

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

WRIT PETITION NO. 427 OF 2021

1. Ujwal Baluprasad Misar
Age : 45 years, Occ. Advocate,
R/o. Godbole Galli, At Post Parola,
Taluka Parola, District Jalgaon.
2. Suraj Sunil Zawar
Age : 28 years, Occ. Business,
R/o. Plot No. 11, Sai Bungalow,
Suhas Colony, Jalgaon,
Taluka & District Jalgaon.
3. Dilip Murlidhar Malapure
Age : 63 years, Occ. Agri. & Business,
R/o. Kasar Galli, At Post Parola,
Taluka Parola, District Jalgaon.
4. Himmat Ratilal Mahajan
Age : 42 years, Occ. Business,
R/o. At Post Lasur, Taluka Chopda,
District Jalgaon.

....Petitioners

Versus

1. The State of Maharashtra,
Through Secretary,
Urban Development Department
Mantralaya, Mumbai.
2. The District Collector, Jalgaon,
Taluka & District Jalgaon.

3. Assistant Director Town Planning Department,
Jalgaon.

4. Parola Municipal Council,
Through its Chief Council,
Parola Municipal Council,
Parolad, Taluka Parola,
District Jalgaon.

....Respondents

Advocate for Petitioners : Mr. S.H. Tripathi

AGP for Respondent Nos. 1 to 3 : Mr. P.G. Borade

Advocate for Respondent No. 4 : Mr. P.B. Gamot

**CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**

DATE : 21 JUNE, 2022.

JUDGMENT [PER : C.V. BHADANG, J.] :-

Heard. Rule made returnable forthwith. The learned counsel for the respondents, waive service. Heard finally, by consent of parties.

2. By this petition, the petitioners are seeking a declaration that the land admesuring 5592.75 sq. mtrs. bearing City Survey No. 4886/1/2 situated at Parola, Tahsil Parola, District Jalgaon, is free from any reservation under final development plan of 1987 of Parola.

3. The petitioners claim to be the owners of the said land. According to the petitioners, the said land has been reserved as Reservation No. 34 for 'Town Hall, Library and Fire Station', in the

final development plan of 1987 of Parola. However, the respondent – Municipal Council, has failed to take any steps for acquisition of the said land. The petitioners issued a purchase notice dated 4.5.2018 under Section 127 of the Maharashtra Regional Town Planning Act (MRTP Act, for short) to the second and fourth respondent which was served on the respondent – Municipal Council on 5 May, 2018. However, the fourth respondent has not taken any effective steps, even thereafter, for acquisition of the land, within the statutory period. It is in these circumstances that the declaration about lapsing of the reservation has been sought for.

4. We have heard the learned counsel for the parties. Perused record.

5. The Record discloses that an affidavit in reply is filed on behalf of first and third respondent by one Rajesh Madhukar Patil, Assistant Director of Town Planning, Jalgaon, Dst. Jalgaon. He states that the revised development plan of Parola Municipal Council has been sanctioned under Section 31(1) of the MRTP Act by the Director of Town Planning, Maharashtra State, Pune, on 12.10.1990, which has come into force on 2.12.1990. According to the third respondent, the petitioner's land bearing Survey No. 268(part) from out of Gat No. 1(Part) admeasuring 1 Hectare 0.6 Are is reserved for town hall and library as Site No. 34. He states that the second revised draft development of Parola Municipal council is submitted to the Government on 27th May, 2019 for sanction under Section 30 of the

MRTTP Act. It is submitted that as per the second revised draft development plan, the suit land is reserved for Shopping Center and Town Hall as Site No. 16 (area admeasuring 0 Hectare 89 Rs). It is submitted that the appropriate authority for acquisition and development of said land is Municipal Council, Parola. The third respondent has submitted that appropriate order may be passed considering the reply filed by respondent – Municipal Council.

6. Respondent No.4 Municipal Council has filed an affidavit in reply of Chief Officer, Mrs. Jyoti Bhagat. It is pointed out that the suit land is shown as site No.34 reserved for Town Hall, Library and Fire Station in the final development plan of 1987 of Parola Municipal Council. The Municipal Council in its general body meeting held on 24.2.2020 had passed a resolution No. 289 by which it was resolved that the facilities of town hall, library and fire station are already available and after considering the situation and location of petitioners property, its market value and financial position of the Municipal Council, it is not possible to acquire the land and therefore to grant permission to convert the said land as residential zone.

It is thus submitted that appropriate orders may be passed.

7. We have considered the circumstances and the submissions made. It is not in dispute that the land is reserved as Site No.34 in the Sanctioned Development Plan of the year 1987 of Parola Municipal Council. For the present, we are only required to consider

the reservation as notified in the Final Development Plan of the year 1987. The Municipal Council has passed a resolution dated 24.2.2020 by which it is resolved that the facilities of Town Hall Library and Fire Station are already available and considering the location of the property and its market value and the financial condition of the Municipal Council, it is not possible for acquire the land. We find that in such circumstances, the petition has to succeed.

8. In the result, the petition is allowed in terms of prayer clauses (A) and (B).

In the circumstances, there shall be no order as to costs.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.

grt/-