

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8326 OF 2014

GOVIND TRIMBAK CHAUDHARI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Abhijit B. Kale
AGP for respondent Nos. 1 to 4 : Mrs. M.A. Deshpande
Advocate for respondent No.5 : Mr. R.A. Tambe.

CORAM : S.V. GANGAPURWALA &
K.K. SONAWANE, JJ.

DATE : 7th APRIL, 2016.

PER COURT:

1] Heard. Mr. Kale, learned counsel submits that Development Plan of Shrirampur Taluka was published and sanctioned in the year 1975. Same was revised and the revised Development Plan came into force on 13.10.1991. Learned counsel submits that land of the petitioner was not acquired for 10 years. Petitioner on 19.8.2013, issued notice under section 127 of the MRTP Act. Land of the petitioner was reserved at Site No. 38A. According to learned counsel, purchase notice was served upon the respondents on the very same day. Learned counsel submits that within one year from the service of notice under Section 127 of the MRTP Act, no steps have been taken by the respondents for acquisition of the said property. As such the reservation has been lapsed.

2] Mr. Tambe, learned counsel for the respondents submits that the respondent Municipal Council had reserved the said land for the purpose of vegetable market and shopping center. Subsequently, the Arbitrator completed the Town Planning Scheme No. 4 and the said land is also meant for vegetable market and shopping center. The town planning scheme is required to be challenged before the Tribunal in appeal. As such, the present petition is not maintainable. In the said town planning scheme,

petitioner has been given final Plot No. 80/3, admeasuring 5321.04 square meters.

3] In the present matter, we are concerned with the effect of notice under Section 127 of the MRTP Act. It is not disputed that by the time statutory period laid down under Section 127 was over, the Town Planning Scheme was not finalized. We are not concerned with the effect of the Town Planning Scheme in the present case. If the parties are aggrieved by any acts done during finalization of the town planning scheme, parties are at liberty take appropriate steps in that regard. It would be seen that in the development plan, land of the petitioner was reserved. Notice under Section 127 was issued and no declaration under section 6 of the Land Acquisition Act read with Section 126 of the MRTP was issued, within the statutory period of one year. In view of that, the reservation would axiomatically stand lapsed.

4] In light of the above, we pass the following order :-

[a] The reservation of the development plan as Site No. 38A of the petitioner's Gat No. 43/2 + 3/2 new Gat No. 40/91, stands lapsed.

[b] It is made clear that we have not considered the Town Planning scheme and the parties are at liberty to take recourse to such proceedings, as are permissible in law.

[c] Writ petition is disposed of. No costs.

[K.K. SONAWANE,J.]

[S.V.GANGAPURWALA,J]

grt/-