



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

WRIT PETITION NO. 8760 OF 2024

**CHAMPALAL KANHAIYALAL KHINVASARA THROUGH
GPA RAVINDRA CHAMPALAL KHINVASARA**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH
DEPARTMENT OF URBAN DEVELOPMENT AND OTHERS**

...

Shri Palodkar Devdatt P., Advocate for the Petitioner.
Shri S.K. Tambe, AGP for Respondent Nos.1 to 4/State.
Shri V.P. Deshmukh, Advocate for Respondent Nos.5 to 7.

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

DATE :- 28th August, 2024

Per Court :-

1. There is no dispute that the Petitioner is owner and possessor of the land admeasuring 5936.18 square meters situated in Gat No.166/P of village Tisgaon, Taluka and District Chhatrapati Sambhajinagar. The sanctioned development plan dated 14.08.2001, for the purpose of a Primary and Secondary school and Playground, was notified by the CIDCO in the Waluj notified area.

2. On 02.03.2019, the purchase notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act), was issued. Notice was served on the Planning Authority as well as the State Government. No steps were taken, save and except, that the Development Rights Certificate (DRC) was offered by the Planning Authority.

3. The learned Advocate representing the Respondent/ CIDCO Authorities has placed on record an affidavit in reply dated 26.08.2024, from page Nos.43 to 57 and has vehemently opposed this petition. He submits that the CIDCO is willing to offer TDR. TDR is not being accepted by the Petitioner.

4. In our view, this issue is no longer res-integra in the light of the judgment delivered by the 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)***. So also, the law laid down by the Honourable Supreme Court in ***Girnar Traders vs. State of Maharashtra, (2007) 7 SCC 555*** and ***Girnar Traders vs. State of Maharashtra and others, (2011) 3 SCC 1***, squarely applies to the present case. No steps, as

are expected in view of the law laid down in ***Girnar Traders (supra)***, have been initiated by the Planning Authority.

4. In view of the above, **this Writ Petition is allowed.**
The Planning Authority shall issue a letter to Respondent No.2, within 30 days from today, indicating that the reservation has lapsed. Respondent No.2 shall thereafter, issue a notification under Section 127(2) of the MRTP Act, within 60 days.

5. If the Model Code of Conduct is introduced, the same shall not be an impediment for implementing this order.

kps (Y. G. KHOBRADE, J.) (RAVINDRA V. GHUGE, J.)