

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.706/2015

Cherry Associates through its Partner Tribhuvan Kisanlal Devadia
...Versus...

The State of Maharashtra through the Secretary Urban Development
Department, Mantralaya, Mumbai and 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, Advocate for petitioner
Ms N.P. Mehta, AGP for respondent nos.1 and 4
Shri J.B. Kasat, Advocate for respondent no.2

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 28.08.2015

By this petition, the petitioner seeks a declaration that the land in Sheet No.19B, Plot No.16 of Mouza Badnera, Taluka and District Amravati, reserved for primary school vide Reservation No.377 has lapsed under the provisions of Section 127 of the Maharashtra Regional & Town Planning Act, 1966 and the petitioner is free to develop the land in the manner permissible to the adjacent landholder as per the Development Plan.

The petitioner – firm claims to be the owner and possessor of land bearing Plot No.16 in Sheet No.19B of Mouza Badnera, Taluka and District Amravati. As per the final Development Plan, which came into force on 25.2.1993, the land

of the petitioner was reserved for primary school and extension of primary school, vide Reservation No.377. Since no steps were taken by the respondent nos.2 and 3 for the acquisition of land within a period of ten years from coming into force of the final Development Plan, the petitioner served a purchase notice dated 30.5.2012 on the respondent nos.2 and 3 on 1.6.2012. After the service of purchase notice on the respondent nos.2 and 3, the respondent no.2 asked the petitioner whether the petitioner was satisfied if T.D.R. could be granted to the petitioner. The petitioner replied in the negative and the respondent no.2 asked the petitioner to produce the measurement-sheet. According to the petitioner, a notification under Section 6 of the Land Acquisition Act has not been issued in the matter till date though more than three years have lapsed from the date of service of the notice on the respondent nos.2 and 3. It is stated that since no effective steps have been initiated by the respondent nos.2 and 3 as required by the provisions of Section 127 of the Maharashtra Regional & Town Planning Act, 1966, the land of the petitioner should be declared as free from reservation. According to the petitioner, the respondent no.2 could not have asked for the measurement-sheet as the only document that could have been sought to be produced, is the title-deed. The learned Counsel for the petitioner has relied on the judgment reported in 2013 (5) ALL MR 1 (Pratap Tularam Ghogale & Ors....Versus...The State of Maharashtra and Ors.) in this regard.

The respondent nos.2 and 3 have filed the affidavit-in-reply and have stated that the petitioner was directed by the respondent no.2 to produce the ownership document along with

the Government measurement map. It is stated that the petitioner was also asked whether it was ready to accept the T.D.R. but the petitioner did not give any response. It is, however, not disputed in the affidavit-in-reply by the respondent nos.2 and 3 that no effective steps have been initiated by the respondent nos.2 and 3 as required by the provisions of Section 127 of the Act of 1966 and that the notification under Section 6 of the Land Acquisition Act is not issued.

In the circumstances of the case, the relief sought by the petitioner is required to be granted. Though the purchase notice was served on the respondent nos.2 and 3 on 1.6.2012, no steps were initiated by the respondent nos.2 and 3 much less any effective steps for the acquisition of the land within a period of one year from the date of service of the notice. It was incumbent on the part of the respondent nos.2 and 3 to have taken effective steps and ought to have taken effective steps and issued a notification under Section 6 of the Land Acquisition Act within a period of one year from the date of receipt of the notice on 1.6.2012. Till date no notice is issued under the provisions of Section 6 of the Land Acquisition Act. The respondent nos.2 and 3 could not have delayed the matter by asking the petitioner whether it was ready to accept the T.D.R. and/or that the petitioner should supply the measurement map. In any case, since no effective steps are initiated, the relief sought by the petitioner needs to be granted.

For the reasons aforesaid, the writ petition is allowed. It is hereby declared that the land owned by the petitioner in Sheet No.19B, Plot No.16 admeasuring 20,000 sq. ft. of Mouza

Badnera, Taluka and District Amravati vide Reservation No.377 has lapsed under Section 127 of the Act of 1966 and the petitioner – firm is free to develop the land owned by it in the manner permissible to the adjacent landholder as per the Development Plan. The respondents should take appropriate steps to notify about the lapsing of the reservation under Section 127 (2) of the Act of 1966.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar