



(1)

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

6 WRIT PETITION NO. 4185 OF 2021

**MADHAV JAYWANTA KAMBLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....

Mr R. K. Ashtekar, Advocate h/f Mr D. M. Gilche, Advocate for
Petitioner;

Mr S. K. Tambe, A.G.P. for Respondent Nos.1 and 2

Mr H. V. Patil, Advocate for Respondent No.3

Mr C. C. Deshpande, Advocate for Respondent Nos.5 and 6

Mr P. V. Ambade, Advocate for Respondent Nos.4A to 4C

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

DATE : 20th February, 2024

PER COURT:

1. While issuing notice, this Court had recorded in the
order dated 09/03/2021, as under :-

*“1. At the request of learned counsel for the petitioner,
leave to amend the prayer clause.*

*2 The learned counsel submits that the steps for
acquisition are not initiated for two years after the service
of notice under Section 127 of the Maharashtra Regional
Town Planning Act, 1966. The acquisition stands lapse.*

3. Issue notice to respondents, returnable on 08.06.2021

(2)

4. The learned A.GP waives service of notice for respondent Nos. 1 and 2.”

2. The learned Advocate appearing on behalf of the Acquiring Body submits on the basis of the affidavit filed by the Deputy Commissioner, Latur City Municipal Corporation, Latur, that, Transferable Development Rights (T.D.R.) were offered to the original Petitioner, who has now passed away. The deceased was the original Landlord. The legal heirs have been brought on record at Sr. Nos.4-A to 4-C and 5-A (mentioned as Respondent No.6). The deceased had three wives, which is an undisputed position.

3. The learned Full Bench of this Court in **Shree Vinayak Builders and Developers Vs. State of Maharashtra and others, (2022) 4 Mh.L.J. 739 (Full Bench) : (2022) DGLS (Bom.) 2061**, has concluded that, offering T.D.R. is not considered to be a step towards commencement of the acquisition. The law laid down in **Girnar Traders Vs. State of Maharashtra & others, AIR (2007) SC 3180** would be applicable, and in such circumstances, it has to be legally construed that, no steps for acquisition have been initiated.

(3)

4. In view of the above, **this Writ Petition is allowed.** Respondent No.3/ Municipal Corporation shall forward its proposal for lapsing of reservation to Respondent No.1/Urban Development Department, within a period of 30 days from today. Thereafter, Respondent No.1 shall issue the required notification within 90 days. We make it clear that, we have not expressed any opinion as to the rights of the Petitioners and the legal heirs of the deceased, vis-a-vis the property at issue.

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

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