

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD
WRIT PETITION NO.7473 OF 2013

Shri Jain Shwetambar Sthanakwasi Shravak Sangh Vs. The State of Maharashtra and others.

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.S.Kulkarni, advocate for the Petitioner
Mr.S.B.Pulkundwar, A.G.P. for the State.
Mr.S.T.Shelke, advocate for Respondent No.3.

**CORAM : S.V.GANGAPURWALA AND
K.K.SONAWANE, JJ.**
Date : 14.06.2016.

PER COURT :

1. Heard.
2. Respondent No.4 Grampanchayat though served, none appears for Respondent No.4.
3. Mr.Kulkarni, learned counsel for the petitioner submits that Town Planning Scheme for village Belapur, Tq.Shrirampur was sanctioned in the year 1983 vide notification dated 14.12.1983. The land of the petitioner bearing Gat No.219 was placed in reservation for town hall and garden. The petitioner is owner to the extent of 60 Ares from Gat No.219. The petitioner initially in the year 2002

had issued notice U/s 127 of the Maharashtra Regional and Town Planning Act. However, the same is not in proper format. As such petitioner again on 15.3.2012, issued notice U/s 127 of the MRTP Act to Respondent No.4. Copy of which was also served upon the Zilla Parishad, the Director of Town Planning. No steps were taken for acquisition within a period of one year. As such the acquisition stands lapsed. The learned counsel relies on the judgment of the Apex Court in a case of **“Girnar Traders Vs. State of Maharashtra and others”** reported in **(2011) 3 Supreme Court Cases 1**. Learned counsel further submits that even a Resolution is passed by the Grampanchayat to the effect that the Grampanchayat does not have any objection if the reservation is lifted from the said land Gat No.219.

4. Mr.Shelke, learned counsel for the Zilla Parishad submits that vide letter dated 21.3.2002, the Chief Executive Officer of the Zilla Parishad had sought guidance from the Assistant Director, Town Planning, Ahmednagar, however, no guidance was received. The Grampanchayat is the acquiring body. It was for the Grampanchayat to take steps for acquisition.

5. Learned A.G.P. states that notice has not been served on the planning authority and is served only upon Grampanchayat. Even the notice served on the Zilla Parishad is not in consonance with Section 124 of the MRTP Act.

6. We have considered the submissions. The fact that the Town Planning scheme was sanctioned for village Belapur vide notification dated 14.12.1983 is not disputed. It is also not disputed that the land of the petitioner to the extent of 60 Ares out of Gat No.219 at Belapur is reserved for Town-hall and garden in the said Town Planning Scheme. The notice is issued U/s 127 of the MRTP Act on 15.3.2012 to the Zilla Parishad and Director, Town Planning. It is also served upon the Grampanchayat. None of the parties dispute that till date no declaration U/s 126 of the MRTP Act, read with Section 6 of the Land Acquisition Act has been issued. In such a case the judgment of the Apex Court in a case of **“Girnar Traders Vs. State of Maharashtra and others”** referred to supra would squarely apply and on lapse of period stipulated U/s 127 of the MRTP Act, the lapsing of reservation would be axiomatic.

7. In light of the above, the Writ Petition is allowed. Rule is made absolute in terms of prayer clauses B and C. No costs.

(K . K . SONAWANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.14.06.2016.
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