IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4235 OF 1999

1. Smt. Madanbai w/o. Pannalal Sakhala.. Petitioners
Died- through Legal Heirs

A) Sow. Kanchan Ashokkumar Chopda,
Age. 42 years, Occ. Household,
R/o. Sadar Bazar, Nagpur.

B) Prakash Pannalal Sakhala
Age. 40 years, Occ. Agri.

C) Suresh Pannalal Sakhala
Age. 38 years, Occ. Agri.,

D) Nandlal Pannalal Sakhala
Age. 35 years, Occ. Agriculture,

E) Kantilal Pannalal Sakhala
Age. 33 years, Occ. Agriculture,
All R/o. Sadar Bazar,
Chopada, Dist. Jalgaon.

2. Nitin s/o. Raosaheb Shelke
Age. 29 years, Occ. Agri.,

3. Sudhakar Bhaskar Patil,
Age. 49 years, Occ. Agri. & Service,

4. Rajendra Balwantrao Patil
Age. 33 years, Occ. Agri.,

5. Shankar s/o. Uttamrao Patil
Age. 43 years, Occ. Agri.,

6. Narendra Ghanshyam Choudhari
Age. 51 years, Occ. Agri.

All are R/o. Chopda, Dist. Jalgaon.

Through their General Power of
Attorney
Shri Shantilal Tarachand Bothra,
Age. 56 years, Occ. Agri.,
R/o. Bazar Peth, Chopada,
Dist. Jalgaon.

Versus

1. The State of Maharashtra .. Respondents

2. The Director of Town Planning,
M.S. Pune.

3. The Municipal Council,
Chopda, Dist. Jalgaon.
(through its Chief Officer)

4. The Agricultural Produce Market
Committee, Chopda, Dist. Jalgaon.
(through its Secretary)

5. The Assistant Director of Town
Planning, Jalgaon.

Mr. A.B. Kale, Advocate for the petitioner.
Mrs.M.S. Patni, AGP for respondent/State.
Mr.R.N. Dhorde, Sr. Counsel i/b. Mr. V.R. Dhorde, Advocate for respondent No.4.

CORAM : A.V. NIRGUDE &
A.M. BADAR,JJ.
RESERVED ON : 30.06.2015
PRONOUNCED ON : 27.10.2015

J U D G M E N T [PER : A.V. NIRGUDE,J.]:-

1. Heard learned Counsel for the parties. The facts leading to this petition are as under :-

2. The petitioners jointly owned land Gat No.1157, admeasuring 1 Hectare 20 R situated at Chopada, Dist. Jalgaon. Original development plan was sanctioned by the Government on 8th October, 1986 for Chopada town and the petition-land was shown as reserved for extension of Agricultural Produce Market Committee (for short "APMC"), Chopada. According to the petitioners, no steps were taken for acquiring this land for next ten years from the date of sanction of the development plan. On 14th February, 1997, the petitioners sent purchase notice under section 127 of the Maharashtra Regional & Town Planning Act (for short "MRTP Act") to the Planning Authority as well as APMC Chopada, who is respondent

No.4. On 24th February, 1997, the Chairman of the APMC invited petitioners for negotiations. On 3rd June, 1997, the petitioners informed the Chairman, APMC that they were not interested in selling the land by private negotiations.

3. According to the petitioners, since no steps for acquiring the land were taken within six months from the date of receipt of notice, the reservation stood removed.

4. In 1999, the petitioners submitted a plan for development of the petition land to Municipal Council, but the same was rejected.

5. On 6th July, 1999, this petition was filed for directions to the respondents to release the land for development as per the petitioners' wish. In other words, the petitioners sought declaration that the land stood released from reservation due to failure of the respondents in taking necessary steps for acquiring the

land within six months from the purchase notice.

6. It is respondent No.4 who opposed this petition staunchly, obviously because they apprehended that the land reserved for extension of their premises would be lost. They stated in their reply dated 27th September, 1999 that after sanction of the Development Plan in 1989, the Chief Officer of the Municipal Council, Chopada (respondent No.3) vide his letter dated 6th October, 1988 intimated to them that the petition land was reserved for extension of APMC market. The petitioners purchased the plot long after the date of sanction of the Development Plan. They were in business of purchase and sale of lands which were reserved for Development Plan. The petitioners are set up by their power of attorney – Shantilal, who was sitting Councilor of Chopada Municipal Council, since more than 10 years prior to filing of the petition. It is he who is behind the litigation.

7. The APMC further stated that immediately after

the Development Plan was finalized, they passed resolution on 26th May, 1988 and accordingly they sent a letter on 7th October, 1988 to the Collector, requesting him to start action for acquiring the petition land. A copy of this letter was sent to the Municipal Council also. The Office of the Collector, thereafter, vide letter dated 29th October, 1988, requested them to provide certain information. Accordingly, the said information was supplied to the Office of the Collector on 23rd January, 1989. According to APMC, with this letter, they supplied complete information to the office of the Collector. They also pointed out in this letter that the petitioners did not belong to one family and they had intention to divide the petition-land into plots etc. and therefore immediate action was required. Vide letter dated 27th February, 1989, the office of the Collector again informed to them seeking further information and that permission of the Commissioner was necessary before initiating the acquisition proceedings.

On 21st February, 1997, proposal was submitted to the Commissioner and permission was sought. While this was pending before the Commissioner on 5th March, 1997, the Office of the Collector further directed APMC to comply with certain conditions. On 21st June, 1997, the Commissioner granted permission for acquisition of the land. On 10th November, 1997, the APMC again requested the Collector to take necessary steps for acquiring the land. On 3rd February, 1998, the Municipal Council intimated to APMC that the purchase notice dated 10th August, 1997 was received and proposal for acquisition should be submitted to the Collector. The Municipal Council further stated in this letter that if this proposal is not submitted and if the reservation got lapsed, they should not be responsible for the same. The APMC alleged that the Municipal Council purposely avoided to take action on the purchase notice which they received in August, 1997 till February, 1998 because power of attorney of petitioner – Shantilal was then a sitting

Councilor. They further stated that upon receiving this letter which surprised them, they immediately contacted the Asstt.Director of Town Planning, Jalgaon and intimated to him that although APMC was making requests to all concerned since 1988 that the land should be acquired, the office of the Collector was not taking action. They requested him that necessary steps should be taken, so that reservation would not be lapsed. The APMC also urged the Municipal Council to take steps as Planning Authority, so as to avoid reservation getting lapsed. Again on 26th February, 1998, the Office of the Collector asked for further information to the APMC. In the meantime, on 3rd March, 1998, the Municipal Council also sent letters to the Collector and others to start action for acquisition. The petitioners then appointed Shantilal as their power of attorney. On 5th March, 1997, the petitioners in the meantime requested for meeting with APMC Officers, so as to discuss terms of sale of the petition-land through private negotiations.

The attorney of the petitioners then held meeting with Officers of APMC, but the negotiations for the sale of the land failed in or about August, 1997.

8. Respondent No.3-Municipal Council, Chopada submitted a reply on 22nd September, 1999, in which it is asserted that the purchase notice was not lawful. It was not addressed to the Municipal Council, which is the planning authority. It is further mentioned that the power of attorney document is not valid as per law. They pointed out that the APMC, Chopada sent proposal for acquisition to the office of the Collector well within time and so the petition should be dismissed.

9. The facts mentioned above clearly indicate that on one side the petitioner through their power of attorney – Shantilal were trying to get the land released from reservation, but on the other hand the APMC were keen to get the land acquired for their use. The APMC also opposed the interim relief being given to the

petitioners. The Roznama entries show that the Court wanted the Collector, Jalgaon to file a reply to this petition. A specific direction to that effect was issued on 09.08.2000. By that time Writ Petition No.1421 of 2000 was also filed. This was a connected petition filed by the APMC, Chopada (respondent No.4) against the State of Maharashtra and Shantilal – power of attorney of the petitioners. Both these petitions were proposed to be heard together.

10. We must also therefore peruse the pleadings in W.P.No.1421 of 2000. The APMC in their petition narrated about what steps they had taken for persuading office of the Collector, Jalgaon to initiate the proceeding for acquisition and how the office of the Collector somehow delayed the entire proceeding by writing letters after letters seeking further information etc. They further mentioned that after reservation of the plot was made in 1986, the petitioners purchased the land with a view to sell the plots made on them. They appointed Shantilal as

their attorney, since they knowingly purchased the property which was affected by reservation. The APMC also mentioned that the Office of the Collector was acting in such a manner that the reservation would be lapsed. On frivolous grounds the Office of the Collector sent back proposal for acquisition on number of occasions. They specifically mentioned that the office of the Collector was under influence of Shantilal, who was sitting Councilor of the Municipal Council then. They made allegation that Shantilal influenced both Municipal Council as well as office of the Collector. The APMC even asserted that their proposal for acquisition of the land was purposely delayed by the Collector as well as Municipal Council by raising fraudulent and frivolous objections. They even alleged that there was collusion between Shantilal, who had personal interest in the land in question, office of Municipal Council and Office of the Collector for getting the land dereserved. Making these and other allegations

in their W.P.No.1421 of 2000, they sought direction from the Court to the Collector to initiate appropriate action for acquisition of the land.

11. In view of the serious allegations made against the office of the Collector and the Council, the Court was keen to know the stand of the Collector in W.P.No.1421 of 2000, which was taken up along with present petition. W.P.No.1421 of 2000 was filed on 15.11.1999 i.e. within few months after filing of the present petition. In a way, these two petitions were interconnected. The present petition was filed for declaration that the land stood de-reserved. W.P.No.1421 of 2000 was filed for getting the land acquired. In other words, the purpose for other petition was to get declaration that the land could still be acquired despite the purchase notice issued. It is in this background, we have to appreciate the factual aspects of this case.

12. As indicated above, both these petitions were

taken up together and the Court on 09.08.2000 directed the Collector to file an affidavit-in-reply. On that day, the Collector did not file his reply and therefore this Court directed the Collector to remain present before the Court on 14th September, 2000. On 14th September, 2000, the Collector did not appear before the Court despite clear directions. The Court observed that prima facie this amounted to disobedience of the order passed by this Court. A show cause notice was issued as to why contempt proceeding should not be initiated against him.

13. Ultimately, the Collector Shri Sanjiv Kumar Gupta filed his affidavit on 6th November,2000. He said that order under section 52-A of the Land Acquisition Act authorizing the Land Acquisition Officer, Jalgaon to initiate land acquisition proceeding for the petition-land was passed on 11th August, 2000 and the process had already began. On 18th October, 2000, the Collector brought to notice of the Court that the land acquisition

proceeding had come to an end on 4th October, 2000. Notification under section 6 of the Land Acquisition Act was also published on 13th September, 2001. The award was passed on 31st May, 2003 and an amount of Rs.39,19,144/- was deposited with the Land Acquisition Officer. On 17th September, 2003, possession of the land in question was given to APMC. The land record was changed accordingly. In view of these developments, the APMC urged the Court to dismiss this petition being infructuous.

14. Thereafter the petitioner moved an application for amendment to the petition. They added that the Collector had violated the provisions of Section 126 and 127 of the Act. They sought declaration that the Land Acquisition Award dated 31st June, 2003 was bad in law and should be quashed and set aside. They also sought injunction not to disturb their possession. They were permitted to amend the petition as indicated above and the respondent No.4 filed additional affidavit and asserted that the petition is now infructuous because the

acquisition had already taken place.

15. In between one more significant development took place. The connected W.P.No.1421 of 2000 came up for hearing on 3rd February, 2012 before this Court and this Court took a view in the circumstances that are narrated above that the land acquisition proceedings were concluded, award was published and the APMC received possession. The Court expressed its view that the petition was infructuous and it was disposed of. Having regard to the facts that are narrated in detail above, following questions arise for our decision.

i. Whether the land in question stood dereserved?
ii. Whether the subsequent Land Acquisition Award deserves to be set aside?

16. We are not inclined to go into the allegations as to whether the respondents - Municipal Council and Office of Collector purposely avoided acquisition of the land. The reason is obvious. We are not deciding the other Writ Petition No.1421 of 2000. First reason is

that such questions were raised mainly in W.P.No.1421 of 2000 and the same was disposed of long back. In this petition, the petitioners asserted that due to passage of time and since the land was not acquired within time, it stood dereserved. This aspect, thus, is important for us.

17. In order to answer the above quoted question No.1, one must apply the law on this subject to the facts of this case. We must, therefore, first quote Sections 126 & 127 of the MRTP Act. They read as under :-

> 126. (1) Where after the publication of a draft Regional plan, a Development or any other plan or town planning scheme, any land is required or reserved for any of the public purposes specified in any plan or scheme under this Act at any time, the Planning Authority, Development Authority, or as the case may be, [any Appropriate Authority may expect as otherwise provided in section 113A] [Acquire the land-
> (a) By agreement by paying an amount agreed to, or
> (b) in lieu of any such amount, by granting the land-owner or the lessee, subject, however, to the lessee paying the lessor or depositing with the Planning Authority, Development Authority or Appropriate Authority, as the case may be, for payment to the lessor, an amount equivalent to the value of the lessor's interest to be determined by any of the said Authorities concerned on the basis of the principles laid down in the Land Acquisition Act, 1894, Floor Space Index (FSI) or Transferable

Development Rights (TDR) against the area of land surrendered free of cost and free from all encumbrances, and also further additional Floor Space Index or Transferable Development Rights against the development or construction of the amenity on the surrendered land at his cost, as the Final Development Control Regulations prepared in this behalf provide, or

(c) by making an application to the State Government for acquiring such land under the Land Acquisition Act, 1894, and the land (together with the amenity, if any so developed or constructed) so acquired by agreement or by grant of Floor Space Index or additional Floor Space Index or Transferable Development Rights under this section or under the Land Acquisition Act, 1894, as the case may be, shall vest absolutely free from all encumbrances in the Planning Authority, Development Authority, or as the case may be, any Appropriate Authority.]

(2) On receipt of such application, if the State Government is satisfied that the land specified in the application is needed for the public purpose therein specified, or [if the State Government (except in cases falling under section 49 [and except as provided in Section 113A)] itself is of opinion] that any land included in any such plan is needed for any public purpose, it may make a declaration to that effect in the *Official Gazette*, in the manner provided in section 6 of the Land Acquisition Act, 1894, in respect of the said land. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section:

[Provided that, subject to the provisions of sub-section (4), no such declaration shall be made after the expiry of one year from the date of publication of the draft Regional Plan, Development Plan or any other Plan, or Scheme, as the case may be]

[(3) On publication of a declaration under the said section 6, the collector shall proceed to take

order for the acquisition of the land under the said Act: and the provisions of that Act shall apply to the acquisition of the said land with the modification that the market value of the land shall be,-
(i)Where the land is to be acquired for the purposes of a new town, the market value prevailing on the date of publication of the notification constituting or declaring the Development Authority for such town:
(ii) where the land is acquired for the purposes of a Special Planning Authority the market value prevailing on the date of publication of the notification of the area as undeveloped area; and
(iii) in any other case, the market value on the date of publication of the interim development plan, the draft development plan or the plan for the area or areas for comprehensive development, whichever is earlier, or as the case may be, the date or publication of the draft Town Planning Scheme.

Provided that, nothing in this sub-Section shall affect the date for the purpose of determining the market value of land in respect of which proceedings for acquisition commenced before the commencement of the Maharashtra Regional and Town Planning (Second Amendment) Act, 1972:

Provided further that, for the purpose of clause (ii) of this sub-section, the market value in respect of land included in any undeveloped area notified under sub-section (1) of section 40 prior to the commencement of the Maharashtra Regional and Town Planning (Second Amendment) Act, 1972, shall be the market value prevailing on the date of such commencement.]

[(4)[Notwithstanding anything contained in the proviso to sub-section (2) and sub-section (3), if a declaration,] is not made, within the period referred to in sub-section(2)(or having been made,

the aforesaid period expired on the commencement of the Maharashtra Regional and Town Planning [(Amendment) Act, 1993)], the State Government may make a fresh declaration for acquiring the land under the Land Acquisition Act, 1894, in the manner provided by sub-section (2) and (3) of this section, subject to the modification that the market value of the land shall be the market value at the date of declaration in the *Official Gazette*, made for acquiring the land afresh.]

127. (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, alongwith 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 twelve 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.

18. The provision clearly lays down the pre-

conditions for lapsing of reservation, allocation or designation of any land. It also indicates that on such lapsing, the Government on their own should notify such fact in the Official Gazette. It is common knowledge that the Government seldom notify lapsing of reservation on their own. It is always a party, who is interested in getting his/her land released from reservation, takes steps as contemplated by Section 127 of the Act. The question is whether the facts narrated above would amount to lapsing of reservation of the petition-land.

19. The learned Counsel for the petitioner submitted that inspite of receipt of said purchase notice under Section 127 of the Act of 1966, respondent No.4 has not acquired the said land or has not taken any steps for acquisition of the said land within the period of six months from the date of such notice, therefore, said reservation on the petitioners land is deemed to have been lapsed and the said land is deemed to have been deleted from such reservation under Section 127 of the

Act of 1966.

20. In the present case the development plan was sanctioned on 08.10.1986. The land was not acquired in next ten years. The purchase notice under Section 127 and 49 was issued on 14.02.1997 and 10.08.1997. The said purchase notice was served on APMC on 04.09.1997, on Director of Town Planning on 05.09.1997 and Municipal Council on 04.09.1997. Inspite of the service of purchase notice, no acquisition proceedings were initiated as required under Section 126(4) r/w Section 6 of the Land Acquisition Act. It is admitted fact that for the fist time by letter dated 03.02.1998, 17.02.1998 and 26.02.1998 the Municipal Council, Chopda, Director of Town Planning, Pune and Collector, Jalgaon respectively issued directions for acquisition of the land. Still no declaration under Section 126(4) r/w Section 6 of the Land Acquisition Act was not issued within 6 months from the service of purchase notice.

21. It is clear from the admitted facts that since 06.10.1986 till purchase notice is served, no action was taken. After purchase notice was served, no further steps as required were taken. For the first time on 13.07.2001 notification under Section 6 of the Land Acquisition Act was published and then after on 31.05.2003 the award was passed by the Special Land Acquisition Officer.

22. It is, therefore, clear that the land stood lapsed from reservation long back. It is also clear that issuance of notification for acquiring the land and passing of award were actions in futility. The Government was not entitled to acquire the land. In support of this conclusion, we place reliance on the judgment of the Apex Court in the case of **Girnar Traders Vs. State of Maharashtra, reported in 2007(7) SCC 555**. We particularly place reliance on paragraph Nos.54 to 57 of the said judgment and the same are as under :-

> "54. When we conjointly read Section 126 and 127 of the MRTP Act, it is apparent that the legislative intent is to expeditiously acquire

the land reserved under the Town Planning Scheme and, therefore, various periods have been prescribed for acquisition of the owners property. The intent and purpose of the provisions of Sections 126 and 127 has been well explained in Municipal Corporation of Greater Bombay Case (Supra). If the acquisition is left for a time immemorial in the hands of the concerned authority by simply making an application to the State Government for acquiring such land under the LA Act, 1894, then the authority will simply move such an application and if no such notification is issued by the State Government for one year of the publication of the draft regional plan under Section 126(2) read with Section 6 of the LA Act, wait for the notification to be issued by the State Government by exercising sou motu power under Sub-Section (4) of Section 126; and till then no declaration could be made under Section 127 as regards lapsing of reservation and contemplated declaration of land being released and available for the land owner for his utilization as permitted under Section 127 permitted inaction on the part of the acquisition authorities for a period of 10 years for de-reservation of the land. Not only that, it gives a further time for either to acquire the land or to take steps for acquisition of the land within a period of six months from the date of service of notice by the land owner for de-reservation. The steps towards commencement of the acquisition in such a situation would necessarily be the steps for acquisition and not a step which may not result into acquisition and merely for the purpose of seeking time so that Section 127 does not come into operation.

55. Providing the period of six months after

the service of notice clearly indicates the intention of the legislature of an urgency where nothing has been done in regard to the land reserved under the plan for a period of 10 years and the owner is deprived of the utilization of his land as per the user permissible under the plan. When mandate is given in a Section requiring compliance within a particular period, the strict compliance is required thereof as introduction of this Section is with legislative intent to balance the power of the State of 'eminent domain'. The State possessed the power to take or control the property of the owner for the benefit of public cause, but when the State so acted, it was obliged to compensate the inured upon making just compensation. Compensation provided to the owner is the release of the land for keeping the land under reservation for 10 years without taking any steps for acquisition of the same.

56. The underlying principle envisaged in Section 127 of the MRTP Act is either to utilize the land for the purpose it is reserved in the plan in a given time or let the owner utilize the land for the purpose it is permissible under the Town Planning Scheme. The step taken under the Section within the time stipulated should be towards acquisition of land. It is a step of acquisition of land and not step for acquisition of land. It is trite that failure of authorities to take steps which result in actual commencement of acquisition of land cannot be permitted to defeat the purpose and object of the scheme of acquisition under the MRTP Act by merely moving an application requesting the Government to acquire the land, which Government may or may not accept. Any step which may or may not culminate in the step for acquisition cannot

be said to be a step towards acquisition.

57. It may also be noted that the legislature while enacting Section 127 has deliberately used the word steps (in plural and not in singular) which are required to be taken for acquisition of the land. On construction of Section 126 which provides for acquisition of the land under the MRTP Act, it is apparent that the steps for acquisition of the land would be issuance of the declaration under Section 6 of the LA Act. Clause (c) of Section 126(1) merely provides for a mode by which the State Government can be requested for the acquisition of the land under Section 6 of the LA Act. The making of an application to the State Government for acquisition of the land would not be a step for acquisition of the land under reservation. Sub-Section (2) of Section 126 leaves it open to the State Government either to permit the acquisition or not to permit, considering the public purpose for which the acquisition is sought for by the authorities. Thus, the steps towards acquisition would really commence when the State Government permits the acquisition and as a result thereof publishes the declaration under Section 6 of the LA Act."

23. There are few more judgment, reliance on which can be placed to substantiate our view. One such judgment is delivered by the Supreme Court in the case of **Shrirampur Municipal Council Vs Satyabhamabai Bhimaji Dawkher reported at (2013)5 SCC 627.** In addition to this,

following judgments of the Supreme Court are shown to us in support of the petitioner's contentions. The list is as under :-

i) Municipal Corporation of Grater Bombay, Vs Dr. Hamimwadi Tenants Association and others AIR 1988 SC 233;
ii) Vyalikaval House building Co Op Society Vs V Chandrappa & ors – 2007 AIR (SC) 1151;
iii) Satyabhamabai Bhimaji Dawkher Vs State of Maharashtra & others – 2007(6)Bom,C.R.20;
iv) Shivram Kondaji Sathe & others Vs State of Maharashtra & others – 2009 (2) ALL MR 347;
v) Baburao Dhondiba Salonkhe Vs Kolhapur Municipal Corporation & another – 2003 (5) Bom C.R. 232;
vi) Vijaykumar Motilal Harakhanwala Vs State of Maharashtra and others – 2011(3)Mh.L.J.903;
vii) Suneeta G. Mhatre Vs Commissioner, Kalyan Dombivali Municipal Corporation & others – 2009(2) Bom C.R. 906.
viii) M/s C.V.Shah & A.V.Bhat Vs State of Maharashtra and others – 2005 (3) ALL Mr 197.

24. We have carefully considered the submissions of respective counsel and the various judgment relied upon by them in support of their contentions. After considering the facts of the case and after considering the law laid down by the Apex Court in case of **Girnar Traders and Shrirampur Municipal Council referred supra**,

we find that the respondent No.4 APMC has merely created an impression that they were taking steps for acquisition of the concerned land. In fact, the steps taken by the APMC do not inspire us to conclude that they had really acted for acquiring the land within the time frame set out under Section 127 of the MRTP Act. We are of the considered view that as per the mandate of Section 127 of the Act after the issuance of purchase notice, no steps as required were taken within the time and therefore the reservation of petition land shall get lapsed.

25. In the result, for the reasons stated herein above, this Writ Petition is allowed. It is declared that the reservation, designation or allotment provided under the development plan of respondent No.3-Chopda Municipal Council in respect of land bearing Gat No.1157/1 i.e. Survey No.983/1 to the extent of 1 H 20 R from Chopda, Dist. Jalgaon is lapsed and the subject property shall be available to the petitioners for the purpose of development or otherwise as is permissible.

The State Government is hereby directed to take steps and notify lapsing of reservation in the official gazette, as early as possible within three months from today. It is further ordered that the Land Acquisition Award dated 31.06.2003 is null and void and shall not be binding on the petitioners.

26. Rule made absolute accordingly with no order as to costs.

[A.M. BADAR,J.] **[A.V. NIRGUDE,J.]**

. At the request of learned Counsel for respondent No.4, the effect of this judgment is kept in abeyance for a period of eight weeks from the date of pronouncement of this judgment.

[A.M. BADAR,J.] **[A.V. NIRGUDE,J.]**