

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

WRIT PETITION NO.3455 OF 2020

1. Yashwant s/o Khandu Bari,
Age : 51 years, Occu: Agril. & Business,
R/o 71, Dixit Wadi, Jalgaon.
2. Sau.Sangeeta w/o Yashwant Bari,
Age : 44 years, Occu: Agril. & Business,
R/o 71, Dixit Wadi, Jalgaon.
3. Suresh s/o Damu Bhole,
Age : 53 years, Occu : Agril. & Business,
R/o 154, Gandhinagar, Jalgaon.
4. Nitin s/o Sudhakar Patil,
Age : 49 years, Occu : Agril. & Business,
R/o 52, Yashwant Colony, Ring Road,
Jalgaon.

....PETITIONERS

-VERSUS-

1. The State of Maharashtra.
Through Secretary,
Urban Development Department,
Mantralaya, Mumbai.
2. Collector,
District : Jalgaon.
3. Municipal Corporation,
Through Commissioner,
Jalgaon.
4. Sub-Divisional Officer
(Land Acquisition, Jalgaon.

....RESPONDENTS

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Shri S.V. Natu, Advocate for the petitioners.
Shri S.R. Yadav Lonikar, AGP for respondent Nos.1, 2 and 4.
Shri Vijay B. Patil, Advocate for respondent No.3.

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**CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.**

DATE :- 08th July, 2021

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioners have put forth prayer clause B, which reads as under :-

“B. Rule may kindly be made absolute and by issuing appropriate writ or direction in the like nature, the respondents be directed to initiate, complete and pay the compensation to the petitioners under the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, 2013 for school & 15/12 meter D.P. Road in Land Gut No.111 (Reservation No.110) situated at village Pimprala, Jalgaon.”

3. We have considered the strenuous submissions of the learned advocates for the petitioners and respondent No.3 and the learned AGP on behalf of respondent Nos.1, 2 and 4. There is no dispute that the original owner Bhila Shamrao Bari had issued the purchase notice dated 20.11.2006 under Section 49 of the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act) thereby, seeking acquisition of land Gat

No.111 admeasuring 27 R situated at Jalgaon, which was reserved for a school and 12/15 meter D.P. road vide notification dated 11.09.1997.

4. A positive recommendation was made by the Assistant Director, Town Planning, Jalgaon, respondent No.1, vide the letter dated 05.02.2007. Bhila Shamrao Bari was called for hearing vide letter dated 20.03.2007 by respondent No.1/ Secretary, Urban Development Department, Mantralaya in respect of the purchase notice dated 20.11.2006. The hearing took place on 03.04.2007 and after considering the record available, respondent No.1 confirmed the purchase notice issued by Bhila Shamrao Bari and he was accordingly, informed of this decision.

5. The petitioners purchased the land under reservation Gat No.111 on 20.07.2011 from the original owner Bhila Shamrao Bari. After purchase, the petitioners enquired with the office of respondent Nos.2 and 3 and were intimated that the process of acquisition of the land Gat No.111 had already commenced and that has resulted in an award. The petitioners allege that this information was not communicated to them in writing. Therefore, they submitted applications on 17.01.2017 and 07.09.2019 to the respondents seeking details of the acquisition proceedings. The Assistant Town Planner issued the letter dated 25.09.2019 informing the representative of the petitioners that the inspection in respect of the acquisition proceedings of the land Gat No.111

can be taken personally in the office of the Town Planner. The petitioners, accordingly, visited the office of the Town Planner and yet, no such record was found, much less shown to them.

6. The petitioners submit that they got an opportunity to conduct the verification of the documents supplied by respondent No.3 and it was found that no award in respect of the land Gat No.111 was passed. The said award was in respect of the land Gat Nos.110 and 112. It was also noticed that no acquisition proceeding was initiated in respect of the land Gat No.111.

7. The petitioners have pointed out the copy of the letter dated 15.12.2007 issued by the Commissioner, Jalgaon City Municipal Corporation addressed to the District Collector, Jalgaon, vide which the purchase notice issued by the original owner Bhila Shamrao Bari dated 20.11.2006 under Section 49 of the MRTP Act was confirmed and therefore, the District Collector was called upon to follow the due procedure for initiating the acquisition proceedings.

8. The learned AGP submits, on instructions from the Land Acquisition Officer, that the letter dated 15.12.2007 was not received by the District Collector and there is no evidence that the said letter was served upon the District Collector.

9. Shri Patil, the learned advocate for respondent No.3, submits that, now that the acquiring authority has not moved after the

confirmation of the purchase notice and as the acquisition proceedings have not been initiated, the only option available to the petitioners is to issue a notice under Section 127 of the MRTP Act praying for lapsing of reservation. He places reliance on the judgment delivered by the Honourable Supreme Court in the matter of *Chhabildas vs. State of Maharashtra and others*, 2018 (2) SCC 784, wherein, it has been held that if no steps for acquisition are taken and the period of 10 years has lapsed from the date of publication of the plan, the acquisition proceeding has to lapse. Shri Patil further submits that if such notice is issued by the petitioners under Section 127 and thereafter, the acquiring body continues to nurture its interest in acquiring the said land, the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 will have to be followed.

10. The learned advocate for the petitioners submits that as the law would now mandate that the acquisition proceedings will have to fructify only under the 2013 Act, he would be issuing the notice under Section 127 of the MRTP Act.

11. In view of the above, this Writ Petition is disposed off. Rule is discharged.