

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

953 WRIT PETITION NO.11768 OF 2021

**MACHINDRA SONYABAPU SHETE DIED THROUGH HIS LRS SUNITA
MACHINDRA SHETE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

AND

954 WRIT PETITION NO.11771 OF 2021

**PRASAD SONYABAPU SHETE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

AND

955 WRIT PETITION NO.11780 OF 2021

**SONYABAPU RAJENDRA SHETE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioners : Mr. Raviraj R. Chandak
AGP for Respondent/State in the respective matters : Mrs. V.N. Patil –
Jadhav, Mr. A.S. Shinde & Mr. K.N. Lokhande
Advocate for Respondent No.3 : Mr. R.V. Naiknavare

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

DATE : 29-09-2022

PER COURT :

. The petitioners are seeking a declaration regarding
lapsing of reservation under Section 127 of the Maharashtra Regional
and Town Planning Act (hereinafter referred to as the 'MRTP Act').

2. We have heard both the sides.

3. The Development Plan in all these petitions had come into effect on 01.10.2004. Since no steps were taken for acquisition of the writ properties for 10 years, notices under Section 127 of the MRTP Act were issued on 3/21.07.2015 in all these petitions. Since there was no response much less regarding any step in the direction of acquisition, the petitions have been filed in October – 2021.

4. Irrespective of the benevolent object in preparing a Development Plan, it is imperative for the Planning Authority to resort to acquisition of the properties, which are earmarked and reserved for public purposes. However, such reservation cannot be in perpetuity. It is for the planning authority to take steps in the direction of acquisition of the properties. In the matter of **M/s. Girnar Traders Vs. State of Maharashtra; AIR 2007 SC 3180**, it has been laid down that a declaration under Section 6 of the Land Acquisition Act, 1894 which corresponds to Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 can alone be said to be a step in the direction of acquisition as is contemplated under Section 126 of the MRTP Act. The result is inevitable and the reservation

would lapse.

5. In view of the above, the following order is passed.

ORDER

(i) The Writ Petitions are allowed.

(ii) It is declared that the reservations have lapsed. The respondents shall take immediate steps for issuance of notification under sub-section (2) of Section 127 of the MRTP Act.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)

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