

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 WRIT PETITION NO.2112 OF 2019

SUNIL DEVRAM CHAUDHARI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Adgaonkar Ravibhushan P.

AGP for Respondent Nos. 1 & 2 : Mr. S.B. Yawalkar

Advocate for Respondent Nos. 3 & 4 : Mr. V.D. Gunale

CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.

DATE : 28.09.2022.

PER COURT :

This is a petition seeking a declaration regarding reservation over the writ property having lapsed in the light of Section 127 of the Maharashtra Regional and Town Planning Act (hereinafter 'the MRTP Act').

2. We have heard both the sides and perused the papers. The draft development plan was notified on 11.02.2002 and it came into effect on 07.04.2002. The petitioners' property were styled as reservation No. 47 and 48. A notice under Section 127 was issued on 18.07.2016 and the petition has been filed on 02.02.2019.

3. There is a material to show that though the respondent-Corporation had offered the petitioners development rights in lieu of monetary compensation, the issue is no more *res integra* in view of the full bench judgment of this Court in the matter of **Vinayak Builders & Developers Vs. The State of Maharashtra and others (Writ Petition No. 2231 of 2019) dated 25.07.2022 (Nagpur Bench)**. It has been specifically laid down that such offer cannot be foisted on the owner of the property albeit mutually the

parties can agree upon it.

4. The petitioners seems to have agreed to accept TDR in lieu of a portion of the writ property to the extent of 12 meter wide road shown as passing through their property.

5. The learned advocate for the petitioners submits that the petitioners are seeking a declaration regarding lapsing of the reservation except this 12 meter wide road.

6. There is absolutely nothing on the record to demonstrate that any steps have been taken towards acquisition of the writ property, ofcourse except that 12 meter wide road, by issuing any declaration under Section 6 of the Land Acquisition Act, 1894 or under Section 19 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 read with Section 126 of the MRTP Act.

7. The consequences are inevitable as laid down in **Girnar Traders and Another Vs. State of Maharashtra and others; 2007 AIR (SC) 3180**. The reservation would lapse since no steps were taken within ten years of finalization of the development plan or for another 24 months after a notice under Section 127 of MRTP Act was served.

8. We allow the writ petition partly. It is declared that the reservation No. 47 and 48 over the petitioners' property land Gat No. 81/A/1, admeasuring 37-Are of Nimkheda Shivar Tq. & Dist. Jalgaon shall stand lapsed except a 12 meter wide development plan road passing therefrom. Respondents to take steps for issuance of notification under Sub Section 2 of Section 127 of the MRTP Act.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-