

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1053 WRIT PETITION NO.4043 OF 2021
WITH CA/12398/2021 IN WP/4043/2021

SYED MUJEEB BADIUZZMA KHATEB & OTHERS
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

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Mr.G.R. Syed, Advocate for the petitioners.
Mr.P.S. Patil, Addl.GP for the respondent/State.
Mr.P.V. Barde, advocate for respondent no.6.
Mr.D.R. Jethliya, advocate for respondent no.7

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CORAM : S.V. GANGAPURWALA
AND
S.G. DIGE, JJ.

DATE : 14th DECEMBER, 2021

PER COURT :-

. Mr.Syed learned advocate for the petitioners submits that the land of the petitioners was acquired for the purpose of Development Plan Road under award dated 18.03.1983. Learned counsel submits that abruptly the Government in the year 2020 changed the said reservation from Development Plan Road to Municipal purpose. The land of the petitioners was specifically acquired for the Development Plan Road however, abruptly the reservation has been now changed to Municipal purpose. The same is illegal and not permissible. The learned counsel further submits that though the land was reserved for municipal purpose, the respondents are erecting the commercial complex. Area is

residential area and the respondents could not have erected the commercial complex. The same is also not in consonance with the development plan.

2. Mr. Barde, learned counsel for respondent no.6 submits that after adhering to the procedure under the M.R.T.P. Act, 1966, the reservation has been changed from D.P. road to municipal purpose on 3rd April, 2012. According to him, as per the Development Control Regulation municipal purpose include any public purpose related with functioning of municipal authority as may be decided by authority.

3. Mr. Syed, the learned counsel submits that the petitioners were prosecuting the suit before the Civil Court seeking identical relief. The said Suit was filed under misconception and the same was withdrawn.

4. As is contended by the respondent – Municipal Council that the notification has been issued and the revised development plan (partly) sanctioned under section 31(1) of the M.R.T.P. Act, 1966 on 3rd April, 2012, wherein the reservation now for the writ land is meant for municipal purpose. Before sanctioning revised plan, the Government has invited the objections. The petitioners had opportunity to raise the objection. It appears that, the petitioners did

not raise the objection and after final revised development plan was published, the petitioners have filed the Civil Suit. In the said Civil Suit, the petitioners could not get the relief and after lapse of 8 years, the Writ Petition has been filed.

5. The commercial complex is almost completed as contended by the respondent-Municipal Council. The challenge to the revised development plan now at this belated stage would not be tenable.

6. Considering the above, no case for interference is made out. Writ Petition as such disposed of. No costs.

7. In view of disposal of the Writ Petition, the Civil application No.12398/2021 is disposed of.

(S.G.DIGE, J.)

(S.V. GANGAPURWALA, J.)