



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15563 OF 2019

Kanan Traders Pvt. Ltd.
Through its Director,
Madhu Ramesh Jain
Age : 68 years, Occu: Business,
R/o: 414, Shirsoli Road,
Mehroon Shivar, Jalgaon
Taluka and District Jalgaon

...Petitioner

VERSUS

1. State of Maharashtra
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai -32
2. The Planning Authority/Commissioner
Jalgaon City Municipal Corporation,
Navi Peth, Jalgaon
3. Development Authority
C/o. Maharashtra Regional and
Town Planning,
2nd Floor, Old BJ Market, Jalgaon

...Respondents

...

Ms. Rani Bora h/f Mr. S. S. Bora, Advocate for the
Petitioner

Mr. R. S. Wani, AGP for Respondent Nos. 1 and 3

Mr. V. D. Gunale, Advocate for Respondent No. 2

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

DATE : FEBRUARY 21, 2024

JUDGMENT (PER RAVINDRA V. GHUGE, J)

1. **Rule.** Rule made returnable forthwith. Heard
finally by consent of parties.

2. By this Petition, the Petitioner has put-forth prayer clauses [b] and [c] as under:

b. By an appropriate writ, order or direction under Article 226 of the Constitution of India, it may be held and declared that, reservation to the extent of 20R from Gut No. 80/1 and 31R from Gut No. 80/4 reserved for Play Ground at Jalgaon Shivar, Taluka and District Jalgaon as part plan of development of Jalgaon (additional area) by Notification No. TPS/3599/738/CR-142/UD-9 dated 11.02.2002 and excluded part sanctioned under Notification No. TPS/3503/493/CR-102(A)/03/UD-9 dated 10.08.2004, is lapsed.

c. By an appropriate writ, order or direction under Article 226 of the Constitution of India, the respondent No. 1 may kindly be directed to publish Notification u/sec. 127(2) of the Maharashtra Regional Town Planning Act for deletion of land to the extent of extent of 20R from Gut no. 80/1 and 31R from Gut No. 80/4 reserved for Play Ground at Jalgaon Shivar, Taluka and District District Jalgaon as part plan of development of Jalgaon (additional area) by Notification No. TPS/3599/738/CR-142/UD-9 dated 11.02.2002 and excluded part sanctioned under Notification No. TPS/3503/493/CR-102(A)/03/UD-9 dated 10.08.2004

3. While issuing notice on 02.01.2020, this Court has recorded the contention of the Petitioner that steps for acquisition have not been initiated within

two years from the date of service of the purchase notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'the Act').

4. The law on this count is settled in M/S. Girnar Traders vs State Of Maharashtra & Ors, AIR (2007) SC 3180. The learned Advocate for the Municipal Corporation submits that TDR was offered. The Petitioner has refused to accept the TDR. This issue is now no longer *res integra* in the light of Shree Vinayak Builders and Developers Vs. State of Maharashtra and Others, (2022) 6 Bom CR 410 (FB).

5. Keeping in view the averments of the parties, it is obvious that the Municipal Corporation has not initiated any steps within a period of two years after receiving the purchase notice under Section 127 of the Act, as is mandated by the law laid down in M/s. Girnar Traders (*supra*).

6. In view of above, this Writ Petition is allowed in terms of prayer clauses 'b' and 'c'. The Corporation shall forward a communication to the Respondent No. 1 declaring that the land is released

from reservation within 30 days from today. Thereafter, Respondent No. 1 shall issue a notification for lapsing of the reservation within 45 days.

7. Rule made absolute in above terms.

(R. M. JOSHI, J)

(RAVINDRA V. GHUGE, J)

Malani