

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR
BENCH, NAGPUR.

WRIT PETITION NO. 1106 of 2014

(Shivkumar Shankarlalji Kothari (H.U.F.) through its karta Shivkumar
Shankarlalji Kothari Vs. The State of Mah. through the Secretary, Urban
Development Dept. and ors.)

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

Court's or Judge's order

Shri G. K. Mundhada, Advocate for petitioner
Shri M. G. Rathi, Advocate for respondent no. 2
Shri N. R. Rode, AGP for the respondent nos. 1,
3 and 4

**CORAM : B. P. DHARMADHIKARI &
A P. BHANGALE, JJ.**

DATE : 11-3-2015.

Heard learned counsel for the respective
parties.

The fact that final development plan
under Section 31 of the Maharashtra Regional
and Town Planning Act, 1966 has come into
force on 1-9-1990 is not in dispute. The service
of valid notice under Section 127 by the
petitioner on 13-7-2012 is also not in dispute.
No notification/declaration under Section
126(4) has been admittedly issued.

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Learned Advocate Shri Rathi for respondent no. 2 submits that because of financial crunch, Municipal Council was not in a position to acquire the land by paying monetary compensation, hence, the petitioner was called for negotiations and the negotiations could not take place as petitioner did not cooperate.

Provisions of Section 127 are very clear as held by the Hon'ble Apex Court in *Girnar Traders Vs. State of Maharashtra and ors.* reported in (2011) 3 SCC 1 and in case of *State of Maharashtra Vs. Bhakti Vendanta Book Trust and ors.* reported in (2013) 4 SCC 676, the reservations lapses after expiry of period of one year. Findings of Hon'ble Apex Court in para 43 of its judgment in the case of *Shrirampur Municipal Council Vs. Satyabhamabai Bhimaji Dawkher and ors.* reported in (2013) 5 SCC 627 clinch the dispute.

In this situation, the writ petition is allowed by making rule absolute in terms of prayer clause (A).

It is declared that the petitioner is at liberty to develop the land owned by him in the manner permissible to adjacent land as per development plan.

No order as to costs.

JUDGE

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