



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13728 OF 2021

Dr. Suresh Pandit Borole

VERSUS

The State Of Maharashtra And Others

...

Mr. S. S. Bora h/f Mr. P. S. Gaikwad, Advocate for the
Petitioner

Ms. Neha Kamble, AGP for Respondent Nos. 1 to 4

Mr. V. D. Gunale, Advocate for Respondent No.3

Mr. V. B. Patil, Advocate for Respondent No.6

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

DATE : MARCH 27, 2024

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J)

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

2. The Petitioner has put forth the prayer clause
'C' as under:

*C) By appropriate writ order or
direction, it may kindly be declared that
the Reservation No. 239 on the land bearing
S. No. 396/12 from Gat No. 1198 adm. 81R
situated at Village Asoda, Tq. & Dist-
Jalgaon is deemed to have been lapsed in
view of the provisions of the 127 of the
Regional Town Planning Act and to that
effect the respondents may kindly be
directed to issue the notification
regarding deletion of the said reservation
and the petitioner be permitted to develop
his land.*

3. We have considered the submissions of the learned Advocates for the respective sides and have perused the Petition paper book with their assistance.

4. The Assistant Director of Town Planning, Jalgaon City Municipal Corporation, Jalgaon has entered an affidavit-in-reply dated 25.07.2022. An affidavit-in-reply is also entered by the Agricultural Produce Market Committee, Jalgaon dated 27.01.2023. The said APMC has tendered an additional affidavit dated 27.03.2024.

5. The dates and sequence of events relevant for deciding this case are as under:-

a) The reservation at issue carries no. 239 in relation to Gut No. 1198. The Survey Number is 396/1/2.

b) The D.P. Plan was notified on 11.02.2002.

c) The Petitioner purchased land admeasuring 81R vide registered sale deed no. 1771, from the erstwhile owner, on 12.05.2003.

d) The Petitioner had initially issued purchase notice under Section 127 of the Maharashtra Regional Town Planning Act, 1966 on 16.04.2012. However, it was wrongly addressed to the Commissioner of the Municipal

Corporation.

e) Respondent No. 5 informed the APMC on 19.04.2012 for taking steps and forwarding proposal.

f) The Petitioner had approached this Court in Writ Petition No. 7228/2013. By order dated 15.06.2015, this Court disposed off the Writ Petition on the ground that a valid notice under Section 127 was not issued. Leave was granted to the Petitioner to adopt steps under Section 127 of the Act.

g) On 21.03.2018, the Petitioner issued purchase notice under Section 127, to the acquiring authority.

h) Admittedly, in 24 months after receiving the purchase notice, acquiring authority has not initiated any steps.

6. The learned Advocate for the APMC insists that this Court should not show any indulgence in this matter since the land is sought to be acquired for setting up an APMC. If 81R land belonging to the Petitioner is released from the reservation, the APMC will have difficulties with regard to the acquisition of the remaining land. The Gut No. 1198 admeasures 2H and 13R.

7. The learned Advocate for the Petitioner places reliance upon the judgment delivered in M/S. Girnar Traders vs State Of Maharashtra & Ors, AIR (2007) SC 3180.

8. Considering trite law, it cannot be a ground to discard the purchase notice, on the spacious plea that APMC desires to acquire the entire land and releasing of 81R would disturb its plan.

9. This Writ Petition is restricted to the claim of the Petitioner and the writ land admeasures 81R. If in 24 months, no steps as recognized by the law laid down in M/s. Girnar Traders (supra), have been taken by the competent authority, this Petition deserves to be allowed.

10. In view of the above, **this Writ Petition is allowed.** Land admeasuring 81R in Gut No. 1198 at village Asoda, Tq & Dist. Jalgaon is stands released from reservation. Respondent No. 5 shall issue a communication to Respondent No. 1, within 30 days for releasing 81R land from reservation. Respondent No. 1

shall issue a notification under Section 127(2) within a period of 90 days after receipt of the communication. This direction shall be implemented scrupulously.

11. Rule is made absolute in the above terms. No order as to costs.

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)