

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12199 OF 2016

Vasant Siddhu Pujari and Others.

..Petitioners.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. D. V. Sutar for the Petitioner.

Mrs. R. M. Shinde, AGP for the Respondent-State.

Mr. A. P. Shinde for Respondent No. 3.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **June 27, 2018.**

P. C. :

1. Rule. Rule made returnable forthwith and by consent taken up for final disposal.
2. Heard the learned counsel for the respective parties.
3. The petition is filed seeking declaration that the reservation for the purpose of DP road in the revised development plan of 1999 of the Ichalkaranji Municipal Council in respect of land Gat Nos. 551, 552 and 544 has lapsed in view of the provisions of section 127 of the Maharashtra Regional and Town Planning Act, 1966. the Petitioner has also sought consequential directions to allow him to develop the same land.
4. The revised development plan for Ichalkaranji Municipal Council was sanctioned on 5th March 1999 and the same has come into

operation with effect from 7th May 1999. Admittedly for the period of 10 years, i.e., upto 6th May 2009, the Respondents have not taken any steps to acquire the said land. The Petitioner thereafter on 13th June 2014 gave purchase notice under section 127 of MRTP Act, 1966 requesting the Municipal Council to acquire the said land. The admitted fact is that the said notice is received by the Municipal Council, however, no steps were taken within the stipulated period of one year.

5. The chief officer of Ichalkaranji Municipal Council – Mr. Prashat D. Rasal has filed an affidavit dated 12th February 2018. In paragraphs 5, 6 and 7, he has made following averments :

“5] I say that in the said final development plan the property in issue has been reserved for 9 mtr. Wide D.P. Road. After the final Development plan came into operation, on 28th March 2007 this Respondent had forwarded proposal under section 37 of the Maharashtra Regional and Town Planning Act, 1966 to the State Government for deletion of the said reservation and for inclusion of the said portion in residential zone. However, the State Government vide its letter dated 7th April 2010 rejected the said proposal. Accordingly on 20th May 2010 this Respondent informed the Petitioners about the rejection. Hereto annexed and marked as Exhibit-"A" is the copy of the said letter dated 20/05/2010.

6] I say that thereafter again on 21st February 2013 this Respondent on an application received from the Petitioner, forwarded fresh proposal under section 37 of the MRTP Act, 1966 to the State Government, the copy of which is annexed to the Petitioner at Exhibit-"D" (Page 47) for deletion of the reservation and inclusion of the property in issue in residential zone.

7] In the meantime and pending the aforesaid proposal, on 13th June 2014, the Petitioners issued statutory notice under section 127 of the MRTP Act, 1966 and the same is served upon this Respondent. However, for the reasons mentioned in the proposal dated 21st February, 2013 it was not feasible and possible for this Respondent to acquire the property in issue and hence no steps are taken by this Respondent after receipt of the statutory notice”

6. The above affidavit of the Respondent–Council not only makes it clear that no steps are taken by them within the stipulated period of one year, but it is the stand of the Council that it is not feasible and possible for them to acquire the property in issue. It also makes it clear that earlier, the Council had made a proposal to the Government under section 37 for deletion of this reservation, however, this request was refused by the Government.

7. In any case, since no steps are taken by the Government to acquire the said land within the stipulated time, petition must succeed. **Hence, Rule is made absolute in terms of prayer clause (a).** The State is directed to issue notification under section 127(2) of the MRTP Act, 1966 within the period of three months from today.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]