

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.5311 of 2022

1. Pandurang S/o Ganbaji Khante,
Aged about 75 years,
Occupation- Agriculture.
2. Mahadeo S/o Ganbaji Khante,
Aged about 61 years,
Occupation- Agriculture.
3. Shantaram S/o Ganbaji Khante,
Aged about 74 years,
Occupation- Agriculture.

All 1 to 3 area R/o Wadpura, Katol,
Tah- Katol, Dist. Nagpur.

4. Baby W/o Shalikram Bhangе,
Aged about 66 years,
Occupation- Household,
R/o Ward No.5,
Bajar Chowk,
Karanja-Ghadge,
Dist. Wardha.

... Petitioners

Versus

1. State of Maharashtra,
Through its Principal Secretary,
Urban Development Department,
Mantralaya,
Mumbai-32.
2. Municipal Council, Katol,
Through its Chief Officer,
Katol, District- Nagpur.

... Respondents

Shri M.P. Khajanchi, Advocate for Petitioner.

Shri K.L. Dharmadhikari, Assistant Government Pleader for
Respondent No.1.

Shri M.I. Dhatrak, Advocate for Respondent No.2.

CORAM : SUNIL B. SHUKRE & G.A. SANAP, JJ.

DATE : 19th SEPTEMBER, 2022

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

1. Heard.
2. Rule. Rule made returnable forthwith. Heard finally by consent.
3. The reply filed by respondent no.2-Municipal Council, Katol is categorical. In Paragraph 3, it is stated that the issue in question was taken up in the General Body meeting of the Municipal Council, Katol as subject No.32 on 2-8-2021 and in this meeting, after discussion, it was unanimously resolved that the subject land which is currently reserved for the purposes of housing for Dishoused and Play-ground should not be acquired and this fact should be intimated to the land-owner. This reply is well-supported by copy of the Resolution bearing No.32/2021 which is at page 26.
4. It is, thus, clear that the subject land is not proposed to be acquired by the Municipal Council-respondent no.2, under Section 126 of the Maharashtra Regional and Town Planning Act. Besides, there is no dispute about receipt of notice by respondent no.2 which is a purchase notice by respondent no.2, u/s. 127 of the MRTP Act. These facts would entail this Court to allow this petition by issuing necessary directions.

5. The Writ Petition is allowed in terms of prayer clauses (a) & (b). We direct that lapsing of the land shall be published accordingly by seeking necessary approvals within three months from the date of this order.

6. Rule in above terms. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Lanjewar