



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1984 OF 2023

1. Ajay Shantilal Lalwani
age 50 years, occ. Business
r/o 117, Mahavir Jewelers,
Navi Peth, Jalgaon
2. Rpuhand Tukaram Khadke
age 48 years, occ. Business
r/o Plot No. 16, Talele Colony
Old Khadki Road,
Jalgaon.
3. Narendra Gopal Kale
age 42 years, occ. Service
r/o Vitthal Peth, Jalgaon .. Petitioners

versus

1. The State of Maharashtra
Through its Secretary
Rural Development Department
Mantralaya, Mumbai.
2. The Commissioner of Municipal Corporation
Jalgaon, Dist. Jalgaon .. Respondents

Mr. G. V. Wani, Advocate for the Petitioners.
Mr. P. K. Lakhotiya, AGP for the State.
Mr. V. D. Gunale, Advocate for Respondent No. 2.

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

DATE : 3rd APRIL, 2024.

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

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

2. After considering the submissions of the learned Advocates for the respective sides and on perusing the Petition paper book with their assistance, it is apparent that the dates and events, are not disputed.

3. On 10th August, 2004 a planning scheme was finalised and the land of the Petitioner was shown under a reservation for a play ground and roads. On 19th January, 2021, since no steps for acquisition were taken, the Petitioners served a project notice under Section 127 of the Maharashtra Regional Town Planning Act. On 3rd May, 2021, the Petitioners received a letter from the office of the Assistant Director Town Planning for offering TDR. The Petitioners responded to the said offer by letter (undated) declaring that they do not desire to accept the TDR.

4. The law regarding taking steps after receipt of purchase notice is settled in the case of Girnar Traders vs. State of Maharashtra and others, **(2007) 7 SCC 555**. Insofar as offer of TDR

and refusing to accept the TDR is concerned, this has been held to be not a step towards acquisition of land by the learned Full Bench of this Court in the case of Shree Vinayak Builders and Developers, Nagpur vs. State of Maharashtra and others, **2022(4) Mh.L.J. 739**.

5. In view of the above, **this Writ Petition is allowed**. The Petitioner's land in Survey No. 438/2 admeasuring 76 R is deemed to have been released from reservation and the reservation is deemed to have lapsed to the extent of this land. Respondent No. 2 shall issue a communication to Respondent No. 1 within 30 days, communicating the fact that the land shall stand released from reservation. Respondent No. 1, consequently, would issue a Notification under Section 127(2) of the Maharashtra Regional Town Planning Act, within 90 days from the date of receipt of the letter from Respondent No. 2.

6. Rule made absolute in the above terms. No order as to costs.

(R. M. JOSHI)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE