

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

WRIT PETITION NO. 7961 OF 2021

Anil Nandkishor Goyal and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Devdatt P. Palodkar, Advocate for Petitioners.
Shri S. P. Tiwari, A.G.P. for Respondent Nos. 1 to 4.
Shri A. S. Bajaj, Advocate for Respondent Nos. 5 to 8.

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

CLOSED FOR ORDERS ON : 23.12.2021

ORDER PRONOUNCED ON : 11.03.2022.

FINAL ORDER (Per S. V. Gangapurwala, J.) :-

. The land of the petitioners admeasuring 61R out of gut No. 15 of village Pandharpur, Tq and Dist. Aurangabad is affected by reservation of school and play ground in the sanctioned development plan of Waluj notified area published on 14.08.2001. The petitioners on 05.02.2019 issued notice U/Sec. 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'M.R.T.P. Act'). The same was served on the planning authority (CIDCO). It is the contention of the petitioners that, as no steps for acquisition are initiated within two years from the date of service of notice U/Sec. 127 of the M.R.T.P. Act, the reservation

stands lapsed.

2. Mr. Bajaj, the learned counsel for respondent Nos. 5 to 8/planning authority submits that, the board of directors of CIDCO passed a board resolution No. 12310 dated 03.03.2020 mandating that process of acquisition of lands in the notified area of the project shall be stopped and/or withdrawn immediately and as per the board resolution CIDCO has submitted proposal with the State Government on 04.03.2020 to denotify CIDCO from the entire notified area of Waluj Mahanagar project. The board resolution bearing No. 11833 dated 24.04.2017 provides for giving compensation in the form of only, “development rights certificate” towards acquisition of land. The learned counsel further submits that, the writ petition be dismissed with costs.

3. Mr. Palodkar, the learned counsel for petitioners submits that, the proposal for giving compensation in the form of development rights certificate pursuant to the board resolution dated 24.04.2017 is not sanctioned by the Government, as such the said resolution is not operative.

4. This Court in its judgment dated 23.12.2021 in Writ Petition No. 5356 of 2021 and other connected writ petition, to which one of us (S. V. Gangapurwala, J.) was a party has held that, the steps for acquisition would mean issuance of notification U/Sec. 126 of the M.R.T.P. Act read with notification under Section 19 of the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the owner cannot be compelled to accept the development right certificate. It was also observed that the board resolution dated 24.04.2017 is not sanctioned by the Government. In view of that, the said resolution is not operative, nor the statute has been amended. The said resolution would not have legal sanctity and effect.

5. As no steps for acquisition are initiated, the reservation stands lapsed.

6. In the light of the above, we pass the following order.

7. The reservation on the petitioners' land admeasuring 61R out of gut No. 15 of village Pandharpur, Tq. and Dist. Aurangabad for school and play ground stands lapsed.

8. As the reservation is for play ground the respondents shall acquire the property of the petitioners within a period of one year, if it so desires. The petitioners shall not use the said property for a period of one year. After lapse of one year and within a period of six (06) months, thereafter the Government shall issue notification U/Sec. 127(2) of the M.R.T.P.Act.

9. If within a period of one (01) year, the writ property of the petitioners is not acquired, then the petitioners are entitled to use the land as used by the adjacent land owners.

10. In the light of the above, the writ petition is disposed of.
No costs.

[S. G. DIGE, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 22