

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 186/2016
(VINAYAK TUKARAM DHOTE **VERSUS** UNION OF INDIA & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.S. Ambatkar, counsel for the petitioner.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JUNE 20, 2016.

By this writ petition, the petitioner seeks a declaration that the reservation of the land of the petitioner bearing Reservation No.S-243 has lapsed in view of the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and the petitioner is free to develop the land, as permissible to the adjoining land owner, as per the relevant development plan.

The petitioner claims to be the owner of the land bearing Plot No.46, Khasra No.15/1, Mouza Chinchbhuwan, District Nagpur. The land of the petitioner was reserved as per the revised development plan for the Nagpur city on 07.01.2000. Since the land of the petitioner was not acquired by the appropriate authority for a period of more than ten years, the petitioner served a notice under Section 127(1) of the Act of 1966 on the respondent no.3-Nagpur Improvement Trust, Nagpur. A copy of the notice issued to the respondent no.3-Nagpur Improvement Trust was sent to the respondent no.4-Nagpur Municipal Corporation. The petitioner, did not serve a notice on the respondent no.4-Nagpur Municipal Corporation, Nagpur asking it to take effective steps under Section 127 of the Act within the stipulated period or else, the petitioner would be entitled to develop the land as permissible to the adjoining land holder. The petitioner has filed the instant petition seeking the aforesaid declaration.

The learned counsel for the respondents state that an identical issue came up for consideration before this Court in Writ Petition No.5899 of 2015 and this Court had, by the order dated 16.03.2016, dismissed the writ petition by granting liberty to the petitioner therein to serve a fresh notice on the Nagpur Municipal Corporation, Nagpur. It is stated that since the facts and the issues involved in the decided writ petition and the present writ petition are identical, this writ petition is also liable to be dismissed.

On hearing the learned counsel for the parties and on a perusal of the provisions of Section 127 of the Act of 1966, it appears that the petition is liable to be dismissed. Section 127(1) of the Act clearly stipulates that if no steps are taken by the appropriate authority within a period of twelve months from the date of service of the notice along with the documents showing his title or interest in the said land, by an owner or any person interested, the land shall be deemed to be released from the reservation. In view of the provisions of Section 127(1) of the Act of 1966, it would be necessary for the owner or person interested in the land to not only serve a notice under Section 127(1) of the Act, on the appropriate authority but, also serve the documents showing his title or interest in the land. In the absence of any notice being served on the appropriate authority, it cannot be said that an appropriate authority is put to notice that if the effective steps are not taken by the appropriate authority within the time stipulated in the provisions of Section 127(1) of the Act, the land would be deemed to have been released from reservation and the reservation would be deemed to have been lapsed. Without a notice being actually served on the appropriate authority, it cannot be said that the appropriate authority is put to notice that it would be required to take effective steps to acquire the land within the stipulated time or else, the land would be deemed to have been released from reservation. While holding so, we follow the view expressed by this Court in the order dated 16.03.2016 in Writ Petition No.5899 of 2015.

Since a notice under Section 127(1) of the Act of 1966 along with the necessary documents was not served on the respondent no.4-Nagpur Municipal Corporation, Nagpur, we dismiss the writ petition with no order as to costs.

It is needless to mention that the petitioner would be at liberty to serve an appropriate notice on the respondent no.4-Nagpur Municipal Corporation, Nagpur under Section 127(1) of the Act of 1966. Order accordingly.

JUDGE

JUDGE

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