

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.8995 OF 2021**

Vimalbai w/o Ramkishan Wattamwar,  
Age: 78 years, Occu.: Household,  
R/o Near Vithal Mandir, Kinwat,  
Tq. Kinwat, Dist. Nanded ..PETITIONER

VERSUS

1. The State of Maharashtra  
Through the Secretary,  
Urban Development Department,  
Mantralaya, Mumbai-32.
2. The Director of Town Planning,  
Town Planning Office,  
Central Building, Pune.
3. The Deputy Director,  
Town Planning and Valuation Department,  
Central Office, Aurangabad.
4. The Assistant Director of Town Planning,  
Town Planning Office, Nanded.
5. The Municipal Council,  
Kinwat, Dist. Nanded.  
Through its Chief Officer. ..RESPONDENTS

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Mr. Upendra B. Bilolikar, Advocate for the  
Petitioner.

Mr. P. K. Lakhotiya, AGP for Respondents-State.

Mr. B. A. Darak, Advocate for Respondent No.5.

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

**DATED : 02<sup>nd</sup> DECEMBER, 2021.**

**ORAL JUDGMENT (Per S. V. Gangapurwala, J.):—**

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

2. The development plan of the Municipal Council, Kinwat was prepared on 27.05.2002. The same was revised in the year 2005. In the revised development plan of the year 2005, the lands of the petitioner bearing Gut No.294 admeasuring 43.60R, Gut No.295 admeasuring 43R and Gut No.296 admeasuring 2H 22R were reserved for truck terminal as Site No.34/A. For a period of ten years, no steps were undertaken by Municipal Council. The petitioner on 10.05.2019 served notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as 'M.R.T.P. Act, 1966') to the Municipal Council. The said notice was served on the same day to the Municipal Council. According to the learned counsel for the petitioner, no steps for acquisition are initiated within a period of two years. The reservation stands lapsed.

3. Mr. Darak, learned counsel submits that, though the petitioner has served notice on 10.05.2019, he has served another notice on 11.06.2021. The twenty four months are to be counted from 11.06.2021. According to the petitioner notice dated 11.06.2021 was simply a reminder.

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

5. The factual matrix narrated above is not disputed. The lands of the petitioner bearing Gut No.294 admeasuring 43.60R, Gut No.295 admeasuring 43R and Gut No.296 admeasuring 2H 22R are reserved for truck terminal as Site No.34/A in revised development plan of the year 2005. No steps for acquisition are initiated. The notice under Section 127 of the M.R.T.P. Act, 1966 has been served upon the Planning Authority viz. Municipal Council on 10.05.2009. The notice dated 11.06.2021 only proposed that, as no steps for acquisition are taken pursuant to the notice dated 10.05.2019, the reservation stands lapsed. The same was not a fresh notice under Section 127 of the M.R.T.P. Act, 1966.

6. Section 127 of the M.R.T.P. Act, 1966 is a fetter on the power of eminent domain. The lands of the petitioner cannot be reserved in perpetuity, that would deprive the petitioner from enjoying ownership rights of the lands.

7. As no steps for acquisition within the period of twenty four months from the date of service of notice are initiated, the reservation stands lapsed.

8. It is hereby declared that, reservation on the petitioner's lands bearing Gut No.294 admeasuring 43.60R, Gut No.295 admeasuring 43R and Gut No.296 admeasuring 2H 22R as Site No.34/A stands lapsed.

9. The State Government shall issue Notification under Section 127 (2) of the M.R.T.P. Act, 1966 within a period of six (06) months from today.

10. Rule accordingly made absolute in above terms. No costs.

**(R. N. LADDHA)**  
**JUDGE**

**(S. V. GANGAPURWALA)**  
**JUDGE**