

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

WRIT PETITION NO.14768 OF 2019

Gulam Mohammad Naziruddin Kazi

Age: 40 years, Occu: Service,

R/o Road No.36, Sai Vihar,

Khadgaon Road, Latur,

Tq. & Dist. Latur

... Petitioner

VERSUS

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

2. The Assistant Director of Town Planning
Municipal Corporation, Latur,
District Latur

3. The Municipal Corporation,
Latur, Dist. Latur,
Through its Commissioner

... Respondents

....

Mr. G. V. Mohekar, Advocate for Petitioner

Mr. P. K. Lakhotiya, AGP for Respondent No.1 – State

Mr. S. P. Urgunde, Advocate for Respondent Nos. 2 and 3

....

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

DATE : 12.09.2023

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner has purchased the writ land in Survey No.73/1 admeasuring 1068.18 square meters at Saraswati Colony, Khadgaon, Taluka and District Latur from Satyajeet Balasaheb Jawale, under a registered sale-deed dated 25.09.2017. A draft development plan was published by the then Latur Municipal Council on 02.01.2002, reserving the land admeasuring 1068.18 square meters out of Survey No.73/1 at site No.171, for a play ground. After sixteen [16] years, the Petitioner tendered a purchase notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 on 17.05.2017. Till today, the authorities have not initiated any steps.

3. The learned Advocate representing the Municipal Corporation relies on the affidavit-in-reply and contends that the notice issued by the Petitioner is invalid as it was not accompanied by any document. The Corporation is willing to offer TDR to the Petitioner. The learned Advocate for the Petitioner points out the

notice dated 07.05.2018 and the accompanying four documents, copies of which are placed before us. It is, thus, obvious that the Petitioner had annexed the documents along with the purchase notice to indicate his right and title in the property.

4. We find that the Petitioner cannot be compelled to accept the TDR in the light of the Full Bench judgment of this Court delivered in *Shri Vinayak Builders & Developers Vs. The State of Maharashtra and others; 2022(4) Mh.L.J. 739*.

5. Even after the lapse of more than 10 years, no steps have been taken by the Corporation for acquisition of the said land. Admittedly, the Petitioners have issued a purchase notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966. Even after service of said notice, no steps for acquisition of the said land is required under Section 126(2) are taken by the Corporation within a period of 24 months. The law laid down by the Hon'ble Supreme Court in *Girnar Traders Vs. State of Maharashtra; (2007) 7 SCC 555* and by this Court in *Santu Sukhdeo Jaibhave and Others Vs. Nashik Municipal Corporation; 2023(2) Bom. C.R. 469*, squarely applies to this case.

6. In view of the above, **this Petition is allowed.** The reservation is declared to have lapsed. The Respondent Nos. 2 and 3 Municipal Corporation, Latur shall submit it's proposal to Respondent No.1 within a period of 30 days from today, declaring that the land is released from reservation. Thereafter, Respondent No.1 shall issue a notification under Section 127(2) of the Maharashtra Regional and Town Planning Act, 1966, within 45 days.

7. Needless to state, keeping in view the order passed by the Hon'ble Supreme Court on 27.02.2023 in Special Leave Petition (Civil) Diary No.39782 of 2022 in the matter of ***Municipal Corporation, Jalgaon Vs. Satish Soma Bhole***, the Municipal Corporation would be at liberty to initiate fresh proceedings for acquisition in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

8. Rule is made absolute in the above terms.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

SMS