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

**WRIT PETITION NO. 5343 OF 2017**

Suresh Kisan Bari,  
Age: Major, Occ. : Business,  
Through Registered GPA  
Nitin Ashok Chaudhari,  
Age: 42 years, Occu: Service,  
R/o : Jalgaon, Tq. and Dist. Jalgaon

....PETITIONER

VERSUS

1. The State of Maharashtra,  
Through its Secretary,  
Urban Development Department,  
Mantralaya, Mumbai
  2. The Director of Town Planning,  
Maharashtra State, Pune
  3. The Deputy Director of Town Planning,  
Nashik Division, Nashik
  4. The Assistant Director, Town Planning Office,  
Jalgaon Municipal Corporation, Jalgaon
  5. The Commissioner, Municipal Corporation,  
Jalgaon, Tq. and Dist. Jalgaon
- ....RESPONDENTS

.....  
Mr Ajeet B. Kale, Advocate for Petitioner  
Mrs V. P. Dama, AGP for Respondent Nos.1 to 4/State  
Mr Sachin B. Munde, Advocate for Respondent No.5

.....  
**CORAM : KISHORE C. SANT  
AND  
SUSHIL M. GHODESWAR, JJ.**

**RESERVED ON : 23<sup>th</sup> APRIL 2026  
PRONOUNCED ON : 07<sup>th</sup> MAY 2026**

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**JUDGMENT (PER : SUSHIL M. GHODESWAR, J.) :-**

1. Heard learned Advocate Mr Kale for the petitioner, learned AGP Mrs Dama for respondent Nos.1 to 4/State and learned Advocate Mr Munde for respondent No.5/Municipal Corporation.

2. Rule. Rule made returnable forthwith. By consent of learned Advocates for the respective parties, being heard for final disposal.

3. By way of this petition, the petitioner has put forth prayer clauses (C) and (E), which read as under :-

*C) To direct the Respondent no 5 to act upon the resolution number 424 dated 30.03.2016 passed by the Jalgaon Municipal Corporation within a period of one month and for that purpose issue necessary orders;*

*E) To direct the respondents to pay compensation to the petitioner in respect of his property bearing Survey No 151/1 situated at Pimprala Tq and Dist. Jalgaon and for that purpose issue necessary orders;*

4. According to the petitioner, he is the owner of land bearing Survey No.151/1, admeasuring 27000 Sq. mtrs situated at village Pimprala, Tq. and Dist. Jalgaon. This plot is shown as the sanctioned non-agricultural layout i.e. having non-agricultural approval. The petitioner is contending that, before the establishment

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of the Municipal Corporation, Jalgaon, Municipal Council was functioning in the Jalgaon City for planning and development of Jalgaon City. After establishment of respondent No.5/Municipal Corporation, being the Planning Authority, the said Municipal Corporation had published the Draft Development Plan of Jalgaon City in the Maharashtra Government Gazette, which was sent for sanction. As per the said Development Plan, the petitioner's land was reserved for 18 mtrs. and 30 mtrs D.P. road. Considering the said reservation on petitioner's land, the petitioner intended to obtain Transferable Development Rights (T.D.R.) of 4875 Sq. mtrs. as per the policy of the Municipal Corporation. Therefore, he submitted proposal to respondent No.5/Corporation on 10/01/2013 for getting the T.D.R. However, respondent No.5/Municipal Corporation did not take any action on the said proposal. After lapse of one year i.e. on 11/02/2014, respondent No.5/Municipal Corporation informed the petitioner that his proposal for grant of T.D.R. cannot be considered, since it is not accompanied with the necessary documents and asked him to submit the said documents within 15 days.

5. However, later on, the petitioner thought it fit to demand compensation instead of T.D.R. for his reserved land, and therefore, he submitted a letter dated 31/03/2014 to respondent No.5/Municipal

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Corporation showing his intention to get compensation for his reserved land instead of T.D.R. In pursuance to the said request of the petitioner, respondent No.5 passed the Resolution on 30/03/2016 bearing Resolution No.424, resolving thereby that value of petitioner's land be decided by three members Committee, and thereafter, he be paid compensation by way of private negotiation. Though there was specific Resolution passed by the Municipal Corporation, no further steps of whatsoever nature, were taken by it. Therefore, petitioner is contending that he is entitled to get compensation for his reserved land as per the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act'). Hence, the petitioner has approached to this Court with the aforesaid prayers/reliefs and prays for directions to respondents to pay him compensation for his reserved land by allowing this writ petition.

6. Mr. Kale, learned Advocate for the petitioner submits that, since the land of the petitioner has been acquired and utilized for the purpose of construction of road, he is entitled for compensation in accordance with law. He then submits that though there was specific Resolution passed by the Municipal Corporation, no steps were taken by the respondent/Corporation which affects substantial rights of the petitioner of receiving compensation for his reserved land.

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7. Per contra, learned AGP Mrs. Dama and learned Advocate Mr. Munde for respondent No.5/Municipal Corporation strongly opposed the prayers made in the petition. Learned AGP and learned Advocate Mr. Munde invite our attention to the affidavit-in-reply dated 01/10/2018 filed on behalf of respondent Nos.1 to 3. Main contention of the respondents is that Pimprala village, where the writ land is situated, has been included in Municipal Corporation limit on 11/09/1987, before which layout of petitioner's land was prepared and got it approved by the petitioner. They further submit that the Development Plan for the additional area of the Jalgaon City came to be sanctioned under the provisions of Section 31 of MRTP Act on 11/02/2002, which came into force w.e.f. 07/04/2002. In the said sanctioned Development Plan of Jalgaon for additional area, Gut No.151/1 of the village Pimprala is affected by 30 mtrs. and 18 mtrs wide Development Plan roads. Therefore, they submit that the question of payment of compensation in respect of sanctioned layout roads, which was handed over to the Municipal Council and for which even the benefit of exemption in open space and road frontage has been availed by the petitioner, does not arise at all. They further submit that the Government had sanctioned Development Control and Promotion Regulations for 'D' Class Municipal Corporations in

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Maharashtra, which is applicable to the Jalgaon Municipal Corporation. As per the Resolution 40.3(iii) of the said Development Control and Promotion Regulations, T.D.R. is not applicable to the layouts already sanctioned prior to these Resolutions.

8. Learned AGP and learned Advocate for respondent/Municipal Corporation further submit that layout roads were not subjected to any acquisition, and therefore, the application under Section 127 of the MRTP Act and question of payment of compensation in any form does not arise in the instant petition. They, therefore, prays for dismissal of the instant petition.

9. Learned Advocate Mr Kale for the petitioner submits that there is no provision empowering the Planning Authority to impose condition that open land in a layout would vests in the Planning Authority free of cost. In support of his contention, he relies upon the judgment in the matter of **State of Maharashtra Vs. Bhimashankar Sidramappa Chippa**, reported in **2009 SCC Online Bom. 707**. In the said case, it was held that, acquisition of open space under sanctioned layout by the Municipal Corporation does not get vested in the Municipal Corporation free of cost, merely because of a condition imposed in the order sanctioning layout to transfer such open

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space in the layout to the Municipal Corporation. He also relies upon the judgment dated 16/06/2011, delivered by this Court in Writ Petition No.481/2006 (Sow. Ratnabai w/o Damodhar More and others Vs. State of Maharashtra and others), wherein a similar situation arose. In the said matter, this Court, while allowing the petition directed to the respondents therein to pay compensation for the remaining land. Learned Advocate for the petitioner thus prays for allowing this petition.

10. After hearing the learned Advocates for the respective sides, we have perused the record available with the Court. In our view, the petitioner has made out a case for getting compensation for his reserved land. Learned Advocate for the petitioner is justified in submitting that acquisition of open land in sanctioned layout of Municipal Corporation does not get vested in Corporation free of cost only because a condition in the order sanctioning layout to transfer such open land to Corporation. Thus, the land owner would be entitled to receive compensation.

11. In that view of the matter, in the peculiar facts and circumstances of the case, we are of the view that the petitioner is entitled for the compensation for acquisition of his property bearing

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Survey No.151/1 situated at village Pimprala, Tq. and Dist. Jalgaon and the instant petition deserves to be allowed. Hence, the following order :-

**ORDER**

(I) The writ petition stands allowed in terms of prayer clauses (C) and (E).

(II) We direct respondent No.5/Municipal Corporation, Jalgaon to pay compensation to the petitioner for his reserved land, in accordance with law, within a period of 12 weeks from today.

12. This Writ petition is disposed of. No order as to costs.

13. Rule is made absolute in above terms.

**[SUSHIL M. GHODESWAR, J.]**

**[KISHORE C. SANT, J.]**

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