

ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1510 OF 2013

Shivshankar Shivram Singh
and others ...Petitioners
vs.
State of Maharashtra and anr. ...Respondents

Mr.Rakesh Pandey for the Petitioners
Mr.S.U.Kamdar, Senior counsel a/w Ms Shobha
Ajitkumar for the BMC

CORAM : A.S.OKA, &
C.V.BHADANG, JJ.
DATE : APRIL 20, 2015

P.C.:

1 Heard the learned counsel for the petitioners, learned senior counsel for the respondent No.2. Notice for final disposal was issued on 28th January 2015. The petitioners are claiming to be the owners of the land more particularly described in paragraph 1 of the petition. The petition is based on the notice issued by the petitioners under section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act'). The said land described in paragraph 1 of the petition was reserved in the sanctioned development plan of the year 1991 for public purposes of a recreation ground, development plan road and post office. Admittedly, the said notice dated 2nd February 2008 was issued after expiry of 10 years from the date on which the sanctioned development plan came into

force. The substantive challenge in this petition is based on the notice issued under section 127 of the MRTP Act.

2 There is a reply filed by Shri Santosh K. Gosavi, the Assistant Engineer of the Mumbai Municipal Corporation. In the said reply, a stand has been taken that by the resolution dated 17th July 2008 passed by the Improvement Committee and a resolution dated 24th July 2008 passed by the Municipal Corporation, it was resolved to file the proposal for acquisition of the said land as it was encroached upon.

3 Hence, no steps have been taken by the Planning Authority within the period stipulated under section 127 of the MRTP Act from the date of service of notice under section 127. Accordingly, the case will be governed by the decision of the Apex Court in the case of *Shrirampur Municipal Council vs. Satyabhamabai Bhimaji Dawkher*¹. In the circumstances the reservation provided under the sanctioned development plan shall stand lapsed by virtue of operation of section 127.

4 We accordingly dispose of the petition by passing the following order:

- (I) It is declared that the reservation under the sanctioned development plan on the said land more particularly described in paragraph 1

1 (2013) 5 SCC 627

of the petition shall stand lapsed by virtue of section 127 of the Maharashtra Regional Town Planning Act, 1966. Hence, the said land shall become available to the owners thereof for the purpose of development as otherwise permissible in case of adjacent land under the sanctioned development plan;

- (II) We direct the State Government to issue a notification as contemplated by sub-section (2) of section 127 of the MRTP Act within a period of three months from today;
- (III) All consequential actions shall be taken by the Municipal Corporation for correcting the record within a period of three months from today;
- (IV) Rule is partly made absolute on above terms.

(C.V.BHADANG, J.)

(A.S.OKA, J.)