

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

WRIT PETITION NO. 112 OF 2023

1. Dr. Anjana Shivkumar Santpure, ... **Petitioners**
Age 47 years, Occu: Profession

2. Dr. Shivkumar Vishwanath Santpure
Age 49 years, Occu: Profession
Both R/o Plot No.13/14B, Shrinathnagar,
Near Snehsavali, Behind Gurunanak Petrol
Pump, Near Yashodeep Hote, Aurangabad

VERSUS

1. The State of Maharashtra,
Through the Secretary
Ministry of Urban Development,
Mantralaya, Mumbai-32

2. The Director of Town Planning Department, ... **Respondents**
Maharashtra State, Pune

3. Aurangabad Municipal Corporation,
Through its Municipal Commissioner

4. Deputy Director of Town Planning,
Municipal Corporation, Aurangabad

5. The District Collector, Aurangabad

6. The Deputy Director of Education,
D.P. Unit, Municipal Corporation,
Aurangabad

Mr. D. P. Palodkar, Advocate for the Petitioners,
Mr. A. V. Deshmukh, AGP for the Respondents State,
Mr. J. R. Shah, Advocate for Respondent Nos. 3 and 4

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 14th September, 2023

JUDGMENT (Per Ravindra V. Ghuge,J):

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The Development Plan for the additional area of the Aurangabad Municipal Corporation was sanctioned on 15.11.1991. The land of the Petitioners situated in Gat No. 14/P at Kanchanwadi, admeasuring 53.04 R was affected by the reservation for Primary School- Site No.14, Playground - Site No.15 and a 15 meters wide road.
3. The Petitioners served a purchase notice under section 127 of the Maharashtra Regional and Town Planning Act, 1966 on 09.10.2020 along-with documents relevant for the purpose of the notice. The Corporation issued Communications dated 12.11.2020, 28.09.2021 and 14.01.2022 to the Petitioners for accepting TDR/FSI in lieu of monetary compensation. The Petitioners replied on 20.03.2021, 20.10.2021 and 20.01.2022. 24 months, after services of the purchase notice, expired on 09.10.2022.
4. The learned Advocate for the Petitioners submits on instructions that so far as 15 meters road is concerned, the Petitioners are agreeable to accept FSI/TDR. This was also mentioned in the notice under section 127.

5. The learned Advocate representing the Municipal Corporation relied upon the affidavit in reply dated 24.08.2023 and based on the averments in the reply, has strongly opposed this Petition. He prays that the same may be dismissed with costs. He further points out that there is no impediment for the Petitioners to accept TDR or FSI.

6. We are of the view that the case before us would be covered by **Girnar Traders and Another Vs. State of Maharashtra and others; 2007 AIR (SC) 318.**

7. In view of the above, **this Petition is partly allowed.**

8. The Municipal Corporation shall forward a proposal to Respondent No.1 declaring the reservation as lapsed to the extent of Site No.14 and Site No.15, within 30 days from today. Within 45 days thereafter, Respondent No.1 would issue the notification under section 127(2) of the MRTP Act.

9. Needless to state, the Corporation may work out the modalities with regard to the statement of the Petitioners that they are agreeable to receive TDR/FSI with regard to the land reserved for the purpose of 15 meters wide road.

10. Rule is made partly absolute in the above terms.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)