

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

WRIT PETITION NO.14274 OF 2018

1. Shri Abhishek Omprakash Agrawal
Age: 44 years,
Occupation: Agriculture and Business

2. Shri Ritesh Omprakash Agrawal
Age: 40 years,
Occupation: Agriculture and Business

Both residents of: C/o 122, Navi Peth,
Jalgaon, District Jalgaon.

3. Shri Tejas Virendrakumar Kawadia
Age: 43 years,
Occupation: Agriculture and Business
Resident of: 56, Baliram Peth,
Jalgaon, District Jalgaon.

4. Shri Vinay Virendrakumar Kawadia
Age: 36 years,
Occupation: Agriculture and Business
Resident of: 56, Baliram Peth,
Jalgaon, District Jalgaon.

5. Shri Ujwal Satish Bhole
Age: 42 years,
Occupation: Agriculture and Business
Resident of: 10, Shrioram Nagar,
Jalgaon, District Jalgaon.

... **PETITIONERS**

Versus

1. The State of Maharashtra
Through the Secretary,
Urban Development Department,
Mantralaya Mumbai.

2. The Collector,
Jalgaon, District Jalgaon.
3. The Land Acquisition Officer,
Jalgaon, District Jalgaon.
4. The Jalgaon City Municipal Corporation,
Through its Commissioner,
Jalgaon City Municipal Corporation,
Nehru Chowk, Jalgaon,
District Jalgaon.
5. The Assistant Director of Town Planning,
Jalgaon City Municipal Corporation,
Jalgaon, District Jalgaon.

... **RESPONDENTS**

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Advocate for Petitioners : Mr. Kulkarni Mukul S.

AGP for Respondents/State : Mr. K.N. Lokhande

Advocate for Respondents : Mr. S.B. Munde h/f. Gunale V.D. For R/5.

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

DATE : 23.07.2019

JUDGMENT :-

Heard. Rule. Rule is made returnable forthwith. With the consent of both the sides the matter is heard finally at the stage of admission.

2. Mr. Kulkarni the learned counsel contends that the reservation on the property bearing survey no. 461/2/2 to the extent of 17 R on eastern side out of total 98 R situated at Mehrun, Jalgaon stands lapsed. The respondent

has not taken any steps for acquisition within the period of two years from the date of service of notice under Section 127 of the M.R.T.P. Act.

3. The learned counsel submits that the land of the petitioner was reserved under three parts. Initially, the petitioner had issued notice under the Section 127 of the M.R.T.P. Act no steps were taken, the land to the extent of 40.50 R was released under the orders of this Court in Writ Petition No. 11506 of 2017 dated 15.03.2018. The learned advocate submits that reservation of two parts already stand released. The land was under reservation under the development plan for High School which came into effect on 01.10.2004 as yet the declaration under Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 read with Section 126 of the M.R.T.P. Act is not issued.

4. The learned counsel for the respondent-municipal corporation submits that because of the financial stringencies the acquisition of the said land could not be made. We have also heard the learned A.G.P.

5. The factual matrix is not disputed that the writ land of the petitioner was reserved in the development plan dated 01.10.2004 for High School. The petitioner issued purchase notice under Section 127 of the M.R.T.P. Act on 04.10.2016 no steps for acquisition have been initiated within

the period of two years. In view of the judgment of the Apex Court in case of **Girnar Traders V/s. State** reported in **(2011) 3 SCC 1** the acquisition stands lapsed.

6. In light of the above, the rule is made absolute in terms of prayer clause-A. The respondent-state shall issue notification about lapsing of reservation of the writ land. The petitioner shall be entitled to use the writ land as the use of adjacent land. The writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]