

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11696 OF 2017

Kiran Govindrao Tirmanwar and another .. **Petitioners**

Versus

The State of Maharashtra and others .. **Respondents**

Shri Upendra B. Bilolikar, Advocate for Petitioners.

Shri A. V. Deshmukh, A.G.P. for Respondent Nos. 1 to 3.

Shri B. A. Darak, Advocate for Respondent No. 4.

Respondent No. 5 served.

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 5th April, 2018

PER COURT :

1. The petitioners claim to be the owner and possessor of land bearing Gut No. 224 to the extent of 1 Hector 20 Are situated at Kinwat. The land of the petitioners is affected under reservation in the development plan dated 27.05.2002, for administrative building. The petitioners issued notice under Section 127 of The Maharashtra Regional and Town Planning Act on 12.01.2015.

The notice is served upon the Municipal Council. The respondent - Municipal Council upon service of notice asked the petitioners to submit documents under letter dated 21.09.2015. Pursuant thereto, the petitioners submitted the documents on 29.09.2015, as required.

2. The respondents did not take any steps for acquisition within one year from the date of service of notice, as at the relevant time when the notice was issued, the notice period contemplated was one year.

3. We have heard Mr. Bilolikar learned counsel for the petitioners and Mr. Darak, learned counsel for the respondent.

4. It is admitted by the respondent that till date no declaration under Section 126 read with Section 19 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is issued.

5. Provisions of Section 127 of the The Maharashtra Regional and Town Planning Act is a fetter on the power of eminent domain. The petitioners had complied with all the requirements

of Section 127 of The Maharashtra Regional and Town Planning Act. Even the documents of ownership and measurement map are submitted, however, no steps are taken for acquisition.

6. Considering the above, the reservation of the land of the petitioners from Gut No. 224 at Kinwat, to the extent of 1 Hector 20 Are, stands released from reservation. Necessary notification be issued accordingly.

7. The writ petition accordingly stands disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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