

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 6481 OF 2015

Prashant s/o Vijaykumar Shete
& another

.. PETITIONERS

VERSUS

The State of Maharashtra
& others

.. RESPONDENTS

Mr. D.P. Deshpande, advocate for petitioners.
Mr. M.B. Bharaswadkar, AGP for the State.
Mr. A.V. Hon, advocate for respondent no. 3.

=====

CORAM : R.M. BORDE &

A.I.S. CHEEMA, JJ.

DATE : 19th NOVEMBER, 2015.

PER COURT :

1. Petitioners are praying for issuance of declaration that on account of failure of the planning authority to take steps within a period of one year from the date of receipt of notice under section 127 of the MRTP Act, the reservation, allotment or designation in respect of the property owned by petitioner under the final development plan prepared by the planning authority, shall be deemed to have lapsed.

2. It is not a matter of dispute that the property in question is designated for public purpose under the final development plan prepared for Latur Municipal Corporation. It is also not disputed that petitioner issued notice on 24.09.2012 calling upon the Municipal Corporation to take steps for acquiring the land and that, the Municipal Corporation is in receipt of said notice. It is the contention of petitioner that even after lapse of period

of one year from the date of receipt of notice, the Municipal Corporation has failed to take steps and as such, the reservations, allotment or designation in relation to the property under final development plan prepared for Latur Municipal Corporation shall be deemed to have lapsed.

3. It is the contention of respondents that notice issued by petitioner on 24.09.2012 is not within contemplation of section 127 of the MRTP Act since no document showing title of petitioner or his interest in the said land is tendered alongwith notice to the planning authority. Section 127 of the MRTP Act mandates that the notice issued to the planning authority shall be accompanied by documents showing title of the land owner or his interest in the said land. Since the notice is not accompanied by the requisite documents, it cannot be construed as a valid notice within contemplation of section 127 of MRTP Act.

4. In the result, the request made by petitioner in the instant petition is not liable to be considered. Writ petition as such stands rejected. It would be open for the petitioner to tender a fresh notice within contemplation of section 127 of the MRTP Act. It is hereby clarified that dismissal of instant petition shall not be a bar for prosecuting the remedy, after issuing fresh notice.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE