

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

WRIT PETITION NO.1058 OF 2016

[Dattatray s/o Tukaram Labhsetwar and others .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 orders

Shri S.D. Chopde, counsel for the petitioners,
Smt. N.P. Mehta, AGP for respondent nos.1 to 4,
Shri Pravin P. Deshmukh, counsel for respondent no.5.
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CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : JUNE 16, 2016.

By this writ petition, the petitioners seek a declaration that the reservation of the land of the petitioners in Survey No.93/2 of mouza Pusad, District-Yavatmal ad-measuring 2.15 HR has lapsed in view of the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and the petitioners are entitled to develop the land as permissible for the adjoining land, as per the relevant development plan.

As per the final development plan published in the year 1998, the land of the petitioners, as referred to hereinabove, was reserved for play ground and school. Despite the publication of the final development plan on 26.5.1998, the respondents did not take any steps for the acquisition of the land for more than 10 years. The petitioners, therefore, served a notice, dated 9.9.2014 on the respondent-authorities. It is the case of the petitioners that within a period of one year from the service of the notice, the respondent no.5- Municipal Council has not taken any effective steps for the acquisition of the land. It is stated that in view of the provisions of Section 127 of the Act, the reservation of the land of the petitioners is deemed to have been lapsed.

Shri Chopde, the learned counsel for the petitioners submitted that the land of the petitioners is deemed to have been released from

the reservation in view of the provisions of Section 127 of the Act, inasmuch as the respondent no.5 has not taken any steps within a period of one year from the service of the notice under Section 127 (1) of the Act. It is stated that though the notice dated 9.9.2014 was served on the respondent no.5 in September, 2014 the Section 6 Notification is not issued till date.

Smt. Mehta, the learned Assistant Government Pleader appearing on behalf of the State Government and Shri Deshmukh, the learned counsel appearing on behalf of the respondent no.5 do not dispute that the Section 6 Notification is not issued despite the service of the notice on the respondent no.5 till date. It is stated on behalf of the respondent no.5 that due to paucity of funds, no effective steps could be taken for the acquisition of land though certain communications were exchanged between the respondent no.5 and the State Government after the notice was served on the respondent no.5.

In the admitted facts of the case, the relief sought by the petitioners needs to be granted. It is necessary to declare that the land of the petitioners is deemed to have lapsed under Section 127 of the Act, as the respondent no.5 has not taken any effective steps for the acquisition of the land within a period of one year from the service of the notice. Section 6 Notification is not issued till date.

Hence, for the reasons aforesaid, the writ petition is allowed. It is hereby declared that the reservation of the land of the petitioners ad-measuring 02.15 HR in Survey No.93/2 of Mouza Pusad for play ground and school has lapsed, in view of the provisions of Section 127 of the Act and the petitioners would be entitled to develop the land, as is permissible to the adjoining land, as per the relevant development plan.

Order accordingly. No costs.

JUDGE

JUDGE