

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 8900 OF 2014

Anand s/o narayanrao katruwar
age 69 years, occ. Business
r/o Godugalli, Manwat, Tq. Manwat,
Dist. Parbhani

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through Secretary
Urban Development Department,
Mantralaya, Mumbai 32.
2. The Municipal Council,
Manwat, Tq. Manwat, Dist. Parbhani
Through its Chief Officer,
r/o Manwat, Tq. Manwat,
Dist. Parbhani.
3. Secretary
Law and Judiciary Department,
Mantralaya, Mumbai.

.. RESPONDENTS

Mr. Vivek Bhavthankar, advocate for petitioner.
Mrs. S.A. Dhumal, AGP for the State.
Mr. R.R. Chandak, advocate for respondent no. 2.

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**CORAM : R.M. BORDE &
V. K. JADHAV JJ.
DATE : 6th MAY, 2015.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

3. Petitioner is owner of land survey no. 260/5 situate within Municipal limits of Manwat, Tq. Manwat, Dist. Parbhani. Final development plan for Manwat was prepared and notification was published in the official gazette on 31.05.2001. Said plan came into force with effect from 16.07.2001. The land belonging to the petitioner was earmarked in the development plan being site no. 76 for construction of Court building and residential quarters for the Judges. Since respondents did not take any steps for acquisition and development of the property within the time stipulated under section 127 of the M.R.T.P. Act, petitioner proceeded to serve notice to the planning authority as well as the Secretary, Law and Judiciary department, calling upon the concerned authorities to take steps for acquisition of the property within time stipulated under section 127 of the Act and further informing that in the event of failure the reservation over the property shall stand lapsed automatically and the said land shall be available to the petitioner for development as in the case of adjacent land holder. Petitioner contends that inspite of service of notice no steps have been taken by the planning authority or the Law and Judiciary department for acquisition of the property. On the contrary, the District Judge has informed the District Collector that since alternate land has already been made available for construction of the court and for Judges' quarters, the Law and Judiciary department does not need the subject property. It was recommended by the learned District Judge that the reservation in respect of property belonging to the petitioner shall be cancelled. On receipt of report of the District Judge a proposal was forwarded by the Assistant Director, Town Planning,

Parbhani on 27.11.2-13 to the Director, Town Planning, informing that the property belonging to the petitioner i.e. site no. 76 indicated in the final development plan prepared for Manwat town is not required for the acquiring body i.e. Law and Judiciary department and as such, by observing the procedure prescribed under law, the reservation / designation / allotment in the final development plan shall be cancelled. The Director of Town Planning, in turn has communicated the Principal Secretary, Urban Development Department to take steps in pursuance to the report of the Assistant Director. However, it appears that the State Government has not taken further steps. In view of law laid down by the Supreme Court in the matter of Girnar Traders (II) V/s State of Maharashtra & others reported in **(2007) 7 SCC 555** since the planning authority has failed to take steps for acquisition of the property even after receipt of notice as contemplated under section 127 of the M.R.T.P. Act, the designation, allotment or reservation of the property in the relevant development plan shall come to an end and the property shall be available to the petitioner for development as in the case of the adjacent land holder. Writ petition as such deserves to be allowed and the same is accordingly allowed.

4. It is declared that the reservation, designation or allotment in respect of the property belonging to the petitioner being site no. 76 (survey no. 260/5 situate at Manwat, Tq. Manwat, Dist. Parbhani) shall come to an end and said property shall be available to the petitioner for development as in the case of adjacent land holder. The State Government is directed to issue necessary notification in the official gazette as laid down under section 127

of the M.R.T.P. Act, as expeditiously as possible, preferably within a period of six months from today. Rule made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(V.K. JADHAV)
JUDGE

(R. M. BORDE)
JUDGE

dyb