

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

WRIT PETITION NO.965 OF 2023

- 1) Pritish S/o Amitkumar Chatterjee
Age: 59 years, Occu: Agri. & Business,
R/o. Neelkanth Plaza, Station Road,
Golegaonkar Colony, Aurangabad
- 2) Tripti W/o Pritish Chatterjee
Age: 57 years, Occu: Housewife,
R/o. Neelkanth Plaza, Station Road,
Golegaonkar Colony, Aurangabad
- 3) Ajinkya S/o Atul Save
Age: 31 years, Occu: Agri & Business,
R/o Anjali Complex, Khadkeshwar,
Aurangabad
- 4) Anurag Atul Save
Age: 28 years, Occu: Agri & Business,
R/o Anjali Complex, Khadkeshwar,
Aurangabad

... Petitioners

VERSUS

1. The State of Maharashtra,
Through Department of Urban Development,
Mantralaya, Mumbai – 32
2. Principal Secretary,
Department of Urban Development,
Mantralaya, Mumbai – 32
3. The Collector,
Aurangabad

4. Special Land Acquisition Officer
(Special Unit), Aurangabad
 5. City Industrial and Development Corporation Ltd.,
Through its Chief Administrator, New Towns
Udyog Bhavan, Town Centre,
New Aurangabad – 431 003
 6. Administrator, Waluj Mahanagar Project,
City Industrial & Development Corporation Ltd.,
Udyog Bhavan, Town Centre,
New Aurangabad – 431 003
 7. The Additional Town Planning Officer,
CIDCO, Waluj Mahanagar,
Aurangabad
- ... Respondents

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Mr. D. P. Palodkar, Advocate for Petitioners
Mr. A. V. Deshmukh, AGP for Respondent – State
Mr. S. S. Deshmukh, Advocate for Respondent Nos. 5 and 6

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 12.09.2023

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.) :-

1. Rule. Rule made returnable forthwith and heard finally
by the consent of the parties.
2. The CIDCO authorities published a development plan on
14.08.2001 for acquiring land admeasuring 27 R from Gut No.45 in

Golwadi, Taluka and District Aurangabad. The purpose of the reservation was a Technical College. As there was no development, the Petitioners issued a purchase notice on 17.11.2020. Twenty four [24] months lapsed on 17.11.2022. Contention is that, even till today, no steps have been taken by the CIDCO authorities.

3. The learned Advocate representing CIDCO has relied on the affidavit-in-reply filed on behalf of Respondent Nos.5 and 6. It is contended that the Technical College is required for higher educational facilities and the object of CIDCO in acquiring the land is laudable. The Technical College requires land admeasuring 2700 square meters. The CIDCO has complied with all the necessary provisions as are enshrined under the Maharashtra Regional and Town Planning Act. The Petitioners personal interest cannot out-way public interest. Reliance is placed upon the following judgments:-

- [i] K. T. Plantation Vs. State of Karnataka – (2011 9 SCC 1;
- [ii] Ramleela Maidan Vs. Home Secretary UOI – (2012) 5 SCC 1;
- [iii] Bihar Public Service Commission Vs. Saiyed Hussain Abbas – (2012) 13 SCC 61;
- [iv] Manimegalai Vs. Special Tahasildar – (2018) 13 SCC 491;

[v] Dr. Abraham Patani Vs. State of Maharashtra – 2022 (6) AIR Bombay 93.

4. Though the learned Advocate for CIDCO has vehemently opposed this Petition, he is unable to defend the stand of CIDCO with regard to the lapsing of twenty four [24] months post the purchase notice. In our view, when no steps for acquisition of the said land are undertaken within the period of twenty four [24] months, the law laid down by the Hon'ble Supreme Court in *Girnar Traders Vs. The State of Maharashtra - 2007 (7) SCC 555* and the judgment of this Court in *Santu Sukhdev Jaibhave and Others Vs. Nashik Municipal Corporation - 2023(2) Bom.C.R. 469*, would be squarely applicable.

5. In view of the above, **this Petition is allowed**. The reservation is declared to have lapsed. The Respondent CIDCO shall submit a proposal to Respondent No.1 within thirty [30] days from today by declaring that the land is released from reservation. Thereafter, Respondent No.1 shall issue a notification under Section 127(2) of the Maharashtra Regional and Town Planning Act, within forty five [45] days.

6. Needless to state, keeping in view the order passed by the Hon'ble Supreme Court on 27.02.2023 in Special Leave Petition

(Civil) Diary No.39782 of 2022 in the matter of ***Municipal Corporation, Jalgaon Vs. Satish Soma Bhole***, CIDCO would be at liberty to initiate fresh proceedings for acquisition in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. Rule is made absolute in the above terms.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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