

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4430 OF 2012

Hukumchand Amolakchand Nimani Petitioner
Vs.
Nashik Municipal Corporation & Ors. Respondents

Mr. R.D. Soni i/b M/s. Ram & Co. for the Petitioner.
Mr. M.L. Patil for Respondent Nos.1 and 2.
Mr. V.S. Gokhale, AGP, for Respondent Nos.3 & 4.

CORAM: A.S. OKA &
REVATI MOHITE DERE, JJ.

DATED: JULY 27, 2015

P.C:

1. Heard the learned counsel appearing for the petitioner.

2. This petition is based on a notice dated 18-10-1991, purporting to be a notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, "the MRTP Act"). The contention is that as no steps were taken within the

statutory period from the date of service of the said notice, the reservation under the sanctioned development plan under the MRTTP Act has lapsed.

3. We have carefully perused the said notice, dated 18-10-1991. Paragraph 1 of the said notice refers to notices issued for acquisition. Paragraph 2 records that the acquisition has lapsed. In paragraph 3, again it is contended that if acquisition is not completed within six months, it will be treated as if the acquisition has lapsed. By no stretch of imagination, this notice can be construed as the one under Section 127 of the MRTTP Act, as the same does not refer to any reservation.

4. The learned counsel appearing for the petitioner also relies upon a notice dated 2-9-2006. The said notice proceeds on the footing that the earlier acquisition has lapsed and now there is no reservation. Even this notice cannot be construed as a notice under Section 127 of the MRTTP Act. Therefore, the prayers made in the petition cannot be granted.

5. The learned counsel appearing for the petitioner submits that on the basis of the statements made in the reply filed by Shri Bhaskar Uddhavrao More, he may be permitted to amend the petition.

6. The entire petition is based on the alleged cause of action arising out of the notice purportedly issued under Section 127 of the MRTP Act. We find that in fact there was no such notice issued by the petitioner. Hence, this petition cannot be permitted to be amended. Accordingly, we pass the following order:-

ORDER

- (i) The petition is rejected.
- (ii) If any other cause of action is available to the petitioner, he is free to file a separate petition.

(REVATI MOHITE DERE, J.)

(A.S. OKA, J.)