

UNREPORTED**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.4091 OF 2017**

1. Khushbir Singh Basant Singh
Bindra, Age 66 years, Occ.
Business.

2. Harvinder Singh Basant Singh
Bindra, Age 58 years, Occ.
Business.

3. Narinder Singh Basant Singh
Bindra, Age 56 years, Occ.
Business.

All R/o Plot No.5, Guru Kripa,
Jyotinagar, Aurangabad. ... Petitioners.

Versus

1. The State of Maharashtra,
through Urban Development
Department, Mantralaya,
Mumbai-400 032.

2. Aurangabad Municipal
Corporation, Aurangabad,
through its Commissioner,

3. The Commissioner,
Aurangabad Municipal
Corporation, Aurangabad. ... Respondents.

...
Mr.Nikhil Tekale, advocate holding for
Mr.D.P.Palodkar, advocate for the petitioners.
Mr.P.S.Patil, Additional Government Pleader for
the State.
Mr.J.R.Shah, advocate fro Respondent Nos.2 and 3.

**CORAM : S.V.GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

Date : 11.09.2017.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Rule. Rule returnable forthwith. With the consent of the learned counsel for the parties, the petition is taken up for final hearing.

2. The learned counsel for the petitioners states that the land of the petitioners bearing CTS No.17355 is reserved for shopping centre vide reservation site No.310, Parking vide Reservation site No.310 A, Garden vide Reservation site No.311 and two 9 meters wide roads on northern as well as southern part of reservation site No.310 as per the revised development plan dated 17.8.2002. On 5.6.2015, notice U/s 127 of the MRTTP Act was served on the Municipal Corporation, Aurangabad, along with the total papers in the nature of certified copy of PR card. Though statutory period of 12 months has expired, no steps for acquisition has been initiated by the Respondents. As such reservation stands lapsed.

3. Mr.Shah, learned counsel for the Corporation submits that the petitioners failed to comply with queries raised in letter dated 5.6.2015, the Corporation requested the advocate of petitioner to submit the Development proposals under the accommodation reservation policy for land acquisition. The same was not submitted. The petitioner was also called upon to submit the original papers pertaining to ownership and the map.

4. The learned counsel for the petitioners states that the offer of the Corporation of accommodation reservation is not acceptable.

5. It appears that the title of the petitioners was never disputed by the Respondent Corporation. The certified copy of the PR card was submitted along with the notice U/s 127 of the MRTP Act.

6. The provisions of Section 127 of the MRTP Act, acts as fetters on powers of eminent domain. In view of the judgment of the Apex

Court in the case of "**Girnar Traders Vs. State of Maharashtra and others**" reported in **(2007) 7 Supreme Court Cases 555**, if the steps are not taken within the period as stipulated U/s 127 of the MRTP Act, the reservation stands lapsed. In view of that the reservation on CTS No.17355 situated at Kranti Chowk, Aurangabad, stands lapsed. Consequential steps be taken accordingly.

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

Sd/-

(MANGESH S. PATIL, J.)

Sd/-

(S.V.GANGAPURWALA, J.)

