

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5508/2017

(NITIN HANUMANDAS AGRAWAL & OTHERS **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

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

Court's or Judge's orders

Shri G.K. Mundhada, counsel for the petitioners.
 Shri S.S. Doifode, A.G.P. for the R-1, 2 & 4.
 Shri S.Zia Qazi, counsel for the R-3.

CORAM : SMT. VASANTI A NAIK AND
A.D. UPADHYE, JJ.

DATE : FEBRUARY 24, 2018.

By this writ petition, the petitioners seek a declaration that the reservation of the land of the petitioners *vide* reservation nos.19, 20 and 23 for site and services, urdu primary school and playground has lapsed and the petitioners would be free to develop the land as is permissible to the adjacent land as per the development plan.

The petitioners claim to be the owners of the land in Survey no.80/2 of village Chandurbazar, district Amravati and three different pieces of land as described in the writ petition and in prayer clause (A) were reserved for site and services, urdu primary school and playground by the revised final development plan published on 02.05.2000. Since the land of the petitioners was not acquired by the respondents by private agreement within ten years from the date of publication of the revised development plan, the petitioners served a purchase notice on the respondent-Municipal Council on 23.01.2015. Since effective steps are not taken by the respondents for the acquisition of the land within twenty four months from the date of the service of the purchase notice, the petitioners have sought for the aforesaid declaration.

It is stated on behalf of the petitioners that the reservation of the land of the petitioners would lapse in view of Section 127 of the Act, inasmuch as the land is not acquired by the respondents within ten years from the date of publication of the revised development plan and effective steps for acquisition are not taken within twenty four months (even if the amended provisions are applied) from the date of receipt of the purchase notice. It is stated that Section 6 notification for the acquisition of the land of the petitioners is not issued till date.

Shri Qazi, the learned counsel for the Municipal Council, submitted that after the purchase notice was received by the Municipal Council, the Municipal Council submitted the proposal to the State Government on 13.08.2015 for the acquisition of the land. It is stated that after the State Government asked the Municipal Council to deposit certain amount towards compensation, the Municipal Council could not do so due to financial difficulties. It is fairly admitted that the Section 6 notification is not issued for the acquisition of the land of the petitioners till date.

On hearing the learned counsel for the parties and on a perusal of the affidavit-in-reply filed on behalf of the Municipal Council, it appears that the declaration as sought by the petitioners needs to be granted. Admittedly, the land of the petitioners was not acquired by private agreement by the respondents within ten years from the date of publication of the revised development plan on 02.05.2000. Admittedly, the purchase notice was served on the respondents on 23.01.2015 but except for exchanging communications, no other effective steps were taken by the respondents for the acquisition of the land. The Section 6 notification for the acquisition of the land of the petitioners is not

issued within twenty four months from the date of the service of the purchase notice on the municipal council. It appears that the municipal council was not able to muster the funds for acquiring the land of the petitioners.

Hence, for the reasons aforesaid, the writ petition is allowed. It is hereby declared that the reservation of the land of the petitioners vide reservation nos.19, 20 and 23 for site and services, urdu primary school and playground, has lapsed in view of the provisions of Section 127 of the Maharashtra Regional and Town Planning Act and the petitioners would be free to develop the land, as is permissible to the adjacent land, as per the relevant development plan.

Order accordingly. No costs.

JUDGE

JUDGE

APTE