

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

WRIT PETITION NO.12271 OF 2019

1. Omprakash Sitaram Agrawal
Age : 70 years, Occu : Business & Agriculture,
R/o. 122, Navi Peth, Jalgaon, Dist. Jalgaon
2. Satish Soma Bhole,
Age : 65 years, Occu : Business & Agriculture,
R/o. Tailor House, Shivram Nagar,
Jalgaon, Dist. Jalgaon
3. Smt. Hansa Indravadan Shah
Age : 62 years, Occu : Business and Agriculture,
R/o. Tijori Galli, Polan Peth, Jalgaon,
Dist. Jalgaon
4. Nishant Indravadan Shah
Age : 40 years, Occu : Agriculture and Service,
R/o. Tijori Galli, Polan Peth, Jalgaon,
Dist. Jalgaon
Through his General Power of Attorney Holder
i.e. Petitioner No. 3

.. Petitioners

Versus

1. The State of Maharashtra
Through the Secretary
Ministry of Urban Development
Mantralaya, Mumbai.
2. The Director of Town Planning,
Maharashtra State, Pune
3. The Land Acquisition Officer, Jalgaon,
Dist. Jalgaon
4. The Collector,
Jalgaon, Dist. Jalgaon
5. Assistant Director, Town Planning,

Municipal Corporation Jalgaon,
Jalgaon

6. Municipal Corporation Jalgaon,
through its Commissioner .. Respondents

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Advocate for the Petitioners : Mr. Anand P. Bhandari
AGP for the Respondent / State : Mrs. R.P. Gour
Advocate for Respondent nos.5 & 6 : Mr. L.V. Sangeet

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

DATE : 25-07-2022

ORAL JUDGMENT (PER MANGESH S. PATIL, J.) :

1. Heard. Rule. Rule is made returnable forthwith.
Mrs. R.P. Gour, learned AGP waives service of the Rule on behalf of
the respondent – State. Mr. L.V. Sangeet, learned Advocate waives
service of the Rule on behalf of the respondent – Corporation.

2. It is a matter of dereservation as contemplated under
Section 127 of the Maharashtra Regional and Town Planning Act,
1966 (hereinafter in short 'MRTP Act'). The petitioners are the
owners of two pieces of lands admeasuring 20 *Are* each out of two
survey numbers. The Development Plan had taken place in two
phases, first on 07.03.2002 and another on 10.08.2004 and the same
came into force w.e.f. 01.10.2004. The writ lands as Site No.144

(EP-35) were reserved for play ground. Since no further steps were taken for acquisition, the petitioners served a notice dated 31.07.2017, still the respondent - Corporation did not take steps to acquire the land in terms of Section 126 of the MRTP Act by issuing a notification by resorting to either Section 6 of the Land Acquisition Act or Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The petitioners were offered TDR in lieu of the monetary compensation, but they turned down the offer.

3. Though in the affidavit-in-reply and by tendering across the bar the resolution dated 21.02.2019 attempt has been made to demonstrate that some steps have been taken by passing a resolution to offer the petitioners TDR in lieu of the compensation that having not been accepted, the respondent - Corporation has no option. Still, a joint measurement has taken place and attempt is made to demonstrate that steps are being taken towards acquisition.

4. In view of such state-of-affairs, since no steps have been taken as contemplated under Section 126 of the MRTP Act within the stipulated time, reservation would lapse automatically since there is no dispute about the time line required to be followed under Section 127.

5. The Writ Petition is allowed in terms of prayer clauses 'B' and 'C'. Steps be taken for issuing necessary notification under Sub-section (2) of Section 127 of the MRTP Act.

6. Rule is made absolute.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)