

UNREPORTED**IN THE HIGH COURT OF JUDICATURE AT****BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.781 OF 2014.**

Laxmikant S/o Bapurao Machile,
Age 45 years, Occ.Business,
R/o RB-08, Maitree Park,
Shri Govind Nagar, Ambajogai
Road, Latur. ... Petitioner.

Versus

1. The State of Maharashtra,
through its Secretary,
Urban Development Department,
Mantralaya, Mumbai,
Maharashtra State.

2. The Municipal Corporation
of Latur, Latur through its
Municipal Commissioner, Latur.

3. The Director,
Town Planning Department,
Maharashtra State, Pune. ... Respondents.

...

Mr.Patil Milind M.(Beedkar), advocate for the
Petitioner.

Mrs.M.S.Patni, Asstt. Govt. Pleader for the
State.

Mr.V.D.Hon, Senior advocate for the Respondent
No.2.

...

**CORAM : S.V.GANGAPURWALA &
A.I.S.CHEEMA, JJ.**

Date : 13.04.2015.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties, the petition is taken for final hearing.

3. The petitioner claims to be the owner of land S.No.257 admeasuring 3 hectares 61 ares situated at Latur. According to Mr.Patil, learned counsel for the petitioner, the Development Plan for Latur came into force in the year 1975. The revised Development Plan was sanctioned on 2.1.2002. It came into force with effect from 18.2.2002. Under the revised Development Plan, the land of the petitioner was reserved under three different sites. Site No.298 was reserved for Primary School and Garden. Site No.299 for playground and site No.300 for Garden. The Municipal Council, Latur (now Municipal Corporation) did not take any

steps for purpose of acquisition of the said reserved land of the petitioner for ten years from 18.2.2002. The petitioner on 7.5.2012 issued purchase notice to the Respondent NO.2 U/s 127(1) of the Maharashtra Regional and Town Planning Act. The same was served upon the Respondent Corporation on the very same day i.e. 7.5.2012. No steps are taken for acquisition within a period of 12 months from the date of service of notice. As such the reservation lapses. The learned counsel relies on the judgment of the Apex Court in a case of **"State of Maharashtra Vs. Bhakti Vedanta Book Trust and others"** reported in **(2013) 4 Supreme Court Cases 676.**

4. Mr.Hon, learned Senior counsel for the Respondent No.2 Planning Authority submits that the notice dated 7.5.2012 issued by the petitioner U/s 127(1) of the Maharashtra Regional and Town Planning Act, 1966 was served upon the Respondent NO.2 on 22.4.2013. The Respondent No.2 on 31.5.2013 intimated the petitioner that the petitioner has not annexed the measurement

map which is relevant and necessary for further action. The petitioner was directed to furnish the same vide letter dated 31.5.2013, the petitioner till date has not submitted the same. The notice U/s 127(1) of the MRTP Act, is as such bad in law and can not be relied by the petitioner. In spite of non-submission of measurement map, the Respondent No.2 Corporation has taken further steps. On 24.4.2014, the Respondent No.2 has submitted land acquisition proposal to the Collector in respect of the said reserved sites. In light of that, the reservation would not lapse, as the proceedings are already initiated for acquisition and so also the notice is defective and not in consonance with Section 127 of the MRTP Act.

5. We have heard learned Asstt. Govt. Pleader also.

6. The factual matrix as culled out that the part of land of the petitioner S.No.257 admeasuring 3 hectares 61 ares is reserved under three different sites is not disputed. The

issuance of notice dated 7.5.2012, by the petitioner to the Respondent NO.2 U/s 127 of the MRTP Act, is also not disputed. According to the petitioner, it is served upon the Respondent No.2 on 7.5.2012. As per Respondent No.2, it is received by it on 22.4.2013. The said dates would not be relevant. It is undisputed that till today declaration U/s 6 of the Land Acquisition Act read with Section 126 of the MRTP Act, has not been issued. The Respondents have nowhere denied the ownership of the petitioner over the said land. Vide letter dated 31.5.2013 (the receipt of which is disputed by the petitioner), the Respondent has sought measurement map from the petitioner. The same is also not required as per the judgment of the Division Bench of this Court dated 16.12.2014 in W.P.No.4823/2014.

7. As no steps are taken for acquisition i.e. declaration U/s 6 of the Land Acquisition Act, read with Section 126 of the MRTP Act, has not been issued within 12 months from the date of receipt of the purchase notice by the Respondent No.2, the reservation lapses as has been held in

a case of **"State of Maharashtra Vs. Bhakti Vedanta Book Trust and others"** referred supra and in another Judgment of the Apex Court in the case of **"Girnar Traders Vs. State of Maharashtra"** reported in **(2007) 7 SCC 555**.

8. In the result, the Writ Petition is allowed in terms of prayer clauses B and C. Rule accordingly made absolute in above terms. No costs.

(A.I.S.CHEEMA, J.)

(S.V.GANGAPURWALA, J.)

asp/office/wp781.14

