

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 18493 OF 2024

1. Mr. Ganesh Vishnu Landge]
Age : 53 years : Occ : Agriculturist & Business]
2) Sudama Alias Baban Baloba Landge]
Age : 75 years; Occ.:Agriculturist & Business]
3) Dattatraya Vishnu Landge]
Age : 69 years; Occ.: Agriculturist & Business]
4) Ramesh Mahadu Landge]
Age : 61 years; Occ.: Agriculturist & Business]
5) Prabhakar Mahadu Landge]
Age : 48 years; Occ.: Agriculturist & Business]
All Residing at Vishnu Smruti Niwas]
Survey No. 434/9, Kasarwadi,]
Nashik Phata, Pune – 411 018.]...Petitioners

Versus

1) The State of Maharashtra Through,]
The Secretary, Urban Development]
Department, Having Office at]
Mantralaya, Mumbai 400 032.]
2) The Deputy Director]
Town Planning Department (P.C.M.C.)]
3) Pimpri Chinchwad Municipal Corporation]

(P.C.M.C.)	]
	]
4) The Municipal Commissioner Pimpri	]
Chinchwad Municipal Corporation	]
Respondent Nos.2 to 4 having office	]
At Old Bombay Poona Road,	]
Pimpri, Pune – 411 018.	]...Respondents

Mr. Girish Godbole i/b Mr. Shivraj Patne for the Petitioners.

Mr. Kedar B. Dighe for the Respondent Nos.2 to 4 for the PCMC.

Mr. P.V. Nelson Rajan, A.G.P for the Respondent-State.

**CORAM : M. S. KARNIK &
SANDESH D. PATIL JJ.**

**RESERVED ON : 12th AUGUST, 2026
PRONOUNCED ON : 25th AUGUST, 2026**

JUDGMENT (PER SANDESH D. PATIL, J.)

1. By the present writ petition, the Petitioners are seeking the Writ of Mandamus against the State Government to forthwith publish an order under Section 127 of the Maharashtra Regional & Town Planning Act, 1966 ('MRTP Act' in short) notifying that the Reservation namely "*Development Plan Road*" for road widening that

existed on the land bearing Survey No. 446/4 corresponding to C.S. No.2084 and 2085 situated at Village Bhosari, Kasarvadi, Taluka Haveli, District Pune (hereinafter referred to as 'the said land') has lapsed.

2. The land in question belonging to the Petitioners was reserved for '18 Mtr. HCMTR road widening'. On 18th September, 1995, the respondent No.1 had sanctioned the Development Plan for Pimpri Chinchwad City and as indicated above, the said land was reserved for road widening of 18 Mtr. HCMTR road. The said road was not acquired for the purpose of which it was reserved for. On 27th May, 2022, the Petitioners issued a Purchase Notice under Section 127 of the MRTP Act to the Respondent – Corporation. The Respondent – Corporation on 13th December, 2023 replied the same and raised certain objections. In spite of the Purchase Notice, the land was not acquired. Hence, on 14th November, 2024 the present writ petition was filed.

3. Mr. Girish Godbole, learned Senior Counsel appearing for the Petitioners submitted that the said land was reserved for road widening of 18 Mtr. HCMTR road which was evident from the sanctioned Development Plan published by the Pimpri Chinchwad Municipal Corporation vide Notification Dated 18th September, 1995. He submitted that the period of 10 years from the notification published as mentioned above, elapsed on 19th September, 2005. The Petitioners decided to issue a Purchase Notice and accordingly on 20th May, 2022, a notarized Authority Letter was issued by the Petitioners Nos.2 to 5 specifically authorizing the petitioner No.1 to address the notice claiming lapsing of reservation and to take further steps. Pursuant to the said authority letter, on 27th May, 2022, the Petitioners issued a Purchase Notice under Section 127 of the MRTP Act requesting that appropriate steps be taken for commencement of acquisition proceedings within 24 months, failing which, the reservation would deem to have been lapsed. He submitted that inspite of the fact that the corporation received a letter, the Corporation belatedly on 13th December, 2023 filed their reply and

raised certain objections. The Petitioners, through their Advocate sent a rejoinder on 6th March, 2024, thereby negating contentions raised by the respondent No.2. According to Mr. Godbole, learned Senior Counsel, the period of 24 months to acquire the land as contemplated under Section 127 of the MRTP Act expired on 28th May, 2024. In spite of this, the land was not acquired. Hence, the petition was filed. He relied upon the following Judgments :

(i) *Girnar Traders V State of Maharashtra*¹

(ii) *Shrirampur Municipal Council V. Satyabhamabai Bhimaji Dawkher*².

(iii) *M/s C.V.Shah V. State of Maharashtra*.³

(iv) *Dattatray Dharmadhikari V. State of Maharashtra*⁴

4. Learned Counsel Mr. Kedar Dighe appearing for the Respondent – Corporation submitted that vide the Resolution No.340/2017, the respondent declared its intention to prepare revised DP plan on 9th August, 2019 and accordingly on 15th

1 (II) (2007) 7 SCC 555

2 (2013) 5 SCC 627

3 2005SCC OnLine Bom 542.

4 WP/4823/2014 dated 16th December, 2014

November, 2019, a Notification was published by the State Government inviting suggestions/objections from the people at large. He submitted that knowing very well about the initiation of process of revision of development plan, the notice under Section 127 of the MRTP Act was sent by the respondent on 27th May, 2022. He further submitted that although the Petitioners sent the notice, surprisingly they did not raise the objections. He relied on the fact that the Respondent – Corporation vide reply dated 13th December, 2023 informed the Petitioners that the notice is incomplete and not strictly as per the provisions of Section 127. He further submitted that Section 127 makes it statutorily necessary for the owner or any person interested in the land, to serve the notice alongwith the title documents or interest in the land. He further submitted that the petition be dismissed entirely. He relied upon the following Judgments.

(i) *Nilesh Prakashrao More V. State of Maharashtra*⁵

(ii) *Prafulla C. Dave & Ors. V. Municipal Commissioner & Ors.*⁶

5 2026 SCC OnLine Bom 2257

6 (2015) 11 Supreme Court Cases 90.

5. We have heard the learned Counsel appearing for the respective parties. The present proceedings are filed under Section 127 of the MRTP Act, *inter alia*, praying for a Writ of Mandamus that the reservation has lapsed. The land in question, was reserved for the road widening of 18 Mtr. HCMTR road vide Notification dated 18th September, 1995. The period of 10 years as stipulated in the statute expired on 19th September, 2005. All the Petitioners issued an authority letter on 20th May, 2022 authorizing the petitioner No.1 to address a notice for lapsing of the reservation. The Petitioners on 27th May, 2022 addressed a notice as contemplated under Section 127 of the MRTP Act requesting that appropriate steps be taken for commencement of acquisition within a period of 24 months from the date of issuance of this notice, failing which, the reservation would deem to have been lapsed. In response to the Purchase Notice issued by the Petitioners, the respondent No.2 addressed a reply. The following were the objections raised by the respondent No.2 :

“(i) Government measurement map not annexed.

(ii) D.P extract not annexed.

(iii) Notice addressed only by one of the co-owners.

(iv) Proposal for acquisition was already forwarded to Collector by letter dated 14th September, 2011.

(v) Since acquisition proceedings already commenced – Petitioners’ Section 127 Notice not legally acceptable.

6. The Petitioners through their Advocate addressed a rejoinder alongwith the supportive case laws. The period of 24 months as contemplated in the Notice dated 27th May, 2022 ended on 28th May, 2024. After this period, the respondent No.2 addressed a sur-rejoinder dated 19th July, 2024 contending that the proposal for acquisition is forwarded to the Collector vide letter dated 14th September, 2011. It is in light of the aforesaid facts that the respondent opposed grant of any relief in the present petition.

7. The Hon’ble Supreme Court in the matter of ***Girnar Traders (supra)*** has elaborately stated as to what were the steps contemplated under Section 126 of the MRTP Act towards

acquisition of land. Further the Hon'ble Supreme Court has observed that if any private land is shown as reserved, allotted or designated for a purpose specified in a development plan, the same may be acquired within 10 years either by agreement or by following procedure prescribed under the Land Acquisition Act. Thereafter, there has to be a service of Purchase Notice and if the steps are not taken by the Corporation for acquisition of the land, the acquisition is deemed to have been lapsed.

8. The Hon'ble Supreme Court has also considered as to what are the steps towards acquisition of the land. The entire thrust of the argument of the Corporation is that the Corporation had initiated steps to publish a Notification for preparing a revised DP Development Plan and accordingly resolution was passed by the Corporation bearing Resolution No. 340/2017 dated 9th August, 2019. The Corporation also relied upon the proposal for acquisition forwarded to the Collector by the Municipal Corporation vide letter dated 14th September, 2011 and claimed that they had taken steps

towards acquisition. This is all that the Corporation had done in response to the Purchase Notice.

9. The Hon'ble Supreme Court in the matter of ***Shrirampur Municipal Council (supra)*** had observed as under :

“42. We are further of the view that the majority in Girnar Traders (2) had rightly observed that steps towards the acquisition would really commence when the State Government takes active steps for the acquisition of the particular piece of land which leads to publication of the declaration under Section 6 of the 1894 Act. Any other interpretation of the scheme of Sections 126 and 127 of the 1966 Act will make the provisions wholly unworkable and leave the landowner at the mercy of the Planning Authority and the State Government.

43. The expression "no steps as aforesaid" used in Section 127 of the 1966 Act has to be read in the context of the provisions of the 1894 Act and mere passing of a resolution by the Planning Authority or sending of a letter to the Collector or even the State Government cannot be treated as commencement of the proceedings for the acquisition of land under the 1966 Act or the 1894 Act. By enacting Sections 125 to 127 of the 1966 Act, the State Legislature has made a definite departure from the scheme of acquisition enshrined in the 1894 Act. But a holistic reading of these provisions makes it clear that while engrafting the substance of some of the provisions

of the 1894 Act in the 1966 Act and leaving out other provisions, the State Legislature has ensured that the landowners/other interested persons, whose land is utilised for execution of the development plan/town planning scheme, etc., are not left high and dry. This is the reason why time-limit of ten years has been prescribed in Section 31(5) and also under Sections 126 and 127 of the 1966 Act for the acquisition of land, with a stipulation that if the land is not acquired within six months of the service of notice under Section 127 or steps are not commenced for acquisition, reservation of the land will be deemed to have lapsed. Shri Naphade's interpretation of the scheme of Sections 126 and 127, if accepted, will lead to absurd results and the landowners will be deprived of their right to use the property for an indefinite period without being paid compensation. That would tantamount to depriving the citizens of their property without the sanction of law and would result in violation of Article 300-A of the Constitution.”

10. In light of the aforesaid observations, it is clear that merely sending a letter to Collector for acquisition of the reserved land would not amount to steps towards acquisition of land and hence, the contentions of the Respondent – Corporation that the steps were taken towards acquisition cannot be considered as a valid defence.

11. The respondent – Corporation had also raised an objection that the Government measurement plan and DP Plan were not annexed. In our view this is not what was important. There is no requirement in the provisions of Section 127 of the MRTP Act that any map or DP extract is required to be annexed as a matter of fact. Learned Counsel appearing for the respondent was unable to point out any provision to show that it was mandatory to annex the Government Measurement Map or the DP extract.

12. In this connection, it is necessary to reproduce Section 127 of the MRTP Act as it stood at the time of issuing notice under Section 127 of the MRTP Act by the Petitioners.

“Section 127. Lapsing of reservations.

[(1) If any land reserved, allotted or designated for any purpose specified in any plan under this Act is not acquired by agreement within ten years from the date on which a final Regional Plan, or final Development Plan comes into force [or if a declaration under sub-section (2) or (4) of section 126 is not published in the Official Gazette within such period, the owner or any person

interested in the land may serve notice, along with the documents showing his title or interest in the said land, on the Planning Authority, the Development Authority or, as the case may be, the Appropriate Authority to that effect; and if within [twenty-four months] from the date of the service of such notice, the land is not acquired or no steps as aforesaid are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed, and thereupon, the land shall be deemed to be released from such reservation, allotment or designation and shall become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.

(2) On lapsing of reservation, allocation or designation of any land under sub-section (1), the Government shall notify the same, by an order published in the Official Gazette.”

13. On plain reading of the aforesaid Judgment in the case of ***Shrirampur Municipal Council (Supra)***, it clearly indicates that the insistence of the Respondent – Corporation upon measurement map or the DP extract is totally uncalled for. As a matter of fact, the only requirement of Section 127 is that the Purchase Notice must be served on the Planning Authority and that to within the time stipulated in the said statute. It would be too preposterous to conclude that the Planning Authority to whom the Purchase Notice is

issued needs to be forwarded the Government Map and the DP extract. The Hon'ble Supreme Court in the Judgment of ***Sanjay Singh v. U.P. Public Service Commission***⁷, has held as under :

“19..... It is well settled that courts will not add words to a statute or read into the statute words not in it. Even if the courts come to the conclusion that there is any omission in the words used, it cannot make up the deficiency, where the wording as it exists is clear and unambiguous. While the courts can adopt a construction which will carry out the obvious intention of the legislative or the rule-making authority, it cannot set at naught the legislative intent clearly expressed in a statute or the rules. ...”

15. Thus, if the interpretation as advanced by the Respondent – Corporation is considered, then it would be doing violence to the statute and would amount to re-legislation.

16. The contention of the respondent that the notice was addressed only by one of the co-owner and hence is not a valid notice, also deserves to be rejected. At the cost of repetition, Section 127 of the MRTP Act does not prescribe that all the co-owners should sign the notice. It is enough if only one co-owner has signed the

⁷ (2007) 3 SCC 750

notice. We must also take note of the fact that the Petitioners have specifically annexed notarized Authority Letter dated 20th May, 2022 to the present petition. The Authority Letter is issued by all the co-owners to the petitioner No.1 authorizing him to issue the notice. In addition to this factual aspect, this Court, in the matter of ***Ramesh Gopikishan Malani V. State of Maharashtra and Ors.***⁸ has by relying upon the Judgment in the matter of ***Keshav Manikrao Bagal V State of Maharashtra***⁹ held that it was not necessary for every co-owner to give notice under Section 127 of the MRTP Act and that issuance of notice by one co-owner would be a valid notice of purchase u/s 127 of the MRTP Act.

17. Taking into account the over all conspectus of the matter, it is clear that the land of the Petitioners was reserved for 18 Mtr. HCMTR road vide Notification dated 18th September, 1995. The period of ten years expired on 19th September, 2005. A Purchase Notice was issued by the Petitioners to the Corporation. The

8 WP/8836/2022 dtd.01/07/2024

9 WP/8066/2009

Corporation had raised the objection on 13th December, 2023 which are dealt with us extensively in the foregoing paragraphs. In spite of passage of 24 months which expired on 28th May, 2024, no acquisition was completed nor any steps were taken towards acquisition of the land. In the aforesaid premises, we hold that the reservation for the 18 Mtr. HCMTR road on the property of the Petitioners bearing Survey No. 446/4 corresponding to C.S.No.2084 & 2085 situated at Village Bhosari, Kasarvadi, Taluka Haveli, District Pune, situated within the limits of PCMC have lapsed. Hence, the following order :

ORDER

- (i) The Writ Petition is allowed.
- (ii) It is declared that the reservation in respect of 18 Mtr. HCMTR road on the property of the Petitioners bearing Survey No. 446/4 corresponding to C.S.No.2084 & 2085 situated at Village Bhosari, Kasarvadi, Taluka Haveli, District Pune, has lapsed.
- (iii) The Respondents are directed to publish a notification in the Official Gazette declaring that the

reservation i.e. 18 Mtr. HCMTR road on the property of the Petitioners bearing Survey No. 446/4 corresponding to C.S.No.2084 & 2085 situated at Village Bhosari, Kasarvadi, Taluka Haveli, District Pune, has lapsed, within a period of 12 weeks from today.

18. Petition is accordingly disposed of.

(SANDESH D. PATIL, J.)

(M. S. KARNIK, J.)