

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

WRIT PETITION NO.9861 OF 2021

1. Vilas s/o. Hiralal Chudiwal,
Age: 62 years, Occu: Business,
2. Smt. Anjanabai Hiralal Chudiwal,
Age: 75 yrs, Occu: Household.
3. Vipin Hiralal Chudiwal,
Age: 53 yrs, Occu: Business.

All R/o.Sadhana Sadan,
Ward No.3, Shivaji Cross Road,
Shrirampur, Dist. Ahmednagar.

.... **PETITIONERS**

V/s.

1. The State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
2. The Assistant Director of Town
Planning And Valuation Department,
Near Akashwani, Savedi, Ahmednagar.
3. The Shrirampur Municipal Council,
Shrirampur, Dist. Ahmednagar.

.... **RESPONDENTS**

...
Advocate for Petitioner : Mr. S.P. Urgunde
AGP for Respondents/State : Mr. S.B. Yawalkar
Advocate for R/3 : Mr. V.S. Bedre
...

**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.**
DATE : 18th August, 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 Petitioners have put-forth prayer clause-B and C as under:

“B) By issuing appropriate writ in the nature of direction and order and declared that, the reservation on the property of the petitioners as shown in the development plan as site No.46 (now site No.77) in CTS No. 2054A/1 adm. 967.30 sq.mtr. and 457.20 sq.mtr. respectively stands lapsed and land may kindly be de-reserved in the interest of justice.

C) By issuing appropriate writ in the nature of direction and order and direct the respondents that, in pursuance of the resolution dated 8.11.2004 vide resolution No.47/4, the reservation on the property of the petitioners stands lapsed and same is de-reserved.”

3. Having considered the strenuous submissions of the learned advocate for the respective sides and upon perusing the affidavit in reply filed by Respondent No.3, the following dates and events are undisputed:

a) The development plan of the Shrirampur Municipal Council was sanctioned on 09.08.1991 and the same came into force on 31.10.1991.

b) Vide reservation no. 46, the Petitioner's land bearing CTS No.2054A/1 ad-measuring 470.20 sq.mtr and 967.30 sq.mtr, was reserved for a vegetable market and a shopping centre, respectively.

c) No steps for acquisition were taken in a period of ten years.

d) On 18.11.2004, the Municipal Council passed a resolution no.47/4 de-reserving the property of the Petitioner and further resolved to initiate action in pursuance of Section 37 of the MRTP Act.

- e) The Municipal Council published a public notice dated 21.02.2005 in respect of de-reservation of the property of the Petitioner.
- f) The planning authority forwarded the proposal to the Government on 18.11.2010, for de-reservation. However, no steps were taken.
- g) The Petitioner issued a purchase notice under Section 127 of the MRTP Act on 18.04.2018.
- h) The Municipal Council revised the development plan on 15.03.2019.
- i) No steps for acquisition were initiated by the Municipal Council.

4. It is obvious that the Municipal Council has not initiated specific steps for acquisition of the said land as is required under Section 126(2). The law laid down by the Hon'ble Supreme Court in **Girnar Traders V/s. State of Maharashtra; 2007 7 SCC 555** and by this Court in **Santu Sukhdeo Jaibhave and Others V/s. Nashik Municipal Corporation; 2023 (2) Bom. C.R. 469**.

5. In view of the above, **this petition is allowed**. The reservation is declared to have lapsed. The Municipal Council shall communicate accordingly to Respondent No.1, within 15 days. Within 45 days thereafter, Respondent No.1 shall issue a notification under Section 127 (2) declaring that the reservation has lapsed.

6. Rule is made absolute in the above terms.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]