

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

158 WRIT PETITION NO.8704 OF 2019

PRAVIN SHANTILAL KABRA
VERSUS
THE STATE OF MAHARASHTRA AND OTHES

...
Advocate for Petitioner : Mr Jethliya Dhiraj R.
AGP for Respondents State: Mr. A. R. Kale
Advocate for Respondent Nos.2 & 3 : Mr. R.K. Ingole

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

DATE : 20th January, 2020

ORAL JUDGMENT :

1. Rule. Rule made returnable forth with. With the consent of the parties, the petition is taken up for hearing.
2. Revised draft plan came into force in the city of Nanded in the month of August, 1999. The writ plot of the petitioner is reserved for library and reading room. The respondents did not take steps for acquisition. The petitioner issued notice under section 127 of the Maharashtra Regional and Town Planning Act on 25.03.2017. The respondents have not taken any steps for acquisition even after service of notice under section 127 of the MRTP Act. As such, according to the petitioner, the reservation stands lapsed.
3. We have heard Mr. Jethliya, learned counsel for the petitioner and

Mr. Ingole, learned Advocate for the respondents.

4. The factual matrix, as discussed above is not disputed by the respondents.

5. One of the contention of the respondents is that the notice issued by the petitioner under section 127 of the MRTP Act is not in proper form. We have gone through the notice. The notice complies the requirement as prescribed under section 127 MRTP Act. Copy of the PR Card and the registered sale deed were also annexed along with the notice. The receipt of notice is also not disputed by the respondents.

6. It is also not disputed that the respondents have not taken steps for acquisition as contemplated under section 19 of the Right to Fair Compensation and Section 126 of the MRTP Act.

7. Section 127 of the MRTP Act is fetter on the power of eminent domain. The Apex Court in the case of **Girnar Traders Vs. State of Maharashtra**, reported in **2011 3 SCC 1** has held that step for acquisition would mean issuance of declaration under section 6 of the Land Acquisition Act read with section 126 of the MRTP Act. Under the Right

to Fair Compensation Act, the equivalent provisions would be section 19 of the Right to Fair Compensation Act read with section 126 of the MRTP Act.

8. In the light of the above, as the respondents have failed to take steps to acquire the writ plot within a period of two years from the date of service of notice, the reservation stands lapsed.

9. The petitioner is entitled to use the land for the purpose the adjacent land is permitted.

10. The Government may issue notification about the reservation having lapsed.

11. Writ petitions accordingly disposed of.

12. Rule is accordingly made absolute in the above terms.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC