

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4498 OF 2019

**ANIL MOHANLAL VYAS AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners :
Mr. Tripathi Sushilkumar H.
AGP for Respondents No. 1 & 2 :
Mr. S. B. Pulkundwar
Respondent No. 3 - served
Advocate for Respondent No. 4 :
Mr. B. N. Gadegaonkar

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**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 23rd JANUARY, 2020

PER COURT:

1. We have heard Mr. Tripathi, learned counsel for the petitioners and Mr. Gadegaonkar, learned counsel for respondent no. 4.

2. Mr. Tripathi, the learned counsel contends that in a development plan that came into effect from the year 2006, the land of the petitioners is reserved as site no. D-4, site no. D-5 and site no. D-6 for garden, primary school, playground and development plan road. The petitioners issued

notice U/Sec. 127 of the Maharashtra Regional and Town Planning Act, 1966 (*hereinafter referred to 'MRTP Act'*) on 19.12.2016. No steps for acquisition are initiated within stipulated period. The learned counsel submit that even prior to the issuance of the notice U/Sec. 127 of the MRTP Act, the corporation passed Resolution to delete the lands from the reservation.

3. The learned counsel for respondent no. 4 submits that notice U/Sec. 127 of the MRTP Act was not accompanied with the documents of ownership. Respondent no. 4 issued notice to the petitioners on 02.02.2017 and another notice on 27.02.2019. The documents were not submitted. In view of that, as the notice is not in accordance with Section 127 of the MRTP Act, the notice being invalid, the reservation does not lapse.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. On perusal of the notice it appears that the petitioners did not annex the documents of title.

It also appears that respondent no. 4 corporation communicated the petitioners under letter dated 02.02.2017 to submit the documents of title, map and other documents and again on 27.02.2019, the petitioners were communicated by the municipal corporation about non submission of the documents. It appears that the petitioners on 05.02.2019 again issued the notice U/Sec. 127 of the MRTP Act and in the said notice has shown the documents annexed as per the annexure.

6. It appears that after the petitioners issued notice on 05.02.2019 reply has been given by respondent no. 4 that the notice U/Sec. 127 of the MRTP Act shall be construed to be issued on 05.02.2019.

7. As the notice of the year 2016 was not complying with the requirements of Section 127 of the MRTP Act, the relief as claimed by the petitioners cannot be granted.

8. Further, it appears that the notice dated 05.02.2019 was issued afresh by the petitioners U/Sec. 127 of the MRTP Act. The same is accepted by the respondent corporation under its communication dated 10.04.2019.

9. It is for the parties to consider about the documents filed. Section 127 of the MRTP Act does not require submission of measurement plan, however, it requires submission of documents of ownership showing his / her title or interest in the said land. It would be inappropriate for the municipal corporation to ask for the measurement map. The petitioners are only required to annex the documents showing their title or interest in the property.

10. Considering the above, if the notice dated 05.02.2019 is construed to be notice U/Sec. 127 of the MRTP Act, two years period is yet to lapse. It would be premature to consider the said notice.

11. It is for the corporation and the petitioners to consider about the necessity of the land to be reserved and whether they desire to take steps for minor modification.

12. Writ Petition stands disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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