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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1003 WRIT PETITION NO. 1252 OF 2024

NITIN SUBHASHCHAND BOHARA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH DEPARTMENT OF URBAN
DEVELOPMENT AND OTHERS

Mr.D.PPalodkar, Advocate for the Petitioners.
Mr.R.S.Wani, AGP for Respondent Nos. 1 to 4 and 8.
Mr.V.PDeshmukh, Advocate for Respondent Nos. 5 to 7.

**(CORAM : RAVINDRA V. GHUGE AND
R.M. JOSHI, JJ.)**

DATE : MARCH 5, 2024

PER COURT :

1. The Petitioners have put forth prayer Clauses 'A' and 'B' as
under:-

"A. The Honourable Court be pleased to issue writ of Mandamus or any other appropriate writ, order or direction in the nature of writ and thereby declare that the reservations of (i) Playground (reservation No.3/142) approx. 10000 Sq.Mtrs. Land; (ii) Primary (Public) School (reservation No.3/143) approx. 6000 Sq.Mtrs. And (iii) Park approx. 4000 Sq.Mtrs (reservation site No.3/148) approx. 20000 Sq.Mtrs. On the land of the Petitioners i.e. admeasuring approx. 8 H 36 R land out of Gut No.263 of village Waluj (Bk.) , Tal. And Dist. Aurangabad are lapsed and the land is free from reservations and available for development to the Petitioners as per the use permissible to the adjacent land.

B. The Hon'ble High Court may be pleased to issue writ of mandamus or any other appropriate writ or order or direction in the nature of writ and thereby direct the respondent Nos. 1 and 2 to issue the order as prescribed by Section 127(2) of the MRTTP Act regarding lapsing of reservations (i) Playground (Reservation No.3/142) approx. 10000 Sq.Mtrs. Land; (ii) Primary (Public) School (reservation No.3/143) approx. 6000 Sq.Mtrs. And (iii) Park approx. 4000 Sq.Mtrs (reservation site No.3/148) approx. 20000 Sq.Mtrs. In respect of land admeasuring 8 H 36 R land out of Gut No.263 of village Waluj (Bk.) Tal. And Dist. Aurangabad within a period of 4 weeks."

2. The affidavit-in-reply on behalf of CIDCO indicates that Cidco had offered TDR which the Petitioners have refused to accept. However, it is conceded that after the purchase notice was received by Cidco, a notification u/s 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has not been issued.

3. Considering the above, we do not find that the contentions of CIDCO could be entertained to refute the request of the Petitioners for releasing the land from reservation.

4. In view of the above, **this Writ Petition is allowed** in terms of prayer Clauses 'A' and 'B'.

5. Respondent No.1 shall issue an appropriate Notification within a period of 90 days from today.

(R.M.JOSHI, J.)

(RAVINDRA V. GHUGE, J.)