

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10727 OF 2017

Rakshaben Mahendra Shah
and another

.. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Sushilkumar H. Tripathi, Advocate for Petitioners.
Mrs. A. V. Gondhalekar, Addl.G.P. for Respondent Nos. 1 to 3.
Mrs. Chaitali R. Kutti/Choudhari, Advocate for the Respondent
No. 4.

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

DATE : 28TH FEBRUARY, 2018.

FINAL ORDER :

. According to petitioners, land Sy. No. 461/2/2 situated at Meharun, Tq. & Dist. Jalgaon is reserved for dispensary and maternity home in the development plan of the year 2004 of Jalgaon as site No. 137. The development plan came into effect from 10.08.2004. The petitioners issued notice U/Sec. 127 of the Maharashtra Regional Town Planning Act, 1966 (for short "Act of 1966") on 30.03.2015. The notice was served upon the respondent No. 4 on the same day, however, no steps for acquisition are taken. The declaration U/Sec. 19 of the Right to Fair Compensation and Transparency in Land Acquisition,

Rehabilitation and Resettlement Act 2013 (for short "Act of 2013") has not been issued.

2. Mrs. Kutti, the learned advocate for the respondent No. 4 submits that, upon receipt of the purchase notice U/Sec. 127 of the Act of 1966, the respondent No. 4/Municipal Corporation has submitted the proposal to the Collector on 09.01.2017 for acquisition of said land.

3. No steps for acquisition have been taken within a period of one year from the date of issuance of notice. No declaration U/Sec. 19 of the Act of 2013 has been issued within said period, nor the same is issued till date. In view of the judgment of the Apex Court in a case of Girnar Traders (3) V/s. State of Maharashtra and others reported in (2011) 3 SCC 1, the reservation stands lapsed. Section 127 of the Act of 1966, acts as fetters on the powers of eminent domain

4. In view of the above, the writ petition is allowed in terms of prayer clause "A". Necessary notification be issued accordingly. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]