

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6076 OF 2021**

Manish Satyanarayan Mandhane and Ors. ... Petitioners

Versus

The Chief Officer, Ichalkaranji
Municipal Council and Ors. ... Respondents

Mr. Manoj Badgujar, for petitioners.

Mr. Akshay P. Shinde, for Respondent Nos.1 and 2.

Mrs. M.P.Thakur, AGP, for State.

**CORAM: S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

DATE : 5th OCTOBER, 2021

P.C. :

1. The Petitioners have filed the above Writ Petition seeking a declaration that the impugned reservations bearing Reservation No.34 for “Play Ground” on the portion admeasuring 0 H 74.7 R out of Revisional Survey No.683/3 and also the area admeasuring 0 H. 0.06 R from Revisional Survey no.683/5 situated within the limits of Ichalkaranji Municipal Council, Ichalkaranji, vide part revision of development plan sanctioned on 5th March, 1999 and on 3rd September, 2001 has lapsed and that the aforesaid area under the reservation is now available to the Petitioners for development entirely free from any reservation.

2. The facts in the matter are in brief set out hereunder :

2.1 The Petitioner Nos.1 to 6 are the owners of Survey No.683/3

admeasuring 0 H. 74.7 R, while the Petitioner Nos.2, 3 and 5 are the owners of area admeasuring 0 H 0.006 R out of Survey No.683/5 (the said properties). The 7/12 extracts of Survey Nos.683/3 and 683/5 show the ownership and possession of the Petitioners

2.2 The Respondent No.1 – Ichalkaranji Municipal Council, reserved the said properties for ‘Play Ground’ vide Reservation No.34 (the impugned reservation) in the development plan of 5th March, 1999. The State of Maharashtra, Urban Development Department – Respondent No.3 accorded its sanction to the development plan of Ichalkaranji – Part revision under Section 31(1) of the Maharashtra Regional and Town Planning Act, 1996 (‘the Act’) vide Notification dated 5th March, 1999, which came into effect from 7th May, 1999.

2.3 In the said sanctioned Development Plan, entire R.S.No.683 was shown as reserved for the said purpose and the same was included in the Excluded Plan. The State Government has thereafter, sanctioned the Excluded Plan vide Notification No.TPS2100/1429/CR-133/2000/UD-13, dated 3rd September, 2001 reserving the said properties to the extent indicated in paragraph 3 of the Petition for the purpose of “Play Ground”.

2.4 Despite the above properties being reserved for almost 20 years, the Respondents have not initiated the process of acquisition of the said properties.

2.5 The Petitioners therefore, as contemplated under Section 127 of the

Maharashtra Regional and Town Planning Act, 1966 issued purchase Notice dated 28th March, 2018 to the Respondent No.1 which is duly received and acknowledged on the same day i.e. on 28th March, 2018 by the Respondent No.1.

2.6 Despite receipt of the said Notice along with the relevant documents, no steps for acquisition of the said properties as contemplated under the said Act, are undertaken by the Respondent No.1 within the prescribed period of 24 months.

2.7 The Petitioners have therefore, filed the above Writ Petition seeking the above reliefs.

3. The learned Advocate appearing for Respondent Nos.1 and 2 has submitted written instructions dated 4th October, 2021 received by him from the Chief Officer, Ichaklaranji Municipal Council, wherein it is interalia stated that the Ichalkaranji Municipal Council has not passed any resolution pertaining to the acquisition of the said properties, nor have they submitted any recommendation to the Collector, Kolhapur, for acquisition of the said properties. In other words, no steps have been taken by the Respondents even after the expiry of two years from the date of receipt of the purchase Notice under Section 127 of the Act. The said Letter dated 4th October, 2021 is taken on record and marked 'X' for identification. In the above circumstances, the impugned reservations have lapsed and the said properties ought to be made available to the Petitioners for development. The Writ Petition is therefore, allowed in terms of prayer clauses (a) and (b) which are reproduced

hereunder :

“(a) By grant of appropriate writ, order or direction, this Hon’ble Court may be pleased to hold and declare that the impugned reservations bearing Reservation No.34 for ‘Play Ground’ on the portion admeasuring 0 H. 74.7 R from Revisional Survey No.683/3 and 0 H. 0.06 R from Revisional Survey No.683/5 situated within limits of Ichalkaranji Municipal Council, Ichalkaranji, vide Part revision of development plan sanctioned on 05.03.1999 and on 03.09.2001 is lapsed and that the area under the impugned reservations is now available to the Petitioners for development entirely free from any reservation;

(b) By grant of appropriate writ, order or direction, this Hon’ble Court may be pleased to direct the Respondent No.3 to issue Notification as contemplated under Section 127(2) of the MR & TP Act, 1966 within a period of one month;”

4. The Notification under Section 127(2) of the MRTP Act, shall be issued within six weeks from the date of uploading of this order.

5. The Writ Petition is accordingly disposed of.

(MILIND N. JADHAV, J.)

(S.J.KATHAWALLA, J.)