

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 546 OF 2017

Shri. Sanjay Shivling Lokhande And Ors. ...Petitioners

Versus

State Of Maharashtra And Ors. ...Respondents

Mr.Rushikesh Chandrashekhar Barge for the Petitioners.

Ms.N.M. Mehra, AGP for Respondent Nos.1,2,7 & 8.

Mr.Rhishikesh Mukund Pethe for Respondent Nos.3 to 6.

**CORAM : A.S. OKA &
SMT.VIBHA KANKANWADI, JJ.**

DATE : 03rd JULY 2017

P.C.

1. Heard learned counsel appearing for the petitioners, learned AGP for first, second, seventh and eighth respondents and learned counsel representing for third to sixth respondents.

2. The development plan for the city of Rehimatpur was sanctioned on 10th September 1989 in accordance with Section 31 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act'). The land which is the subject matter of the petition was reserve for a Traffic Island.

3. On 19th September 2002 a notice purporting to be a notice under Section 127 of MRTP Act was served on behalf of the petitioners. Subsequently, another notice dated 18th June 2014 was issued under Section 127 in relation to the same land. Prayer in this petition under Article 226 of the Constitution of India is for a declaration that the reservation stands lapsed, on the failure of the respondents to initiate acquisition proceedings within stipulated period of six months from 18th June 2014.

4. It is not in dispute that after service of the first notice, on 11th January 1988, a declaration under Sub-Section 4 of Section 126 of the MRTP Act read with Section 6 of the Land Acquisition Act, 1894 was issued which was published in the Government gazette dated 10th March 1998.

5. It is also an admitted position that another declaration under Sub-Section 4 of Section 126 read with Section 6 of the Land Acquisition Act, 1894 was issued on 26th February 2013 which was published in the Government gazette on 09th January 2014. In fact on 26th April 2014, notices under Sub-Sections 3 and 4 of Section 9 the Land Acquisition Act, 1894 had been issued. The petitioners filed a Civil Suit in September 2014 challenging the said notices. On

02nd November 2014, an award has been made by the Land Acquisition Officer.

6. Thus, when the second notice under Section 127 of the MRTP Act was issued, a declaration under Sub-Section 4 of the Section 126 of the MRTP Act was already issued. In the circumstances, the reservation will not lapse on the basis of the said notice.

7. Accordingly, there is no merit in the petition and the same is rejected.

[SMT.VIBHA KANKANWADI, J.]

[A.S. OKA, J.]