

UNREPORTED**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.13292 OF 2017**

1. Sarthak S/o Rajesh Bhansali,
Age 24 years, Occ.Business,
R/o Sakuri, Tq. Rahata,
Dist.Ahmednagar.

2. Rajendra S/o Dattatraya Wable,
Age 50 years, Occ.Business,
R/o Wable Complex, Nagar-
Manmad Road, Rahata, Tq.Rahata,
Dist.Ahmednagar. ... Petitioners.

Versus

1. The State of Maharashtra,
through the Secretary,
Ministry of Urban Development,
Mantralaya, Mumbai-32.

2. The Director of Town
Planning Department,
Maharashtra State, Pune.

3. The Deputy Director of
Town Planning, Nashik
Division, Nashik.

4. The Municipal Council
Rahata, Tq. Rahata, Dist.
Ahmednagar, through its
Chief Executive Officer

5. The District Collector,
Ahmednagar, Tq. and Dist.
Ahmednagar. ... Respondents.

...

Mr.Amol Gandhi, advocate for the petitioners.
Mrs.Vaishali Patil Jadhav, A.G.P.for the State.
Mr.S.A.Ambilwade, advocate holding for
Mr.A.S.Sawant, advocate for Respondent No.4.

...

**CORAM : S.V.GANGAPURWALA AND
A.M. DHAVAL, JJ.**

Date : 12.03.2018.

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

1. Heard.

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

3. The petitioners claim to be the owner of land S.No.267/7 situated at Rahata. It is submitted that reservation No.43 meant for High-School is on the petitioners' land S.No.267/7.

4. As no steps were taken by the Respondents, the petitioners issued purchase notice U/s 127 of the Maharashtra Regional and Town Planning Act, 1966 on 23.5.2015. The

declaration U/s 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is not issued within a period of one year from the date of issuance of notice.

5. Learned advocate for Respondents submits that the Resolution is passed by the Municipal Council on 30.9.2010 for modification of the reservation of the petitioners' land into commercial/residential zone. The proposal is also forwarded to the State Government for sanctioning the proposed modification. The correct map was directed to be submitted to the petitioners. The financial condition of the Municipal Council is bad and the Municipal Council is not in a position to purchase the said land. It is also stated on the affidavit that the financial condition is not good.

6. It is not disputed by the Respondents that upon the land of the petitioners bearing S.No.267/7 reservation No.43 for High-School exists since January 1993. It is also not

disputed that the Respondents have received notice issued by the petitioners dated 25.3.2015 U/s 127 of the MRTP Act. It is also not disputed that no declaration U/s 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has been issued till date.

7. The provisions of Section 127 of the MRTP Act, is a fetter on the power of the eminent domain.

8. As steps of acquisition have not been initiated by the Respondents within the period of one year from the date issuance of notice, reservation stands lapsed. The learned counsel relies on the judgment of the Apex Court in the case of **"Girnar Traders Vs. State of Maharashtra and others"** reported in **(2011) 3 Supreme Court Cases 1.**

9. In light of the above, the land of the petitioners bearing S.No.267/7 to the extent of area under reservation No.43 for High-School

stands released from reservation. Consequential notification be issued.

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

Sd/-

(A.M.DHAVAL, J.)

Sd/-

(S.V.GANGAPURWALA, J.)

asp/office/wp13292.17

