

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
WRIT PETITION NO. 1107/2014

(VYANKATESH REALITY, AMRAVATI **VERSUS** THE STATE OF MAH. & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri G.K. Mundhada, counsel for the petitioners.
 Shri K.L. Dharmadhikari, A.G.P. for the R-1 & 4.
 Shri S.M. Vaishnav h/f Shri M.A. Vaishnav, counsel for the R-2 & 3.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : APRIL 1, 2015.

By this petition, the petitioner seeks a declaration that the reservation of the land owned by the petitioner in Survey No.6, Sub-Division No.1, admeasuring 1 Hectare 29 R reserved for Sports Complex and Town Sub-Centre vide Reservation nos.437 and 438 respectively has lapsed under Section 127 of the Maharashtra Regional Town Planning Act, 1966 and the petitioner is free to develop the land owned by it in the manner permissible to the adjoining land holder as per the development plan.

The petitioner is the owner of land Survey No.6, Sub-Division No.1, admeasuring 1 Hectare 29 R in village Saturna. The land is situated in the corporation limits and was purchased by the petitioner on 04.01.2013 by a registered sale-deed for a valuable consideration. As per the development plan of the city of Amravati, sanctioned on 25.02.1993, the land referred to hereinabove was reserved for Sports Complex and Town Sub-Centre. The predecessor-in-title of the petitioner had sent the purchase notice to the respondent nos.2 and 3 on 22.02.2012 under the provisions of Section 127 of the Act of 1966. The predecessor-in-title of the petitioner, by the notice dated 22.02.2012 asked the concerned respondents to acquire the land within the statutory period of twelve months. After the petitioner

purchased the land, the present petition has been filed as according to the petitioner, no steps have been taken by the respondent nos.2 and 3 in pursuance of the notice dated 22.02.2012 within a period of one year.

It is submitted on behalf of the respondent nos.2 and 3 that the petitioner is not entitled to the relief claimed as the petitioner was not the owner of the land when the predecessor-in-title of the petitioner issued the notice dated 22.02.2012. It is stated that the petitioner has purchased the property much later, on 04.01.2013 and the petitioner cannot avail the benefit of the provisions of Section 127(2) of the Act of 1966 on the basis of the notice issued by the predecessor-in-title of the petitioner on 22.02.2012. It is, however, admitted that after the receipt of the notice dated 22.02.2012 from the predecessor-in-title of the petitioner, the respondent no.3 has not issued a notification under Section 6 of the Land Acquisition Act.

For seeking the rejection of the objection raised by the learned counsel for the respondent nos.2 and 3 to the tenability of the writ petition at the behest of the petitioner when the notice was issued by the predecessor-in-title of the petitioner and not by the petitioner itself, the learned counsel for the petitioner relied on a reported judgment of this Court in the case of *Satish Soma Bhole Versus State of Maharashtra & Others* reported in **2011(1) BCR 293**. It is stated that in similar circumstances, this Court had held that the notice issued by the predecessor-in-title would not disentitle the purchaser of the property to seek the benefit of the provisions of Section 127 of the Act of 1966. It is stated that this Court has held in the said judgment that once notice is issued under Section 127 of the Act of 1966, the time would not stop running by the sale of the property by the owner.

On hearing the learned counsel for the parties and on

a perusal of the judgment reported in **2011(1) BCR 293** (*Satish Soma Bhole Versus State of Maharashtra & Others*), it appears that there is no force in the objection raised on behalf of the respondent nos.2 and 3 to the tenability of the petition at the behest of the petitioner-Firm. It is held by this Court in the judgment reported in **2011(1) BCR 293** (*Satish Soma Bhole Versus State of Maharashtra & Others*) that the submission that a person who has not issued the notice would not be entitled to the relief under Section 127 of the Act of 1966 after the purchase of the property after the issuance of the notice is sans merit. It is held in the said reported judgment that once a notice is issued under Section 127 of the Act of 1966, the time would not stop running by the sale of the property by the owner as there is no bar for a person to sell his interest in the land which is reserved. It appears from the judgment referred to hereinabove that the time to purchase the property by the concerned respondent or planning authority is not extended merely by the sale of the property after the issuance of the notice under Section 127 of the Act of 1966. The objection raised on behalf of the respondent nos.2 and 3 to the tenability of the writ petition is devoid of merit and is rejected.

In the instant case, undisputedly, the notice was issued by the predecessor-in-title of the petitioner to the respondent nos.2 and 3 on 22.02.2012, from lapse of ten years after the coming into force of the revised development plan. The notice was duly received by the respondent nos.2 and 3 herein and admittedly the respondent nos.2 and 3 have not issued a notification under Section 6 of the Land Acquisition Act within the period of one year from the date of the notice. If that is so, the provisions of Section 127 of the Act of 1966 would come into play and the reservation of the property mentioned hereinabove for the Sports Complex and Town Sub-Centre would lapse.

Hence, for the reasons aforesaid, the writ petition is

allowed. It is hereby declared that the reservation of land admeasuring 1 Hectare 29 R from Survey No.6, Sub-Division No.1 of Village Saturna has lapsed and the petitioner is free to develop the land owned by it in the manner permissible to the adjoining land holder.

Order accordingly. No order as to costs.

JUDGE

JUDGE

APTE