

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4860 OF 2021

Hasina Shabbir Bargir & Ors.

.. Petitioners

Versus

The Chief Officer, Ichalkaranji Municipal Council &
Ors.

.. Respondents

-
- Mr. Sarthak Diwan i/by Mr. A.M. Kulkarni for the Petitioners
 - Mr. Akshay P. Shinde for Respondent Nos.1 and 2
 - Ms. S.D. Vyas, 'B' Panel Counsel for the State
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CORAM : S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.

DATE : SEPTEMBER 09, 2021.

P.C.:

On 7th September, 2021, this Court passed the following order:-

"1. By the above Writ Petition, the Petitioners inter alia seek the following reliefs :

“(a) to issue Rule;

(b) To hold and declare that the impugned reservations bearing Reservation No.4 for primary school on the portion admeasuring 0 H 40 R and Reservation No.5+6 for library and dispensary on the portion admeasuring 0 H. 10 R, from and out of land R.S.No.544/2 situated within limits of Ichalkaranji Municipal Council, Ichalkaranji, vide part revision of development plan sanctioned on 05.03.1999 and 03.09.2011 is lapsed and that the area under the impugned reservations is now available to the Petitioners for development entirely free from any reservation;

2. According to the Petitioners, the Respondent No.1 reserved suit properties out of larger property for primary school vide Reservation No.4 and for library and dispensary vide Reservation No.5+6 (for short, 'impugned reservations') in the revised development plan. The Respondent No.3 accorded its sanction to the development plan of Ichalkaranji – part revision under Section 31(1) of the Maharashtra Regional and Town Planning Act, 1966 (for short 'the said Act') vide Notification No.TPS2194/270 / CR-22/94/UD-13 dated 5th March, 1999 and further

Notification No.TPS2100/1429/CR-133/2000/UD-13 dated 3rd September, 2001.

3. The Petitioners' served a purchase notice dated 29th September, 2018 under Section 127 of the said Act to the Respondent No.1. The said notice was admittedly received by the Respondent No.1 on 30th September, 2018. On 1st October, 2018, the same was forwarded to the Town Planning Department. The learned Advocate for Respondent No.1 states that no steps have been taken as contemplated under sub-clause (1) of Section 127 of the At upon receipt of the purchase notice. However, Dr. Pradip Dagduji Thengal, Chief Officer, Ichalkaranji Municipal Council, has filed an Affidavit in Reply wherein it is stated that the actual area out of R.S.No.544 affected by the aforesaid reservations is 0.30 R for 'Primary School' and 0.32 R for 'Library and dispensary'.

4. The learned AGP is directed to take instructions in the matter by 9th September, 2021 and inform the Court about the stand of the State Government. A responsible officer of Respondent No.1 Council shall remain present before this Court by himself and/or through video conferencing. Stand over to 9th September, 2021, high on board."

2. Learned AGP on instructions, states that since no steps have been taken for a period of two years after receipt of the purchase notice and the reservation having lapsed under Section 127 (1) of the Maharashtra Regional & Town Planning Act, 1966 (**the Act**), the notification under Sub Section (2) of Section 127 of the Act shall be issued at the earliest. We therefore direct the State to issue notification under Section 127 (2) of the Act not later than four weeks from today. It is made clear that no further time shall be granted and breach of the direction given herein will amount the contempt of the present order. The above Writ Petition is disposed off accordingly.

[MILIND N. JADHAV, J.]

[S. J. KATHAWALLA, J.]