



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

WRIT PETITION NO.12496 OF 2023

Harishchandra Dhondiram Toradmal
Age: 53 yrs., Occu: Agriculture
R/o: Patil Mala, Buvasaheb Nagar,
Karjat Nagar Road, Karjat,
Dist: Ahmednagar.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary,
Urban Development Department,
Mantralaya, Mumbai 32.
2. The Collector, Ahmednagar.
District Ahmednagar.
3. The Director, Town Planning,
Maharashtra State, Pune Central
Building, Ground Floor, Pune.
4. The Joint Director of Town Planning,
Nashik Division, New Central
Administrative Building, 1^a Floor,
Divisional Commissioner Office
Campus, Nashik Road, Nashik.
5. The Assistant Director,
Town Planning, Sau. Savitribai Phule
Vyapari Sankul, Hall No. 105, 1^a Floor,
Near Akashwani Kendra, Sawedi,
Ahmednagar.
6. Nagar Panchayat, Karjat,
Through it's Chief Officer,
Tq. Karjat, Dist: Ahmednagar.

7. Zilla Parishad, Ahmednagar
Through it's Chief Executive Officer
Tq. & Dist: Ahmednagar.

...RESPONDENTS

...

Shri A.S. Bajaj, Advocate for the Petitioner.
Shri S.B. Narwade, AGP for Respondent Nos.1 to 5/State.
Shri R.G. Nirmal, Advocate for Respondent No.6.
Shri V.M. Vibhute, Advocate for Respondent No.7.

...

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

DATE :- 02nd April, 2024

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*):-

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

2. On 10.10.2023, we had passed the following order:-

- “1. *The Petitioners have put forth prayer clause-B and C as under:*
“B. *The Hon'ble Court be pleased to issue the Writ of Mandamus or any appropriate Writ, directing the Respondents to release the land of the Petitioner bearing Gut No. 803 to the extent of 13 Gunthas, situated at Village Karjat Dist: Ahmednagar, reserved for 30 Mtr. Ring Road as per the Regional Development Plan sanctioned by Government of Maharashtra by notification dtd. 14.07.2005.*
C. *The Hon'ble Court be pleased to issue the Writ of Mandamus or any appropriate Writ, directing the Respondent No.01 to issue notification in terms of Sec. 127 (2) of the Maharashtra Regional and*

Town Planning Act. 1966, thereby notifying the release of the land of the Petitioner bearing Gut No. 803 to the extent of 13 Gunthas, situated at Village Karjat Dist: Ahmednagar, reserved for 30 Mtr. Ring Road as per the Regional Development Plan sanctioned by Government of Maharashtra by notification dtd. 14.07.2005.”

2. *Issue notice to the Respondents, returnable on 08.11.2023. The learned GP waives service of notice on behalf of Respondent Nos.1 to 5.*
3. *All office objections to be removed within three weeks.”*

3. The sequence of events, which are relevant for deciding this case, are as under:-

(a) On 14.07.2005, a regional development plan bearing No.TPA-S-1600/932/pra.kra.32/2003(part/1)/navi-9 was prepared and the same was sanctioned under Section 17(1) of the Maharashtra Regional and Town Planning Act, 1966 (for short, “the MRTP Act”), with effect from the 01.10.2002.

(b) On 01.12.2020, the Petitioner issued a purchase notice under Section 49 read with Section 127 of the MRTP Act.

(c) On 28.01.2021, the Joint Director of Town Planning forwarded the copy of the notice to the District Collector.

(d) On 22.02.2021, the Joint Director, Town Planning Department, forwarded the copy of the notice to the Chief Officer, Nagar Panchayat, Karjat.

(e) Under Section 49(7), no steps were taken within one year.

4. Respondent No.6/ Chief Officer, Nagar Panchayat, Karjat, has set out in the affidavit in reply in paragraph Nos.2, 3, 4 and 5 as under:-

“2] *I say and submit that, the petitioner issue notice u/s 127 of the Maharashtra Regional and Town Planning Act 1966 on date 01.12.2020. After receipt of the notice on date 07.12.2020 Join Director, Town Planning Department, Nashik Division, Nashik i.e., Respondent no.4 forwarded the copy of the notice vide letter no. 109 dated 28.01.2021 to the District Magistrate i.e. Respondent no.2 for taking steps for the acquisition of the said land after that, respondent no.4 forwarded copy of the notice issued U/s 127 of the MRTP Act vide letter no. 215 dated 22.02.2021 to the Chief Officer, Nagar panchayat Karjat i.e. present respondent no.6.*

3] *I say and submit that, the work of Nagar Panchayat Karjat Development Plan is in progress, however till today no development plan is not sanctioned for Karjat city.*

4] *I say and submit that, as per section 46 of the MRTP Act 1966 the Provisions of sanctioned Growth Centre Plan Karjat under the Regional Plan, Ahmednagar are applicable for the area within the limits of Karjat Nagar Panchayat. Therefore, duty casted upon Ahmednagar Regional Development authority to develop the proposed Fringe area Roads of sanctioned Regional Plan Ahmednagar Roads. However, till today Ahmednagar Regional Development*

Authority is not established, therefore the appropriate authority for sanctioned Regional Plan is the District Magistrate Ahmednagar
5] *I say and submit that, the said proposed 30 Mtr. Wide Regional Plan Road land acquisition proceeding is under the jurisdiction of the District Magistrate, Ahmednagar.”*

5. It is, thus, obvious that no steps have been taken as are legally permissible to be taken in the direction of the acquisition of land, in the light of the law laid down by the Honourable Supreme Court in **Girnar Traders vs. State of Maharashtra and others, (2011) 3 SCC 1.**

6. In view of the above, **this Writ Petition is allowed.** Respondent No.4 shall issue a communication to Respondent No.1 declaring that the reservation of the said land has lapsed, within 30 days from today. Respondent No.1 shall issue an appropriate notification for declaring that the reservation has lapsed and for releasing the land from reservation, within 90 days thereafter.

7. Rule is made absolute in the above terms.