

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 9839 OF 2018**

Nasir Ahmed Ismail Shaikh ... Petitioner

Versus

Sawantwadi Municipal Council and  
Town Planning Authority and Ors. ... Respondents

Mr.G.H. Keluskar for the petitioner.

Ms.K.N. Solunke, AGP for respondent nos. 3 to 6.

Adv. Priyanka Bhadrashete i/y Mr. M.N.Bhadrashete for  
respondent no. 1.

**CORAM : B.P. DHARMADHIKARI &  
SANDEEP K. SHINDE, JJ.**  
**DATE : OCTOBER 11, 2019**

**P.C.:**

In view of the limited grievance, on 19/9/2019 we adjourned the matter to today for further consideration with a notice that the court may dispose of the matter finally.

2. Submission of the petitioner is reservation in the development plan of land bearing survey no. 4438, 4438C, 4459 and 4450 at Sawantwadi district Sindhudurga lapses after serving notice under section 127 of Maharashtra Regional Town Planning Act. Accordingly declaration was given by this court on 24/4/2012 in WP No. 2204 of 2009. Municipal Council approached

the Hon'ble Apex court in SLP (Civil) 9879 of 2013 and it was dismissed on 08/05/2013.

3. Support is being taken from the Division Bench Judgment of this court in the case of Dr. Kishor Siddheshwar Wadotkar Vs. Dierctor of Town Planning & Ors. reported at 2007 (4) ALL MR 258 to urge that such re-reservation is not permissible.

4. Learned counsel for respondent no. 1 Planning Authority does not dispute this development. She submits that this position is pointed out to State Government by the Municipal Council. However, cognizance thereof has not been taken. Learned AGP is seeking time as instructions are still awaited.

5. The facts at hand show that the reservation of the petitioner's land had already lapsed and therefore, these lands become available for the user to which adjacent land could have been put. An attempt to refasten reservation upon it is unsustainable as held by the Division Bench of this court in Dr. Kishore Wadotkar Vs. Director of Planning supra.

6. We, therefore, make rule absolute in terms of prayer clause (b).

7. Petition is accordingly allowed and disposed of.

**(SANDEEP K. SHINDE, J.)**

**(B.P. DHARMADHIKARI, J.)**