



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

**940 REVIEW APPLICATION (CIVIL) NO. 39 OF 2024
IN WP/11092/2021**

**THE STATE OF MAHARASHTRA THR ITS SECRETARY
AND ANR**

VERSUS

GOPAL MOTIRAM CHOUDHARI AND OTHERS

...

Shri S.B. Narwade, AGP for the Applicants/State.

Shri B.A. Chavan, Advocate for Respondent Nos.1 and 2.

...

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

DATE :- 12th April, 2024

Per Court :-

1. Heard the learned AGP on behalf of the Review Applicants and the learned Advocate on behalf of Respondent Nos.1 and 2/ original Petitioners.

2. The first ground raised on behalf of the Review Applicants is that “*The judgment and order under review is against the settled principles of law*”. The second ground is “*The Hon’ble Court has not considered that as per the sanctioned peripheral Zone Plan, Bhusawal the land is partly included in residential zone, and partly affected by alignment of 60 meter wide zone plan ring road and not by National Highway as*

prayed by original petitioners (Respondent no.1 and 2)”.

Several other grounds are raised from clauses III to clauses VIII.

No such ground is set out indicating that an error apparent on the face of the record is visible from the order sought to be reviewed.

The Review Applicants have gone to the extent of contending that the original Petitioners have misled the Court.

3. In view of the above, it would be appropriate to refer to the short order dated 22.04.2022 (sought to be reviewed) passed by this Court, more specifically paragraphs 2 to 6, as under:-

- “2. *Page No.17 is the communication from the competent authority (Land Acquisition) – SDO, Bhusawal, dated 19th October, 2017, addressed to the petitioners informing that the land which was earmarked in a project, is no longer required. The land was never acquired. The land is not to be utilised and, therefore, there is no question of granting compensation.*
3. *By communication dated 1st December, 2018, the Deputy Director, Town Planning, Pune, has informed the District Collector, Jalgaon, that the concerned land is not to be acquired and as there is a notice under Section 127 of the MRTP and no steps are taken within two years, the said land deserves to be declared as released from any reservation.*
4. *It is not disputed that the petitioners have served a notice under Section 127 to the District Collector, Jalgaon on 15th September,*

2018. No steps have been taken thereafter.

5. *Considering the above and the submissions of the learned advocates, this petition is partly allowed.*
6. *It is declared that the land of the petitioners in Gat No.391, admeasuring 2 H and 93 R at village Sakegaon, Tq. Bhusawal, Dist. Jalgaon, stands released from reservation in the light of Section 127(2) of the MRTP Act, 1966. The State Government shall accordingly issue a notification on or before 15th September, 2022.”*

4. It is, thus, obvious that it was the State Authority who had made certain statements before the Court. Page 17 of the petition was the communication dated 19.10.2018 addressed to the Petitioners that the land of the Petitioners bearing Survey No.391/2/1 and Survey No.391/2/2/1, was not reserved for expansion of National Highway No.6. It was further mentioned that no portion of the said land was being sought to be acquired and there is no question of granting compensation to the Petitioners. It was further advised that as the letter was addressed to the Deputy Director, Town Planning, Jalgaon, the Petitioners, who pursued the said Authority, should not approach the Competent Authority (Land Acquisition)- Sub Divisional Officer, Bhusawal.

5. We find that the Deputy Director, Town Planning,

Head Office, Pune, addressed the District Collector, Jalgaon, vide communication dated 01.12.2018, wherein, it is specifically conveyed as under:-

“संदर्भित पत्र क्र.१ अन्वये अर्जदार यांनी अधिनियमाचे कलम १२७ अन्वयेची सूचना शासनास व आपणास बजावलेली आहे.

सदर सूचनेतील क्षेत्र मौ. साकेगांव येथील ग.नं.३९१ अंतर्गत असून, ते भुसावळ झालर क्षेत्र नकाशानुसार ६०मी. रुंद प्रस्तावित रस्त्याने बाधित होत असल्याने त्या संदर्भात उक्त सूचना असून, सदर क्षेत्रांतर्गत महाराष्ट्र प्रादेशिक नियोजन व नगर रचना अधिनियम, १९६६ चे कलम १२७ नुसार अशी सूचना नियोजन प्राधिकरण / समुचित प्राधिकरण यांचेवर बजावल्यास अधिनियमाच्या तरतुदीनुसार २ वर्षांच्या आत भूसंपादन प्रक्रिया होणे आवश्यक ठरते अन्यथा उक्त प्रस्ताव हा व्यपगत ठरतो. सदर प्रकरणी क्षेत्र हे झालर क्षेत्र भुसावळ अंतर्गत असून, त्या क्षेत्रासाठी जिल्हाधिकारी, जळगांव हे नियोजन प्राधिकरण आहेत. करीता सदर सूचना आवश्यक त्या कार्यवाहीसाठी आपणाकडे या सोबत पाठविण्यात येत आहे.”

6. It is, thus, clear that the Deputy Director of Town Planning, Pune, indicated to the District Collector, Jalgaon, the purpose for which the land of the Petitioner was required. He alerted the District Collector that the purchase notice under

Section 127 of the MRTP Act, 1966, has been issued and the steps will have to be taken to acquire the land for the purpose for which it has been reserved, within two years, failing which, the reservation would lapse. It is in this backdrop that the statement was made before this Court on 22.04.2022, on instructions. The reproduced portion of the order sought to be reviewed herein above, would clearly indicate that no steps were taken by the District Collector within two years. Even today, no steps have been taken.

7. The learned AGP has relied upon the judgment in ***Perfect Machine Tools Co. Ltd. vs. The State of Maharashtra and others, 2008 (2) Mh.L.J. 404 : 2008 (2) AIR Bom R 642***, wherein, it was concluded that the purchase notice should have been addressed to the Principal Officer of the Municipal Corporation. It was addressed to the Chief Engineer, Development Plan of Corporation. The notice was defective and hence, the petition was dismissed.

8. The facts in ***Perfect Machine Tools (supra)*** can be distinguished in view of the factual matrix before us that the notice was served on the District Collector. The Deputy Director,

Town Planning, Head Office, Pune was also apprised of the said notice by the Petitioners. The Petitioners alerted the District Collector, Jalgaon, for initiating appropriate steps to acquire the land for the purpose it has been reserved. Acknowledgment by the office of the District Collector having received the purchase notice on 15.09.2018, is apparent.

9. Considering the law laid down by the Honourable Supreme Court in *Lily Thomas vs. Union of India*, AIR 2000 SC 1650, *S.Madhusudhan Reddy vs. V. Narayana Reddy and others*, 2022 SCC Online SC 1034 and *Pancham Lal Pandey vs. Neeraj Kumar Mishra and others*, 2023 SCC Online SC 143, if the Review Applicants are of the view that the order of this Court is perverse and illegally or is against the settled principles of law as contended in the first two grounds raised in the Review Application, they will have to challenge the order and filing the Review Application would not be the remedy available.

10. In view of the above, **this Review Application is dismissed.**