



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 593 OF 2024

Ahmed Mujtaba Khwaja Mohammad Kazi,
Age: 76 years, Occu. Legal Practitioner,
R/o. Nehru Chowk, Shahada,
Taluka – Shahada, Dist. Nandurbar ...Petitioner

Versus

1. The State of Maharashtra
Through Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
2. Shahada Municipal Council,
Shahada,
Dist. Nandurbar,
Through the Chief Officer ...Respondents

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Mr. S. P. Shah, Advocate for the Petitioner
Mr. R. S. Wani, AGP for Respondent No. 1 – State
Mr. J. R. Shah, Advocate for Respondent No. 2

...

CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ
DATE : FEBRUARY 21, 2024

JUDGMENT (PER RAVINDRA V. GHUGE, J)

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

2. The Petitioner has put-forth prayer clauses A,
B and C as under:

A) The Hon'ble High Court may be pleased to

issue an appropriate writ, order or direction in the nature of writ and thereby hold and declare that reservations (Site No. 43 and D.P. Road) imposed on land Gat No. 19 under final development plan dated 25.07.2006 stood lapsed.

B] The Hon'ble High Court may be pleased to issue an appropriate writ, order or direction in the nature of writ and thereby hold and declare that the land Gat No. 19 totally admeasuring 2H-3R situated at Kukdel, Taluka - Shahada, District - Nandurbar, is free from reservations (Site No. 43 and D.P. Road) imposed on land Gat No. 19 under final development plan dated 25.07.2006.

C] The Hon'ble High Court may be pleased to direct the Respondent No. 1 State of Maharashtra to issue a notification under Section 127(2) of the MRTP Act, to the effect that the reservations (Site No. 43 and D.P. Road) imposed on land Gat No. 19 under final development plan dated 25.07.2006 stood lapsed.

3. While issuing notices on 16.01.2024, the contention of the Petitioner that the reservation has lapsed taking into account that no steps have been taken by the Shahada Municipal Council within the period of 2 years, after receiving the purchase notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short '**the Act**'), has been

recorded.

4. The learned Advocate representing the Municipal Council has vehemently opposed this Petition and has contended that when the Municipal Council offered TDR to the Petitioner, it was a proper offer that was made due to financial difficulties and the Petitioner should have accepted it.

5. The law on the issues raised in this Petition are covered by the judicial pronouncements of the Hon'ble Supreme Court in M/S. Girnar Traders vs State Of Maharashtra & Ors, AIR (2007) SC 3180 and the learned Full Bench of this Court in Shri Vinayak Builders and Developers Vs. State of Maharashtra and Others, (2022) 6 Bom CR 410 (FB).

6. In view of the above, the Writ Petition is allowed in terms of prayer clauses A, B and C. Needless to state, the Municipal Council shall forward a letter to Respondent No. 1 declaring that the land is released from reservation, within a period of 30 days. Thereafter, within a period of 45 days, Respondent No.

1 shall issue a notification under Section 127(2) of the Act declaring that the land is released from the reservation and the final development plan dated 25.07.2016.

7. Rule is made absolute in the above terms.

(R. M. JOSHI, J)

(RAVINDRA V. GHUGE, J)

Malani