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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1560 OF 2014
IN
WRIT PETITION NO.3343 OF 2005

Nath Seeds Ltd.,

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. A. D. Soman with Mr. V. D. Soman, Advocates for applicants
Mr. S. N. Kendre, AGP for respondent - State
Mr. S. S. Tope, Advocate for respondent No. 2

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[CORAM : SUNIL P. DESHMUKH AND
B. U. DEBADWAR, JJ.]

DATE : 6th MARCH, 2020

ORDER :

1. Heard learned advocates appearing for the parties at length.
2. While writ petition No. 3343 of 2005 had been moved by present applicant seeking declaration that the lands belonging to the applicant / petitioner bearing Gut No. 62/3 and 63 comprising the writ petition should be deemed to have been released from reservation, designation or allotment under final development plan of Aurangabad city with a further direction to the authorities to grant permission to the applicant / petitioner

for development of lands.

3. There is no particular dispute on that, in reply to the writ petition, respondent No. 2 – Municipal Corporation had referred to in paragraphs No. 2, 3 and 5 as under-

*“2. I say that the properties situated in Gut No. 62/3 and 63 situated at Itkheda, Taluka & Dist. Aurangabad belonging to the Petitioner are a part of the Development Plan – extended area. **So far as the property situated in Gut No. 62/3, the same is affected by reservation for inspection Bungalow and 60 Meter vide Paithan Road. The property in Gut No. 63 is a part of Industrial Zone and 60 Meter vide Paithan Road.***

3. I say that, the purchase notice dated 13.02.2004 under section 27 of Maharashtra Regional and Town Planning Act, 1966 was submitted by the petition through Advocate. The same was responded vide letter dated 04.03.2004 and it was pointed out that the necessary documents of ownership i.e. 7/12 extract, map, registered sale deed etc. were not enclosed and as such, further action on the same could not be taken. Accordingly on 16.04.2004 the documents of ownership etc. were furnished.

4.

*5. I say that, the property in Gut No. 63 is in Industrial Zone and **same is not a reservation.** Just as residential zone, commercial zone. Industrial Zone is not a reservation and therefore, there is no question of any land acquisition. ”*

4. Division bench, while disposing of writ petition by rejecting the same, had observed thus -

“ 2. Respondent No. 2 – Municipal Corporation has filed affidavit-in-reply through Vishnu Gopal Vaze, Deputy Engineer. We have perused the said affidavit-in-reply. In para 1 of the said reply, it is stated that in the development plan, lands falling in Gat No. 63, were indicated to be used for the purpose of industry and marked as “Industrial Zone” in accordance with Section 22 of the Maharashtra Regional Town Planning Act. It is clarified that it could not be a reservation and the owner of the property can develop the land for the purpose of industry as the same is regulated in accordance with the provisions of Section 22 of the Act. ”

5. It appears that the contention on behalf of the applicant is that while passing the order, contents of paragraphs No. 2 and 3 of the reply had skipped attention of the high court and it was focused on paragraph No. 5 referred to above, carries lot of force and order tends to be oblivious of paragraph No. 2 of the reply.

6. In view of aforesaid, we deem it appropriate that order under review be recalled. Accordingly, order dated 30th August, 2008 passed in writ petition No.3343 of 2005 stands recalled, restoring writ petition. Post the writ petition for hearing afresh.

7. Civil application stands disposed of.

[B. U. DEBADWAR]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE