

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1462 OF 2013

Smt. Dhanwanti K. Nagpal ..Petitioner
Versus
Ulhasnagar Municipal Corporation & Anr. ..Respondents

Mr. V. Naik , Senior Advocate with Mr.S.P.Kanuga and Ms. S.N.Natu,
Advocates for the Petitioner.
Mr. V.D.Patil, Advocate for Respondent No.1.
Mr. Vikas Mali , AGP for the State-Respondent No.2.

**Coram : SHANTANU KEMKAR &
 RANJIT MORE, JJ.**

Date : 26th APRIL, 2016.

P. C. :

Parties through their counsel.

2 **Rule.** Rule made returnable forthwith. By consent of the parties, the petition is taken up for final hearing at the stage of admission itself.

3 The Petitioner is seeking a declaration that reservation made on Plot No.421 U.No.398 all situated at Sheet No.72 Ulhasnagar-2, Dist. Thane has lapsed and reservation on the said land for public purpose stands released forthwith and is available to the owners for development which is permissible in law. According to the Petitioner, under Section 127 of the Maharashtra Regional Town Planning Act , 1966 (In short '**MRTP Act**') where

citizen's land is reserved for any public purpose then the appropriate authority/planning authority must take steps to acquire the land designated in the development plan for public purpose within the prescribed period provided for under the provisions of Section 126 of the MRTP Act either by an agreement or by resorting to the provisions set out in Section 126 of the said Act or even other applicable provisions failing which the law provides for an option to the citizens to serve the purchase notice upon the appropriate authority/planning authority offering the said land to the concerned authority to purchase the same and upon service of such purchase notice upon the authority, it has to exercise its right of acquisition as per the period prescribed and the period starts from the date of service of the purchase notice failing which the reservation would lapse and the land as such becomes available for development as on non-exercise of the power within the prescribed period, there is a deemed release of the land from reservation. The Petitioner claims that the purchase notice was served upon the Respondents on 15.10.2007 and thereafter since no steps as provided under Section 126 were taken by the authority, the reservation has lapsed.

4 On the other hand, the learned counsel for the Respondent No.1-Corporation submits that the Petitioner had served purchase notice under Section 127 of the MRTP Act on 11.6.2012 but she did not submit title documents and the title documents were submitted for the first time on 9.7.2013. In support of his contention, the learned counsel for the Respondent

No.1 has placed on record the letter dated 25.4.2016 which is taken on record and marked '**X**' for **Identification** stating therein that the Corporation has not taken any steps for acquisition of the said land.

5 Having regard to the aforesaid submissions, without going into the controversy as to whether the first purchase notice was sent by the Petitioner and received by the first Respondent on 15.10.2007 or not we find from the facts as stated above that even after the receipt of the purchase notice dated 11.6.2012 and subsequent documents in support of it on 9.7.2013, within the prescribed period the Respondent No.1 has not taken any steps for acquisition.

6 In the result, we allow the Petition and declare that reservation on the said land has lapsed for public purpose and the land stands released and becomes available to the owners for development in accordance with law.

7 Rule made absolute accordingly.

[RANJIT MORE, J.]

[SHANTANU KEMKAR, J.]