

ITEM NO.3

COURT NO.10

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos) 13655-13656/2020 (Arising out of impugned final judgment and order dated 20-12-2018 in WP No. 2372/2017 and 09-08-2019 in RAST No. 8104/2019 in WP No. 2372/2017 passed by the High Court of Judicature at Bombay at Aurangabad)

GAZALA PRAVIN ABDUL SAYED MALIK

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

[TO BE TAKEN UP HIGH UP ON THE BOARD ON 2.3.22]

(With IA No. 72455/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 37625/2021 - EXEMPTION FROM FILING O.T. and IA No. 72457/2020 - EXEMPTION FROM FILING O.T. and IA No. 37624/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 13657-13658/2020 (IX)

(With IA No. 71081/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 71082/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13661-13662/2020 (IX)

(With IA No. 74642/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 74643/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13659-13660/2020 (IX)

(With IA No. 77292/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 77293/2020 - EXEMPTION FROM FILING O.T.)

Date : 02-03-2022 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)

Mr. Sandeep Sudhakar Deshmukh, AOR

For Respondent(s)

Mr. Sashibhushan P. Adgaonkar, Adv.
Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.

Ms. Shwetal Shepal, Adv.

Mr. Ashutosh Chaturvedi, Adv.
Mr. Prashant Shrikant Kenjale, AOR

UPON hearing the counsel the Court made the following
O R D E R

The complaint in this batch of cases surrounds the finding of the High Court finding that the notice issued under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as 'Act') by the petitioners were premature, in that, the notices were given prior to the expiry of 10 years contemplated under Section 127.

However, the petitioners have a case that subsequently they have given a notice under Section 127 on 26.02.2019 and more than 3 years have gone by thereafter. It is pointed out that even now there is no sign of any action as contemplated in law and the petitioners continue to be under the shadow of the development plan under which the properties of the petitioners stand reserved.

After perusing the judgment of the High Court and the facts of this case, we do not think that the petitioners have made out a case for interference with the matter. No doubt, learned counsel for the petitioners did attempt to persuade us to invoke our powers under Article 142 of the Constitution of India. This is primarily based on the subsequent request made by the petitioners on 26.02.2019

also. We do not think that in the facts of this case, we should invoke Article 142. However, we leave it open to the petitioners to seek relief in the High Court based on the notice being given on 26.02.2019 under Section 127 of the Act. Without prejudice to the right of the petitioners to seek appropriate remedy before the High Court, the special leave petitions are disposed of in the above terms. We leave open, however, the point that may be available to the petitioners.

(NIDHI AHUJA)
AR-cum-PS

(RENU KAPOOR)
BRANCH OFFICER

ITEM NO.3

COURT NO.10

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) Nos) 3655-13656/2020
(Arising out of impugned final judgment and order dated 20-12-2018
in WP No. 2372/2017 and 09-08-2019 in RAST No. 8104/2019 in WP No.
2372/2017 passed by the High Court of Judicature at Bombay at
Aurangabad)

GAZALA PRAVIN ABDUL SAYED MALIK

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

[TO BE TAKEN UP HIGH UP ON THE BOARD ON 2.3.22]
(With IA No. 72455/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No. 37625/2021 - EXEMPTION FROM FILING O.T. and IA
No. 72457/2020 - EXEMPTION FROM FILING O.T. and IA No. 37624/2021 -
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 13657-13658/2020 (IX)

(With IA No. 71081/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No. 71082/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13661-13662/2020 (IX)

(With IA No. 74642/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No. 74643/2020 - EXEMPTION FROM FILING O.T.)

SLP(C) No. 13659-13660/2020 (IX)

(With IA No. 77292/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No. 77293/2020 - EXEMPTION FROM FILING O.T.)

Date : 02-03-2022 These matters were called on for hearing today.

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However, the petitioners have a case that subsequently they have given a notice under Section 127 on 26.02.2019 and more than 3 years have gone by thereafter. It is pointed out that even now there is no sign of any action as contemplated in law and the petitioners continue to be under the shadow of the development plan under which the properties of the petitioners stand reserved.

After perusing the judgment of the High Court and the facts of this case, we do not think that the petitioners have made out a case for interference with the matter. No doubt, learned counsel for the petitioners did attempt to persuade us to invoke our powers under Article 142 of the Constitution of India. This is primarily based on the subsequent request made by the petitioners on 26.02.2019 also. We do not think that in the facts of this case, we

SLP (C) Nos. 13655-13656/2020 etc.

should invoke Article 142. However, we leave it open to the petitioners to seek relief in the High Court based on the notice being given on 26.02.2019 under Section 127 of the Act. Without prejudice to the right of the petitioners to seek appropriate remedy before the High Court, the special leave petitions are disposed of in the above terms. We leave open, however, the point that may be available to the petitioners.

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