

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

111 WRIT PETITION NO. 6617 OF 2019

Mahendra Pundlik Suryawanshi (Mali)
and another

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Mr. C. K. Shinde, Advocate for Petitioners.

Mrs. A. V. Gondhalekar, Addl. G. P. for Respondent Nos. 1 and 4.

Mr. M. K. Goyanka, Advocate for Respondent Nos. 2 and 5.

Mr. Gajendra D. Jain, Advocate for Respondent No. 6.

114 WRIT PETITION NO. 6857 OF 2019

Smt. Manorama Wamanrao Magare and others

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Mr. C. K. Shinde, Advocate for Petitioners.

Mr. P. G. Borade, A.G.P. for Respondent Nos. 1 and 2.

Mr. Gajendra D. Jain, Advocate for Respondent No. 4.

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

DATED : 21st JANUARY, 2020.

PER COURT:-

. The lands of the petitioners are reserved under the development plan. The development plan of Taloda city was prepared and came into existence on 02.12.1965. On or about 16.06.1986 the Municipal

Council, Taloda revised the development plan. The lands of the petitioners continued to be reserved in the revised plan for the purpose of M.S.R.T.C. in Writ Petition No. 6617 of 2019 and for the purpose of primary school in Writ Petition No. 6857 of 2019.

2. No steps have been taken for acquisition by the respondents. The petitioners issued notices under Section 127 of the Maharashtra Regional Town Planning Act, 1966 (for short "Act") on 15.07.2013. As yet no declaration under Section 126 of the Act r/w Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "Act of 2013") has been issued. According to the petitioners, the reservation stands lapsed.

3. Mr. Jain, learned counsel for the Municipal Council does not dispute the receipt of the notices under Section 127 of the Act. He also does not dispute that as yet the declaration under Section 126 of the Act r/w Section 19 of the Act of 2013 has not been issued.

4. Mr. M. K. Goyanka, learned counsel for M. S. R. T. C. submits that they have send proposal to the Home Department, State of Maharashtra for deleting the area. They have no objection to dereserve the land, reserved for M.S.R.T.C.

5. The provisions of Section 127 of the Act is a fetter on the power of eminent domain. The lands of the petitioners are kept reserved since the year 1965. The petitioners cannot be denied the use and enjoyment of their lands as a rightful owner in perpetuity.

6. The petitioners have already issued notices under Section 127 of the Act. Even after lapse of ten years the respondents have not taken steps for acquisition.

7. In the light of the above, the reservation of the petitioners writ lands stand lapsed. The petitioners are entitled to use the writ lands for the purpose as the adjacent lands are permitted. The Government shall issue notification to that effect.

8. Rule accordingly made absolute in above terms. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.