



(1)

37-WP-4775-2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAW) NO. 2329/2026

IN

WRIT PETITION NO. 4775/2018

SATISH WAMANAPPA KHABUTARE AND ANOTHER
VS

STATE OF MAHARASHTRA AND OTHERS

WITH

WRIT PETITION NO. 4775/2018

SATISH WAMANAPPA KHABUTARE AND ANOTHER
VS

STATE OF MAHARASHTRA AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Apurv De, Advocate for the Petitioner (s)/Applicant (s).

Mr. S.B. Bissa, AGP, for the Respondent Nos. 1 to 4, 6 and 7.

CORAM : ANIL L. PANSARE AND NIVEDITA P. MEHTA, JJ.

DATE : SEPTEMBER 10, 2026.

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1. Heard.
2. Learned counsel appearing for the applicants submits that he does not press for an order in the application.
3. Statement is accepted.
4. In view thereof, the application is disposed of.

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5. Heard.
6. On 06.08.2026, the following order was passed :

“Heard for some time.

2] *It appears that respondent no.6 sought advice from respondent no.7 on the point that the land under question is not required for construction of Sports Complex for the reasons stated in the communication dated 10/3/2015 (Annexure – C). The Collector, Buldhana, has approved the said*

communication. Despite such status, till today, Notification for de-reservation of the land has been not published.

3] We call upon respondent no.1 to enquire into the matter, and place before us report as to why necessary steps, in accordance with law, were not taken for de-reservation of the land. We'll also expect respondent no.1 to take appropriate action against erring officers responsible for delay.

4] List in the week commencing from 7/9/2026 for filing report.

5] In the meantime, we expect that necessary steps will be taken by the respondents, if otherwise, the land is eligible for de-reservation."

7. In response, we are informed that the reservation over the land under question has been deleted. Notification to that effect has been issued on 29.01.2019.

8. The grievance of the petitioners now left is as regards the amount of premium deposited by the petitioners in terms of the communication dated 09.03.2017 made by the Director Town Planning Maharashtra State Pune in favour of the Chief Officer Municipal Council Chikhli.

9. The Chief Officer was directed to recover the amount at the rate of 5% of the valuation of the land and to deposit the same equally in the account of Town Planner Buldhana and the Chief Officer, Chikhli. The petitioners have deposited the amount, but under protest.

10. The question is under which provision of law the respondents could have imposed such an amount.

11. The impugned communication makes reference to Sub-Section (2) of Section 50 of the Maharashtra Regional and Town Planning Act, 1966 (for short, **"the Act of 1966"**). Section 50 reads as under:

"Deletion of reservation of designated land for interim draft of final Development Plan.

(1)The Appropriate Authority [(other than the planning Authority)], if it is satisfied that the land is not or no longer required for the public purpose for which it is designated or reserved or allocated in the interim

or the draft, Development plan or plan for the area of Comprehensive development or the final Development plan, may request-

(a) the Planning Authority to sanction the deletion of such designation or reservation or allocation from the interim or the draft Development plan or plan for the area of Comprehensive development, or

(b) the State Government to sanction the deletion of such designation or reservation or allocation from the final Development plan.

(2) On receipt of such request from the Appropriate Authority, the Planning Authority, or as the case may be, the State Government may make an order sanctioning the deletion of such designation or reservation or allocation from the relevant plan:

Provided that, the Planning Authority, or as the case may be, the State Government may, before making any order, make such enquiry as it may consider necessary and satisfy itself that such reservation or designation or allocation is no longer necessary in the public interest.

(3) Upon an order under sub-section (2) being made, the land shall be deemed to be released from such designation, reservation, or, as the case may be, allocation 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."

12. As could be seen, the provision relates to deletion of reservation of a designated land if it is not required for the public purpose for which it is designated or for some other reasons as provided therein.

13. In the present case, there is no dispute that the land under question was not required for the purpose for which it was designated, viz. for construction of Stadium.

14. If that be so, we do not find that the recourse to Section 50 of the Act of 1966 is available to the respondents, who imposed 5% of the land value upon the land owner.

15. On this point, the response of the respondents is that there is no provision to return back the amount. Communication to that effect is made on 10.08.2026 by the Additional Secretary, Maharashtra State, to the learned AGP.

16. This stand, in our view, is contrary to the norms that would be applicable to the cases where the reservation is deleted on account of its non-requirement for the designated purpose. It is not the case of the respondents that the petitioners have sought modification in the development plan or change of user of the land.

17. That being so, the defence that the amount once recovered cannot be returned is unsustainable. In fact, the respondents should justify imposing the amount of permission charged to the petitioners.

18. As we have noted, the reference is made to Sub-Section (2) of Section 50 of the Act of 1966, which does not really empower the authorities to impose such an amount.

19. That being so, we find merit in the submissions made by the petitioners that the respondents were under an obligation to return back the amount once the reservation was deleted on account of its non-requirement for the public purpose for which it was designated.

20. Accordingly, the petition is partly allowed. The respondents are directed to return back the amount deposited by the petitioners within 8 weeks from today.

21. The petition is disposed of in terms of above.

(JUDGE)

(JUDGE)