

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.762 OF 2016

Jayprakash s/o Badrinarayan Bihani,
Age-56 years, Occu:Business & Agril.,
Marwadi Galli, R/o-Sailu,
Tq-Sailu, Dist-Parbhani.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through: The Secretary,
Urban Development Department,
Mantralaya, Mumbai,
- 2) The Municipal Council, Manwat,
Tq-Manwat, Dist-Parbhani,
Through its Chief Officer.

...RESPONDENTS

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Mr.Manish P. Tripathi Advocate for Petitioner.
Mr.V.M. Kagne, A.G.P. for Respondent No.1.
Mr.R.R. Chandak Advocate for Respondent No.2.

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**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 1ST MARCH, 2016

ORAL JUDGMENT [PER R.M. BORDE, J.] :

1. Heard. Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, the Petition is taken up for final disposal at admissions stage.

2. The Petitioner is praying for issuance of declaration that the area covered by Reservation Site Nos. 56 to 59 incorporated in the final development plan for Manwat Municipal Council, published on 30th August 2002, shall be deemed to have been released from reservation on account of failure of Municipal Council to take steps for acquisition of the property within period of one year from the date of receipt of notice issued by the Petitioner under Section 127 of the Maharashtra Regional & Town Planning Act, 1966 (The M.R.T.P. Act).

3. The Petitioner contends that the land

from Survey Nos. 228/B and 228/C recorded as Site Nos. 56, 57, 58 and 59 is under the final development plan prepared for Manwat Municipal Council ear-marked for public utility like playground and swimming pool, primary school, library, health center etc. The development plan for Manwat Municipal Council was prepared and finally published on 30th August 2002. During the period of ten years from the date of publication of final development plan and even thereafter the Municipal Council took no steps for acquisition of area, as such the Petitioner issued notice within contemplation of Section 127 of the M.R.T.P. Act to the planning authority, calling upon the planning authority to take steps for acquisition of the land. However, the planning authority did not take steps within period of one year from the date of issuance of notice.

4. According to the Petitioner, since Municipal Council has failed to take steps for

acquisition of the area under reservation within the time stipulated under Section 127 of the M.R.T.P. Act, the reservation, allotment or designation in respect of the property under reservation recorded under the development plan, shall be deemed to have been lapsed and the aforesaid area of the land shall be available to the owner for use as in the case of adjacent land holders.

5. In the instant matter, it is an admitted position that Municipal Council has not taken any steps for acquisition of the land concerned and as such by virtue of provisions of Section 127 of the M.R.T.P. Act, designation, allotment or reservation in respect of Site Nos. 56, 57, 58 and 59 in the final development plan prepared for Municipal Council, Manwat shall be deemed to have lapsed and it is accordingly declared.

6. It would be open for the Petitioner to

develop the said property as in the case of adjacent land holders, under the relevant development plan. The Respondent No.1 State shall publish the factum of lapsing the reservation within contemplation of Section 127(2) of the M.R.T.P. Act, as expeditiously as possible, preferably within ONE YEAR from today.

7. Rule is accordingly made absolute in above terms. There shall be no order as to costs.

[A.I.S. CHEEMA, J.]

asb/MAR16

[R.M. BORDE, J.]