

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

**WRIT PETITION NO. 8147 OF 2017
WITH CIVIL APPLICATION NO. 1159/2023 IN WP/8147/2017 WITH
WP/8147/2017**

**NAMDEO VASANT VANJARI AND OTHERS
VERSS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for the Petitioners :Mr. Prashant M. Nagargoje.
A.G.P for the Respondent Nos. 1 to 3/State : Mrs. M.A. Deshpande
Advocate for Respondent Nos. 4 & 5 : Mr. V.B.Patil
Advocate for Intervener : Mr. V. H. Dighe

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**
RESERVED ON : 01.02.2023
PRONOUNCED ON : 03.03.2023

PER COURT : (PER : MANGESH S. PATIL, J.)

The petitioners are claiming lapsing of reservation in view of the provisions of Section 49(7) of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter 'M.R.T.P. Act').

2. We have heard both the sides as also the learned advocate Mr. Dighe who appears for the intervener.

3. There is no dispute about the fact that a development plan for the respondent No. 5-Municipal Corporation had come into force with effect from 07.04.2002 and the development plan for the excluded part came into effect on 01.10.2004. The petitioners' writ properties namely Survey Nos. 455/1, 455/2, 455/3 admeasuring 1-Hectare 60 Are of village Mehrun, Jalgaon Dist. Jalgaon were reserved for play ground, shopping complex and

development plan road. There is also no dispute that a purchase notice was served by them to the respondents/State on 22.09.2011 and the latter confirmed it on 08.02.2012.

4. The only defence that is being raised by the respondent No. 5/Corporation is about having submitted a proposal with the Collector within one year of receipt of the purchase notice for acquisition on 16.04.2012 as is required by sub Section 7 of Section 49 of the M.R.T.P. Act.

5. In the matters of **Chhabildas Vs. State of Maharashtra and others; (2018) 2 Supreme Court Cases 784** and **Hari Krishna Mandir Trust Vs. State of Maharashtra and others; AIR 2020 Supreme Court 3969** it has been elaborately discussed and laid down that any such reservation on a private property depriving the owner of its rights which is contrary to Article 300A of the Constitution of India has to be strictly in accordance with law.

6. In the matter of **M/s. Girnar Traders vs State Of Maharashtra & Ors (2007) 7 SCC 555** it has been held that steps towards acquisition as contemplated under Section 127 of the M.R.T.P. Act would be nothing short of issuing a declaration under Section 126 of the M.R.T.P. Act read with the 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.

7. When admittedly no such steps were taken towards acquisition, mere submission of proposal by the respondent No.5/Corporation with the

Collector would fall short of the statutory requirement. The consequences are axiomatic and the reservation would lapse.

8. The interveners' claim that the petitioners have agreed to sell the writ properties to them regarding which they have filed a suit for specific performance. Since this is a petition wherein the petitioners are claiming lapse of reservation, presence of intervener in this proceeding is not necessary. They are neither the necessary parties nor even formal ones.

9. The writ petition is allowed. It is declared that the reservation on the petitioners' properties Survey Nos. 455/1, 455/2, 455/3 as Site No. 135 and 135A, situated at village Mehrn, Jalgaon Tq. & Dist. Jalgaon stands lapsed.

10. The intervention application (Civil Application No. 1159/2023) is rejected.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

mkd/-