

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

WRIT PETITION NO.10943 OF 2019

1. Shri Prabhakar Vishwanath Mhase,
Age ; 62 years, Occu.: Agril.,
R/o.: Mhasevasti, Near Station,
Vithal Mandir, Rahuri-Bk,
Tq. Rahuri, Dist. Ahmednagar.
 2. Kishor Kantilal Sawaj,
Age : 49 years, Occu.: Agril.,
R/o.: Shivaji Chouk, Main Road Rahuri,
Rahuri, Tq. Rahuri,
District : Ahemdngar
 3. Uttamrav Savieram Mate,
Age : 69 years, Occu.: Agril.,
R/o.: Nagar Manmad Road,
Rahuri, Dist. Ahmednagar
- ... PETITIONERS

Versus

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai
2. The Director of Town Planning,
Maharashtra State, Pune,
Tq. and Dist. Pune
3. The Deputy Director of Town Planning,
Nashik Division, Nashik
4. The Collector, Ahmednagar,
Tq. and Dist. Ahmednagar

5. The Municipal Council, Rahuri,
Through its Chief Executive Officer
6. The Superintendent of Post Office,
Shrirampur Division, Shrirampur,
Tq. Shrirampur, Dist. Ahmednagar RESPONDENTS

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Advocate for Petitioners : Mr. A. B. Jagtap
AGP for Respondent Nos. 1 to 4 : Ms. R. P. Gaur
Advocate for Respondent No.5 : Mr. R. V. Naiknavare
Advocate for Respondent No.6 : Mr. S. S. Deve

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**CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.
DATED : 14 JULY 2022.**

ORAL JUDGMENT : (PER C. V. BHADANG, J.):

Rule. Rule made returnable forthwith. Learned counsel for the respective respondents waive service. Heard finally by consent of the parties.

2. By this petition, the petitioners are seeking declaration about dereservation of land / plots owned by them as under :

Sr. No.	Survey No.	Name of the occupant	Total Area	Reserved Area
1	399/1/A (p)	Shri Prabhakar Vishwnath Mhase Shri Kishor Kantilal Sawaj	8.64 R	5.90 R
2	399/1/B (p)	Shri Prabhakar Vishwanath Mhase	7.64 R	5.50 R
3	399/2/1/1 (p)	Shri Mahesh Janardhan Walke Shri Milind Janardhan Walke	13.00 R	4.60 R
4	399/3/1	Shri Uttam Savleram Mate	6.03 R	5.25 R
			Total	21.25 T

3. The petitioners claim to be owners of land as aforesaid, out of which, portion of land as indicated in column No.5 is reserved as per the sanction development plan of Rahuri Municipal Council dated 10 February 2003 for construction of a Post Office.

4. As no steps were taken by the Municipal Council – respondent No.5 or respondent No.6 – Superintendent of Post Office, Shrirampur, District Ahmednagar (which is said to be acquiring body), within the statutory period of 10 years, the petitioners issued a notice under Section 127 of the Maharashtra Regional and Town Planning Act (MRTP Act for short) on 7 July 2017. Such notice was issued to respondent No.5 as well as respondent No.6 and no steps were taken again for acquisition of the land within the statutory period as provided under Section 127 of the MRTP Act. Hence, this petition.

5. We have heard the learned counsel for the parties.

6. It is submitted by the learned counsel for the petitioners as well as respondent No.5 that the reservation being for a Post Office, respondent No.6 is the competent authority to acquire the land. Respondent No.6 has filed an affidavit in reply of Mr. S. Rama Krishna dated 3 February 2021.

7. A perusal of the said affidavit in reply shows that except that respondent No.6 claims to have taken up the matter with the higher authority for completion of the process of acquisition. There are other positive steps taken in order to see that acquisition materializes. Respondent No. 6 has produced the copies of the communication along

with affidavit in reply to the higher authority including Post Master, Pune Region, Pune, which is dated 2 August 2017.

8. We thus, find that respondent No.6 which is the acquiring body has failed to take steps for acquisition of the land within the statutory period as provided under Section 127 of the MRTP Act.

9. In that view of the matter, the writ petition is allowed in terms of prayer clause- B and C.

10. The petitioners shall be entitled to use the land for the same purpose / use as the adjacent land in the sanctioned development plan for the Municipal Council.

11. Rule is made absolute in the aforesaid terms.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.