

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12994 OF 2022

1.	Suhail Ahmad Nihal Ahmad, Age 62 Year, Resident of Ghar. No.219, Mohammad Ali Road, Malegaon, District Nashik, Maharashtra – 423 203.	
2.	Tufail Ahmad Nihal Ahmad, Age 67 Year, Resident of Plot No.39, S.No.22A/A2, Khairabad, Malegaon, District Nashik, Maharashtra -423 203.	...Petitioners
	Versus....	
1.	Malegaon Municipal Corporation, Through the Commissioner, Malegaon, District Nashik – 423 203.	
2.	Town Planning Department, Malegaon Municipal Corporation, Malegaon, District Nashik – 423 203.	
3.	State of Maharashtra, Through the Chief Secretary, Urban Development Department. Mantralaya, Mumbai.	...Respondents

Mr.Y.H. Muchhala with Mr.Nawaz Haindaday, Mr.H. Momin and Mr.Mohd. Tara i/b Momin Mussaddique Ahmed for the Petitioners.

Mr.Rahul S. Kate for Respondent. No.1 – Corporation.

Ms.M.P. Thakur, AGP for Respondent Nos.2 and 3 – State.

CORAM : SUNIL B. SHUKRE &
RAJESH .S. PATIL, JJ.
DATE : 20TH JUNE, 2023.

Oral Judgment :- (Per Sunil B. Shukre, J.)

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.

2. The reservations for primary school and play ground were provided for the first time on 15th September, 2006. After lapse of period of ten years from 15th September, 2006, purchase notice was issued to the Petitioners on 20th March, 2019. However, as seen from the reply of the Respondent Nos.1 and 2, no steps for acquisition of the subject land, as contemplated in law, have been taken by the Corporation, for which a proposal was sent by the Corporation to the Collector for initiating the process of acquisition, in accordance with law. It was done by the resolution passed by the General Body of the Corporation to that effect. These facts are not in dispute. This clearly indicates, and as stated by us earlier, that no steps for acquisition of the subject land, in accordance with law, have been taken in the present case and this would, in our view, crystallize the rights of the Petitioners to seek a declaration that there is lapse of reservation and that the subject land has become free from any reservation.

3. In view of above, we pass the following order :-

(i). We allow the Petition and declare that Reservation No.235, existing on the subject land has stood lapsed. The Petitioners are free to use their land in accordance with law.

(ii). In respect of the subject land, to the extent of 1665 sq.

mtrs., as mentioned in the purchase notice, the Petitioners would be at liberty to use the land as per their free will, in accordance with law.

(iii). We further direct Respondent No.3 to issue notification in terms of Section 127 (2) of the Maharashtra Regional and Town Planning Act, 1966, within a period of three months from the date of receipt of writ of this order.

4. Rule is made absolute in aforesaid terms. No costs.

5. Petition is disposed of.

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)