



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4542 OF 2024

KONDIBA DATTU SILANKAR AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE PRINCIPAL
SECRETARY AND OTHERS

....

Mr. Abhijit S. More, Advocate for the Petitioners

Ms. Neha Kamble, AGP for Respondent Nos. 1 and 2

Mr. P. N. Khedkar, Advocate for Respondent No.3

Mr. Joslyn Menezes, Advocate h/f Mr. P. S. Paranjape, Advocate
for Respondent No.4

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

DATE : 19.09.2024

PER COURT :-

1. The Petitioners have put forth prayer clauses [B] and [C], as under:-

“[B] It may be hold and declare that, the reservation clamped upon the petitioner’s land vide notification dated 14.03.1997 which came in to force on 31.05.1997 (Table No.9) reservation Sr. No.58 for extension of Jivaji College upon the land gat no.2389/1/1 admeasuring 24100 sq.mtrs., situated at Shrigonda, Tq. Shrigonda, District Ahmednagar, is deemed to have been lapsed.

[C] This Hon’ble Court may be pleased to issue writ of mandamus or any other appropriate writ in the like nature,

directing the respondents to forthwith notify lapsing of reservation of land in official gazette as required u/s. 127(2) of Maharashtra Regional and Town Planning Act, 1966 and to direct the respondent No.3 Municipal Council to grant necessary development permission to the petitioner being the owner of the land for the purpose of development as otherwise permissible in the case of adjacent land under the plan.”

2. Having considered the submissions of the learned Advocates for the respective sides, we find that Respondent No.4 is a formal party and has hardly any role to play insofar as the procedure of reservation of lands, acquisition and payment of compensation under the M.R.T.P. Act. Suffice it to say that there is no dispute that the petitioners are the owners of the land at issue. Respondent No.1 notified the reservation of the land in Gut No.2389/1/1, admeasuring 24100 square meters at Shrigonda, vide table No.9, for the purpose of allotting the land to Respondent No.4 to be used for the extension of the Jivaji College, identified as reservation site No.58. The final development plan was prepared on 31.05.1997. The Petitioners served a purchase notice on 20.12.2021. Prior thereto, Respondent No.4, which is a private educational trust, passed resolution No.18 on 15.04.2018, thereby giving its 'no objection' for the cancellation of the reservation.

3. The learned Advocate representing the Municipal Council has taken a stand that it is not the competent authority and Respondent No.4, educational trust, is the competent authority. Hence, as the purchase notice was served on Respondent No.3, the same can be branded as being a defective notice, having not been served on Respondent No.4.

4. The objection raised by the Municipal Council has already been dealt with by this Court in ***Jagdishprasad M. Poddar and others Vs. The State of Maharashtra and others, 2019 (3) AIR BomR 230***, wherein this Court has concluded in paragraph No.26 as under:-

“26. We shall first deal with the contention of respondent No.3 that it is the “appropriate authority” and therefore the said notice ought to have been served on it failing which there is no question of any lapsing. To understand this argument one has to understand who is the “appropriate authority”. The words “appropriate authority” have been defined in Section 2 (3) of the MRTP Act, to mean any public authority on whose behalf land is designated for a public purpose in any plan or scheme and which it is authorised to acquire. Respondent No.3 is the Maharashtra Dnyan Prasarak Mandal which is running the Y.B. Chavan High School, Mathuradas Road, Irani Wadi, Kandivali (West), Mumbai 400 067. It is an educational trust registered under the Bombay Public Trusts Act, 1950 in the year 1964 and is running a Primary and Secondary School in Marathi medium and is imparting education to approximately 1000 students.

The school run by respondent No.3 is housed in a three-storied building on a plot owned by the respondent No.3-Trust. Respondent No.3 being a public educational trust, certainly does not fall within the definition of the words “appropriate authority” as defined in Section 2 (3) of the MRTTP Act. It is not a public authority at all and this being the case, it can never be the “appropriate authority” as defined under the MRTTP Act. This being the case, we find that the said notice dated 9th October, 2013 cannot be invalidated on the ground that the same was not served on respondent No.3. This argument of respondent No.3 therefore has to be rejected at the outset.”

5. The observations of the Court in the reproduced paragraph No.26 herein above, are practically tailor made for this case. As like the Maharashtra Dnyan Prasarak Mandal in *Jagdishprasad M. Poddar (supra)*, Respondent No.4 herein, is the Rayat Shikshan Sanstha. As like in the case of *Jagdishprasad M. Poddar (supra)*, in the matter in hands, the Municipal Council had placed the land under reservation for the purpose of enabling Respondent No.4 to extend it's Jivaji College. An added factor in this matter is that Respondent No.4 has declared by a resolution dated 15.04.2018, that it no longer requires the land.

6. In view of the above, **this Writ Petition is allowed in terms of prayer clauses (B) and (C).** Respondent No.3 shall forward a

resolution to Respondent No.1 within 30 days, disclosing the lapsing of reservation. Respondent No.1 shall issue a notification under Section 127(2) of the M.R.T.P Act, within a period of 60 days from the date of receipt of the communication from Respondent No.4. If the model code of conduct is introduced, the same shall not be an impediment for complying with this order.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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