

Salgaonkar

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Date: 2026.06.20 13:21:58 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11500 OF 2019

Rajkumar Adlakha & Anr. .. Petitioners

Versus

The Secretary, Urban Land .. Respondents
Development Dept. & Ors.

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Dr.V.V.Tulzpurkar, Senior Advocate with Mr.Yashodhan V. Divekar, Mr.Rohan Karande and Mr.Shubham Jadhav i/b Divekar & Co. for the Petitioners.

Mr.Rishikesh M. Pethe for the PMC/Respondent.

Smt.Neha S. Bhide, G.P. with Mr.Kedar B. Dighe, Addl.G.P. with Smt.P.J.Gavhane, A.G.P. for the State/Respondent.

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATE : 17th JUNE, 2026

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ORAL JUDGMENT (Per Bharati Dangre, J.)

1. The Petitioners, the owners of a land bearing CTS No.114 situated at village Koregaon Park, intended to develop the same for housing the residences of their executives and employees. According to them, the Petitioners applied for requisite permissions and during this process, gained knowledge that a land is reserved for playground in the Final Development plan bearing Reservation No.PG 97.

2. The pleadings in the Petition, assert that in the year 2013, the Commissioner, Municipal Corporation proposed a

Revised Draft Development Plan under Section 26 of the Maharashtra Regional and Town Planning Act, 1966 (for short, “**MRTP Act**”), which was published indicating that the land is sought to be reserved for playground.

As this plan did not receive the final sanction, Respondent No.3-the State Government appointed a Committee under Section 162 of the MRTP Act and the Committee deleted the Reservation No.PG 97 and suggested changes in the Revised Draft Development Plan and the Petition has annexed the modifications and changes that were published in the Maharashtra Government Gazette vide Modification No.M 6.13.

It is this Notification, on the basis of which, the Petitioner make a request for deleting the reservation, as it is pointed out to us that justification for deletion of the proposed reservation and continuation of the existing scenario was promoted for encouraging the use of the land for residential purpose and this is so reflected in the minutes of the Committee headed by the Commissioner, Municipal Corporation, Pune dated 06/09/2015.

3. The Petition has also annexed the Notification issued by the Government of Maharashtra, Urban Development Department on 05/01/2017, with reference to the Revised Draft Development Plan published by the Pune Municipal Corporation for the original limit of Pune Municipal Corporation under Section 26(1) of the MRTP Act. The Notification set out that after considering the suggestions and objections to the said Draft Development Plan received, the

Planning Committee appointed under Section 28(2) of the Act has submitted its report to the Planning Authority, but the Planning Authority did not take any decision on the report of the Planning Committee nor did it submit the Draft Development Plan to the State Government within the stipulated time limit. This constrained the State Government to appoint the Committee to complete the legal procedure required under the Act and submit the said Development Plan to the Government for sanction under Section 30.

As per the Notification of 05/01/2017, after considering the report of the Planning Committee and the matters related to it, the Committee made some modifications and changes to the Draft Development Plan under Section 28(4), which came to be published in the Government Gazette on 26/09/2015 before submitting the Development Plan for sanction under Section 30.

In accordance with the provisions of sub-section (1) of Section 30, the Committee which has submitted the Draft Development Plan alongwith the modifications to the Government of Maharashtra for sanction, the report was also called from the Director of Town Planning and thereafter, after making necessary enquiries and after consulting the Director of Town Planning as contemplated under sub-section (1) of Section 31 of the Act, the Government expressed its opinion that it should sanction a part of the Draft Development Plan and Draft Development Control Regulations of Pune Municipal Corporation with the modifications set out in Schedule-A.

As far as the property of the Petitioner is concerned, the entry in Schedule 'A' specifically reads thus :-

SM-329	6	PG-97 Koregaon Park	M 6.13 PG-97	Reservation deleted and included in Residential Zone	PR-97 Reservation is Reinstated as per published plan U/S 26 of the MR&TP Act, 1966
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4. The aforesaid entry, therefore, clearly indicate that vide the said modification PG-97 (Reservation) was deleted, and the subject property was included in residential zone, with a specific remark that the “Reservation is reinstated as per published plan under Section 26 of the MRTP Act.”

5. The grievance of the Petitioners focuses on this modification and it is the specific contention advanced on behalf of the Petitioners, that the Petitioners addressed communication to the State of Maharashtra, pointing out the effect of deletion of Reservation No.97 of CTS No.114 Koregaon Park under the Revised Development Plan dated 05/01/2017 and prayed that reinstatement of the Reservation vide modification No.SM 329 is arbitrary, as it ignored the concurrent findings of the Committee and Director of Town Planning and it was specifically asserted that the State Government, without any rhyme or reason, ignored the said suggestions and published the final Development Plan on 05/01/2017, reinstating the Reservation No. PG 97 and this was specifically objected to.

A request was, therefore, made to the State Government to direct the Pune Municipal Corporation to initiate proceedings under Section 37(1) of the MRTP Act for deleting Reservation No.PG 97 and incorporating the said land in residential zone.

6. The learned senior counsel Mr.Tulzapurkar has submitted that inspite of clear indication in form of suggestions of the Committee and the recommendations of the Director of Town Planning, when the modifications and changes with regard to the deletion of Reservation No.PG 97 upon the said land was approved and the land was directed to be reinstated into the residential zone, and there is no reason or justification offered by the State Government as to why it did not abide by the same.

7. In the reply affidavit filed by the State Government also, we do not find any specific justification being offered to that effect. The learned Additional Government Advocate Mr.Dighe also could not offer a specific justification, except for insisting that ultimately it is the power of the State Government to frame the Development Plan under Section 26 of the MRTP Act.

Our attention is invited to a communication dated 02/11/2018 addressed to the Commissioner, Municipal Corporation and this is in regards to the subject, 'Deletion of Reservation No. PG 97 of CTS No.114 Koregaon Park, Pune under the Revised Development Plan dated 05/01/2017.' Relying upon the said letter, it is sought to be justified before us that now the ball is in the court of the Commissioner i.e. the Planning Authority and in any case, unless and until the machinery is set rolling by the Corporation under Section 37, nothing can progress.

8. Perusal of the scheme under the MRTP Act, including the specific provision for modification of final development plan, as

contained in Section 37 clearly indicate that where a modification of any part of or any proposal made in the final Development Plan is contemplated, it is a Planning Authority, who may or when so directed by the State Government, publish in the Official Gazette, a notice inviting objections and suggestions in respect of the proposed modification within the timelines set out in the said Section and the procedure to be followed is clearly carved out under Section 37, which would result in modification in the final Development Plan.

Though at this stage, we are not entitled to pronounce upon the legality or otherwise of the action for the State Government, one thing is clear that the development plan is now finally published and the only possibility which is available is to seek its modification by adopting the procedure under Section 37. It is ultimately for the Planning Authority as well as the State Government to consider the proposal and once again the State Government, may or may not, finds itself in agreement with the recommendations of the Committee and the Director of the Planning Authority, but in any case, for this purpose, the Planning Authority must take appropriate decision whether to process the proposal of the Petitioners seeking modification.

We, therefore, direct the Corporation to initiate a proposal for modification for deletion of Reservation No.PG 97 of CTS No.114 of village Koregaon Park under the Revised Development Plan dated 05/01/2017, which shall result into the procedure being initiated under Section 37, resulting into the proposal being approved or it being defeated.

Since much time has lapsed since the Petitioners made a request to the State Government, we expect the Planning Authority to initiate the proposal expeditiously, and in any case, within a period of four (4) months from today.

9. With the aforesaid direction, the Petition stands disposed of.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)