

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

WRIT PETITION NO.4116 OF 2020

- 1] Parubai @ Parwatibai w/o. Rangnath Pathare, Age: 58 years, Occup.Agril.
R/o. Rahuri Bk., Ta.Rahuri,
District Ahmednagar.
- 2] Balasaheb Bhanudas Pathare,
Age: Major, Occup. Agril.
R/o. : Rahuri Bk., Ta.Rahuri,
District Ahmednagar.
- 3] Kamal @ Alka w/o. Suresh Pathare,
Age: Major, Occup. Agril.
R/o. Rahuri Bk., Ta. Rahuri,
District Ahmednagar.
- 4] Manisha Somnath Mehetre
Age: 33 years, Occup. Agril.,
R/o. Loni (Bk), Tq. Rahata,
District Ahmednagar.
- 5] Rupali Dinesh Bhujbal,
Age: 30 years, Occup. Agril.
R/o. Aale, Ta. Junnar,
District Pune.
- 6] Shraddha @ Alka Nanasaheb Varhade,
Age: 42 years, Occup. Agril.,
R/o. Rahata, Ta. Rahata,
District Ahmednagar.
- 7] Subhash Rangnath Pathare,
Age: 64 years, Occup. Agril.,
R/o. Rampur, Ta. Rahuri,
District Ahmednagar.
- 8] Sandhya Satyawar Gadge,
Age: 31 years, Occup. Agril.,

R/o. Loni, Tq. Rahata,
District Ahmednagar.

- 9] Ramesh Rangnath Pathare,
Age: 51 years, Occup. Agril.,
R/o. Kolhar [KD], Tq. Rahuri,
District Ahmednagar.
- 10] Pramila Sachin Tajane,
Age: Major, Occup. Household,
R/o. Shekaiwadi, Tal. Akole,
District Ahmednagar.
- 11] Latabai Nandkishor Shirsath,
Age: Major, Occup. Household,
R/o. Kolhar [KD], Tq. Rahuri,
District Ahmednagar.
- 12] Sumanbai Bhausahab Pathare,
Age: Major, Occup. Household,
R/o. Rahuri Bk., Ta. Rahuri,
District Ahmednagar.
- 13] Anil Bhausahab Pathare,
Age: Major, Occup. Agril.,
R/o. Rahuri Bk, Ta. Rahuri,
District Ahmednagar.
- 14] Surekha Balasaheb Pathare,
Age Major, Occup. Household,
R/o. Rahuri Bk, Ta. Rahuri,
District Ahmednagar. **..PETITIONERS**

VERSUS

- 1] The State of Maharashtra
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai - 32.
- 2] The Assistant Director of
Town Planning, Ahmednagar.

3] The Municipal Council,
Rahuri, Ta.Rahuri,
District Ahmednagar.
Through its Chief Officer ..**RESPONDENTS**

Mr.Vijay B.Jagtap, Advocate for the
petitioners.

Ms.V.N.Patil-Jadhav, AGP for the respondent-
State.

Mr.R.N.Naiknaware, Advocate for respondent
no.3.

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

DATE : 16.03.2021.

ORAL JUDGMENT : [PER : S.V.GANGAPURWALA, J.]

1] Rule. Rule made returnable
forthwith. With the consent of the parties
taken up for final hearing.

2] The land bearing Survey No.427 of
the petitioner is reserved for weekly market
and, Primary and Secondary School as site
Nos.17 and 18 in the revised development
sanction plan on 31.03.2003. The petitioners
issued notice under Section 127 of The
Maharashtra Regional and Town Planning Act,
1966, [for short 'MRTP Act'] on or about 5th
June, 2014. It is received by the Municipal

Council on the same day. The contention of the petitioners is that no steps for acquisition were initiated within period stipulated under Section 127 of the MRTP Act, the land stands released from reservation.

3] Mr.Naiknaware, learned counsel for the Municipal Council submits that even before receipt of the notice, the respondent no.3 had forwarded the proposal for acquisition of the writ land. But, the State Government has not taken further steps.

4] We have heard learned AGP also.

5] The aforesaid factual matrix that the land of the petitioners bearing Survey No.427 is reserved as Site No.17 for weekly market and for Primary and Secondary School as Site No.18, is not disputed. Receipt of notice under Section 127 of the MRTP Act on 5th June, 2014, by the Municipal Council is also accepted by the Municipal Council.

6] It is admitted that the declaration under Section 126 of the MRTP Act read with Section 6 of the Land Acquisition Act and / or Section 19 of the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, is not issued till date.

7] Section 127 of the MRTP Act, acts as fetters on the powers of eminent domain.

8] The Hon'ble Apex Court in the case of *Girnar Traders Vs. State of Maharashtra and others* reported in *2011 [3] SCC 1* has held that steps for acquisition would mean issuing of declaration under Section 126 of the MRTP Act r/w. Section 6 of the Land Acquisition Act.

9] In the light of the fact that no steps for acquisition are initiated as yet and the notice has been issued more than 6 years back, the lands stand de-reserved from acquisition.

10] In the light of above, we pass the following order :

ORDER

i] The land of the petitioners stands de-reserved.

ii] The Notification to that effect be
issued by the State.

iii] Rule made absolute in above terms.
No costs.

[SHRIKANT D.KULKARNI,J.] [S.V.GANGAPURWALA,J.]

DDC