



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10919 OF 2023

1. Yogendrasing Komalsing Patil
age 50 years, occ. Agril.
2. Sau. Malini Komalsing Patil
Age 73 years, occ. Agri.,

Both r/o Patilwada, Rath Chouk
Pimprala, Tq. & Dist. Jalgaon .. Petitioners

versus

1. The State of Maharashtra
Through its Secretary
Rural Development Department
Mantralaya, Mumbai.
2. The Director of Town Planning
Maharashtra State, Pune
3. The Assistant Director of Town Planning
Jalgaon, Dist. Jalgaon
4. The Commissioner of Municipal Corporation
Jalgaon, Dist. Jalagaon. .. Respondents

Mr. G. V. Wani, Advocate for the Petitioners.
Mr. S. K. Tambe, AGP for Respondent Nos. 1 to 3.
Mr. V. D. Gunale, Advocate for Respondent No. 4.

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

DATE : 3rd APRIL, 2024.

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

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

2. We have heard the submissions of the learned Advocates for the respective sides and have perused the Petition paper book and affidavit-in-reply filed by the Corporation. The facts of the case are undisputed. On 1st April, 2022, a reservation of composed Depot in Sanction Development Plan (DPR-195) was announced. The development plan came into existence on the said date. Since no development took place and there was no actual acquisition, the Petitioners issued a purchase notice on 7th September, 2018. The Corporation tendered its reply and offered the TDR. The Petitioners refused to accept the TDR.

3. The law on taking steps within 1 year (as the provision earlier stood) and 2 years (as the provision stands amended), is settled in the case of Girnar Traders vs. State of Maharashtra and others, (2007) 7 SCC 555. The law on offering of TDR and refusal to accept, is also settled in the case of Shree Vinayak Builders and Developers, Nagpur vs. State of Maharashtra and others, 2022(4)

Mh.L.J. 739. Offering of TDR is not a step towards acquisition, in view of the judgment in the case of Shree Vinayak Builders (supra).

4. In view of the above, this Writ Petition is allowed. The Corporation is directed to issue a communication to Respondent No. 1 intimating that the land is released from reservation, within 30 days from today. Respondent No. 1 would thereafter issue appropriate notification declaring that reservation is lapsed, under Section 127(2) Maharashtra Regional Town Planning Act, within 90 days.

5. Rule is made absolute in above terms.

(R. M. JOSHI)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

dyb