

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**WRIT PETITION NO. 5994 OF 2015  
WITH  
WRIT PETITION NO 6384 OF 2015**

- 1] Smt. Joginderkaur w/o Sarjitsingh Jabinda,  
Age : 65 years, Occ. Household,  
R/o Plot No.59, Dashmeshnagar,  
Aurangabad.
- 2] Gurupratapsingh S/o Sarjitsingh Jabinda,  
Age : 38 years, Occ. Business,  
R/o Plot No. 59, Dashmeshnagar,  
Aurangabad.
- 3] Rajpalsingh S/o Sarjitsingh Jabinda,  
Age : 35 Years, Occ. Business,  
R/o Plot No.59, Dashmeshnagar,  
Aurangabad.

**...PETITIONERS.**

**VERSUS**

- 1] The State of Maharashtra,  
Through Department of Rural Development,  
Mantralaya,  
Mumbai - 400 032.
- 2] Municipal Corporation, Aurangabad,  
Through Commissioner,  
Municipal Corporation, Aurangabad.
- 3] The Assistant Director of Town Planning,  
Municipal Corporation,  
Aurangabad.

**...RESPONDENTS.**

. . . . .

Mr. D. P. Palodkar, Advocate for Petitioners.  
Mrs. S.S. Raut, Assistant Government Pleader for Respondent No.1.  
Mr. A. M. Karad, Advocate for Respondent Nos.2 & 3.

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**CORAM : S. V. GANGAPURWALA &  
A. M. BADAR, JJ.**

**DATE : 22nd FEBRUARY, 2016.**

**PER COURT:**

1] Rule. Rule made returnable forthwith. Heard finally with the consent of parties.

Land of the petitioner in W.P. NO. 5994 of 2015 is reserved as site No. 260 - for Play Ground. Petitioners own land to the extent of 61R. Petitioner in W.P. No. 6384/2015 is concerned with the reservation of site No. 257, Survey No. 127 to the extent of 88R. The said land is reserved for Play ground. According to petitioners, revised Development Plan was sanctioned on 17.8.2002. No steps were taken by the Planning Authority to acquire the said land. As such, petitioners in both the writ petitions, on 6.10.2012 issued notice under Section 127 of the Maharashtra Regional and Town Planning Act. The said notice is served upon the respondent Municipal Corporation. The Municipal Corporation vide its reply dated 23.11.2012 communicated the petitioners that the petitioners have not annexed copy of the Search Report for 30 years and have not submitted measurement map. It was also communicated that the Corporation would allot TDR in respect of the said land, if the petitioners are agreeable for the same.

2] As no steps have been taken for acquisition within one year, the present petitions have been filed.

3] Mr. Karad, learned counsel for the respondent Corporation strenuously contended that reservation are meant for play ground, the petitioners were directed to supply copy of the joint measurement and Search Report for 30 years to show that the petitioners are the owners of the said land. Petitioners failed to supply the said documents. As such, the purchase notice issued by the petitioners is not in conformity with the

provisions of Section 127 of the MRTP Act. Even the petitioners were offered TDR. Same can be considered as compliance of notice under Section 127 of the MRTP Act. Mr. Karad further submits that even proposal is sent to the SLAO for acquiring the said land.

4] We have considered the submissions. It is trite that steps for acquisition means issuance of declaration/notification under Section 6 of the Land Acquisition Act, read with Section 127 of the MRTP Act, as is held by the Apex court in the matter of “*Girnar Traders Vs. State of Maharashtra and Ors*” (3) reported in **(2011)3 SCC 1**. It is not in dispute that the notice under Section 127 of the MRTP Act is served upon the respondent Corporation in October, 2012. Same is also replied by the Municipal Corporation. Joint measurement is not contemplated under Section 127 of the MRTP Act. It contemplates that title document should be annexed with the notice under Section 127. Same appears to have been annexed by the petitioners. Even that is not disputed by the respondent corporation in its reply.

On the other hand, Corporation has replied the notice showing willingness to consider allotting TDR if the petitioners are agreeable.

5] Considering the aforesaid conspectus of the matter, notice under Section 127 of the MRTP Act is rightly served upon the respondents. No steps for acquisition have been initiated i.e. till date declaration under Section 6 of the Land Acquisition Act, read with Section 127 of the MRTP Act, has not been issued. In the light of that, the reservation would stand lapsed.

6] Rule is accordingly made absolute in terms of prayer clauses (B) and (C). No costs.

[A.M. BADAR]  
JUDGE

[S.V. GANGAPURWALA]  
JUDGE

grt/-