



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

905 WRIT PETITION NO. 10994 OF 2023

VIJAYA MOHAN CHANDGAONKAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

AND

906 WRIT PETITION NO. 11015 OF 2023

GAJIMIYA NAWABSAHEB KAZI AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

Shri Nagarkar Kiran M., Advocate for the Petitioners.

Ms.Neha B. Kamble, AGP for Respondent Nos.1, 2 and 4/State.

Shri A.D. Aghav, Advocate for Respondent No.5.

Shri N.D. Batule, Advocate for Respondent No.6.

...

CORAM : RAVINDRA V. GHUGE

&

Y. G. KHOBRAGADE, JJ.

DATE :- 07th August, 2024

Per Court :-

1. The Petitioners in these two Petitions are identically placed. On 05.09.2023, we had passed the following order:-

"1. The Petitioner has put forth prayer clauses B and C as under:-

"B. That the reservation of writ land of the petitioner situated at village Shevgaon Nagar Parishad shall deemed to have been lapsed in

view of purchase notice dated 21.11.2018 send by the petitioner u/s 127 of Maharashtra Regional Town Planning Act, 1966 in view of the facts and circumstances mentioned in the writ petition and in the interest of justice.

C. To hold and declare that, "the land bearing Gat No.690/1/1/2/paiki/ A having old survey no.961 situated at Shevgaon which is under reservation, vide reservation no.71 for D.P. Plan of village Shevgaon in pursuance to notification dated 01.11.2002 and 14.01.2003 is de-reserved and available to the petitioner for development from the date of expiry of two years, from the date of purchase notice u/s 127 of the M.R.T.P. Act, 1966 in view of the facts and circumstances mention in the writ petition and in the interest of the justice."

- 2. Issue notice to the Respondents, returnable on 10.10.2023. The learned AGP waives service of notice on behalf of Respondent Nos.1, 2 and 4. The learned Advocate Mr.Aghav waives service of notice on behalf of Respondent Nos. 5 and 6.*
- 3. All office objections to be removed within 3 weeks."*

2. In both these petitions, the learned Advocate representing Respondent No.6 Municipal Council, has filed the affidavit in reply, dated 07.08.2024. It is set out that Respondent No. 6 is strongly opposing the admission of these petitions. The fact situation is narrated in the affidavit in reply. It is contended that the Petitioners did not tender the ownership documents of

the property along with the purchase notice issued under Section 127 of the Maharashtra Regional Town Planning Act, 1966 (for short, 'the MRTP Act'). It is also contended that the Petitioners have not measured their properties from the Taluka Inspector of Land Records (TILR) or the District Superintendent of Land Records (DSLRL) and the map is not submitted.

3. Having perused sub-section (1) of Section 127 of the MRTP Act, what is required to be conveyed to the Acquiring Body is the interest of the person in the land and such notice can be accompanied with documents to show his title or interest in the land. When confronted, the learned Advocate for the Municipal Council submits that the ownership of the Petitioners is not disputed. We find that the Property Cards are attached to the purchase notices, by the Petitioners.

4. It emerges from the affidavit in reply of the Municipal Council that no steps have been taken by the Municipal Council after the Petitioners issued the purchase notices on 21.11.2018 and 24.12.2018.

5. In view of the above and keeping in view the law laid down by the Honourable Supreme Court in ***Girnar Traders vs. State of Maharashtra, (2007) 7 SCC 555 (Larger Bench)***, **these two Writ Petitions are allowed in terms of prayer clauses B and C.** The Municipal Council shall complete the formality of conveying to Respondent No.1 that the reservation has lapsed, along with the copy of this order, within 30 (thirty) days from today. Within 60 (sixty) days thereafter, Respondent No.1 shall issue the notification under Section 127 (2) of the MRTP Act.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)