

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

3 WRIT PETITION NO.7213 OF 2022

**SATISH SOMA BHOLE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS**

...

Advocate for Petitioner : Mr. A. P. Bhandari
AGP for Respondents State: Mr. V. M. Kagne
Advocate for Respondents 4 & 5: Mr. L. V. Sangit

CORAM : RAVINDRA V. GHUGE, &
Y. G. KHOBRAGADE, JJ.

DATE : 26th June, 2023

ORDER:

1. The Petitioner has put forth prayer clauses (B), (C) and (D) as under:

(B) The Honourable Court be pleased to issue writ of Mandamus or any other appropriate writ, directing the respondents to release land bearing Gut No. 415/2 of Jalgaon City Taluka & Dist. Jalgaon, situated within the Municipal Limits of Jalgaon to the extent of an area of approximately 6000 square meters affected by 18 meter Development Plan Road and permit the Petitioner to develop the said land, as if the same is not reserved.

(C) The Honourable Court be pleased to issue writ of Mandamus or any other appropriate writ, directing the respondent no.1 to issue a notification in terms of Section 127 (2) of the Maharashtra Regional and Town Planning Act, 1966, thereby

notifying release of land bearing Gut No. 415/2 of Jalgaon City Taluka & Dist. Jalgaon, situated within the Municipal Limits of Jalgaon to the extent of an area of approximately 6000 square meters affected by 18 meter Development Plan Road.

- (D) Pending hearing and final disposal of the present Writ Petition, the respondents be directed to release land bearing Gut No. 415/2 of Jalgaon City Taluka & Dist. Jalgaon, situated within the Municipal Limits of Jalgaon to the extent of an area of approximately 6000 square meters affected by 18 meter Development Plan Road and permit the Petitioner to develop the said land, as if the same is not reserved.

2. We have considered the submissions of the learned Advocates for the respective sides and have perused the affidavits-in reply filed on behalf of the Government and on behalf of the Jalgaon Municipal Corporation.

3. The Petitioner's land bearing Gut No. 415/2 in Jalgaon City, Taluka & Dist. Jalgaon, was notified as reserved for an 18 Meters Road vide notification dated 01.03.2002. The development plan came into force from 01.10.2004. Since no development took place for more than 10 years, the Petitioner issued a purchase notice under section Section 127 of the Maharashtra Regional and Town Planning Act, 1966 accompanied with a 7/12 extract and a clear statement as regards his title and interest in the property. The Assistant Director of Town

Planning offered TDR on 31.01.2019. On 10.01.2020, the Petitioner refused to accept the TDR and prayed for release of the land. On 30.01.2020, the Petitioner supplied additional documents to the Corporation. Admittedly, after receiving the purchase notice, the Corporation has not carried out any development within a period of 24 months.

4. This Court has held in its judgment dated 09.06.2016 delivered in **Writ Petition No. 8502/2015 filed by Kishanrao s/o Jethuji Halde and others Vs. The Planning Authority & others** and in judgment dated 29.11.2022 delivered in **Writ Petition No.13636 of 2019, filed by Sow. Rukminbai Raosaheb Salunke Vs. The State of Maharashtra & others**, that the purchase notice under section 127 must be accompanied with some documents to indicate title and interest. Filing of 7/12 extract alongwith the notice has been accepted by this Court in the above referred two judgments delivered in **Kishanrao s/o Jethuji Halde (supra)** and **Sow. Rukminbai Raosaheb Salunke (Supra)**.

5. In view of the above, this petition is allowed in terms of prayer clause (C).

6. The Municipal Corporation, Jalgaon shall submit its proposal to respondent No.1 within a period of 30 days from today 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, 1966, within 45 days.

7. Needless to state, keeping in view the order passed by the Hon'ble Apex Court on 27.02.2023 in Special Leave Petition (Civil) Diary No. 39782/2022 in the matter of Municipal Corporation, Jalgaon Vs. Satish Soma Bhole, the Municipal Corporation 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.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan