

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3732 OF 2015

Sahyadri Land Development Corporation, a Partnership
Firm through its partners Milind Ramchandra Khanolkar &
ors. .. Petitioners

Versus

The Pune Municipal Corporation & Ors. .. Respondents

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- Mr. S.M. Gorwadkar, Sr. Advocate i/by Mr. Gaurav Gangal for the Petitioner
 - Mr. A.P. Kulkarni for Respondent Nos. 1 and 2
 - Mrs. Neha Bhide, AGP for the State
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CORAM : AKIL KURESHI &
B.P. COLABAWALLA, JJ.

DATE : NOVEMBER 8, 2019.

P.C.:

1. Considering the short issue involved in this petition, we have heard the learned counsel for the parties for final disposal of the petition at admission stage itself.

2. Facts are virtually undisputed. The petitioner is a partnership firm and the owner of the plot of land bearing Plot No. 59 of Gat No. 17, Hissa No. 1+5B+6+7+9 at Kondhwa Bk. Pune. The substantial portion of the plot of

land in question was placed for reservation for children playground under revised development plan sanctioned in the year 1987. Despite completion of period of ten years from reservation, the authorities did not acquire the land. The petitioner, therefore, issued appropriate notice for acquisition in terms of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 ("**the Act**" for short). Despite lapsing of the statutory period mentioned in the said Section, the authorities took no steps. Thereupon the petitioner filed Writ Petition No. 4457 of 2011 seeking declaration of lapsing of reservation. The petition was disposed of by Division Bench of this Court on 19.6.2012. The Court made the rule absolute in following terms.

5. In the circumstances, the petition is liable to be allowed. Accordingly rule is made absolute in terms of prayer clause (b) which reads as follows:-

" Respondent Nos. 1 and 2 be directed to permit petitioners to develop the land plot No. 59, Gat No. 17, hissa No. 1+5B+6+7+9 Kondhwa, Khurd admeasuring 4400 sq. meter by reason of its de-reservation from CPG-92 u/Sec. 127 of MRTP Act,1966 by notice dated 17.6.2006 for the residential purpose in accordance with existing Development Control Regulation."

3. The grievance of the petitioners is that despite the said judgment of the High Court, the Government has not notified de-reservation of the land in question. On account of this inaction on the part of the government, the petitioner is unable to develop the land since the Municipal authorities would insist on a notification from the Government before development plans can be passed.

4. When the High Court in clear terms in the said judgment dated 19.6.2012 has declared that the reservation on the plot in question has lapsed, the same ought to have been notified by the Government in terms of sub-section (2) of Section 127 of the Act. The Government cannot render the judgment of the High Court ineffective by its inaction. Under these circumstances, respondent No. 3 is directed to issue such a notification with a period of six weeks from today. The petition is disposed of accordingly.

[B.P. COLABAWALLA, J.]

[AKIL KURESHI, J]

Ravindra
M.
Amberkar

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