

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

**959 Writ Petition No.1064 Of 2021**

Nabega Yusufzai Farooque Mohd Khan  
Age : 47 years, Occu : Service,  
R/o. House No.3-11-61, Bukkalguda,  
Darga Nizammuddin Road,  
Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra  
Through the Secretary  
Ministry of Urban Development  
Mantralaya, Mumbai
  2. The Director of Town Planning Department,  
Maharashtra State,  
Pune
  3. Aurangabad Municipal Corporation,  
Through its Municipal Commissioner,  
Aurangabad
  4. Assistant Director of Town Planning,  
Municipal Corporation Aurangabad,  
Aurangabad
  5. The District Collector,  
Aurangabad
- .. Respondents

...

Mr Devdatt P. Palodkar, Advocate for the Petitioner  
Mr K.N. Lokhande, AGP for the Respondents – State  
Mr J.R. Shah, Advocate for Respondent Nos.3 and 4

...

**CORAM : S. V. GANGAPURWALA  
AND  
R.N. LADDHA, JJ.**

DATE : 01-09-2021

**ORAL JUDGMENT (Per S. V. GANGAPURWALA, J.) :-**

1. Rule. Rule made returnable forthwith. With the consent of the parties, the matter is taken up for final hearing.

2. The land of the petitioner bearing CTS No.9816, admeasuring 360.50 sq. meters at Bakkalguda, Aurangabad is affected by reservation of 'shopping centre' as reservation site no.30 in the development plan. The said development plan came into effect on 17-08-2002. The petitioner issued notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (in short, 'MRTP Act') on or about 05-04-2017. On or about 28.08.2017, the planning authority demanded toach map, measurement map and search report. The reply was given that the said documents are already submitted.

3. Mr Palodkar, learned Counsel for the petitioner submits that within two years from the date of service of notice, the writ land has not been acquired and, therefore, the reservation stands lapsed.

4. Mr Shah, learned Advocate for the Municipal Corporation submits that the title was not clear. The name of the petitioner was

mutated referable to the Will Deed. As the title is not clear, the period of two years would not commence.

5. According to the learned Counsel for the petitioner, the Will Deed was a misnomer in the revenue record. The same was the date of the Death Certificate. It is clarified in the rejoinder affidavit.

6. It appears that the title of the petitioner is not disputed. It is also not disputed that the notice under Section 127 of the MRTP Act issued by the petitioner is served upon the planning authority. It is further not disputed by the planning authority that the declaration under Section 126 of the MRTP Act read with Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, 2013 (hereinafter, Act, 2013) is not issued till date.

7. Mr Shah, learned Counsel for the Corporation submits that the Corporation is ready to offer Reservation Occupancy Certificate. The learned Counsel for the petitioner submits that the same is not acceptable to the petitioner.

8. As the steps for acquisition are not initiated by issuing declaration under Section 126 of MRTP Act read with Section 19 of

the 2013 Act, the reservation stands lapsed.

9. The petitioner can use the land in a manner the adjacent land is permissible. The Government may issue notification under Section 127 (2) of the MRTTP Act preferably within six months.

10. Rule is accordingly made absolute. No costs.

[ R.N. LADDHA ]  
JUDGE

[ S. V. GANGAPURWALA ]  
JUDGE

...