

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION ST.NO.36712 of 2018

Pradip Anandrao Balwadkar & Ors .. Petitioners
Versus
The State of Maharashtra through
its Secretary and ors .. Respondents

...

Mr. S.V. Sadavarte for the petitioners.
Ms.K.R.Kulkarni, AGP for the State.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 24th JANUARY 2019

P.C:-

1 Heard Mr.Sadavarte, learned counsel for the petitioners and Ms.Kulkarni, learned AGP for the State.

2 By this Writ Petition, petitioners seek directions to the respondent to delete the reservation of DP Road and Municipal Hospital/Dispensary from the property bearing Gat No.12/5 situated at Village Balewadi, District Pune. In the alternative, the petitioner is also seeking direction to the respondent to acquire the said land.

3 Village Balewadi and some other villages in which the subject land of the petitioners was situated, was included in the jurisdiction of the Pune Municipal Corporation in the year 1999/2000. Thereafter, the draft Development Plan was prepared by the Corporation after following procedure under Maharashtra Town Planning and Regional Development Act, 1966 (for short 'MRTP Act') and sent for approval of the Government under Section 31 (1) of the said MRTP Act. The draft Development Plan was sanctioned by the Government on 18th September 2008 and it has come into force with effect from 1st November 2009. In this Plan, the petitioners' property i.e. Gat No.12/5 shown to have been reserved for 30 m wide Development Plan Road and Hospital/Public Dispensary. There is no dispute that while preparing the draft Development Plan, objections were invited and petitioners in pursuance of this notice, filed objections. However, those objections are overruled and thereafter, draft Development Plan was sent for approval to the Government.

4 As stated above, the petitioners were given an opportunity of hearing before reserving their land for public purpose. In terms of the provisions of Section 31, petitioners were again given an opportunity of hearing at the time of granting final approval to the draft Development Plan.

5 It is the case of the petitioner that he had filed several representations objecting the subject reservation, however, those representations were not taken into consideration. We cannot accept this submission in the facts and circumstances mentioned herein. Petitioners cannot be permitted to raise objection to the reservation once Development Plan is approved by the Government. So far as alternative prayer of the petitioners regarding acquisition is concerned, we find that the petitioners has alternate remedy under the MRTP Act. The petitioners can avail the said remedy. However, we are not inclined to entertain this prayer in the writ petition.

6 Writ Petition is accordingly dismissed.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)