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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6906 OF 2016**

Shri. Kiran Nagesh Dhawalikar	... Petitioner
Vs.	
State of Maharashtra and Ors.	... Respondents

Mr. A.V. Anturkar, Senior Advocate i/by Mr. Sugandh B. Deshmukh for the Petitioner.

Ms. N.M. Mehra, AGP for the Respondent Nos.1 and 2.

Mr. Balkrishna D. Joshi for the Respondent No.3.

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

DATE : 20th JUNE, 2017

P.C.

1 Heard the learned Senior Counsel appearing for the petitioner. The Development Plan for the City of Bhore was sanctioned on 26th October, 1978 in exercise of powers under Sub-Section (1) of Section 31 of the Maharashtra Regional and Town Planning Act, 1966 (for short "MRTP Act"). On 10th August, 2004, the Government of Maharashtra issued a direction to the Bhore Municipal Council directing the said Municipal Council to initiate proceedings under Sub-Section (1) of Section 37 of the MRTP Act for deletion of the reservation in the said Development Plan on the land bearing Gat Nos.189 and 190

covered by Reservation No.18 for parking. On the basis of the said direction, a notice dated 1st December, 2004 was published by the Bhore Municipal Council inviting objections and suggestions for the deletion of Reservation No.18. The first prayer in this Petition under Article 226 of the Constitution of India is for directing the respondents to take notice published under Section 37 of the MRTP Act to its logical conclusion. The petitioner is relying upon the letter dated 13th December, 1987 addressed by him to the Chief Officer of the Bhore Municipal Council by contending that it is a notice under Section 127 of the MRTP Act. The petitioner is also relying upon a letter dated 26th May, 1997 (Exhibit – C) which is alleged to be a notice under Section 127 of the MRTP Act. The second prayer in this Petition is that the reservation has lapsed on the basis of the notice dated 26th May, 1997 (Exhibit – C to the Petition).

2 As far as first prayer is concerned, the learned AGP has placed on record a document which is taken on record and marked 'X1' for identification. The said document records that the revised draft Development Plan for the City of Bhore was sanctioned by the State Government on 16th May, 2017. In the said document, it is mentioned that the land subject matter of this Petition bearing Gat Nos.189 and 190 is affected by various reservations including reservation for parking in the revised sanctioned Development Plan. In view of the sanction of the

revised Development Plan, now, there is no necessity of acting upon the notice under Section 127 for the modification of the earlier sanctioned Development Plan which was sanctioned on 26th October, 1978. In fact now, there is no occasion to modify the earlier sanctioned Development Plan. Therefore, prayer (a) cannot be considered on merits.

3 As far as prayer clause (b) is concerned, the learned counsel appearing for the Municipal Council submits that the letter dated 26th May, 1997 (Exhibit C to the Petition) cannot be a notice under Section 127 of the MRTP Act. He submits that as far as the letter dated 13th December, 1987 is concerned, the acknowledgment signed by the Chief Officer is not produced. Secondly, he submits that the petitioner is not relying upon this letter by treating it as a notice under Section 127 of the MRTP Act. At this stage, the learned Senior Counsel appearing for the petitioner states that he is not pressing prayer clause (b) but a liberty be granted to pray for the same relief while filing a fresh Petition for challenging the sanctioned revised Development Plan.

4 Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) Prayer clause (a) does not survive in view of the subsequent event as set out in this order. However, the

disposal of the Petition will not preclude the petitioner from challenging revised Development Plan sanctioned on 16th May, 2017;

(ii) Prayer clause (b) is not pressed. However, we grant liberty to the petitioner to make the said prayer in the fresh Petition which may be filed by him. We make it clear that objections of the Municipal Council which are noted above are expressly kept open;

(iii) The Petition is disposed of on above terms.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)