

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO.10020 OF 2015.

Shardabai W/o Ramesh Kanade
(Lagade) and others

... Petitioners.

Versus

The State of Maharashtra
and others.

... Respondents.

...

Mr.J.R.Shah, advocate for the petitioners.
Mr.S.G.Karlekar, A.G.P for the State.
Mr.Y.B.Bolkar, advocate holding for
Mr.N.N.Desale, advocate for Respondent No.5.

...

**CORAM : S.V.GANGAPURWALA AND
A.M.BADAR, JJ.**

Date : 23.02.2016.

PER COURT :

1. Heard.

2. Mr.Shah, learned counsel submits that
initial development plan of Dhule was sanctioned

in the year 1978 and thereafter in the year 1986, the same was revised. The land of the petitioners bearing S.No.571/A/1 was reserved for garden, primary school and playground. The same was site No.216, 217. The learned counsel submits that on 1.2.2014, the petitioner issued purchase notice U/s 49 of the Maharashtra Regional and Town Planning Act. The State Government on 4.8.2014 confirmed the said purchase notice as per Section 49(7) of the MRTP Act. The learned counsel submits that for a period of one year thereafter, no steps are taken for acquisition, as such the reservation stands lapsed.

3. Mr.Bolkar, learned counsel along with Mr.Desale, learned counsel for Respondent Nos.4 and 5 submit that the purchase notice has been confirmed by the State. Because of lack of funds, further steps for acquisition could not be undertaken. The said land is required by the Municipal Corporation for the purpose of Playground, Primary School and Garden.

4. Learned A.G.P also accepts the fact that the purchase notice issued by the petitioners has been confirmed by the State vide letter dated 4.8.2014.

5. The dates narrated above are not disputed. Section 49(7) of the MRTP Act, reads as under :

"49(7) If within one year from the date of confirmation of the notice, the Appropriate Authority fails to make an application to acquire the land in respect of which the purchase notice has been confirmed as required under section 126, the reservation, designation, allotment, indication or restriction on development of the land shall be deemed to have lapsed, and thereupon, the land shall be deemed to be released from the reservation, designation, or, as the case may be, allotment, indication or restriction and shall become available to the

owner for the purpose of development otherwise permissible in the case of adjacent land, under the relevant plan."

Reading the said provision, it is manifest that if within one year from the date of confirmation of the purchase notice, the appropriate authority fails to make an application to acquire the land then the reservation shall be deemed to have lapsed and the land would be available to the owner for the purpose of development as otherwise permissible in case of adjacent land.

6. The Respondents have nowhere disputed that the Respondent Corporation has not made any application for acquisition of the land till date.

7. In light of the above and the mandate of Section 49(7) of the MRTP Act, the reservation would stand lapsed.

8. Rule as such is made absolute in terms

of prayer clause (A). No costs.

(A.M.BADAR, J.)

(S.V.GANGAPURWALA, J.)

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