

WRIT PETITION NO.6718 OF 2019

Jeevan Bhagwan Choudhari & other.	Petitioners
Versus	
The State of Maharashtra and others.	Respondents

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Mr. A.B. Kale, Advocate for the petitioner.
Mr. S.B. Yawalkar, A.G.P. for the State/Respondent Nos.1 & 2.
Mr. S.S. Patunkar, Advocate for respondent No.3.

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**CORAM : S.V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**

DATE : 25 November 2019.

ORDER :-

We have heard learned Counsel for the petitioners and respondents. Affidavit is filed by Chief Officer, Municipal Council, Ambad. Para 6 to 10 of the affidavit reads thus :

6. The respondent no.3 submits that, initially, in pursuance to the resolution passed by the General Body of the respondent No.3 on 30/09/2015 respondent no.3 submitted proposal to the respondent no.2.

7. The respondent no.3 submits that, respondent no.2 vide it's communication dated 25/02/2019 informed the respondent no.3 to send the proposal through the Collector, Jalna so as to initiate the

further proceedings.

8. The respondent no.3 submits that, in the wake of the directions of the respondent no.2 respondent no.3 vide its communication dated 11/10/2019 submitted fresh proposal to the Collector, Jalna. A copy of said communication dated 11/10/2019 with the proposal is annexed hereto and marked as **Exhibit "R-1"**.

9. The respondent no.3 submits that, the Collector Jalna vide his communication dated 13/11/2019 returned the proposal filed by the respondent no.3 on the ground that, Funds Availability certificate was not produced with the proposal. A copy of the communication dated 13/11/2019 is annexed hereto and marked as **Exhibit "R-2"**.

10. The respondent no.3 submits that, respondent no.3 vide communication dated 20/11/2019 requested the President of the Municipal Council, Ambad to make the funds available or modification in the sanctioned scheme as per the section 37 of the Maharashtra Regional Town Planning Act, 1966. A copy of the communication dated 20/11/2019 is annexed hereto and marked as **Exhibit "R-3"**.

3. It is not disputed that the land of the petitioners is affected. The Municipal Council had also submitted a proposal for acquisition of the land. It was directed to be submitted through proper channel i.e. from Collector. The proposal is also submitted to the collector. It is returned back

on the ground that funds availability certificate is not produced. It appears that respondent No.3 under communication dated 20.11.2019 requested the President of Municipal Council to make the funds available or modify the sanctioned scheme as per Section 37 of the Maharashtra Regional Town Planning Act.

4. Considering the above, we pass the following order.

“Respondents shall initiate acquisition proceeding by issuance of notification under the provisions of the Maharashtra Regional Town Planning Act read with the provision of Right to Fair Compensation Act within six months from today. In case, the respondents do not initiate proceedings for acquisition with the aforesaid period, then they may take steps under Section 37 of the Maharashtra Regional Town Planning Act as suggested in the affidavit. They shall submit the necessary proposal under Section 37 of the Maharashtra Regional Town Planning Act within three months thereafter”.

5. Writ Petition is disposed of. No costs.

(AVINASH G. GHAROTE, J.)

(S.V. GANGAPURWALA, J.)