

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

WRIT PETITION NO. 10319 OF 2021

1. Kamlakar Khemchand Attarde,
Age : 53 Years, Occu. : Agril. & Business,
2. Ganesh Khemchand Attarde,
Age : 56 Years, Occu. : Agril. & Business,
3. Sunil Khemchand Attarde,
Age : 51 Years, Occu. : Agril. & Business,

All R/o Plot No. 52, Survey No. 70/1,
Sagar Nagar, Jalgaon,
Tq. & Dist. Jalgaon.

.. Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai.
2. The Director of Town Planning,
Maharashtra State, Pune.
3. The Collector, Jalgaon.
4. Jalgaon Municipal Corporation,
Jalgaon, Through its Commissioner,
Jalgaon.
5. The Assistant Director of Town
Planning, B. J. Market, Jalgaon.
6. Irrigation Department,
Through its Executive Engineer,
Waghur Dam Department,
Jalgaon.

.. Respondents

Shri A. B. Kale, Advocate for the Petitioners.
Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 to 3.
Shri V. B. Patil, Advocate for the Respondent Nos. 4 and 5.
Shri A. D. Pawar, Advocate for the Respondent No. 6.

**CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.
DATE : 20TH JULY, 2022.**

ORAL JUDGMENT (*Per C. V. Bhadang, J.*) :

. Rule. Rule made returnable forthwith. The learned Assistant Government Pleader for the respondent Nos. 1 to 3, the learned counsel for respondent Nos. 4 and 5 and the learned counsel for the respondent No. 6 waive service of rule. Heard finally by consent of parties.

2. By this petition the petitioners are seeking a declaration of de-reservation of the land admeasuring 59R out of Sy. No. 416/2/E/1 situated at Jalgaon city, Tq. and Dist. Jalgaon. The said land was reserved for the purposes of Waghur Canal Project of the respondent No. 6, which is an appropriate authority within the meaning of Section 2(3) of the Maharashtra Regional and Town Planning Act, 1966 (for short "M.R.T.P. Act"). The land was so reserved in the final development plan of Jalgaon city, which came into force with effect from 11th February, 2002.

3. The petitioners addressed a notice to the respondent corporation in its capacity as a planning authority to acquire the land U/Sec. 127 of the M.R.T.P. Act within statutory period. According to the corporation, the reservation is made at the

instance of the appropriate authority and, therefore, it is for the appropriate authority to take steps for acquisition of the land. The fact remains that the land has not been acquired for the said purpose. Quite to the contrary by virtue of letter dated 21st July, 2020, the respondent No. 6-appropriate authority had intimated to the petitioners that the land is not now required for the purpose of Waghur Canal Project.

4. The learned counsel for the respondent corporation also pointed out that a proposal for modification of the final plan has been sent by the corporation to the Government U/Sec. 37 of the M.R.T.P. Act seeking deletion of the said reservation.

5. We have heard the learned counsel for parties. It is not in dispute that the appropriate authority has stated that the land is no longer required for the said project. The learned counsel for the petitioners has pointed out the judgment and order dated 02nd July, 2019 in Writ Petition No. 14093 of 2017 and judgment and order dated 31st August, 2015 in Writ Petition No. 3021 of 2015 and Writ Petition No. 3138 of 2015 passed by this Court, in which after noticing the stand of the appropriate authority, the petitions were allowed seeking dereservation of the lands, therein, which were part of the reservation for Waghur Canal Project in the said development plan.

6. In that view of the matter, the petition is allowed. The reservation, allotment or designation in respect of the land

admeasuring 59R out of Sy. No. 416/2/E/1 situated at Jalgaon city, Tq. and Dist. Jalgaon belonging to the petitioners shall be deemed to have lapsed and the land shall be available to the owners for the purpose of development, otherwise, permissible in case of adjacent lands under the relevant plan. The respondent State is directed to issue a notification as contemplated under sub-section (2) of Section 127 of the M.R.T.P. Act within a period of six (06) months from today.

7. Rule is made absolute in above terms. There shall be no order to costs.

[SANDIPKUMAR C. MORE J.]

[C. V. BHADANG, J.]

bsb/July 22