

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1934/2012

(VISHNU SWAMI ASHRAM FAMILY ENDOWMENT TRUST, BULDANA & ANOTHER **VERSUS** STATE OF
 MAHARASHTRA)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri N.A. Padhye, counsel for the petitioners.
 Mrs. Harshada Prabhu, A.G.P. for the R-1 to 3.
 Ms Dipali Sapkal h/f Shri A.S. Kilor, counsel for the R-4.
 Shri Abhay Sambre, counsel for the R-5.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : NOVEMBER 23, 2016.

In this petition, the petitioners have made two prayers; one for a declaration that the reservation of the land of the petitioners has lapsed under the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and the other for a declaration that the award passed by the Special Land Acquisition Officer is liable to be set aside in view of the provisions of Section 11 of the Land Acquisition Act, 1894.

Since the award is already passed under the provisions of section 11 of the Land Acquisition Act by taking effective steps within the stipulated period, a declaration in regard to the lapsing of reservation under section 127 of the Maharashtra Regional and Town Planning Act, 1966 cannot be granted in favour of the petitioners. The declaration under section 127 in respect of deemed lapsing could be granted only if the appropriate authority fails to take steps within the period of one year from the date of service of the notice. In this case, effective steps were taken by the respondents within

a period of one year from the date of service of the notice and, hence, a declaration in respect of deemed lapsing, cannot be granted.

The second prayer made by the petitioners that the award be set aside in view of the provisions of section 11 of the Land Acquisition Act, 1894 as the same was not passed within a period of two years from the issuance of section 6 notification, cannot be granted as the acquisition proceedings in this case were not initiated under the provisions of Land Acquisition Act, 1894 and were initiated under the provisions of section 126 of the Maharashtra Regional and Town Planning Act, 1966. It is held by the Hon'ble Supreme Court in the case, popularly referred to as **GIRNAR 3**, reported in **(2011) 3 SCC 1** that the provisions of section 11A of the Land Acquisition Act, 1894 would not apply to the acquisition proceedings initiated under the provisions of the Maharashtra Regional and Town Planning Act, 1966.

Since the relief sought by the petitioners cannot be granted in the circumstances of the case, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

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