

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

WRIT PETITION NO.1875/2015

Shri Naresh Devidas Sahu and another

...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 petitioners
Ms N.P. Mehta, AGP for respondent nos.1 and 4
Shri A.P. Kalmegh, Advocate for respondent no.3

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

DATE : 29.09.2015

Heard.

By this petition, the petitioners seek a declaration that the reservation of the land of the petitioners bearing plot no.5/4, Nazul sheet no.54 A, admeasuring 7475 sq. ft. vide Reservation no.197 for shopping centre has lapsed under the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and that the petitioners are free to develop the land owned by them in the manner permissible to the adjoining land owners as per final development plan.

A final development plan was published for the city of Amravati on 25.2.1993 and the land owned by the petitioners was earmarked for the shopping centre as per Reservation

no.197. Since nothing was done in the matter by the respondent no.3 for long, the petitioners served a purchase notice on the respondent on 21.3.2014 under the provisions of Section 127 of the Act of 1966. According to the petitioners, as the respondents have not taken any effective steps for the acquisition of the land within a period of one year from the service of the notice dated 21.3.2014, the petitioners have filed the instant petition, seeking the aforesaid declaration.

The learned Counsel for the respondent no.3 states on the basis of the affidavit-in-reply that it was found by the respondent no.2 - Corporation that the land of the petitioners is not ideal for establishing the shopping centre. It is stated that by the Resolution, the standing committee of the respondent no.2 has taken a decision not to acquire the land of the petitioners as the same is not suitable and ideal for a shopping centre. It is fairly admitted on behalf of the respondent no.3 that no effective steps were initiated within a period of one year from the date of service of the notice under Section 127 of the Act of 1966.

It is clear from the submissions made on behalf of the respondent no.3 that a declaration as sought by the petitioners is required to be granted. The respondent no.3 has not taken any steps, much less any effective steps for the acquisition of the land of the petitioners that was earmarked for the shopping complex. The respondent no.2 is clearly of the view that the land of the petitioners is not ideal and proper for establishing the shopping centre. If that be so, the reservation of the land of the petitioners for the shopping complex is deemed to have been lapsed in view

of the provisions of Section 127 of the Act of 1966.

For the reasons aforesaid, the writ petition is allowed. It is hereby declared that the reservation of the the land of the petitioners bearing plot no.5/4, Nazul sheet no.54A, admeasuring 7475 sq. ft. of Mouza Rajapeth, Amravati Pragane – Badnera, Tq. and Distt. Amravati, vide Reservation no.197, for shopping centre, has lapsed in view of the provisions of Section 127 of the Act of 1966 and the petitioners are free to utilize the land for the purposes for which the land of the adjoining owners is reserved in the final development plan. The necessary notification be issued by the concerned respondent at the earliest.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar