

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

WRIT PETITION NO.11350 OF 2015

Shri. Vijaykumar Dipchand Chordia, .. **PETITIONERS**
and others

VERSUS

The State of Maharashtra .. **RESPONDENTS**
and others

Mr.Anand P. Bhandari, Advocate for the petitioners
Mr.V.M.Kagane, AGP for the respondent/ State
Mr.S.S.Patil, Advocate for respondent No.2
Mr.V.D.Gunale, Advocate for respondent No.3

**CORAM : A.V.NIRGUDE &
V.L. ACHLIYA, JJ.**
DATED : 13.04.2016

P.C.:- A.V.NIRGUDE, J.

1. By consent of the learned counsels for the parties taken up for final hearing.

2. Rule. Rule made returnable forthwith.

3. This petition seeks declaration that the petitioner's land which was shown reserved for public

purpose stood dereserved.

4. The facts are as under:-

. The petitioners are owner of land Gut No.185/1-A, village Mehrun, Tq. & Dist. Jalgaon which is situated within the Municipal limits of Jalgaon. The area of the land is about 91-R. On 07.03.2002 the development plan for city of Jalgaon was sanctioned. This land was shown reserved for playground. Within ten years from the date of publication no acquisition took place and so the petitioners served the purchase notice on all the respondents as required under Section 127 of the Maharashtra Regional And Town Planning Act. Soon after the notice was served the respondent No.3 Municipal Corporation offered T.D.R. as compensation for the land in question. The petitioners did not agree to accept such offer and thereafter respondent No.3 sent a proposal for acquisition of the land to the State of Maharashtra. The State of Maharashtra, however, did not take further steps such as issuance of notification under Section 6 of the Land Acquisition Act.

5. Now the petitioners seek declaration from this Court that the land stood dereserved. The petition is opposed and the learned counsel for the respondent No.3

contended that the offer of T.D.R. was sufficient step as contemplated by Section 127 of the M.R.T.P. Act. The law on this subject is now quite settled. Step required to be taken within one year from service of purchase notice is nothing less than issuance of notification under Section 6 of the Land Acquisition Act. If we go back to the provisions of Section 126 respondent No.3 was still at liberty to acquire the land by way of agreement with the petitioners. The agreement did not materialize and therefore no steps were taken and therefore it cannot be held that the substantive steps were taken as required by Section 127 of the M.R.T.P. Act. The petition should therefore succeed.

6. The writ petition is allowed in terms of prayer Clauses (B) & (C). Rule made absolute accordingly. No costs.

[V.L. ACHLIYA, J.]

[A.V.NIRGUDE, J.]