

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

WRIT PETITION NO.8189 OF 2019

MOHIT ARUN PATIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Anand P Bhandari

AGP for Respondents: Mr. A.S. Shinde

Advocate for Respondent No.6 : Mr. V.D. Gunale

...

**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 21.02.2023

PER COURT :

The petitioners are seeking declaration regarding lapsing of reservation under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (herein after the MRTP Act).

2. In a development plan of the respondent - Municipal Corporation which came into effect on 15.02.1993, a portion admeasuring 380.90 sq.mtr from the petitioners' Plot No.39 out of survey No.475/A of Village Mehrun, Tq. and District Jalgaon was reserved as Site No.169 for water tank. Since no formal acquisition proceeding as contemplated under Section 126 of the MRTP Act read with Section 6 of the Land Acquisition Act, 1894 was initiated, the petitioners served notice dated 03.02.2017. By a communication dated 08.06.2017 the respondent - Corporation offered him TDR and in response by his communication dated 12.06.2017 they declined to have it. The petition has been filed beyond 24 months of issuance of notice under Section 127 of the MRTP Act.

3. When admittedly, no steps as contemplated towards acquisition as interpreted and laid down in the **Girnar Traders Vs. State of Maharashtra**

and Ors.; (2007) 7 SCC 555 have been taken within the stipulated time the consequences are inevitable. The reservation would lapse automatically.

4. The question of acceptance of the TDR in lieu of monetary compensation has also been set at rest by the full bench of this Court in the matter of **Shree Vinayak Builders & Developers Vs. The State of Maharashtra and Ors.; 2022(4) Mh.L.J 739**, the petitioners cannot be insisted to have TDR.

5. Before parting, it is necessary to note that, admittedly, possession of the reserved writ land was taken over by way of private negotiations in view of the exigency by executing a possession receipt dated 18.11.1996 between the petitioners on the one hand and chief officer of the then Municipal Council which subsequently transformed into respondent - Corporation.

6. In view of such state of affairs, the learned advocate for the petitioners submits that the petitioners would resort to appropriate remedy to claim compensation pursuant to such arrangement independently.

7. We allow the writ petition, declare that the reservation on the writ property stands lapsed. Respondent shall take immediate steps for issuance of notification under Sub-Section 2 of Section 127 of the MRTP Act as expeditiously as possible. The petitioners would have their own remedies to claim compensation independently.

(S.G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)