

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

WRIT PETITION NO.14579 OF 2019

1. Suryakant s/o Palsaheb Choudhary
Age: 61 years, Occu. Agril. & Advocate,
2. Shashikant S/o Palsaheb Choudhary,
Age 58 years, Occ. Agri.
3. Ravikant S/o Palsaheb Choudhary,
Age 55 years, Occ. Agri.

(in the light of GPA in favour of petitioner no. 1
by the petitioner no.2 & 3)
All R/o. Khadakpura, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.

... **PETITIONER**

VERSUS

1. The State of Maharashtra
Through Chief Secretary,
Department of Urban Development,
Mantralaya, Mumbai-32
2. The District Collector,
Parbhani.
3. The Chief Officer,
Municipal Council, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.

... **RESPONDENTS**

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Advocate for Petitioners : Mr. M.S. Shaikh h/f. Mr. S.S. Deshmukh
AGP for respondent Nos.1 and 2 - State : Mr. A.S. Shinde
Advocate for respondent No.3 : Mr. S.V. Mundhe

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

DATE : 01.02.2023

ORDER :

Heard both the sides.

2. The petitioner is seeking declaration regarding lapsing of reservation under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (herein after the MRTPA Act).

3. We have heard both the sides and perused the papers including the affidavit-in-reply filed on behalf of the respondent - Municipal Council. There is no dispute about the fact that the development plan of the respondent - Municipal Council had come into effect from 17.07.2006. For want of funds it could not take steps for acquisition of the petitioners' land which was reserved in that development plan for the purpose of Cultural Centre and Shopping Centre. A notice under Section 127 was received by the respondent - Municipal Council on 23.05.2017, which was issued after 10 years of development plan coming into effect. The petition has been filed 24 months thereafter on 30.11.2019.

4. Suffice for the purpose to observe that **Girnar Traders Vs. State of Maharashtra; 2007 (7) SCC 555**, makes it abundantly clear that the steps towards acquisition of the land reserved in a development plan as contemplated under Section 127 would be nothing short of issuance of a publication of notification under Sub-Section 2 or 4 of Section 126 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). When, admittedly, no such steps have ever been taken by the respondent - Municipal Council, by operation of law the lapsing would occur automatically.

5. The writ petition is allowed. It is declared that the reservation on the petitioners' property bearing Survey No.90/1 admeasuring 5 Acres of Gangakhed stands lapsed. The respondents shall take immediate steps for issuance of notification under Sub-Section 2 of Section 127 of the MRTP Act.

(S.G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)