

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

WRIT PETITION No. 5752/2013.

Sau. Vanmala Kunwarlal Rai

VERSUS

The State of Maharashtra and others.

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

Court's or Judge's orders.

CORAM : B. P. DHARMADHIKARI
& A.S.CHANDURKAR, JJ.

DATED : FEBRUARY 05, 2015.

Heard Shri G.K. Mundhada, learned
Counsel for petitioners, Mrs. K.S. Joshi, learned A.G.P.
for respondent nos. 1 and 6, Shri D.M. Kale, learned
Counsel for respondent nos. 2 and 3 and Shri H.N.
Verma, learned Counsel for respondent nos. 4 and 5.

Facts are not in dispute. Petitioners have
purchased the property vide two sale deeds and last
deed is 03.07.2012. It was after acquiring the
ownership to entire property, on 16.10.2012

petitioners issued purchase notice. Writ Petition has been filed thereafter on 18.10.2013 i.e. after expiry of more than one year. Validity of notice served by petitioners is not in dispute.

Respondent nos. 2 and 3 pointed out that petitioners are the subsequent purchasers. However, as noted by us above, purchase notice is issued by the petitioners after they became owners.

Shri Verma, learned counsel appearing on behalf of respondent nos. 4 and 5 has stated that long before issuance of purchase notice i.e. 31.08.2010 itself, respondent nos. 4 and 5 for whom the reservation no.63 exists, have sent proposal for acquisition to the respondent no.6. The proposal remained pending without any action. He also states that it was kept pending deliberately. He further contends that after receipt of purchase notice from petitioners, practically every two months reminders have been sent to the office of respondent no.6, but, no action has been taken. It is his contention that the respondent nos. 1 and 6 have thus, refused to exercise

the powers available with them and thereby deprived the respondent nos. 4 and 5 of the property.

Mrs. Joshi, learned A.G.P. appearing on behalf of respondent nos. 1 and 6 has relied upon the reply affidavit. She submits that the proposal forwarded by respondent nos. 4 and 5 was found deficient and hence, they were called upon to remove the lacunae. They also did not deposit the amount though reminders were sent to them. As such grievance made against office of respondent no.6 is erroneous and misconceived.

We find that the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 are very clear. A dispute between respondent nos. 4 and 5 on one hand and respondent nos. 1 and 6 on the other hand, is not relevant here. Once the events mentioned in Section 127 take place, the deeming fiction comes into play resulting into lapsing of the reservation. Law on the point and judgments in case of State of Maharashtra .vrs. Bhakti Vedanta Book Trust and others (2013 (5) Mh.L.J. 195) and

Shrirampur Municipal Council .vrs. Satyabhamabai Bhimaji Dawkher and others ((2013) 5 SCC 627), concludes the issue.

In this situation, as no steps leading to acquisition of petitioners land were initiated within one year after receipt of the purchase notice, it is apparent that the site reservation Sr.No.63 on the land owned by the petitioners bearing Survey No. 15 has lapsed. The land has accordingly become available for its development for the purpose for which adjacent land can be developed.

Shri Verma, learned counsel appearing for the respondent nos. 4 and 5 seeks liberty to take action against respondent nos. 1 and 6 for their deliberate inaction. Learned A.G.P. states that there is no question of granting any such liberty in present matter.

It is apparent that this Court is concerned with provisions of Section 127 of the M.R.T.P. Act here, if the respondent nos. 4 and 5 have got any other legal right and grievance, it is always open to them to proceed in the matter in accordance with law.

Order

0502wp.5752.13

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Writ Petition is, accordingly allowed and
disposed of. No costs.

Rgd

JUDGE

JUDGE