

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 324 OF 2016

DHANANJAY ASHOK SATBHAI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. C.R. Deshpande

CORAM : S.V. GANGAPURWALA &
K.K. SONAWANE, JJ.
DATE : 20th APRIL, 2016.

PER COURT:

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

2] Mr. Tungar, learned counsel for petitioners submits that the Development Plan for the city of Dhule was published on 1.1.1987. The NA permission was granted to the predecessor of the petitioner in respect of 7800 square meters of land. Learned counsel for the petitioner submits that land of the petitioner bearing Survey No. 2/1B, measuring 1400 square meter is shown reserved for Town Hall and Library in the Development Plan. As no steps were taken for acquisition for a period of 10 years, the petitioner issued a notice under Section 127 of the MRTP Act on 10.11.2005. The said notice is served upon the respondent. However, no steps for acquisition were initiated by the respondents. No declaration under Section 6 of the Land Acquisition Act read with section 126 of the MRTP Act was issued. The learned counsel submits that the reservation, as such, has lapsed. Subsequent revision of the Development Plan in the year 2012 would not affect the right of the petitioner. The petitioner relies on the judgment of the Supreme Court in the matter of *Godrej and Boyce Manufacturing Company Ltd. vs. State of Maharashtra and others*, reported in (2015)11 SCC 554.

3] Mr. Sawant, learned counsel for the respondent Municipal Corporation

submits that after purchase notice dated 10.11.2005 was received by the respondent Municipal Corporation, the Municipal corporation has passed a resolution on 21.1.2016. Same was also forwarded to the State Government. Learned Counsel submits that steps for acquisition have been initiated. Learned counsel submits that subsequently on 28.12.2012, revised development plan has been published and the said land is again under reservation. In view of that, the petitioner cannot claim any benefit.

4] We have heard the AGP as well.

5] We have considered the submissions of the learned counsel for the respective parties. The factual matrix is not dispute. Service of purchase notice upon the respondent is not disputed. It is also not disputed that till date, no declaration under section 6 of the Land Acquisition Act r/w. Section 126 of the MRTP Act has been issued. The Apex Court in the matter of *Girnar Traders Vs. State of Maharashtra and others* reported in **2011(3) SCC 1**, has held that steps of acquisition would mean issuance of declaration under Section 6 of the Land Acquisition Act r/w. Section 126 of the MRTP Act. Subsequent issuance of Revised Development Plan would not also affect the right of the petitioner, as by virtue of section 127 of the MRTP Act, lapsing the reservation is axiomatic after the stipulated period, as is held in the matter of Godrej and Boyce (supra).

6] In the light of the above, reservation in respect of land Survey No. 2/1B, situated at Mouje Mohada Taluka and District Dhule, stands lapsed. Respondent Municipal Council shall issue consequential notification in that regard.

7] Rule made absolute accordingly in above terms. No costs.

[K.K. SONAWANE,J.]

[S.V.GANGAPURWALA,J]

grt/-