

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

WRIT PETITION NO. 3068 / 2014

(Sau. Dr. Jyoti Ajay Jawarkar vs. 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 order

Mr.A.S.Ghawde, Advocate for petitioner
Mrs. K.S.Joshi, Asst.Govt. Pleader for respondent nos. 1 and 4
Mr. J.B. Kasat, Advocate for respondent nos.2 and 3

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

DATED : 6th April, 2015.

Heard.

By this petition, the petitioner seeks a declaration that the reservation of Site No.103 in respect of the land owned by the petitioner and admeasuring .48R in Survey No 173/1-A for the Primary School has lapsed under section 127 of the Maharashtra Regional and Town Planning Act, 1966 (henceforth abbreviated to "Act of 1966") and the petitioner is free to develop the land owned by her in the manner permissible to the adjacent land holder as per the Development Plan of Amravati City.

The petitioner is the owner of .48R of land in Survey No.173/1-A of village Rahatgaon and the said land was reserved for the Primary School in the final Development Plan published by the respondents on 4.12 1992. The final Development Plan came into force on 25.2.1993 and since no steps were taken by the respondents for acquisition of the land, the petitioner issued a purchase notice to the respondent no.3 and served a copy of

the same on the respondent no.2 also. The said notice was duly received by the respondent nos. 2 and 3. According to the petitioner, the respondent nos. 2 and 3 have not taken any effective steps within a period of one year from the service of the notice and hence the land of the petitioner, as mentioned herein-above, stand de-reserved.

Mr.J.B.Kasat, the learned counsel for the respondents nos.2 and 3 does not dispute that a notice was issued to the respondent no. 3 on 22.11.2012. It is stated that a notice was required to be issued to the respondent no.2 also; however the petitioner did not issue a notice to the respondent no.2-Corporation though it is the Planning Authority. It is, however, fairly stated that the respondent nos.2 and 3 did not take any effective steps as required by the provisions of Section 127 of the Act of 1966 within a period of one year from the receipt of the notice dated 22.11.2012.

On hearing the learned counsel for the parties, it appears that the prayer made by the petitioner in the Writ Petition needs to be granted. After a period of more than ten years from the coming into force of the final Development Plan for the city since the respondents have not taken any steps for acquisition, the petitioner had issued the purchase notice to the respondent no.3 on 22.11.2012. Though the purchase notice was addressed to the respondent no.3, the copy of the same was duly served on the respondent no.2-Corporation also. The concerned Department of the Corporation has acknowledged the receipt of the notice on 22.11.2012. Since the respondent no.2 Corporation had received the purchase notice dated 22.12.2012, the respondent no.2 cannot raise an objection that the petitioner has not served a notice on the respondent no.2-Corporation. Despite the receipt of the notice dated 22.11.2012 by the respondent nos. 2 and 3, the respondent nos. 2 and 3 did not take any effective steps as required by

the provisions of Section 127 of the Act of 1966 for acquisition of the land within a period of one year from the issuance of the notice dated 22.12.2012. Admittedly, no notification under Section 6 of the Act of 1966 was issued by the respondent nos. 2 and 3 within a period of one year from 22.11.2012. Since no effective steps were taken for the acquisition of the land, the reservation of the land for the Primary School stands lapsed under the provisions of Section 127 of the Act of 1966.

Hence, for the reasons aforesaid, the Writ Petition is allowed. We hereby declare that the reservation of .48R of land in Survey No.173/1-A, Site No.103, for Primary School has lapsed under the provisions of Section 127 of the Act of 1966 and the petitioner is free to develop the land owned by her in the manner permissible to the adjacent land holder as per the Development Plan of Amravati city.

Order accordingly. No order as to costs.

JUDGE

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