

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

MCA (REVIEW) NO. 1409 OF 2017
IN WRIT PETITION NO. 5924 OF 2017

(Shree Sant Nagaji Maharaj Sahakari Gruhnirman Sanstha thr. President Mr. Prabhakar Dadaji Kale vs. State of Maharashtra thr. Principal Secretary & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
ARUN D. UPADHYE, JJ.
DECEMBER 22, 2017.**

Heard Shri H.M. Wagh, learned counsel for the applicant/ petitioner and Shri H.M. Dhumale, learned AGP for respondent Nos. 1 & 5.

2. Writ Petition No. 5924 of 2017 is dismissed on 25.09.2017 after holding that when the owner recovers price of land required to be left for public utility in a lay out from plot buyers, the plot cannot be subjected to Section 127 of the Maharashtra Regional Town Planning Act, 1966.

3. We have heard the learned counsel on 08.12.2017 and then gave him time of two weeks. Accordingly, the matter is listed today.

4. The effort is to show that there is no difference in lay out plan and development plan. The development plan is not prepared by the owner of the land, it is drawn by some other agency for him and lay out thereafter is to be laid as per requirements of the development plan. The internal reservations need not be again as per development plan. If independent of lay out plan, any development on

reserved land is proposed by the Planning Authority, the acquisition will become essential. However, when there is no such proposal by the Planning Authority and lay out is developed by private owner, cost of such utility land is recovered by him from the buyers of developed plots. Here, the reservation is for road and recreation within lay out.

5. On 25.09.2017, our attention was not drawn to any document to demonstrate this reservation as town planning plan reservation in terms of Section 22 of MRTP Act. Now also there is no such attempt.

6. We, therefore, find the prayer for review erroneous and misconceived. Hence, application is rejected. No order as to costs.

JUDGE

JUDGE

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