

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9029 OF 2016

Jalgaon Constructions,
Through its Managing Director,
Gopal Baburao Devkar,
Age: 48 Years, Occu.: Business,
R/o.: Madhuban, Jaynagar,
Jalgaon, Tal. and Dist.: Jalgaon

.. **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai
2. The Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai
3. The Directorate of Vocational Education
and Training, 3, Mahapalika Marg,
Mumbai
4. The Collector, Jalgaon
5. The Director of Town Planning,
Maharashtra State, Pune
6. The Assistant Director of Town Planning,
B. J. Market, Jalgaon
7. The Industrial Training Institute,
Opposite Government Polytechnic College,
N H 6, Jalgaon

8. The Commissioner,
Municipal Corporation, Jalgaon,
Tal. & Dist. - Jalgaon

.. **Respondents**

Shri Ajeet B. Kale, Advocate for the Petitioner.

Shri S. W. Mundhe, A. G. P. for Respondent Nos. 1 to 7.

Mrs. Chaitali Kutti Choudhary, Advocate for Respondent No. 8.

WITH
WRIT PETITION NO. 3585 OF 2016

1. Abhishek Omprakash Agrawal,
Age: 42 Years, Occu.: Agriculture
& Business
2. Ritesh Omprakash Agrawal,
Age: 38 Years, occu.: Agriculture
& Business
3. Bharti Satish Bhole,
Age: 56 Years, Occu.: Agriculture
& Household

All R/o.: 122, Navi Peth,
Jalgaon, Tal. and Dist.: Jalgaon

.. **Petitioners**

Versus

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai
2. The Secretary,
Higher and Technical Education Department,
Government of Maharashtra,
Mantralaya Annex, Mumbai
3. The Directorate of Vocational Education
and Training, 3, Mahapalika Marg,
Mumbai

4. The Industrial Training Institute,
Opposite Government Polytechnic College,
N H 6, Jalgaon
5. The Collector, Jalgaon
6. The Director of Town Planning,
Maharashtra State, Pune
7. Jalgaon Municipal Corporation,
Through its Commissioner,
Jalgaon, Tal. and Dist.: Jalgaon .. **Respondents**

Shri Ajeet B. Kale, Advocate for the Petitioners.

Shri S. W. Mundhe, A. G. P. for Respondent Nos. 1 to 6.

Shri V. D. Gunale, Advocate for Respondent No. 7.

WITH
WRIT PETITION NO. 9031 OF 2016

1. Hiranman Chandrabhan Patil,
Age: 52 Years, Occu.: Agriculture
2. Vishnukant Pukhraj Maniyar,
Age: 50 Years, Occu.: Business,
Both R/o. Ganpatinagar,
Near Balaji Temple, Jalgaon,
Tal. and Dist.: Jalgaon .. **Petitioners**

Versus

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai
2. The Secretary,
Higher and Technical Education Department,

Mantralaya, Mumbai

3. The Directorate of Vocational Education and Training, 3, Mahapalika Marg, Mumbai
4. The Collector, Jalgaon
5. The Director of Town Planning, Maharashtra State, Pune
6. The Assistant Director of Town Planning, B. J. Market, Jalgaon
7. The Industrial Training Institute, Opposite Government Polytechnic College, N H 6, Jalgaon
8. The Commissioner, Municipal Corporation, Jalgaon, Tal. & Dist. - Jalgaon

.. **Respondents**

Shri Ajeet B. Kale, Advocate for the Petitioners.

Shri S. W. Mundhe, A. G. P. for Responent Nos. 1 to 7.

Mrs. Chaitali Kutti Choudhary, Advocate for Respondent No. 8.

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

DATE : **21st September, 2017**

JUDGMENT (*PER S. V. GANGAPURWALA, J.*):

1. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. The lands of petitioners bearing Gut No. 341/2 to the extent of 1H 66R, Gut No. 341/1 to the extent of 1H 65R and land Gut No. 341/3 to the extent of 1H 60R respectively situated at Pimprala, Taluka and District - Jalgaon is reserved as Site No. 68 for I.T.I. College in the Development Plans of the city which came into effect from 11.2.2002 and 1.10.2004.

3. For a period of 10 years no steps were taken for development, as such, the petitioners on 17.6.2015 and 19.01.2015 issued notices U/Sec. 127 of the Maharashtra Regional and Town Planning Act (for short "MRTP Act") to the appropriate Authority i. e. I.T.I. The steps for acquisition are not taken thereafter, as such, the petitioners have moved the present petitions seeking declaration that the lands stand de-reserved. Mr. Kale, the learned counsel for petitioners relies on the judgment of the Apex Court in a case of **Girnar Traders Vs. State of Maharashtra and others** reported in **2011 (3) SCC 1** to state that if after service of notice U/Sec. 127 of the MRTP Act no steps are taken within the period as stipulated for acquisition, the reservation stands lapsed.

4. Mrs. Kutti and Mr. Gunale, the learned counsel appearing for respondent/Municipal Corporation submit that the notices were not served upon the respondent/Municipal Corporation being the Planning Authority, as such, the notices U/Sec. 127 of the MRTP Act are illegal. The resolution was passed by the

corporation for de-reserving the lands as proposal was received from respondent No. 7/I.T.I. that it does not require the land.

5. It appears that the writ lands bearing land Gut Nos. 341/2 to the extent of 1H 66R, Gut No. 341/1 to the extent of 1H 65R and land Gut No. 341/3 to the extent of 1H 60R are reserved as Site No. 68 for the purpose of respondent No. 7/I.T.I. college under the Development Plans dated 11.2.2002 and 1.10.2004. For the period of 10 years, no steps are taken in respect of the said lands either by the Appropriate Authority or the Planning Authority. On or about 17.6.2015 and 19.01.2015 the petitioners issued notices U/Sec. 127 of the MRTP Act to the Appropriate Authority i. e. respondent No. 7. No steps were taken for acquisition for a period of 1 year from the date of issuance of notices.

6. Section 127 of the M. R. T. P. Act, acts as fetters on the powers of eminent domain. As no steps are taken for acquisition for 1 year after the service of notices U/Sec. 127 MRTP Act the reservation stands lapsed.

7. Even, otherwise it has been submitted by the learned A.G.P. that the said lands are not required for I.T.I.

8. Considering the aforesaid conspectus of matters, the lands of petitioners bearing Gut No. 341/2 to the extent of 1H 66R, Gut

No. 341/1 to the extent of 1H 65R and land Gut No. 341/3 to the extent of 1H 60R respectively situated at Pimprala, Taluka and District – Jalgaon reserved as site No. 68 stand released from reservation. The respondents shall take further consequential steps within 6 months pursuant to the release of the said lands from reservation.

9. Rule made absolute in above terms. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

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