

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9640 OF 2017

Mr. Gurupadappa Davalappa Savali
since deceased through his legal heirs

1. Shri Shivsharan Gurupadappa Savali and ors. ..Petitioners

Versus

The State of Maharashtra through
the Principal Secretary, Urban Development
Department and ors.

..Respondents

Mr. Ramdas P. Sabban, advocate for the petitioners.

Mrs. M. P. Thakur, AGP for the State.

Mr. S. S. Kulkarni, advocate for the respondent No.3.

CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.

DATE : 8th FEBRUARY, 2018.

P. C. :

Heard learned counsel and learned AGP appearing for the
respective parties.

2. The petition is filed for following reliefs :

(a) This Hon'ble Court may be pleased to issue a
Writ of Mandamus or any other appropriate Writ,
direction or order directing the respondent State
Government to take reasoned decision u/S.50 of the
MRTP Act, 1966, on the said Application dt.02-08-
2017 (copy annexed hereto as Exhibit-G) for deletion
of the said land reservation No.17-Extension of
Maindargi Municipal Council office, made on the
petitioner's House No.1098/A, admeasuring 273 sq.

mtrs. in view of the Municipal Council Resolution No.105/dt. 11-08-2009 and No.101/dt.11-04-2011;

(b) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or order directing the respondent Divisional Commissioner to take reasoned decision u/S.48 of the Land Acquisition Act, 1894, on the said Application dt. 02-08-2017 (copy annexed hereto as Exhibit-G) for withdrawal of the petitioner's lands at House No.1098/A, admeasuring 273 sq.mtrs from the acquisition under the said Award No.2 (SR-107 to 109), as possession of the land is not taken from all legal heirs in accordance with law, and as per said Resolution of Municipal Council and as per the S.L.A.O. proposal dated 20th November, 2009;

3. So far as relief claimed in prayer clause (a) is concerned, the land, in question, was reserved for Municipal Council Building and, therefore, appropriate authority and planning authority is one and the same. Mr. Sabban, learned counsel for the petitioners, submitted that the Municipal Council passed resolution recommending deletion of this reservation. Mr. Kulkarni, learned counsel for the respondent No.3-Council, submitted that this reservation is cancelled by the Collector. Be that as it may, admittedly, subsequent to this reservation, the subject land was acquired by the Municipal Council by following appropriate

procedure and possession of the subject land was also taken from the petitioners. In the aforesaid circumstances, the relief claimed in this prayer cannot be granted.

4. So far as relief claimed in prayer clause (b) is concerned, the same is also misconceived as the petitioners could not point any valid reason as to why the subject land is required to be deleted from acquisition.

5. In the above circumstances, we find that the petition is devoid of any merits and the same is, accordingly, dismissed.

[SMT.ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]