

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

17 WRIT PETITION NO.8034 OF 2022

SAVITA MAHALING TAKATE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH IT'S SECRETARY
AND OTHERS

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Advocate for Petitioners : Mr. P N Surwase
AGP for Respondents: Mr. A R Kale
Mr. S S Dande, Advocate for respondent no.2.

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CORAM : NITIN W. SAMBRE & S. G. CHAPALGAONKAR, JJ.
Dated: April 03, 2023

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PER COURT :-

1. Heard.
2. Issue notice to the Respondents. Learned AGP waives service for respondent no.1. Mr. Dande, learned counsel waives service for respondent no.2. We direct Mr. Yawalkar, learned AGP to appear for respondent no.3 Registrar, District Court, Aurangabad.
3. The case of the petitioners is that they had purchased plot from respondent no.2 bearing no.RH-45/6 at Waluj Industrial area. A deed of conveyance has been executed between the petitioners and respondent no.2 and possession was delivered to the petitioners on 1st October, 2003.

aaa/-

4. There appears to be certain criminal acts in the office of the respondent no.2 which has resulted into initiation of criminal case bearing RCC No.1681 of 2006 on the file of Judicial Magistrate First Class, Court No.13, Aurangabad. Some of the accused in the said trial remained absconded as a sequel in the order of acquittal dated 10th August, 2018 Magistrate Court has observed as follows :-

“5. All depositions of witnesses, seized documents and other relevant papers of charge-sheet be kept in “C” Part of the proceeding and be preserved till appearance of absconding accused for the purpose of their fresh trial.”

5. In this background, it is case of the petitioners that though he has applied for permission to develop the aforesaid property, the same is not processed as the original documents from the office of the respondent no.2 are part of the aforesaid criminal proceedings.

6. Aforesaid submissions are supported by the counsel for respondent no.2. Mr. Dande, learned counsel for respondent no.2 submits that respondent no.2 is handicapped in processing the request of the petitioners for want of record, as

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same was seized by respondent no.2 during the course of the investigation in the aforesaid criminal case.

7. In response to the query, Mr. Dande, learned counsel submits that, the counsel for the respondent no.2-MIDC, within four weeks from today, shall apply for releasing certified copy of the record which was seized from the custody of the respondent no.2, which will enable respondent no.2 to process the request for developing the property allotted to petitioners almost about 10 years back. Since the statement is made on instructions, same is accepted as undertaking.

8. Once such request is made in writing by the respondent no.2, we direct respondent no.3 to process the same as expeditiously as possible, and shall make available if not original record, certified copies of the same in accordance with the relevant rules of the Court Manual.

9. With the above observations, petition stands disposed off.

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10. We make it clear that once respondent no.2 is in receipt of the record from the office of respondent no.3, they shall process request of the petitioners, expeditiously.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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