

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

WRIT PETITION NO. 7081 OF 2019

**SATYENDRA SHIVRAM JINDAM
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner :
Mr. Tripathi Sushilkumar H.
AGP for Respondents No. 1 & 2 :
Mrs. G. L. Deshpande
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 petitioner 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 17.09.2006, the land of the petitioner is reserved as site no. G-2 for primary school. The petitioner issued notice U/Sec. 127 of the Maharashtra Regional and Town Planning Act, 1966

(hereinafter referred to 'MRTP Act') on 18.01.2017. No steps for acquisition are initiated within stipulated period.

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 01.02.2017 and another notice on 01.04.2019. 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 petitioner did not annex the documents of title. It also appears that respondent no. 4 corporation communicated the petitioners under letter dated 01.02.2017 to submit the documents of title and other documents and again on 01.04.2019, the petitioner was communicated by the municipal

corporation about non submission of the documents. It appears that the petitioner on 21.02.2019 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. As the notice of the year 2017 was not complying with the requirements of Section 127 of the MRTP Act, the relief as claimed by the petitioner cannot be granted.

7. Further, it appears that the notice dated 21.02.2019 was issued afresh by the petitioners U/Sec. 127 of the MRTP Act.

8. 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 petitioner is only required to annex the

documents showing their title or interest in the property.

9. Considering the above, if the notice dated 21.02.2019 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.

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

11. Writ Petition stands disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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