



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5331 OF 2024

Chintamani Builders and Developers,
Jintur through its Partners

1. Anand Govindparasad Sabu
Age- 37 years, Occu. Business & Agril.,
R/o. Market Yard, Jintur, Tq. Jintur
Dist. Parbhani.
2. Gopal Nandkumar Chidrwat
Age-44 years, Occu. Business & Agril.,
R/o. Komti Galli, Main Road Jintur,
Tq. Jintur, Dist. Parbhani.
3. Govind Nandkumar Chidrwat
Age-46 years, Occu. Business & Agril.,
R/o. Komti Galli, Main Road Jintur,
Tq. Jintur, Dist. Parbhani.
4. Purushottam Dattarao Pawde
Age- 46 years, Occu. Business & Agril.,
R/o. Vidya Nagar, Selu, Tq. Selu,
Dist. Parbhani.
5. Pruthviraj Pramod Bhamble
Age- 23 years, Occu. Business & Agril.,
R/o. Bamani Plot, Jintur, Tq. Jintur
Dist. Parbhani.
6. Mohan Govardhan Sabu
Age- 34 years, Occu. Business & Agril.,
R/o. Aundha Road, Jintur, Tq. Jintur
Dist. Parbhani.
7. Ashok Motilal Bhandari
Age-72 years, Occu. Business & Agril.,
R/o. Shastri Nagar, Selu, Tq. Selu,
Dist. Parbhani.

8. Amrutraj Sanjay Bhamble
Age- 25 years, Occu. Business & Agril.,
R/o. Bamani Plot, Jintur, Tq. Jintur
Dist. Parbhani.

... **PETITIONERS**

V/s.

1. The State of Maharashtra,
Through: The Secretary,
Urban Development Department,
Mantralaya, Mumbai.
2. The Municipal Council,
Jintur, Tq. Jintur,
Dist. Parbhani,
Through its Chief Officer.

... **RESPONDENTS**

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Mr. M.V. Ghatge h/f. R.R. Chandak, Advocate for the Petitioners
Mr. N.S. Tekale, AGP for the Respondent-State
Mr. M.P. Tripathi, Advocate for the Respondent No.2

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**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.**
DATE : 21st August, 2024

JUDGMENT (Per: Y.G. Khobragade, J.):

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

2. The Petitioners have put-forth prayer clause-B & C, as under:

“B) To hold and declare that, the reservation on the land bearing Survey No. 143 (at present which is recorded in the revenue record as Survey No.143/A) admeasuring 3 Acre 14 Guntha in total as Site No.

69 (Primary School and Playground), Site No. 70 (Playground), Site No. 71 (Shopping Centre) and 12 Mtrs. DP Road, has lapsed in view of the provisions of Sec.127 of the Maharashtra Regional and Town Planning Act, 1966.

C) By issuing Writ of Mandamus or any other order or directions in the like nature, the respondent authorities may kindly be directed to notify the lapsing of reservation over the land of the petitioners i.e. Survey No. 143/A situated within the limit of Municipal Council, by publishing notification in official gazette U/sec. 127 (2) of the M.R.T.P. Act, 1966 forthwith.”

3. The chronology of events are as under:

- a) The Petitioners are the owners and in possession of the land Survey No.143 (presently Survey No.143/A as per revenue record) ad-measuring 3 Acre 14 R at Jintur, District Parbhani.
- b) On 12.01.2005, the Jintur Municipal Council passed a resolution under Section 38 with Sub-section 1 of Section 23 of the M.R.T.P. Act for preparing a draft development plan of the city. Notice of the said declaration was published, on 06.03.2006 and it was forwarded for final sanction to the State Government on 16.10.2008.
- d) The Government of Maharashtra sanctioned the draft development plan for the area on 28.04.2011 by issuing a notification and it was proposed to be brought into force w.e.f. 15.05.2011.

e) Petitioners land i.e. 3 Acre 14 R was included in the reservation for Primary School, Playground and Shopping Center being Site Nos.69, 70 and 71.

f) The Petitioners issued a purchase notice on 20.10.2021. No steps have been taken for acquisition by the Respondent-Authorities till date.

4. The learned advocate representing the Municipal Council has tendered an affidavit in reply dated 07.08.2024 filed through Shri Devidas Shivajirao Jadhav, In charge Chief Officer, Municipal Council Jintur, Tq. Jintur, District Parbhani, wherein it is stated that the land is reserved for public purpose and presently the Municipal Council is facing financial difficulties and it is not possible for the Municipal Council to acquire the said land on their own. It is further stated that the Municipal Council is dependent upon funds from the Government and if funds are sanctioned by the Government the Municipal Council will acquire the said land.

5. It is undisputed that the Petitioners are the owners of the property and the Municipal Council has not taken a stand that there is some different owner or that the Petitioners do not have any interest in the property.

6. Considering the above and the law laid down by the Hon'ble Supreme Court in **M/s. Girnar Traders V/s. State of Maharashtra & Ors, 2007**

SCC 3180, it is obvious that no steps have been taken by the Municipal Council towards acquisition of the land shown under the reservation plan.

7. In view of the above, **this Writ Petition is allowed**. We direct the Municipal Council to forward the proposal to the State Government declaring that the reservation has lapsed along with a copy of this order, within 45 days. Thereafter, Respondent No.1 shall follow the due procedure laid down in law and issue a notification under Section 127 (2) of the M.R.T.P. Act, within 60 days.

8. **Rule is made absolute in the above terms.**

9. Needless to state, if the Model Code of Conduct is introduced, the same would not be an impediment for the implementation of this order.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]