

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

**904 CIVIL APPLICATION NO.8226 OF 2019
IN WP/6057/2016**

MUNICIPAL COUNCIL RAHURI THROUGH ITS CHIEF OFFICER
AHMEDNAGAR
VERSUS
KUSUM DASHRATH UNDE AND ANOTHER

...
Advocate for Applicant : Mr. Naiknavare Ramesh V.
AGP for Respondents : Mrs. V.S. Choudhari
...

**CORAM : UJJAL BHUYAN &
M.G. SEWLIKAR, JJ.**

DATED : 19th MARCH, 2021

PER COURT:-

. Heard Mr. R.V. Naiknavare, learned counsel for the applicant and Mrs. Choudhari, learned AGP for respondent no.2.

2. The applicant is the Municipal Council, Rahuri, which was respondent no.2 in the related writ petition being Writ Petition No.6057 of 2016.

3. This application has been filed for review of judgment and order dated 21.03.2017 passed by this Court in Writ Petition No.6057 of 2016 filed by Sau. Kusum w/o Dashrath Unde. The related writ petition was filed by the original petitioner seeking a direction to the respondents for issuance of declaration that the reservation prescribed for public amenities in respect of the properties belonging to the petitioner in the final development plan prepared for Rahuri Municipal Council should be deemed to have lapsed in view of Section 127 of the Maharashtra Regional Town Planning Act, 1966.

4. The writ petition was contested by the applicant which was respondent no.2 by filing reply affidavit. After hearing the parties and relying upon the judgment of the Hon'ble Supreme Court in Girnar Traders Vs. The State of Maharashtra, (2007) 7 SCC 555, this Court allowed the writ petition vide judgment and order dated 21.03.2017 by making rule absolute. Relevant portion of the judgment and order dated 21.03.2017 reads as under:

“8) Since the notification within contemplation of Section 19 of the Act of 2013 has not been issued, the contention of the local authority that the steps have been taken for acquisition of the properties belonging to the petitioners, is not acceptable. On account of failure of the local authority to initiate the proceedings for land acquisition within a period of 24 months from the date of receipt of the notice under Section 127 of the MRTP Act, the reservation, allotment or designation in respect of the properties belonging to the petitioners, prescribing the final development plan prepared for the local authority, shall stand lapsed. As a result of lapsing of reservation, allotment or designation, the State Government is directed to notify the same by an order to be published in the official gazette, as expeditiously as possible and preferably within six months from today.”

5. Review has been sought for on the ground that the original petitioner was served with notice under Section 127 of the Maharashtra Regional Town Planning Act, 1966, which provides for a two year period for giving effect to land acquisition proceedings. Before completion of that period, the writ petition was filed. Further it is urged that dereserving the subject land from the development plan would affect the development of the municipal council. Therefore, it is in the public interest that the applicant should be permitted to proceed with the development plan as

originally envisaged.

6. We are afraid we cannot accept the prayer of the applicant for review of the judgment and order dated 21.03.2017 on the grounds set forth. What the review petitioner basically seeks is rehearing of the concluded writ petition on merit, which is not the purport and ambit of review jurisdiction. We do not find any error apparent on the face of the record or any of the conditions set forth in order 47 Rule 1 of the Civil Procedure Code, 1908 to review the judgment and order dated 21.03.2017.

7. Consequently, we are not inclined to entertain the civil application. Accordingly, civil application is dismissed.

[M.G. SEWLIKAR, J.]

[UJJAL BHUYAN, J.]