

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

WRIT PETITION NO. 11457 OF 2022

Umakant Kashinath Deshmukh .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Girish S. Rane, Advocate for the Petitioner.

Shri S. W. Mundhe, A.G.P. for the Respondent No. 1.

Shri M. V. Navandar, Advocate for the Respondent No. 2.

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRADE, JJ.**

DATE : 27TH JUNE, 2023.

PER COURT :

1. The learned advocate representing the respondent No. 2/Municipal Corporation submits that he is tendering the e-mail copy of the draft affidavit in reply. Due to unforeseen circumstances the original affidavit in reply is yet to reach Aurangabad.

2. The petitioner is seeking a direction to respondent No. 1 to issue a notification towards lapsing of reservation under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short "MRTP Act") with reference to land admeasuring 21R out of gut No. 181 and 35R out of gut No. 177, situated at Pimprala, which has been reserved as a designated site No. 23 for a high school and play ground.

3. Development plan was published on 11.02.2002. It was enforced on 07th April, 2002. On 10.07.2020, the petitioner issued a purchase notice U/Sec. 127 of the MRTP Act accompanied by sale deeds and 7/12 extracts, which compilation was served on the Municipal Corporation on 17.07.2020. Excluding the first day of service, the 24 months would lapse on 17.07.2022. There has been no development until today.

4. The learned advocate for the Corporation relies on the draft affidavit in reply and submits that the Corporation was under a belief that until the petitioner submits the measurements and the map, further steps could not have been taken. They issued a communication dated 22.04.2022 to the petitioner informing him that he should submit the measurements and the map.

5. We find that these issues have been settled by this Court vide judgment in the matter of **Jaika Vanijya Ltd. nagpur and another Vs. State of Maharashtra and others** reported in **2013(4) Mh.L.J. 161** concluding that measurement/map is not necessary and that cannot be a deficiency in a purchase notice U/ Sec. 127 of the MRTP Act

6. In view of the above, **this petition is allowed** with the following directions :-

A. The Corporation shall send a communication to respondent No. 1 informing the release of the lands mentioned in prayer Clause A, within 30 days from today.

B. Respondent No. 1 shall issue a notification U/Sec. 127(2) of the MRTP Act ,within a period of 45 days thereafter.

C. Considering the recent directions of the Hon'ble Supreme Court in **Special Leave Petition (Civil) Diary No. 39782/2022**, filed by the present respondent No. 2 before us i.e. **Jalgaon City Municipal Corporation Vs. Satish Soma Bhole and others**, we hold that the Corporation is at liberty to follow the due procedure laid down in law and the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for acquiring the land, if desired.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

bsb/June 23