

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9631 OF 2015

N. C. L. Associates,
Through its Authorized Partner,
Milind Ashok Chaudhary,
Age : 40 Years, Occcu. : Agri and
Business,
R/o. : 242, Onkar Nagar, Jillha Peth,
Jalgaon, Tq. and Dist. : Jalgaon .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai
2. The Director of Town Planning,
Maharashtra State, Pune
3. The Deputy Director of Town Planning,
Nashik Division, Nashik
4. The District Town Planning Officer,
Jalgaon
5. The Chief Officer,
Municipal Corporation,
Jalgaon, Tq. and Dist. : Jalgaon .. Respondents

Shri A. B. Kale, Advocate for the Petitioner.

Shri A. P. Basarkar, A. G. P. for Respondent Nos. 1 to 3.

Shri Shrikant S. Patil, Advocate for Respondent Nos. 4 and 5.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.
DATE : 18TH FEBRUARY, 2016.**

ORAL JUDGMENT (*Per S. V. Gangapurwala, J.*) :-

. Leave to amend the prayer clauses. Amendment be carried out forthwith.

2. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

3. Heard Mr. Kale, the learned counsel for the petitioner, Mr. Patil, the learned counsel for respondent Nos. 4 and 5. The land of the petitioner bearing Gut No. 5/3 situated at village Khedi Budruk, Taluka and District Jalgaon is reserved in the development plan dated 11.03.2002 for D. P. road and play ground. As the said land was not acquired, nor any steps were taken the petitioner issued notice U/Sec. 127 of the Maharashtra Regional Town Planning Act (for short M.R.T.P. Act) dated 18.05.2012. The same is served upon the respondent No. 5/corporation on 19.05.2012. As no declaration U/Sec. 6 of the Land Acquisition Act read with Section 126 of the M. R. T. P. Act is issued within one year from the date of service of the said notice, the petitioner has filed the present petition with prayer that the the reservation stands lapsed.

3. Mr. Patil, the learned counsel submits that, on receipt of notice U/Sec. 127 of the M. R. T. P. Act, the respondent had offered T.D.R. in respect of land reserved under the D. P. road admeasuring 2010 Sq. Meters. The petitioner has accepted the same, however has not accepted the T. D. R. in respect of land reserved for play ground. The learned counsel submits that, the proposal is forwarded by the respondent/corporation. The learned counsel submits that, the land is required for play ground by the respondent/corporation. Mr. Patil, the learned counsel states that, the certificate of issuance of T. D. R. is also given to the petitioner.

4. The factual matrix and the dates which are narrated above are not disputed. It is not disputed that final revised Development Plan was published on 11th March, 2002. Thereafter, on 18.05.2012 notice U/Sec. 127 of the M. R. T. P. Act was given by the petitioner. The same is served on the respondent No. 5 on 19.05.2012. The petitioner was offered T. D. R. The petitioner has accepted the T.D.R. in respect of the land reserved for D. P. road bearing site No. 34 admeasuring 2010 Sq. Meters. However, has not accepted any T. D. R. in respect of land reserved for play ground. It is also not disputed that till date the respondents have not initiated any acquisition proceedings, no declaration U/Sec. 6 of the Land Acquisition Act read with Section 126 of the M. R. T. P. Act has been issued. In view of the

judgment of Apex Court in a case of **Girnar Traders Vs. State of Maharashtra** reported in **2011(3) SCC 1**. The reservation in respect of play ground would stand lapsed.

5. In light of the above, we pass the following order.

6. The reservation in respect of the land of the petitioner to the extent of 1910 Sq. Meters from land Gut No. 5/3 of village Khedi Budruk, Taluka and District Jalgaon i. e. site No. 7 part and 5 part stands released from reservation. The necessary notification be issued in that regard. Rule accordingly is made absolute in above terms. No costs.

Sd/-

[A. M. BADAR, J.]

Sd/-

[S. V. GANGAPURWALA, J.]