

UNREPORTED**IN THE HIGH COURT OF JUDICATURE AT****BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.2064 OF 2008**

Mahesh S/o Satyanarayan Khatod,
Age 27 years, Occ.Agric and Business,
R/o 22, Shrihari Nagar, Ganesh
Colony area, Jalgaon,
District Jalgaon. ... Petitioner.

Versus

1. The State of Maharashtra
through its Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
2. The District Collector,
Jalgaon, Dist.Jalgaon.
3. The Chief Officer,
Chalisgaon Municipal Council,
Chalisgaon, Dist.Jalgaon.
4. Special Land Acquisition
Officer, Jalgaon, Dist.
Jalgaon, Dist.Jalgaon. ... Respondents.

...

Mr.A.G.Talhar, advocate for the petitioner.
Mr.A.G.Magare, A.G.P for the State.
Mr.R.N.Dhorde, Senior advocate for Respondent
No.3.

...

**CORAM : S.V.GANGAPURWALA AND
A.I.S.CHEEMA, JJ.**

Date : 15.03.2016.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.

2. Mr.Talhar, learned counsel for the petitioner states that the land of the petitioner bearing Gat No.351 to the extent of 1 Hectare 76 Ares was reserved in the Development Plan for housing project to economically weaker section. The learned counsel submits that the Development Plan was prepared in the year 1989. As no steps were taken within a period of 10 years, the petitioner on 14.2.2006, issued notice U/s 127 of the Maharashtra Regional Town Planning Act. The learned counsel submits that declaration U/s 6 was not issued within a period of six (6) months from the service of notice, as such the acquisition stands lapsed. The learned counsel relies on the judgment of the Apex Court in the case of **"Girnar Traders Vs. State of Maharashtra and others"** reported in **(2011) 3 Supreme Court Cases 1.**

3. Mr.Dhorde, learned Senior advocate for Respondent Municipal Council submits that the Municipal Council had passed a Resolution and had forwarded proposal to the concerned authority for taking up acquisition proceedings. As such necessary compliance was made. The learned Senior counsel further submits that in the year 2013 Draft Revised Development Plan was prepared and has been submitted to the Government for sanction. The same is awaiting sanction. As such the reservation does not stand lapsed.

4. We have heard learned A.G.P also.

5. It is not disputed that the land of the petitioner was reserved in the final Development Plan in the year 1989 for housing project meant for economically backward classes. The petitioner issued notice U/s 127 of the MRTP Act on 14.2.2006. The same is served upon the Respondent Municipal Council. It is also not disputed that till date no declaration U/s 6 of the Land Acquisition Act, read with Section 126 of the MRTP Act, has been issued pursuant to the

said notice in respect of the writ land. In view of the judgment of the Apex Court in a case of **"Girnar Traders Vs State of Maharashtra and others"** referred supra, the reservation stands lapsed. The draft revised Development Plan is not yet sanctioned. Moreover, the same would not have any relevance in view of the judgment of the Apex Court in a case of **"Godrej & Boyce Manufacturing Co.Ltd. Vs State of Maharashtra and others"** reported in **2015 (2) Bom.C.R.354.**

6. In light of the above, Rule is made absolute in terms of prayer clause C-1. No costs.

Sd/-
(A.I.S.CHEEMA, J.)

Sd/-
(S.V.GANGAPURWALA, J.)

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