

consent of parties.

2. The Petitioner by the present Petition is seeking a direction against the Respondents to remove the reservation on the land bearing Survey No. 24A Hissa No. 1A admeasuring area 0H 10 R situated in the municipal boundaries of Sangli Miraj Kupwad City Municipal Corporation, City Miraj (for short "*the said land*").

3. The Petitioner has also sought a direction against the Respondents to cancel the mutation entry (M.E. No. 22082) from the revenue record of the said land.

4. The Petitioner claims to be the owner and occupier of the said land. It is claimed that on the revenue record of the said property, the name of the Petitioner was recorded as owner. The mutation entry (M.E. No. 22082) dated 26 October 1995 came to be effected by which the Petitioner's property has shown as reserved by the erstwhile Miraj Municipal Council. An

order has been passed to that effect dated 11 October 1995 by the then Chief Officer of the Miraj Municipal Council. In the year 1998, the present Sangli Miraj Kupwad City Municipal Corporation came to be formed and the Miraj Municipal Corporation became part of it.

5. It is stated by the Petitioner that after 1995 till 2009, the Respondent No. 1 neither acquired the said land nor paid compensation to the Petitioner. The Petitioner issued a purchase notice dated 10 January 2009 to the Respondent No. 1 under Section 127 of the Maharashtra Region and Town Planning Act, 1966 (for short "*the said Act*") and requested the Respondent No. 1 to acquire the said land by paying the compensation. The notice was received by Respondent No. 1 and by a letter dated 7 February 2009, the Respondent No. 1 asked the Petitioner to submit the 7/12 extract of the property and TILR (Taluka Inspector of Land Records) Falani map. The Petitioner submitted these documents by his letter dated 4 March 2009. The Petitioner has stated that after issuance of purchase notice

under Section 127 of the said Act to the Respondents, the Respondents neither acquired the said land nor paid compensation to the Petitioner. The Petitioner sent several reminders to the Respondents to acquire the said land or to withdraw the reservation and direct the Revenue Authorities to cancel the mutation entry of reservation from the revenue records of the said land. However, the Respondent failed to take any action pursuant to the representations. Being aggrieved by the inaction of the Respondents, the Petitioner has filed this Petition. An Affidavit in Reply has been filed on behalf of the Respondent No. 1 dated 18 April 2018 of one Shri. Vivek Hari Pendse, the Assistant Director of Town Planning. It is stated in the Affidavit that the purchase notice was not a valid notice as it was not in conformity with the requirement of Section 127 of the said Act. The Deponent has further stated that Respondent No. 3 had by notification dated 4 April 2012 sanctioned the Revised Development Plan and the said land has again been reserved for public purpose of garden under the Reservation Site 402. It is thus, stated that the reservation of the said land has

not lapsed. The Affidavit relies on a proposal for acquisition of the said land which has been sent by the Respondent No. 1 to the Collector, Sangli vide letter dated 14 July 2009. The Affidavit also proceeds on the basis that the Petitioner has not approached this Court expeditiously.

6. The learned Counsel appearing for the Petitioner has stated that the said land had been reserved for public purpose in 1995 and the mutation entry of such reservation was effected on 26 October 1995. He has submitted that from 1995 to 2009, the Respondent No. 1 failed to acquire the said land or to pay compensation to the Petitioner. The Petitioner had thus sent a purchase notice on 10 January 2009 under Section 127 of the said Act and he has submitted that after the prescribed period from service of the purchase notice, the reservation of the said land had lapsed. He has further submitted that the purchase notice is a valid purchase notice and although the 7/12 extract had not been sent along with the purchase notice, the Petitioner had submitted the requisite documents by his letter dated 4

March 2009. He accordingly, submits that the Respondents having failed to acquire the said land and/or pay the compensation within the prescribed period under Section 127 of the said Act, the reservation of the said land has lapsed and the land has become free from reservation. He has also submitted that the subsequent notification sanctioning the Revised Development Plan issued on 4 March 2012 by the Respondent No. 3 and relied upon by the Respondent No. 1 in the Affidavit dated 18 April 2018 cannot affect the lapsing of reservation i.e. after expiry of the prescribed period from service of the valid purchase notice.

7. He has relied upon the judgment of this Court in *Uday Madhavrao Patwardhan & Ors. Vs. Sangli Miraj Kupwada City Municipal Corporation, Sangli & Ors.*¹, wherein on the similar facts, this Court has held that it is impermissible to take away the right accrued to the Petitioner by virtue of the purchase notice issued much prior to the Revised Development Plan being sanctioned and the reservation of the land having

¹ Writ Petition No. 9168 of 2013 Dated 9 January 2015

already lapsed by operation of Section 127. He has accordingly, submitted that the reservation of the said land having lapsed, the Respondents have failed to notify the lapsing of the reservation on the said land and/or to cancel the mutation entry of reservation from the revenue record of the said land.

8. The learned Counsel appearing for the Respondent No. 1 and the learned AGP appearing for the Respondents No. 2 and 3 have opposed the Petition. The learned Counsel appearing for the Respondent No. 1 has submitted that the purchase notice issued under Section 127 of the said Act was not a valid notice as it failed to disclose the material documents viz. including the 7/12 extract. He has submitted that the notification had been issued on 4 April 2012 by the Respondent No. 3 whereby the Revised Development Plan had been sanctioned and under which the said land was again reserved for the public purpose for the garden under the Reservation Site 402. He has submitted that the purchase notice is therefore, not no longer valid under Section 127 of the said Act. He has relied upon the proposal for

acquisition of the said land sent by the Respondent No. 1 to the Collector, Sangli and has stated that steps have been taken for acquisition of the said land. He has submitted that the general body of Respondent No. 1 had in its meeting dated 13 August 2009 passed a Resolution to pay Rs. 15,20,000/- as compensation to the Petitioner. He has also stated that although the purchase notice was issued on 10 January 2009, that the Petitioner had not approached this Court expeditiously, as the Petitioner filed this Petition only in the year 2014 i.e. after a five years delay. He has therefore, submitted that the Petitioner is not entitled for reliefs sought for in the Petition.

9. We have considered the submissions. We find that the purchase notice was issued on 10 January 2009 and served upon the Respondent No. 1 under Section 127 of the said Act. We find that although the purchase notice had not enclosed 7/12 extract of the property, the Petitioner had submitted these documents upon having been called to do so by the Respondent No. 1 vide his letter dated 4 March 2009. We are not inclined to

accept the submissions of the learned Counsel appearing for the Respondent No. 1 that the documents were required to be attached/sent along with the purchase notice for the purchase notice to be valid or in conformity with the requirement of Section 127 of the said Act. This requirement of submitting documents was introduced for the first time by amending the said Act by Act No. XVI of 2009 with effect from 25 June 2009. We are of the view that the requisite documents were submitted to the Respondent No. 1 after the purchase notice was issued and have been accepted by the Respondent No. 1. We are of the view that the purchase notice having been issued after over ten years from the date of the reservation of the said land in 1995 and the Respondents having failed to initiate steps for acquisition of the said land within the prescribed period from service of the purchase notice under Section 127 of the said Act, the reservation of the said land has lapsed. We find that Respondent No. 3 had issued the notification sanctioning the Revised Development Plan on 4 April 2012 and by which the said land had again been reserved for public purpose of garden

under Reservation Site 402. However, this was after the reservation of the said land had lapsed. This Court in **Uday Madhavrao Patwardhan** (supra) in paragraph 14 held thus:-

“14. Therefore, the scenario which emerges is that the law laid down by the Division Bench in the case of Baburao Salokhe (supra) will squarely apply to this case. The revised D.P was sanctioned on 4th April 2012. Before the date of sanction of revised D.P., on the basis of the notice dated 26th September 2008, the reservation imposed under the original sanctioned D.P stood lapsed by operation of section 127. It is an admitted position that the reservation under the revised D.P is the same as the one under the sanctioned D.P which had lapsed. Therefore, by the revised D.P, the right accrued to the petitioner by virtue of the notice dated 26th September 2008 is sought to be taken away. It is not permissible to do so in view of the law laid

down by the Apex Court and this Court. Therefore, the reservation of the said lands in the revised D.P for “Housing for Dishoused & E.W.S. Housing” will have no legal effect.”

10. It is thus, clear that the right accruing to the Petitioner by virtue of the purchase notice cannot be taken away by placing reliance upon a subsequent sanctioned Revised Development Plan which once again reserves the said land for public purpose. This subsequent reservation will have no legal effect.

11. The Supreme Court in the case of ***Shrirampur Municipal Council, Shrirampur Vs. Satyabhamabai Bhimaji Dawkher and Ors.***² has held that the steps for acquisition would commence when the State Government takes active steps for the acquisition of the land by publication of declaration under Section 6 of the Land Acquisition Act, 1894. Mere sending of proposal by Respondent No. 1 in the present case for acquisition

² (2013)5 SCC 627

of the said land to the Collector, Sangli and passing of the resolution by the general body of the Respondent No. 1- Municipal Corporation resolving to pay compensation to the Petitioner are as held in that decision, not steps contemplated under Section 127 of the said Act.

12. In the present case, admittedly there is no Section 6 notification/declaration for acquisition of the said land. Hence, adverting to the principles of the law laid down by the Supreme Court in the *Shrirampur Municipal Council* (supra), it would be required to be held that the reservation of the said land has lapsed and the land has become available to the Petitioner to be developed as otherwise permissible in the case of adjacent lands under the Development Plan.

13. The delay does not affect this Petition as lapsing of reservation is by operation of Section 127(1). There is nothing on record to show in the facts of this case that the delay is on account of waiver of right on the part of the Petitioner.

14. We accordingly, pass the following order:-

(i) We order and direct the Respondent No. 3 to notify lapsing of the reservation of the said land viz. Survey No. 24A situated at city Miraj by order published in the official gazette as per requirement of Section 127(2) of the Maharashtra Regional and Town Planning Act, 1966, which shall be done as expeditiously as possible and preferably within a period of six months from today.

(ii) We order and direct the Respondents to forthwith delete the Petitioner's land from reservation as shown in the Revised Development Plan under Reservation Site 402.

(iii) We order and direct the Respondents to cancel the Mutation Entry No. 22082 from the revenue

records of the said land viz. Survey No. 24A
situated at city Miraj.

(iv) We order and declare that the reservation of the
Petitioner's land has lapsed and the land has
become available to the Petitioner to be
developed as otherwise permissible in the case
of the adjacent land under the Development
Plan.

(v) Rule is made absolute on the above terms with
no order as to costs.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]