

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

50 WRIT PETITION NO.2714 OF 2021

**MANOJ PRAKASHRAO NALADKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : J. M. Murkute
AGP for Respondent/State : Mr. A.S. Shinde

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

DATE : 16.01.2023.

PER COURT :

Heard learned advocate for the petitioner and the learned A.G.P for the respondents/State.

2. The petitioner's property being Survey No. 451 admeasuring 0-Hectare 30 Are and Survey No. 452 admeasuring 0 Hectare 69-Are situated at Gangakhed Tq. Gangakhed Dist. Parbhani were reserved for 'children park' in development plan of the respondent No. 4. It was notified on 17.07.2006. Since no steps were taken as contemplated under the Maharashtra Regional and Town Planning Act (M.R.T.P. Act) read with relevant provisions of the Land Acquisition Act for a period of 10 years, a notice under Section 127 of the M.R.T.P. act was issued on 26.12.2017 and on failure to take the steps in next two years the petition has been filed.

3. Learned A.G.P. on the basis of the reply filed submits that they have not received any proposal from the respondent No. 4-Municipal Council for acquisition of petitioner's properties for utilizing the reservation.

4. The respondent No. 4's reply clearly demonstrates that for want of

funds it is not in a position to undertake the acquisition.

5. When admittedly, no steps have been taken as is contemplated under Section 126(4) read with Section 6 of the Land Acquisition Act, 1894 or Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within the stipulated time, the consequences would be axiomatic as laid down in the matter of **M/s. Girnar Traders vs State Of Maharashtra & Ors; A.I.R. 2007 SC 3184.**

6. The writ petition is allowed. It is declared that the reservation on the petitioner's properties (Survey No. 451 admeasuring 0-Hectare 30 Are and Survey No. 452 admeasuring 0 Hectare 69-Are situated at Gangakhed Tq. Gangakhed Dist. Parbhani) stands lapsed.

7. The respondents shall take immediate steps for issuance of notification under sub Section 2 of Section 127 of the M.R.T.P. Act.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

mkd/-