

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

6 WRIT PETITION NO.1732 OF 2018

SITARAM RAGHO PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. P.R.Patil & Mr. I.A.Chandorikar, Advocates for Petitioner.
Mr. V.M.Kagne, AGP for Respondents-State.
Mr. D.B.Thoke, Advocate for Respondent No.6.

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

DATE : 10th July, 2019

PER COURT :-

1. The land of the petitioner's is reserved for School and Playground under the development plan, dated 03.12.1988. On or about 22.06.2013, notice was issued by the petitioner under Section 127 of the MRTP Act. According to the petitioner, no steps for acquisition are initiated within the stipulated period, as such the acquisition proceedings stand lapsed.

2. Mr. Thoke, the learned counsel for the respondent-Municipal Council submits that the Municipal Council has sent the revised proposal for development plan and the

present land is also a part of the same. The respondent-Municipal Council on 07.08.2013 submitted proposal with the office of District Collector for acquisition of Survey No.438/2A (final Plot No.262) admeasuring 0.46 R. The proposal is received by the Collector. The land is reserved for the purpose of the playground. It is essential to maintain the said reservation as playground. The learned counsel submits that the said land reserved for playground cannot be de-reserved.

3. It is not disputed that the land of the petitioner is reserved for a playground and school under the development plan of the year 1988. No steps for acquisition were initiated. The petitioner issued notice under Section 127 of MRTP Act. It is served. As yet no declaration under Section 19 of the Right to Fair Compensation Act read with Section 126 of the MRTP Act is issued. The land qua operation of statute stands de-reserved.

4. Considering the fact that the land is reserved for playground. We would grant time to the Municipal Council to acquire the same. Though we have observed that the writ land stands de-reserved by operation of law, as the respondent-Municipal Council has not taken any steps for

acquisition, even after lapse of statutory period, upon service of notice under Section 127. However, we direct the petitioner that the petitioner shall not use the said land for any purpose for a period of one year. Within a period of one year the respondent-Municipal Council shall acquire the writ property. In case, the Municipal Council does not acquire the writ property within a period of one year, thereafter the petitioner shall be entitled to use the land for the purpose, as the adjacent land is permitted and thereafter the necessary notification be issued by the Government, releasing the writ land of the petitioner from reservation.

5. The Writ Petition is accordingly disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

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vmk/-