



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

WRIT PETITION NO. 12217 OF 2024

1. M/s. Siddhant Infrastructure,
Through Its Partner,
Mr. Vedant S/o. Shirish Gadiya,
Age:-33 Years, Occu: Business,
R/o Plot No.02, Gut No.40,
Village Golwadi,
Chatrapati Sambhajnagar.

...Petitioner

VERSUS

1. The State of Maharashtra,
Through Department of Urban Development,
Mantralaya, Mumbai – 32.
2. Principal Secretary,
Department of Urban Development,
Mantralaya, Mumbai – 32.
3. The Collector,
Aurangabad.
4. Special Land Acquisition Officer,
(Special Unit),
Aurangabad.
5. City Industrial and Development Corporation Ltd.,
Through its Chief Administrator, New Towns,
Udyog Bhavan, Town Centre,
New Aurangabad – 431003.
6. Administrator, Waluj Mahanagar Project,
City Industrial & Development Corporation Ltd.,
Udyog Bhavan, Town Centre,
New Aurangabad – 431003.

7. The Additional Town Planning Officer,
CIDCO, Waluj Mahanagar,
Aurangabad.

...Respondents

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Advocate for the Petitioner : Mr. D.P. Palodkar
AGP for Respondent Nos.1 to 4 : Mr. D.R.Korde
Advocate for Respondents Nos. 5 to 7 : Mr. Vaibhav P.Deshmukh

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 27th FEBRUARY 2025

PER COURT :

1. Heard both sides finally with their consent.
2. Petitioner is seeking declaration that land belonging to it should be excluded from the reservation and notification under section 127 (2) of The Maharashtra Regional and Town Planning Act, 1966 (in short 'M.R.T.P Act') be issued.
3. Petitioner is the owner of land gat No.12 situated at village Golwadi, Tq.&Dist.Chhatrapati Sambhajinagar to the extent of O H.11 R. It was reserved under Draft Development Plan of Waluj Notified Area sanctioned on 14.08.2001 for the purpose of Gymnasium and Dispensary. No steps for acquisition of the land were taken for more than 10 years by the respondent No.5/CIDCO.
4. The petitioner and its predecessor in title issued notice under section 127 of M.R.T.P Act, 1966 on 29.08.2022. After receiving notice also, no steps were taken within 24 months. Predecessors in title were constrained to sell the land to the petitioner. After

purchasing the property again on 03.04.2024 reminder was issued by the petitioner to the respondents. There was no response from the respondents. Hence, present petition is filed for declaration and direction.

5. The respondent Nos.5 to 7 have filed affidavit-in-reply. It is submitted that the land owners in the surrounding area of CIDCO at Waluj are deliberately not developing the lands. It was not possible for CIDCO to acquire the land in question due to financial constraints. Accordingly, the proposal was submitted to the government on 27.04.2017 with modification. Various suggestions were given in the proposal seeking revision of the plan. It is further contended that the residents of the locality would require Gymnasium and Dispensary. In view of larger public interest, no relief can be granted to the petitioner. In this way the claim of the petitioner is objected.

6. There is no dispute about ownership of petitioner over the subject matter. The land in question was reserved for Gymnasium and Dispensary under development plan sanctioned on 14.08.2001. The land was belonging to Mr. Chandrakant Sunddarrao Solanke and others. Purchase notice was given on 29.08.2022 by them. Meantime it was sold to petitioners. A reminder was issued on 03.04.2024.

7. Though the purchase notice was issued by the predecessor in title and the petitioner who stepped into the shoe of predecessor in title and continued to claim lapsing of reservation, no appropriate

steps were taken, respondents have no serious dispute for the title of the petitioner. The timeline provided by section 127 has been adhered to. We find that purchase notice is legal and valid.

8. The respondent/planning authority should have taken steps of acquisition of the land under section 126 of M.R.T.P Act,1966. The defence raised by the respondents in the affidavit-in-reply would not disentitle the petitioner to claim the relief. Their plea of forwarding proposal to the higher authorities and requirement of Gymnasium and Dispensary are inconsequential. Those can't be fitters to the statutory right accrued to the petitioner under section 127 of M.R.T.P Act,1966.

9. We find that present case is squarely covered by judgment of Supreme Court in the matter of **Girnar Traders vs. State of Maharashtra and Ors.** reported in 2007 (7) SCC 555. Petition deserved to be allowed. We therefore pass following order :

ORDER

A) Writ petition is allowed in terms of prayer clause (B) and (C) with the modification that Respondent Nos. 1 and 2 shall issue notification under Section 127 (2) of The Maharashtra Regional and Town Planning Act,1966 within period of three (03) months from today.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

vsj..