from the record, it was clear that the Additional Collector by his approval dated 29 October, 2018 had directed that 1 Hectore 20 Ares from village Kalus should be allotted to Rajaram. Hence, the then DRO could not have allotted any other land to Rajaram. It is thus contended that only Kaluram and his brothers were entitled to land admeasuring 0.67 Ares from Gat No. 401/3 of village Nanekarwadi and the same would be in consonance with the order dated 19 October, 2018 passed by the Additional Collector and the allotment order dated 31 October, 2018.

Rejoinder Affidavit of Rajaram.

32. A rejoinder affidavit has been filed by Rajaram which is a common rejoinder to the reply affidavit filed by the Deputy Collector (Rehabilitation), thereby justifying the impugned orders dated 02 January, 2020 and 17 February, 2020. Rajaram has reiterated his contentions as urged in the reply-affidavit. According to Rajaram, the orders passed by the Deputy Collector (Rehabilitation) dated 02 January, 2020 and 17 February, 2020 were accepted by Kaluram. It is alleged that affidavit

dated 25 March, 2023 of the DRO is filed with malafide intention to provide undue advantage to Kaluram. It is stated that there are incorrect statements made in the said affidavit.

33. It is on the above backdrop, we have heard learned counsel for the parties.

**Submissions on behalf of Kaluram and others:-**

34. Mr. Potnis, learned counsel for Kaluram and others has made detailed submissions. He submits that when the impugned orders were passed, no opportunity of hearing was accorded to the petitioners. It is submitted that Kaluram had never asked for a specific land and the land which was allotted to him in the camp which was undertaken on 31 October, 2018, was from the land which was available in the pool of lands and which was being offered to number of co-allottees who were 67 in numbers and who attended the camp. It is his submission that on the day the allotment of land in question was crystalized in favour of Kaluram, even remotely Rajaram was not all in the picture, so as to have any legal right to claim the said land. It is his submission that thus priority of allotment was certainly in favour of Kaluram and he was legitimately allotted the other land. It is submitted that in fact it is clear from the reply affidavit filed on behalf of the State Government that Rajaram in no

manner was concerned for allotment of the subject land and in fact he was allotted land in Village Kalus. It is his submission that Rajaram's case in regard to Sale Deed being entered by Kaluram is nothing but a ploy to prejudice the Court in as much as there was no dispute pending in respect of land – subject matter of Sale Deed and the same was sold legitimately. In any case, in regard to sale of the said land, there cannot be any dispute whatsoever as Rajaram never claimed the said land and undisputedly the said land was always legitimately and legally allotted to Kaluram. It is submitted that even otherwise the said land was acquired by a procedure known to law, by the MIDC and it was the MIDC which had paid compensation to Kaluram and others. It is next contended that, in so far as, the Agreement to Sale dated 27 January, 2022 is concerned, the same is not entered by Kaluram, but has been entered in respect of a share by petitioner no.4 who is one of the allottees. It is his submission that in any case such Agreement to Sale was entered on a belief that the land had stood legally allotted in favour of Kaluram and other family members. It is his submission that in any event Agreement to Sale would not create any vested right in the purchasers and it is purely an issue between petitioner no.4 and purchasers of the said land who has paid Rs. 10 Lakhs to petitioner no.4 and this was not to the knowledge of Kaluram and Kaluram was not a confirming party to the said agreement. It is hence his

submission that the impugned orders passed by the Deputy Collector (Rehabilitation) were totally illegal and without jurisdiction and nullity in the eyes of law. Such order was passed to favour Rajaram was in brazen violation of the law and the rules. In raising there contentions we have been taken through the various orders passed by Mr. Bharat Waghmare, the Deputy Collector to contend that the impugned orders passed by him are patently illegal and were intended to benefit Rajaram. It is hence submitted that the petition (Writ Petition No. 9109 of 2021) deserves to be allowed.

**Submissions on behalf of Rajaram:-**

35. On the other hand, Mr. Patil, learned counsel for Rajaram would submit that the impugned orders dated 02 January, 2020 and 17 February, 2020 are legal and valid. It is his submission that allotment of land in favour of Kaluram was validly cancelled, as the same was already allotted to Rajaram and in respect of which a statement was also made before this Court in the proceedings of Contempt Petition No. 388 of 2018 and accepting such statement, the contempt petition was disposed of by an order dated 22 February, 2019. It is his submission that in fact, the allotment of the land in question in favour of Kaluram itself was not effected on following proper procedure, in as much as Rajaram had

already made a claim in respect of the said land and which was subject matter of his contention in writ petition No. 2639 of 2017. It is, therefore, his contention that what has been done by the Deputy Collector (Rehabilitation) by the impugned order is as per law and would not call interference. It is submitted that in fact, Kaluram has taken law into his hands when he has entered into the sale deed as also petitioner no.4 has entered into an agreement to sale. It is his submission that these documents are suppressed from the Court and therefore, on this count alone, the petition filed by Kaluram deserves to be dismissed, as no litigant is entitled to approach the Court with unclean hands in seeking discretionary and equitable reliefs. Mr. Patil would hence submit that the allotment of the land in question in favour of Rajaram be disturbed and the impugned orders be upheld.

**Analysis and Conclusion:**

36. The question, which falls for determination, is as to whether the impugned orders dated 02 January 2020 and 17 February 2020 as assailed by Kaluram allotting the said land (Gat No.401/3) in favour of Rajaram and for consequential revenue entries to be made in that regard, are legal and valid. As noted above, there is a chequered history to this litigation. Both Rajaram as also Kaluram had earlier approached this Court in their

respective writ petitions. The parties are litigating and are before this Court since the year 2018 in the multiple proceedings. Earlier Rajaram's plea in his writ petition was of non-allotment of a land as a project affected person. Now the dispute between the parties is in respect of one plot of land namely subject land bearing Gat No. 401/3. The record to which we have referred in some detail, would indicate that Rajaram had earlier approached this Court in Writ Petition No. 2639 of 2017 praying for the following reliefs:-

“(a) Rule be issued, records and proceedings of the case be called for and after examining the legality, validity and propriety thereof, this Hon'ble Court may be pleased to quash and set aside the impugned order dated 29.10.2015 passed by the Respondent No.2, Dy. Collector (Rehabilitation) Pune being Exhibit “I” to this Writ Petition;

(b) This Hon'ble Court may be pleased to declare that the Petitioner is entitled for rehabilitation under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1986;

(c) This Hon'ble Court may be pleased to issue appropriate directions to the Respondent No.2 Deputy Collector (Rehabilitation) Pune to allot the land to the Petitioner under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1986;

(d) Pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court may be pleased to pass appropriate directions to the Respondent No.2, Dy. Collector (Rehabilitation) Pune to allow the land in favour of the Petitioner under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1986.”

37. It is clear from the above prayers that none of the reliefs as prayed by Rajaram was for a writ that Rajaram be allotted land bearing Gat No.

401/3 admeasuring 40 Ares, namely the subject land. The above reliefs were prayed for, in the light of an order dated 29 October, 2015 passed by the Deputy Collector (Rehabilitation), Pune who had held that Rajaram was not entitled to an alternate land. On such backdrop, a Division Bench of this Court by an order dated 12 February, 2018 while disposing of Rajaram's writ petition, set aside the order dated 29 October, 2015 passed by the Deputy Collector (Rehabilitation), with a further direction that he shall hear Rajaram in the light of the observations as made in paragraphs 6 and 7 which we have already noted above and pass fresh orders.

38. It appears, which is also clear from the reply affidavit of Shri Sandesh Shirke, District Resettlement Officer filed on behalf of the State Government that in respect of the project in question namely "Bhama Aaskhed Project", there were number of project affected persons who were awaiting allotment of alternate land and in respect of whom, a camp was held on 31 October, 2018 which was attended by about 67 persons who were eligible and were considered, for allotment of alternate lands. Kaluram was one of 67 persons who were project affected persons, who attended the camp as he had applied for rehabilitation. A list of the lands available for allotment was made available to all such persons who attended the camp. One of the lands was subject land bearing Gat No.

401/3 which was opted for allotment by Kaluram and accordingly, Kaluram was allotted the land in question along with two other lands vide an order dated 31 October, 2018, the details of which are as under:-

Name of the sanctioned village	Gat No.	Area of land granted
Goanwadi	31	0.70
Nanekarwadi	<b>401/3</b> 401/4	<b>0.67 (subject land)</b> 0.22
Koregaon Khurd	252/2	1.21

39. It also appears from the record that although Rajaram was pursuing his applications for allotment of an alternate land as a project affected person, under the office notings (Tipani) of the Additional Collector, Rajaram's application in regard to allotment of land bearing Gat No. 401/3 was not accepted by the Additional Collector. To this effect, averments are made in paragraph 3 of the reply affidavit of the District Resettlement Officer which reads thus:-

"3. I say that I have gone through the various documents on record, the various notes/Tipanis, various order/ comments of the District Rehabilitation Officer and the order/ comments of the Additional Collector. Copy of the Various notes/Tipnis from the records are hereto collectively annexed and marked as EXHIBIT R-1. I say that on 27/02/2018 Rajaram Aba Deshmukh had applied for various Gat Numbers other than Gat Number 401/3. To this the Additional Collector on 27/3/2018 has commented that Rajaram Aba Deshmukh should apply for land from Ambethan, Koregaon Khurd and Akshed Budruk. Rajaram Abasaheb Deshmukh for the first time applied for 40 R from Gat Number 401/3 of Village Nanekarwadi on 07/04/2018 and the Additional Collector on 27/04/2018 allowed the Tipani which said that Rajaram Aba Deshmukh be given land from Village Kalus, thereafter again 40 R



from Gat Number 401/3 of Nanekarwadi was applied on 09/05/2018 and the Additional Collector on 29/05/2018 directed that land either from Kalus or Daund may be given to Rajaram Aba Deshmukh by way of luck draw, thereafter Rajaram Aba Deshmukh again applied on 16/10/2018 and the Additional Collector granted consent on 29/10/2018 to the Tipani/Note prepared for allotment of 1H-20R from Gat No.2276 of Village Kalus to Rajaram Aba Deshmukh.”

40. There are some aspects which are quite intriguing namely as to what had happened in the proceedings of Contempt Petition No. 388 of 2018 filed by Rajaram. Such contempt petition was filed as according to Rajaram, the order passed by this Court on Writ Petition No. 2639 of 2017 was not complied by the authorities. In such proceedings, Kaluram had intervened and had placed on record that already an order dated 31 October, 2018 was passed in his favour, whereby the land in question i.e. Gat No. 401/3 was allotted to him in the camp and to that effect, an order dated 31 October, 2018 was passed in his favour. On 25 January, 2019 when the contempt petition was listed before the Division Bench, the DRO had informed the Court that the proposal of Rajaram was being forwarded to the Additional Collector and the Additional Collector is expected to pass orders and in this view of the matter, the Additional Collector was permitted to implead as a party respondent to the petition. On such backdrop when the Contempt Petition was next listed before the Court on 22 February, 2019, it was disposed of in view of the statement made [as noted above] and on whose behalf such statement was made, is

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not reflected in the order passed by this Court when the Court recorded that the directions issued by this Court in the order dated 12 February, 2018 passed on Writ Petition No. 2639 of 2017 were complied with. In that view of the matter, the civil application filed by Kaluram as also the contempt petition were disposed of and the notice issued was vacated. What intrigues us is that no order of allotment of any land was placed before the Court when it was being stated that the orders stood complied.

41. It appears to us that having obtained such orders from the Division Bench in the contempt proceedings, the Deputy Collector (Rehabilitation) passed an order dated 05 March, 2019 *inter-alia* observing that in view of the orders passed by this Court in Contempt Petition No. 388 of 2018 dated 22 February, 2019, Rajaram is required to be allotted an alternate land which *inter-alia* included the subject land Gat No.401/3 and for such reason, the allotment of Gat No. 401/3 is required to be cancelled. The relevant portion of the said order is required to be noted which reads thus:-

“ [official translation from vernacular]

Whereas, on carrying out scrutiny of the documents into the aforesaid matter, it was necessary that the land that had been allotted under the Order bearing No. Sakhal/S.R./1/2018, dated 31.10.2018 by the Sub Divisional Officer, Khed Sub Division, Khed (Rajgurunagar), should have been allotted in the names of three brothers. Further, pursuant to the Order dated 22.02.2019 of the Hon'ble Bombay High Court, Mumbai, passed in the Petition No.388/2018, the alternative land bearing Gat No. 401/3-Part,

admeasuring 00 Hectares and 67 Are, situated at Village – Nanekarwadi, Taluka – Khed, District – Pune and also the land bearing Gat No. 2276, admeasuring 00 Hectares and 53 Are, situated at Village – Kalus, Taluka – Khed, District – Pune, has been sanctioned to the Project Affected Person by name Shri Rajaram Abasaheb Deshmukh, under the Order bearing No. D.R.O./ Bhama Askhed/S.R./50/2019, dated 21.02.2019. Therefore, it is necessary to set aside the allotment of the land bearing Gat No. 401/3, situated at Village – Nanekarwadi, Taluka – Khed, District – Pune and to pass an order afresh.

Therefore, in pursuance of the Application referred to at Sr. No.1, the prayer of the Applicants is allowed. The Order bearing No. Sakhal/S.R./1/2018, dated 31.10.2018 of the Sub Divisional Officer, Khed Sub Division, Khed Rajgurunagar, issued in exercise of the powers delegated under the Order bearing No. D.R.O./Estt./W.S./19/2019, dated 09.01.2019 of the Collector, is set aside.

As per this Office order No. D.R.O./Bhama Askhed/S.R./50/2019 dated 21.02.2019, passed as per the directions of the Hon'ble High Court, as the area adm.00 Hec. 67 Are from out of the land bearing Gat No.401/3, situated at Nanekarwadi, Tal. Khed, District Pune, has been sanctioned to the project affected person by name Shri Rajaram Abasaheb Deshmukh, the project affected person should give the Gat number of the land of new preference, within 8 days.

Particulars of the land situated at Taluka : Khed, District Pune, sanctioned to the persons as project affected.

Name of Project affected persons	Village	Gat No.	Sanctioned area
1. Kaluram Mahadu Jadhav	Sonvadi	31	0.70
2. Ramesh Mahadu Jadhav	Nanekarwadi	401/4	0.22
3. Sau. Sushila Jhumbar Kute	Koregaon Khu.	525/2	1.21

(emphasis supplied)

42. At this juncture, we may observe that the order dated 05 March, 2019 was passed by the Mr. Bharat Waghmare, Deputy Collector (Resettlement) on the premise that such order was being passed on the direction of the Division Bench in its order dated 22 February, 2019

passed in Contempt Petition No. 388 of 2018 that Rajaram be allotted Gat No. 401/3. Such recital is clearly seen from the order dated 05 March, 2019 which for convenience we have re-extracted hereinabove and more particularly when such order of the Division Bench was nothing but to dispose of the contempt petition, merely recording the statement (whose statement is a question mark) that the order has been complied and it is on such basis, the order dated 31 October, 2018 passed in favour of Kaluram allotting the land Gat No. 401/3 was cancelled. We may thus observe that the order dated 22 February, 2019 allotting the subject land in favour of Rajaram could not have recorded that the same was being passed in pursuance of the directions of the Division Bench in its order dated 22 February, 2019, as projected in the order dated 05 March, 2019. Considering the backdrop of the proceedings, in our opinion, it appears to be a deliberate attempt of the concerned officer namely Mr. Bharat Waghmare, Deputy Collector to misread the orders of this Court to favour Rajaram, there cannot be any other inference from the different orders as passed by the said officer in favour of Rajaram. In fact, this officer was aware about the allotment of the subject land in favour of Kaluram.

43. Sequentially there is another event which has taken place namely the Divisional Commissioner, Pune Division questioning the authority of the Deputy Collector as delegated to him by the Collector by an order

dated 09 January, 2019 to exercise powers under the said Act and revoking such powers, vide his communication dated 04 September, 2019 addressed to the Collector, Pune. We have already extracted the said order of the Divisional Commissioner in the foregoing paragraphs. However, the fact that such order dated 04 September, 2019 being passed by the Divisional Commissioner, who is the highest revenue officer for the Pune Division, as empowered by the provisions of the Act, was not brought to the notice of the Division Bench or was suppressed by the concerned officer when the order dated 11 October, 2019 was passed on Writ Petition No. 3126 of 2019. As a consequence of the said order, the Deputy Collector's powers to make allotment of lands to project affected persons were taken away. Thus there were serious legal consequences which were brought about by the Divisional Commissioner revoking the authority and power of the Deputy Collector (Rehabilitation) to exercise powers of allotting alternate lands under the provisions of the said Act. This more particularly considering the provisions of Section 7 of the said Act, which confers specific powers on the Commissioner to do so. The said provision reads thus:-

**“7. Delegation of powers to subordinate officers.** - (1) The State Government may, by notification in the *Official Gazette* and subject to such restrictions and conditions, delegate such of the powers conferred and duties imposed on the Commissioner or the Collector or the project authority by or under this Act to such officers of the State Government or local authority as it may deem proper and expedient.

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(2) The Commissioner or the Collector may, by order in writing, delegate such of the powers conferred and duties imposed on him by or under this Act,

—

(a) to such officer not below the rank of Tahsildar; or

(b) to such officers of the State Government or local authority as, with the approval of the Commissioner, may be specified in the order.

(3) The project authority may, by order in writing, delegate such of the powers conferred and duties imposed on it by or under this Act to such officers not below the rank of a Sub-Divisional Officer, Deputy Engineer, Assistant Engineer, Assistant Conservator of Forests.”

44. However, at the relevant time, Kaluram was not informed/communicated of the above order passed by the Divisional Commissioner, in such situation, it was too natural for Kaluram to approach this Court to assail the order dated 05 March, 2019 passed by the Deputy Collector (Rehabilitation) cancelling a valid allotment made in favour of Kaluram allotting the subject land vide an order dated 31 October, 2018 for which, he filed Writ Petition No. 3126 of 2019. Such writ petition came to be disposed of in terms of the order dated 11 October, 2019 passed by the Division Bench observing that as there were rival claims to the allotment of alternate lands, it would be appropriate for the Deputy Collector to pass a fresh order of allotment of the said land expeditiously and within a period of two months from the date of the said order. However, as noted above, the order dated 04 September, 2019 passed by the Divisional Commissioner revoking the powers of the Deputy Collector (Rehabilitation) was not pointed out to the Division Bench when the

Division Bench passed the said order dated 11 October, 2019.

45. Thus as Mr. Potnis would urge that the position on the record of the Government was that Mr. Bharat Waghmare, the Deputy Collector (Rehabilitation) could not have exercised powers to pass any order contrary to the orders passed by the Divisional Commissioner dated 04 September, 2019. He would submit that it is clearly seen that delegation of powers by the District Collector in favour of the Deputy Collector was made by an order of the District Collector dated 09 January, 2019. However, Mr. Bharat Waghmare, the concerned Deputy Collector (Rehabilitation) oblivious to the orders dated 04 September, 2019 (who is also the same officer who has passed the orders dated 05 March, 2019 and 21 February, 2019) passed the impugned order dated 02 January, 2020, whereby he cancelled the order dated 05 March, 2019 passed by him thereby confirming Kaluram's allotment in respect of Gat No.252/2 (admeasuring 1 Hectar 21 Ares) and Gat No. 401/4 (0.22 Ares) as allotted to him vide the order dated 31 October, 2018 and in so far as the balance land of 0.67 Ares was concerned (subject matter of disputed Gat No. 401/3) ordering that a separate application in that regard be made by him. However, in so far as the subject land [Gat No. 401/3 (0.67 Ares)] was concerned, he confirmed the allotment of the same to Rajaram, afresh labelling it to be in compliance of the orders of this Court by cancelling

the earlier order dated 21 February, 2019. It is submitted that he further passed a consequential order dated 17 February, 2020 being the impugned order, directing that further appropriate steps be taken and consequential revenue entries be made in respect of allotment of the subject land in favour of Rajaram, which is the subject matter of challenge in this petition.

46. Although Mr. Potnis has pointed out the aforesaid position to us on record, as also on behalf of the State Government pointing out the illegality of the orders passed by Mr. Bharat Waghmare, Deputy Collector (Rehabilitation), we may note the observations of the Supreme Court in paragraph 4 of its order, on the authority of the Deputy Collector (Rehabilitation) which according to Mr. Potnis, do not consider the order dated 09 September, 2019 passed by the Divisional Commissioner revoking the authority of the Deputy Collector (Rehabilitation). He submits that the said orders of the Divisional Commissioner were not challenged by Rarajram in any proceedings. The said observations of the Supreme Court read thus:-

“4. Now so far as the impugned common judgment and order passed by the High Court is concerned the High Court has set aside orders dated 02.01.2020 and 17.02.2020 passed by the Deputy Collector solely on the ground that orders were passed by the Deputy Collector without jurisdiction and therefore, the same is *coram non-judice*. However, it is required to be noted that the Deputy Collector was directed to take a fresh decision pursuant to order dated 11.10.2019 passed by the Division Bench of the High Court in WP



No. 3126/2019 which was as such in the writ petition filed by respondent No.1 – Kaluram Jadhav. The order dated 11.10.2019 passed by the Division Bench of the High Court in WP No. 3126/2019 by which the Deputy Collector was directed to take a fresh decision attained the finality. Therefore, the High Court ought not to have set aside orders dated 02.01.2020 and 17.02.2020 passed by the Deputy Collector on the ground that the same was without jurisdiction and *coram non-judice*. At this stage, it is required to be noted that after order dated 02.01.2020, the said order was sent to the Collector and thereafter, the formal order of allotment dated 17.02.2020 was passed. Therefore, the High Court has seriously erred in setting aside orders dated 02.01.2020 and 17.02.2020 on the ground that the Deputy Collector was not having jurisdiction and therefore order is *coram non judice*. Under the circumstances impugned common judgment and order passed by the High Court quashing and setting aside orders dated 02.01.2020 and 17.02.2020 on the aforesaid ground is unsustainable. However, at the same time as the High Court has not considered the legality and validity of orders dated 02.01.2020 and 17.02.2020 on merits and has not considered the rival claims of the respective parties on merits, the matter is required to be remanded to the High Court for fresh decision to consider the legality and validity of orders dated 02.01.2020 and 17.02.2020 on merits.”

47. On such backdrop, also considering the mandate of the orders passed by the Supreme Court, the scope of adjudication of the present proceedings, is in regard to the merits of the rival claims of Kaluram and Rajaram.

48. It is quite clear that when the allotment of the land in question was made in favour of Kaluram vide an order dated 30 October, 2018, certainly, Rajaram was in no manner affected as prior thereto the land in question was already not allotted in favour of Kaluram. However, it appears that Rajaram kept asserting his claim in respect of the subject land Gat No.401/3 and to the extent of 40 Ares which was not accepted by the Additional Collector.

49. It is neither the statutory scheme nor any legal right of a project affected person to demand a particular plot of land. It appears that Gat No. 401/3 was allotted in favour of Kaluram in a transparent manner and as the same was available, that too in a camp which was attended by 67 project affected persons, who were granted allotment alongwith Kaluram. Thus Kaluram with others was the legitimate beneficiary of Gat No. 401/3 (0.67 Ares). Merely on an assertion of Rajaram which in our opinion was not at all legitimate, by an arbitrary and a high handed manner an order dated 05 March, 2019 was made in his favour, whereby Kaluram's allotment of the subject land was cancelled merely on the insistence and assertion of Rajaram and the same was sought to be allotted in favour of Rajaram.

50. Having examined the record carefully, we are of the opinion that the entire attempt of the concerned Deputy Collector (Rehabilitation) Mr. Bharat Waghmare to pass orders dated 05 March, 2019, 21 February, 2019, 02 January, 2020 and 17 February, 2020 was certainly aimed to cause illegal benefit of allotment of the subject land in favour of Rajaram, keeping aside the legitimate vested entitlement of Kaluram, who was validly allotted the land vide an order dated 31 October, 2018. Moreover, as pointed out in the reply affidavit filed on behalf of the State Government, the entire exercise which was undertaken by Mr. Bharat

Waghmare, Deputy Collector (Rehabilitation) to pass such orders in favour of Rajaram was illegal. Rajaram was not entitled to so much land which was not even his application. This is clear from the following statements as made in the reply affidavit of Shri Sandesh Shirke filed on behalf of respondents:-

“6. I say that the Divisional Commissioner, Pune after going through the records in this case had come to a conclusion that grave injustice was done to Kaluram Jadhav and his brothers when the order of allotment for 67 R from gat no. 401/3 from village Nanekarwadi was cancelled by the then District Rehabilitation Officer, Mr. Waghmare. Considering the record, the Divisional Commissioner had directed the District Collector to remove the powers of allotment of the District Rehabilitation Officer. Pursuant to which the power of DRO were removed by way of order dated 05/09/2019.

....

8. Furthermore, considering all the complaints which have been received the then District Rehabilitation Officer, Mr. Waghmare, an order was issued by the Additional Collector on 07/01/2020 directing the revenue authorities not to implement the orders passed by the then District Rehabilitation Officer to the Mr. Waghmare. A copy of the order 07/01/2020 is hereto annexed and marked as Exhibit R-3.

.....

12. I say that there is no specific direction from the Hon'ble High court to allot the said Land to Rajaram Aba Deshmukh. The Additional Collector vide his decision on 29/10/2018 had directed that 1H-20R from Gat 2276 of Village Kalus to Rajaram Aba Deshmukh. As a result of which only this land could be allotted to Rajaram Aba Deshmukh and not 67 R from Gat 401/3 of village Nanekarwadi.

13. Rajaram Aba Deshmukh is only entitled to an area of 1H-20R of land as part of the rehabilitation process. I say that Rajaram Aba Deshmukh is not a landless person and held more than 3 acres of land. I say that Kaluram Jadhav and his brothers have become landless after acquisition and were entitled to Rehabilitation on priority basis as per the rules set out in order dated 19/10/2018.

14. I say that file of Rajaram Aba Deshmukh was kept before the Additional Collector on 3 separate occasions for approval of the note/ Tipni for allotment of land of Gat Number 401/3. On all the 3 occasions the Additional Collector had either rejected or directed allotment some other Gat Number to Rajaram Aba Deshmukh. I say that despite the above mentioned facts the then DRO proceeded to allot the Gat Number 401/3 to Rajaram Aba Deshmukh which at that point was already allotted to Kaluram Jadhav.

15. I say that the then DRO has allotted 67 R from Gat Number 401/3 of village Nanekarwadi to Rajaram Aba Deshmukh, but there is no application on record to show that the Rajaram Aba Deshmukh had applied for 67R from Gat Number 401/3 of village Nanekarwadi. I say that allotment of Kaluram Jadhav was prior in time and was in consonance with order dated 19/10/2018 passed by the collector read with order dated 30/10/2018 passed by the SDO, Khed who had been granted powers to allot the land to project affected persons of Bhama Askhed Project. I say that Rajaram Aba Deshmukh had never asked for 67R from Gat No. 401/3 from village Nanekarwadi but had only restricted his application to 40R from Gat No. 401/3 of village Nanekarwadi and hence to allotment of more land than what was applied for is against the public policy.

16. With regards to order dated 02/01/2020 and 17/02/2020, I say that the order of cancellation of allotment in favour of Kaluram Jadhav and his brothers and allotment of land in favour of Rajaram Aba Deshmukh is incorrect. I say that from the record it is clear that the Additional Collector by his approval dated 29/10/2018 had directed that 1H-20R from village Kalus should be allotted to Rajaram Aba Deshmukh. Hence the then DRO could not have allotted any other land to Rajaram Aba Deshmukh.

17. I say that in view of the above facts and circumstances only Kaluram Jadhav and his brothers are entitled for 67R from gat no. 401/3 of village Nanekarwadi and the same would be consonance with the order of the Collector dated 19/10/2018 and the allotment order dated 31/10/2018.”

51. In the light of the aforesaid discussion, it is writ large that the impugned orders dated 02 January, 2020 and 17 February, 2020 passed in favor of Rajaram by the District Resettlement Officer are illegal and consequently they are required to be set aside.

52. We accordingly allow Writ Petition No. 9109 of 2021 filed by Kaluram in terms of prayer clause (a). We order that the appropriate revenue entries in regard to Gat No. 401/3 (admeasuring 00.67 Ares) situated at Village Nanekarwadi, Taluka – Khed, District – Pune, be made in favour of the petitioners (Kaluram and others). No costs.

53. Writ Petition No. 2876 of 2022 filed by Rajaram is dismissed with cost of Rs.10,000/- to be deposited with the Maharashtra State Legal Services Authority within two weeks from today.

54. At this stage, Mr. Patil, learned counsel for Rajaram, seeks stay of this order.

55. In the facts and circumstances of the case, the request for stay is rejected.

**[JITENDRA JAIN, J.]**

**[G. S. KULKARNI, J.]**