

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3822 OF 2019

Shardul s/o Madhusudan Shroff and Anr. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

Mr C.K. Shinde, Advocate for Petitioners
Mr S.G. Karlekar, AGP for Respondents-State
Mr G.D. Jain, Advocate for Respondent No. 4

**CORAM : S.V. GANGAPURWALA
AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 7th FEBRUARY, 2020

PER COURT :

1. Heard Mr Shinde, the learned Counsel for the petitioners, Mr Jain, the learned Counsel for the Municipal Council and the learned Assistant Government Pleader.

2. The petitioners seek declaration that the land bearing Survey No. 492/1 (new survey No. 74/1) to the extent of 77 R situated in the limits of Municipal Council, Taloda, Dist. Nandurbar stands released from reservation. The petitioners by amendment sought declaration that the land acquisition proceeding initiated by notification dated 05.11.1981 under the Maharashtra Regional and Town Planning Act, 1966 (for short 'the MRTP Act') in respect of survey No. 492/1 (new survey No. 74/1) to the extent of 77 R stands lapsed.

3. From the documents on record, it appears that the petitioners have not issued notice under section 127 of the MRTTP Act nor a notice under section 49 of the MRTTP Act. In absence of the purchase notice being issued, the reservation would not axiomatically lapse. The land does not stand released from reservation.

4. The another prayer of the petitioners is lapsing of acquisition proceedings. It appears that the declaration under section 6 of the Land Acquisition Act read with section 126 of the MRTTP Act was issued on 5th October, 1981 for acquisition. Pursuant to the said declaration, no further proceeding is taken up till date. The award as required under section 11 of the Land Acquisition Act, 1984 or an award under the right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, is not passed pursuant to the declaration under section 6 of the Land Acquisition Act, 1894 read with section 126 of the MRTTP Act dated 5th October, 1981.

5. Though section 11-A of the Land Acquisition Act, 1894 does not apply to the acquisitions under the MRTTP Act, still the acquisition has to be made within a reasonable time. More than 39 years have lapsed from the date of declaration under section 6 of the Land Acquisition Act read with Section 126 of the MRTTP

Act, the award is not yet passed. As the award has not been passed within a reasonable time, the acquisition would stand lapsed. The reference can be had to the Judgment of the Division Bench of this Court in writ petition at the Principal Seat in Writ Petition No. 807 of 1991 dated 8th September, 2017 and the Division Bench at Aurangabad in Writ Petition No. 378 of 1994 dated 9th May, 2014 to which one of us (S.V. Gangapurwala, J) was party.

6. In light of the above, it is declared that the acquisition pursuant to the declaration under section 6 read with section 126 of the MRTP Act dated 5th October, 1981 stands lapsed. If the respondents desire to acquire the land, they should initiate fresh acquisition proceedings.

7. Writ Petition is accordingly partly allowed. No costs.

[SHRIKANT D. KULKARNI, J.] [S.V. GANGAPURWALA, J.]

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