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

WRIT PETITION NO. 2470 OF 2017

1. Shri Ratanlal Premchand Gandhi

Age 76, Years, Occ. Medical Practitioner,
R/at. Lonand, Tal-Khandala, Dist. Satara.

2. Dayashankar Jethalal Rawal

R/at. Lonand, Tal-Khandala, Dist. Satara.

...Petitioners

Versus

1. The State of Maharashtra, through its
Secretary, Ministry of Urban Development
Department, office at Mantralaya, Bombay.

2. Collector, Satara, having office at Satara.

3. Sub Divisional Officer, Wai Sub Division,
District – Satara.

4. Zilha Parishad, Satara having office at
Satara through Chief Officer.

5. The Lonand Municipal Council, having
office at Lonand, Tal.Khandala, Dist. Satara.
Through its Chief Officer.

...Respondents

Mr. Drupad Patil, for the Petitioners.

Ms. Nisha Mehra, AGP for State.

Ms. Shakuntala S. Wadekar, for Respondent No.5.

**CORAM: SMT. VASANTI A NAIK AND
RIYAZ I. CHAGLA, JJ.**
DATED : 7TH DECEMBER 2017

ORAL JUDGMENT :- (Per Riyaz I. Chagla J.)

1. Rule. Rule made returnable forthwith. Heard by consent of the parties.

2. The Petitioner by the present Petition is seeking directions against Respondent No.1 to forthwith publish Notification declaring that reservation No.31 for the purpose of extension of maternity homes and reservation No.25 for the purpose of garden in respect of land bearing CTS No. 2090 / 4 and 2090 / 58 respectively situated at village Lonand, Tal. Khandala, Dist. Satara (for short "**the said lands**") has lapsed and that the Petitioners are entitled to use the lands for residential and commercial purpose.

3. The said lands along with adjoining lands were purchased by the Petitioner No.2 and father of Petitioner No.1 vide sale deed dated 11th August 1978. The said lands situated at Lonand was reserved for the purpose of extension of maternity homes and garden respectively in the Development Plan which had been sanctioned by the State Government on 20th July 1983. Since the said land had not been acquired by the local authority viz. Zilla Parishad, Satara, the Petitioners through their Advocates issued purchase notice to the Zilla Parishad, District Collector and Gram

Panchayat on 26th April 2014 under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short **“the said Act”**) with respect to the land bearing CTS No. 2090 / 4. A similar purchase notice was issued by the Petitioners through their Advocate on 29th April 2014 to the Zilla Parishad, District Collector and Grampanchayat under Section 127 of the said Act with respect to the land bearing CTS No. 2090 / 58. In response to the purchase notices, the Deputy Chief Executive Officer, Zilla Parishad, vide its letter dated 28th June 2014 directed the Petitioners to supply copies of the title deeds and measurement map. The Petitioners supplied requisite documents on or about 26th August 2014. The Chief Executive Officer of Zilla Parishad, Satara addressed a letter dated 2nd March 2015 to the District Collector, Satara requesting the District Collector to initiate acquisition proceedings in respect of the said lands. The Collector vide its letter / order dated 28th May 2015, appointed the Sub Divisional Officer, Wai Sub Division as Special Land Acquisition officer to acquire the said lands. The CEO, Zilla Parishad addressed letters dated 3rd July 2015 and 28th July 2015 to the SDO requesting him to start acquisition proceedings. Since no steps contemplated by Section 127 of the said Act were taken for acquisition of the said lands, the reservation stood lapsed on

completion of the statutory period under Section 127 of the said Act. The Nagar Panchayat was constituted by the State Government in exercise of powers conferred by the provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 in place of the Zilla Parishad for the whole area of village the panchayat of Lonand. The Petitioners have stated that as on today the Respondent No.5 – Lonand Municipal Council is duly constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 and the Chief Officer has been appointed as Administrative Head.

4. Shri Dhruvad Patil, the learned counsel for the Petitioners has submitted that the Petitioners have issued purchase notices under Section 127 of the said Act after the period of 10 years from the date of sanction of the Development Plan in the year 1983 which had reserved the said lands. He has submitted that the purchase notices have been validly and properly issued and served on the concerned authority on 26th April 2014 and 29th April 2014. The Petitioners have also supplied the requisite documents on 26th August 2014. He has submitted that the State Government has failed to initiate any action in acquisition of the

said lands within the stipulated period under Section 127 of the said Act. The Respondents have also not issued any declaration under Section 126 of the said Act till the date of filing of this Petition. He has therefore submitted that the reservation of the said lands has lapsed and the the Petitioners are entitled to a declaration to that effect.

5. Smt. Nisha Mehra, the learned Assistant Government Pleader for Respondent No.1 – State of Maharashtra has fairly submitted that the Respondent No.1 has not commenced proceedings for acquisition of the said lands.

6. Smt. Shakuntala Wadekar, the learned counsel appearing for Respondent No.5 Council has submitted that the Petitioners have not issued a valid and proper notice under Section 127 of the said Act. She has submitted that the purchase notices have been issued to the Zilla Parishad, Satara who was the erstwhile local authority and planning authority for Lonand. After constitution of the Nagar Panchayat by the State Government no purchase notices was issued to the concerned authority. She has also submitted that the purchase notices are bad in law as no documents were attached / sent with the purchase notices issued

under Section 127 of the said Act. She has submitted that Respondent No.5 has informed the Special Land Acquisition officer viz the Sub Divisional Officer, Wai to commence acquisition proceedings and hence the steps for acquisition have been taken under Section 127 of the said Act. She has accordingly submitted that this Court should not issue any declaration to the effect that the reservation to the said lands has lapsed.

7. We have considered the submissions on behalf of the parties. We are of the view that a valid and proper purchase notice had been issued by the Petitioners to the Zilla Parishad, District Collector and Grampanchayat under Section 127 of the said Act. We are of the view that the Nagar Panchayat upon its constitution has only stepped into the shoes of the Zilla Parishad and hence the purchase notices were not required to be re-issued. We find that the requisite documents were submitted by the Petitioners to the concerned authority and met with the requirements of Section 127 of the said Act. We are not inclined to accept the submissions made on behalf of the Respondent No.5 that the documents were required to be attached / sent with the purchase notices for the purchase notices to be valid. We are of the view that it is sufficient that the requisite documents were

submitted to the concerned authorities after the purchase notices were issued and accepted by them. We therefore, find no merit in this submission on behalf of Respondent No.5. We are of the considered view that the purchase notices having been issued after 10 years from the date of sanction of the Development Plan in the year 1983 which had reserved the said lands and that the State Government having failed to initiate action for acquisition of the said lands within the stipulated period under Section 127 of the said Act, the reservation of the said lands has lapsed. We also find that the State Government has not issued any declaration under Section 126 (2) or 126 (4) of the said Act and we accept the submission on behalf of the State Government that the proceedings for acquisition of the said lands has not been initiated.

8. Hence, the Writ Petition is allowed in terms of the prayer clauses (a) and (b). We accordingly pass the following order:-

- (a) We order and declare that reservation No.31 and 25 in respect of lands bearing CTS No. 2090/4 and 2090 / 58 respectively situated at village Lonand, Tal. Khandala, Dist. Satara has lapsed and the Petitioners are free to use the said lands for development as is

permissible in the case of the adjacent lands and in accordance with law.

- (b) We order and direct Respondent No.1 – State Government to forthwith publish Notification declaring that reservation No.31 and 25 in respect of lands bearing CTS No. 2090/4 and 2090 / 58 respectively situated at village Lonand, Taluka Khandala, District Satara has lapsed.
- (c) Rule is made absolute in the above terms. There shall be no order as to costs.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A NAIK, J.)