



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

WRIT PETITION NO. 6788 OF 2020

SEEMA SUBHASH ZAMBAD

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

....

Mr. D. P. Palodkar, Advocate for Petitioner

Mr. S. B. Pulkundwar, AGP for Respondent – State

Mr. Jiwan J. Patil, Advocate for Respondent Nos. 5 to 8

....

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

DATE : 18.07.2024

PER COURT :-

1. By the consent of the parties, the Writ Petition is taken up for hearing/disposal.

2. The learned Advocate for the Petitioner points out paragraph No.7 from the affidavit-in-reply filed by CIDCO, which indicates that CIDCO has decided not to acquire the said land. He specifically points out paragraph 7 of the affidavit-in-reply, which indicates that CIDCO has decided to offer FSI and TDR to the Petitioner. It is made clear that no monetary compensation would be offered by CIDCO.

3. The Petitioner has rejected the said offer of FSI and TDR. This issue is no longer *res-integra* in view of ***Shree Vinayak Builders & Developers Vs. The State of Maharashtra and Others, (2022) 4 Mh.L.J. 739***. The Full Bench at Nagpur, has concluded that offering of the TDR, cannot be said to be a step towards and for acquisition. The law laid down in in ***Girnar Traders Vs. State of Maharashtra and Others, AIR (2007) SC 3180 : (2007) 7 SCC 555***, has settled this issue.

4. In view of the above and in the light of the judgment delivered in ***Shree Vinayak Builders & Developers (Nagpur)*** (supra), **this Writ Petition is allowed** in terms of prayer clause (BB), which reads as under:-

“(BB) 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 declare that the reservation of “20 Mtrs. Wide Green Belt abutting Kham River” on the land of the petitioner i.e. admeasuring 1540 Sq.Mtrs land out of Gut No.123(P) of village Tisgaon, Tal and Dist. Aurangabad is lapsed and the land of the petitioner is free from reservations and available for development to the petitioner as per the use permissible to the adjacent land.”

5. The State is directed to issue the notification under Section 127(2) of the M.R.T.P. Act, within a period of 90 days. If a model code of conduct is declared, the same shall not be an impediment for issuance of such a notification.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

SMS