

## FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH : NAGPUR.Writ Petition No. 482 of 2015

Sanjay s/o Ambadas Jain &amp; ors.

v.

The State of Maharashtra &amp; ors.

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Office Notes, Office Memoranda of Coram  
appearances, Court's orders or directions  
and Registrar's orders.

Court's or Judge's orders

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Mr. S.P. Tiwary Advocate for Petitioners.  
Mrs. Maldhure, AGP, for Respondents 1 to 4.  
Mr. A.L. Deshpande Advocate for Respondent no. 5.

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**Coram : B.P Dharmadhikari &  
S.B. Shukre, JJ.**

**Date : 05th May, 2015.**

Heard.

2. AGP is seeking time as instructions are awaited.

3. Fact show that final Development Plan as published under Section 31 of the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act for short) on 25.9.1976 for Jalgaon-Jamod Municipal Council, the land bearing Gat No. 76 admeasuring 69 R situated at Khel Fut and land bearing Gat No. 15 admeasuring 43 R situated at Khel Amanat were reserved for public and semi public

purposes.

4. Petitioner served a notice under Section 127 of MRTP Act on 06.10.1998. Service of a valid notice under said provision, and expiry of period of one year thereafter, without taking any steps for acquisition is not in dispute. Advocate Tiwary submits that in this situation reservation has already lapsed and hence re-fastening of reservation for shopping complex and vegetable market in revised plan published in the year 2006 is unsustainable. He is relying on the Division Bench judgment of this Court in the case of Kishor s/o Siddheshwar Wadotkar v. Director of Town Planning & ors. reported in **2007 (4) Mh.L.J. 427** to substantiate his contentions.

5. Advocate Deshpande appearing for respondent no. 5 submits that the Municipal Council did not need the land after service of notice under Section 127 and, therefore, had not taken steps for acquisition. Even after 2006 the Municipal Council has on 6.2.2009 by majority resolved to delete and to show the land for residential purpose. Accordingly, a proposal for minor modification under Section 37 of MRTP Act was also prepared and submitted. He invites attention to the later resolution dated 7.2.2011 pointing out that as no objections were raised by anybody, the proposal came to be forwarded to the State Government. He submits that this proposal is now being looked into by the State Government.

6. In the light of developments at hand, we are not required to consider the question of fastening back of reservation in revised Development Plan in the year 2006. The Planning Authority, namely respondent no. 5, has not opposed the

reservation as it does not need that land. As such, we are not required to look into the Division Bench judgment, mentioned supra.

7. Fact show that even on 27.9.1999 the Municipal Council had resolved to de-reserve the land of petitioner. Hence, in this situation, as reservation had already lapsed way back in October, 1999, itself, we direct respondents 1 to 4 to proceed further with the proposal sent by the Municipal Council and to take suitable decision within two months. The de-reservation, if any, shall be notified under Section 127(2) of MRTP Act thereafter.

8. Petition is thus partly allowed. No costs.

**Judge**

**Judge**

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